

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 8, 2021**

AGENDA

- 12:00 Presentations
- 12:00 Matters Presented by Board Members
- 12:00 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Extension of Review Period for 2232 Application (Lee District)
- 2 Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-7, 7-2-8, and 7-2-13 Relating to Election Precincts and Polling Places to Eliminate Split Precincts as Required by Virginia Code Section 24.2-307 by Creating, Adding, and Renaming Precincts and Establishing their Polling Places for Lane Precinct in the Lee District; and Baileys Precinct, Weyanoke Precinct, and Camelot Precinct in the Mason District
- 3 Approval of Traffic Calming Measure as Part of the Residential Traffic Administration Program (Springfield District)
- 4 Authorization to Advertise a Public Hearing on the Continuation of the Fairfax County Park Authority for a Period of 30 Years, Until October 28, 2051
- 5 Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Behavioral Health and Developmental Services to Support Expansion of the Crisis Intervention Team (CIT) Assessment Site Program
- 6 Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Behavioral Health and Developmental Services for Forensic Discharge Planning
- 7 Supplemental Appropriation Resolution AS 21304 for the Health Department to Accept Grant Funding from Virginia Department of Health for COVID-19 Response Activities

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 8, 2021**

ACTION ITEMS

- | | |
|---|--|
| 1 | Authorization to Execute Made in Fairfax Licensing Agreements and Trademark Registration |
| 2 | Authorization of Fall 2021 School Bond Referendum |
| 3 | Approval of an Amended Agreement Between the Town of Herndon (Town) and Fairfax County (County) to Design and Construct the Sugarland Run (South) SU9207-A Stream Restoration Project (Dranesville District) |
| 4 | Approval of and Authorization to Execute a Capital Funding Agreement with the Washington Metropolitan Area Transit Authority for FY 2022 – FY 2027 |
| 5 | Board Approval of a Schedule for the 2021 Redistricting and Reapportionment of the Board of Supervisors Election Districts |
| 6 | Authorization to Establish the PIVOT Business Recovery Grant Program |

**CONSIDERATION
ITEMS**

- | | |
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| 1 | Approval of Amendments to the Fairfax County Human Services Council's Bylaws |
| 2 | Approval of the Proposed Amended Bylaws for the Transportation Advisory Commission |

CLOSED SESSION

Closed Session

**PUBLIC
HEARINGS**

- | | |
|------|---|
| 3:30 | Public Hearing to Amend the Current Appropriation Level in the FY 2021 Revised Budget Plan |
| 3:30 | <u>To Be Deferred to
6/22/21 at 3:30 p.m.</u> Public Hearing on RZ 2020-LE-013 (Lee Automotive, L.C.) (Lee District) |
| 3:30 | Public Hearing on SEA 83-D-030-09 (The Madeira School, Inc.) (Dranesville District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 8, 2021**

**PUBLIC
HEARINGS
(continued)**

- | | | |
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| 3:30 | | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Burke Road Realignment – Aplomado Drive to Parakeet Drive (Springfield District) |
| 4:00 | To Be Deferred to
6/22/21 at 4:30 p.m. | Public Hearing on a Proposed Zoning Ordinance Amendment Re: Agritourism and Related Changes |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 1045 Bellview Road, McLean, VA 22102 (Dranesville District) |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 2506 Fleming Street, Alexandria, VA 22306 (Mount Vernon District) |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 3110 Covington Street, Fairfax, VA 22031 (Providence District) |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 6012 Pike Branch Drive, Alexandria, VA 22310 (Lee District) |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 7821 Belvedere Drive, Alexandria, VA 22306 (Mount Vernon District) |
| 4:00 | | Public Hearing on Spot Blight Abatement Ordinance for 7704 Schelhorn Road, Alexandria, VA 22306 (Mount Vernon District) |
| 4:30 | | Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic |
| 4:30 | | Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 5, Offenses |
| 4:30 | | Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 1, General Provisions |



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
June 8, 2021

12:00 p.m.

PRESENTATIONS

- PROCLAMATION — To designate June 2021 as LGBTQ+ Pride Month. Requested by Chairman McKay, Supervisor Foust and Supervisor Palchik.
- PROCLAMATION — To designate June 1, 2021 as Soldiers of Howrey Field Day. Requested by Chairman McKay and Supervisor Walkinshaw.

STAFF:

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

Board Agenda Item
June 8, 2021

12:00 p.m.

Matters Presented by Board Members

Board Agenda Item
June 8, 2021

12:00 p.m.

Items Presented by the County Executive

Board Agenda Item
June 8, 2021

ADMINISTRATIVE - 1

Extension of Review Period for 2232 Application (Lee District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following application: 2232-L20-3.

TIMING:

Board action is required June 8, 2021, to extend the review period for the application noted above before its expiration date.

BACKGROUND:

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

The review period for the following application should be extended:

2232-L20-3	DPWES Kingstowne Consolidated Facility Tax Map No. 091-3((08)) Parcels 8A and 8B Between Beulah St., Silverlake Blvd., and Interparcel Rd. Alexandria, VA Lee District Accepted August 5, 2020 Extended to November 5, 2021
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FISCAL IMPACT:

None.

Board Agenda Item
June 8, 2021

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Michelle K. Stahlhut, Chief, Facilities Planning Branch, Planning Division (DPD)

Evelyn Mitchell, Planner, Facilities Planning Branch, Planning Division, (DPD)

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-7, 7-2-8, and 7-2-13 Relating to Election Precincts and Polling Places to Eliminate Split Precincts as Required by Virginia Code Section 24.2-307 by Creating, Adding, and Renaming Precincts and Establishing their Polling Places for Lane Precinct in the Lee District; and Baileys Precinct, Weyanoke Precinct, and Camelot Precinct in the Mason District

ISSUE:

Authorization to advertise a Public Hearing to consider an ordinance that proposes to amend and readopt Fairfax County Code Sections 7-2-7, 7-2-8, and 7-2-13 relating to Election Precincts and Polling Places. This action will adjust the boundaries of Lane, Baileys, Weyanoke, and Camelot precincts by creating, adding, and renaming precincts to conform with the current House of Delegates district boundaries, as is now required by Virginia Code Section 24.2-307.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing on Tuesday, June 22, 2021, at 4:00 p.m. to consider this ordinance.

TIMING:

Board action is requested on June 8, 2021, to provide sufficient time to advertise the proposed public hearing for adoption of this ordinance on June 22, 2021, at 4:00 p.m., and to provide sufficient time to notify voters in advance of the November 2, 2021, General and Special Elections.

BACKGROUND:

Virginia Code Section 24.2-307 now requires that each precinct be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city. To comply with the statute for the November 2021 election, precincts that are currently split by House of Delegates district lines must be eliminated or be granted a waiver available only in limited circumstances not applicable to any of the four precincts listed below.

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June 8, 2021

In a decennial redistricting year and if state and federal redistricting are not completed by June 15, the statute permits use of the existing district lines as the basis for eliminating precincts that contain more than one congressional, Senate, House of Delegates, or local election district ("split precincts"). Due to the significant delays in the U.S. census data, congressional and state redistricting will not be completed by June 15 this year. The proposed changes are therefore based on the existing state district lines. After congressional, Senate, House of Delegates, and local redistricting is complete, staff expects that additional adjustments will need to be made to eliminate split precincts and/or apply for waivers.

All registered voters who are affected by a change in their precinct or polling location will be mailed a notice in advance of the November 2, 2021, General and Special Elections.

If approved, the proposed ordinance would make the following changes:

1) In Lee District, staff recommends that Lane precinct be divided into two precincts that conform with current House of Delegates District lines for the 39th and 43rd House of Delegate Districts. The portion of the precinct situated in House of Delegates District 39 will be named Lane #2, and its polling place will be established at Lane Elementary School, 7137 Beulah Street, Alexandria. The remaining portion of the precinct situated in House of Delegates District 43 will be renamed Lane #1 with its polling place co-located with Lane #2 precinct at Lane Elementary School.

2) In Mason District, staff recommends that Baileys precinct be divided into two precincts that conform with current House of Delegates District lines for the 38th and 49th House of Delegate Districts. The portion of the precinct situated in House of Delegates District 49 will be named Baileys #2 precinct, and its polling place will be established at Bailey's Community Center, 5920 Summers Lane, Falls Church. The remaining portion of the precinct situated in House of Delegates District 38 will be renamed Baileys #1 with its polling place co-located with Baileys #2 precinct at Bailey's Community Center.

3) In Mason District, staff recommends that Weyanoke precinct be divided into two precincts that conform with current House of Delegates District lines for the 38th and 39th House of Delegate Districts. The portion of the precinct situated in House of Delegates District 38 will be named Weyanoke #2 precinct, and its polling place will be established at Holmes Middle School, 6525 Montrose Street, Alexandria. The remaining portion of the precinct situated in House of Delegates District 39 will be renamed Weyanoke #1 precinct with its polling place co-located with Weyanoke #2 precinct at Holmes Middle School.

Board Agenda Item
June 8, 2021

4) In Mason District, staff recommends that Camelot precinct be divided into two precincts that conform with current House of Delegates District lines for the 39th and 53rd House of Delegate Districts. The portion of the precinct situated in House of Delegates District 39 will be named Camelot #2 precinct, and its polling place will be established at Camelot Elementary School, 8100 Guinevere Drive, Annandale. The remaining portion of the precinct situated in House of Delegates District 53 will be renamed Camelot #1 precinct with its polling place co-located with Camelot #2 precinct at Camelot Elementary School.

FISCAL IMPACT:

Funding for precinct and polling place change notifications is provided in the agency's FY 2022 Proposed Budget.

ENCLOSED DOCUMENTS:

Attachment 1 – Virginia Code Pertaining to Election Precincts and Polling Places
Attachment 2 – Summary of Proposed Changes
Attachment 3 – Descriptions and Maps of Proposed Changes
Attachment 4 – Proposed Ordinance

STAFF:

Scott O. Konopasek, General Registrar and Director of Elections
Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

§ 24.2-305. Composition of election districts and precincts.

A. Each election district and precinct shall be composed of compact and contiguous territory and shall have clearly defined and clearly observable boundaries.

B. A "clearly observable boundary" shall include (i) any named road or street, (ii) any road or highway which is a part of the federal, primary, or secondary state highway system, (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census, or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census. No property line or subdivision boundary shall be deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census.

1986, c. 593, § 24.1-40.7; 1990, c. 500; 1992, c. 425; 1993, c. 641; 2001, c. [614](#).

§ 24.2-307. Requirements for county and city precincts.

The governing body of each county and city shall establish by ordinance as many precincts as it deems necessary. Each governing body is authorized to increase or decrease the number of precincts and alter precinct boundaries subject to the requirements of this chapter.

At the time any precinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

At the time any precinct is established, each precinct in a county shall have no fewer than 100 registered voters and each precinct in a city shall have no fewer than 500 registered voters.

Each precinct shall be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city. In each year ending in one, the governing body of each county and city shall establish the precinct boundaries to be consistent with any congressional district, Senate district, House of Delegates district, and local election district that was adopted by the appropriate authority by June 15 of that year. If congressional districts, Senate districts, House of Delegates districts, or local election districts have not been adopted by the appropriate authority by June 15 of a year ending in one, the governing body may

use the congressional districts, Senate districts, House of Delegates districts, or local election districts as such districts existed on June 15 of that year as the basis for establishing the precinct boundaries to be used for the elections to be held in November of that year. Such governing body shall establish precinct boundaries to be consistent with any subsequent changes to the congressional districts, Senate districts, House of Delegates districts, or local election districts. If a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, it shall apply to the State Board for a waiver to administer a split precinct. The State Board may grant the waiver or direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by § 24.2-309. A governing body granted a waiver to administer a split precinct or directed to establish a precinct with fewer than the minimum number of registered voters may use such a precinct for any election held that year.

The governing body shall establish by ordinance one polling place for each precinct.

Code 1950, §§ 24-45, 24-46; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1992, c. 445; 1993, c. 641; 1999, c. [515](#); 2020, c. [1268](#).

§ 24.2-309. Establishment of precinct with less than minimum number of voters; conduct of elections where all voters do not have same choice of candidates.

A precinct may be established with fewer than the minimum number of registered voters required by this article if a larger precinct cannot be established in which all persons are voting at any general election for the same candidates for the governing body and school board of the county or city, House of Delegates, state Senate, and United States House of Representatives. The governing body may select a polling place within one mile of the boundaries of that precinct if a suitable polling place is not available within that precinct.

The State Board shall make regulations setting procedures by which elections may be conducted in precincts in which all voters do not have the same choice of candidates at a general election.

1971, Ex. Sess., c. 264, § 24.1-40; 1993, c. 641.

§ 24.2-310. Requirements for polling places.

A. The polling place for each precinct shall be located within the county or city and either within the precinct or within one mile of the precinct boundary. The polling place for a county precinct may be located within a city (i) if the city is wholly contained within the county election district served by the precinct or (ii) if the city is wholly contained within the county and the polling place is located on property owned by the county. The polling place for a town precinct may be located within one mile of the precinct and town boundary. For town elections held in November, the town shall use the polling places established by the county for its elections.

B. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ [51.5-1](#) et seq.), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20101 et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

E. It shall be permissible to distribute campaign materials on the election day on the property on which a polling place is located and outside of the building containing the room where the election is conducted except as specifically prohibited by law including, without limitation, the prohibitions of § [24.2-604](#) and the establishment of the "Prohibited Area" within 40 feet of any entrance to the polling place. However, and notwithstanding the provisions of clause (i) of subsection A of § [24.2-604](#), and upon the approval of the local electoral board, campaign materials may be distributed outside the polling place and inside the structure where the election is conducted, provided that the "Prohibited Area" (i) includes the area within the structure that is beyond 40 feet of any entrance to the polling place and the area within the structure that is within 40 feet of any entrance to the room where the election is conducted and (ii) is maintained and enforced as provided in § [24.2-604](#). The local electoral board may approve campaigning activities inside the building where the election is conducted when an entrance to the building is from an adjoining building, or if establishing the 40-foot prohibited area outside the polling place would hinder or delay a qualified voter from entering or leaving the building.

F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of § [24.2-307](#) or [24.2-308](#) for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board, or the State Board to appropriate funds to any non-governmental entity.

Attachment 1: Virginia Code pertaining to Election Polling Places

Code 1950, §§ 24-45, 24-46, 24-171, 24-179 through 24-181; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37, 24.1-92, 24.1-97; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1984, c. 217; 1985, c. 197; 1986, c. 558; 1992, c. 445; 1993, cc. 546, 641; 1994, c. [307](#); 2003, c. [1015](#); 2004, c. [25](#); 2005, c. [340](#); 2008, cc. [113](#), [394](#); 2010, cc. [639](#), [707](#); 2012, cc. [488](#), [759](#); 2016, cc. [18](#), [492](#).

§ 24.2-310.1. Polling places; additional requirement.

The requirement stated in this section shall be in addition to requirements stated in §§ [24.2-307](#), [24.2-308](#), and [24.2-310](#), including the requirement that polling places be located in public buildings whenever practical. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building because no other building meeting the accessibility requirements of this title is available.

(1993, c. 904, § 24.1-37.1; 1993, c. 641.)

Attachment 2: Summary of Proposed Changes

<i>June 2021 SUMMARY OF PRECINCT AND POLLING PLACE CHANGES</i>							
SUPERVISOR DISTRICT	OLD PRECINCT(S)	REGISTERED VOTERS*	OLD POLLING PLACE(S)	NEW PRECINCT(S)	PROJECTED REGISTERED VOTERS	NEW POLLING PLACE(S)	NOTES ON CHANGES
LEE	419 Lane	3,698	Lane Elementary School	419 Lane #1 430 Lane #2	1,401 2,297	Lane Elementary School	Divide the precinct to eliminate a split between House of Delegates Districts 39 and 43
MASON	501 Baileys	3,732	Bailey's Community Center	501 Baileys #1 531 Baileys #2	2,301 1,431	Bailey's Community Center	Divide the precinct to eliminate a split between House of Delegates Districts 38 and 49
MASON	516 Weyanoke	3,414	Holmes Middle School	516 Weyanoke #1 532 Weyanoke #2	1,425 1,989	Holmes Middle School	Divide the precinct to eliminate a split between House of Delegates Districts 38 and 39
MASON	522 Camelot	1,477	Camelot Elementary School	522 Camelot #1 534 Camelot #2	353 1,094	Camelot Elementary School	Divide the precinct to eliminate a split between House of Delegates Districts 39 and 53

* VERIS registered voters as of 050721_Reports Library_Statistics_Registrant_Counts_By_District Types

Commonwealth of Virginia
COUNTY OF FAIRFAX

LEE DISTRICT

DESCRIPTION:

Beginning at the intersection of Accotink Creek and the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in a northeasterly direction to its intersection with the Capital Beltway (I-495), thence with the Capital Beltway in a southeasterly direction to its intersection with the Shirley Memorial Highway (I-395), thence with the Shirley Memorial Highway in a northerly direction to its intersection with the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in a northeasterly direction to its intersection with the west corporate boundary of the City of Alexandria, thence with the corporate boundary of the City of Alexandria in a southerly, then easterly direction to its intersection with Telegraph Road, thence with Telegraph Road in a southwesterly direction to its intersection with North Kings Highway, thence with North Kings Highway in a generally southerly direction to its intersection with Richmond Highway (Route 1), thence with Richmond Highway in a southerly, then southwesterly direction to its intersection with Frye Road, thence with Frye Road in a northerly direction to its intersection with the south boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southwesterly direction to its intersection with the northeast boundary of the Fort Belvoir Military Reservation, thence with the boundary of the Fort Belvoir Military Reservation in a northwesterly direction to its intersection with Telegraph Road, thence with Telegraph Road in a southwesterly direction to its intersection with Beulah Street, thence with Beulah Street in a northwesterly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a westerly direction to its intersection with the Richmond, Fredericksburg and Potomac Railroad, thence with the Richmond, Fredericksburg and Potomac Railroad in a southerly direction to its intersection with Newington Road, thence with Newington Road in a westerly direction to its intersection with the Shirley Memorial Highway (I-95), thence with the Shirley Memorial Highway in a northeasterly direction to its intersection with Backlick Road, thence with Backlick Road in a northwesterly direction to its intersection with Alban Road, thence with Alban Road in a southwesterly direction to its intersection with Boudinot Drive, thence with Boudinot Drive in a northwesterly direction to its intersection with Fullerton Road, thence with Fullerton Road in a westerly direction to its intersection with Accotink Creek, thence with the meanders of Accotink Creek in a generally northwesterly direction to its intersection with the Norfolk Southern Railroad, point of beginning.

As adopted by the Board of Supervisors on June 11, 2001

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Beulah, Bush Hill, Cameron East, Cameron West, Crestwood, Fairfield, Franconia, the northeastern portion of Garfield, Groveton East, Groveton West, Hayfield, Kingstowne, Lynbrook, Mount Eagle Central, Mount Eagle North, Mount Eagle South, Pioneer, Rose Hill, Van Dorn, Villages, Virginia Hills, and the northern portion of Woodlawn.

As amended and readopted by the Board of Supervisors on August 6, 2001

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Beulah, Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Franconia, Garfield, Groveton, Hayfield, Huntley, Kingstowne, Lynbrook, Mount Eagle, Pioneer, Rose Hill, Van Dorn, Villages, Virginia Hills, and Wilton.

NOTES: On August 6, 2001, Cameron East, Cameron West, Mount Eagle North, and Mount Eagle Central, were renamed Cameron, Clermont, Mount Eagle and Wilton, respectively. The “northeastern portion of Garfield” was renamed Garfield.

The “northern portion of Woodlawn” was combined with Groveton West, a small portion of Hayfield and the southern portion of Virginia Hills to form Huntley precinct. Mount Eagle South was combined with the existing Groveton East precinct to form Groveton precinct.

As amended, recodified and readopted by the Board of Supervisors on March 24, 2003

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Beulah, Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Kingstowne, Lynbrook, Mount Eagle, Pioneer, Rose Hill, Van Dorn, Villages, Virginia Hills, and Wilton.

NOTES: On March 24, 2003, Garfield was divided to form Greenspring precinct. Revised and updated descriptions of the precincts were also formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance.

As amended and readopted by the Board of Supervisors on March 8, 2004

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Island Creek, Kingstowne, Lane, Lynbrook, Mount Eagle, Pioneer, Rose Hill, Van Dorn, Villages, Virginia Hills, and Wilton.

NOTES: On March 8, 2004, Beulah precinct was renamed and divided to form “Lane” and “Island Creek” precincts.

As amended by the Board of Supervisors on March 27, 2006

NOTES: On March 27, 2006, the description of Franconia precinct was amended and readopted to change the name of the polling place [facility] to the “Snyder Center.”

As amended and readopted by the Board of Supervisors on April 26, 2011

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Island Creek, Kingstowne, Lane, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van Dorn, Villages, Virginia Hills, and Wilton.

REDISTRICTING NOTES: On April 26, 2011, the Board adopted their redistricting plan that divided the Woodlawn precinct (Mount Vernon District) to create a new precinct named “Pinewood” and moved Pinewood precinct into Lee District. The polling place for Pinewood was established at Mount Vernon Woods Elementary School.

As amended and readopted by the Board of Supervisors on July 26, 2011

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Hybla Valley, Island Creek, Kingstowne, Lane, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van Dorn, Villages, and Virginia Hills.

NOTES: On July 26, 2011, the Groveton precinct was divided to form the Hybla Valley precinct. The Groveton precinct polling place was moved to Groveton Elementary School and the Hybla Valley precinct was established at Hybla Valley Elementary School.

The boundaries of Fairfield, Hayfield, Mount Eagle, Pinewood, Rose Hill and Villages precincts were adjusted and Wilton precinct was abolished. The polling places for Franconia precinct and Van Dorn precincts were moved to Edison High School and Key Middle School, respectively.

As amended and readopted by the Board of Supervisors on June 23, 2015

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Forestdale, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Hybla Valley, Island Creek, Kingstowne, Lane, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van Dorn, Villages, and Virginia Hills.

NOTES: On June 23, 2015, the Pioneer precinct was divided to form the Forestdale precinct. The polling place for Forestdale precinct was established at Forestdale Elementary School.

As amended and readopted by the Board of Supervisors on July 12, 2016

NOTES: On July 12, 2016, the Board moved the polling place for Huntley precinct to St. Mark's Episcopal Church.

As amended by the Board of Supervisors on March 23, 2021

NOTES: On March 23, 2021, the Board recognized the name change of the polling place for Pioneer precinct from Lee High School to Lewis High School.

As amended and readopted by the Board of Supervisors on June 22, 2021

Section 7-2-7. Lee District

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Forestdale, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Hybla Valley, Island Creek, Kingstowne, Lane #1, Lane #2, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van Dorn, Villages, and Virginia Hills.

NOTES: On June 22, 2021, the Lane precinct was divided to conform to the boundaries of House of Delegates District 39 and House of Delegates District 43 to create Lane #1 precinct and Lane #2 precinct. The polling place for Lane #2 was established at Lane Elementary School where it will co-locate with Lane #1 precinct.

Commonwealth of Virginia
COUNTY OF FAIRFAX
Lee District

PRECINCT 419: LANE #1

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-NINTH
HOUSE OF DELEGATES DISTRICT: ~~THIRTY-NINTH~~ / FORTY-THIRD

DESCRIPTION:

Beginning at the intersection of the Richmond, Fredericksburg and Potomac Railroad and Franconia Road, thence with Franconia Road in an easterly direction to its intersection with Beulah Street, thence with Beulah Street in a southwesterly direction to its intersection with the Franconia-Springfield Parkway, thence with the Franconia-Springfield Parkway in an westerly direction ~~Virginia Power Easement, thence with the Virginia Power Easement in a southwesterly direction to its intersection with an unnamed stream, thence with the meanders of the unnamed stream in a northwesterly direction to its intersection with Long Branch (stream), thence with Long Branch in a northerly direction~~ to its intersection with the Richmond, Fredericksburg and Potomac Railroad, thence with the Richmond, Fredericksburg and Potomac Railroad in a northeasterly direction to its intersection with Franconia Road, point of beginning.

POLLING PLACE: Lane Elementary School
 7137 Beulah Street, Alexandria

MAP GRIDS: 81-3, ~~90-4~~, 91-1, ~~91-3~~

NOTES: Established as Beulah precinct 1991
 Precinct description revised and readopted – March 2003
 Precinct divided and renamed – March 2004
 Precinct divided and renamed – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Lee District

PRECINCT 430: LANE #2

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-NINTH
HOUSE OF DELEGATES DISTRICT: THIRTY-NINTH

DESCRIPTION:

Beginning at the intersection of the Franconia-Springfield Parkway and Beulah Street, thence with Beulah Street in a southwesterly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a southwesterly direction to its intersection with an unnamed stream, thence with the meanders of the unnamed stream in a northwesterly direction to its intersection with Long Branch (stream), thence with Long Branch in a northerly direction to its intersection with the Richmond, Fredericksburg and Potomac Railroad, thence with the Richmond, Fredericksburg and Potomac Railroad in a northeasterly direction to its intersection with the Franconia-Springfield Parkway, thence in a easterly direction to its intersection with Beulah Street, point of beginning.

POLLING PLACE: Lane Elementary School
 7137 Beulah Street, Alexandria

MAP GRIDS: 90-4, 91-3, 91-1

NOTES: Precinct established – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX

MASON DISTRICT

DESCRIPTION:

Beginning at the intersection of Holmes Run (stream) and Arlington Boulevard (Route 50), thence with Arlington Boulevard in a northeasterly direction to its intersection with the south corporate boundary of the City of Falls Church, thence with corporate boundary of the City of Falls Church in an easterly, then northerly direction to its intersection with the Arlington County/Fairfax County Line, thence with the Arlington County/Fairfax County Line in a southeasterly direction to its intersection with the west corporate boundary of the City of Alexandria, thence with the corporate boundary of the City of Alexandria in southwesterly, then generally southerly direction to its intersection with the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in a southwesterly direction to its intersection with the Shirley Memorial Highway (I-395), thence with the Shirley Memorial Highway in a southwesterly direction to its intersection with the Capital Beltway (I-495), thence with the Capital Beltway in a northwesterly direction to its intersection with Backlick Road, thence with Backlick Road in a northerly direction to its intersection with Leesville Boulevard, thence with Leesville Boulevard in a westerly direction to its intersection with Backlick Run (stream), thence with the meanders of Backlick Run in a northwesterly direction to its intersection with Braddock Road, thence with Braddock Road in a westerly direction to its intersection with Ravensworth Road, thence with Ravensworth Road in a northeasterly direction to its intersection with Heritage Drive, thence with Heritage Drive in a northwesterly, then northerly direction to its intersection with Little River Turnpike (Route 236), thence with Little River Turnpike in a northwesterly direction to its intersection with Glenbrook Road, thence with Glenbrook Road in a northerly direction to its intersection with Crook Branch (stream), thence with the meanders of Crook Branch in an easterly direction to its intersection with Prosperity Avenue, thence with Prosperity Avenue in a southerly direction to its intersection with Leroy Place, thence with Leroy Place in an easterly direction to its intersection with Woodburn Road, thence with Woodburn Road in a northeasterly, then easterly direction to its intersection with Gallows Road, thence with Gallows Road in a southeasterly direction to its intersection with Annandale Road, thence with Annandale Road in a northeasterly direction to its intersection with Holmes Run (stream), thence with the meanders of Holmes Run in a generally northwesterly direction to its intersection with Arlington Boulevard, point of beginning.

As adopted by the Board of Supervisors on June 11, 2001

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest East, Glen Forest West, Holmes East, Holmes West, Hummer, Lincolnia, Masonville, the northeastern portion of North Springfield No. 3, Parklawn, Poe, Ravenwood, Ridgelea, Skyline, Sleepy Hollow, Saint Albans, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.

As amended and readopted by the Board of Supervisors on August 6, 2001

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.

NOTES: On August 6, 2001, Glen Forest East, Glen Forest West, Holmes East and Holmes West were renamed Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1 and Holmes No. 2, respectively. The “northeastern portion of North Springfield No. 3” was renamed Leewood.

The boundary between Brook Hill and Poe precincts was adjusted to conform to the boundary between the Thirty-Eighth and Thirty-Ninth House of Delegates Districts.

As recodified and readopted by the Board of Supervisors on March 24, 2003

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.

NOTES: On March 24, 2003, revised and updated descriptions of the precincts were formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance. No voters were affected by these changes.

As amended by the Board of Supervisors on July 7, 2003

NOTES: On July 7, 2003, the description of Walnut Hill No. 1 precinct was amended and readopted to change the name of the polling place [facility] to the “Alan Leis Instructional Center at Walnut Hill.”

As amended by the Board of Supervisors on March 10, 2008

NOTES: On March 10, 2008, the polling place for Lincolnia precinct was moved to the Green Spring Gardens Park.

As amended by the Board of Supervisors on March 9, 2010

NOTES: On March 9, 2010, the polling place for Masonville precinct was temporarily moved to the Westminster School, and the polling place for Skyline precinct was moved to the National Association of Power Engineers training facility.

As amended and readopted by the Board of Supervisors on April 26, 2011

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Walnut Hill No. 2, Westlawn, Weyanoke, Whittier and Willston.

REDISTRICTING NOTES: On April 26, 2011, the Board adopted their redistricting plan that moved the Bristow precinct from Braddock District to Mason District and moved the Walnut Hill No. 2 precinct from Providence District to Mason District.

As amended and readopted by the Board of Supervisors on July 26, 2011

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest, Holmes, Hummer, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.

REDISTRICTING NOTES: On July 26, 2011, the Board adjusted the boundaries of Glen Forest No. 1 and Skyline precincts and moved the polling place for Skyline precinct to the Goodwin House Bailey's Crossroads, effective for the August 23, 2011, primary elections.

The Board adjusted the boundaries of Barcroft, Edsall, Masonville, Ravenwood, Skyline, Sleepy Hollow, and Weyanoke precincts. Additionally, Holmes No. 1 and Holmes No. 2, Glen Forest #1 and Glen Forest No. 2, and Walnut Hill No. 1, Walnut Hill No. 2, and Whittier precincts were consolidated to form Holmes, Glen Forest and Walnut Hill precincts, respectively. These changes were effective September 1, 2011.

As amended by the Board of Supervisors on July 10, 2012

NOTES: On July 10, 2012, the polling place for Masonville precinct was moved from the temporary location at Westminster School to the new Mason Crest Elementary School.

As amended and readopted by the Board of Supervisors on July 9, 2013

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest, Holmes, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.

NOTES: On July 9, 2013, Skyline was divided to form "Plaza" precinct. The polling place for Plaza precinct was established at the Skyline Plaza Residential Towers.

As amended and readopted by the Board of Supervisors on November 18, 2014

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Crossroads, Edsall, Glen Forest, Holmes No. 1, Holmes No. 2, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.

NOTES: On November 18, 2014, Skyline was divided to form Crossroads precinct and Holmes was divided to form Holmes No. 1 and Holmes No. 2. The polling place for Skyline was moved to Three Skyline Place and the polling place for Crossroads was established at Goodwin House Bailey's Crossroads.

As amended by the Board of Supervisors on December 8, 2015

NOTES: On December 8, 2015, the Board moved the polling place for Holmes No. 1 precinct to the Woodrow Wilson Library.

As amended by the Board of Supervisors on December 4, 2018

NOTES: On December 4, 2018, the Board recognized the name change of the polling place for Ravenwood from Lee High School to Justice High School.

As amended by the Board of Supervisors on March 23, 2021

NOTES: On March 23, 2021, the Board moved the polling place for Skyline precinct to the Bailey's Community Center.

As amended and readopted by the Board of Supervisors on June 22, 2021

Section 7-2-8. Mason District

The Mason District shall consist of these election precincts: Baileys #1, Baileys #2, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot #1, Camelot #2, Columbia, Crossroads, Edsall, Glen Forest, Holmes No. 1, Holmes No. 2, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke #1, Weyanoke #2, and Willston.

NOTES: On June 22, 2021, the Baileys precinct was divided to conform to the boundaries of House of Delegates District 38 and House of Delegates District 49 to create Baileys #1 precinct and Baileys #2 precinct. The polling place for Baileys #2 precinct was established at the Bailey's Community Center and was co-located with Baileys #1 precinct.

The Camelot precinct was divided to conform to the boundaries of House of Delegates District 39 and House of Delegates District 53 to create Camelot #1 precinct and Camelot #2 precinct. The polling place for Camelot #2 precinct was established at Camelot Elementary School and was co-located with Camelot #1 precinct.

The Weyanoke precinct was divided to conform to the boundaries of House of Delegates District 38 and House of Delegates District 39 to create Weyanoke #1 precinct and Weyanoke #2 precinct. The polling place for Weyanoke #2 precinct was established at Holmes Middle School and was co-located with Weyanoke #1 precinct.

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 501: BAILEYS #1

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FIFTH
HOUSE OF DELEGATES DISTRICT: THIRTY-EIGHTH / ~~FORTY-NINTH~~

DESCRIPTION:

Beginning at the intersection of ~~Holmes Run (stream)~~ and Columbia Pike and Lacy Boulevard, thence with Lacy Boulevard in a southeasterly direction to its intersection with Lewis Lane, thence with Lewis Lane in a southwesterly direction to its intersection with Munson Road, thence with Munson Road in a southeasterly direction to its intersection with Magnolia Lane, thence with Magnolia Lane in a northeasterly direction to its intersection with North Rosser Street, thence with North Rosser Street to its intersection with the west corporate boundary of the City of Alexandria, thence with the west corporate boundary of the City of Alexandria in a generally southwesterly direction to its intersection with Holmes Run (stream), thence with the meanders of Holmes Run in a northwesterly direction to its intersection with Columbia Pike, thence with Columbia Pike in a northeasterly direction to its intersection with Lacy Boulevard, point of beginning.

POLLING PLACE: Bailey's Community Center
5920 Summers Lane, Falls Church

MAP GRIDS: ~~61-2~~, 61-4, ~~62-3~~, 72-2

NOTES: Established July 1981
Precinct description revised and readopted – March 2003
Senate District changed from 31st to 35th – July 2011
Precinct divided and renamed – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 531: BAILEYS #2

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FIFTH
HOUSE OF DELEGATES DISTRICT: FORTY-NINTH

DESCRIPTION:

Beginning at the intersection of Columbia Pike and Seminary Road at Baileys Crossroads, thence with Seminary Road in a southeasterly direction to its intersection with the west corporate boundary of the City of Alexandria, thence with the west corporate boundary of the City of Alexandria in a generally southwesterly direction to its intersection with North Rosser Street, thence with North Rosser Street in a northwesterly direction to its intersection with Magnolia Lane, thence with Magnolia Lane in a southwesterly direction to its intersection with Munson Road, thence with Munson Road in a northwesterly direction to its intersection with Lewis Lane, thence with Lewis Lane in a northeasterly direction to its intersection with Lacy Boulevard, thence with Lacy Boulevard in a northwesterly direction to its intersection with Columbia Pike, thence with Columbia Pike in a northeasterly direction to its intersection with Seminary Road at Baileys Crossroads, point of beginning.

POLLING PLACE: Bailey's Community Center
5920 Summers Lane, Falls Church

MAP GRIDS: 61-2, 61-4, 62-3

NOTES: Precinct established - June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 516: WEYANOKE #1

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FIFTH
HOUSE OF DELEGATES DISTRICT: ~~THIRTY-EIGHTH~~ / THIRTY-NINTH

DESCRIPTION:

Beginning at the intersection of Braddock Road and Little River Turnpike (Route 236), thence with Little River Turnpike in a southeasterly direction to its intersection with Cherokee Avenue ~~the west corporate boundary of the City of Alexandria~~, thence with Cherokee Avenue ~~the corporate boundary of the City of Alexandria~~ in a southwesterly direction to its intersection with the meanders of Indian Run (stream), thence with the meanders of Indian Run in a southeasterly direction to its intersection with the Shirley Memorial Highway (I-395), thence with the Shirley Memorial Highway in a southwesterly direction to its intersection with Edsall Road, thence with Edsall Road in a northwesterly direction to its intersection with Clifton Street, thence with Clifton Street in a northerly direction to its intersection with Braddock Road, thence with Braddock Road in a generally northeasterly direction to its intersection with Little River Turnpike, point of beginning.

POLLING PLACE: Holmes Middle School
6525 Montrose Street, Alexandria

MAP GRIDS: 72-1, 72-3, ~~72-4~~, 71-4, 80-2, 81-1

NOTES: Established 1954
Precinct description revised and readopted – March 2003
Boundary adjusted – July 2011
Precinct divided and renamed – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 532: WEYANOKE #2

CONGRESSIONAL DISTRICT: EIGHTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FIFTH
HOUSE OF DELEGATES DISTRICT: THIRTY-EIGHTH

DESCRIPTION:

Beginning at the intersection of Cherokee Avenue and Little River Turnpike (Route 236), thence with Little River Turnpike in a southeasterly direction to its intersection with the west corporate boundary of the City of Alexandria, thence with the west corporate boundary of the City of Alexandria in a southwesterly direction to its intersection with the Shirley Memorial Highway (I-395), thence with the Shirley Memorial Highway in a southwesterly direction to its intersection with the meanders of Indian Run (stream), thence with the meanders of Indian Run in a northwesterly direction to its intersection with Cherokee Avenue, thence with Cherokee Avenue in a northeasterly direction to its intersection with Little River Turnpike, point of beginning.

POLLING PLACE: Holmes Middle School
6525 Montrose Street, Alexandria

MAP GRIDS: 72-1, 72-3, 72-4

NOTES: Precinct established – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 522: CAMELOT #1

CONGRESSIONAL DISTRICT: ELEVENTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FOURTH
HOUSE OF DELEGATES DISTRICT: ~~THIRTY-NINTH~~ FIFTY-THIRD

DESCRIPTION:

Beginning at the intersection of Woodburn Road and Gallows Road, thence with Gallows Road in a southeasterly direction to its intersection with Holly Road, thence with Holly Road in a southerly direction to its intersection with King Arthur Road, thence with King Arthur Road in a southwesterly direction to its intersection with Saxony Drive, thence with Saxony Drive in a northerly direction to its intersection with Guinevere Drive, thence with Guinevere Drive in a westerly direction to its intersection with Launcelot Way, thence with Launcelot Way in a northerly direction to its intersection with Chivalry Road, thence with Chivalry Road in a westerly, then southwesterly direction to its intersection with Guinevere Drive, thence with Guinevere Drive in a westerly direction to its intersection with Woodburn Road, ~~the Capital Beltway (I-495), thence with the Capital Beltway in a southerly direction to its intersection with Little River Turnpike (Route 236), thence with Little River Turnpike in a westerly direction to its intersection with King Arthur Road, thence with King Arthur Road in a northerly direction to its intersection with Accotink Creek, thence with the meanders of Accotink Creek in a northwesterly direction to its intersection with Woodburn Road,~~ thence with Woodburn Road in a northeasterly, then easterly direction to its intersection with Gallows Road, point of beginning.

POLLING PLACE: Camelot Elementary School
8100 Guinevere Drive, Annandale

MAP GRIDS: 59-1, 59-2, ~~59-3~~, 59-4

NOTES: Established June 1991
Precinct description revised and readopted – March 2003
Delegate District changed from 37th to 39th/53rd – July 2011
Precinct divided and renamed – June 2021

Commonwealth of Virginia
COUNTY OF FAIRFAX
Mason District

PRECINCT 534: CAMELOT #2

CONGRESSIONAL DISTRICT: ELEVENTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-FOURTH
HOUSE OF DELEGATES DISTRICT: THIRTY-NINTH

DESCRIPTION:

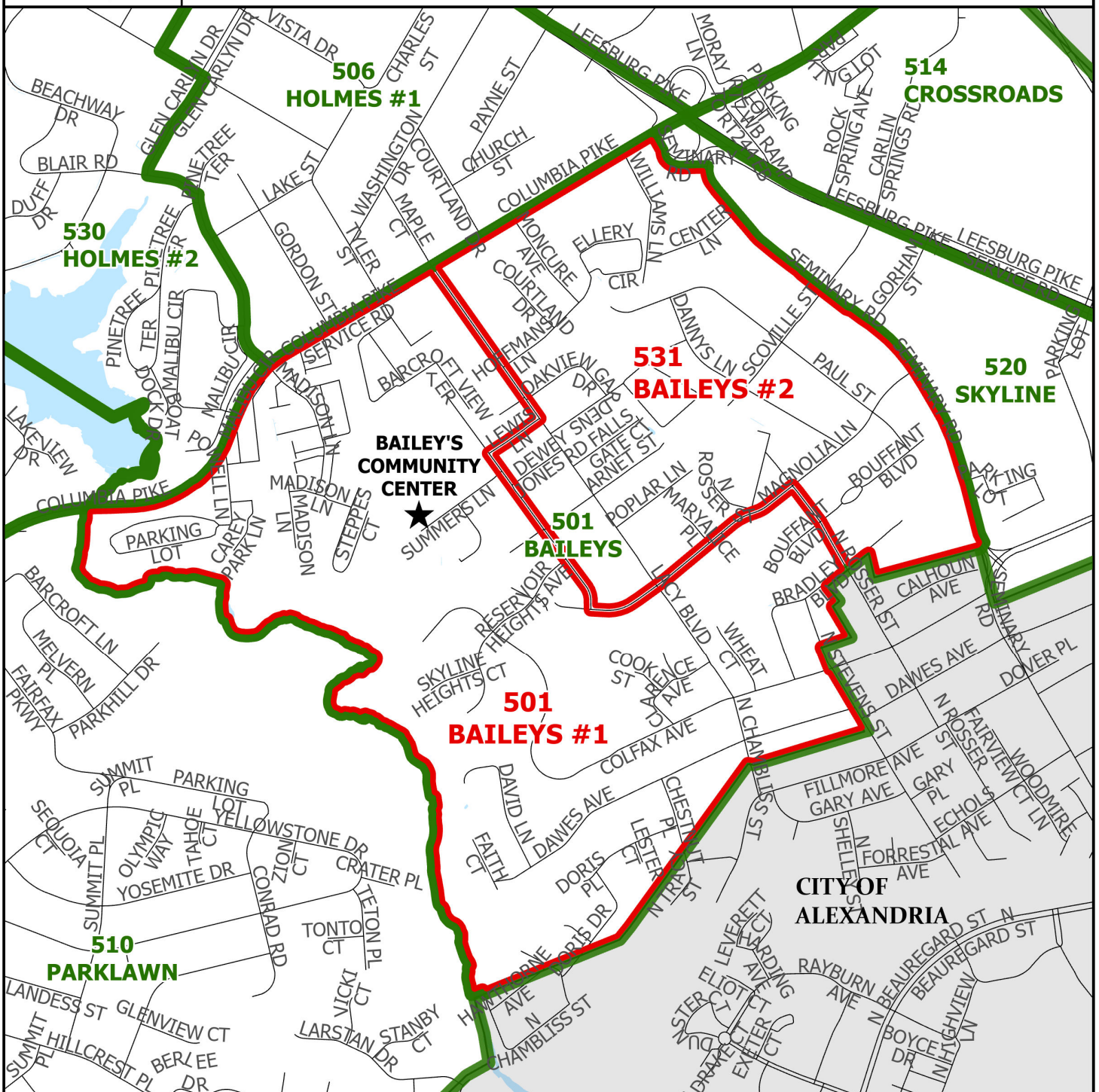
Beginning at the intersection of Holly Road and Gallows Road, thence with Gallows Road in a southeasterly direction to its intersection with Capital Beltway (I-495), thence with Capital Beltway in a southerly direction to its intersection with Little River Turnpike (Route 236), thence with Little River Turnpike in a westerly direction to its intersection with King Arthur Road, thence with King Arthur Road in a northerly direction to its intersection with Accotink Creek, thence with the meanders of Accotink Creek in a northwesterly direction to its intersection with Woodburn Road, thence with Woodburn Road in a northeasterly direction to its intersection with Guinevere Drive, thence with Guinevere Drive in a easterly direction to its intersection with Chivalry Road, thence with Chivalry Road in a northeasterly, then easterly direction to its intersection with Launcelot Way, thence with Launcelot Way in a southernly direction to its intersection with Guinevere Drive, thence with Guinevere Drive in an easterly direction to its intersection with Saxony Drive, thence with Saxony Drive in a southernly direction to its intersection with King Arthur Road, thence with King Arthur Road to its intersection with Holly Road, thence with Holly Road in a northerly direction to its intersection with Gallows Road, point of beginning.

POLLING PLACE: Camelot Elementary School
8100 Guinevere Drive, Annandale

MAP GRIDS: 59-1, 59-2, 59-3, 59-4

NOTES: Precinct established – June 2021

Commonwealth of Virginia
County of Fairfax
 Mason District



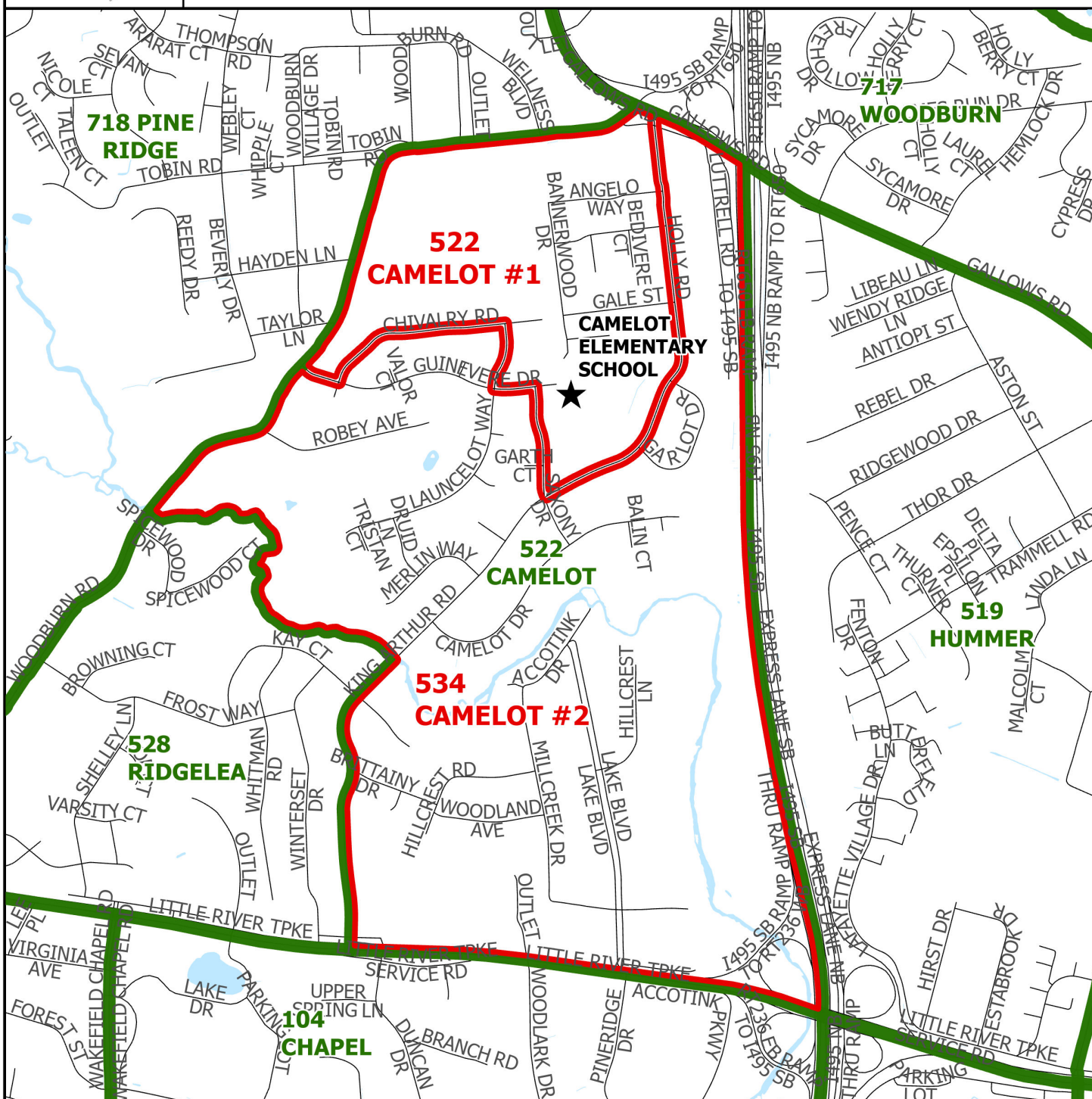
Proposed Precinct Split for 501 Baileys

June 2021

- Current Precinct:** #501 Baileys
- ★ **Current Precinct Polling Place:** Baileys Community Center
- Proposed Precincts:** 501 Baileys #1, 531 Baileys #2

*The current precinct polling place will remain the polling place for both of the proposed precincts.

Commonwealth of Virginia
County of Fairfax
 Mason District



Proposed Precinct Split for 522 Camelot

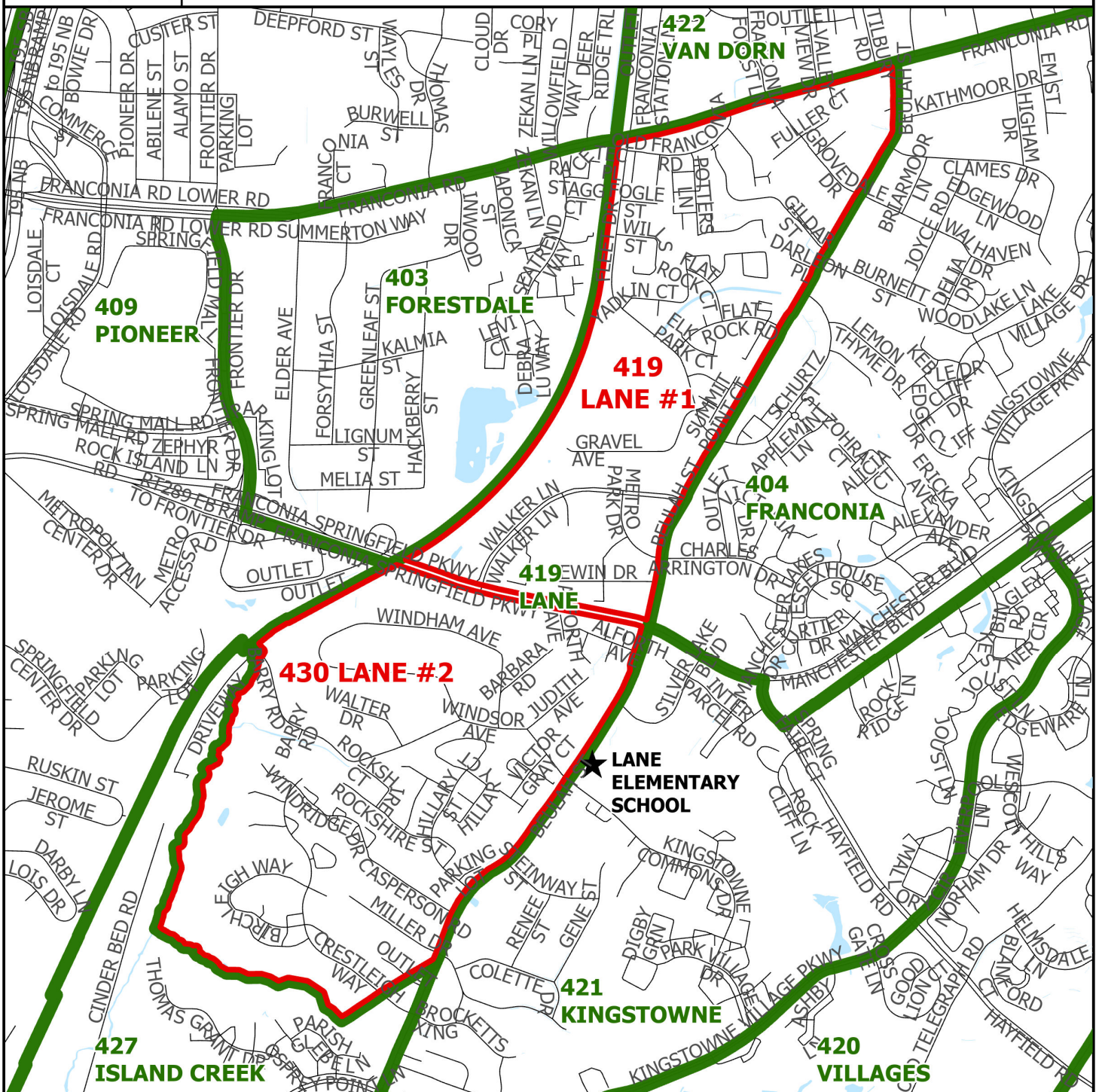
June 2021

- Current Precinct:** #522 Camelot
- ★ **Current Precinct Polling Place:** Camelot Elementary School
- Proposed Precincts:** 522 Camelot #1, 534 Camelot #2

*The current precinct polling place will remain the polling place for both of the proposed precincts.



Commonwealth of Virginia
County of Fairfax
Lee District



Proposed Precinct Split for 419 Lane

June 2021



Current Precinct: #419 Lane



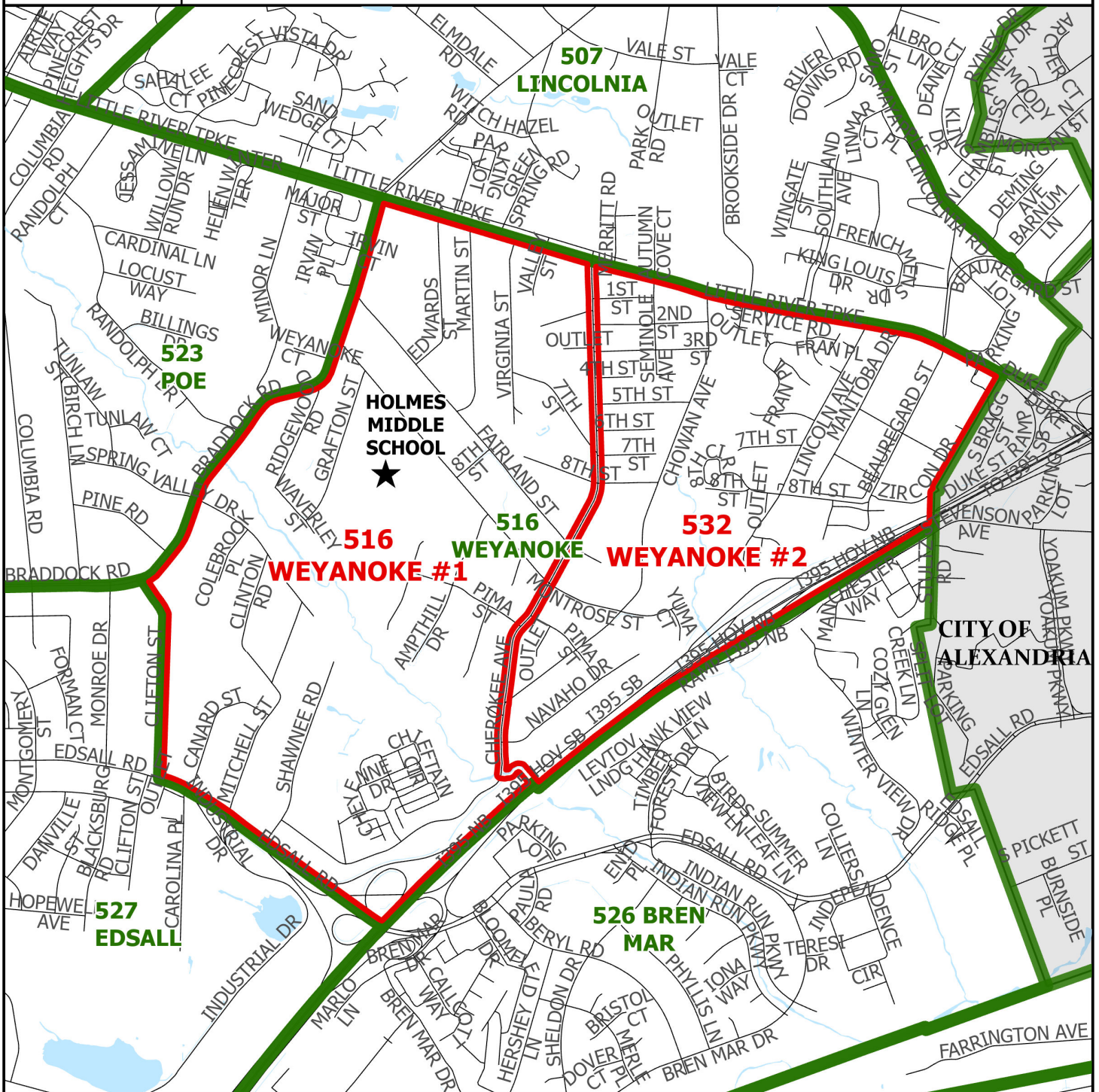
Current Precinct Polling Place: Lane Elementary School



Proposed Precincts: 419 Lane #1, 430 Lane #2

*The current precinct polling place will remain the polling place for both of the proposed precincts.

Commonwealth of Virginia
County of Fairfax
 Mason District



Proposed Precinct Split for 516 Weyanoke

June 2021



Current Precinct: #516 Weyanoke



Current Precinct Polling Place: Holmes Middle School



Proposed Precincts: 516 Weyanoke #1, 532 Weyanoke #2

*The current precinct polling place will remain the polling place for both of the proposed precincts.

**ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE
SECTIONS 7-2-7, 7-2-8, AND 7-2-13 RELATING TO ELECTION PRECINCTS
AND POLLING PLACES TO ELIMINATE SPLIT PRECINCTS AS REQUIRED
BY VIRGINIA CODE SECTION 24.2-307 BY CREATING, ADDING, AND
RENAMING PRECINCTS AND ESTABLISHING THEIR POLLING PLACES
FOR LANE PRECINCT IN THE LEE DISTRICT; AND BAILEYS PRECINCT,
WEYANOKE PRECINCT, AND CAMELOT PRECINCT IN THE MASON
DISTRICT**

Draft of June 22, 2021

AN ORDINANCE to amend and readopt Sections 7-2-7, 7-2-8, and 7-2-13 of the Fairfax County Code relating to election precincts and polling places to eliminate precincts split by House of Delegate district boundaries by creating, adding, and renaming precincts for Lane precinct, Baileys precinct, Weyanoke precinct, and Camelot precinct.

Be it ordained that the Board of Supervisors of Fairfax County:

1. That Sections 7-2-7, 7-2-8, and 7-2-13 of the Fairfax County Code are amended and readopted:

Section 7-2-7. - Lee District.

The Lee District shall consist of these election precincts: Bush Hill, Cameron, Clermont, Crestwood, Fairfield, Forestdale, Franconia, Garfield, Greenspring, Groveton, Hayfield, Huntley, Hybla Valley, Island Creek, Kingstowne, Lane No. 1, Lane No. 2, ~~Lane~~, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van Dorn, Villages, and Virginia Hills.

Section 7-2-8. - Mason District.

The Mason District shall consist of these election precincts: Baileys No. 1, Baileys No. 2, ~~Baileys~~, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot No. 1, Camelot No. 2, ~~Camelot~~, Columbia, Crossroads, Edsall, Glen Forest, Holmes No. 1, Holmes No. 2, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke No. 1, Weyanoke No. 2, ~~Weyanoke~~, and Willston.

Section 7-2-13. - General provisions.

All references to election precincts shall refer to those precincts, together with the descriptions and maps of the boundaries and polling places for each of those precincts, which were adopted by the Board of Supervisors on March 24, 2003, as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26, 2007, September 10, 2007, March 10, 2008, January 12, 2009, March 9, 2010, July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012, March 19, 2013, July 9, 2013, November 18, 2014, June 23, 2015, December 8, 2015, July 12, 2016, July 11, 2017, March 20, 2018, December 4, 2018, and April 9, 2019, December 3, 2019, March 24, 2020, ~~and~~ March 23, 2021, and June 22, 2021, kept on file with the clerk to the Board of Supervisors. Whenever a road, a stream, or other physical feature describes the boundary of a precinct, the center of such road, stream, or physical feature shall be the dividing line between that precinct and any adjoining precinct.

2. That the polling place locations for the newly-created precincts identified in this ordinance are established at:

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Lee District	Lane #2 (new)	Lane Elementary School 7137 Beulah Street Alexandria, Virginia 22315
Mason District	Baileys #2 (new)	Baileys Community Center 5920 Summers Lane Falls Church, Virginia 22041
Mason District	Weyanoke #2 (new)	Holmes Middle School 6525 Montrose Street Alexandria, Virginia 22312
Mason District	Camelot #2 (new)	Camelot Elementary School 8100 Guinevere Drive Annandale, Virginia 22003

3. That the following precincts are renamed:

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Lee District	Lane #1 (old name "Lane" but same address and polling place)	Lane Elementary School 7137 Beulah Street Alexandria, Virginia 22315

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Mason District	Baileys #1 (old name "Baileys" but same address and polling place)	Baileys Community Center 5920 Summers Lane Falls Church, Virginia 22041
Mason District	Weyanoke #1 (old name "Weyanoke" but same address and polling place)	Holmes Middle School 6525 Montrose Street Alexandria, Virginia 22312
Mason District	Camelot #1 (old name "Camelot" but same address and polling place)	Camelot Elementary School 8100 Guinevere Drive Annandale, Virginia 22003

- 4. That this ordinance shall become effective upon adoption.**
- 5. That the Clerk for the Board of Supervisors shall send a certified copy of this ordinance, with GIS maps and boundary descriptions, to the Fairfax County Electoral Board, the Department of Elections, and the Division of Legislative Services, as required under Va. Code § 24.2-306(C).**

GIVEN under my hand this _____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

ADMINISTRATIVE - 3

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

ISSUE:

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

RECOMMENDATION:

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

- One speed hump on Sandstone Way (Springfield District)

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

TIMING:

Board action is requested on June 8, 2021, in order to allow the proposed measure to be installed as soon as possible.

BACKGROUND:

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

On April 20, 2021, FCDOT received verification from the Springfield District Supervisor's office confirming community support for the Sandstone Way traffic calming plan.

Board Agenda Item
June 8, 2021

FISCAL IMPACT:

Funding in the amount of \$10,000 is necessary to fund the traffic calming measure associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Sandstone Way, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Sandstone Way

Attachment II: Traffic Calming Plan for Sandstone Way

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

Radwan Idris, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
SANDSTONE WAY
SPRINGFIELD DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 8, 2021, at which a quorum was present and voting, the following resolution was adopted:

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

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

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

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

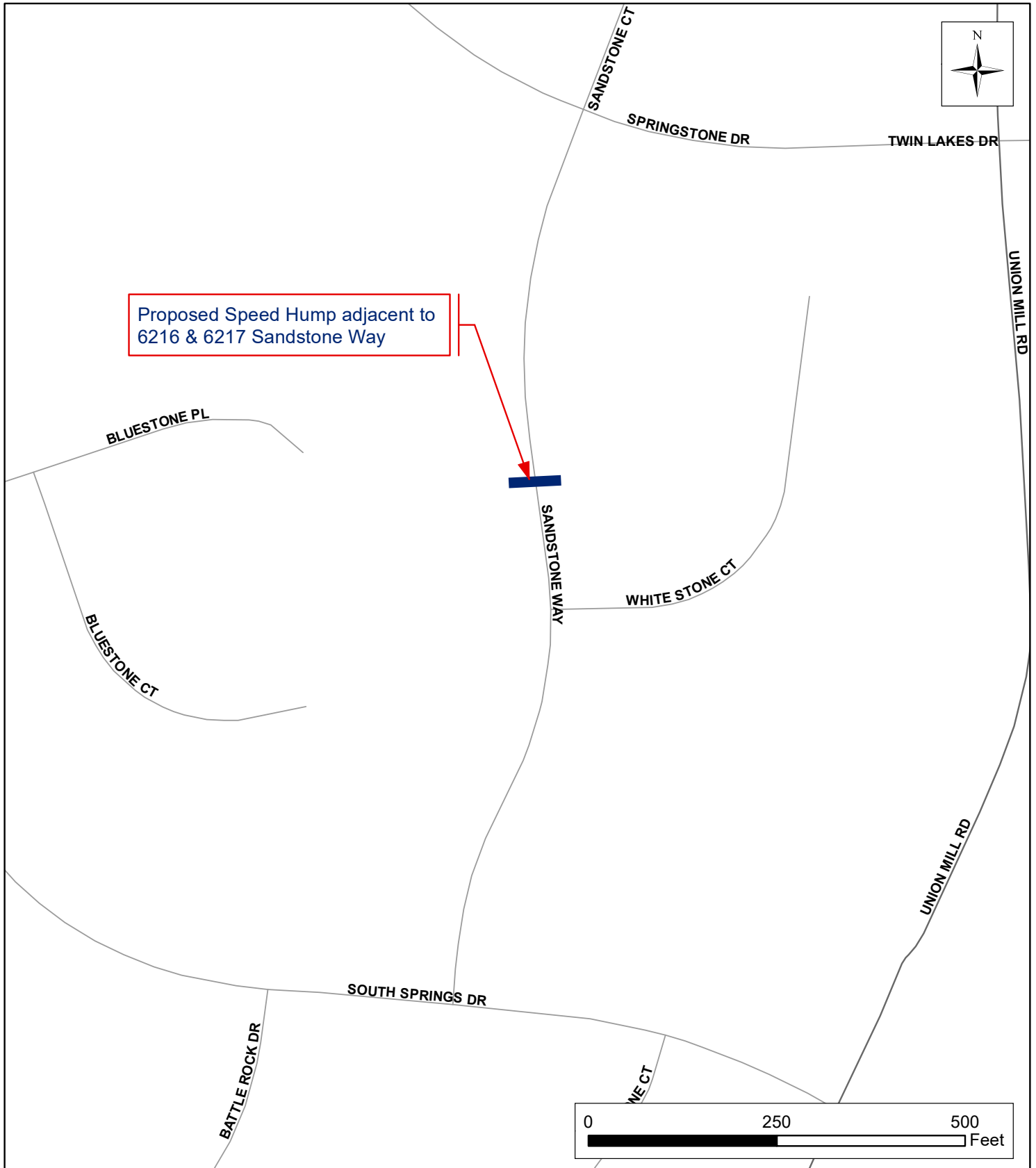
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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

ADOPTED this 8th day of June, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 66-1, 66-3

April 2021

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Sandstone Way
Springfield District**



Board Agenda Item
June 8, 2021

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on the Continuation of the Fairfax County Park Authority for a Period of 30 Years, Until October 28, 2051

ISSUE:

Authorization of the Board of Supervisors to advertise a public hearing on July 13, 2021, for the purpose of considering the attached ordinance amendment which would continue the existence of the Fairfax County Park Authority until October 28, 2051.

RECOMMENDATION:

The County Executive recommends that the Board authorize a public hearing for the proposed ordinance amendment.

TIMING:

Board action is requested on June 8, 2021, to provide sufficient time to advertise the proposed public hearing on July 13, 2021, at 4:00 p.m.

BACKGROUND:

The Board created the Fairfax County Park Authority by ordinance on December 6, 1950, pursuant to legislation enacted earlier in that year by the 1950 General Assembly. The legislation applied to Fairfax County and adjoining jurisdictions, 1950 Va. Acts, Ch 559 ("Park Authorities Act"), now 15.2.5700-15.2-5714 Chapter 57.

On October 28, 1991, the Board adopted an amendment to amend and reenact Section III of the Ordinance which created the Fairfax County Park Authority to continue in existence until October 28, 2021. In order to continue the Park Authority in existence beyond that time, an ordinance needs to be adopted. This reauthorization will continue the Park Authority for a period of 30 years, until October 28, 2051.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1- Proposed amendment to Ordinance to continue the Park Authority in existence until October 28, 2051

Board Agenda Item
June 8, 2021

STAFF:

Christopher Leonard, Deputy County Executive

Rachel Flynn, Deputy County Executive

Joseph M. Mondoro, Chief Financial Officer

Sara Baldwin, Acting Director, Fairfax County Park Authority

AMENDMENT TO AMEND AND REENACT SECTION III
OF THE ORDINANCE WHICH CREATED THE
FAIRFAX COUNTY PARK AUTHORITY ON
DECEMBER 6, 1950, AS AMENDED

An Ordinance to amend and reenact Section III of the Ordinance which created the Fairfax County Park Authority on December 6, 1950, as amended.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:

1. Section III of the Fairfax County Ordinance which created the Fairfax County Park Authority on December 6, 1950, as amended, is hereby amended and reenacted as follows:

SECTION III.

The Authority shall enjoy all the powers authorized under the Park Authorities Act and shall continue in existence until October 28, 2051, unless the Board of Supervisors of Fairfax County provides for an earlier termination provided that the existence of the said Authority may not be terminated after any obligation has been incurred by the Authority and while any such obligation remains binding unless the Board of Supervisors of Fairfax County, Virginia, agrees to assume and pay said obligation.

Date

ADMINISTRATIVE - 5

Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Behavioral Health and Developmental Services to Support Expansion of the Crisis Intervention Team (CIT) Assessment Site Program

ISSUE:

Board of Supervisors authorization is requested for the Fairfax-Falls Church Community Services Board (CSB) to apply for and accept grant funding, if received, from the Department of Behavioral Health and Developmental Services (DBHDS) Grant for the expansion of the Crisis Intervention Team (CIT) assessment site program. Funding of \$624,000 will be used to establish a 23-hour crisis stabilization unit with four beds. This grant funding supports individuals struggling with behavioral health crises being seen by Merrifield Crisis Response Center (MCRC) staff who do not clearly require admission to a hospital or a residential crisis stabilization unit. The grant period is July 1, 2021 to June 30, 2022; however, it is anticipated that these funds will be ongoing and included in the CSB's State Performance Contract with DBHDS. No Local Cash Match is required. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the CSB to apply for and accept funding, if received, from the DBHDS to Support Expansion of the CIT Assessment Site Program. Funding in the amount of \$624,000 will be used to establish a 23-hour crisis stabilization unit with four beds. This funding will support 5/5.0 FTE new grant positions. No Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
June 8, 2021

TIMING:

Board action is requested on June 8, 2021. Due to a grant application deadline of May 25, 2021, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email on May 24, 2021 of the CSB's intent to apply for this grant prior to the application due date. The Fairfax-Falls Church Community Services Board reviewed the application on May 26, 2021.

BACKGROUND:

The Department of Behavioral Health and Developmental Services is seeking proposals from qualified service providers to expand on services provided through established contracts for the operation of CIT Assessment Sites. Specifically, proposals should build upon the successful partnerships existing within CIT programs and improve community-based solutions to enhance services for individuals with mental illness. Successful CIT programs are intended to improve officer and consumer safety, reduce inappropriate incarceration, and redirect individuals with mental illness from the criminal justice system to the health care system when to do so is possible and appropriate.

Funding will include 5/5.0 FTE new grant positions to provide needed coverage for a 23-hour crisis stabilization unit with four beds. The 3/3.0 FTE new Behavioral Health Nurse Clinicians/Case Manager grant positions will provide coverage for the 23-hour program five days per week while the 2/2.0 FTE new Peer Support Specialist grant positions will assist individuals by providing support and resources. Additional funds will be used for equipment and supplies.

FISCAL IMPACT:

State funding of \$624,000 is being requested to establish a 23-hour crisis stabilization unit with four beds. No Local Cash Match is required. This grant does not allow for the recovery of indirect costs. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2022.

CREATION OF NEW POSITIONS:

There are 5/5.0 FTE new grant positions associated with this funding. The County is under no obligation to continue funding these positions when the grant funding expires.

Board Agenda Item
June 8, 2021

ENCLOSED DOCUMENTS:
Attachment 1: Summary of Grant Proposal

STAFF:
Christopher A. Leonard, Deputy County Executive
Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board

Grant to Support Expansion of CIT Assessment Site Program

Summary of Grant Proposal

Please note: the actual grant application is not yet complete; therefore, this summary has been provided detailing the specifics of this application.

Grant Title:	Grant to Support Expansion of Crisis Intervention Team (CIT) Assessment Site Program
Funding Agency:	Department of Behavioral Health and Developmental Services (DBHDS)
Applicant:	Fairfax-Falls Church Community Services Board (CSB)
Funding Amount:	State funding of \$624,000 is being requested.
Proposed Use of Funds:	Funding of \$624,000 will be used to establish 5/5.0 FTE new grant positions at the CSB to establish a 23-hour crisis stabilization unit with four beds. This program will serve individuals struggling with behavioral health crises being seen by Merrifield Crisis Response Center (MCRC) staff who do not clearly require admission to a hospital or a residential crisis stabilization unit. The 3/3.0 FTE new Behavioral Health Nurse Clinicians/Case Manager grant positions will provide coverage for the 23-hour program five days per week while the 2/2.0 FTE new Peer Support Specialist grant positions will assist individuals by providing support and resources. Additional funds will be used for equipment and supplies.
Performance Measures:	<p>Establish a 23-hour crisis stabilization unit with four beds to offer care for acute crises that can normally be resolved in less than 24 hours.</p> <p>Serve approximately 750 to 1,000 individuals with onsite 23-hour crisis stabilization services at MCRC in Year 1.</p> <p>Discharge 75 percent of individuals in 23-hour crisis stabilization program to the community.</p> <p>Link 70 percent of individuals with behavioral health aftercare.</p>
Grant Period:	July 1, 2021 - June 30, 2022. It is anticipated that these funds will be ongoing and included in the CSB's State Performance Contract with DBHDS.

ADMINISTRATIVE - 6

Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Behavioral Health and Developmental Services for Forensic Discharge Planning

ISSUE:

Board of Supervisors authorization is requested for the Fairfax-Falls Church Community Services Board (CSB) to apply for and accept grant funding, if received, from the Department of Behavioral Health and Developmental Services (DBHDS) for Forensic Discharge Planning. Funding of \$300,000 will support 2/2.0 FTE new grant positions to enhance forensic discharge planning services for individuals with serious mental illness at the Fairfax Detention Center. This grant funding supports the County's Diversion First initiative aimed at reducing the number of people with mental illness in the County jail. The grant period is September 1, 2021 to June 30, 2022; however, it is anticipated that these funds will be ongoing and included in the CSB's State Performance Contract with DBHDS. No Local Cash Match is required. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the CSB to apply for and accept funding, if received, from the DBHDS for Forensic Discharge Planning. Funding in the amount of \$300,000 will be used to enhance forensic discharge planning services for individuals with serious mental illness at the Fairfax Detention Center. This funding will support 2/2.0 FTE new grant positions. No Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
June 8, 2021

TIMING:

Board action is requested on June 8, 2021. Due to a grant application deadline of June 4, 2021, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email on May 24, 2021 of the CSB's intent to apply for this grant prior to the application due date. The Fairfax-Falls Church Community Services Board reviewed the application on May 26, 2021.

BACKGROUND:

The Department of Behavioral Health and Developmental Services is seeking proposals for Forensic Discharge Planning from Community Services Boards to provide forensic discharge planning services for individuals with SMI in Virginia jails. Specifically, proposals are sought for programs to be implemented at jails with the highest percentage of inmates with serious mental illness. Funded programs are expected to adhere to DBHDS protocols for discharge planning at local jails. The Fairfax Detention Center is one of 11 jails in Virginia with the highest percentage of inmates with serious mental illness.

Funding will support 2/2.0 FTE new grant positions who will be responsible for intake assessment. These CSB senior clinicians will serve as designated positions in the mental health units at the Fairfax Detention Center to begin discharge planning upon an individual's entry into jail.

FISCAL IMPACT:

State funding of \$300,000 is being requested to enhance forensic discharge planning services for individuals with serious mental illness at the Fairfax Detention Center. No Local Cash Match is required. This grant does not allow for the recovery of indirect costs. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2022.

CREATION OF NEW POSITIONS:

There are 2/2.0 FTE new grant positions associated with this funding. The County is under no obligation to continue funding these positions when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

Board Agenda Item
June 8, 2021

STAFF:

Christopher A. Leonard, Deputy County Executive

Dave Rohrer, Deputy County Executive

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

Grant for Forensic Discharge Planning

Summary of Grant Proposal

Please note: the actual grant application is not yet complete; therefore, this summary has been provided detailing the specifics of this application.

Grant Title:	Grant for Forensic Discharge Planning FY 2022
Funding Agency:	Department of Behavioral Health and Developmental Services (DBHDS)
Applicant:	Fairfax-Falls Church Community Services Board (CSB)
Funding Amount:	State funding of \$300,000 is being requested.
Proposed Use of Funds:	Funding of \$300,000 will be used to establish 2/2.0 FTE new grant positions at the CSB to enhance forensic discharge planning services for individuals with serious mental illness. These senior clinicians will serve as designated positions in the mental health units at the Fairfax Detention Center to begin discharge planning beginning upon entry into jail and continuing until the individual is connected with the appropriate services and supports post-release.
Performance Measures:	<p>Provide Forensic Discharge Planning to individuals incarcerated and housed in specialized mental health units at the Fairfax ADC.</p> <p>Improve connection to post release treatment for individuals with serious mental illness and lower their risk for recidivism.</p> <p>Increase self-reported quality of life from admission to conclusion of participation.</p>
Grant Period:	September 1, 2021 - June 30, 2022. It is anticipated that funding will be ongoing and included in the CSB's State Performance Contract with DBHDS.

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ADMINISTRATIVE - 7

Supplemental Appropriation Resolution AS 21304 for the Health Department to Accept Grant Funding from Virginia Department of Health for COVID-19 Response Activities

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 21304 for the Health Department (HD) to accept grant funding in the amount of \$3,674,745 from the Virginia Department of Health (VDH) to continue existing efforts to contain COVID-19 in the community. Funding has specifically been targeted to continue Health Department activities in support of COVID-19 vaccinations as well as engagement of vulnerable populations. Both of these remain critical to containing COVID-19 in the community. No Local Cash Match is required. The grant period is from November 18, 2020 through June 30, 2024. When grant funding expires, the County is under no obligation to continue funding these activities. Given the timing of the award and the need to begin work quickly, the Memorandum of Understanding (MOU) has been fully executed. Therefore, Board approval of the MOU and its execution is also requested.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 21304 to accept funding from the Virginia Department of Health in the amount of \$3,674,745 for COVID-19 response activities. There are no positions associated with this funding and no Local Cash Match is required. The County Executive also recommends the Board approve the execution of the MOU between the Virginia Department of Health and the County.

TIMING:

Board approval is requested on June 8, 2021.

BACKGROUND:

On March 15, 2021 the Virginia Department of Health notified local health districts of available funding from the Centers for Disease Control (CDC) via the Immunizations and Vaccines for Children Cooperative Agreement. This funding is intended to continue COVID-19 response activities currently underway in the County. Funding has specifically been provided for the following:

Board Agenda Item
June 8, 2021

- COVID-19 Immunization Program: \$145,240
Funding provided for the COVID-19 Immunization program will allow temporary and benefits-eligible employees to expand vaccination capacity through local primary care providers and assist with maintaining inventory of vaccine distributed to the Health Department.
- Community Health Workers for Quarantine and Isolation Support: \$337,500
Funding has been provided for contract staff to support individuals and families in following isolation guidelines and accessing vaccinations.
- Vaccinators: \$2,123,746
Funding has been provided for County temporary and benefits-eligible staff as well as contract staff to administer vaccinations.
- Media Campaigns: \$390,000
Funding has been provided for regional media campaigns to promote seasonal flu and COVID-19 vaccinations.
- Epidemiology: \$678,259
Funding has been provided for contract staff to support contact tracing and analysis of local COVID-19 data.

FISCAL IMPACT:

Funding of \$3,674,745 from the Virginia Department of Health will be used to support existing COVID-19 response activities. No Local Cash Match is required. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2021. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Understanding from the Virginia Department of Health
Attachment 2: Supplemental Appropriation Resolution AS 21304

Board Agenda Item
June 8, 2021

STAFF:

Christopher A. Leonard, Deputy County Executive

Gloria Addo-Ayensu, Director, Health Department

Jessica L. Werder, Deputy Director, Public Health Operations, Health Department

**DEPARTMENT OF HEALTH
OFFICE OF COMMUNITY HEALTH SERVICES
109 GOVERNOR ST.
RICHMOND, VIRGINIA 23219**

CONTRACT MODIFICATION AGREEMENT

Date: March 15, 2021

Contract Number: VDH-21-501-0103

Modification Number: 1

Issued By: Department of Health
Community Health services
109 Governor Street
13th Floor,
Richmond, VA 23219

Contractor: Fairfax Health District
10777 Main Street
Fairfax Virginia 22030

Commodity: 94600 –Financial Services

This contract modification is entered into pursuant to Section VIII F. Change to the Contract, of the MOU/Contract.
Description of Modification:

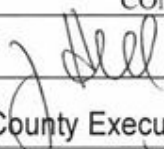
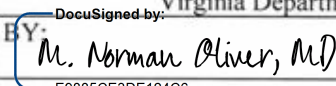

1. The MOU maximum value changes from **\$230,000.00** to a maximum value of **\$3,904,745.00** with no renewal periods.

The funding allocation targets are as follows:

- Cycle 1 - \$230,000 (Initial MOU Amount)
- Cycle 2 - \$145,240
- Cycle 3 - \$1,015,759 (of which \$337,500 is targeted to hire (3) Community Health Workers for a max of 2 years)
- Vaccinator Funds - \$2,123,746 (Refocusing experienced staff to childhood vaccinations)
- Influenza and COVID-19 Supplemental - \$140,000
- Media Campaign - \$250,000 for 6 months (Vulnerable population communications)

2. Date of MOU is hereby changed from June 30, 2021 to June 30, 2024, and the final reconciliation from 07/30/2021 to 07/30/2024.

Except as provided herein, all terms and conditions of contract VDH-21-501-0103 dated November 19, 2020 as heretofore changed, remain unchanged and in full force and effect.

CONTRACTOR:	Virginia Department of Health
BY: 	BY:  E9885CE3DE124C6...
TITLE: County Executive	TITLE: State Health Commissioner
DATE: 	DATE: 4/9/2021 11:26:28 AM EDT

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, §§2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21304

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on June 8, 2021, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2021, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G7171, Health Department

Grants:	1710042-2021, COVID-19 Immunization Planning	\$145,240
	1CV7106-2021, CHWs for Quarantine and Isolation Support	\$337,500
	1CV7107-2021, Vaccinators	\$2,123,746
	1CV7108-2021, Media Campaign	\$390,000
	1CV7109- 2021, Epidemiology	\$678,259

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$3,674,745
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Fund:	500-C50000, Federal-State Grant Fund
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Source of Funds: Virginia Department of Health, \$3,674,745

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ACTION - 1

Authorization to Execute Made in Fairfax Licensing Agreements and Trademark Registration

ISSUE:

Board of Supervisors' authorization to pursue trademark registration of the "Made in Fairfax" logo ("MiF logo") with the Commonwealth of Virginia (Attachment 1), to license the use of the MiF logo to qualified small-scale production businesses based in Fairfax County through license agreements based on and substantially similar to the license agreement template attached (Attachment 2), and a delegation of signature authority for the Director of the Department of Planning and Development to sign such licensing agreements.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) authorize the Director of the Department of Planning and Development (DPD) to execute licensing agreements consistent with that contained in Attachment 2, to allow limited use of the MiF logo in the marketing of products produced by local small-scale businesses. Furthermore, the County Executive recommends that the County pursue trademark registration for the MiF logo with the Commonwealth of Virginia to expand the enforcement mechanisms for and geographic range of trademark protection.

TIMING:

Board action is requested on June 8, 2021, in order to pursue trademark registration and to provide the County's small businesses with enhanced opportunities to market their products through the use of the MiF logo.

BACKGROUND:

In 2018, the Small-Scale Production Initiative was launched by DPD to research the potential for locally made products and businesses to contribute to the revitalization of commercial areas around Fairfax County. This initiative resulted in the formation of the Made in Fairfax Network, and, in consultation with Made in Fairfax Network members, the County created the MiF logo to raise the visibility and enhance the identity of locally made products. It is beneficial for the logo to not only be promoted by the County through display on County website pages and public communications, but to also be made available for use by qualified program partners for co-branding and use on their

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individual websites and marketing materials.

Staff considered a variety of ways to both protect and promote the brand and have determined that the most expeditious way is use of the MiF logo by qualified partners and small-scale production business through a licensing agreement, which will specify the type of communications mediums, visual placement of the logo, and other terms of use. Signature authority will be delegated to the Director of the Department of Planning and Development. In addition, staff is intending to pursue Virginia trademark registration to expand the available enforcement mechanisms for and geographic range of trademark protection beyond that provided by common law trademark protection to include all of Virginia.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Made in Fairfax logo
Attachment 2: Made in Fairfax licensing agreement

STAFF:
Joseph M. Mondoro, Chief Financial Officer
Rachel Flynn, Deputy County Executive
Barbara A. Byron, Director, Department of Planning and Development
Douglas Loescher, Program Manager, Department of Planning and Development

ASSIGNED COUNSEL:
Martin R. Desjardins, Assistant County Attorney

Board Agenda Item
June 8, 2021

ACTION

ATTACHMENT 1 – Made in Fairfax Logo



ATTACHMENT 2 – Made in Fairfax Licensing Agreement Template

MADE IN FAIRFAX SERVICE MARK LICENSE AGREEMENT

This *Made in Fairfax* Service Mark License agreement (“Agreement”) is entered between Fairfax County, Virginia (“County”), and _____ (“Licensee”), collectively referred to as the “Parties,” as of the Effective Date defined in Paragraph 3.1 below.

ARTICLE I: LICENSE GRANT AND SCOPE

1.1 **Grant of License:** Subject to all terms of this Agreement, the County grants to Licensee a nonexclusive, royalty-free, revocable license to use the *Made in Fairfax* Service Mark (“Mark”) appearing in Exhibit A, incorporated here by reference. Licensee shall not use the Mark except as permitted by this Agreement.

1.2 **Scope of License:** Licensee is licensed to use the Mark solely on or in connection with Licensee’s products and/or services listed in Exhibit A (“Licensed Products or Services”). Licensee is further licensed to use the Mark on all materials related to the Licensed Products or Services, including packaging and promotional materials.

1.3 **Made in Fairfax Usage Guidelines:** Every use of and reference to the Mark by Licensee shall be in accordance with Exhibit B, incorporated here by reference.

1.4 **No Endorsement of Licensee’s Products or Services:** Licensee shall not state or imply that this Agreement or the License granted constitute an endorsement of Licensee’s products or services by the County or any of its departments, boards, authorities, subordinate bodies, or employees.

1.5 **No Sublicensing; Reservation of Rights:** Licensee does not have the right to sublicense any rights granted under this Agreement. The County reserves the right to use, and to license others to use, the Mark in connection with any other products or services, including products or services that may compete with Licensee’s products or services.

ARTICLE II: OWNERSHIP & SIMILAR MARKS

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2.1 Ownership: The County retains complete ownership of the Mark. Other than the nonexclusive license expressly granted in this Agreement, no right, title, or interest is transferred to Licensee.

2.2 No Adoption of Confusingly Similar Marks: Licensee shall not adopt or use, based on the sole judgment of the County, any mark or trade name confusingly similar to or suggestive of the Mark.

ARTICLE III: EXPIRATION; EFFECTIVE DATE; RENEWAL; TERMINATION

3.1 Expiration; Effective Date: This Agreement shall expire three years from the Effective Date. "Effective Date" is defined as the date on which this Agreement is fully executed by the Parties.

3.2 Renewal: The Parties may renew this Agreement in a writing signed by the Parties.

3.3 Termination: This Agreement may be terminated by either Party, with or without cause, provided such termination is made in writing and received at least thirty (30) days prior to the intended date of termination.

3.4 Termination Due to Failure to Comply with Laws, Regulations, etc.: The County shall have the sole right to terminate this Agreement immediately if, in the County's sole determination, Licensee fails to comply with all applicable federal and Virginia laws and regulations, County ordinances, County licensing and permitting requirements, and all applicable tax filings.

3.5 Discontinuation of Use: Upon termination or expiration of the license granted by this Agreement for any reason, Licensee shall immediately discontinue all use of the Mark.

ARTICLE IV: MISCELLANEOUS

4.1 Notice: All notices pertaining to this Agreement shall be in writing and shall be sent via certified mail, return receipt requested, with postage prepaid, or via electronic mail, to:

For the County:

Address: Fairfax County Department of Planning and Development
Community Revitalization Section
12055 Government Center Parkway
Fairfax Virginia 22035

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MadeInFairfax@fairfaxcounty.gov

For Licensee:

Address:

E-Mail:

4.2 No Joint Venture, Partnership or Agency: The Parties intend by this Agreement to establish the relationship of licensor and licensee. It is not the intention of either Party to undertake a joint venture, to form a partnership, or to make one an agent of the other.

4.3 Waiver: Any waiver by the County of a breach of this Agreement by Licensee shall not operate or be construed as a waiver of any breach that occurs subsequently. The County's waiver of or failure to enforce a provision of this Agreement in a particular instance shall not operate or be construed as continuing beyond that instance or as a waiver of any other provision of this Agreement.

4.4 Entire Agreement: This Agreement constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any prior understanding or written or oral agreement.

4.5 Legal Action: Licensee shall not institute any legal action until all statutory requirements have been met.

4.6 Choice of Law; Venue: This Agreement and its terms are governed, construed, and interpreted in accordance with the laws of the Commonwealth of Virginia. Any and all disputes, claims, and causes of action arising out of or in any way connected with this contract or its performance must be brought in the applicable court of Fairfax County.

4.7 No Indemnification by the County: The Parties agree that under applicable law the County cannot indemnify or defend Licensee. To the extent any term in this Agreement includes an indemnification or obligation to defend by the County, that term is stricken and of no effect.

ACCEPTED AND AGREED TO:

FAIRFAX COUNTY, VIRGINIA

Board Agenda Item
June 8, 2021

Barbara Byron, Director

Fairfax County Department of Planning & Development

Date

[LICENSEE NAME]

(Signature of Authorized Official)

Date

Printed Name: _____

Title: _____

Board Agenda Item
June 8, 2021

MADE IN FAIRFAX SERVICE MARK LICENSE AGREEMENT

EXHIBIT A: THE MARK AND LICENSED USES

THE MADE IN FAIRFAX SERVICE MARK ("MARK"):



LICENSED TERRITORY:

United States of America

LICENSED PRODUCTS OR SERVICES: [list of products and services offered by the vendor]

MADE IN FAIRFAX SERVICE MARK LICENSE AGREEMENT

EXHIBIT B: MADE IN FAIRFAX USAGE GUIDELINES

Licensee must follow the usage guidelines below every time Licensee uses the Mark:

1. USE THE MARK ONLY AS DESIGNED

- Only display the Mark in its complete form, as rendered in Exhibit A
- Do not modify the Mark's design, appearance, colors, rotation, proportions, or fonts.
- Do not add text, graphics, or other visual element to the Mark
- Do not animate the Mark, make it rotate, move, or change shape
- No graphics, text, or other visual elements may be visible through any portion of the Mark
- The empty space around the Mark must be at least 25% of the width of the Mark

2. LICENSING NOTICE

Promotional written, electronic, or online materials displaying the Mark, must incorporate a legible licensing notice ("Notice"), as follows:

The *Made in Fairfax* logo is a registered service mark of Fairfax County, Virginia. Used with permission.

3. DO NOT INCLUDE THE MARK IN THE NAME OF ANY THIRD-PARTY PRODUCT OR SERVICE.

4. DO NOT ADOPT TRADE OR SERVICE MARKS SIMILAR TO THE MARK IN APPEARANCE, SOUND, OR MEANING.

5. DO NOT INCORPORATE THE MARK INTO THE NAME OF YOUR PRODUCT, THE NAME OF YOUR BUSINESS, OR THE NAME OF YOUR WEB SITE.

ACTION - 2

Authorization of Fall 2021 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 2, 2021, 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 2, 2021.

TIMING:

Board authorization is requested on June 8, 2021, to provide sufficient time to obtain a court order and prepare for the referendum. Attachment 1 is the proposed fall 2021 bond referendum schedule of events. Staff will return to the Board with a Board Item on July 27, 2021, for authorization to print and distribute an explanatory County bond referendum statement (known as the "Plain Language Statement").

BACKGROUND:

On May 20, 2021, 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 2022 – FY 2026 Adopted Capital Improvement Program (With Future Fiscal Years to FY 2031), as approved by the Board of Supervisors on April 27, 2021.

In Virginia, a referendum can be put on the ballot for consideration by the voters only if the referendum is ordered by the Circuit 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

Board Agenda Item
June 8, 2021

Registrar will then prepare the ballots in time to make them available to voters, beginning with absentee voting on September 18, 2021.

It is important to note that while the project list in Attachment 4 represents the current proposals regarding what projects to fund, the ballot question is phrased more generally. This allows the Board flexibility as to which projects to fund with the bond proceeds, so long as the projects are within the uses described in the ballot question.

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 2022 - FY 2026 Adopted Capital Improvement Program (With Future Fiscal Years to FY 2031).

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 20, 2021 Requesting a Bond Referendum

Attachment 4 – School 2021 Bond Referendum Project List

STAFF:

Joseph Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Marty Smith, Chief Operating Officer, Fairfax County Public Schools (FCPS)

Jeffrey Platenberg, Assistant Superintendent, Facilities and Transportation Services, FCPS

Joseph LaHait, Debt Manager, Department of Management and Budget

ASSIGNED COUNSEL:

Erin C. Ward, Deputy County Attorney

Martin Desjardins, Assistant County Attorney

**Proposed Schedule of Events
Fall 2021 Bond Referendum – Schools**

Date	Item
March 16, 2021	Budget Committee review of FY 2022 - FY 2026 Capital Improvement Program
April 27, 2021	FY 2022 Budget Markup & Approval of the FY 2022 - FY 2026 Capital Improvement Program
May 4, 2021	FY 2022 Budget Adoption
May 20, 2021	Fairfax County School Board Adopts School Bond Referendum Resolution
June 8, 2021	Board of Supervisors Adopts School Bond Referendum Resolution
NLT June 21, 2021	Petition filed with Fairfax County Circuit Court for School Bond Referendum
July 6, 2021 (est.)	Circuit Court orders School Bond Referendum
July 27, 2021	Board of Supervisors Approval of Explanatory Bond Referendum Statement for School Bonds (Plain Language Explanation)
September 18, 2021	Absentee voting begins (required 45 days prior to election)
September 18, 2021	Publication of notice of election
November 2, 2021	Election Day; referendum held
November 9, 2021 (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 8, 2021, 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 20, 2021, 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 2, 2021, 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 20, 2021, 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 2, 2021.

Section 3. That the members, officers, legal counsel, agents, and employees of the Board of Supervisors 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 2, 2021.

Given under my hand on this _____ day of ____ 2021

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

**FAIRFAX COUNTY SCHOOL BOARD
BOND REFERENDUM RESOLUTION**

_____, 2021

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 2, 2021.

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 ____, 2021.

(SEAL)

Ilene D. Muhlberg
Clerk, Fairfax County School Board

Fairfax County Public Schools Proposed 2021 School Bond Referendum

The preliminary expected uses of bond proceeds include, without limitation, the following projects:

RENOVATIONS

Elementary School Renovation:

Wakefield Forest ES (construction)	\$30,000,000
Louise Archer ES (construction)	37,000,000
Crossfield ES (construction)	31,000,000
Mosby Woods ES (Mosaic ES) (construction)	38,000,000
Bonnie Brae ES (construction)	38,000,000
Bren Mar Park ES (planning/design)	4,000,000
Brookfield ES (planning/design)	4,000,000
Lees Corner ES (planning/design)	4,000,000
Armstrong ES (planning/design)	4,000,000
Willow Springs ES (planning/design)	4,000,000
Herndon ES (planning/design)	4,000,000
Dranesville ES (planning/design)	4,000,000

Elementary School Renovation Subtotal:

\$202,000,000

High School Renovation:

Falls Church HS (construction)	\$130,000,000
Centreville HS (planning/design)	12,000,000

High School Renovation Subtotal:

\$142,000,000

Site Acquisition:

Future Western High School	\$13,500,000
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Site Acquisition Renovation Subtotal:

\$13,500,000

PROJECT SUBTOTAL:

\$357,500,000

BOND COST:

\$2,500,000

REFERENDUM TOTAL:

\$360,000,000

ACTION - 3

Approval of an Amended Agreement Between the Town of Herndon (Town) and Fairfax County (County) to Design and Construct the Sugarland Run (South) SU9207-A Stream Restoration Project (Dranesville District)

ISSUE:

Board of Supervisors' (Board) authorization is requested for the County to amend an agreement with the Town of Herndon that provides additional funding for the design and construction of the Sugarland Run (South) SU9207-A Stream Restoration Project (Project), which is in the Town and the Sugarland Run watershed.

RECOMMENDATION:

The County Executive recommends that the Board approve and authorize the County Executive or his designee to sign the amended agreement with the Town to provide funding for the design and construction of the Project.

TIMING:

Board approval is requested on June 8, 2021.

BACKGROUND:

On September 25, 2018, with Board authorization, the County Executive signed an agreement with the Town, which provided \$1.2 million to fund the design and construction of the Project.

The Project will restore approximately 1,200 linear feet of the stream on Sugarland Run, providing nutrient reduction and improved water quality in the Sugarland Run watershed. Under the terms of the 2018 agreement, the County disbursed \$200,000 for the design of the Project. However, the total design cost exceeds the previous estimate, and will cost \$401,800, based on negotiated proposals. The Town has requested an additional \$201,800 from the County to fund the Project's design.

Under an existing agreement between the Board, the Town of Vienna, and the Town of Herndon, the parties use water quality benefits from projects towards compliance with their respective Municipal Separate Storm Sewer System (MS4) permits and Chesapeake Bay Total Maximum Daily Load reduction requirements. Consistent with the framework of that cooperative agreement, the Town has asked the County to fund

the design and construction costs for the Project, and the Town will administer the design and construction. Partnering with the Town on the Project will save the County the time and administrative costs that would be incurred if it were to implement the Project under its stormwater program.

FISCAL IMPACT:

The total cost to design and implement the Project is now estimated to be \$1,401,800. The County funded \$200,000 in FY 2019 for the design. Under the amended agreement, the County will fund an additional \$201,800 to the Town solely to complete the design of the Project in FY 2021. Upon completion of the design, the County will grant the Town with an additional \$1 million for construction. If those funds are unavailable in the stormwater budget at the time of the completion of design, they will be paid when they become available. Under the amended agreement, the County has the discretion to pay construction cost overruns, but in an amount not to exceed 10 percent of the total estimated Project cost. County funds can only be used for the design and construction of the Project. The Town will reimburse the County funds that are not expended in accordance with the terms of the attached agreement. Funding is currently available in Project SD-000031, Stream and Water Quality Improvements, Fund 40100, Stormwater Services, for the County's obligation to this Project.

ENCLOSED DOCUMENTS:

Attachment 1: Town of Herndon Resolution and Amended Agreement between the Board of Supervisors of Fairfax County, Virginia, and the Town of Herndon

STAFF:

Rachel Flynn, Deputy County Executive

~~Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)~~

John Kellas, Acting Director, Department of Public Works and Environmental Services (DPWES)

Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Programs
Craig Carinci, Director, DPWES, Stormwater Planning Division

TOWN OF HERNDON, VIRGINIA

RESOLUTION

APRIL 27, 2021

- Resolution-** to approve an amended funding agreement to supersede and replace that previously approved funding agreement between Board of Supervisors of Fairfax County and the Town of Herndon dated September 25, 2018, in order to receive additional funds to complete the design and implement the Sugarland Run (South) Stream Restoration Project.
- WHEREAS,** the Town requested funds from Fairfax County to design and implement the Sugarland Run (South) Stream Restoration Project (the "Project"), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Sugarland Run South; and
- WHEREAS,** the Project is within the Chesapeake Bay, Potomac River, and Sugarland Run watersheds; and
- WHEREAS,** the Town is part of the County's Stormwater Service District and the County, Town, and the Town of Vienna have entered into an agreement to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load ("TMDL") and other water quality goals; and
- WHEREAS,** under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town; and
- WHEREAS,** the Town and County agree that under the Cooperative Agreement, these funds can be used for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and
- WHEREAS,** pursuant to Resolution 18-G-47 adopted August 14, 2018, the Town Council approved a funding agreement with the Board of Supervisor of Fairfax County, Virginia whereby the County agreed to distribute two hundred thousand dollars (\$200,000) to the Town for the design of the Project that was entered into on September 25, 2018 (the "2018 Agreement"); and

WHEREAS, at the time the 2018 Agreement was executed, the cost to design and implement the Project was estimated to be one million, two hundred thousand dollars (\$1,200,000); and

WHEREAS, the total design cost, based on negotiated proposals, will exceed the previous estimate and will cost four hundred one thousand eight hundred dollars (\$401,800); and

WHEREAS, the County intends to grant to the Town additional funds in the amount of two hundred one thousand eight hundred dollars (\$201,800) in Fiscal Year 2021 for the completion of the design of the Project; and

WHEREAS, the Project is now estimated to cost a total of one million, four hundred one thousand eight hundred dollars (\$1,401,800), including the increased estimated design cost; and

WHEREAS, the County and Town intend for this Amended Agreement to supersede and replace the 2018 Agreement; and

WHEREAS, the County intends to fund the design and construction of the Project from the Stormwater Budget; and

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

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon, Virginia, that the Mayor of the Town of Herndon, Virginia is authorized to sign and deliver an amended funding agreement on such form approved by the Town Attorney and any other instrument necessary to evidence or effectuate this agreement.

This is certified to be a true and accurate copy of Resolution 21-G-42 adopted at a legally convened meeting of the Town Council of the Town of Herndon on April 27, 2021.


Margie C. Facci, Deputy Town Clerk



Attached for reference is the Sugarland Run (South) Stream Restoration Amended Funding Agreement b/n the Board of Supervisors of Fairfax County and the town.

SUGARLAND RUN (SOUTH) SU9207-A
STREAM RESTORATION AMENDED FUNDING AGREEMENT

This Agreement ("Agreement") made and entered into this _____ day of _____, 2021, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County"), a body politic, and the **TOWN OF HERNDON** (the "Town") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the County and Town previously entered an agreement on September 25, 2018 (the "2018 Agreement") to fund the Sugarland Run (South) Stream Restoration Project (the "Project"), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Sugarland Run South; and

WHEREAS, at the time the 2018 Agreement was executed, the cost to design and implement the Project was estimated to be one million, two hundred thousand dollars (\$1,200,000); and

WHEREAS, under the terms of the 2018 Agreement, the County distributed two hundred thousand dollars (\$200,000) for the design of the Project; and

WHEREAS, the total design cost, based on negotiated proposals, will exceed the previous estimate and will cost four hundred one thousand eight hundred dollars (\$401,800); and

WHEREAS, the Project is now estimated to cost one million, four hundred one thousand eight hundred dollars (\$1,401,800) (the "Total Project Cost"), including the increased estimated design cost; and

WHEREAS, the location of the Project is between Longitude 38.959829N and Latitude 77.370957W and 38.962110N and 77.369328W is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 17-1((6)) parcel J4; and

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

WHEREAS, the Town is part of the County's Stormwater Service District and the County, Town, and the Town of Vienna have entered into an agreement known as the

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

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

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

WHEREAS, the County and Town intend for this Amended Agreement to supersede and replace the 2018 Agreement; and

WHEREAS, that County intends to fund the design and construction of the Project from the Stormwater Budget; and

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

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

1. This Amended Agreement supersedes and replaces the 2018 Agreement for the project.
2. The County has distributed two hundred thousand dollars (\$200,000) to the Town under the terms of the 2018 Agreement and that amount is deducted from the Total Project Cost.

3. Upon execution of this Agreement, the County must grant to the Town funds in the amount of two hundred one thousand eight hundred dollars (\$201,800) (the "Design Funds") in Fiscal Year 2021 for the design of the Project, to be paid with monies from the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services). The Design Funds plus the amount granted to the Town under the 2018 agreement (\$200,000) equals four hundred one thousand eight hundred dollars (\$401,800) (the "Total Design Funds").

4. Upon completion of the design of the Project, the County must grant to the Town an additional one million dollars (\$1,000,000) for the construction of the Project, as designed (the "Construction Funds"), except that if those funds are unavailable in the Stormwater Budget at the time of completion, they will be paid at such time as they become available. The Total Design Funds plus the Construction Funds are hereinafter referred to as the "County Contribution". Completion of the design of the Project occurs when the Town informs the County that all construction docs are complete and all permits for the construction have been obtained.

5. The County Contribution must not be charged against the PAID HERNDON REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.

6. The Town must dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

7. The Town must expend the County Contribution for the purpose of supporting the design and construction of the Project.

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

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

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

11. The Town must notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above. If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town must, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

12. The Town must provide to the County a copy of the final site plan for the Project.

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

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

15. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services) and are not more than 10% of the estimated Project Cost of \$1,401,800.

16. The Town must complete the Project not later than four years after this agreement is executed.

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

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

[Signatures appear on following page]

APPROVED AS TO FORM

By: Lesa J. Yeatts
Lesa J. Yeatts, Town Attorney
Town of Herndon, Virginia
Date: 4-15-2021

TOWN OF HERNDON, Virginia

By: Sheila A. Olem
Sheila A. Olem
Mayor

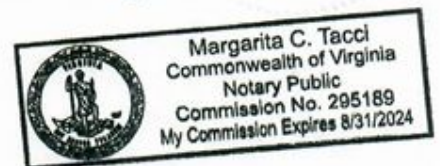


STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Sheila A. Olem of the Town of Herndon, this 27th day of April 2021, on behalf of the Town of Herndon.

Margarita C. Tacchi
Notary Public

My commission expires: 8-31-2024
Notary Registration Number: 295189



BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By: _____
Bryan J. Hill, County Executive
Fairfax County, Virginia

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

The foregoing Agreement was acknowledged before me by Bryan J. Hill, County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of Fairfax County, Virginia this _____ day of _____ 2021.

Notary Public

My commission expires: _____

Notary Registration Number: _____

Board Agenda Item
June 8, 2021

ACTION - 4

Approval of and Authorization to Execute a Capital Funding Agreement with the Washington Metropolitan Area Transit Authority for FY 2022 – FY 2027

ISSUE:

Board approval of and authorization to execute a Capital Funding Agreement (CFA) with the Washington Metropolitan Area Transit Authority (WMATA) for Fiscal Years 2022 through FY 2027. Similar to last year's CFA extension, this six-year CFA fully includes Loudoun County as a contributor to the WMATA Capital Improvement Program (CIP).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors: (1) approve, in substantially the form of Attachment 1 (including attachments), a six-year CFA which establishes how jurisdictional contributions are calculated and assigned; (2) authorize the County Executive or his designee to sign the CFA for FY 2022 – FY 2027.

TIMING:

Board action is requested on June 8, 2021, because the current CFA expires on June 30, 2021.

BACKGROUND:

The Board of Supervisors approved the initial CFA on June 22, 2010, which was in effect from FY 2011 through FY 2016. This agreement was extended several times, and the most recent extension is set to expire on June 30, 2021.

WMATA and jurisdictional staff recently completed negotiating a new six-year CFA to replace the current one. The WMATA Board approved the agreement on April 22, 2021. The CFA establishes updated roles and responsibilities for the parties and ensures continuation of Jurisdictional Allocated Contributions. The CFA provides the framework for jurisdictional investment in the CIP, including the match to federal formula and discretionary grants, as well as additional state and local contributions, and establishes processes for WMATA to issue debt when jurisdictions choose to finance their funding obligations.

The new six-year agreement establishes/confirms:

- Management of the capital program on expenditure basis

Board Agenda Item
June 8, 2021

- Schedule for capital program process
- Reporting, reconciliation, and audit requirements
- Allocated contribution funding from jurisdictions and 3% cap
- Proposed allocated contributions of \$276.4 million in FY2022; 3% more than FY2021

The CIP consists of capital projects to be funded over a six-year period, including useful life projections for each project. The CIP is updated for each successive six-year period through the Annual Work Plan and the annual budget approval process at WMATA. Signatories of the WMATA CFA agree to use all reasonable efforts to secure funding for the CIP. Capital projects supported by the CFA fall into the following categories: Railcars, Rail Systems, Tracks and Structures, Stations and Passenger Facilities, Bus and Paratransit, Business Support, and Debt Service.

Under the CFA, WMATA bills its capital program on an expenditure basis, instead of an obligation basis. This allows the jurisdictions to fund projects as they progress versus fully funding a project in advance. It also means that projects started near the end of a CFA term may require funding after the end of the agreement to complete them. The CFA commits all jurisdictions to completing all projects that are started within the current CFA term. Payment obligations on any debt financing incurred during the agreement period also continue after the agreement expires.

This new CFA continues the practice of giving each jurisdiction the option of using its existing revenues, issuing its own debt, or having WMATA issue debt on the jurisdiction's behalf to fund its share of the WMATA CIP. In the past, the County has used existing revenues, issued its own debt and allowed WMATA to issue debt on the County's behalf to fund the County's share of WMATA's CIP. These decisions are made at the time a long-term debt issuance is needed.

FISCAL IMPACT:

WMATA's total FY 2022 Capital Budget is \$2.6 billion. The County's share of that capital budget is approximately \$40.6 million. The County intends to use the proceeds of the \$160 million transportation bond referendum approved in 2020, along with state funding as needed to meet the County's share of WMATA capital obligations. Debt service costs associated with the County's transportation bond referendum have been incorporated into the County's long-term debt ratio projections and are referenced in the FY 2022-FY 2026 Adopted Capital Improvement Program (With Future Fiscal Years to 2031) and in Fund 30000, Metro Operations and Construction. These local bonds give the Board of Supervisors the ability to pay the County's ongoing capital payments and opt-out of WMATA-issued long term debt in FY 2022.

Board Agenda Item
June 8, 2021

ENCLOSED DOCUMENTS:

Attachment 1 – CAPITAL FUNDING AGREEMENT WMATA Fiscal Years 2022 to 2027
Attachment 2 – Original 2010 WMATA Capital Funding Agreement
Attachment 3 – Amendment to the WMATA Fiscal Year 2020 Capital Funding Agreement

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Joe LaHait, County Debt Coordinator, Department of Management and Budget
Todd Wigglesworth, Chief, Coordination and Funding Section, FCDOT
Brent Riddle, Sr. Transportation Planner, Coordination and Funding Section, FCDOT

ASSIGNED COUNSEL:

Corinne Lockett, Senior Assistant County Attorney

Attachment 1

Final for Execution

**CAPITAL FUNDING AGREEMENT
WMATA Fiscal Years 2022 to 2027**

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

County of Loudoun, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

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ATTACHMENT 2 Example of Project Detail Page

ATTACHMENT 3 Jurisdictional Allocated Contribution (JAC) Debt Issuance Process

ATTACHMENT 4 Operating Subsidy Resolution List

ATTACHMENT 5 District of Columbia Local Capital Funding Agreement

CAPITAL FUNDING AGREEMENT

THIS CAPITAL FUNDING AGREEMENT (Agreement) is made and entered into as of the Effective Date, by and among the Washington Metropolitan Area Transit Authority (WMATA or the Authority), a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; the State of Maryland, acting by and through the Washington Suburban Transit District and the Maryland Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; Loudoun County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions):

RECITALS

1. The WMATA transit system plays a critical role in the growth and prosperity of the National Capital Region and environs, and WMATA's continued economic vitality is essential to the regional transportation system and the environmental quality, economic, educational and cultural life of the Washington region.
2. The WMATA system was built and is operated and maintained through the substantial investment of public funds by the Federal Government, State and local governments in the region and the Contributing Jurisdictions and WMATA recognizes the value of clear and open communications; including regular reporting by WMATA on the sources and uses of funding provided to WMATA.
3. The Parties have entered into multiple, multi-year agreements covering the funding for capital projects. The most recent Capital Funding Agreement will expire on June 30, 2021.

4. During calendar year 2018, the state legislatures of DC, VA, and MD enacted dedicated funding legislation, changing the nature and type of funding received by WMATA and imposing certain terms and conditions on WMATA, requiring a rethinking of budget policy at WMATA and appropriate revisions to the relationship between the Parties.
5. The scope of this Agreement is limited to the planning, budgeting, and funding of Allocated Contributions as defined herein. This Agreement does not address or alter the provision of Dedicated Funding, or Passenger Rail Infrastructure Improvement Act (sometimes called Rail Safety Infrastructure Act) funding.
6. The funding allocations and calculations referenced in this Agreement include the Board resolutions referenced in Attachment 4 and provide for certain exclusions that reduce the funding expected from the County of Loudoun, Virginia. Board resolutions may be revised in the sole discretion of the WMATA Board of Directors.
7. The Parties wish to create a new Capital Funding Agreement covering WMATA fiscal years 2022 through 2027 (FY2022 CFA or this Agreement) on an expenditure basis and to provide an ongoing master agreement, subject to renewal for any successor term of this Agreement, establishing the roles and responsibilities of the Parties for funding WMATA's capital needs.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

(a) “2010 Capital Funding Agreement” or “2010 CFA” means the capital funding agreement dated July 1, 2010 by and among the Parties (exclusive of Loudoun County) as was extended and amended through three, one-year extensions covering roles and responsibilities between those Parties for WMATA’s Fiscal Years 2010-2019. For purposes of this Agreement, the defined term “2010 CFA” also includes the one-year capital funding agreement entered into by the Parties, for WMATA’s FY2020 and the amendment thereto covering WMATA’s FY 2021 and each District of Columbia Local Funding Agreement executed concurrently with any Capital Funding Agreement and each amendment thereto.

(b) “Agreement” or “FY2022 CFA” means this 2022 through 2027 Capital Funding Agreement.

(c) “Allocated Contribution” means the share of the Capital Improvement Program funding to be contributed by a Contributing Jurisdiction, in accordance with the terms of this Agreement, but shall not include a) funds provided to match Public Rail Infrastructure Improvement Act (PRIIA) funds as those obligations exist today or may exist under an amended or substitute PRIIA (sometimes referred to as Rail Safety Infrastructure funding or other names as identified in the future by Congress or FTA), b) Dedicated Funding as defined below and provided by either the Commonwealth of Virginia, the State of Maryland, or the District of Columbia, or c) any other specially designated funding created by the WMATA Board of Directors or the FTA including but not limited to project development funding and reimbursable project funding.

(d) “Capital Budget” means the annual plan developed by WMATA on an expenditure basis and approved by the WMATA Board of Directors which identifies the Capital Improvement Program projects and programs to be undertaken in the upcoming fiscal year and the estimated annual funding sources needed to pay the costs of those projects and programs.

(e) “Capital Improvement Program” (“CIP”) means the six-year plan of projects and programs approved by the WMATA Board of Directors each year for planning purposes only and anticipated fund sources for use in supporting the scope, schedule, and budget (expressed in expenditure terms) of Programs and Projects that advance the Authority’s strategic objectives. See Attachment 1 for the FY2022-2027 CIP. The CIP is not considered a payment schedule. The CIP shall be updated annually as described in this Agreement.

(f) “Capital Program” means an on-going effort associated with maintaining a capital asset or assets in a state of good repair. Examples include, but are not limited to, rail tie and running rail replacements, and the bus rolling stock replacement and rehabilitation programs. When combined with Capital Projects, collectively “Programs and Projects”.

(g) “Capital Project” means an action taken over a period of time with a defined start and end date to build, replace, acquire, or repair a capital asset. Capital Projects are distinct from Capital Programs in that they do not recur on an annual basis. Examples include but are not limited to railcar purchases and bus facility constructions or reconstructions. Major Capital Projects are Capital Projects which cost more than \$25 million to complete, and Minor Capital Projects are Capital Projects which cost \$25 million or less to complete. When combined with Capital Programs, collectively “Programs and Projects”.

(h) “Contributing Jurisdictions” means the State of Maryland acting by and through the Washington Suburban Transit District and the Maryland Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; County of Loudoun, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia.

(i) “Days” means calendar days, unless otherwise specifically provided.

(j) “Dedicated Capital Funding” means the amounts received by the Authority under the following legislative enactments: (a) from the District of Columbia under D.C. Official Code § 1-325.401 or any successor statute, as the same may be amended from time to time ; (b) from the State of Maryland under Md. Transportation Code Ann. § 10-205(g) or any successor statute, as the same may be amended from time to time; and (c) from the Commonwealth of Virginia under the Va. Code §33.2-3401 or any successor statute, as the same may be amended from time to time. Dedicated Capital Funding shall also include funds paid by any of the District of Columbia, the State of Maryland, the Commonwealth of Virginia or any other authorized person or entity in-lieu-of such amounts.

(k) “Dedicated Capital Funding Debt” means any bond, security, debt issuance, certificate of participation, Grant Anticipation Debt, or other evidence of indebtedness issued by WMATA and secured by Dedicated Funding for purposes of funding Programs and Projects in one or more years of the Capital Budget or refunding debt issued for that purpose, and includes commercial paper, lines of credit, and letters of credit. Dedicated Funding Debt may be classified as either Short-Term Debt or Long-Term Debt.

(l) “Federal Funding” means an award of financial assistance, including formula grants, discretionary grants, and cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government through the Federal Transit Administration or any other federal agency to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for. Finally, the term does not include PRIIA funding.

(m) “FTA” means the Federal Transit Administration.

(n) “Funding Sources” means the various categories of funds to be used to pay for the Programs and Projects covered in the Capital Budget or projected for use in the CIP. These funds may be from any legal source and may include, but are not limited to, Federal Funding, Dedicated Funding, PRIIA, Allocated Contributions, Jurisdictional Capital Contribution Debt, and Dedicated Funding Debt.

(o) “Grant Anticipation Debt” means any debt issuance the principal and interest on which are to be paid with the proceeds of Federal Funding.

(p) “Jurisdictional Allocated Contribution Debt” or “JAC Debt” means any bond, security, debt issuance, certificate of participation, or other evidence of indebtedness issued by WMATA for purposes of funding one or more Contributing Jurisdiction’s Allocated Contribution or refunding debt issued for that purpose. JAC Debt may include, but is not limited to commercial paper, lines of credit, and letters of credit. JAC Debt maybe classified as either Short-Term Debt

or Long-Term Debt. See also WMATA Board Resolution 2020-04 as it may be amended for WMATA's Debt Management Policy.

(q) "Long-Term Debt" means any debt with a maturity greater than 2 years.

(r) "Non-Federal funds" means funds provided by any source other than the Federal government and includes State and local funding and debt proceeds.

(s) "Party" or "Parties" means WMATA and the Contributing Jurisdictions.

(t) "Preventive Maintenance" shall have the same definition of the term as is found in the applicable FTA Circular.

(u) "PRIIA" means those federal funds provided to WMATA under the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110-432) sometimes referred to as Rail Safety Infrastructure funding or other names as may be identified in the future by Congress or FTA.

(v) "Short-Term Debt" means interim funding sources including but not limited to one or more letters or lines of credit and related reimbursement agreements, standby bond purchase agreements, commercial paper, or similar agreements or obligations, or any combination of the foregoing, issued to or for WMATA or entered into with WMATA by a bank, insurance company, or other financial institution, or one or more resolutions, indentures, or other security agreements providing for bonds or other evidence of indebtedness of WMATA debt with a maturity of 2 years or less.

(w) "System Performance Funds" means that portion of the Allocated Contribution that is over and above those funds required to match Federal grants and programs anticipated to be used for expenses contained in the Capital Budget. System Performance Funds exclude jurisdictional reimbursable project expenses and project development funding used to fund coordinated planning and review of projects.

(x) “WMATA” or “Authority” means the Washington Metropolitan Area Transit Authority.

SEC. 2 CAPITAL IMPROVEMENT PROGRAM

(a) Agreement of the Parties.

WMATA and the Contributing Jurisdictions hereby agree to the Capital Improvement Program shown on Attachment 1 or as may be updated in the future pursuant to any requirements contained in this Agreement. The Parties further agree to comply with the terms and conditions of this Agreement and to fully and faithfully carry out their respective obligations under this Agreement. Any commitment or agreement of any Contributing Jurisdiction required by this Agreement shall be subject to the annual appropriation of funds and other limitations on expenditures or obligations under the law of the Contributing Jurisdiction or under other applicable law as described in Section 4(b)(3)(B). This Agreement shall not constitute an indebtedness of the Contributing Jurisdictions until funds are duly appropriated by the jurisdictions and quarterly payments become due pursuant to Section 4(b)(3)(C) of this Agreement, nor shall it constitute an obligation for which the Contributing Jurisdictions are obligated to levy or pledge any form of taxation or for which the Contributing Jurisdiction has levied or pledged any form of taxation.

(b) Elements of Capital Improvement Program.

(1) Program Elements. The Capital Improvement Program proposed to be funded by this Agreement consists of those Capital Projects and Capital Programs (collectively “Programs and Projects”) identified for funding along with the sources of that funding in the annually approved CIP and Capital Budget as they are updated in accordance with this Agreement. The CIP may include any Programs and Projects eligible for capital funding and may align the Projects and Programs into categories that reflect the then-current organizational structure of

WMATA and the reporting requirements of applicable agreements and regulations. For example, but without intent to bind WMATA to the use of these categories, Projects and Programs in the WMATA FY20 Budget were invested in the following categories: Railcars; Rail Systems; Track and Structures Rehabilitation; Stations and Passenger Facilities; Bus and Paratransit; Business Support.

(2) Description. Notwithstanding the flexibility provided in section (1) immediately above, WMATA shall provide CIP-level detail as shown in Attachment 2 in each approved fiscal year Capital Budget book including the sources of funding anticipated to support those Projects and Programs; a description of the scope of work, and a schedule.

(c) Cost.

The estimated program cost of the Capital Improvement Program shown in Attachment 1 is approximately \$13.6 billion in year of expenditure dollars and covering a six-year period.

(d) Schedule.

The initial Capital Improvement Program will be implemented over the period beginning WMATA fiscal year 2022 and ending fiscal year 2027. There will be a Capital Budget for each fiscal year, as more specifically described in Section 4 of this Agreement.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLAN

(a) Funding Sources.

The Projects and Programs in the Capital Improvement Program shall be funded in the most cost-effective manner from any legal funding source, including but not limited to one or more Funding Sources. WMATA may employ cash management strategies or financing methods as the

WMATA Board determines to be appropriate to accomplish the Programs and Projects identified in the Capital Improvement Program. The specific amounts estimated from each Funding Source will be set forth in each Capital Budget. The categories, sub-categories, and details of Funding Sources are shown in Attachment 1. In no case may the WMATA Board of Directors adopt a budget without identifying Funding Sources by the categories shown in Attachment 1, provided, however, that 1) WMATA may revise sub-categories and details in future budgets, and 2) WMATA is not required to include any category or sub-category that shows a zero-dollar entry.

(b) Formula for Contributing Jurisdiction Funding.

The Allocated Contributions of the Contributing Jurisdictions for the Capital Budget will be based on the WMATA Board-adopted operating subsidy allocation formulae in effect at the time of each recalculation and any resolutions adopted by the WMATA Board applicable to the formula adjusting the Contribution of a particular jurisdiction (e.g. the County of Loudoun's reduced Contribution due to its opting out of Metrobus service). For each budget cycle WMATA shall apply an up to 3% increase to the Allocated Contributions for the Capital Budget as of July 1st for the then-current FY; for example, for calculating the aggregate Allocated Contributions for FY22 budget cycle, the July 1, 2020 (FY21) approved Allocated Contributions of \$268,377,392 were increased by 3%. Then, WMATA shall allocate that increase by applying the weighted Board approved operating subsidy by mode. For reference only, and subject to change by the WMATA Board of Directors, a list of the Board Resolutions containing the approved operating subsidy allocation formulae is provided as Attachment 4. WMATA will apply the operating subsidy allocations to the Capital Projects and Programs by mode. An average of the Metrorail and

Metrobus allocation formulae will apply to general financing expenditures and for project expenditures that cannot be allocated to a mode with a dedicated formula.

WMATA is not obliged to recalculate the capital subsidy allocations each year. The Parties agree to three recalculations by WMATA during the term of this Agreement: one for each of the WMATA FY22; WMATA FY24; and WMATA FY26 Capital Budgets.

The Parties acknowledge and agree that the up to 3% increases to Jurisdictional Allocated Contribution is evaluated 1) in the aggregate and 2) at the time of budget adoption. The Parties further acknowledge and agree that the up to 3% increase on growth of Allocated Contribution expenses applies solely to that source of funding and is not intended to nor shall it apply to the total Capital Budget. Rather it is anticipated that WMATA will use Dedicated Funding and/or Dedicated Funding Debt to address additional capital funding needs beyond those addressed by Allocated Contributions. The total authorized FY22 Allocated Contribution shall not exceed \$276,428,714 and the total authorized Allocated Contribution for the FY22 through FY27 period shall not exceed \$1,788,054,224.

(c) Debt Service.

Debt service on obligations agreed to by the Contributing Jurisdictions and issued under the 2010 CFA (JAC Debt) shall become obligations issued under this Agreement. The Contributing Jurisdictions shall continue to make any debt service payments as were required under the terms of the 2010 CFA. New debt service for JAC Debt obligations issued under the terms of this Agreement will be funded by the Contributing Jurisdictions as more fully set forth in Section 4(b)(2)(C) of this Agreement. Debt service for Dedicated Funding Debt shall be paid out of Dedicated Funding and shall not be subject to the terms of this Section 3(c).

(d) Existing Capital Projects.

WMATA and the Contributing Jurisdictions agree that all Capital Projects whose initial funding was provided under the 2010 CFA but for which any expenditures will occur during the scope of this Agreement will become Capital Projects under this Agreement and governed by the terms of this Agreement including the funding obligations of the Contributing Jurisdictions thereto. It is the intent of the Parties to terminate the 2010 CFA and incorporate all of its capital commitments into this Agreement.

SEC. 4 IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM

(a) Programmatic Aspects.

(1) Long Term Programming -- The WMATA Board of Directors will approve a six-year capital improvement program each year, superseding the prior year CIP, providing potential funding sources, a description of the project prioritization process, an explanation of how the CIP would further the strategic objectives of WMATA, and an identifying the performance metrics by which the outcome of the CIP will be measured. The prioritization process shall evaluate and select projects based on the projects' support of WMATA's strategic objectives and funding availability.

The annual documentation of the CIP will describe qualitatively and quantitatively the broad outlines of the proposed capital spending and sources for that spending for the forthcoming fiscal year and the outcomes expected to be achieved by the proposed program. The discussion of the proposed spending shall include at least the following: (i) the sources of funds for the proposed spending, (ii) expenditures by mode (e.g. bus, rail, paratransit, administrative), (iii) expenditures by project phase (e.g. planning, design, land acquisition, construction), (iv) the indicators of the

outcomes to be achieved by the proposed projects, and (v) life to date expenditures by project. See Attachment 2 for an example of a Capital Project page from WMATA's FY2021 approved budget book.

(2) Capital Budget. -- The Capital Budget will contain the actual funding requirements and sources of funds for the current fiscal year. WMATA shall, as a part of its annual budget process each year during this Agreement, develop and submit to the Board of Directors with copies to the Contributing Jurisdictions a draft Capital Budget for the next to occur WMATA Fiscal Year. The Capital Budget shall be based upon and be consistent with the updated Capital Improvement Program. The Capital Budget and updated CIP will be submitted to the WMATA Board of Directors for approval with copies to the Contributing Jurisdictions prior to the start of the fiscal year addressed in the Capital Budget.

(3) Contents of Adopted Capital Budget. -- The Capital Budget shall include:

(A) an identification of the Projects and Programs in the Capital Improvement Program for which funds will be obligated or expended during the next WMATA fiscal year;

(B) a budget for the fiscal year that includes a cost estimate and anticipated source of funds for each Projects and Programs by CIP category;

(C) a statement of each Contributing Jurisdiction's required Allocated Contribution for the fiscal year, based on a schedule of projected quarterly cash needs including an identification of what portion of that contribution is a direct capital contribution, and what portion (if any) is to be used by WMATA to pay debt service on WMATA Jurisdictional Capital Contribution Long-Term Debt and

WMATA Jurisdictional Capital Contribution Short-Term Debt (each to be stated separately in the Capital Budget);

(D) a summary of the CIP Projects and Programs undertaken in the then current WMATA fiscal year, together with the costs incurred to date and the estimated remaining costs for those Projects and Programs; and

(E) the results of the Budget Reconciliation process contained in section 5 of this Agreement and a revised plan for the CIP.

(4) Schedule for Approval of CIP and Capital Budget. To ensure coordinated efforts and to prevent conflicting obligations, the Parties agree that each annual process will follow the applicable schedule and policies, if any, established by the WMATA Board of Directors:

(A) On or before October 31st, WMATA will provide the estimated Allocated Contribution to the Jurisdictions for the next to occur WMATA Fiscal Year.

(B) The updated proposed 6-year CIP and Capital Budget will be made available to the Contributing Jurisdictions on or about the time it is provided to the Board and no later than December 31st.

(C) WMATA will also present the capital program and the Capital Budget information to affected legislative bodies as requested.

(D) Comments are due from the Contributing Jurisdictions no later than closing of the applicable WMATA public hearing docket. WMATA may not be able to consider comments received after closing of the

WMATA public hearing docket in the development of the proposed Capital Budget.

- (E) The proposed Capital Budget shall be provided to the WMATA Board as soon as possible, and usually in March for adoption by the Board of Directors.
 - (F) The CIP and Capital Budget will be adopted by the WMATA Board no later than the June meeting.
- (5) WMATA Implementation Responsibilities.
- (A) General. -- WMATA will administer the Capital Budget and carry out all necessary procurement actions and management oversight. All procurement actions will be undertaken in accordance with WMATA procurement policies and applicable law. WMATA may adjust the program of projects included in the scope of this Agreement, each year as part of the budget implementation process, within the term of this agreement, on a rolling basis, so long as the Allocated Contributions required to meet WMATA's ongoing and updated CIP needs and other capital needs, do not exceed the limitations established in this Agreement and the then-current Capital Budget approved by the Board.
 - (B) Federal Funding. -- To the extent that Federal financial assistance is provided for any Projects and Programs in the Capital Improvement Program or Capital Budget, WMATA will develop the required Federal grant applications and/or other necessary documentation to meet FTA

or other Federal program requirements, and will carry out the federally assisted project or activity in compliance with all applicable Federal requirements.

(C) Reprogramming and Revisions to the Capital Improvement Program.

The WMATA staff may, as necessary for the efficient prosecution of the approved CIP revise the Programs and Projects within the CIP so long as no additional funding is required from the Contributing Jurisdictions and such revisions are within the authority delegated by the WMATA Board of Directors. Delegated authority is expressed in resolution 2011-30 as amended by 2016-24 and 2017-11. Nothing in this Agreement is intended to or shall limit the discretion of the WMATA Board of Directors to delegate or rescind delegations of authority. These revisions shall be reflected in future CIPs presented to the Board of Directors for adoption as part of the annual budget process. The Parties recognize that the scope, costs, scheduled completion date, or priority of some projects will change during the term of this Agreement. To address these possibilities, WMATA agrees to provide the Contributing Jurisdictions with monthly reports regarding reprogramming of project budgets into or out of Capital Projects or Capital Programs during the term of this Agreement where such reprogramming results in either 1) an increase of the total project budget as shown in the CIP; 2) a revision to the scope of a Capital

Project; 3) a movement of \$5 Million or more between Capital Projects; or 4) creates a new Capital Project. WMATA shall provide notice as soon as practicable when a project or program funded is terminated. Each movement of budget between Capital Projects and/or Capital Programs for cash flow purposes or for schedule adjustments (that do not impact completion date) in an amount of \$1 Million to \$5 Million during the term of this Agreement shall be reported to the Contributing Jurisdictions on a quarterly basis. In no case shall WMATA request an increase in the Allocated Contributions for any fiscal year due to a reprogramming.

- (D) Quarterly Reports. At the conclusion of every quarter, WMATA shall prepare a report on the result of the preceding quarter for submittal to the Parties no later than forty-five (45) days following the close of the quarter, provided however, that the quarterly report for the fourth quarter/WMATA Fiscal Year end shall be due sixty (60) days following the close of the quarter. Such report shall contain a review of capital project scope, cost, and schedule changes; the status of contracts necessary for the implementation of capital projects; the status of year-to-date expenditures relative to budget and the Capital Budget; the status of all cash and debt sources relative to budget and the Capital Budget; updated project cash flow projections and program cash

requirements; and a comparison of the billed amount to amounts actually paid out for the preceding quarter.

(6) Funding Methodology for Projects in the Capital Budget. New projects for the Capital Budget will be listed with their funding identified by both year and Funding Source. A project may be funded by more than one type of funding. If a project is a multi-year project, then in the second and succeeding years, that project will have the first call on that Funding Source unless another funding source is identified. In every case, funds needed for debt service including Short Term Debt and funds needed for annual “state of good repair” items shall have first claim on all funds that may legally be spent on such projects. Projects which are underway, but which have remaining amounts budgeted for them in the Capital Budget shall have the unexpended funds “rolled over” to the succeeding fiscal year. The unexpended funds shall be in addition to the succeeding year’s Allocated Contribution funding requirements and will be used for the approved Capital Improvement Program.

(b) Financial Aspects.

(1) Cash Sources.

(A) Federal Funds. -- WMATA commits to take all necessary and appropriate actions to secure Federal funding in the Capital Budget and CIP to assist in the funding of the Projects and Programs undertaken by the Authority. WMATA will manage the Capital Budget within the funding amounts agreed to by the Contributing Jurisdictions, except as otherwise provided in paragraph (C) of this subsection.

(B) Jurisdictional Commitments.

(i) To the extent applicable, each Contributing Jurisdiction agrees to make its Allocated Contribution to fund the Capital Budget component of the CIP and the CIP as a whole as adjusted annually in accordance with this Agreement. Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The source of funds for such capital contributions is in the discretion of each Contributing Jurisdiction; provided that such funds must qualify as local match under applicable FTA or other agency grant program requirements.

(C) Additional Limitations –

(i) WMATA and the District of Columbia have entered into a separate Local Capital Funding Agreement of even date herewith (“DCLCFA”) to address certain issues concerning the implementation of this Agreement that must be handled separately according to District of Columbia law. The implementation of District of Columbia obligations, representations, and warranties under this Agreement shall be controlled by the provisions of the DCLCFA set forth in Attachment 5, as may be amended by WMATA and the District of Columbia. To the extent of any inconsistency between this Agreement and the provisions of the DCLCFA, the DCLCFA shall control.

(ii) The District of Columbia agrees to review its Allocated Contributions annually to determine if any adjustments may be made. If the District of Columbia agrees to increase its Allocated Contributions cap by an amendment to the DCLCFA, then such increase will be incorporated into this Agreement pursuant to the Annual Capital Budget process.

(iii) In the event that (a) WMATA proposes an increase that would cause the District of Columbia’s Allocated Contribution to exceed an aggregate amount of \$631,346,120

over the term of this agreement; and (b) the District of Columbia denies or withholds approval of the increase in excess of that stated amount, then all other Contributing Jurisdictions shall be relieved of any obligation to fund the increase proposed by WMATA in their Allocated Contributions.

(iv) In the event that the District of Columbia denies or withholds approval of such increase, all Parties shall cooperate to develop alternative solutions to any resulting revenue or program shortfalls.

(2) Debt Sources.

(A) General. -- In accordance with the Capital Budget, all or any portion of the Capital Improvement Program may be funded through short- or long-term debt financing as described in this subsection and in accordance with Section 21 and Articles IX and X of the WMATA Compact.

(B) Dedicated Capital Funding Debt. -- WMATA may issue Dedicated Capital Funding Debt to assist in the financing of one or more years of the Capital Budget. The WMATA Board may authorize the issuance of such debt, in one or more issuances during the term of this Agreement, at such times as it determines appropriate, in its discretion, taking into account factors established by the Board in its Debt Management Policy. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's Dedicated Capital Funding revenues, or (subject to any required FTA approval) of WMATA's capital assets. Any such debt secured by WMATA's Dedicated Capital Funding revenues may be on

parity with or subordinate to any other debt, including, but not limited to JAC Debt. WMATA shall issue Dedicated Funding Debt in accordance with the then-current, Board-approved WMATA Debt Policy, as may be amended by the Board of Directors. In addition to debt secured by Dedicated Capital Funding revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with 4(b)(2)(C) or 4(b)(6).

(C) Jurisdictional Allocated Contribution (JAC) Debt – WMATA may issue JAC Debt to assist in the financing of one or more years of the Capital Budget. The WMATA Board may authorize the issuance of such debt, upon request from one or more Contributing Jurisdictions, in one or more issuances during the term of this Agreement, at such times as it determines appropriate, in its discretion, taking into account factors established by the Board in its Debt Policy. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's gross revenues (but not Dedicated Capital Funding revenues and as may be further limited by Board Resolution), or of WMATA's capital assets (subject to any required FTA approval). Any such debt secured by WMATA's gross revenues may be on parity with or subordinate to any other debt, including, but not limited to Dedicated Funding Debt. For any debt that is secured by WMATA's capital assets, WMATA will endeavor, consistent with the cash flow needs of the Capital Budget and with market demands, to match the

length of the debt financing to the useful life of the pledged assets, unless WMATA determines that market or other financial considerations make a different debt length more prudent. In addition to debt secured by gross revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with 4(b)(2)(B) or 4(b)(6).

(D) Contributing Jurisdiction Responsibility. – JAC Debt may be issued pursuant to the procedures shown in Attachment C. When WMATA issues JAC Debt to fund Jurisdictional Contributions, each Jurisdiction participating in the JAC Debt commits, subject to annual appropriations, to make the annual contributions necessary for WMATA to make payments of debt service on related debt issued by WMATA. The obligation to make contributions to pay such debt service, which is in addition to the obligation to provide Allocated Contributions, shall survive the term of this Agreement and shall remain in effect throughout the term of the debt issuance involved.

(3) Contributing Jurisdiction Commitment.

(A) General. – The maximum amount of the Contributing Jurisdictions' Allocated Contribution of the costs of the CIP is subject to the provisions of Section 4(b)(1)(B) of this Agreement. Nothing in this Agreement shall be construed to obligate a Contributing Jurisdiction to have, as of the date that it enters into this Agreement, funding or an appropriation in the full amount of its Allocated Contribution of the costs of the CIP. Each Contributing Jurisdiction commits, subject to its constitutional or legally

equivalent provisions and throughout the term of this Agreement, to use reasonable efforts to obtain funding in the full amount of its Allocated Contribution. Reasonable efforts include, but are not limited to, a request by the responsible official to include the Allocated Contribution as described in the draft Capital Budget in the Contributing Jurisdiction's annual proposed budget or other financial submission to its fiscal authority. Each Contributing Jurisdiction shall be solely responsible for providing its Allocated Contribution to the cost of the Capital Budget, and in no circumstance shall one Contributing Jurisdiction be responsible for the Allocated Contribution or other obligations of any other Contributing Jurisdiction under this Agreement.

(B) Annual Commitment. -- Each Contributing Jurisdiction shall annually provide WMATA with written notice, concurrent with comments on WMATA's proposed budget, that funds have been, are intended to be, or will not be appropriated to cover its Allocated Contribution for WMATA's upcoming fiscal year and committing to make payment of such Allocated Contribution to WMATA. No CIP or Capital Budget shall be approved without the certification of each Contributing Jurisdiction that the funding levels are reasonable and accurate reflections of funds to be made available. If a Contributing Jurisdiction's appropriations process is not completed by June 1, such Contributing Jurisdiction shall provide to WMATA: (i) a written explanation for the failure to make such

submissions by June 1 and confirmation that subject to appropriation amounts equal to its Allocated Contribution have been or will be included in the next fiscal year budget to be considered by the Contributing Jurisdiction's fiscal authority; and (ii) written assurances that all reasonable efforts will be undertaken to secure the ultimate appropriation of funds in a prompt and timely fashion, or if funds will not be appropriated, then the Contributing Jurisdiction shall notify WMATA and all other Contributing Jurisdictions through their representatives listed in section 12 of this Agreement or as may be updated by each Contributing Jurisdiction in the future within five business days of the fiscal body's action. If there is a failure by any Contributing Jurisdiction to appropriate the full annual Allocated Contribution, the Capital Budget shall be revised to conform to the available funds and submitted to the WMATA Board of Directors and the other Contributing Jurisdictions for approval.

(C) Quarterly Payments. -- Each Contributing Jurisdiction's Allocated Contribution shall be based on the approved Capital Budget and any subsequent adjustments derived from the Annual Budget Reconciliation Process for the quarter covered by the invoice, and paid to WMATA on a quarterly basis in advance, no later than the first day of each quarter, throughout the term of this Agreement. Debt service on JAC Debt shall be included in the invoice and shall be separately identified. WMATA shall submit bills to the Contributing Jurisdictions for such quarterly payments

forty-five (45) days prior to the date such payments are due. Thus, for example, for the July-September quarter WMATA will bill the amount in the Capital Budget as approved or adjusted for July-September and send each Contributing Jurisdiction an invoice for its Allocated Contribution no later than the immediately preceding May 15th. Contributing Jurisdiction payments must be received by WMATA no later than July 1. The sum of each Contributing Jurisdiction's quarterly invoices during a given fiscal year shall not exceed that Contributing Jurisdiction's Allocated Contribution in the approved Capital Budget.

(5) Timeliness of Payment.

(A) Treatment of Payments. – Payments received by WMATA shall become WMATA's funds and interest shall accrue on all payments made by a Contributing Jurisdiction until the funds are expended. WMATA shall place contributed funds into an interest earning account, with interest to be compounded on terms and conditions established between WMATA and its financial institution(s). Interest earned on funds contributed by a Contributing Jurisdiction shall not be applied as a credit against future payments for Allocated Contributions due from that jurisdiction under this Agreement, unless otherwise directed in writing by the Board of Directors.

(B) Non-Payment or Late Payments. -- If a Contributing Jurisdiction fails to make a quarterly payment in full to WMATA when such payment is due, WMATA shall notify the other Contributing Jurisdictions and may issue JAC Debt or otherwise advance funds as deemed necessary by the WMATA General Manager and Chief Executive Officer to replace the

amount of payment not timely received. To the extent that WMATA covers a Jurisdictional shortfall, WMATA shall charge such Contributing Jurisdiction an amount equal to the sum of (i) the financing and interest costs and expenses (or lost interest earnings) incurred by or on behalf of WMATA in connection with such debt issuance or advance of funds; (ii) any administrative costs incurred by WMATA in connection with obtaining such replacement funding; and (iii) any penalties or losses incurred by WMATA assessed by a third party as a result of such late or non-payment. The total amount of the charges assessed under this paragraph, together with the unpaid quarterly payment, shall be due and payable to WMATA no later than thirty (30) days after the date of assessment by WMATA plus interest compounded monthly at the WMATA short-term investment earnings rate until the date of full payment.

(6) Short-Term Debt and Security Interests.

(A) Short-Term Debt Authority. -- WMATA is authorized to use Short-Term Debt, including borrowing, on behalf of WMATA in such amounts and at such times as, in the Board's sole judgment, are necessary and appropriate for the purpose of implementing the Projects and Programs in the Capital Improvement Program and any Capital Budget funded through direct capital contributions.

(B) Security Interests. -- WMATA may create security interests in its rights and interests in amounts paid or received as direct capital contributions from the Contributing Jurisdictions under this Agreement, as such amounts shall become available and are paid to or for the account of WMATA under the terms of this Agreement. Such amounts may be pledged as security for the cost of Short-Term Debt. Each Contributing Jurisdiction shall comply with any reasonable and legal request of WMATA to execute, acknowledge, and deliver

appropriate instruments and assurances as may be necessary or desirable and consistent with the obligations in this Agreement to confirm and effectuate any such security interest created by WMATA in connection with Short-Term Debt. Nothing in this subsection shall be construed as requiring any Contributing Jurisdiction to make any payment under this Agreement to anyone other than WMATA. For purposes of this subsection, the “cost of Short-Term Debt” includes payments of principal and interest thereunder and all fees, expenses, and other amounts incurred or payable under any Short-Term Debt.

(C) Limitation. -- The borrowing authority authorized by this subsection may not be used by any Contributing Jurisdiction to satisfy its funding obligations under this Agreement.

(7) WMATA Risk Mitigation. -- Section 22 of the WMATA Compact prohibits WMATA from making any commitment or incurring any obligations with respect to the construction or acquisition of any transit facilities “until funds are available therefor.” The Parties acknowledge that the commitments of the Contributing Jurisdictions under this Agreement are intended to satisfy the requirements of Section 22 under an expenditure-based budget. In order to address the risk of non-appropriation or late payment of funds by a Contributing Jurisdiction or insufficient funding by the Federal Government, and to assure compliance with Section 22 of the WMATA Compact, WMATA intends to continue to maintain a risk mitigation credit facility using one or more of the following: a line of credit, letter of credit, commercial paper program, or other credit facility determined by WMATA in its discretion to be appropriate and feasible. Such risk mitigation credit facility shall be in addition to any other credit facility which may be put in place as a working capital or other cash flow aid.

SEC. 5 ANNUAL BUDGET RECONCILIATION PROCESS

(a) Reconciliation.

As part of its annual budget process in each year during the term of this Agreement, WMATA shall prepare a reconciliation of –

(1) the actual expenditures for Projects and Programs for the most recently completed fiscal year Capital Budget, as compared to the planned expenditures for such Programs and Projects for the same fiscal year;

(2) the actual Allocated Contribution of each of the Contributing Jurisdictions to date, as compared to the scheduled Allocated Contribution of each Contributing Jurisdiction for the most recently completed fiscal year Capital Budget;

(3) the projected Allocated Contributions of each Contributing Jurisdiction for the most recently completed fiscal year Capital Budget;

(4) the actual amount of Federal grant funds received for the Capital Budget, as compared to the budgeted or projected amount of Federal grant funds for the same fiscal year; and

(5) the current forecast of expenditures; and

(6) the estimated cost to complete the remaining Projects and Programs in the current Capital Improvement Program and expected sources of those funds.

(b) Application of Reconciled Payment Amounts.

On or before November 30th of each year, WMATA shall have performed the reconciliation described in the above section, including whether there is a surplus of funds paid in by the Contributing Jurisdictions. The results of this reconciliation shall be used in the Capital Budget

currently under development as well as to review the Capital Budget for the fiscal year then currently in effect at the time that the reconciliation is completed. WMATA shall, to the best of its abilities, use all of the Jurisdictional Contributions in the fiscal year they are provided. The Parties acknowledge and agree that this may not be practical at all times. In the event that WMATA is unable to use all of the System Performance Funding provided to it in the fiscal year received (FY1), WMATA shall use those funds (“Carryover Funds”) as a funding source for the next to occur fiscal year (FY2) as follows:

- (1) first, program those funds to cover accrued expenses from FY1;
- (2) second, program those funds for planned expenses in FY2;
- (3) third, reduce the Dedicated Funding Debt to be issued in FY2;
- (4) fourth, in the event that no Dedicated Funding Debt is issued to fund projects in the then-current fiscal year, use the Carryover funds as a funding source in the next to occur fiscal year (FY3);
- (5) Finally, in the event that Carryover Funding exceeds the Dedicated Funding Debt to be issued in FY3, reduce the Allocated Contribution by the amount of Carryover Funding that exceeds the anticipated Dedicated Funding Debt in FY3.

(c) **Revenue Shortfalls.**

If the reconciliation process conducted under subsection (a) of this Section reveals that there are shortfalls in revenues for the Capital Improvement Program due to late or insufficient contributions by a Contributing Jurisdiction or to the receipt of less than the assumed level of Federal funds, or other funds that support the CIP, WMATA shall develop a recovery plan for addressing such shortfalls. Such recovery plan, as approved by the WMATA Board of Directors through its annual

budget process, shall include one or more of the following alternatives: (1) utilization of Short-Term Debt or other Funding Sources; (2) value engineering, project re-design, or other cost reduction measures for future Projects and Programs; (3) re-scheduling of Projects and Programs in the Capital Improvement Program; (4) subject to agreement of the Contributing Jurisdictions, increasing the levels of Allocated Contributions from the Contributing Jurisdictions; and/or (5) the implementation of Project Deferrals under subsection (e) of this Section.

(d) Revenue Increases.

If the reconciliation process conducted under subsection (a) of this Section reveals that Federal or other funds, excluding Allocated Contributions, have been received which substantially exceed the assumed level of funding, such excess funds shall be applied (1) to the unfunded priorities in the Capital Improvement Program or to other needs identified by the WMATA Board; or (2) to any outstanding Dedicated Funding Debt or Short-Term Debt thereby increasing the funding available to implement the CIP, as determined by the WMATA Board of Directors through its annual budget process.

(e) Project Deferrals.

If WMATA is unable to satisfactorily address revenue shortfalls under subsection (c) of this Section, the WMATA Board may, through the next WMATA budget process, or through the Capital Budget modification process, modify the Capital Improvement Program to defer certain Projects or Programs in order to assure that the Capital Improvement Program can be funded during the term of this Agreement within the amount of available financial resources.

(f) Financial Records.

(1) Maintenance of Records. -- During the term of this Agreement, WMATA agrees to maintain separate and complete accounting records which are consistent with generally accepted governmental accounting procedures and which accurately reflect all income and expenditures of funds which may be provided under this Agreement. WMATA will retain all such CIP records for the same period that records are required to be kept for the FTA or other federal grants, unless there is an outstanding written Contributing Jurisdiction or FTA financial or audit question, which is not resolved by the Contributing Jurisdiction or FTA auditor. The records of WMATA must be in sufficient detail to determine the character and timing of fund items; and of contract obligation and expenditure transactions authorized by this Agreement.

(2) Litigation Records. -- In addition to the foregoing, in the event that any Contributing Jurisdiction's bond, the proceeds of which were used to meet the funding obligation of the Agreement or any transaction pertaining to such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly allow the Contributing Jurisdiction access, at the Contributing Jurisdiction's expense, to any record, not otherwise protected by a legal privilege, it may have relating to WMATA's use of the proceeds of such Contributing Jurisdiction's bond so that the Contributing Jurisdiction may participate and respond to any aspect of such investigation, inquiry or suit. In the event WMATA is notified that any Contributing Jurisdiction's bond, the proceeds of which were used to meet funding obligations of this Agreement or any transaction pertaining to any such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly notify the Contributing Jurisdiction of such

occurrence a shall advise the Contributing Jurisdiction of all aspects of the conduct or any response WMATA may make in such regard.

(3) Audits.

(A) Timing for Performance. -- A Contributing Jurisdiction or its agent may perform an audit of WMATA's expenditures of funds provided by this Agreement. The request for the performance of such audit may cover a period of up to six (6) audited fiscal years immediately preceding such request. Any such audit shall be commenced within sixty (60) days after the date of the request. The Contributing Jurisdiction will assume all financial responsibility for any costs associated with the performance of such audits. If more than one Contributing Jurisdiction initiates an audit under this paragraph, the audits may be consolidated, at the Contributing Jurisdictions' election, into a single audit for the applicable fiscal years and the Contributing Jurisdictions participating in the audit shall share in the cost of the audit. WMATA agrees to cooperate fully with the Contributing Jurisdiction(s) or its authorized agent(s) in the conduct of any audit carried out in accordance with this paragraph.

(B) Audit Results. -- If it is determined by the auditor as a result of such audit under this section that funds provided by the Contributing Jurisdiction have not been expended pursuant to the terms and conditions of this Agreement and CIP or have been administered in a way contrary to law, WMATA shall make appropriate accounting adjustments consistent with final audit findings. Appropriate adjustments will be made in the amounts due to WMATA from such Contributing Jurisdiction, in the next fiscal year in order to make said Contributing Jurisdiction whole. If it is determined that one or more Contributing Jurisdictions has underpaid, WMATA shall make appropriate accounting adjustments in the amount due to WMATA from

such Contributing Jurisdiction(s) in the next fiscal year in order to make WMATA whole. The Contributing Jurisdictions agree that any such 'make-whole' amounts shall not count against the up to 3% increases on Allocated Contribution increases. In the event that an audit results in WMATA being instructed to increase or decrease the funding provided by another Contributing Jurisdiction(s) WMATA shall provide a corrective plan to the Contributing Jurisdictions, regarding credits and debits to be applied to the next fiscal year Allocated Contributions. WMATA shall implement the corrective plan unless any of the Contributing Jurisdictions provide notice of an objection to the plan within thirty (30) days of WMATA sending the corrective plan. Should any Contributing Jurisdiction provide notice of an objection to the corrective plan, any Contributing Jurisdiction may begin the dispute resolution process contained in this Agreement.

(C) Audit Findings. – Any issue identified by the auditor during the course of the audit that may result in a finding will be discussed with WMATA management, who may provide additional input or information to the auditor. If WMATA management disagrees with a preliminary audit finding, reasonable efforts shall be made to resolve the dispute before the final audit report is issued. The auditor's final report will contain the audit findings along with a response from WMATA and, if appropriate, any rebuttal from the auditor.

SEC. 6 IMPLEMENTATION AND DISPUTE RESOLUTION

(a) Implementation of this Agreement.

The Parties intend to coordinate the activities undertaken pursuant to this Agreement through the Jurisdictional Coordinating Committee (JCC) as that committee may exist during the term of this Agreement. The person or persons serving on the JCC shall be the single point of contact for coordinating dissemination of information received pursuant to this Agreement from the other

Parties amongst and within members of their organization who require or request access to such information. Notwithstanding the foregoing, in the event of a dispute or other event requiring formal notice pursuant to this Agreement, such notice shall be provided to the persons identified in Section 12.

(b) Informal Resolution.

The Parties agree to use all reasonable efforts to resolve any disputes, which arise under or otherwise relate to this Agreement. If the Parties, at staff level, cannot resolve such a dispute through initial discussions within thirty (30) days after the date it first arises, then the Party seeking a resolution shall, provide notice to the other Parties. The written notice shall include the nature of the dispute, the issues involved, and shall include the name of a person authorized to lead the dispute resolution. Each Party shall respond within thirty (30) days, stating their position on the issue presented, their proposal for resolution, and the name of a person authorized to lead the dispute resolution. The identified persons shall then meet within the next thirty (30) days in an attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days following the date of the last meeting, any Party to the dispute may refer the matter to the WMATA Board for resolution.

(c) Alternative Resolution.

If a dispute arising under this Agreement is not resolved pursuant to subsection (b) of this Section, the Parties thereto may agree to pursue a mutually acceptable alternative dispute resolution procedure. If such a procedure is not utilized or does not result in a final and binding resolution of the dispute, any Party thereto may pursue a civil action for appropriate relief in a court of competent jurisdiction.

SEC. 7 REPRESENTATIONS AND WARRANTIES

(a) By WMATA.

WMATA makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

- (1) WMATA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;
- (2) WMATA by proper WMATA Board action has duly authorized the execution and delivery of this Agreement;
- (3) When executed and delivered by the Contributing Jurisdictions and by WMATA, this Agreement will constitute the legal, valid and binding obligation of WMATA enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally.
- (4) No director, officer, or employee of WMATA who exercises or has exercised any functions or responsibilities over any procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect thereto during the term of this Agreement.

(b) By Contributing Jurisdictions.

Each Contributing Jurisdiction makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

- (1) The Contributing Jurisdiction has all necessary power and authority to enter into the transactions contemplated by this Agreement and to carry out its individual obligations hereunder;
- (2) Such Contributing Jurisdiction has individually duly authorized the execution and delivery of this Agreement;
- (3) When executed and delivered by all Contributing Jurisdictions, this Agreement will constitute the legal, valid and binding obligation of the individual entity enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally;
- (4) No officer or employee of any Contributing Jurisdiction who exercises or has exercised any functions or responsibilities over a procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect therewith during the term of this Agreement.

SEC. 8 EFFECTIVE DATE AND TERM OF AGREEMENT

(a) Effective Date.

This Agreement shall be entered upon the date of execution by the last signatory and shall be effective as of July 1, 2021.

(b) Term.

The term of this Agreement shall begin on the Effective Date and shall terminate on June 30, 2027.

Where there are projects which have been started during the term of the Agreement or where bonds or other financial instruments have been issued pursuant to the 2010 CFA (for those Contributing Jurisdictions who did not opt out of the Long Term Debt issuance) or pursuant to this Agreement, the Contributing Jurisdictions, subject to annual appropriations, agree to continue to make their Allocated Contributions for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or other financial instruments.

(c) Future Negotiations.

No later than June 30, 2026, WMATA and the Contributing Jurisdictions agree to commence discussions for a successor capital funding agreement. WMATA will ask each Contributing Jurisdiction for an affirmative response to whether it wishes to participate in a successor agreement. Each Contributing Jurisdictions shall give an affirmative notice in accordance with Section 12 of this Agreement no later than October 1, 2026, either that: (1) it intends to continue under the Agreement, subject to amendment only of the projects included in the CIP and the cost of a new 6 year CIP and the renegotiation of the Local Funding Agreement with the District of Columbia (2) it requests negotiation of additional terms of the agreement in addition to those specified in the preceding clause or (3) it wishes to terminate the agreement as of June 30, 2027. It is the Parties' desire to limit negotiations only to the items listed in clause (1) if at all possible. A failure to timely respond will be deemed an election to terminate the Agreement. If a Contributing Jurisdiction gives or is deemed to give the required notice that it is terminating its participation in this Agreement, then the Agreement shall terminate as of June 30, 2027, except as covered by subsection (b), above.

(d) Final Distribution.

In the event that this Agreement is terminated pursuant to this section 8, any amounts remaining at the expiration of this Agreement shall be first used to fund any remaining unfunded Projects and Programs in the Capital Improvement Program as indicated in the attached Capital Improvement Program, and then, if any funds remain, will be credited or refunded to the Contributing Jurisdictions, as directed by the Contributing Jurisdictions.

SEC. 9 RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

SEC. 10 NO THIRD PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third Party to be a third Party beneficiary to this Agreement, nor do the Parties intend for any such third Party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

SEC. 11 AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

SEC. 12 NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service or via electronic mail, to any Party as follows:

To the State of Maryland:

Department of Transportation:
Director, Washington Area Transit Office
Maryland Department of Transportation
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

With copies to:
Chairman, Washington Suburban Transit
Commission
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

and

Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

To Arlington County, Virginia:

Director
Department of Management and Finance
2100 Clarendon Boulevard, Suite 501
Arlington, VA 22201

With a copy to:

Director
Department of Environmental Services
2100 Clarendon Boulevard, Suite 900
Arlington, VA 22201

To the District of Columbia:

Director
District Department of Transportation
250 M St. SE
Washington, D.C. 20003

With copies to:

Chief Financial Officer for the District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

and

Attorney General for the District of Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To Fairfax County, Virginia:

Director
Fairfax County Department of Transportation
4050 Legato Road, 4th Floor
Fairfax, VA 22035-5511

With a copy to:
Chief, Coordination and Funding Division
Fairfax County Department of Transportation
4050 Legato Road, 4th Floor
Fairfax, VA 22035
Attn: Todd Wigglesworth (or designee)
Email: Todd.Wigglesworth@fairfaxcounty.gov

To County of Loudoun, Virginia:

County Administrator
County of Loudoun
1 Harrison Street, S.E., 5th Floor
P. O. Box 7000
Leesburg VA 20175

With a copy to:

Director
Loudoun County Department of Transportation
and Capital Infrastructure
101 Blue Seal Drive, S.E.
Suite 102, MSC #64
P. O. Box 7500
Leesburg, VA 20177

And
Assistant Director
Transportation Services
Department of Transportation and Capital
Infrastructure
Loudoun County Government
101 Blue Seal Drive, S.E. Suite 102
Leesburg, Virginia 20177-7500
Attn: Penny S. Newquist
Email: Penny.Newquist@Loudoun.gov

To the City of Falls Church, Virginia:

City Manager
City of Falls Church
300 Park Avenue
Falls Church, VA 22046

To the City of Alexandria, Virginia:

City Manager
City of Alexandria
301 King Street
Alexandria, VA 22314

With a copy to:

Director of Transportation & Environmental
Services
City of Alexandria
301 King Street
Alexandria, VA 22314

To the City of Fairfax, Virginia:

Mayor
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

With a copy to:

Transportation Director
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

**To the Washington Metropolitan Area
Transit Authority:**

General Manager and Chief Executive Officer
Washington Metropolitan Area Transit
Authority
600 Fifth Street, N.W.
Washington, D.C. 20001

With a copy to:

The General Counsel
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

SEC. 13 SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the Contributing Jurisdictions and WMATA.

SEC. 14 NO DEBT GUARANTEES

No Contributing Jurisdiction guarantees the debt of WMATA or any other Contributing Jurisdiction, nor any obligation of WMATA or any other Contributing Jurisdiction.

SEC. 15 REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the Contributing Jurisdictions are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to each Contributing Jurisdiction.

SEC. 16 COUNTERPARTS

This Agreement may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties listed on page one.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Agreement as of the Effective Date.

**WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY**

Attest:

By:

Witness

Thomas J. Webster, Executive Vice President
Strategy, Planning and Program Management

Dated: _____

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of Transportation

**MARYLAND DEPARTMENT OF
TRANSPORTATION**

Attest:

By:

Witness

_____[Seal]
Secretary

and

**WASHINGTON SUBURBAN
TRANSIT DISTRICT**

Attest:

By:

Witness

_____[Seal]
Chairman

Dated: _____

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

By:

Witness

_____[Seal]
Mayor

Dated: _____

[signatures continued on following page]

**COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA**

Attest:

By:

Clerk to the County Board

_____[Seal]
Chair
County Board
Arlington County, Virginia

Dated: _____

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

By:

Clerk to the Board of Supervisors

_____[Seal]
County Executive
Fairfax County, Virginia

Dated: _____

[signatures continued on following page]

COUNTY OF LOUDOUN, VIRGINIA

Attest:

By:

Clerk to the Board of Supervisors

_____[Seal]
County Administrator
Loudoun County, Virginia

Dated: _____

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

By:

City Clerk

_____[Seal]
City Manager

Dated: _____

[signatures continued on following page]

CITY OF FAIRFAX, VIRGINIA

Attest:

By:

City Clerk

_____[Seal]
Mayor

Dated: _____

[signatures continued on following page]

CITY OF FALLS CHURCH, VIRGINIA

Attest:

By:

City Clerk

_____[Seal]
City Manager

Dated: _____

ATTACHMENT 1

Capital Improvement Plan Funding FY2022 to 2027 and FY2022 Sources of Funding

Financial Plan - Allocation of State & Local Contributions

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	6 Year
	Budget	Plan	Plan	Plan	Plan	Plan	Total
Federal Funding							
Federal Formula Programs	324,703,720	321,106,774	321,106,774	321,106,774	321,106,774	321,106,774	1,930,237,590
Federal RSI/PRIIA	148,500,000	-	-	-	-	-	148,500,000
Other Federal Grants	15,712,966	11,531,543	10,606,785	4,006,854	6,000,000	5,100,000	52,958,147
Total - Federal Grants	488,916,686	332,638,317	331,713,559	325,113,628	327,106,774	326,206,774	2,131,695,737
State & Local Funding Contributions							
District of Columbia							
Formula Match & System							
Performance	99,663,709	102,157,842	104,659,263	106,800,042	107,065,870	110,999,394	631,346,120
RSI/PRIIA	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	297,000,000
Dedicated Funding	178,500,000	178,500,000	178,500,000	178,500,000	178,500,000	178,500,000	1,071,000,000
Subtotal - District of Columbia	327,663,709	330,157,842	332,659,263	334,800,042	335,065,870	338,999,394	1,999,346,120
State of Maryland							
Montgomery County	46,334,910	47,902,028	49,518,478	51,332,737	53,837,692	55,210,140	304,135,985
Prince George's County	47,477,330	48,572,081	49,929,973	51,118,402	51,764,301	53,607,263	302,469,350
Maryland RSI/PRIIA	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	297,000,000
Maryland Dedicated Funding	167,000,000	167,000,000	167,000,000	167,000,000	167,000,000	167,000,000	1,002,000,000
Subtotal - Maryland	310,312,240	312,974,109	315,948,451	318,951,139	322,101,993	325,317,403	1,905,605,335
Commonwealth of Virginia							
City of Alexandria	12,599,122	13,005,424	13,394,167	13,809,767	14,261,824	14,671,606	81,741,910
Arlington County	22,791,984	23,652,841	24,470,494	25,441,423	26,893,536	27,506,783	150,757,061
City of Fairfax	713,407	743,237	773,845	812,411	881,830	896,891	4,821,622
Fairfax County	40,600,208	42,091,821	43,589,161	45,349,846	48,036,448	49,131,907	268,799,391
City of Falls Church	776,099	795,954	815,052	831,454	832,652	863,231	4,914,442
Loudoun County	5,471,946	5,800,347	6,112,790	6,565,037	7,548,799	7,569,426	39,068,344
Virginia RSI/PRIIA	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000	297,000,000
Virginia Dedicated Funding - Unrestricted	122,883,455	122,883,455	122,883,455	122,883,455	122,883,455	122,883,455	737,300,730
Virginia Dedicated Funding - Restricted	31,616,545	31,616,545	31,616,545	31,616,545	31,616,545	31,616,545	189,699,270
Congestion Mitigation and Air Quality (CMAQ)	1,016,889	645,768	626,951	601,713	763,000	763,000	4,417,323
Subtotal - Virginia	287,969,654	290,735,393	293,782,459	297,411,652	303,218,089	305,402,845	1,778,520,093

Jurisdiction Planning Projects	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	18,000,000
Silver Line (MWAA)	12,951,000	867,000	-	-	-	41,133,000	54,951,000
Potomac Yard (Alexandria)	149,500,000	18,987,000	-	-	-	-	168,487,000
Purple Line (MDOT)	4,068,000	-	-	-	-	-	4,068,000
Subtotal - Jurisdictional Reimbursable	169,519,000	22,854,000	3,000,000	3,000,000	3,000,000	44,133,000	245,506,000
Total - State & Local	1,095,464,603	956,721,344	945,390,174	954,162,833	963,385,953	1,013,852,641	5,928,977,547
Debt	1,023,474,711	1,341,813,591	995,432,848	937,698,099	663,892,396	605,858,090	5,568,169,736
Grand Total Funding *	2,607,856,000	2,631,173,252	2,272,536,581	2,216,974,559	1,954,385,123	1,945,917,506	13,628,843,021

* Total funding requirement includes capital program expenditures, debt service, and estimated revenue loss from major shutdowns

Note: Does not assume reauthorization of Federal PRIIA beyond FY2022

Financial Plan by Investment Category

<i>(Dollars in Millions)</i>	FY2022 Budget	FY2023 Plan	FY2024 Plan	FY2025 Plan	FY2026 Plan	FY2027 Plan	6-Year Total
Railcars	\$342	\$346	\$437	\$530	\$517	\$423	\$2,595
Rail Systems	272	337	308	257	203	213	1,590
Track and Structures	343	476	259	236	237	247	1,798
Stations and Passenger Facilities	572	369	328	302	268	272	2,111
Bus and Paratransit	515	550	492	418	184	196	2,354
Business Support	547	448	239	206	220	227	1,888
Total Capital Program	\$2,591	\$2,526	\$2,064	\$1,949	\$1,628	\$1,578	\$12,336
Revenue Loss from Capital Projects	17	10	10	10	10	10	67
Debt Service-Dedicated Funding ¹	0	95	199	258	316	358	1,226
Total Capital Program Cost	\$2,608	\$2,631	\$2,273	\$2,217	\$1,954	\$1,946	\$13,629

¹ Projections subject to change based on actual debt requirements and terms of future debt issuance

ATTACHMENT 2

Example of Project Detail Page

Bus Fleet Acquisition Program (CIP0006)

Initiative Type: Program

Category: Bus, Bus Facilities & Paratransit

Location: Systemwide

Mode: Bus

Program: Acquisition

Federal Participation (all years): Yes

Description

This program acquires and replaces standard 30-foot, 40-foot buses and the articulated buses according to the current Metrobus Fleet Management Plan. It also includes all training required to maintain a bus and the purchase of spare parts.



Expected Outcome

Provides customers with reliable and modern buses as measured by the Bus Fleet Reliability performance indicator [FY20 target $\geq 7,000$ miles between failures]. Maintains an average fleet age of approximately 7.5 years.

Strategic Objectives



Safety



Security



Reliability/SGR

Near Term Deliverables

Metro will advance the scheduled annual acquisition of 100 buses to replace the oldest and least reliable vehicles. In FY2022, Metro plans to acquire approximately 75 40-foot Clean Diesel buses, and approximately 25 40-foot Compressed Natural Gas (CNG) buses at end of useful life. Metro has also initiated a zero emission bus program through CIP0355.

Cost (\$M)

Anticipated Funding Sources (\$M)

Funding Source(s) for FY22	
Federal Grants	\$64.1
PRIIA/RSI Grants	\$0.0
System Performance	\$0.0
Dedicated Funding	\$0.9
Reimbursable	\$0.0
Debt	\$0.0

Investments	
FY21 Forecast	\$88.6
Planned Investments	
FY22	\$65.0
FY23	\$75.1
FY24	\$75.1
FY25	\$75.1
FY26	\$75.5
FY27	\$80.0
6-Year Total (FY22-FY27)	\$445.6
10-Year Total (FY22-FY31)	\$765.6
Beyond FY31	On-Going

Parking Garage and Surface Lot Rehabilitation (CIP0152)

Initiative Type: Program

Category: Stations and Passenger Facilities

Location: Systemwide

Mode: Rail

Program: Platforms & Structures

Federal Participation (all years): Yes

Description

This program will rehabilitate parking structures including garages and surface lots.



Expected Outcome

Allows parking facilities to be maintained in a state of good repair to prevent property damage, improve customer satisfaction, improve customer safety as measured by the Metrorail customer injury rate performance indicator [FY20 target of ≤ 1.40 injuries per million passengers].

Strategic Objectives



Safety



Security



Reliability/SGR

Near Term Deliverables

Metro will advance necessary maintenance activities to allow parking assets to achieve their intended useful life. Additionally, Metro will progress the rehabilitation of parking facilities at Addison Road, Greenbelt, Capitol Heights, Landover, Rockville, East Falls Church, Huntington (East), Wheaton, Anacostia, and New Carrollton.

Anticipated Funding Sources (\$M)

Funding Source(s) for FY22	
Federal Grants	\$9.3
PRIIA/RSI Grants	\$0.0
System Performance	\$0.0
Dedicated Funding	\$2.3
Reimbursable	\$0.0
Debt	\$10.0

Cost (\$M)

Investments	
FY21 Forecast	\$11.6
Planned Investments	
FY22	\$21.6
FY23	\$14.5
FY24	\$14.5
FY25	\$15.5
FY26	\$15.5
FY27	\$15.5
6-Year Total (FY22-FY27)	\$97.1
10-Year Total (FY22-FY31)	\$159.1
Beyond FY31	On-Going

ATTACHMENT 3

Jurisdictional Allocated Contribution (JAC) Debt Issuance Process

JAC Debt Process

- I. Existing JAC Debt
 - A. As of the date of this Agreement, one or more Contributing Jurisdictions have participated in (formerly “opted-in”) to debt issuances made by WMATA in lieu of making their Allocated Contributions in cash.
 - B. Those Opt-In Jurisdictions hereby authorize WMATA, subject to applicable requirements of the WMATA Board of Directors and the WMATA Compact, to refinance, buy-down, redeem, or undertake other transactions related to all JAC Debt currently outstanding so long as the actions taken result in no net increase to the debt service required from any one Opt-In Jurisdiction and the following procedures are undertaken:
 - 1. WMATA shall provide sixty (60) calendar days’ notice to any Jurisdiction impacted by a refinancing of JAC Debt undertaken pursuant to this authorization.
 - 2. The notice shall include any changes to the anticipated yearly payments, term of debt, and net present value associated with the JAC Debt being refinanced.
 - 3. Any Jurisdiction choosing not to participate in the JAC Debt Refinance shall make payment to WMATA sufficient to cover their share in the outstanding JAC Debt three-days before the scheduled closing on the JAC Debt Refinance.
 - C. Notwithstanding the above, the Opt-In Jurisdictions may authorize WMATA to refinance existing JAC Debt on terms that increase debt service.
- II. New JAC Debt
 - A. WMATA will issue new JAC Debt as a means for a Contributing Jurisdiction to provide their Allocated Contribution in lieu of cash payments when:
 - 1. The requesting Contributing Jurisdiction makes a written request to WMATA stating the amount of JAC Debt to be issued;
 - 2. WMATA GM/CEO and the WMATA Board have approved the request; and
 - 3. All other Contributing Jurisdictions have had no less than forty-five (45) calendar days, as established by WMATA’s notice of intent to issue, to opt-in to the new JAC Debt. Parties not affirmatively opting-in to the new debt shall be excluded from the issuance and shall make their Allocated Contribution payments as scheduled.
 - B. In no case will WMATA be required to issue JAC Debt more than once in a WMATA Fiscal Year.
 - C. The terms of any New JAC Debt issuance shall be set by the WMATA Board of Directors in conjunction with the jurisdictions participating in the JAC Debt issuance.
 - D. Participants in new JAC Debt shall be responsible for all required debt service payments through the end of the term of the issuance.

ATTACHMENT 4

Operating Subsidy Resolution List



List of Board Resolutions that create the Operating Subsidy Formula as of the Effective Date, as may be amended or revised by action of the Board.

95-14	APPROVAL OF SUBSIDY ALLOCATION FORMULAS
98-27	APPROVAL OF METROBUS SUBSIDY ALLOCATION FORMULA
98-32	APPROVAL OF NON-REGIONAL METROBUS SUBSIDY ALLOCATION
99-31	APPROVAL OF PARATRANSIT FORMULA
2019-34	APPROVAL OF CHANGE TO REGIONAL METROBUS SUBSIDY ALLOCATION FORMULA FOR LOUDOUN COUNTY

PRESENTED & ADOPTED: MAY 11, 1995
SUBJECT: APPROVAL OF SUBSIDY ALLOCATION FORMULAS

#95-14
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, Metrobus, Metrorail and Paratransit operating costs are expected to exceed the respective operating revenues; and

WHEREAS, the Board of Directors, the Budget Committee, the staffs of the local jurisdictions and WMATA staff have over the last several years analyzed the various factors used to distribute Metrobus and Paratransit costs and revenues, and the Metrorail subsidy.

NOW THEREFORE BE IT RESOLVED that the Metrobus and Paratransit costs and revenues and the Metrorail operating assistance shall be allocated among the jurisdictions using the formulas in effect in Fiscal 1995 and as stated in Attachment I of this Resolution commencing with FY 1996 and continuing until changed by the Board of Directors.

BE IT FURTHER RESOLVED, that this resolution shall be effective July 1, 1995.

Reviewed as to form and legal sufficiency.



Robert L. Polk
General Counsel

Motion by Mr. Barnett, seconded by Mrs. Mack, and unanimously approved, as amended.

Ayes: 6 - Mr. Wineland, Mrs. Whipple, Mr. Evans, Mr. Barnett, Mrs. Mack, and Mr. Berger

ATTACHMENT I

I. METROBUS

A cost-revenue formula is used to allocate jurisdiction subsidy for Metrobus operations. Metrobus costs net of subcontract charter are assigned to one of three categories - fixed, mileage, or hourly. Fixed costs, as defined for allocation purposes, include all expenses for overhead, operator training and utility payhours, wages for service vehicle mechanics, general insurance premiums, security, safety, revenue collection, scheduling, residual liabilities, and all supervisory costs except lead mechanic wages and a portion of the salary for the garage shift supervisors. Mileage-related costs include revenue vehicle mechanic wages and overtime, current year expenses for workers' compensation for operators and third party claims, general liability insurance, and all revenue vehicle costs for diesel fuel, tire rental, and parts. Hourly-related costs are primarily operator wages and related fringe benefits plus workers' compensation for all personnel other than bus operators.

Each allocation cost category is charged to the jurisdictions as follows:

- (a) All fixed costs are charged to the District, the two Maryland Counties, and Northern Virginia based on the percent distribution of 1975 peak period buses. Fixed costs are allocated among the Virginia jurisdictions in proportion to the variable cost allocation within Virginia.
- (b) All mileage-related costs are allocated in proportion to each jurisdiction's share of platform miles.
- (c) All hourly-related costs are allocated in proportion to each jurisdiction's share of platform hours.

Platform miles and platform hours are measured from the time a bus leaves a garage until it returns to a garage. This data is compiled for each route and route variation and within each jurisdiction where operated. The platform miles and hours are associated with either a revenue trip (in-service) or a non-revenue trip (deadhead). All revenue trips are assigned, a "dedication" code that specifies (1) which jurisdiction(s) is charged for the miles and hours and (2) for trips serving more than one jurisdiction, how the miles and hours are shared. The miles and hours for all deadhead trips and layover time on a given bus line are prorated among the jurisdictions in accordance with each jurisdiction's share of revenue miles and hours for that line. The sum, by jurisdiction, of all miles and hours scheduled for regular route service is computed for the fiscal year, taking into consideration all scheduled service adjustments and running time adjustments.

For each revenue bus trip that a jurisdiction pays for (cost), the jurisdiction receives credit for all or a portion of the revenue collected on that trip, based on the dedication code of the trip. The allocated passenger revenues are subtracted from each jurisdiction's allocated cost to determine the jurisdiction bus subsidy. The Authority contracts for a bus passenger survey every one or two years to determine the appropriate share of revenue for each jurisdiction. The sampling techniques, survey design, and revenue allocation procedures have all been reviewed and validated by the University of Maryland Transportation Department and are incorporated into the scope of services. The accuracy objectives for the survey and revenue allocations are ± 5 percent for each jurisdiction and ± 3 percent for the system with a 95 percent confidence level. This has traditionally required a survey sample of approximately 2,600 weekday and 1,500 weekend revenue trips selected at random within a stratified universe file of 16,000 weekday and weekend trips. The passengers on each sampled trip are asked to complete a questionnaire. The questionnaire asks for each passenger's location of boarding and alighting, the method of fare payment, and the passenger type. The passenger response rate is then factored to the total data collected on sampled trips. Revenues are distributed among the jurisdictions using the data collected from the survey, plus passenger revenue computations, garage revenue collections, and flash pass sales.

The following revenue allocation rules have been approved by the Board and are applied as follows:

- All farebox revenues from service dedicated to a single jurisdiction are allocated to that jurisdiction, unless a transfer is made to service dedicated to another jurisdiction.
- In the District of Columbia and Maryland, the farebox revenues of passengers transferring from service dedicated to one jurisdiction to service dedicated to another jurisdiction are allocated in proportion to the fares which would be charged from origin to the transfer point and from the transfer point to the destination.
- Metrobus revenues from interstate non-dedicated service are assigned on the basis of the passenger's miles in each state.
- Within Virginia, Metrobus revenues are (a) dedicated to one jurisdiction, or (b) assigned to the boarding jurisdiction, or (c) assigned to the alighting jurisdiction, or (d) joint dedicated to two or more jurisdictions.
- MD base flash pass revenues are assigned to Maryland and VA base flash pass revenues to Virginia. DC base flash passes may be used for the base fare in any jurisdiction and revenues are allocated based on Metrobus trip patterns of users of these passes as determined by the passenger survey.

- Revenues from the interstate flash passes are distributed based on Metrobus trip patterns of the users of these passes as developed from the Bus Passenger Survey.
- The intra-Virginia distribution of the revenues from the VA base pass and the intra-Maryland distribution of revenues from the MD base pass also use the results from the Bus Passenger Survey.

The WMATA Board of Directors on May 10, 1984 adopted resolutions regarding the bus transfer arrangement with Ride-On and the bus transfer agreement and acceptance of flash passes by Alexandria Transit Company and the Fairfax Connector. The revenue allocation programs are designed to comply with these resolutions.

II. METRORAIL

Two allocation formulas are used to determine the subsidy for each jurisdiction - the rail subsidy allocation formula and the max fare subsidy formula.

(A) Metrorail Subsidy

Each jurisdiction's share is determined as follows:

- One-third of the subsidy is distributed on the basis of the relative number of stations in operation in each jurisdiction. This factor includes all stations in the system with the exception of the Arlington Cemetery Station.
- One-third of the subsidy is distributed on the basis of a weighted average of urbanized area population and population density using the most current census data and the most current census population definition of the urbanized area.
- One-third of the subsidy is distributed on the basis of the weekday Metrorail passengers by jurisdiction of residence. This factor is computed using data from the most recent Metrorail Passenger Survey.

(B) Max Fare Subsidy

The max fare subsidy is one-half the revenue differential between what riders travelling more than six composite miles actually pay and what they would have paid without a tapered mileage charge or a fare cap. The max fare subsidy by jurisdiction is determined from the Metrorail passenger survey. The charge to each jurisdiction reflects the residence of the riders receiving the benefit of the reduced peak period fares and the value of the benefit received.

III. PARATRANSIT¹

The costs to the Authority for providing paratransit services shall be divided among four tiers:

TIER 1 - FIXED COSTS

Fixed costs are continuing fixed overhead costs that do not fluctuate relative to the level of paratransit service that is operated. The allocation of fixed costs will be allocated based on the proportion of ADA-certifications by jurisdiction of residence of the participating jurisdictions.

TIER 2 - ALLOCATED ADMINISTRATIVE COSTS

Allocated administrative costs are continuing overhead costs that fluctuate and are related to the level of paratransit service provided. The allocation of allocated administrative costs will be based on actual demand (trips requested) for the regional paratransit system.

TIER 3 - DIRECT OPERATING SUBSIDIES

Direct operating subsidies are the direct paratransit-related operating costs, including costs paid to regional paratransit contractors less revenues collected from patrons. These subsidies will be allocated on the basis of actual usage of the regional paratransit system by the jurisdiction of residence of the user.

TIER 4 - VISITOR TRIP SUBSIDIES

Visitor trips are those trips taken by a non-resident of the participating jurisdictions who utilize the 21-day visitor temporary certification allowed by the ADA regulations. The subsidies (costs less revenues) of trips provided to visitors will be allocated based on the origin of boarding of each one-way trip.

¹ Prior to Fiscal 1995 all costs incurred by the Department of ADA were distributed by the paratransit formula, regardless of whether the costs were paratransit costs. Paratransit costs incurred by other departments within the Authority were not distributed by this formula. In Fiscal 1995, the paratransit formula was modified to eliminate all departmental restrictions - all departments can now charge appropriate expenses and staff time to paratransit and the Department of ADA can charge non-paratransit costs to the other appropriate modes. This is consistent with the way all other charges are distributed by formula.

PRESENTED & ADOPTED: JUNE 25, 1998

SUBJECT: APPROVAL OF METROBUS SUBSIDY ALLOCATION FORMULA

#98-27
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, the Regional Mobility Panel (RMP), created in January 1997, was charged with devising a plan to stabilize and enhance bus services in the National Capital Region; and

WHEREAS, in reviewing the current Metrobus Subsidy Allocation Formula and its impact on the future of Metrobus services in the National Capital Region, the RMP concluded the following in regard to the current formula:

- it relies on outdated information and reduces management's ability to implement system cost savings because these actions may result in cost increases in some jurisdictions; and
- jurisdictions that reduce bus service save more than the resulting system savings and jurisdictions that increase bus service pay more than the resulting system increases; and
- as Metrobus service is reduced in any one jurisdiction, the unit costs for all remaining bus service increases resulting in cost increases in jurisdictions that do not change their service; and

WHEREAS, the RMP has recommended, and the Board of Directors has agreed, that a revised Metrobus subsidy allocation formula for regional Metrobus service be implemented beginning in Fiscal 1999; and

WHEREAS, the Board anticipates that the Member Jurisdictions will agree that conversion to the new Metrobus Subsidy Allocation Formula will begin in Fiscal 1999 with phased transition limits during the period of Fiscal 1999-2002 (as previously

adopted by the Regional Mobility Panel) and that the phased non-federal share of funding for the \$100 million rehabilitation and replacement shortfall requirements will begin in Fiscal 2000 and continue through Fiscal 2003. Beginning in Fiscal 1999, and in every year thereafter, the benefit to all Member Jurisdictions from the application of phased transition limits in the new Regional Bus Service Operating Subsidy Allocation Formula will be reduced proportionate to the lowest percentage contribution made by any benefitting Member Jurisdiction to the phased non-federal shortfall in the Rehabilitation and Replacement Program, including any state funds attributable to that jurisdiction.

NOW, THEREFORE BE IT RESOLVED that the current Metrobus subsidy allocation formula be revised, as recommended by the RMP and agreed to by the Board of Directors, and that a new Metrobus subsidy allocation formula be implemented through a transition plan beginning in Fiscal 1999 and continuing through Fiscal 2002; and

BE IT FURTHER RESOLVED that the Board of Directors adopts a new Metrobus Subsidy Allocation Formula that: allocates the regional Metrobus subsidy on a regional basis; uses data that can be periodically updated; allocates the Metrobus subsidy based on benefits received in each jurisdiction; and evaluates carefully the mechanisms to implement a ridership incentive factor; and

BE IT FURTHER RESOLVED that the following Metrobus Subsidy Allocation Formula for regional Metrobus services shall be adopted based on each jurisdiction's share of the following four factors:

- 25% of Subsidy - a weighted average of urbanized population and population density using 1990 census data and the 1990 population definition of the urbanized area;
- 15% of Subsidy - weekday ridership on the regional routes by jurisdiction of residence;
- 35% of Subsidy - annual revenue miles for the regional routes; and
- 25% of Subsidy - annual revenue hours for the regional routes.

BE IT FURTHER RESOLVED that the Board of Directors adopts the attached transition limits to be applied to each jurisdiction for Fiscal 1999 through Fiscal 2002 as the basis for phasing in the revised Metrobus Regional Subsidy Allocation Formula; and

BE IT FURTHER RESOLVED that the revised Metrobus Subsidy Allocation Formula, as modified by the transition limits prescribed for Fiscal 1999 through Fiscal 2002 attached hereto, shall become effective in Fiscal 1999 and shall remain in effect until changed by the Board of Directors; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately.

Reviewed as to form and legal sufficiency.

A handwritten signature in dark ink, appearing to read 'Robert L. Polk', is written over a horizontal line.

Robert L. Polk
General Counsel

Motion by Mrs. Mack, seconded by Mr. Wineland, and unanimously approved.
Ayes: 6 - Mr. Barnett, Mrs. Hanley, Mrs. Mack, Mr. Wineland, Mrs. Walker
and Mr. Kinlow

Jurisdiction	Annual Regional Metrobus Subsidies With Transition Limit			
	Fiscal 1999	Fiscal 2000	Fiscal 2001	Fiscal 2002
District of Columbia	65,136	65,095	65,054	65,013
Montgomery County	17,686	18,430	19,174	19,918
Prince George's County	20,350	21,241	22,132	23,023
Maryland	38,036	39,671	41,306	42,941
Alexandria	8,402	8,084	7,765	7,447
Arlington County	13,013	12,491	11,970	11,448
Fairfax City	45	90	135	180
Fairfax County	18,877	18,148	17,420	16,691
Falls Church	790	719	649	578
Virginia	41,127	39,533	37,938	36,344
Total	144,298	144,298	144,298	144,298

APPROVED FISCAL 1999 SUMMARY OF STATE/LOCAL OPERATING REQUIREMENTS
METROBUS REGIONAL OPERATING SUBSIDY ALLOCATION BY JURISDICTION

	DISTRICT OF COLUMBIA	MONTGOMERY COUNTY	PRINCE GEORGE'S COUNTY	CITY OF ALEXANDRIA	ARLINGTON COUNTY	FAIRFAX CITY	FAIRFAX COUNTY	FALLS CHURCH	TOTAL
REGIONAL SUBSIDY	\$65,135,780	\$17,685,619	\$20,349,608	\$8,402,053	\$13,012,890	\$44,993	\$18,877,219	\$790,038	\$144,298,200
NON-REGIONAL SUBSIDY	<u>12,975,919</u>	<u>3,930,347</u>	<u>9,214,738</u>	<u>594,462</u>	<u>0</u>	<u>0</u>	<u>5,247,334</u>	<u>0</u>	<u>31,962,800</u>
TOTAL METROBUS SUBSIDY	\$78,111,699	\$21,615,966	\$29,564,346	\$8,996,515	\$13,012,890	\$44,993	\$24,124,553	\$790,038	\$176,261,000

PRESENTED: JUNE 25, 1998

ADOPTED: JULY 9, 1998

SUBJECT: APPROVAL OF NON-REGIONAL METROBUS SUBSIDY ALLOCATION

#98-32
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, the Regional Mobility Panel (RMP), created in January 1997, was charged with devising a plan to stabilize and enhance bus services in the National Capital Region; and

WHEREAS, the RMP recommended a new Metrobus service plan based on the development of regional and non-regional bus routes so that neither the regional bus subsidy nor any individual jurisdiction's subsidy is affected by any change that might occur in non-regional services except for the jurisdiction proposing the change; and

WHEREAS, in reviewing the current Metrobus Subsidy Allocation Formula and its impact on the future of Metrobus services in the National Capital Region, the RMP proposed a new Metrobus Subsidy Allocation Formula for regional Metrobus services beginning in Fiscal 1999 and continuing through Fiscal 2002, with specified annual transition limits; and

WHEREAS, based on the recommendations of the RMP, the Board of Directors has approved a revised Metrobus Subsidy Allocation Formula for regional Metrobus service to be implemented through a transition plan beginning in Fiscal 1999 and continuing through Fiscal 2002; and

WHEREAS, Metrobus subsidies are determined separately for regional and non-regional Metrobus services; and

WHEREAS, as a result of approval by the Board of Directors of a new Metrobus Subsidy Allocation Formula for Regional Metrobus service only, a new subsidy allocation mechanism for non-regional Metrobus services must be approved beginning in Fiscal 1999.

NOW, THEREFORE BE IT RESOLVED that the Metrobus subsidy for non-regional Metrobus service shall be computed by utilizing the following steps:

1. Identify the costs of all Metrobus service, regional and non-regional;
2. Identify the costs which would accrue for regional Metrobus service if no non-regional bus service were provided;
3. Determine the costs of non-regional service by subtracting the regional Metrobus costs from the costs of all Metrobus service;
4. Divide the costs for non-regional service as computed in step three by total platform hours for non-regional service;
5. Identify the non-regional platform hours for each jurisdiction;
6. Multiply the platform hours for each jurisdiction by the hourly rate.
7. Determine the revenue for each jurisdiction; and
8. Subtract the revenue as determined in step seven from costs.

The product from the process, as outlined above, equals subsidy by jurisdiction.

BE IT FURTHER RESOLVED that the revised Metrobus Subsidy Allocation process for Non-Regional Metrobus services shall become effective in Fiscal 1999 and shall remain in effect until changed by the Board of Directors; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately.

Reviewed as to form and legal sufficiency.


Robert L. Polk
General Counsel

Motion by Mrs. Mack, seconded by Mr. Wineland, and unanimously approved.
Ayes: 6 - Mr. Barnett, Mrs. Hanley, Mrs. Mack, Mr. Wineland, Mr. Zimmerman, and Mr. Evans

APPROVED FISCAL 1999 SUMMARY OF STATE/LOCAL OPERATING REQUIREMENTS
METROBUS REGIONAL OPERATING SUBSIDY ALLOCATION BY JURISDICTION

	DISTRICT OF COLUMBIA	MONTGOMERY COUNTY	PRINCE GEORGE'S COUNTY	CITY OF ALEXANDRIA	ARLINGTON COUNTY	FAIRFAX CITY	FAIRFAX COUNTY	FALLS CHURCH	TOTAL
PLATFORM HOURS	310,577	81,365	203,292	13,308	0	0	99,074	0	707,616
NON-REGIONAL COSTS	\$19,942,132	\$5,224,470	\$13,053,350	\$854,532	\$0	\$0	\$6,361,516	\$0	\$45,436,000
NON-REGIONAL REVENUES	<u>(6,966,213)</u>	<u>(1,294,123)</u>	<u>(3,838,612)</u>	<u>(260,070)</u>	<u>0</u>	<u>0</u>	<u>(1,114,182)</u>	<u>0</u>	<u>(13,473,200)</u>
NON-REGIONAL SUBSIDY	\$12,975,919	\$3,930,347	\$9,214,738	\$594,462	\$0	\$0	\$5,247,334	\$0	\$31,962,800

04/06/98SW\F9999\F990459.W52

PRESENTED & ADOPTED: JUNE 10, 1999

SUBJECT: APPROVAL OF PARATRANSIT FORMULA

99-31
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, the Regional Paratransit Coordinating Committee has reviewed the current four-tiered formula used to determine each jurisdiction's share of the MetroAccess subsidy and has concluded that a new allocation formula is needed; and

WHEREAS, the Board Budget Committee has reviewed and agrees with changes to the MetroAccess formula as proposed by the Regional Paratransit Coordinating Committee; and

WHEREAS, the proposed MetroAccess formula more accurately assigns the cost of the MetroAccess service to the jurisdiction served.

NOW, THEREFORE BE IT RESOLVED, that, beginning with fiscal 2000, WMATA's MetroAccess costs will be allocated among the District of Columbia, Montgomery and Prince George's Counties in Maryland, and Northern Virginia as an entity, as follows:

- Direct Costs - the contract carriers' actual per trip, reservation, and eligibility charges will be allocated directly to jurisdictions; and
- Overhead Costs - all other costs of the paratransit program will be allocated in proportion to the direct costs; and


BE IT FURTHER RESOLVED, that the Northern Virginia jurisdictions of Arlington and Fairfax Counties, and the Cities of Alexandria, Fairfax, and Falls Church have determined an appropriate procedure for WMATA to further allocate costs within Northern Virginia:

- Direct Costs - per trip charges will be adjusted to reflect the average time of trips provided for each jurisdiction; and
- Overhead Costs - these costs will be allocated within Northern Virginia based on the direct costs as calculated for each jurisdiction; and

BE IT FURTHER RESOLVED, that this resolution shall become effective for fiscal 2000 and shall remain in effect for subsequent fiscal years unless changed by the Board of Directors; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately.

Reviewed as to form and legal sufficiency.


Cheryl C. Burke
General Counsel

Motion by Mrs. Mack, seconded by Mr. Zimmerman, and unanimously approved.
Ayes: 6 - Mrs. Hanley, Mrs. Mack, Mr. Trotter, Mr. Zimmerman, Mr. Graham and Mr. Barnett

PRESENTED AND ADOPTED: September 26, 2019

**SUBJECT: APPROVAL OF CHANGE TO REGIONAL METROBUS SUBSIDY ALLOCATION
FORMULA FOR LOUDOUN COUNTY**

2019-34

**RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

WHEREAS, Pursuant to Resolution 98-27, Board approval is required to change the regional Metrobus subsidy allocation formula for Loudoun County, Virginia; and

WHEREAS, With the addition of Metrorail Silver Line Phase 2 service, Loudoun County will become a funding jurisdiction; and

WHEREAS, Loudoun County has not requested Metrobus service and no Metrobus service is planned for Loudoun County; and

WHEREAS, The Board has requested that WMATA exclude the population density factor in Resolution 98-27 from its regional Metrobus subsidy calculation for Loudoun County; and

WHEREAS, The subsidy contribution for Loudoun County's population density will be provided by the other contributing jurisdictions as applicable;

NOW, THEREFORE, be it

RESOLVED, That Loudoun County shall not be charged any subsidy for the population density component of the regional Metrobus subsidy formula contained in Resolution 98-27, with such subsidy amount being assigned to the other jurisdictions pursuant to the applicable subsidy allocation formula; and be it further

RESOLVED, That all remaining factors in the subsidy allocation formula previously adopted by the Board shall remain in effect for all funding jurisdictions; and be it further

RESOLVED, That the funding obligations under the subsidy allocation formula shall be effective in the WMATA fiscal year containing the Revenue Operations Date for Metrorail Silver Line Phase 2; and be it finally

Motioned by Mr. Smedberg, seconded by Mr. Dorsey

Ayes: 8- Mr. Smedberg, Mr. Bulger, Mr. Goldman, Mr. Horner, Mr. Dorsey, Mr. Marootian, Mr. Rahn and Mr. McMillin

RESOLVED, That this Resolution shall be effective 30 days after adoption in accordance with Compact Section 8(b).

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
General Counsel

WMATA File Structure No.:
9.10 Jurisdictional Billing and Payments

ATTACHMENT 5

District of Columbia Local Capital Funding Agreement

LOCAL CAPITAL FUNDING AGREEMENT

By and Between

The District of Columbia

And

The Washington Metropolitan Area Transit Authority

LOCAL CAPITAL FUNDING AGREEMENT

THIS LOCAL CAPITAL FUNDING AGREEMENT (DCLCFA) is made and entered into this ____ day of _____, 2021, by and between **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **and the District of Columbia**, a municipal corporation (**District of Columbia**).

RECITALS

1. WMATA and the District of Columbia, the State of Maryland; Arlington County, Virginia; Fairfax County, Virginia; County of Loudoun, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia are parties to that 2022 to 2027 Capital Funding Agreement (CFA).

2. The District of Columbia requires a separate agreement to address certain statutory requirements applicable solely to the District of Columbia.

3. The Parties to this DCLCFA intend that this agreement be read as controlling over any obligations, roles, or responsibilities undertaken by the District of Columbia in the CFA.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, WMATA and the District of Columbia hereby enter into this Local Capital Funding Agreement, as follows:

I. Incorporation by Reference

- a. The CFA is hereby incorporated by reference as a binding agreement between the Parties, subject to the terms and conditions contained in this DCLCFA.

II. Definitions

- a. Unless a specific definition is provided in this DCLCFA all terms used in this agreement shall have the same definition as found in the CFA, unless context demands otherwise.

III. Limitations on District of Columbia CFA Obligations

The Parties to this DCLCFA agree that the obligations undertaken by the District of Columbia in the CFA are subject to the following conditions and requirements:

- a. Anti-Deficiency Requirements.
 - i. Pursuant to the provisions of (A) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 1511-1519 (2008) (the “**Federal ADA**”), and D.C. Official Code §§ 1-206.03(e) and 47-105; (B) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (the “**D.C. ADA**” and (A) and (B) collectively, as amended from time to time, the “**Anti-Deficiency Acts**”); and (C) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46, the District cannot obligate itself to any financial commitment in any present or future year unless the necessary funds to pay that commitment have been lawfully appropriated and are lawfully available for the purpose committed. Thus, pursuant to the Anti-Deficiency Acts, nothing in this Agreement creates an obligation of the District in anticipation of an appropriation for such purpose, and the District’s legal liability for the payment of any amount under this Agreement does not and may not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year.

- ii. During the term of this Agreement, the Mayor of the District of Columbia or other appropriate official shall, for each fiscal period, include in the appropriate budget application submitted to the Council of the District of Columbia the amount necessary to fund the District's known potential financial obligations under this Agreement for such fiscal period. In addition, in the event that the District proposes to issue bonds or notes to refund the bonds subject to this Agreement, the Mayor of the District of Columbia or other appropriate official, if any payments under this Agreement have not been made, shall include in a budget application submitted to the Council of the District of Columbia the amount necessary to fund the District's known unpaid amounts. In the event that a request for such appropriations is excluded from the budget approved by the Council for the applicable fiscal year, or if the Congress of the United States appropriates funds for the District for the applicable fiscal year and no appropriation is made by Congress to pay any amount under this Agreement, and in the event appropriated funds for such purposes are not otherwise lawfully available, the District will not be liable to make any payment under this Agreement upon the expiration of any then-existing appropriation.
- iii. Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a Default by the District under this Agreement.

- iv. This Agreement shall not constitute an indebtedness of the District nor shall it constitute an obligation for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. No District of Columbia Official or employee is authorized to obligate or expend any amount under this Agreement unless such amount has been lawfully appropriated and is lawfully available.

IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. OFFICIAL CODE § 1-204.46, NO DISTRICT OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THIS AGREEMENT UNLESS SUCH AMOUNT HAS BEEN LAWFULLY APPROVED AND APPROPRIATED.

- v. Notwithstanding anything to the contrary herein, the maximum amount of the District of Columbia's financial share of the cost of the six-year Allocated Contribution for WMATA's Fiscal Year 2022 through 2027 Capital Improvement Program (CIP) as initially adopted by the Board of Directors and subsequently modified by the Board of Directors in succeeding years of this Agreement shall not exceed \$631,346,120. The District's Allocated Contribution may not be increased above the aggregate amount of \$631,346,120 except by an amendment to this DCLCFA. Payments for JAC Debt in place as of the date of this agreement, or as maybe issued at the request of the District after the date of this agreement are not included in the cap created by this DCLCFA.

- b. **Use of DC Funding** -- DC funding may be used only for those projects in the CIP which meet the definition of “Capital Project” and/or “Capital Program” contained in the CFA.

IV. RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

V. TERM

- a. Effective Date. This DCLCFA shall take effect on July 1, 2021.
- b. The term of this DCLCFA shall begin on the Effective Date and shall terminate on June 30, 2027, unless amended by the Parties in writing. Where there are projects which have been started during the term of this DCLCFA or where bonds or other financial instruments have been issued pursuant to the 2010 CFA for which the District is obliged to make payments, the District agrees to continue to make its Allocated Contribution for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or financial instruments.

VI. NO THIRD-PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third party to be a third-party beneficiary to this Agreement, nor do the Parties intend for any such third party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

VII. AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

VIII. NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service, to WMATA or the District of Columbia as follows:

To the District of Columbia:

Director
District Department of
Transportation
250 M St. SE
Washington, D.C. 20003

With copies to:

Chief Financial Officer for the
District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Attorney General for the District of
Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To the Washington Metropolitan Area
Transit Authority:

General Manager and Chief
Executive Officer
600 Fifth Street, N.W.,
Washington, D.C. 20001

with a copy to:

Office of General Counsel
Washington Metropolitan Area
Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

IX. SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the District of Columbia and WMATA.

X. NO DEBT GUARANTEES

The District of Columbia does not guarantee the debt or any other obligation of WMATA; the Federal Government; the State of Maryland; Arlington County, Virginia; Fairfax County, Virginia; County of Loudoun, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; or the City of Falls Church, Virginia.

XI. REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the District of Columbia are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to the District of Columbia.

XII. COUNTERPARTS

This Agreement may be executed in two (2) identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement.

IN WITNESS WHEREOF, WMATA and the District of Columbia have executed this Agreement
on this _____ day of _____, 2021.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Witness

Thomas J. Webster, Executive Vice President
Strategy, Planning and Program Management

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____
Mayor

CAPITAL FUNDING AGREEMENT

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

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CAPITAL FUNDING AGREEMENT

THIS CAPITAL FUNDING AGREEMENT (Agreement) is made and entered into this 15th day of July, 2010, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions):**

RECITALS

1. The WMATA transit system has played a critical role in the growth and prosperity of the National Capital Region and environs, and WMATA's continued economic vitality is essential to the regional transportation system and the environmental quality, economic, educational and cultural life of the Washington region.
2. The WMATA system was built and is operated through the substantial investment of public funds by the Federal Government and by State and local governments in the region.
3. The lack of sufficient secure and reliable funding to rehabilitate and maintain the WMATA transit system and to replace rail cars, buses, and other key transit assets is creating a transportation crisis, threatening the continued health and vitality of the system and jeopardizing the public investment.
4. Previously, the Parties entered into an agreement covering specific capital projects for FY2005 through FY10 (Metro Matters Funding Agreement) along with associated financing arrangements to cover those capital projects. That agreement expires on July 1, 2010 and the

Parties wish to create a follow-on agreement for both funding FY2011-2016 on an expenditure basis and to provide an ongoing master agreement for future support of WMATA's capital needs.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

- (1) "Agreement" means this Capital Funding Agreement.
- (2) "Allocated Contribution" means the financial share of the cost of the Capital Improvement Program to be contributed by a Contributing Jurisdiction, in accordance with the terms of this Agreement but shall not include funds to be provided to match the Dedicated Funding (PRIIA) funds.
- (3) "Annual Work Plan" means the annual plan developed by WMATA on both obligation and expenditure bases and submitted to the Contributing Jurisdictions which identifies the Capital Improvement Program projects and activities to be undertaken in the Capital Budget for a specific fiscal year and the estimated annual cash requirement of those projects and activities and the sources of funds expected to be used on an expenditure basis to meet that cash requirement.
- (4) "Authorized Representative" means the individual designated by the chief executive officer (or comparable official) of a Contributing Jurisdiction or WMATA to take actions on behalf of that Party regarding issues that arise in carrying out this Agreement.
- (5) "Capital Budget" is synonymous with the term Annual Work Plan.

(6) “Capital Improvement Program” (“CIP”) means the list of project elements including the useful life computations for each project contained therein for the period of July 1, 2010 through June 30, 2016 approved by the WMATA Board of Directors for the period of July 1, 2011 – June 30, 2016 as may subsequently be updated for this or each successive six-year period (for planning purposes only) and specific fund sources for use in supporting the specific scope, schedule, and budget (expressed in both obligation and expenditure terms) of projects that advance the Authority’s strategic objectives. See Attachment 1 for the FY2011-2016 CIP. The CIP is not considered a payment schedule. The CIP shall be updated annually as described in this Agreement.

(7) “Contributing Jurisdictions” means the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia.

(8) “Days” means calendar days, unless otherwise specifically provided.

(9) “Debt” means any bond, security, debt issuance, certificate of participation, Grant Anticipation Debt, or other evidence of indebtedness issued by a public body, and includes commercial paper, lines of credit, and letters of credit to finance the program of projects to be completed under the terms of this Agreement. Debt shall be classified as either Short-Term Debt or Long-Term Debt.

(10) “Dedicated Funding” (PRIIA) means those federal funds provided to WMATA under the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110-432). The PRIIA matching funds will be made available to WMATA pursuant to the applicable laws of the District of Columbia, Maryland, and the Commonwealth of Virginia.

(11) “Discretionary Grant” means any award of discretionary Federal financial assistance for a new or existing fixed guideway system from the capital investment grant program authorized under Section 5309 of Title 49 of the U.S. Code, or from any other discretionary grant program from any federal agency under which funds are provided on other than a formula basis.

(12) “Federal grant” means an award of financial assistance, including formula grants, discretionary grants, and cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government through the Federal Transit Administration or any other federal agency to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

(13) “FTA” means the Federal Transit Administration.

(14) “Formula grant” means any award of Federal financial assistance from the urban formula program authorized under Section 5307 of Title 49 of the U.S. Code or the fixed guideway modernization program authorized under Section 5309 of Title 49 of the U.S. Code, or similar successor programs.

(15) “Funding Sources” shall be the various categories of funds to be used to pay for the projects covered in the CIP. These funds may be either from federal or non-federal sources. Where the Agreement requires a more detailed description of the funding source, then the following categories shall be used: Dedicated Funding, Dedicated Funding matching funds,

Formula Grants, Formula Grants matching funds, Other Federal Grants, Other Federal Grants matching funds, System Performance Funds, and Other funds.

(16) “Grant Anticipation Debt” means any debt issuance the principal and interest on which are to be paid with the proceeds of Federal grant funds.

(17) “Interim Funding Sources” means one or more letters of credit or lines of credit and related reimbursement agreements, standby bond purchase agreements, commercial paper, or similar agreements or obligations, or any combination of the foregoing, issued to or for WMATA or entered into with WMATA by a bank, insurance company, or other financial institution, or one or more resolutions, indentures, or other security agreements providing for bonds or other evidence of indebtedness of WMATA.

(18) “Long-Term Debt” means Debt with a maturity greater than 1 year.

(19) “Metro Matters Funding Agreement” means the capital funding agreement dated October 25, 2004 by and among the Washington Metropolitan Area Transit Authority; the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia and covering projects in WMATA’s Fiscal Years 2005-2010.

(20) “Minimum Annual Allocated Contribution” means that annual amount of funds payable by a Contributing Jurisdiction sufficient to provide any required matching funds for (a) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan excluding the local match to be provided by the District of Columbia, Virginia and Maryland for the Dedicated Funding (PRIIA) funds, and (b)

the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding.

(21) “Non-Federal funds” means funds provided by State and local sources and debt sources.

(22) “Party” or “Parties” means WMATA and the Contributing Jurisdictions.

(23) “Preventive Maintenance” means upgrades to, repairs to, and maintenance of, capital assets that provides additional value to the capital asset. The FTA definition of “preventive maintenance” is separate from and not connected to Preventive Maintenance as defined herein.

(24) “Reprogramming” means a change to an Annual Work Plan or Capital Budget that occurs outside of the Annual Work Plan process.

(25) “Short-Term Debt” means Debt with a maturity of 1 year or less.

(26) “System Performance Funds” means jurisdictional funds over and above those funds required to match any Federal grant and to be used for Capital Improvement Plan projects contained in the applicable Annual Work Plan.

(27) “WMATA” or “Authority” means the Washington Metropolitan Area Transit Authority.

SEC. 2 CAPITAL IMPROVEMENT PROGRAM

(a) **Agreement of the Parties.** -- WMATA and the Contributing Jurisdictions hereby agree to and adopt the Capital Improvement Program attached as Attachment 1. The Parties further agree to comply with the terms and conditions of this Agreement and to fully and faithfully carry out their respective obligations under this Agreement. Any commitment or agreement of any Contributing Jurisdiction required by this Agreement shall be subject to the

annual appropriation of funds and other limitations on expenditures or obligations under the law of the Contributing Jurisdiction or under other applicable law as described in Section 4(b)(3)(B). This Agreement shall not constitute an indebtedness of the Contributing Jurisdictions until funds are duly appropriated and quarterly payments become due pursuant to Section 5(c)(3) of this Agreement, nor shall it constitute an obligation for which the Contributing Jurisdictions are obligated to levy or pledge any form of taxation or for which the Contributing Jurisdiction has levied or pledged any form of taxation. Nothing in this Agreement affects requirements placed on the District of Columbia, State of Maryland and Commonwealth of Virginia by the Passenger Rail Investment and Improvement Act of 2008.

(b) Elements of Capital Improvement Program.

(1) Program Elements. – The Capital Improvement Program proposed to be funded by this Agreement consists of those projects identified for funding along with the sources of that funding in the annually approved CIP as they are updated in accordance with this Agreement. The CIP may include any capital project or purchase eligible for capital funding and may include, for example, projects in any of the following categories:

- (A) Vehicles and Vehicle Parts, such as replacement or purchase of new rail cars, buses, paratransit vehicles and/or service vehicles, rehabilitation of rail cars and buses and replacement parts to maintain the rail fleet.
- (B) Rail System Infrastructure Rehabilitation, such as multiple systems and equipment within the rail stations and tunnels that enable safe, reliable Metrorail service.
- (C) Maintenance Facilities, such as rehabilitation, maintenance, replacement and/or new bus garages and rail yards to support repairs to vehicle fleet.
- (D) Systems and Technology, such as technology systems, software and equipment supporting transit operations and business functions.

- (E) Track and Structures, such as steel running rail that guides Metrorail trains, the cross ties and fasteners that hold the rail in place, the ballast bed that supports the cross ties and the third rail that provides power to the train. Structures include the retaining walls that protect the track bed and underground tunnels, the concrete pads that keep the track bed properly elevated and the bridges that span roads and bodies of water.
- (F) Passenger Facilities, such as facilities at Metrorail stations, including bus loops, bus stops, parking garages, surface lots, Kiss-and-Ride spaces, access roads and bus loops, bike racks and lockers.
- (G) Maintenance Equipment such as equipment to rehabilitate track and maintain the vehicle fleet (rail and bus).
- (H) Other Facilities, such as facilities that house administrative offices, training rooms, revenue processing activities, material storage, police work and a print shop.
- (I) Program Management and Support including Credit Facility and Other Financial Fees and Expenses and Program Contingencies.
- (J) Safety and Security Projects.
- (K) Preventive Maintenance as defined in this Agreement.

(2) **Description.** -- The specific projects and activities and the sources of funding to support those specific projects and activities will be set forth in the Annual Work Plan.

(c) **Cost.** -- The estimated program cost of the initial Capital Improvement Program is approximately \$5,000,000,000 in year of expenditure dollars and covering a six-year period. The initial CIP covering FY 2011-2016 is provided as Attachment 1.

(d) **Schedule.** -- The initial Capital Improvement Program will be implemented over the period beginning WMATA fiscal year 2011 and ending fiscal year 2016. There will be an

Annual Work Plan for each fiscal year, as more specifically described in Section 4 of this Agreement.

(e) **Agreement to Fund Capital Improvement Program.** -- WMATA and the Contributing Jurisdictions hereby concur in and agree to fund the Capital Improvement Program in accordance with 4(b)(1)(B) of this Agreement.

(f) **Authorized Representative.** -- Within 30 days after the Effective Date of this Agreement, WMATA and each of the Contributing Jurisdictions shall designate an Authorized Representative to act on that Party's behalf in implementing this Agreement.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLAN

(a) **Funding Sources.**

The projects and activities in the Capital Improvement Program shall be funded in the most cost effective manner from one or more of the following sources: (A) Funding Sources; (B) the issuance of Debt by WMATA, with WMATA's debt service to be paid with funds received from the Contributing Jurisdictions unless a Contributing Jurisdiction has opted out of the Long-Term Debt issue in accordance with this Agreement; and (C) such other funding sources, cash management strategies or financing methods as the WMATA Board determines to be appropriate to accomplish the goals of the Capital Improvement Program. The specific amounts estimated from each Funding Source will be set forth in each Annual Work Plan.

(b) **Formula for Contributing Jurisdiction Funding.** -- The Allocated Contributions of the Contributing Jurisdictions for the Capital Improvement Program will be based on the Board-adopted FY 2010 Operations Allocation Formulas applied to each project as shown in the FY2011-2016 CIP applied to each element of the Capital Improvement Program as follows:

- (1) The Rail allocation formula will apply to Rail projects and debt issued for Rail projects.
- (2) The Bus allocation formula will apply to Bus projects and debt issued for Bus projects.
- (3) The Paratransit formula will apply to Paratransit projects and debt issued for Paratransit projects.
- (4) An average of the Rail and Bus allocation formulas will apply to General financing expenditures and for project expenditures that cannot be allocated to Rail, Bus, or Paratransit.
- (5) Dedicated Funding funded projects – Will be divided equally among the District of Columbia, State of Maryland, and Commonwealth of Virginia subject to the provisions of the various state laws establishing dedicated funding sources to match federal funds made available under the Passenger Rail Investment and Improvement Act of 2008.

The allocation formulas will be recalculated every three (3) years to reflect the then-current approved Operating Budget allocation and applied prospectively to the three subsequent Annual Work Plans.

(c) **Debt Service.** – Debt service on obligations agreed to by the Contributing Jurisdictions and issued under the Metro Matters Funding Agreement shall become obligations issued under this Agreement. The Contributing Jurisdictions shall continue to make any debt service payments as were required under the terms of the Metro Matters Funding Agreement. New debt service for obligations issued under the terms of this Agreement will be funded by the Contributing Jurisdictions as more fully set forth in Section 4(b)(2) of this Agreement.

(d) **FY 2010 Capital Projects.** -- WMATA and the Contributing Jurisdictions agree that all projects whose funding was obligated under the Metro Matters Funding Agreement but for which expenditures will occur during the scope of this Agreement will become projects under this Agreement and governed by the terms of this Agreement including the funding obligations

of the Contributing Jurisdictions thereto. It is the intent of the Parties to terminate the Metro Matters Funding Agreement and incorporate all its capital commitments into this Agreement.

SEC. 4 IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM

(a) Programmatic Aspects.

(1) Long Term Programming -- To assist in the prioritization of projects, each Contributing Jurisdiction will, at the execution of this Agreement, provide a schedule of funds expected to be made available to WMATA for the 2011-2016 period and successor periods (for planning purposes only) covered by this Agreement. The schedule for WMATA fiscal years 2012 - 2016 is subject to adjustment as the submitting Contributing Jurisdiction obtains more updated information. It is not binding on any Party and shall not be considered as a payment schedule. The Annual Work Plan will contain the actual funding requirements and sources of funds for the current year. The WMATA Board of Directors will approve a six-year capital program each year, with such program covering potential funding sources, a description of the project prioritization process, an explanation of how the CIP would further the strategic goals of WMATA, and an identification of the performance metrics by which the outcome of the CIP will be measured. The prioritization process shall rank and select projects based on the projects' support of WMATA's strategic goals and funding availability.

The annual documentation of the capital program will describe qualitatively and quantitatively the broad outlines of the proposed capital spending and sources for that spending for the forthcoming fiscal year and the outcomes expected to be achieved by the proposed program. The discussion of the proposed spending shall include at least the following: (i) the sources of funds for the proposed spending, (ii) expenditures by mode (e.g. bus, rail, paratransit), (iii) expenditures by project phase (e.g. planning, design, land acquisition, construction), (iv) the

indicators of the outcomes to be achieved by the proposed projects, and (v) projected spending compared to prior year actual spending rate.

(2) **Annual Work Plan.** -- WMATA shall, as a part of its annual budget process each year during this Agreement, develop and submit to the Contributing Jurisdictions a draft Annual Work Plan for the Capital Improvement Program which shall include the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement. The Annual Work Plan shall be based upon and be consistent with the updated Capital Improvement Program prepared pursuant to the reconciliation process under Section 5 of this Agreement. The Annual Work Plan along with the Capital Program will be approved by the WMATA Board of Directors prior to the start of the fiscal year covering the specific Annual Work Plan.

(3) **Contents of Plan.** -- The Annual Work Plan shall include --

(A) an identification of the projects and activities in the Capital Improvement Program for which funds will be obligated or expended during the next WMATA fiscal year;

(B) a budget for the Annual Work Plan that includes a cost estimate and source of funds for each project and activity in the Plan, by CIP category;

(C) a statement of each Contributing Jurisdiction's required Allocated Contribution for the Annual Work Plan, based on a schedule of projected quarterly cash needs including an identification of what portion of that contribution is a direct capital contribution, and what portion (if any) is to be used by WMATA to pay debt service on WMATA Long-Term Debt and WMATA Short-Term Debt (each to be stated separately in the Plan);

(D) a summary of the CIP projects and activities undertaken in the then-current WMATA fiscal year, together with the costs incurred to date and the estimated remaining costs for those projects and activities; and

(E) the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement and a revised proposed CIP.

(4) **Schedule for Approval of CIP and Annual Work Plan.** To ensure a coordinated program, the Parties agree that each annual program will be developed and approved under the following schedule:

(A) The updated 6-year CIP will be made available to the Contributing Jurisdictions no later than the 10th business day in October.

(B) A presentation will be offered to the Northern Virginia Transportation Commission at a scheduled meeting no later than the November meeting.

(C) A presentation will be offered to the Mayor and Council of the District of Columbia no later than the Wednesday immediately prior to Thanksgiving.

(D) Subject to consultation with the Maryland Department of Transportation, a public presentation will be offered in both Prince George's County and Montgomery County no later than the Wednesday immediately prior to Thanksgiving.

(E) WMATA will also present the capital program and the Annual Work Plan information to affected legislative bodies as requested.

(F) The draft Annual Work Plan shall be submitted to the Contributing Jurisdictions by December 15.

(G) Comments are due from the Contributing Jurisdictions no later than February 15th. WMATA may not be able to consider comments received after February 15th in the development of the proposed Annual Work Plan.

(H) The proposed Annual Work Plan shall be provided to the Contributing Jurisdictions immediately following the March WMATA Board meeting and shall be used by the staff of the Contributing Jurisdictions to consult with WMATA Board representatives. The amount included as the Minimum Allocated Contribution on this final Annual Work Plan will remain substantially the same for the upcoming fiscal year, subject to downward adjustment as provided in Section 4(b)(3)(B), or as otherwise requested by the WMATA Board and approved by the Contributing Jurisdictions. The final CIP and Annual Work Plan will be adopted by the WMATA Board no later than the June meeting.

(5) WMATA Implementation Responsibilities.

(A) General. -- WMATA will administer the Capital Improvement Program and carry out all necessary procurement actions and management oversight. All procurement actions will be undertaken in accordance with WMATA procurement policies and applicable law.

(B) Federal Grants. -- To the extent that Federal financial assistance is provided for any project or activity in the Capital Improvement Program, WMATA will develop the required Federal grant applications and/or other necessary documentation to meet FTA or other Federal program requirements, and will carry out the federally assisted project or activity in compliance with all applicable Federal requirements.

(6) Funding Methodology For Projects in the Annual Work Plan. New projects for the Annual Work Plan will be listed with their funding identified by both year and

Funding Source. A project may be funded by more than one type of funding. If a project is a multi-year project, then in the second and succeeding years, that project will have the first call on that funding source unless another funding source is identified. In every case, funds needed for debt service including Short Term Debt and Interim Financing and funds needed for annual “state of good repair” items shall have first claim on all funds that may legally be spent on such projects. Projects which are underway but which have remaining amounts budgeted for them in the CIP shall have the unexpended funds “rolled over” to the succeeding fiscal year. The unexpended funds shall be in addition to the succeeding year’s CIP funding requirements.

(b) Financial Aspects.

(1) Cash Sources.

(A) Federal Funds. -- WMATA commits to take all necessary and appropriate actions to secure Federal funding in the CIP (including Federal formula and discretionary grant funds under the Federal transit/highway program, the Passenger Rail Investment and Improvement Act of 2008, and such other Federal financial assistance as may be made available during the term of this Agreement) to assist in the funding of the Capital Improvement Program. WMATA will manage the Capital Improvement Program within the funding amounts agreed to by the Contributing Jurisdictions, except as otherwise provided in paragraph (C) of this subsection.

(B) Jurisdictional Commitments.

(i) To the extent applicable, each Contributing Jurisdiction agrees to make its Allocated Contribution to fund the Capital Budget component of the CIP and the CIP as a whole as adjusted annually in accordance with this Agreement; provided, however, that in no case will the Allocated Contribution be less than the Contributing Jurisdiction’s estimated

annual share of any required matching funds for (1) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan, and (2) the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding (“Minimum Annual Allocated Contributions”). Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The source of funds for such capital contributions is in the discretion of each Contributing Jurisdiction; provided that such funds must qualify as local match under applicable FTA or other agency grant program requirements. WMATA agrees to provide each Contributing Jurisdiction with their estimated Allocated Contribution by the 10th business day in October each year.

(ii) If the expected amount of federal grant funds requiring a non-federal match increases by more than 20% over the previous year’s grant funds received by WMATA, then the Parties will confer within 30 days to determine if a change to the funding requirement contained in Section 4(b)(1)(B)(i) of this Agreement is appropriate.

(iii) Additionally, each Contributing Jurisdiction agrees to make its best efforts to provide necessary System Performance Funds to pursue the projects in the Annual Work Plan to be funded with System Performance Funds above those required to obtain Dedicated Funding. Each Contributing Jurisdiction shall inform WMATA of the amount of any such System Performance Funds to WMATA in sufficient time for WMATA staff to prepare the draft and final capital program and Annual Work Plan. The System Performance Funds will be programmed into the CIP and Annual Work Plan using the WMATA funding formulas described in Section 3(b) of this Agreement. Only those amounts which are balanced among the

Contributing Jurisdictions based on the aforementioned funding formulas will be programmed into the CIP and Annual Work Plan.

(C) Additional Limitations.

(i) As authorized in Section 4(b)(7) of this Agreement, WMATA and the District of Columbia have entered into a separate Local Capital Funding Agreement of even date herewith (“DCLCFA”) to address certain issues concerning the implementation of this Agreement that must be handled separately according to District of Columbia law. The implementation of District of Columbia obligations, representations, and warranties under this Agreement shall be controlled by the provisions of the DCLCFA set forth on Attachment 3 to the extent of any inconsistency between this Agreement and the provisions of the DCLCFA identified on Attachment 3. Section 4(b)(2)(D) of the DCLCFA provides that, if the District of Columbia exercises its prepayment rights for all long-term debt under 4(b)(2)(D) of this Agreement, then notwithstanding anything to the contrary herein, the Allocated Contribution of the District of Columbia, as shown on Table 1 of Attachment 1 of this Agreement, may not be increased above the aggregate amount of \$397,314,000 to be paid from District of Columbia capital funds, without written approval of the District of Columbia. Payments for Long Term Debt service on Metro Matters Funding Agreement debt and Long Term Debt service anticipated in this Agreement, are not included in the Allocated Contribution aggregate cap for the District of Columbia.. For informational purposes, only, the District of Columbia represents that payments for amounts such as Long Term Debt service under the Metro Matters Funding Agreement and funds associated with debt service for projects under this Agreement are funded through annual appropriations in its Operating Budget. For example, the District of Columbia has included in its proposed operating budget for FY 2011 the sum of

\$258,318,034 for payment to WMATA, which includes an amount sufficient to pay Long Term Debt service for FY 2011.

(ii) The District of Columbia agrees to review its Allocated Contributions annually to determine if any adjustments may be made. If the District of Columbia agrees to increase the District of Columbia Allocated Contributions cap by an amendment to the DCLCFA, then such increase will be incorporated into this Agreement pursuant to the Annual Work Plan process.

(iii) In the event that (i) WMATA proposes an increase that would cause the District of Columbia's Allocated Contribution to exceed an aggregate amount of \$397,314,000; and (ii) the District of Columbia denies or withholds approval of the increase in excess of that stated amount, all other Contributing Jurisdictions shall be relieved of any obligation to fund the increase proposed by WMATA in their Allocated Contributions.

(iv) In the event that the District of Columbia denies or withholds approval of such increase, all Parties shall cooperate to develop alternative solutions to any resulting revenue or program shortfalls.

(2) Debt Sources.

(A) General. -- In accordance with the Annual Work Plan, all or any portion of the Capital Improvement Program may be funded through short- or long-term debt financing as described in this subsection and in accordance with Section 21 and Articles IX and X of the WMATA Compact.

(B) WMATA Responsibility. -- WMATA may issue debt to assist in the financing of the Capital Improvement Program. The WMATA Board may authorize the issuance of such debt, in one or more issuances during the term of this Agreement, at such times

as it determines appropriate, in its discretion, taking into account factors such as the cash flow needs of the CIP, market conditions for financing, and WMATA's debt capacity. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's gross revenues, or (subject to any required FTA approval) of WMATA's capital assets. Any such debt secured by WMATA's gross revenues may be on parity with or subordinate to the 2003 Gross Revenue Transit Refunding Bonds, the Gross Revenue Transit Bonds Series 2009A, and the Gross Revenue Transit Bonds Series 2009B. For any such debt that is secured by WMATA's capital assets, WMATA will endeavor, consistent with the cash flow needs of the CIP and with market demands, to match the length of the debt financing to the useful life of the pledged assets, unless WMATA determines that market or other financial considerations make a different debt length more prudent. In addition to debt secured by gross revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with subsection (f) of this Section.

(C) Contributing Jurisdiction Responsibility. -- The Contributing Jurisdictions which have not elected to prepay pursuant to paragraph (D) of this subsection each commit, subject to annual appropriations, to make the annual contributions necessary in order that WMATA can make payments of debt service on debt issued by WMATA under paragraph (B) of this subsection. The amount of such contributions will be included in the respective Allocated Contribution amounts of the Contributing Jurisdictions set forth in the CIP. Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The obligation to make contributions to pay such debt service shall survive the term of this Agreement and shall remain in effect throughout the term of the WMATA debt issuance involved.

(D) Prepayment Alternative for Contributing Jurisdictions.

(1) Election. -- A Contributing Jurisdiction may elect to prepay its portion of the debt financing (other than commercial paper, letter of credit, or line of credit) needed to fund the Capital Improvement Program, as described in the CIP, in lieu of making annual contributions to pay WMATA debt service pursuant to paragraph (3) of this subsection. The elections and commitments of the Contributing Jurisdictions to make such prepayments, as of the Effective Date of this Agreement, are reflected in the CIP. If any update to the CIP during the term of this Agreement contemplates long-term debt issuances by WMATA, then the Contributing Jurisdictions shall have an opportunity to change their elections regarding prepayment, by notice to WMATA. Such notice shall be provided in writing no later than one hundred twenty (120) days after the date WMATA notifies the Contributing Jurisdictions of the need to make an election regarding such additional debt issuance.

(2) Responsibility for Repayment. -- If a Contributing Jurisdiction issues debt to make its prepayment under this paragraph, it shall pay the proceeds of such debt issuance directly to WMATA in accordance with its Allocated Contribution as set forth in the CIP and in accordance with the procedures set forth in Attachment 2. Such Contributing Jurisdiction shall be solely responsible for the repayment of the principal and interest of any debt it issues under this paragraph.

(3) Contributing Jurisdiction Commitment.

(A) General. -- The maximum amount of the Contributing Jurisdictions' Allocated Contribution of the costs of the CIP is subject to the provisions of Section 4(b)(1)(C) of this Agreement. Nothing in this Agreement shall be construed to obligate a Contributing Jurisdiction to have, as of the date that it enters into this Agreement, funding or an

appropriation in the full amount of its Allocated Contribution of the costs of the CIP. The Contributing Jurisdictions shall be solely responsible for their Allocated Contributions of the cost of the CIP. Each Contributing Jurisdiction commits, subject to its constitutional or legally equivalent provisions and throughout the term of this Agreement, to use all reasonable efforts including, but not limited to, a request by the responsible official to include the Minimum Annual Allocated Contribution as described in the draft Annual Work Plan in the Contributing Jurisdiction's annual proposed budget or other financial submission to its fiscal authority and to pursue all legally available means to secure the necessary and appropriate budget, legislative, and appropriations actions in order to obtain funding in the full amount of its Allocated Contribution of the costs of the Capital Improvement Program. Each Contributing Jurisdiction shall be solely responsible for providing its Allocated Contribution to the cost of the CIP, and in no circumstance shall one Contributing Jurisdiction be responsible for the Allocated Contribution or other obligations of any other Contributing Jurisdiction under this Agreement.

(B) Annual Commitment. -- Each Contributing Jurisdiction shall annually provide WMATA with written notice, concurrent with comments on WMATA's proposed budget, that funds have been, are intended to be, or will not be appropriated to cover its Allocated Contribution for WMATA's upcoming fiscal year, and committing to make payment of such Allocated Contribution to WMATA. No CIP or Annual Work Plan shall be approved without the certification of each Contributing Jurisdiction that the funding levels are reasonable and accurate reflections of funds to be made available. If a Contributing Jurisdiction's appropriations process is not completed by June 1, such Contributing Jurisdiction shall provide to WMATA: (i) a written explanation for the failure to make such submissions by June 1 and confirmation that amounts equal to its Allocated Contribution have been or will be included in

the next fiscal year budget to be considered by the Contributing Jurisdiction's fiscal authority; and (ii) written assurances that all reasonable efforts will be undertaken to secure the ultimate appropriation of funds in a prompt and timely fashion, or if funds will not be appropriated, then the Contributing Jurisdiction shall notify WMATA and all other Contributing Jurisdictions through their representatives listed in section 12 of this Agreement or as may be updated by each Contributing Jurisdiction in the future within five business days of the fiscal body's action. If there is a failure to appropriate the full annual Allocated Contribution, the Annual Work Plan shall be revised to conform to the available funds and submitted to the WMATA Board of Directors and the other Contributing Jurisdictions for approval.

(C) Quarterly Payments. -- Each Contributing Jurisdiction's Allocated Contribution shall be based on the approved Annual Work Plan and any subsequent adjustments derived from the Annual Budget Reconciliation Process for the quarter covered by the invoice, and paid to WMATA on a quarterly basis in advance, no later than the first day of each quarter, throughout the term of this Agreement. Any debt service included in the invoice for either Short-Term Debt or Long-term Debt shall be separately identified on the invoice. WMATA shall submit bills to the Contributing Jurisdictions for such quarterly payments forty-five (45) days prior to the date such payments are due. Thus, for example, for the July-September quarter WMATA will bill the amount in the Annual Work Plan as approved or adjusted for July-September and send each Contributing Jurisdiction an invoice for its Allocated Contribution no later than the immediately preceding May 15th. Contributing Jurisdiction payments must be received by WMATA no later than July 1. The sum of each Contributing Jurisdiction's quarterly invoices during a given fiscal year shall not exceed that Contributing Jurisdiction's Allocated Contribution in the approved Annual Work Plan.

(4) Transitional System for FY2011 Billings -- To transition to the billing system covered by this Agreement, WMATA shall:

(A) Bill the Contributing Jurisdictions $\frac{1}{4}$ of the Allocated Contribution amounts for each of the first two quarters in FY2011 instead of the expected cash flow needs.

(B) Issue the final Annual Work Plan for FY2011 on or before July 1, 2010.

(C) Apply the Annual Budget Reconciliation Process to FY2011.

(D) Start the Quarterly Reporting required under the Agreement for the 1st quarter which closes on September 30, 2010, with the content of the report being progressively refined to meet the requirements of section 4(b)(5) and coming into full compliance with the report covering the 3rd quarter of FY2011.

(5) Quarterly Reports. At the conclusion of every quarter, WMATA shall prepare a report on the result of the preceding quarter for submittal to the Contributing Jurisdictions no later than forty five (45) days following the close of the quarter. Such report shall contain a review of capital project scope, cost, and schedule changes; the status of contracts necessary for the implementation of capital projects; the status of year-to-date expenditures relative to budget and the Annual Work Plan; the status of all cash and debt sources relative to budget and the Annual Work Plan; updated project cash flow projections and program cash requirements; and a comparison of the billed amount to amounts actually paid out for the preceding quarter. Such report shall be provided in a quarterly financial report to the WMATA Board.

(6) Timeliness of Payment.

(A) Treatment of Payments. -- Interest shall accrue on all payments made by a Contributing Jurisdiction until the funds are expended. WMATA shall place such funds so contributed into an interest earning account, with interest to be compounded monthly at WMATA's then current earnings rate for its short-term investments. Interest earned on funds contributed by a Contributing Jurisdiction shall be applied as a credit against future payments for Allocated Contributions due from that jurisdiction under this Agreement, unless otherwise directed in writing by that jurisdiction.

(B) Non-Payment or Late Payments. -- If a Contributing Jurisdiction fails to make a quarterly payment in full to WMATA when such payment is due after certification by the Contributing Jurisdiction as required under section 4(b)(3)(B), WMATA shall notify the other Contributing Jurisdictions and may issue debt or otherwise advance funds as deemed necessary by the WMATA General Manager to replace the amount of payment not timely received. In the event that WMATA issues debt, WMATA shall charge such Contributing Jurisdiction an amount equal to the sum of (i) the financing and interest costs and expenses (or lost interest earnings) incurred by or on behalf of WMATA in connection with such debt issuance or advance of funds; (ii) any administrative costs incurred by WMATA in connection with obtaining such replacement funding; and (iii) any penalties or losses incurred by WMATA assessed by a third party as a result of such late or non-payment. The total amount of the charges assessed under this paragraph, together with the unpaid quarterly payment, shall be due and payable to WMATA no later than thirty (30) days after the date of assessment by WMATA plus interest compounded monthly at the WMATA short-term investment earnings rate until the date of full payment.

(7) **Local Capital Funding Agreements.** -- WMATA, with the approval of the WMATA Board, may enter into Local Capital Funding Agreements with some or all of the Contributing Jurisdictions, consistent with this Agreement and the Attachments hereto, to establish arrangements to implement the Contributing Jurisdiction's commitment to pay its Allocated Contribution of the cost of the Capital Improvement Program, in the event that the budgetary process of a Contributing Jurisdiction makes such an agreement necessary or appropriate.

(8) **Interim Funding Sources and Security Interests.**

(A) **Interim Funding Authority.** -- The WMATA Board of Directors is authorized to use Interim Funding Sources, including borrowing, on behalf of WMATA in such amounts and at such times as, in the Board's sole judgment, are necessary and appropriate for the purpose of implementing the projects and activities in the Capital Improvement Program and any Annual Work Plan funded through direct capital contributions.

(B) **Security Interests.** -- WMATA may create security interests in its rights and interests in amounts paid or received as direct capital contributions from the Contributing Jurisdictions under this Agreement, as such amounts shall become available and are paid to or for the account of WMATA under the terms of this Agreement. Such amounts may be pledged as security for the costs of Interim Funding Sources. Each Contributing Jurisdiction shall comply with any reasonable and legal request of WMATA to execute, acknowledge, and deliver appropriate instruments and assurances as may be necessary or desirable to confirm and effectuate any such security interest created by WMATA in connection with Interim Funding Sources. Nothing in this subsection shall be construed as requiring any Contributing Jurisdiction to make any payment under this Agreement to anyone other than WMATA. For purposes of this

subsection, the “cost of Interim Funding Sources” includes payments of principal and interest thereunder and all fees, expenses, and other amounts incurred or payable under any Interim Funding Sources.

(C) Limitation. -- The borrowing authority authorized by this subsection may not be used by any Contributing Jurisdiction to satisfy its funding obligations under this Agreement.

(9) WMATA Risk Mitigation. -- Section 22 of the WMATA Compact prohibits WMATA from making any commitment or incurring any obligations with respect to the construction or acquisition of any transit facilities “until funds are available therefor.” The Parties acknowledge that the commitments of the Contributing Jurisdictions under this Agreement are intended to satisfy the requirements of Section 22 under an expenditure-based budget. In order to address the risk of non-appropriation or late payment of funds by a Contributing Jurisdiction or insufficient funding by the Federal Government, and to assure compliance with Section 22 of the WMATA Compact, WMATA intends to continue to maintain a risk mitigation credit facility using one or more of the following: a line of credit, letter of credit, commercial paper program, or other credit facility determined by WMATA in its discretion to be appropriate and feasible. Such risk mitigation credit facility shall be in addition to any other credit facility which may be put in place as a working capital or other cash flow aid.

(10) Annual Changes to the CIP -- In addition to making the funding commitments described in this Section and subject to the provisions of the District of Columbia Local Capital Funding Agreement (attached as Attachment 3), the Parties agree to adjust the program of projects included in the scope of this Agreement, each year within the term of this agreement on a rolling basis, in order to provide the funding required to meet WMATA’s

ongoing and updated CIP needs and other capital needs, and for planning WMATA's ongoing and updated CIP needs and other capital needs on a rolling basis for years beyond the term of this agreement.

SEC. 5 ANNUAL BUDGET RECONCILIATION PROCESS

(a) **Reconciliation.** -- As part of its annual budget process in each year during the term of this Agreement, WMATA shall prepare a reconciliation of –

(1) the actual expenditures for projects and activities under the current Capital Improvement Program to date, and for that fiscal year, as compared to the planned expenditures for such projects and activities for the same fiscal year;

(2) the actual Allocated Contribution of each of the Contributing Jurisdictions to date, as compared to the scheduled Allocated Contribution of each Contributing Jurisdiction for the current CIP;

(3) the projected Allocated Contributions of each Contributing Jurisdiction for the current CIP;

(4) the actual amount of Federal grant funds received for the Capital Improvement Program, as compared to the budgeted or projected amount of Federal grant funds for the same fiscal year; and

(5) the current forecast of expenditures; and

(6) the estimated cost to complete the remaining projects and activities in the current Capital Improvement Program and expected sources of those funds.

(b) **Application of Reconciled Payment Amounts.** On or before October 15th, WMATA shall have performed the reconciliation described in the above section, including whether there is a surplus of funds paid in by the Contributing Jurisdictions. The results of this

reconciliation shall be used in the Annual Work Plan currently under development as well as to review the Annual Work Plan for the fiscal year then currently in effect at the time that the reconciliation is completed. If the results of the reconciliation indicate a need to adjust the then-current year's Annual Work Plan billing amounts, those adjustments shall become effective with the billing for the 3rd quarter, which begins on January 1. The surplus amount may be made available to the Contributing Jurisdictions only if there is no expectation that those funds will be needed within the next six succeeding quarters measured from WMATA's fiscal year 3rd quarter (beginning on January 1) and that the refund of the surplus will not result in WMATA receiving less funds (including the surplus funds) than is required to be needed to meet the expected costs of the program over the next six calendar quarters. If surplus funds are provided to the Contributing Jurisdictions, the funds will be made available prior to the 3rd or 4th quarter of the fiscal year in which the reconciliation was completed.

(c) **Revenue Shortfalls.** -- If the reconciliation process conducted under subsection (a) of this Section reveals that there are shortfalls in revenues for the Capital Improvement Program due to late or insufficient contributions by a Contributing Jurisdiction or to the receipt of less than the assumed level of Federal funds, or other funds that support the CIP, WMATA shall develop a recovery plan for addressing such shortfalls. Such recovery plan, as approved by the WMATA Board of Directors through its annual budget process, shall include one or more of the following alternatives: (1) utilization of Interim Funding Sources; (2) value engineering, project re-design, or other cost reduction measures for future projects or activities; (3) re-scheduling of projects or activities in the Capital Improvement Program; (4) subject to agreement of the Contributing Jurisdictions, increasing the levels of Allocated Contributions from the

Contributing Jurisdictions; and/or (5) the implementation of Project Deferrals under subsection (e) of this Section.

(d) **Revenue Increases.** If the reconciliation process conducted under subsection (a) of this Section reveals that Federal or other funds have been received which substantially exceed the assumed level of funding, such excess funds shall be applied to (1) to the unfunded priorities in the Capital Needs Inventory or to other needs identified by the WMATA Board; or (2) to any outstanding indebtedness, thereby reducing the Allocated Contributions of the Contributing Jurisdictions, as determined by the WMATA Board of Directors through its annual budget process.

(e) **Project Deferrals.** If WMATA is unable to satisfactorily address revenue shortfalls under subsection (c) of this Section, the WMATA Board may, through the next WMATA budget process, modify the Capital Improvement Program to defer certain projects or activities in order to assure that the Capital Improvement Program can be funded during the term of this Agreement within the amount of available financial resources.

(f) **Updated Capital Improvement Program.** The WMATA staff shall, as soon as practical after each annual reconciliation process conducted under this Section, develop an updated Capital Improvement Program. This updated document, if approved by the WMATA Board, will replace and supercede all previous versions of the Capital Improvement Program and.

(g) **Reprogramming of Funds and Projects During the Term of This Agreement.** The Parties recognize that the scope, pricing or desirability of some projects will change during the term of this Agreement. To address these possibilities, WMATA agrees to provide the

Contributing Jurisdictions with advance notice of any request to reprogram funds in an amount greater than \$1,000,000 per project.

(h) **Final Distribution.** In the event that this Agreement is terminated pursuant to section 8 of this Agreement, any amounts remaining at the expiration of this Agreement shall be first used to fund any remaining unfunded projects or activities in the Capital Improvement Program as indicated in the attached Capital Improvement Program, and then, if any funds remain, will be credited or refunded to the Contributing Jurisdictions, as directed by the Contributing Jurisdictions.

(i) **Financial Records.**

(1) **Maintenance of Records.** -- During the term of this Agreement, WMATA agrees to maintain separate and complete accounting records which are consistent with generally accepted governmental accounting procedures and which accurately reflect all income and expenditures of funds which may be provided under this Agreement. WMATA will retain all such CIP records for the same period that records are required to be kept for the FTA or other federal grants, unless there is an outstanding written Contributing Jurisdiction or FTA financial or audit question, which is not resolved by the Contributing Jurisdiction or FTA auditor. The records of WMATA must be in sufficient detail to determine the character and timing of fund items; and of contract obligation and expenditure transactions authorized by this Agreement.

(2) **Audits.**

(A) **Timing for Performance.** -- A Contributing Jurisdiction or its agent may perform an audit of WMATA's expenditures of funds and the sources of those funds provided by this Agreement for a period of up to three (3) fiscal years preceding a request for audit from the Contributing Jurisdiction provided that the request is received no later than one

hundred eighty (180) days after the release of the WMATA audit for the preceding year and transmittal of the audit to the Contributing Jurisdictions with a notice of their audit rights under this Agreement. Any such audit shall be commenced within sixty (60) days after the date of the request, and shall be completed (to the maximum extent practicable) within 180 days after the date it is commenced. The Contributing Jurisdiction will assume all financial responsibility for any costs associated with the performance of such audits. If more than one Contributing Jurisdiction initiates an audit on a timely basis under this paragraph, the audits shall be consolidated into a single audit for the applicable fiscal years and the Contributing Jurisdictions participating in the audit shall share in the cost of the audit. WMATA agrees to cooperate fully with a Contributing Jurisdiction or its authorized agent or designee in the conduct of any audit carried out in accordance with this paragraph. In addition to the foregoing, in the event that any Contributing Jurisdiction's bond, the proceeds of which were used to meet the funding obligation of the Agreement or any transaction pertaining to such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly allow the Contributing Jurisdiction access, at the Contributing Jurisdiction's expense, to any record it may have relating to WMATA's use of the proceeds of such Contributing Jurisdiction's bond so that the Contributing Jurisdiction may participate and respond to any aspect of such investigation, inquiry or suit. In the event WMATA is notified that any Contributing Jurisdiction's bond, the proceeds of which were used to meet funding obligations of this Agreement or any transaction pertaining to any such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly notify the Contributing Jurisdiction and

allow the Contributing Jurisdiction to participate in all aspects of the conduct or any response WMATA may make in such regard.

(B) Audit Results. -- If it is determined as a result of such an audit under this paragraph that the Contributing Jurisdiction has made payments in excess of or less than the amount(s) provided for pursuant to the terms and conditions of this Agreement and the CIP, WMATA will make appropriate adjustments in the amount due to WMATA from such Contributing Jurisdiction in the next fiscal year. The audit rights provided under this paragraph shall survive the termination date of this Agreement.

SEC. 6 DISPUTES

(a) Informal Resolution -- The Parties agree to use all reasonable efforts to resolve any disputes, which arise under or otherwise relate to this Agreement. If the Parties, at staff level, cannot resolve such a dispute through initial discussions within thirty (30) days after the date it first arises, then the Party seeking a resolution shall, through its Authorized Representative, provide written notice of the nature of the dispute and the issues involved to the Authorized Representatives of each other Party involved. Such other Parties shall respond within thirty (30) days, stating their position on the issue presented and their proposal for resolution. The Authorized Representatives shall then meet within the next thirty (30) days in an attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days following the date of the last meeting, any Party to the dispute may refer the matter to the WMATA Board for resolution.

(b) Alternative Resolution. -- If a dispute arising under this Agreement is not resolved pursuant to subsection (a) of this Section, the Parties thereto may agree to pursue a mutually acceptable alternative dispute resolution procedure. If such a procedure is not utilized

or does not result in a final and binding resolution of the dispute, any Party thereto may pursue a civil action for appropriate relief in a court of competent jurisdiction.

SEC. 7 REPRESENTATIONS AND WARRANTIES

(a) **By WMATA.** -- WMATA makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) WMATA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(2) WMATA by proper WMATA Board action has duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by the Contributing Jurisdictions and by WMATA, this Agreement will constitute the legal, valid and binding obligation of WMATA enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally.

(4) No director, officer, or employee of WMATA who exercises or has exercised any functions or responsibilities over any procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect thereto during the term of this Agreement.

(b) **By Contributing Jurisdictions.** -- Each Contributing Jurisdiction makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) The Contributing Jurisdiction has all necessary power and authority to enter into the transactions contemplated by this Agreement and to carry out its individual obligations hereunder;

(2) Each Contributing Jurisdiction has individually duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by each Contributing Jurisdiction, this Agreement will constitute the legal, valid and binding obligation of the individual entity enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally;

(4) No officer, or employee of any Contributing Jurisdiction who exercises or has exercised any functions or responsibilities over a procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect therewith during the term of this Agreement.

SEC. 8 EFFECTIVE DATE AND TERM OF AGREEMENT

(a) Effective Date. The Parties acknowledge and agree that this Agreement is in consideration of and contingent upon the execution of the Local Funding Agreement for Capital Funding by and between WMATA and the District of Columbia to be executed concurrently with the execution of this Agreement. Accordingly, this Agreement shall take effect on the date of execution by the last signatory to either this Agreement or the District of Columbia Local Funding Agreement for Capital Funding.

(b) Term. The term of this Agreement shall begin on the Effective Date and shall terminate on June 30, 2016. Where there are projects which have been started during the term of the Agreement or where bonds or other financial instruments have been issued pursuant to the Metro Matters Funding Agreement (for those Contributing Jurisdictions who did not opt out of the Long Term Debt issuance) or pursuant to this Agreement, the Contributing Jurisdictions, subject to annual appropriations, agree to continue to make their Allocated Contributions for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or other financial instruments.

(c) Future Negotiations. No later than June 30, 2015, WMATA and the Contributing Jurisdictions agree to commence discussions for a successor capital funding agreement. WMATA will ask each Contributing Jurisdiction for an affirmative response to whether it wishes to participate in a successor agreement. Each Contributing Jurisdictions shall give an affirmative notice in accordance with Section 12 of this Agreement no later than October 1, 2015, either that: (1) it intends to continue under the Agreement, subject to amendment only of the projects included in the CIP and the cost of a new 6 year CIP and the renegotiation of the Local Funding Agreement with the District of Columbia (2) it requests negotiation of additional terms of the agreement in addition to those specified in the preceding clause or (3) it wishes to terminate the agreement as of June 30, 2016. It is the Parties' desire to limit negotiations only to the items listed in clause (1) if at all possible. A failure to timely respond will be deemed an election to terminate the Agreement. If a Contributing Jurisdiction gives or is deemed to give the required notice that it is terminating its participation in this Agreement, then the Agreement shall terminate as of June 30, 2016, except as covered by subsection (b), above.

SEC. 9 RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

SEC. 10 NO THIRD PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third Party to be a third Party beneficiary to this Agreement, nor do the Parties intend for any such third Party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

SEC. 11 AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

SEC. 12 NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service, to any Party as follows:

To the State of Maryland:
Department of Transportation:

Director, Washington Area Transit Programs
Maryland Department of Transportation
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

with a copy to:

Chairman, Washington Suburban Transit District
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

To the District of Columbia:

Director
District Department of Transportation
2000 14th Street, N.W.
Washington, D.C. 20009

With copies to:

Chief Financial Officer for the District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Attorney General for the District of Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To Arlington County, Virginia:

Director
Department of Management and Finance
2100 Clarendon Boulevard, Suite 501
Arlington, VA 22201

with a copy to:

Director
Department of Environmental Services
2100 Clarendon Boulevard, Suite 900
Arlington, VA 22201

To Fairfax County, Virginia:

Director
Fairfax County Department of Transportation
12055 Government Center Parkway, 10th Floor
Fairfax, VA 22035-5511

To the City of Alexandria, Virginia:

City Manager
City of Alexandria
301 King Street
Alexandria, VA 22314

To the City of Fairfax, Virginia:

Mayor
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

with a copy to:

Transportation Director
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

To the City of Falls Church, Virginia:

City Manager
City of Falls Church
300 Park Avenue
Falls Church, VA 22046

To the Washington Metropolitan Area Transit Authority:

General Manager
600 Fifth Street, N.W.,
Washington, D.C. 20001

with a copy to:

The General Counsel
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

SEC. 13 SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the Contributing Jurisdictions and WMATA.

SEC. 14 NO DEBT GUARANTEES

No Contributing Jurisdiction guarantees the debt of WMATA or any other Contributing Jurisdiction, nor any obligation of WMATA or any other Contributing Jurisdiction.

SEC. 15 REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the Contributing Jurisdictions are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to each Contributing Jurisdiction.

SEC. 16 COUNTERPARTS

This Agreement may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties listed on page one.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Agreement on this 15th day of July, 2010.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

Secretary

By:

Richard Sarles
Interim General Manager

[Seal]

Dated:

7/1/10

Approved as to Form and Legal Sufficiency:

By:

Office of General Counsel

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of
Transportation

MARYLAND DEPARTMENT OF
TRANSPORTATION

Attest:

Richard P. Long Jr.
Witness

By: Bruce H. Long [Seal]
Secretary

and

WASHINGTON SUBURBAN
TRANSIT DISTRICT

Attest:

Thomas G. Peter
Witness

By: Peter Benjamin [Seal]
Chairman

Approved as to Form and Legal Sufficiency:

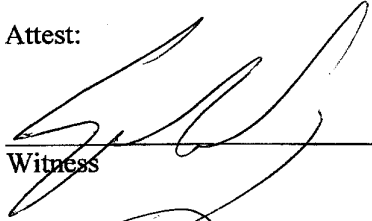
By: Thomas G. Peter
Assistant Attorney General

Date: June 16, 2010


[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

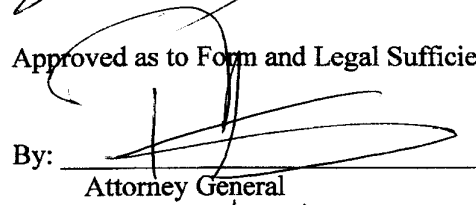


Witness

 [Seal]

By: Mayor

Approved as to Form and Legal Sufficiency:



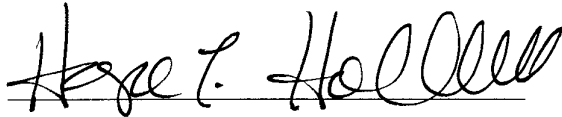
By: Attorney General

Dated: 6/30/10

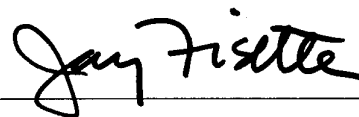
[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

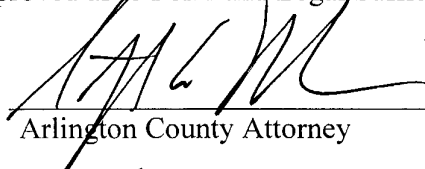


Clerk to the County Board

By:  [Seal]

Chair
County Board
Arlington County, Virginia

Approved as to Form and Legal Sufficiency:

By: 
Arlington County Attorney

Dated: 7/2/10

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

Nancy Vekas
Clerk to the Board of Supervisors

By: At Ginty [Seal]
County Executive
Fairfax County, Virginia

Approved as to Form and Legal Sufficiency:

By: David P. Bolger
County Attorney

Dated: 6/30/10

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

Jackie M. Henderson
City Clerk

By: [Signature] [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: [Signature]
Deputy City Attorney

APPROVED AS TO FORM:
[Signature]
DEPUTY CITY ATTORNEY

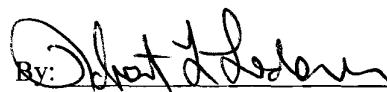
Dated: 7/22/10

[signatures continued on following page]

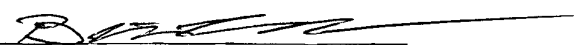
CITY OF FAIRFAX, VIRGINIA

Attest:


City Clerk

By:  [Seal]
Mayor

Approved as to Form and Legal Sufficiency:

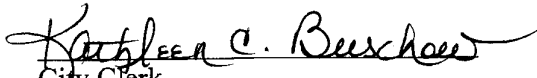
By: 
City Attorney

Dated: 7/14/2010

[signatures continued on following page]

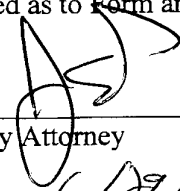
CITY OF FALLS CHURCH, VIRGINIA

Attest:


City Clerk

By:  [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: 
City Attorney

Dated: 6/29/10

Attachment 3

**FIRST AMENDMENT TO THE
WMATA FISCAL YEAR 2020
CAPITAL FUNDING AGREEMENT**

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

County of Loudoun, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

Effective Date: July 1, 2020

**FIRST AMENDMENT TO THE
WMATA FISCAL YEAR 2020
CAPITAL FUNDING AGREEMENT**

THIS FIRST AMENDMENT TO THE WMATA FISCAL YEAR 2020 CAPITAL FUNDING AGREEMENT (First Amendment) is made and effective the First day of July, 2020, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; County of Loudoun, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions and, collectively with WMATA, the Parties):**

RECITALS

1. The Parties to this First Amendment desire to extend the term of that Fiscal Year 2020 Capital Funding Agreement entered into by the Parties as of October 30, 2019 (2020 CFA) and to include the County of Loudoun, Virginia as a new Party and Contributing Jurisdiction subject to the terms of the 2020 CFA.
2. The Parties to this First Amendment desire to continue the funding and work of WMATA on the same terms and conditions currently in place under the 2020 CFA for an additional year (the Extension Term).
3. The Parties will continue to negotiate in good faith toward a longer-term capital funding agreement during the Extension Term.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, and with the intent to be bound, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

Unless defined otherwise in this First Amendment all terms used in this First Amendment shall have the same meaning as is found in the 2020 CFA.

SEC. 2 EXTENSION OF TERM AND LONG-TERM DEBT OBLIGATIONS

- A. **Extension of Term.** Pursuant to Section 2.A. of the 2020 CFA and Section 11 of the 2010 CFA, the Parties agree to extend the term of the 2020 CFA for one additional year, from July 1, 2020 through June 30, 2021 (FY2021) on the same terms and conditions of the 2020 CFA except as changed in this First Amendment.
- B. **Long Term Debt Obligations.** No Jurisdictional Capital Contribution Long-Term Debt is authorized for issuance in FY2021 at this time. If WMATA or one or more Contributing Jurisdictions identifies a need to issue Jurisdictional Capital Contribution Debt during FY2021, the Parties shall meet the requirements established for such issuance in section 4(b)(2) the 2010 CFA.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM

- A. As is contemplated by the 2020 CFA, the WMATA Board of Directors adopted a new Fiscal Year 2021 Capital Budget in April 2020. It is the intent of the Parties that the 2020 CFA be amended to incorporate the jurisdictional funding commitments of the FY2021 Capital Budget as adopted by the Board exclusive of funds to be used to repay the debt service on previously issued bonds, Dedicated Funding, Jurisdictional Reimbursable

Projects, or PRIIA, as shown in Attachment A, which contains the FY2021 Capital Budget Financial Plan.

- B. The cash portion of the District of Columbia's Allocated Contribution to the FY2021 Capital Budget shall not exceed \$95,116,884 and this amount shall be added to the amounts contained in Section 3(B) of the 2020 CFA to constitute the new limitation on required Allocated Contributions for the District of Columbia in the total maximum amount not to exceed \$828,565,884 to be paid from the District of Columbia Capital Funds.
- C. It is the intent of the Parties that to the extent that WMATA undertakes multi-year projects in the FY2021 Capital Budget, adopted by this First Amendment, such projects shall be continued in accordance with the provisions of Section 2(e) of the 2010 CFA.

SEC. 4 COUNTY OF LOUDOUN, VIRGINIA

Effective with the execution of this First Amendment to the 2020 CFA, the parties acknowledge and agree that the County of Loudoun, Virginia has joined as a Contributing Jurisdiction and shall be included in all of the rights and responsibilities provided to each Contributing Jurisdiction therein. It is the express intent of the Parties that the 2020 CFA and all documents related thereto be interpreted to include the County of Loudoun as a Contributing Jurisdiction.

SEC. 5 CONTINUING EFFECT

This First Amendment amends certain terms and conditions of the 2010 and 2020 CFA. All other terms and conditions of the 2020 CFA that are not modified by this First Amendment shall remain in full force and effect. Should there be any conflict between the terms and conditions in this First Amendment and the 2020 CFA; the terms and conditions of this First

Amendment, and in the case of the District of Columbia the First Amendment to the Local Capital Funding Agreement, shall control.

SEC. 6 COUNTERPARTS

This First Amendment may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Amendment by their representatives' signatures on the following pages.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Secretary

Paul J. Wiedefeld
General Manager/Chief Executive Officer

Dated: _____

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of
Transportation

MARYLAND DEPARTMENT OF
TRANSPORTATION

Attest:

Witness

By: _____ [Seal]
Secretary

and

WASHINGTON SUBURBAN
TRANSIT DISTRICT

Attest:

Witness

By: _____ [Seal]
Chairman

Date: _____

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____ [[Seal]
Mayor

Dated: _____

[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

Clerk to the County Board

By: _____ [Seal]
County Manager
Arlington County, Virginia

Dated: _____

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

Clerk to the Board of Supervisors

By: _____ [Seal]
County Executive
Fairfax County, Virginia

Dated: _____

[signatures continued on following page]

COUNTY OF LOUNDOUN, VIRGINIA

Attest:

Clerk to the Board of Supervisors

By: _____ [Seal]
County Administrator
County of Loudoun, Virginia

County Attorney

Dated: _____

[signatures continued on following page]

PROPOSED

CITY OF ALEXANDRIA, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Dated: _____

[signatures continued on following page]

CITY OF FAIRFAX, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Dated: _____

[signatures continued on following page]

CITY OF FALLS CHURCH, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Dated: _____

PROPOSED

Attachment A

Financial Plan - Allocation of State & Local Contributions

	FY2021 Budget	FY2022 Plan	FY2023 Plan	FY2024 Plan	FY2025 Plan	FY2026 Plan	6 Year Total
Federal Funding							
Federal Formula Programs	\$321,106,774	\$321,106,774	\$321,106,774	\$321,106,774	\$321,106,774	\$321,106,774	\$1,926,640,644
Federal PRIIA	\$148,500,000	\$0	\$0	\$0	\$0	\$0	\$148,500,000
Other Federal Grants	\$19,964,914	\$4,428,532	\$2,800,000	\$2,960,000	\$2,840,000	\$2,840,000	\$35,833,446
Total - Federal Grants	\$489,571,688	\$325,535,306	\$323,906,774	\$324,066,774	\$323,946,774	\$323,946,774	\$2,110,974,090
State & Local Funding Contributions							
District of Columbia							
Formula Match & System Performance	\$95,116,884	\$99,240,193	\$101,357,944	\$105,205,060	\$107,436,033	\$108,760,022	\$617,116,136
PRIIA	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$297,000,000
Dedicated Funding	\$178,500,000	\$178,500,000	\$178,500,000	\$178,500,000	\$178,500,000	\$178,500,000	\$1,071,000,000
Subtotal - District of Columbia	\$323,116,884	\$327,240,193	\$329,357,944	\$333,205,060	\$335,436,033	\$336,760,022	\$1,985,116,136
State of Maryland							
Montgomery County	\$45,005,174	\$45,864,257	\$47,564,988	\$48,676,827	\$50,496,360	\$52,746,682	\$290,354,288
Prince George's County	\$45,181,684	\$46,915,584	\$48,154,482	\$49,877,126	\$51,081,137	\$52,036,091	\$293,246,104
MD PRIIA	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$297,000,000
MD Dedicated Funding	\$167,000,000	\$167,000,000	\$167,000,000	\$167,000,000	\$167,000,000	\$167,000,000	\$1,002,000,000
Subtotal - Maryland	\$306,686,858	\$309,279,841	\$312,219,470	\$315,053,953	\$318,077,497	\$321,282,773	\$1,882,600,392
Commonwealth of Virginia							
City of Alexandria	\$12,401,646	\$12,773,528	\$13,146,057	\$13,535,690	\$13,943,924	\$14,363,906	\$80,164,751
Arlington County	\$22,641,546	\$23,012,708	\$23,880,758	\$24,388,260	\$25,350,214	\$26,575,529	\$145,849,016
City of Fairfax	\$715,612	\$717,184	\$751,711	\$761,431	\$798,856	\$852,639	\$4,597,433
Fairfax County	\$40,760,743	\$41,487,654	\$43,046,454	\$44,013,681	\$45,699,476	\$47,814,951	\$262,822,959
City of Falls Church	\$757,037	\$792,724	\$807,605	\$840,022	\$855,791	\$862,074	\$4,915,253
Loudoun County (1)	\$5,797,066	\$5,624,882	\$6,011,578	\$5,965,127	\$6,399,330	\$7,111,061	\$36,909,044
VA PRIIA	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$49,500,000	\$297,000,000
VA Dedicated Funding	\$154,500,000	\$154,500,000	\$154,500,000	\$154,500,000	\$154,500,000	\$154,500,000	\$927,000,000
CMAQ	\$877,153	\$903,467	\$930,571	\$958,488	\$987,243	\$1,016,860	\$5,673,783
Subtotal - Virginia	\$287,950,804	\$289,312,148	\$292,574,734	\$294,462,699	\$298,034,834	\$302,597,020	\$1,764,932,238
Jurisdiction Planning Projects	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$18,000,000
Silver Line (MWAA)	\$26,556,000	\$17,747,000	\$0	\$0	\$0	\$0	\$44,303,000
Potomac Yard (Alexandria)	\$59,050,000	\$88,900,000	\$33,870,000	\$38,580,000	\$0	\$0	\$220,400,000
Purple Line (MDOT)	\$89,000	\$194,000	\$0	\$0	\$0	\$0	\$283,000
Subtotal - Jurisdictional Reimbursable	\$88,695,000	\$109,841,000	\$36,870,000	\$41,580,000	\$3,000,000	\$3,000,000	\$282,986,000
Total - State & Local	\$1,006,449,546	\$1,035,673,182	\$971,022,148	\$984,301,712	\$954,548,364	\$963,639,814	\$5,915,634,766
Debt	\$379,346,720	\$580,141,220	\$376,817,384	\$314,501,415	\$349,140,047	\$368,938,324	\$2,368,885,110
	\$1,875,367,954						

- (1) The jurisdictional shares of Formula Match and System Performance contributions are calculated using the original methodology which fully includes Loudoun County, rather than the prorated method used for the FY2021 Operating Subsidy calculation
- (2) Total funding requirement includes capital program expenditures, debt service, and estimated revenue loss from major shutdowns Note: Does not assume reauthorization of Federal PRIIA.

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ACTION - 5

Board Approval of a Schedule for the 2021 Redistricting and Reapportionment of the Board of Supervisors Election Districts

ISSUE:

Board approval of a proposed schedule for the 2021 redistricting and reapportionment of the Board of Supervisors election districts.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached proposed schedule.

TIMING:

The Virginia Constitution requires local governing bodies that are elected by district to consider redrawing their election districts after each decennial census to maintain proportional representation. Board action is requested on June 8 to approve the proposed schedule.

BACKGROUND:

The Virginia Constitution requires the election districts for local governing bodies to be constituted “to give, as nearly as is practicable, representation in proportion to the population of the district.” To maintain proportional representation as populations grow and shift, local governing bodies must consider changing their local election district boundaries in the year after each decennial census.

On February 23, 2021, the Board (1) adopted a Resolution stating the general goals, criteria, and policies that will be followed in the 2021 redistricting of the Board of Supervisors election districts; and (2) established a redistricting advisory committee and approved its composition. The Board did not adopt a schedule because information was not available about when the Census Bureau would release the census data the Board must use to redistrict.

As in 2011, the schedule to complete the redistricting process will be very compressed. In 2011, redistricting activities were packed into the early part of the year to ensure districts could be redrawn well in advance of the November election, when all Board seats were on the ballot. In 2021, redistricting will be compressed into the latter part of

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the year because of the extraordinary delay in the release of the census data. State law requires the Board to use the most recent decennial population figures from the United States Bureau of the Census, as adjusted by the Virginia Division of Legislative Services (DLS).

Federal law requires the U.S. Commerce Department to deliver the block-level population and demographic data needed to redraw congressional and legislative districts, including local election districts, to each state no later than March 31 of the year after the census. In mid-March, the Census Bureau announced that it would deliver a “legacy format summary redistricting file” to all states “by mid-to late August 2021” and “tabulated data in [its] user-friendly system” by September 30, 2021. DLS has announced that it can and will use the early, legacy-format data for state redistricting, and it will adjust this data to provide to Virginia localities for their redistricting efforts. DLS has said it expects to deliver the adjusted data for Fairfax County in late August.

The proposed schedule calls for meetings of the Board-appointed 2021 Redistricting Advisory Committee to begin in August before the County receives the adjusted census data. Early meetings would be devoted to briefings on the legal principles governing redistricting and the requirements of the Virginia Freedom of Information Act; information on the County’s One Fairfax policy; a tutorial about the census data; training on the mapping software; and organization and housekeeping items for the Committee. The County also will open an internet-accessible portal through which members of the general public may electronically build and submit proposed plans.

All plans submitted by the Committee and through the portal that satisfy the requirements of the Board’s Resolution would be compiled into a report presented to the Board at its meeting on October 19, so that the Board could authorize advertisement of a public hearing on November 9. Thereafter, the Board could defer decision, continue to receive public input, and adopt the redistricting ordinance at its meeting on December 7.

Legislation adopted in the 2021 Session of the Virginia General Assembly imposes additional requirements, somewhat akin to the federal preclearance process in effect until 2013, that the County must fulfill before it can administer or enforce its redistricting plan. The legislation, SB 1395, is attached (its companion House bill, HB 1890, is identical). The legislation creates two alternative methods by which the County can fulfill the law’s requirements. First, the County can provide public notice, comment, and hearings, plus a second round of publication and public comment if the Board makes changes in response to the public input. (See Va. Code § 24.2-129(B) & (C), effective July 1, 2021, in Attachment 2.) The County currently provides this type of public engagement. The Office of Public Affairs will develop and implement a comprehensive

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redistricting communications strategy. However, the limited time available to complete the redistricting process may not allow the Board to fulfill every requirement of the first method. The second method parallels the preclearance process the County used for decades to obtain federal approval of election-related changes. Under this method, the Board submits a request to the Virginia Attorney General for review of the plan and issuance of a certification of no objection. A certification of no objection is deemed to have been issued if the Attorney General does not interpose an objection within 60 days of the governing body's submission. (See Va. Code § 24.2-129(D), effective July 1, 2021, in Attachment 2.) Accordingly, the schedule proposes to have the County Attorney file a request for a certification of no objection after the Board has adopted the redistricting ordinance.

The schedule may need to be adjusted as events outside of the County's control unfold during the Summer of 2021, but adoption of a schedule will guide the Board, the 2021 Redistricting Advisory Committee, County residents, and staff in preparing for the 2021 redistricting.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed schedule

Attachment 2: SB 1395, Chapter 528 of the 2021 Acts of Virginia General Assembly

STAFF:

Joseph M. Mondoro, Chief Financial Officer

Claudia Arko, Legislative Director, Office of the County Executive

Karla Bruce, Chief Equity Officer, Office of the County Executive

Jill G. Cooper, Clerk for the Board of Supervisors

Christina Jackson, Director, Department of Management and Budget

Fatima Khaja, Director, Economic, Demographic and Statistical Research, DMB

Greg Scott, Director, Department of Information Technology

Nate Wentland, Deputy Director, DIT

Mike Liddle, GIS Program Director, DIT

Tony Castrilli, Director, Office of Public Affairs

Rebecca L. Makely, Director, Consumer Services Division, Department of Cable and Consumer Services

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ASSIGNED COUNSEL:

Elizabeth D. Teare, County Attorney
Erin C. Ward, Deputy County Attorney
Martin Desjardins, Assistant County Attorney

2021 REDISTRICTING SCHEDULE

DATE	EVENT
April 1, 2020	Census Day.
July 28, 2020	Board of Supervisors referred the issue of redistricting to the Board's Legislative Committee.
September 22, 2020 November 24, 2020	Legislative Committee briefings and discussions.
February 23, 2021	Board approved Action Item initiating the 2021 redistricting and adopted: <ul style="list-style-type: none"> • A Resolution setting out the process and goals, • A list of who/what groups will be represented on the 2021 Redistricting Committee.
April 26, 2021	Secretary of the Commerce delivered 2020 Census Apportionment Results to the President.
June 8, 2021	<ul style="list-style-type: none"> • Board approves 2021 redistricting schedule. • Last day for Board members to submit nominations to Chairman's office for members of Redistricting Committee.
June 22, 2021	Board appoints membership of 2021 Redistricting Committee.
August 2021	2021 Redistricting Committee begins meeting to prepare for receipt of data and developing plans; Committee is briefed on legal principles, One Fairfax, census data, and is trained on mapping software.
Week of August 9, 2021 (est.)	US Census Bureau releases Virginia census data to the Governor and the General Assembly.
Week of August 16, 2021 (est.)	Virginia Division of Legislative Services releases adjusted census data to the localities.
Week of August 23, 2021 (est.)	County GIS staff loads data into County systems and prepares it for County and Committee use.
August 30-September 10, 2021	County website portal open to receive proposed plans from the general public.
August 30-September 17, 2021	Committee develops redistricting plans to propose to the Board.
October 19, 2021	Board authorizes advertisement of proposed ordinances and plans.
October/November 2021	Clerk advertises proposed ordinances and plans to the public.
November 9, 2021	Board holds public hearing on proposed ordinances and plans.
December 7, 2021	Board decision; Board adopts ordinance redistricting County election districts.
December 21, 2021	County Attorney submits adopted plan to Attorney General and asks for issuance of a certification of no objection.

February 20, 2022	Estimated date by which certification of no objection is, or is deemed to be, issued. Redistricting is complete; ordinance can now be administered and enforced.
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POST-REDISTRICTING EVENTS

March/April 2022	Board authorizes advertisement on ordinance, holds public hearing, and adopts ordinance to clean up precinct boundaries and eliminate split precincts.
November 7, 2023	First Election for Board of Supervisors using the new districts.
January 1, 2024	New Board takes office after running for election on the new districts.

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2021 SPECIAL SESSION I**SB 1395 Discrimination; prohibited in voting and elections administration, etc.**Introduced by: [Jennifer L. McClellan](#) | [all patrons](#) ... [notes](#) | [add to my profiles](#)**SUMMARY AS ENACTED WITH GOVERNOR'S RECOMMENDATION:** (all summaries)

Elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action. Prohibits any voting qualification or any standard, practice, or procedure related to voting from being imposed or applied in a manner that results in the denial or abridgment of the right of any United States citizen to vote based on his race or color or membership in a language minority group. The bill further prohibits at-large methods of election from being imposed or applied in a locality in a manner that impairs the ability of a protected class, defined in the bill, to elect candidates of its choice or to influence the outcome of an election, by diluting or abridging the rights of voters who are members of a protected class. Prior to enacting or administering a covered practice, defined in the bill, the governing body of a locality is required to publish the proposed covered practice and accept public comment for a minimum of 30 days on the proposed covered practice; after the public comment period, a 30-day waiting period is required. During this period, any person who will be subject to or affected by the covered practice may challenge the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. The bill permits the local governing body to instead submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection and, once such certification is issued, to enact or administer the covered practice. Certain unlawful actions, including knowingly communicating false information to voters, that are currently subject to criminal penalties will create civil causes of action under the bill. The bill authorizes the Attorney General to commence civil actions when there is reasonable cause to believe that a violation of an election law has occurred and the rights of any voter or group of voters have been affected by the violation. Civil penalties assessed as a result of such action are payable to the Voter Education and Outreach Fund, established by the bill. Current provisions related to language minority accessibility are moved to a newly created chapter relating to the rights of voters. This bill is identical to **HB 1890**.

FULL TEXT**01/13/21 Senate: Prefiled and ordered printed; offered 01/13/21 21102738D** [pdf](#) | [impact statements](#)**01/26/21 Senate: Committee substitute printed 21103648D-S1** [pdf](#) | [impact statements](#)**02/03/21 Senate: Committee substitute printed 21103866D-S2** [pdf](#) | [impact statement](#)**02/17/21 Senate: Bill text as passed Senate and House (SB1395ER)** [pdf](#) | [impact statement](#)**04/07/21 Senate: Reenrolled bill text (SB1395ER2)** [pdf](#)**04/07/21 Governor: Acts of Assembly Chapter text (CHAP0528)** [pdf](#)**AMENDMENTS****Senate committee, floor amendments and substitutes offered****Governor's recommendation****HISTORY****01/13/21 Senate: Prefiled and ordered printed; offered 01/13/21 21102738D****01/13/21 Senate: Referred to Committee on Privileges and Elections****01/26/21 Senate: Reported from Privileges and Elections with substitute (9-Y 6-N)****01/26/21 Senate: Committee substitute printed 21103648D-S1****01/26/21 Senate: Rereferred to Finance and Appropriations****02/03/21 Senate: Reported from Finance and Appropriations with substitute (10-Y 4-N 2-A)****02/03/21 Senate: Committee substitute printed 21103866D-S2****02/03/21 Senate: Constitutional reading dispensed (39-Y 0-N)**

02/04/21	Senate: Read second time
02/04/21	Senate: Reading of substitute waived
02/04/21	Senate: Committee substitute rejected 21103648D-S1
02/04/21	Senate: Reading of substitute waived
02/04/21	Senate: Committee substitute agreed to 21103866D-S2
02/04/21	Senate: Engrossed by Senate - committee substitute SB1395S2
02/05/21	Senate: Read third time and passed Senate (21-Y 17-N)
02/07/21	House: Placed on Calendar
02/07/21	House: Read first time
02/07/21	House: Referred to Committee on Privileges and Elections
02/08/21	House: Continued to Special Session 1 in Privileges and Elections by voice vote
02/10/21	House: Reported from Privileges and Elections (13-Y 9-N)
02/12/21	House: Read second time
02/15/21	House: Read third time
02/15/21	House: Passed House (55-Y 45-N)
02/15/21	House: VOTE: Passage (55-Y 45-N)
02/17/21	Senate: Enrolled
02/17/21	Senate: Bill text as passed Senate and House (SB1395ER)
02/17/21	Senate: Signed by President
02/18/21	House: Signed by Speaker
02/22/21	Senate: Enrolled Bill Communicated to Governor on February 22, 2021
02/22/21	Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021
03/31/21	Senate: Governor's recommendation received by Senate
04/07/21	Senate: Senate concurred in Governor's recommendation (21-Y 19-N)
04/07/21	House: House concurred in Governor's recommendation (55-Y 45-N)
04/07/21	House: VOTE: Agree To (55-Y 45-N)
04/07/21	Governor: Governor's recommendation adopted
04/07/21	Senate: Reenrolled
04/07/21	Senate: Reenrolled bill text (SB1395ER2)
04/07/21	House: Signed by Speaker as reenrolled
04/07/21	Senate: Signed by President as reenrolled
04/07/21	House: Enacted, Chapter 528 (effective - see bill)
04/07/21	Governor: Acts of Assembly Chapter text (CHAP0528)

VIRGINIA ACTS OF ASSEMBLY -- 2021 RECONVENED SPECIAL SESSION I

CHAPTER 528

An Act to amend and reenact §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131; and to repeal § 24.2-124, as it shall become effective, of the Code of Virginia, relating to elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action; penalties.

[S 1395]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-105, as it shall become effective, 24.2-306, 24.2-649, 24.2-1000, 24.2-1005, and 24.2-1005.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-104.1, by adding a section numbered 24.2-1005.2, and by adding in Title 24.2 a chapter numbered 1.1, consisting of sections numbered 24.2-125 through 24.2-131, as follows:

§ 24.2-104.1. Civil actions by Attorney General.

A. Whenever the Attorney General has reasonable cause to believe that a violation of an election law has occurred and that the rights of any voter or group of voters have been affected by such violation, the Attorney General may commence a civil action in the appropriate circuit court for appropriate relief.

B. In such civil action, the court may:

1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title, as is necessary to assure the full enjoyment of the rights granted by this title.

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation and (ii) in an amount not exceeding \$100,000 for any subsequent violation. Such civil penalties are payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

3. Award a prevailing plaintiff reasonable attorney fees and costs.

C. The court or jury may award such other relief to the aggrieved person as the court deems appropriate, including compensatory damages and punitive damages.

§ 24.2-105. (Effective September 1, 2021) Prescribing various forms.

A. The State Board shall prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth.

B. The State Board shall prescribe voting and election materials in languages other than English for use by a county, city, or town that is subject to the requirements of ~~§ 24.2-124~~ § 24.2-128. For purposes of this subsection, voting and election materials mean registration or voting notices, forms, and instructions. For purposes of this subsection, registration notices mean any notice of voter registration approval, denial, or cancellation, required by the provisions of Chapter 4 (§ 24.2-400 et seq.).

The State Board may make available voting and election materials in any additional languages other than those required by subsection A of ~~§ 24.2-124~~ § 24.2-128 as it deems necessary and appropriate. The State Board may accept voting and election materials translated by volunteers but shall verify the accuracy of such translations prior to making the translated materials available to a county, city, or town, or any voter.

CHAPTER 1.1. RIGHTS OF VOTERS.

§ 24.2-125. Definitions.

For purposes of this chapter, "protected class" means a group of citizens protected from discrimination based on race or color or membership in a language minority group.

§ 24.2-126. Vote denial or dilution.

A. No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by the state or any locality in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote based on race or color or membership in a language minority group.

B. A violation of subsection A is established if, on the basis of the totality of circumstances, it is shown that the political processes leading to nomination or election in the state or a locality are not equally open to participation by members of a protected class in that its members have less opportunity

than other members of the electorate to participate in the political processes or to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the state or locality is one circumstance that may be considered.

C. Nothing in this section shall be construed to establish a right to have members of a protected class elected in numbers equal to their proportion in the population.

§ 24.2-127. Impairment of voting rights of registered voters.

Nothing in this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any registered voter.

§ 24.2-128. Minority language accessibility.

A. The State Board shall designate a county, city, or town as a covered locality if it determines, in consultation with the Director of the Census, on the basis of the 2010 American Community Survey census data and subsequent American Community Survey data in five-year increments, or comparable census data, that (i) more than five percent of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; (ii) more than 10,000 of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; or (iii) in the case of a county, city, or town containing all or any part of an Indian reservation, more than five percent of the American Indian citizens of voting age within the Indian reservation are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process.

B. Whenever a covered locality provides any voting or election materials, it shall provide such materials in the language of the applicable minority group as well as in the English language. For purposes of this requirement, "voting or election materials" means registration or voting notices, forms, instructions, assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and notices regarding changes to local election districts, precincts, or polling places. For purposes of this requirement, "registration notices" means any notice of voter registration approval, denial, or cancellation required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials in the preferred language identified by the voter.

C. The Attorney General, or any qualified voter who is a member of a language minority group for whom a covered locality is required to provide voting or election materials in such language, may institute a cause of action in the circuit court of the covered locality to compel the provision of the voting or election materials in the language of the applicable minority group. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-129. Covered practices; actions required prior to enactment or administration.

A. For the purposes of this section:

"Certification of no objection" means a certification issued by the Attorney General that there is no objection to the enactment or administration of a covered practice by a locality because the covered practice neither has the purpose or effect of denying or abridging the right to vote based on race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

"Covered practice" means:

1. Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district;

2. Any change, or series of changes within a 12-month period, to the boundaries of the locality that reduces by more than five percentage points the proportion of the locality's voting age population that is composed of members of a single racial or language minority group, as determined by the most recent American Community Survey data;

3. Any change to the boundaries of election districts or wards in the locality, including changes made pursuant to a decennial redistricting measure;

4. Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or that limits or impairs the creation or distribution of voting or election materials in any language other than English; or

5. Any change that reduces the number of or consolidates or relocates polling places in the locality, except where permitted by law in the event of an emergency.

"Voting age population" means the resident population of persons who are 18 years of age or older, as determined by the most recent American Community Survey data available at the time any change to a covered practice is published pursuant to subsection B.

B. Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body shall cause to be published on the official website for the locality the proposed covered practice and general notice of opportunity for public comment on the proposed covered practice. The governing

body shall also publicize the notice through press releases and such other media as will best serve the purpose and subject involved. Such notice shall be made at least 45 days in advance of the last date prescribed in the notice for public comment.

Public comment shall be accepted for a period of no fewer than 30 days. During this period, the governing body shall afford interested persons an opportunity to submit data, views, and arguments in writing by mail, fax, or email, or through an online public comment forum on the official website for the locality if one has been established. The governing body shall conduct at least one public hearing during this period to receive public comment on the proposed covered practice.

The governing body may make changes to the proposed covered practice in response to public comment received. If doing so, the revised covered practice shall be published and public comment shall be accepted in accordance with this subsection, except the public comment period shall be no fewer than 15 days.

C. Following the public comment period or periods prescribed in subsection B, the governing body shall publish the final covered practice, which shall include a plain English description of the practice and the text of an ordinance giving effect to the practice, maps of proposed boundary changes, or other relevant materials, and notice that the covered practice will take effect in 30 days. During this 30-day waiting period, any person who will be subject to or affected by the covered practice may challenge in the circuit court of the locality where the covered practice is to be implemented the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. The governing body of a locality seeking to administer or implement a covered practice, in lieu of following the provisions of subsections B and C, may submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection. Such practice shall not be given effect until the Attorney General has issued such certification. A certification of no objection shall be deemed to have been issued if the Attorney General does not interpose an objection within 60 days of the governing body's submission or if, upon good cause shown and to facilitate an expedited approval within 60 days of the governing body's submission, the Attorney General has affirmatively indicated that no such objection will be made. An affirmative indication by the Attorney General that no objection will be made or the absence of an objection to the covered practice by the Attorney General shall not bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

§ 24.2-130. At-large method of election; limitations; violations; remedies.

A. An at-large method of election, including one that combines at-large elections with district- or ward-based elections, shall not be imposed or applied by the governing body of any locality in a manner that impairs the ability of members of a protected class, as defined in § 24.2-125, to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.

B. A violation of subsection A is established if it is shown that racially polarized voting occurs in local elections and that this, in combination with the method of election, dilutes the voting strength of members of a protected class. For purposes of this subsection, "racially polarized voting" refers to the extent to which the candidate preferences of members of the protected class and other voters in the jurisdiction have differed in recent elections for the office and other offices in which the voters have been presented with a choice between candidates who are members of the protected class and candidates who are not members of the protected class. A finding of racially polarized voting or a violation of subsection A shall not be precluded by the fact that members of a protected class are not geographically compact or concentrated in a locality. Proof of an intent on the part of voters or elected officials to discriminate against members of a protected class shall not be required to prove a violation of subsection A.

C. Any voter who is a member of a protected class, as defined in § 24.2-125, and who resides in a locality where a violation of this section is alleged shall be entitled to initiate a cause of action in the circuit court of the county or city in which the locality is located. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. Upon a finding of a violation of this section, the court shall implement appropriate remedies that are tailored to remedy the violation.

§ 24.2-131. Voter Education and Outreach Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Voter Outreach and Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All penalties and charges directed to this fund by § 24.2-104.1 and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be

credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of educating voters and persons qualified to be voters on the rights ensured to them pursuant to federal and state constitutional and statutory law and remedies. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Administration or his designee.

§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. ~~Notice~~ *In addition to the requirements set forth in § 24.2-129, notice* shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

§ 24.2-649. Assistance for certain voters; penalties.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the printed ballot in the officer's presence but in a secret manner and, obscuring his vote, return the ballot to the officer. The officer shall immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board.

Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting machine may be used in lieu of a printed ballot only so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read or write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. If a printed ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646 or in the ballot scanner machine in accordance with the instructions of the State Board.

C. If the voter requires assistance in a language other than English and has not designated a person to assist him, an officer of election, ~~before he assists~~ *may assist* as an interpreter, *but shall first* inquire of the representatives authorized to be present pursuant to § 24.2-604.4 whether they have a volunteer available who can interpret for the voter. One representative interpreter for each party or candidate, insofar as available, shall be permitted to observe the officer of election communicate with the voter. *In any locality designated as a covered locality pursuant to § 24.2-128, the local electoral board shall ensure that interpretation services in the language of the applicable minority group are available and easily accessible to voters needing assistance pursuant to this subsection.* The voter may designate one of the volunteer party or candidate interpreters to provide assistance. A person so designated by the voter shall meet all the requirements of this section for a person providing assistance.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee voters shall be applicable in such cases.

E. In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance pursuant to this section that such machine is available for him to use to vote in privacy without assistance and the officers of election shall instruct the voter on the use of the voting machine. Nothing in this section shall be construed to require a voter to use the machine unassisted.

§ 24.2-1000. Intimidation of officers of election.

Any person who, by bribery, intimidation, *threats, coercion*, or other means in violation of the election laws, willfully hinders or prevents, or attempts to hinder or prevent, the officers of election at any ~~precinct~~ *polling place, voter satellite office, or other location being used by a locality for voting purposes* from holding an election ~~shall be~~ is guilty of a Class 5 felony.

§ 24.2-1005. Intimidation of voters; civil cause of action.

A. Any person who ~~(i) by threats, bribery, or other means in violation of the election laws, intimidates, threatens, or coerces, or attempts to influence intimidate, threaten, or coerce, any other person in giving his vote or ballot or by such means who intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce a voter to deter or prevent him from voting; (ii) furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire; or (iii) changes a ballot of a person to prevent the person from voting as he desired, shall be~~ is guilty of a Class 1 misdemeanor.

B. *In addition to the criminal penalty provided in subsection A, such actions shall also create a cause of action. A voter who is intimidated, threatened, or coerced by another person in violation of subsection A shall be entitled to institute an action for preventative relief, including an application for a permanent or temporary injunction, restraining order, or other order, against such person. The action shall be instituted in the circuit court of the locality where the violation occurred. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.*

C. This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

§ 24.2-1005.1. Communication of false information to registered voter.

A. It shall be unlawful for any person to communicate to a registered voter, by any means, false information, knowing the same to be false, intended to impede the voter in the exercise of his right to vote. The provisions of this section shall apply to information only about the date, time, and place of the election, or the voter's precinct, polling place, or voter registration status, *or the location of a voter satellite office or the office of the general registrar.*

B. Any person who violates the provisions of this section ~~shall be~~ is guilty of a Class 1 misdemeanor.

~~C. A violation of this section~~ Such violation may be prosecuted either in the jurisdiction from which the communication was made or in the jurisdiction in which the communication was received.

C. *In addition to the criminal penalty provided in subsection B, a violation of the provisions of this section shall also create a cause of action. A registered voter to whom such false information is communicated shall be entitled to institute an action for preventative relief, including an application for a permanent or temporary injunction, restraining order, or other order, against the person communicating such false information. The action shall be instituted in the circuit court of either the*

jurisdiction from which the communication was made or the jurisdiction in which the communication was received. In any such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

§ 24.2-1005.2. Interference with voting.

A. Any person acting under the color of law who, contrary to an official policy or procedure, fails to permit, or refuses to permit, a qualified voter to vote, or who willfully fails or refuses to tabulate, count, or report the vote of a qualified voter, is subject to a civil penalty in an amount not exceeding \$1,000 for each affected voter. Such civil penalties shall be payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.

B. Any person who furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire is guilty of a Class 1 misdemeanor. Any person who changes a ballot of a person to prevent the person from voting as he desires is guilty of a Class 1 misdemeanor. This subsection applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

2. That § 24.2-124, as it shall become effective, of the Code of Virginia is repealed.

3. That the provisions of § 24.2-128 of the Code of Virginia, as created by this act, shall become effective on September 1, 2021.

4. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

ACTION - 6

Authorization to Establish the PIVOT Business Recovery Grant Program

ISSUE:

Board of Supervisors' authorization to create a grant program to assist small businesses and certain nonprofits experiencing negative economic impacts of the COVID-19 pandemic. The program would be funded through an allocation of the Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds) provided through the Federal American Rescue Plan Act (ARPA) under the authority to support small businesses and non-profits. Approval is also requested for the County Executive to administer the grant program.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors (Board): establish the PIVOT Business Recovery Grant Program (PIVOT Program) that responds to the negative economic impacts of the COVID-19 public health emergency on small businesses and non-profits; approve the expenditure of \$25,000,000 of ARPA Fiscal Recovery Funds; and authorize the County Executive to administer the PIVOT Program to meet program objectives.

TIMING:

Board action is requested on June 8, 2021, in order to establish the grant program by July 1, 2021.

BACKGROUND:

On November 18, 2020, the Board of Supervisors was briefed the Economic Recovery Framework (Recovery Framework) prepared by staff and consultants. The Recovery Framework includes data and analysis demonstrating the sectors and business types that have been most impacted by the COVID-19 pandemic. Following that briefing, Chairman McKay and Supervisors Foust and Storck submitted a Board Matter on February 9, 2021, directing staff to develop a targeted relief and recovery program to support Fairfax County businesses and non-profits identified in the Recovery Framework as having been disproportionately impacted by COVID-19 and the related public health mitigation measures. Consistent with this direction, on March 16, 2021, staff briefed the Board on specific recommendations regarding the Recovery

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Framework including creating programs providing targeted assistance to small businesses most impacted by the COVID-19 pandemic.

The American Rescue Plan Act allocated State and Local Fiscal Recovery Funds to the County. Among other uses, the County may use its Fiscal Recovery Funds to respond to the “negative economic impacts” of the COVID-19 pandemic “including assistance to . . . small businesses, and nonprofits . . .” The U.S. Department of the Treasury is charged with oversight of the Fiscal Recovery Funds. In its Interim Final Rule, Treasury identifies as permitted assistance grants that respond to the negative economic impacts of the COVID-19 public health emergency experienced by small businesses and nonprofit organizations. Unlike the Coronavirus Relief Fund, the Fiscal Recovery Funds defines both “small business” and “nonprofit.” As a result, a small business “has no more than 500 employees” (or the applicable size standard established by the Small Business Administration) and is “small business concern” as defined by the Small Business Act. While a non-profit means only those tax-exempt organizations described in 501(c)(3) of the Internal Revenue Code. Lastly, under ARPA, the covered period for the Fiscal Recovery Funds begins March 3, 2021.

In line with these requirements and the Board’s direction, the purpose of the Pivot Program is to help address and mitigate the negative economic impacts experienced by small businesses and nonprofits from the COVID-19 public health emergency. This will be accomplished through grants to impacted, eligible small businesses and non-profits identified through documented research and analysis. The specific small business and nonprofit sectors are:

- Food Services
- Lodging (hotels)
- Retail, Services, and Amusements
- Art Organizations, Museums, Historical Sites

The Recovery Framework confirmed that the estimated 48,200 jobs lost in Fairfax County through December, 2020 were heavily concentrated in food service, hospitality, and retail sectors. Collectively, the accommodation and food services, retail, other services, and arts and entertainment sectors accounted for approximately 50 percent of total job losses in Fairfax County in 2020. The Recovery Framework also highlighted that Customer-facing businesses – such as retailers, hospitality, and restaurants – are the most vulnerable to closures and losses in revenues as a result of the pandemic. In addition, small business revenue declined 86 percent for leisure and hospitality sector in 2020 in the DC region. The Virginia Restaurant, Lodging and Travel Association reported that 77 percent of all restaurant operators reported lower sales in January 2021 than January 2020.

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According to the global hospitality data firm STR, Virginia lodging businesses experienced a 2020 monthly average 50.5 percent decrease compared to 2019—totaling more than \$2.2 billion in lost revenue. Northern Virginia is the only region in Virginia that continues to decline and as of March 2021 has the lowest revenue per room in the Commonwealth.

Analysis conducted by the National Endowment of the Arts find that, “Arts and culture have experienced significant economic setbacks from COVID-19”. The visual or performing arts were affected directly and deeply. Revenues declined nearly 54% in quarter 3 of 2020 compared to 2019. ArtsFairfax reported that, as of January 2021, artists and arts organization cancelled 98 percent of events and 43 percent of survey respondents noted that inability to make payroll is their major financial obstacle.

The ARPA Supplementary Information states, “the pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses...play a key role in supporting the overall economic recovery as they are responsible for two thirds of net new jobs”. As such, within the Food Services, Retail, and Art Organizations and Historical Sites sectors, staff recommends targeting the assistance to those small businesses by annual (or gross) receipts. Full details for the proposed Pivot Program structure and award guidelines are identified in the Proposed PIVOT Business Recovery Grant Program Parameters (Attachment 1).

Desired outcomes of the PIVOT Program include:

1. Help the most negatively impacted small businesses and nonprofit organizations remain in business and retain employees.
2. Sustain business sectors which employ disproportionately higher number of low-income and minority workers.
3. Assist impacted small businesses and nonprofits by mitigating financial hardship, funding implementation of COVID-19 prevention or mitigation tactics, or both.

Based upon the demand received for previous local, state, and federal small business assistance programs (including the RISE grant program, ReBUILD VA, and the SBA Restaurant Revitalization Fund) the PIVOT Program at the recommended funding amount of \$25,000,000 could be oversubscribed. If so, all eligible hotels will be awarded first given the dramatic economic impacts the hospitality industry has incurred. It is recommended that remaining funds be awarded through a random lottery.

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Staff continues to evaluate the most effective means of supporting small businesses through economic recovery. No later than forty-five (45) days after the establishment of the Pivot Program, staff will update the Board on the program. The Board may increase this fund at any time in the future.

Staff is also exploring additional opportunities to respond to the COVID-19 public health emergency and its negative economic impacts by providing assistance, including grants, to targeted organizations and populations. These organizations and populations may include, community-based organizations providing safety net services, programs promoting healthy childhood environments, and strengthening communities. More information on these assistance programs (including a funding request, proposed eligibility criteria, and assistance amounts) will be provided to the Board in the near future.

FISCAL IMPACT:

Funding for the Grant Program is recommended from the Federal ARPA funding that has been provided to the County.

It is anticipated that an appropriation of \$25,000,000 will be used from Coronavirus State and Local Fiscal Recovery Funds provided through the Federal ARPA to fund the PIVOT Program. Funds to administer the PIVOT Program would come from ARPA. Program administration costs authorizes are limited to no more than 1.6% of the total authorized PIVOT Program funding amount.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed PIVOT Business Recovery Grant Program Parameters

STAFF:

Rachel Flynn, Deputy County Executive
Joe Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Rebecca Moudry, Director, Department of Economic Initiatives

ASSIGNED COUNSEL:

Patricia McCay, Senior Assistant County Attorney

Fairfax County PIVOT Business Recovery Grant Program “Grant Program Guidelines”

Grant Awards

The PIVOT Business Recovery Grant Program (the PIVOT Program) will provide grants to eligible and selected awardees. To be eligible, an applicant must be small business or non-profit (as defined in 31 C.F.R. § 35.3) operating in the following sectors, which have suffered by the most negative economic impact:

1. Food Services, which includes but is not limited to restaurants and other eating places, breweries, wineries and distilleries, and special food services like caterers or independent food trucks.
2. Lodging (Hotels), which includes establishments primarily engaged in providing short-term lodging in facilities known as hotels and motels
3. Retail, Services, and Amusements, which include but are not limited to:
 - a. Stores engaged in retailing merchandise without transformation for personal or household consumption at a fixed point-of-sale location.
 - b. Offices or stores primarily engaged in providing personal or health services.
 - c. Establishments that operate facilities that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.
4. Art Organizations, Museums, and Historical Sites, which include:
 - a. Establishments involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing.
 - b. Establishments that preserve and exhibit objects and sites of historical or cultural interest.

Eligibility Requirements and Use of Funds

Grant funds are for qualifying small business and non-profit organizations to (1) address and mitigate financial hardship; (2) implement COVID-19 prevention or mitigation tactics; (3) or both.

Minimum small business eligibility for grant awards across all identified sectors includes that the small business:

1. Must be established and have one or more location(s), including the principal place of business, in Fairfax County. Fairfax County includes the Towns of Herndon, Vienna, and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Have a valid Business, Professional and Occupational Licenses (BPOL) issued prior to March 1, 2020.
3. Must meet the U.S. Department of the Treasury definition of “small business.” See 31 C.F.R. § 35.3. A small business is a business concern or other organization that: (a) has no more than 500 employees, or if applicable, size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates (SBA Table of size standards at <https://www.sba.gov/document/support-table-size-standards>); and is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632)

Minimum non-profit eligibility for grant awards across all identified sectors includes that the non-profit:

1. Must be established and have one or more location(s), including the principal place of business, in Fairfax County. Fairfax County includes the Towns of Herndon, Vienna, and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Must meet the U.S. Department of the Treasury definition of “non-profit.” See 31 C.F.R. § 35.3. A non-profit is a non-profit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Food Services and Retail, Services and Amusements minimum eligibility requirements for grant award include:

1. Demonstrate a minimum of 15% decline in gross revenue in 2020 compared to 2019 gross revenue levels.
2. Must have a “bricks and mortar” commercial location in Fairfax County as demonstrated by a commercial lease agreement or equivalent (independent food trucks are excluded from this requirement).
3. Food Services must demonstrate health certificate (including independent food trucks).
4. Annual receipts or gross revenue less than \$3.5M (per establishment)

Arts Organizations, Museums, and Historical Sites minimum eligibility requirements for grant award include:

1. Demonstrate a minimum of 15% decline in gross revenue in 2020 compared to 2019 gross revenue levels
2. Must be an establishment involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing (categories include music, dance, theatre, visual arts, media arts, and literary arts) and/or an establishment that preserves and exhibits objects and sites of historical or cultural interest including arts-based and non-arts-based museums.

Hotels:

1. Minimum 10 rooms

Applicants must present documentation to demonstrate:

1. In good standing and operational prior to March 1, 2020.
2. Have eligible reimbursable costs of up to 100% of the grant amount requested. Said costs must have been incurred after March 3, 2021 and must be demonstrated by receipts/ invoices.
3. Other documentation as required for tracking and reporting requirements, including, not limited to, number of employees.

Ineligible for Award

The following businesses and organizations are ineligible for award:

1. Businesses legally structured as a Sole Proprietorship if owners received unemployment benefits in 2020 in excess of six months.

2. Businesses legally structured as a Sole Proprietorship, that are unable to demonstrate 51% or more of annual 2020 income from eligible business type.
3. Food Trucks owned or operated by a restaurant.
4. Breweries, wineries, or distilleries that operate in a manufacturing only capacity.
5. Franchise businesses, except for those franchises which are locally owned and operated (hotels excluded).
6. Hotels that have received funding from Fairfax County for the emergency shelter program
7. Businesses and organizations that have that received funding or notice of award for the SBA Restaurant Revitalization Fund or the SBA Shuttered Venue Operator Grant at the time of PIVOT Program grant application (Phase 1) and at the time of document submission and review (Phase 2).
8. For Arts Organizations, Museum and Historical Sites: Non-Arts entities, meaning organizations whose primary purpose is other than producing or presenting the arts. Arts programs (under a non-arts parent organization) are ineligible for funding.

To direct the County's limited resources and financial assistance to small businesses in ways that will best accomplish the purpose of the ARPA Fiscal Recovery Funds and the PIVOT Program, the County reserves the right to prioritize that financial assistance. As a result, a business or organization may also be deemed ineligible for award if it is an ineligible business identified in 13 C.F.R. § 120.110. Nonprofits that meet the definition in 31 C.F.R. § 35.3 remain eligible under the PIVOT Program.

Grants to eligible small businesses and non-profit organizations will be awarded as follows:

Sector	Business Size	Grant Level
Food Services	A: Annual receipts or gross revenue less than \$3.5M (per establishment)	A: \$18,000 per establishment
	B: Independent Food Trucks	B: \$1,500
Lodging (Hotels)	Minimum 10 rooms	\$400 per room
Retail, Services, and Amusements	Annual receipts or gross revenue less than \$3.5M (per establishment)	\$12,000
Arts Organizations, Museums, and Historical Sites	A: Arts org. annual receipts or gross revenue greater than \$100,000	A: \$10,000
	B: Arts org. annual receipts or gross revenue less than \$100,000	B: \$5,000
	C: Museums and historical Sites	C: \$10,000

Use Limitations

Grant funds can be used to:

- Mitigate financial hardship (e.g. declines in revenues or impacts of periods of business closure). This includes:
 - Supporting payroll and benefits costs,

- Costs to retain employees,
- Mortgage,
- Rent,
- Utilities costs, or
- Other business critical operating costs as determined by the County
- Implement COVID-19 prevention or mitigation tactics, such as:
 - Physical changes to enable social distance,
 - Enhanced cleaning efforts,
 - Barriers or partitions

Funding must be used to sustain or evolve the grant awardee business. No grant funds can be used to pay debts to close the business or start a new business. All grant awardees will be expected to enter into a grant agreement with Fairfax County and/or the program administrator. A condition of the grant will be that the grantee agrees in good faith to maintain the business in Fairfax County through December 31, 2022, or potentially be subject to repayment of the grant.

There is a limit of one PIVOT Program grant per individual small business or non-profit.

Eligible expenses cannot include the same expenses that have been covered under another federal, local or state COVID-19 program (including PPP, EIDL, RISE grant, RebuildVA).

Examples of Documentation Requirements

Applicants for the PIVOT Program will be asked to provide documentation to support the eligibility and award requirements. These are likely to include:

- 2019 and 2020 Tax Return or Form 990/990-EZ/990-N.
2020 Year End profit-and-loss statement, or similar statement of organizational financial standing
- Current profit-and-loss statement or similar document showing financial status, as revised due to COVID-19 impacts to revenue
- Current Fairfax County BPOL license. *Not applicable to certain non-profit applicants.*
- Articles of Incorporation, articles of organization, or similar evidence of legal formation of the business. *Not applicable to businesses organized as a Sole Proprietorship.*
- IRS Letter of Determination *(for non-profits)*

Based upon PIVOT Program funding source, it is anticipated that grantees will be asked to provide documentation of eligible reimbursable costs (incurred after March 3, 2021) of up to 100% of the grant amount requested. In addition, grantees will be required to provide additional documentation or any certifications as may be deemed necessary to meet other requirements.

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CONSIDERATION - 1

Approval of Amendments to the Fairfax County Human Services Council's Bylaws

ISSUE:

Approval of updated Resolution and Bylaws for Fairfax County's Human Services Council.

TIMING:

Board consideration is requested on June 8, 2021, so that the Bylaws and Resolution can become effective, as amended.

BACKGROUND:

The Fairfax County Human Services Council (HSC) created an ad hoc bylaws committee to draft amended bylaws and present the amendments to the HSC. The amended bylaws were approved at the HSC's monthly meeting on April 19, 2021.

The intent of the changes to the bylaws is to: 1) refresh the bylaws to incorporate racial and social equity; 2) add clarification language regarding meeting schedule, frequency, and committees, 3) change the terms and limits for the Chair, and 4) update language regarding attendance and removal of members.

The current Resolution was approved in 1988 and contains outdated information about the work of the HSC. The proposed resolution was drafted to reflect the HSC's purposes going forward and ensuring commitment and alignment with the county's racial and social equity policy.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Fairfax County Human Services Council (HSC) Proposed Bylaws - strikethrough

Attachment 2: Fairfax County Human Services Council (HSC) Proposed Bylaws

Attachment 3: Fairfax County Human Services Council (HSC) 1988 Resolution

Attachment 4: Fairfax County Human Services Council (HSC) Proposed Resolution

Board Agenda Item
June 8, 2021

STAFF:

Christopher A. Leonard, Deputy County Executive
G Michael Lane, Jr., Director, Office of Strategy Management for HHS

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

Attachment 1

Bylaws of Fairfax County Human Services Council (As Revised by the Board of Supervisors in June 1997)

Article I

Name

The name of this body shall be the Fairfax County Human Services Council, hereinafter referred to as the Council.

ARTICLE II

Auspices, Responsibilities and Duties

Section 1. **Auspices.** The Council was created by the Board of Supervisors on June 6, 1988 to advance interests of the Board in purposes set forth in the December 1987 Final Report to the Fairfax County Goals Advisory Commission. The Council is committed to promoting equity in the formation of public policy that results in all residents – regardless of age, race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status or neighborhood of residence or other characteristics – having opportunity to participate fully in the region's economic vitality, contribute to its readiness for the future, and connect to its assets and resources.

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Section 2. **General Charge.** The Council, serving as the Board of Supervisors' primary citizens advisory body for human services, shall:

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- Serve as a conduit for community engagement regarding needs, effectiveness and efficiency of the human services delivery system and continuum of care.
- In collaboration with county staff and other appointed boards, authorities and commissions focused on aspects of the human services system, recommend service delivery goals, objectives, budgets and priorities.
- Support efforts to educate the community about the human services system.
- Review human services needs and assess the effectiveness of the human services delivery system.
- Conduct additional activities as directed by the Board of Supervisors.

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- Review human services needs and assess the effectiveness of the human services delivery system.
- Report annually on the conditions and effectiveness of the human services delivery system.
- Develop a more effective and efficient human services delivery system.
- Enhance coordination of services among human services providers, both public and private.
- Recommend annual service delivery goals, objectives, and priorities for human services organization, with consideration of the requirements of the non-county funding sources.

- ~~Develop and oversee a five (5) year long range comprehensive human services plan which establishes goals, objectives and priorities.~~
- ~~Educate the community, in consultation with the Board of Supervisors, on human services.~~
- ~~Review and transmit to the Board of Supervisors a program-oriented budget for human services.~~
- ~~Review the annual Capital Improvement Plan and provide appropriate comments to the Board of Supervisors.~~

~~Council members are expected to preserve their freedom to evaluate human services plans and operations by overseeing rather than directing the continuing work associated with this charge.~~

Section 3. Staff Support. Staff support required for Council activities shall be provided by the ~~County Executive and the~~ Deputy County Executive for Health and Human Services ~~or by his/her designee.~~

Section 4. Resource Persons. The Council, at its discretion, may obtain the services of such expert advisors or other uniquely qualified resource persons as advisors, as required to carry out its responsibilities, in accordance with County rules and regulations.

ARTICLE III

Membership

Section 1. Membership. The Council shall consist of twenty (20) members appointed and confirmed by the Board of Supervisors, with two (2) appointees by each member.

Section 2. Terms of Office. The term of office shall be determined by the Board of Supervisors: four (4) years. ~~In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.~~

Section 3. Resignation and Vacancies. ~~In the event a member cannot serve or resigns from office, then the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.~~

Section 34. Officers. The officers of the Council shall consist of a Chair and Vice Chair.

Section 45. Election of Officers. Officers shall be elected for ~~one (1) two~~-year terms by a simple majority of the Council members. Officers shall be elected by the Council at the first regular meeting after July 1 of each year and shall take office ~~immediately at the conclusion of the meeting during which the election is conducted.~~ Officers may serve no more than two consecutive terms in office. If an office becomes vacant it shall be filled by an election at the next regular Council meeting ~~have-with~~ a majority of members present. The newly elected ~~replacement~~ officer shall complete the unexpired term ~~of the officer succeeded, and may complete two additional full terms if elected.-~~

Section 56. Responsibilities of Chair. The Council Chair shall preside at all meetings of the Council; create or dissolve ad hoc committees as needed; appoint chairpersons and members to committees with the concurrence of the Council; and exercise all rights and functions usually

prescribed for this office including management of responses to special requests from the Board of Supervisors.

Section 67. Responsibilities of Vice Chair. The Vice Chair shall perform the duties of the Chair when ~~Chair is~~ absent or unavailable, and shall perform such other duties as may, from time to time, be assigned by the Chair of the Council.

ARTICLE IV

Meetings, Voting and Public Hearings

Section 1. Regular Meetings. Regular meetings of the Council shall be ~~the first and third Monday in each month held monthly.~~ Meetings of standing committees and ad hoc committees shall be held as required to perform their functions at times and places to be determined by the Council, or, with Council approval by appropriate committee chairpersons. Notice ~~and agenda for all regular meetings shall be provided in accordance with all requirements of the Virginia Freedom of Information Act ("VFOIA"), Va. Code § 2.2-3700, et seq. and this Article of all regular meetings will be included in accordance with established public notice practices the Weekly Agenda.~~ The agenda and all related supporting documentation, and the minutes from the last previous meeting of the Council, shall be ~~mailed.~~ provided to each member at least five (5) days in advance of such meetings. ~~to each member at his/her last known legal address at least five (5) days in advance of such meetings.~~

Section 2. Special Meetings. Special meetings of the council may be called by the Chair ~~by a majority vote of the members of the Council present at a properly called meeting, and are subject to the VFOIA, or by the members of the Council acting in concert.~~ The business of a special meeting shall be limited to the purpose(s) for which it is called. ~~Notice and an agenda for all special meetings shall be provided in accordance with all requirements of the VFOIA and this Article, and normally at least forty-eight (48) hours prior to a special meeting.~~ Adequate notice, normally at least forty-eight (48) hours, shall be given for all special meetings.

Section 3. Compliance with the VFOIA. All meetings of the Council and its committees shall be open to the public except as provided under the VFOIA. Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to the VFOIA or other Virginia law, as a body or entity, or as an informal assemblage of as many as three members of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

~~Section 3. Open Meetings. All meetings of the Council and its committees are open to the public.~~

Section 4. Minutes. Minutes of each Council meeting shall be taken and shall be reviewed, corrected and approved by the ~~C~~ouncil at its next regular meeting. Summary minutes of all committee meetings shall be taken and distributed to all members of the Council.

Section 5. Quorum. A simple majority of the members of the Council shall constitute a quorum for all regular and special meetings of the Council.

Section 6. Voting. Each member of the Council shall be entitled to one (1) vote. Except as otherwise provided in the Bylaws, actions of the Council or standing committees of the Council

shall be taken by majority vote of all members present. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Council members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or, with the exception of the election of officers, by proxy

Section 7. Abstentions. Abstentions require identification of person(s) abstaining, who may state their reason for not voting.

Section 8. Public Hearings. The Council may conduct such public hearings as it deems necessary, giving public notice of any hearing at least fifteen (15) days in advance.

Section 9. Attendance. Any Council member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Council without good cause acceptable to a majority of the other Council members may be subject to removal from the Council. Any Council member who misses twenty-five percent (25%) of the regularly scheduled meetings on an unexcused basis in any given six (6) month period shall be commended to the Appointing Supervisor for removal from the Council.

Section 10. Removal. Any Council member(s) may be recommended to the Board of Supervisors for removal from the Council for cause, including but not limited to cause as set forth in Section 9, by a two-thirds (2/3) majority vote of all Council members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Council as provided by law.

ARTICLE V

Committees

Section 1. Standing Committees. The Council may establish ~~shall have~~ standing committees and, from time to time, other committees as authorized under this Article. The committee structure shall be reconsidered periodically.

Section 2. Ad Hoc Committees. The Council may create ad hoc committees of Council members to deal with specific concerns or questions. Each ad hoc committee will keep the Council informed of its progress and will report upon completion of its assigned tasks, whereupon such committee will cease to exist unless extended by the Council.

Section 3. Appointments. Appointments of Council members to standing and other committees shall be made by the Chair. Selection of the Chair of a committee may be by the Council Chair or delegated to the committee.

Section 4. Council Consultations. The Council may appoint persons other than Council members to advise the Council in its work as deemed appropriate.

Section 5. Meetings Requirements and Committee Composition. All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members.

ARTICLE VI

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Compliance with Law and County Policy

The Council shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 et seq., as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

~~ARTICLE VI~~

~~Procedures~~

~~In all matters of parliamentary procedures not sufficiently covered by the Bylaws, the most recent edition of Roberts Rules of Order shall take precedence.~~

~~ARTICLE VII~~

Parliamentary Authority

In all matters of parliamentary procedures not sufficiently covered by the Bylaws, the most recent edition of *Roberts Rules of Order* shall take precedence.

~~ARTICLE VIII~~

Amendment of Bylaws

Amendment of these bylaws requires the affirmative vote of two-thirds of the members of the Council then serving and ~~ratification approval~~ by the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

~~ARTICLE IX~~

Effective Date

These bylaws replace and supersede the Council's bylaws adopted on June 9, 1997, and are effective as of [insert date of these bylaws' adoption by the Board of Supervisors].

These bylaws of the Human Services Council were approved by the Board of Supervisors of Fairfax County, Virginia during a regular meeting held on [INSERT DATE OF BOARD MATTER].

~~ARTICLE VIII~~

Effective Date

The effective date of these bylaws shall be _____.

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Bylaws of Fairfax County Human Services Council

Article I
Name of the Council

The name of this body is the Fairfax County Human Services Council, hereinafter referred to as the Council.

ARTICLE II
Auspices, Responsibilities and Duties

Section 1. Auspices. The Council was created by the Board of Supervisors on June 6, 1988, to advance interests of the Board in purposes set forth in the December 1987 Final Report to the Fairfax County Goals Advisory Commission. The Council is committed to promoting equity in the formation of public policy that results in all residents – regardless of age, race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status or neighborhood of residence or other characteristics – having opportunity to participate fully in the region's economic vitality, contribute to its readiness for the future, and connect to its assets and resources.

Section 2. General Charge. The Council, serving as the Board of Supervisors' primary citizens advisory body for human services, shall:

- Serve as a conduit for community engagement regarding needs, effectiveness and efficiency of the human services delivery system and continuum of care.
- In collaboration with county staff and other appointed boards, authorities and commissions focused on aspects of the human services system, recommend service delivery goals, objectives, budgets and priorities.
- Support efforts to educate the community about the human services system.
- Review human services needs and assess the effectiveness of the human services delivery system.
- Conduct additional activities as directed by the Board of Supervisors.

Section 3. Staff Support. Staff support required for Council activities shall be provided by the Deputy County Executive for Health and Human Services or his/her designee.

Section 4. Resource Persons. The Council, at its discretion, may seek the assistance of such expert advisors or other uniquely qualified resource persons as advisors, as required to carry out its responsibilities, in accordance with County rules and regulations.

ARTICLE III
Membership

Section 1. Membership. The Council shall consist of members appointed by the Board of Supervisors, with two (2) appointees nominated by each District Supervisor and two (2) appointees nominated by the Chairman of the Board of Supervisors.

Section 2. Terms of Office. The term of office, as determined by the Board of Supervisors, is four (4) years. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

Section 3. Resignation and Vacancies. In the event a member cannot serve or resigns from office, then the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Section 4. Officers. The officers of the Council shall consist of a Chair and Vice Chair.

Section 5. Election of Officers. Officers shall be elected for two-year terms by a simple majority of the Council members. Officers shall be elected by the Council at the first regular meeting after July 1 every other year and shall take office at the conclusion of the meeting during which the election is conducted. Officers may serve no more than two consecutive terms in office. If an office becomes vacant it shall be filled by an election at the next regular Council meeting with a majority of members present. The newly elected replacement officer shall complete the unexpired term of the officer succeeded, and may complete two additional full terms if elected.

Section 6. Responsibilities of Chair. The Council Chair shall preside at all meetings of the Council; create or dissolve ad hoc committees as needed; appoint chairpersons and members to committees with the concurrence of the Council; and exercise all rights and functions usually prescribed for this office including management of Council responses to special requests from the Board of Supervisors.

Section 7. Responsibilities of Vice Chair. The Vice Chair shall perform the duties of the Chair when the Chair is absent or unavailable, and shall perform such other duties as may, from time to time, be assigned by the Chair of the Council.

ARTICLE IV Meetings, Voting and Public Hearings

Section 1. Regular Meetings. Regular meetings of the Council shall be held monthly. Meetings of standing committees and ad hoc committees shall be held as required to perform their functions at times and places to be determined by the Council, or, with Council approval, by appropriate committee chairpersons. Notice and an agenda for all regular meetings shall be provided in accordance with all requirements of the Virginia Freedom of Information Act ("VFOIA"), Va. Code § 2.2-3700, *et seq.* and this Article. The agenda, all related supporting documentation, and the minutes from the last previous meeting of the Council, shall be provided to each member at least five (5) days in advance of such meetings.

Section 2. Special Meetings. Special meetings of the Council may be called by the Chair or by a majority vote of the members of the Council present at a properly called meeting, and are subject to the VFOIA. The business of a special meeting shall be limited to the purpose(s) for which it is called. Notice and an agenda for all special meetings shall be provided in accordance with all requirements of the VFOIA and this Article, and normally at least forty-eight (48) hours prior to a special meeting.

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Section 4. Minutes. Minutes of each Council meeting shall be taken and shall be reviewed, corrected and approved by the Council at its next regular meeting. Summary minutes of all committee meetings shall be taken and distributed to all members of the Council.

Section 5. Quorum. A simple majority of the members of the Council shall constitute a quorum for all regular and special meetings of the Council.

Section 6. Voting. Each member of the Council shall be entitled to one (1) vote. Except as otherwise provided in the Bylaws, actions of the Council or standing committees of the Council shall be taken by majority vote of all members present. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Council members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or, with the exception of the election of officers, by proxy.

Section 7. Abstentions. Abstentions require identification in the minutes of person(s) abstaining, who may state their reason for not voting.

Section 8. Public Hearings. The Council may conduct such public hearings as it deems necessary, giving public notice of any hearing at least fifteen (15) days in advance.

Section 9. Attendance. Any Council member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Council without good cause acceptable to a majority of the other Council members may be subject to removal from the Council.

Section 10. Removal. Any Council member(s) may be recommended to the Board of Supervisors for removal from the Council for cause, including but not limited to cause as set forth in Section 9, by a two-thirds (2/3) majority vote of all Council members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Council as provided by law.

ARTICLE V Committees

Section 1. Standing Committees. The Council may establish standing committees and, from time to time, other committees as authorized under this Article. The committee structure shall be reconsidered periodically.

Section 2. Ad Hoc Committees. The Council may create ad hoc committees of Council members to deal with specific concerns or questions. Each ad hoc committee will keep the Council informed of its progress and will report upon completion of its assigned tasks, whereupon such committee will cease to exist unless extended by the Council.

Section 3. Appointments. Appointments of Council members to standing and other committees shall be made by the Chair. Selection of the Chair of a committee may be by the Council Chair or delegated to the committee.

Section 4. Council Consultations. The Council may appoint persons other than Council members to advise the Council in its work as deemed appropriate.

Section 5. Meetings Requirements and Committee Composition. All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members.

ARTICLE VI
Compliance with Law and County Policy

The Council shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE VII
Parliamentary Authority

In all matters of parliamentary procedures not sufficiently covered by the Bylaws, the most recent edition of *Roberts Rules of Order* shall take precedence.

ARTICLE VIII
Amendment of Bylaws

Amendment of these bylaws requires the affirmative vote of two-thirds of the members of the Council then serving and approval by the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

ARTICLE IX
Effective Date

These bylaws replace and supersede the Council's bylaws adopted on June, 9, 1997, and are effective as of [insert date of these bylaws' adoption by the Board of Supervisors].

These bylaws of the Human Services Council were approved by the Board of Supervisors of Fairfax County, Virginia during a regular meeting held on [INSERT DATE OF BOARD MATTER].

GIVEN under my hand this ____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

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Fairfax County, Virginia
June 6, 1988

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The question was called on the motion which carried by a vote of seven, Supervisor McConnell being out of the room, Supervisor Alexander being absent.

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ESTABLISHMENT OF THE FAIRFAX COUNTY HUMAN SERVICES COUNCIL

The Board next considered an Item contained in the Memorandum to the Board dated June 6, 1988 requesting authorization to establish the following Fairfax County Human Services Council to provide a comprehensive view of human services needs and ascertain the effectiveness of the service delivery system:

MEMBERSHIP:

18 (Two Representatives appointed by each Board Member).

PURPOSE:

The Human Services Council, as a primary citizen advisory board for human services, shall have the following duties and responsibilities:

- Prepare and submit recommendations to the Board of Supervisors regarding the coordination, organization, policies and general direction of the human services delivery system by January 1, 1989;
- Coordinate with governing and advisory boards of existing human services organizations;
- Within the limitations of data on human services organizations, report on the condition and effectiveness of the human services delivery system on an annual basis;
- Recommend annual service delivery goals and priorities for human services organizations, coordinating these goals and priorities with requirements from

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non-County funding sources for human services organizations; this responsibility will be documented in a five-year long range/comprehensive plan which the Council will oversee;

- Oversee the implementation of the Human Services Long-Range Plan;
- Identify and assess the duplication of services;
- Enhance coordination of services among human services providers, both public and private; and
- In consultation with the Board of Supervisors, perform educational functions within the community relative to public human services and needs.

COMPENSATION:

\$50.00 per meeting.

DURATION:

The Human Services Council is proposed as a standing advisory board to the Board of Supervisors.

STAFF:

Verdia L. Haywood,
Deputy County Executive for Human Services.

STAFF SUPPORT:

Staff support will be provided by County agencies through the Deputy County Executive for Human Services; an additional position (Human Resource Planner/Council Coordinator) is proposed to assure adequate staff support to the Council.

Supervisor Pennino moved that the Board concur in the recommendation of staff and establish the above-stated Fairfax County Human Services Council to

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June 6, 1988

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provide a comprehensive view of human services needs and ascertain the effectiveness of the service delivery system and that appointments by Board Members be made as expeditiously as possible. This motion was seconded by Supervisor Hyland.

Supervisor Hyland stated that the Board had previously agreed to make these appointments prior to July 1, 1988.

The question was called on the motion which carried by a vote of seven. Supervisor McConnell being out of the room, Supervisor Alexander being absent.

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Memo to the Board

June 6, 1988

C-3. Establishment of the Fairfax County Human Services Council.

ISSUE: Board of Supervisors' consideration of a Human Services Council as a citizen advisory board for all human services, both public and private.

TIMING: Board consideration on June 6, 1988, so that appointments can be made effective July 1, 1988.

BACKGROUND: On January 11, 1988, the Board established Goals Commission presented its report to the Board of Supervisors. The Goals Commission recommended among other items that:

1. The Board of Supervisors develop a comprehensive Human Services Plan, by August 31, 1988, to: establish, review, coordinate and evaluate human services needs, resource requirements, funding allocations, and priorities across all human services agencies, both public and private.
2. The Board of Supervisors establish a Human Services Council by March 31, 1988. The Council should be comprised of citizens and representatives of public and private agencies which provide human services. The Council should be charged with:
 - o the oversight of the development of a comprehensive Human Services Plan by August 31, 1988;
 - o the coordination of plans, priorities, and efforts of all human services agencies, both public and private;
 - o the monitoring of the implementation of the Human Services Plan.
3. The Council should utilize appropriate staff from the agencies under the direction of the Deputy County Executive for Human Services and the Office of Comprehensive Planning.

The Board of Supervisors at its retreat on March 18 and 19, 1988, stated its intent to move forward with the establishment of a Human Services Council effective July 1, 1988. To facilitate the formal establishment of the Council,

June 6, 1988

the Board requested on May 2, 1988, that staff prepare the appropriate Consideration item under Procedural Memorandum Number 95, Procedures for Staff Review of the Creation of New Citizen Advisory Groups.

DISCUSSION: Policy making and administration for Human Services consist of a wide variety of arrangements among all three levels of government and community-based efforts. The result of this process is the establishment of a multitude of agencies targeted on a wide array of human services needs. There is no organized system of coordination, nor is there an effective monitoring system.

The need for an improved, cost effective and coordinated delivery system is shared by private organizations in the County. Private organizations also share funding responsibilities for human services programs and share clients with County agencies. Therefore, a mechanism is needed to systematically plan, coordinate, assess and monitor human resources needs across service areas. The proposed Human Services Council operating as a primary citizen advisory board for all human services is the proposed mechanism.

The Human Services Council as proposed will provide a comprehensive view of human service needs and will ascertain the effectiveness of the service delivery system.

CREATION: The Human Services Council, as a primary citizen advisory board for human services, shall have the following duties and responsibilities:

- o Prepare and submit recommendations to the Board of Supervisors regarding the coordination, organization, policies, and general direction of the human services delivery system by January 1, 1989.
- o Coordinate with governing and advisory boards of existing human services organizations.
- o Within the limitations of data on human services organizations, report on the condition and effectiveness of the human services delivery system on an annual basis.
- o Recommend annual service delivery goals and priorities for human services organizations, coordinating these goals and priorities with requirements from non-County funding sources for human services organizations. This responsibility will be documented in a five-year long range/comprehensive plan which the Council will oversee.

June 6, 1988

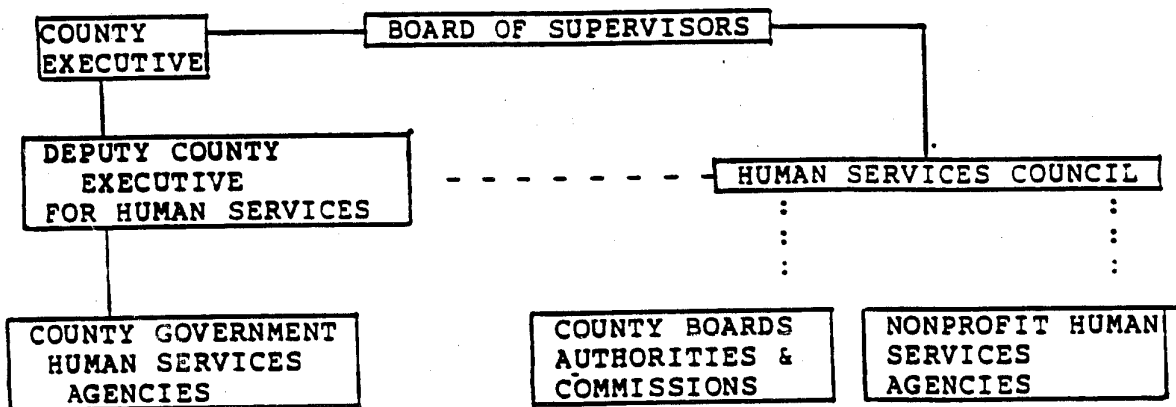
- o Oversee the implementation of the Human Services Long-range Plan.
- o Identify and assess the duplication of services.
- o Enhance coordination of services among human services providers, both public and private.
- o In consultation with the Board of Supervisors, perform educational functions within the community relative to public human services and needs.

DURATION: The Human Services Council is proposed as a standing advisory board to the Board of Supervisors.

COMPENSATION: Under existing Board policy, the Human Services Council would be in compensation Group II, at a rate of \$50 a meeting.

SUPPORT: Staff support will be provided by County agencies through the Deputy County Executive for Human Services. An additional position, a Human Resource Planner/Council Coordinator, is proposed to assure adequate staff support to the Council. The following organizational chart provides an illustration of the proposed support structure to the Council:

HUMAN SERVICES COUNCIL



: Provide Input

- - Provide Input, Staff and Resources

June 6, 1988

BUDGET: It is estimated that approximately \$66,000 will be required to compensate council members for meetings attended under the Board policy for compensation of Boards, Authorities, Commissions, and Advisory Groups; and to fund the proposed Planner/Council Coordinator position to support the Council's activities.

COMPOSITION: The Board of Supervisors has established that the Council shall be composed of eighteen members, two appointees by each member of the Board of Supervisors.

DISCLOSURE: In accord with the criteria set forth in Fairfax County Code Section 3-5-2, the members of the Human Services Council should be required to file a disclosure statement of personal interest. This will require an amendment to County Code Section 3-5-2(a)(2). If the Board establishes the Council, an amendment will be forwarded to the Board to accomplish the disclosure requirements.

ENCLOSED DOCUMENTS: None.

STAFF: J. Hamilton Lambert, County Executive; Verdia L. Haywood, Deputy County Executive for Human Services.

RESOLUTION
STATING THE PURPOSES, MEMBERSHIP, AND PROCEDURES OF THE FAIRFAX
COUNTY HUMAN SERVICES COUNCIL

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia ("Board"), held in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on June 8, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, on June 6, 1988, the Board established the Fairfax County Human Services Council ("Council"), and

WHEREAS, the Board established the Council to provide a comprehensive view of human service needs and ascertain the effectiveness of the service delivery system, and

WHEREAS, the Board has authority to establish the Council under Virginia Code § 15.2-1411, and

WHEREAS, it is appropriate for the Board to adopt a resolution restating the purposes, membership, and procedures of the Council,

NOW THEREFORE BE IT RESOLVED that the Council is authorized to function under the following provisions:

§ 1. PURPOSE. The purpose of the Council shall be to advise the Fairfax County Government, as coordinated through the Fairfax County Department of Health and Human Services, by providing a comprehensive view of human service needs and ascertaining the effectiveness of the service delivery system. In pursuance of this purpose, the Council shall:

- (A) Serve as a conduit for community engagement regarding needs, effectiveness and efficiency of the human services delivery system and continuum of care.
- (B) In collaboration with county staff and other appointed boards, authorities and commissions focused on aspects of the human services system, recommend service delivery goals, objectives, budgets and priorities.
- (C) Support efforts to educate the community about the human services system.
- (D) Review human services needs and assess the effectiveness of the human services delivery system.
- (E) Conduct additional activities as directed by the Board of Supervisors.

§ 2. MEMBERSHIP. The membership of the Council shall conform to the following:

- (A) The Council shall consist of members appointed by the Board of Supervisors, with two (2) appointees nominated by each District Supervisor and two (2) appointees nominated by the Chairman of the Board of Supervisors.
- (B) Once appointed, members of the Council shall serve terms of (4) years.

47
48 **§ 3. PROCEDURES.** The Council shall determine its own rules of procedure subject to the
49 following:

50
51 (A) The Council shall have bylaws. All bylaws of the Council are subject to the
52 approval of the Board.

53
54 (B) The Council shall comply with all Virginia laws, including, but not limited to, the
55 Virginia Freedom of Information Act, Va. Code § 2.2-3700, *et. seq.*, as amended (“VFOIA”), and
56 the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100, *et*
57 *seq.*, as amended, with all County ordinances, and with all County policies concerning the
58 activities of its boards, authorities, and commissions.

59
60 (C) The Fairfax County Department of Health and Human Services shall provide
61 support to the Council, including a staff coordinator. The staff coordinator shall ensure compliance
62 with the notice, meetings, and recordkeeping requirements of the VFOIA.

63
64
65 GIVEN under my hand this _____ day of _____, 2021.

66
67
68 _____
69 Jill G. Cooper
70 Clerk for the Board of Supervisors
71 Department of Clerk Services

Board Agenda Item
June 8, 2021

CONSIDERATION - 2

Approval of the Proposed Amended Bylaws for the Transportation Advisory Commission

ISSUE:

Consideration of the Amendments to the Bylaws for the Transportation Advisory Commission (TAC).

TIMING:

Board of Supervisors' consideration is requested on June 8, 2021, so these updated bylaws can be applied.

BACKGROUND:

The TAC was established by the Board of Supervisors on December 4, 1989. The original *Bylaws and Procedures* were adopted on March 20, 1990, and amended on August 6, 1991, by the TAC (Attachment 2). The bylaws have remained unchanged since that time.

On February 10, 2020, the Clerk for the Board of Supervisors distributed a copy of updated Model Bylaws for use by Boards, Authorities, and Commissions to comply with all Virginia laws, County ordinances, and County policies. The TAC discussed modifications to the Bylaws in early 2020 and approved the revised Bylaws at its August 18, 2020, meeting. Due to changes to the TAC membership, the TAC reviewed the draft Bylaws again in 2021, and no additional changes were recommended. These and future Bylaws will require Board approval in accordance with the Model Bylaws' provisions.

Proposed modifications to the TAC Bylaws include, but are not limited to:

- Including a representative from the Fairfax Area Disability Services Board among the members of the TAC.
- Allowing a member who completes his or her term of office to continue to serve until such time as the member is reappointed or a successor member is appointed, provided they remain qualified to serve.
- Adding a provision allowing the longest tenured member of the TAC to act as Chairperson during a scheduled meeting, if the Chairperson, Vice Chairperson or Secretary is not available. Currently, the Chairperson or Vice-Chairperson appoints a temporary Chair if neither was able to attend or act.

Board Agenda Item
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- Adding language that states the TAC will prepare an annual report that describes the actions and accomplishments of the Commission over the preceding calendar year.
- With a two-thirds vote, the TAC may recommend to the Board of Supervisors that a member be removed from the TAC for cause, including but not limited to missing three consecutive regular meetings or more than half of the regularly scheduled meetings within a 12-month period, or failing to participate in the work of the Commission without good cause. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.
- Updating references to note compliance with Virginia and Fairfax County law, including the Virginia Freedom of Information Act.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

ENCLOSED DOCUMENTS:

ATTACHMENT 1 – Proposed Bylaws of the Transportation Advisory Commission – Approved by the TAC on August 18, 2020

ATTACHMENT 2 – Current Bylaws and Procedures of the TAC – Amended in 1991

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

Brent Riddle, Coordination and Funding Division, FCDOT

Calvin Lam, Coordination and Funding Division, FCDOT

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

BYLAWS OF THE TRANSPORTATION ADVISORY COMMISSION

ARTICLE I – NAME

The name of this organization is the Transportation Advisory Commission, hereinafter referred to as the “Commission.”

ARTICLE II – PURPOSE

The Commission was established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”) effective December 4, 1989, pursuant to Virginia law, for the purpose of providing advice and counsel to the Board of Supervisors on major transportation matters and issues.

These bylaws replace and supersede the Commission bylaws adopted on March 20, 1990 and amended on August 6, 1991 and are effective as of October 6, 2020.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments

Membership and appointments to the Commission shall be made by the Board of Supervisors. Each magisterial district supervisor shall appoint one member and the Chairperson of the Board of Supervisors shall appoint a single at-large member. One member of the Fairfax Area Disability Services Board shall also serve as a member of the Commission with all responsibilities and privileges of Board-appointed members. The Disability Services Board shall select which member will serve on the Commission, subject to the review and approval of the Board of Supervisors. All members of the Commission will serve for terms of two (2) years beginning July 1.

Resignations and Vacancies

In the event a member cannot serve or resigns from office, then the Chairperson, the Secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing. Once this vacancy is filled, the newly appointed member shall complete the unexpired term of the member succeeded.

Holdovers

In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES**Elections**

The Commission shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson shall be elected in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled by the August meeting of each calendar year. One month prior to the election meeting, a slate of candidates for Chairperson shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as Chairperson of the Commission. At the election meeting, the Chairperson shall be elected from among the willing nominees in accordance with the voting provisions of Article V. Following the election of the Chairperson, that Chairperson shall nominate candidates for the Vice Chairperson and Secretary. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Commission. The Vice Chairperson and Secretary shall then be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson

The Chairperson presides over meetings of the Commission and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Commission members and to request assistance from the County staff supporting the Commission.

Vice-Chairperson

In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson.

Secretary

The Secretary, or an appointed representative (which may be a member of the Commission), shall be responsible for recording the minutes of meetings. In the event that neither the Chairperson nor the Vice-Chairperson is available, the Secretary shall act as Chairperson.

Order of Succession

In the event that neither the Chairperson, the Vice-Chairperson, nor the Secretary is available, the longest tenured member of the Commission shall act as Chairperson.

Replacement Officers

If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly-elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election at least of a week before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS**VFOIA**

All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Commission may hold public hearings and report its findings to the Board of Supervisors on Commission issues that affect the public interest.

Notice and Agenda

Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Commission members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency

The Commission shall meet not more than two times monthly as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Commission's members, and at a place arranged by the staff of the supporting County department.

Voting

A quorum is necessary for a vote. A majority of the membership of the Commission shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Commission members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Commission members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct

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

Public Access

For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Commission members shall be made available for public inspection at the same time such documents are furnished to the

Commission members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Commission proceedings.

Records

The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege

Records containing legal advice from counsel to the Commission, and advice provided in closed session by legal counsel to the Commission, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Commission to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Commission's legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Commission member who misses three consecutive regular meetings or more than half of the scheduled regular meetings within a 12-month period, or who fails to participate in the work of the Commission without good cause acceptable to a majority of the other Commission members may be subject to removal from the Commission.

ARTICLE VII - REMOVAL

Any Commission member(s) may be recommended to the Board of Supervisors for removal from the Commission for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Commission members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.

ARTICLE VIII – COMMITTEES

The Chairperson may appoint standing or special committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the committee

163 Chairperson or at the request of two committee members, with notice to all committee
164 members.

165 **ARTICLE IX – ANNUAL WORK PLAN AND REPORT**

166
167 The Commission shall submit an annual written work plan by the end of March of the
168 year in question that describes the recommended major topics and corresponding
169 schedule of activities to be undertaken by the Commission over the subsequent calendar
170 year for review and approval of the Board of Supervisors. The Commission shall also
171 prepare an annual report that describes the actions and accomplishments of Commission
172 over the preceding calendar year by the end of February the succeeding year. The annual
173 work plan and annual report shall be provided to the Clerk of Board of Supervisors for
174 distribution to the Board of Supervisors and the County Executive.

175 **ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY**

176
177 The Commission shall comply with all Virginia laws, including, but not limited to, the
178 VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia
179 Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County
180 policies concerning the activities of its boards, authorities, and commissions. In case of a
181 conflict between a provision of these bylaws and any applicable ordinance or law, the
182 provisions of the applicable ordinance or law, as the case may be, shall control.

183 **ARTICLE XI – AMENDMENT OF BYLAWS**

184
185 The Commission may amend these bylaws by adopting proposed amendments(s). Any
186 proposed amendments to the bylaws shall be distributed to the Commission members at
187 least a week before the meeting at which they will considered for approval. Amendments
188 to these bylaws require approval by two-thirds of the members present at a meeting
189 where a quorum is present. The amended bylaws will be presented for approval to the
190 Board of Supervisors and shall become effective upon their approval by the Board.

191
192 **These bylaws were approved by the Board of Supervisors on June 8, 2021.**

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195
196 **GIVEN under my hand this ____ day of _____, 2021.**

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204

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

BYLAWS & PROCEDURES

**Fairfax County, Virginia
TRANSPORTATION ADVISORY COMMISSION**

**ARTICLE I
OBJECTIVE**

1. **ESTABLISHMENT:** The Transportation Advisory Commission (hereinafter referred to as the Commission) was established in accordance with a resolution adopted by the Fairfax County, Virginia, Board of Supervisors (hereinafter referred to as The Board) on December 4, 1989.
2. **PURPOSE:** To advise the Board in transportation-related matters and issues, in accordance with an adopted workplan approved by the Board, and/or as directed by the Board.

**ARTICLE II
MEMBERSHIP**

1. **COMPOSITION AND APPOINTMENT**
 - A. There shall be one member appointed from each magisterial district, and one member appointed at-large.
 - B. The regular terms of members will be two years following initial terms expiring June 30, 1990.
 - C. Vacancies will be filled in the same manner as original appointments. The term will be only for the remaining unexpired portion of that position.

**ARTICLE III
OFFICERS**

1. **COMPOSITION:**
 - A. Chair, Vice Chair, Secretary
2. **ELECTION:**
 - A. Officers will be elected from within the Commission membership, for a one year term, by majority vote, at a regular meeting of the Commission.
 - B. Candidates will be announced one meeting prior to election. A newly constituted Commission will announce candidates no later than its second regularly scheduled meeting.
 - C. Newly elected officers will assume office immediately following election.
 - D. Vacancies in officer positions will be elected by the same procedure as established in these Bylaws for officers election in Article III, Section 2 above.
3. **ORDER OF SUCCESSION:**
 - A. In the temporary absence of, or the inability to act by, the Chair, the Vice Chair will preside and/or act.
 - B. In the temporary absence of, or the inability to act by, the Vice Chair, the Chair or Vice Chair will appoint a temporary Chair.

ARTICLE IV
DUTIES OF OFFICERS

1. CHAIR:

- A. Preside at all meetings.
- B. Appoint Standing and/or Special Committees, subject to approval of majority vote.
- C. Assign Office of Transportation staff (assigned to the Commission) such duties as the Commission directs.
- D. Set meeting dates, and establish agenda for same.
- E. Represent the Commission, or appoint specific members to do so, before the Board.
- F. Prepare and present Commission positions to the Board.
- G. Represent the Commission, or appoint specific members to do so, on or before other Boards, Authorities, and/or Commissions, at the direction of, or with approval of, the Board.
- H. Perform other duties as assigned by the Commission.

2. VICE CHAIR:

- A. Assume the duties and authority of the Chairman in his absence in accordance with these Bylaws.

3. SECRETARY:

- A. Ensure minutes of each meeting are appropriately maintained.
- B. Ensure appropriate Public Notices of Commission meetings are published.
- C. Act as Parliamentarian, advising the Commission in accordance with Roberts Rules of Order. Said rules may be suspended at the discretion of the Chair, unless there is an objection by a Commission member.

ARTICLE V
COMMISSION PROCEDURES

1. QUORUMS and ACTIONS:

- A. A simple majority of the full Commission membership shall constitute a quorum for regular meetings except as provided in Article V, Section 1B.
- B. A two-thirds majority of the full Commission membership shall constitute a quorum for actions under Article III, and Article VII of these Bylaws.
- C. No actions shall be taken in the absence of a quorum. Discussions, Document Reviews, Staff Presentations, etc., may be permitted at the discretion of the Chair.
- D. Standing and Special Committees of this Commission shall operate under the same rules as the full Commission.

2. REGULAR MEETINGS:

- A. The full Commission shall not meet more than two times in one month.
- B. Meeting times and places shall be designated by the Chair.
- C. All meetings shall be open to the public except as provided for in the Freedom of Information Act.

3. MINORITY REPORTS:

- A. On issues and/or matters with a strong minority position, a member may request the minority position be forwarded as an attachment to the Commission Report.
- B. A majority vote at a regular meeting of the Commission will be required to produce said attachment.

**ARTICLE VI
COMMITTEES**

1. STANDING COMMITTEES: Appointed by the Chair for one year terms, subject to approval by majority vote of the Commission. A Chair and Vice Chair shall be elected by the Committee members at the initial meeting. All Committee meetings will be announced, and open to the public except as provided for in the Freedom of Information Act. As appropriate, status reports will be presented to the full Commission.

- Standing Committees should include:

A. PLANNING COMMISSION LIAISON COMMITTEE: Consisting of three members to serve as the primary point of contact with the Planning Commission.

2. SPECIAL COMMITTEES: Appointed by the Chair for ad hoc purposes, approved by majority vote of the Commission at a regular meeting.

3. COMMITTEE CHAIRS: Any member of the Commission may serve as Chair of a Committee regardless of other offices held.

**ARTICLE VII
AMENDMENTS AND VALIDATION**

1. These rules may be amended, or modified, by a recorded two-thirds affirmative vote of the Commission. Said amendments must be provided to Commission members, in writing, at least two weeks prior to that vote.

2. Proposed amendments are subject to further amendment at the meeting at which said vote is taken.

3. Nothing in the foregoing Bylaws and Procedures shall be deemed as invalidating any official business transacted by the Commission prior to the approval and adoption of these Bylaws and Procedures.

4. The foregoing Bylaws and Procedures shall become effective upon an affirmative two-thirds vote of the Commission at a regularly scheduled meeting.

Adopted by the Transportation Advisory Commission on March 20, 1990.

Amended by the Transportation Advisory Commission on August 6, 1991.

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. *James M. Moore v. Fairfax County Government*, Jurisdiction Claim No. VA02000000475 (Va. Workers' Comp. Comm.)
 - 2. *Bruce & Tanya and Associates, Inc. v. Board of Supervisors of Fairfax County, Virginia; Fairfax County, Virginia; Jack Weyant, Director of the Department of Code Compliance; Virginia Department of Transportation; and Stephen Brich, Commissioner of Highways for the Commonwealth of Virginia*, Case Nos. 19-1151 and 19-1153 (Fourth Cir.) (Braddock, Lee, Mount Vernon, and Springfield Districts)
 - 3. *Tyson's West Retail, LLC v. Board of Supervisors of Fairfax County, Virginia*, Case Nos. CL-2020-0017476, CL-2020-0017477, and CL-2020-0017478 (Fx. Co. Cir. Ct.) (Hunter Mill District)
 - 4. *Abrar Omeish v. Sheriff Stacey Ann Kincaid, Officer J. Patrick, and David M. Rohrer*, Case No. 1:21-cv-35 (E.D. Va.)
 - 5. *Samira Koussa v. Edwin C. Roessler Jr., and John Doe Officers*, Case No. CL-2020-0010604 (Fx. Co. Cir. Ct.)
 - 6. *Barry McCabe v. Fairfax County, Fairfax County Animal Shelter, Fairfax County Board of Supervisors, David Rohrer, Ed Roessler, Anthony Matos, Barbara Hutcherson, Amanda Novotny, and John Doe(s)*, Record Nos. 201283, 201134 (Va. Sup. Ct.)
 - 7. *Cassie C. Crisano v. Fairfax County Fire Marshal, Terrance L. Fayston*, Case No. CL-2019-0012165 (Fx. Co. Cir. Ct.)
 - 8. *County of Fairfax, Virginia, ex rel. Joseph A. Glean v. Fairfax County Board of Supervisors*, Case No. CL-2021-0002883 (Fx. Co. Cir. Ct.)

9. *Mercury County Mutual Insurance Co. a/s/o Glenn Hamby v. Fairfax County, Virginia*; Case No. CL-2020-0016253 (Fx. Co. Cir. Ct.)
10. *Allstate Insurance Company a/s/o Adam Kamran v. Fairfax County Police Dept. and Todd Owens*, Case No. GV21-004713 (Fx. Co. Gen. Dist. Ct.)
11. *Rodger E. Perkins v. Fairfax County Police Dept.*, Case No. GV21-005011 (Fx. Co. Gen. Dist. Ct.)
12. *Hannah Lee v. Lauren Yeung and Fairfax County*, Case No. GV21-003698 (Fx. Co. Gen. Dist. Ct.); *Hee Yun Lee v. Lauren Yeung and Fairfax County*, Case No. GV21-003699 (Fx. Co. Gen. Dist. Ct.)
13. *Abigaille Laxa, by GEICO (subrogee) v. Christin R. Dougherty*; Case No. GV20-003298 (Loudoun Co. Gen. Dist. Ct.)
14. *Amanda Freeman, by GEICO General Insurance Co., subrogee v. Morgan Russell Walker*, Case No. CL-2020-0011547 (Fx. Co. Cir. Ct.)
15. *Majahid Osman, by GEICO (subrogee) v. Morgan Russell Walker*; Case No. GV20-004237 (Fx. Co. Gen. Dist. Ct.)
16. *Great Falls Crossing Community Association, Inc. v. Alan Mandelblat, Board of Supervisors of Fairfax County, Fairfax County Department of Housing and Community Development, Capital One Bank, Great Seneca Financial Corporation, Unifund CCR Partners, Fairfax Oral and Maxillofacial Surgery, PC, and Cavalry Investments, LLC*, Case No. CL-2021-0004351 (Fx. Co. Cir. Ct.) (Hunter Mill District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Milton R. Ruiz and Alicia R. Ruiz*, Case No. CL-2021-0001075 (Fx. Co. Cir. Ct.) (Braddock District)
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Edgardo Rodriguez and Izumi E. Guzman*, Case No. GV21-006105 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
19. *Hiba Aziz, Acting Building Official for Fairfax County, Virginia v. Tuyen Quang Huynh and Minh Nha Thanh Nguyen*, Case No. GV21-005600 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
20. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Alberto Gonzalo Acha*, Case No. GV21-007671 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
21. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Masoud Hashemi*, Case No. GV21-007672 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

22. *Dulles Professional Center Condominium Unit Owners Association, Spectrum Innovative Properties, LLC, McWhorter, LLC, and Mulpuri Properties, LLC v. Board of Supervisors of Fairfax County, Virginia, Fairfax County, Virginia, Stanley Martin Companies, LLC, and JLB Dulles Tech, LLC*, Case No. CL-2018-0011870 (Fx. Co. Cir. Ct.) (Dranesville District)
23. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Izzet Burak Temel*, Case No. GV21-005601 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
24. *Hiba Aziz, Building Official for Fairfax County, Virginia v. William D. Giery and Ruthanne M. Giery*, Case No. GV21-007167 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
25. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Rafael Hernandez Damian*, Case No. GV21-007216 (Fx. Co. Gen. Dist. Ct.) (Lee District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mustafa Amin*, Case No. CL-2020-0015136 (Fx. Co. Cir. Ct.) (Mason District)
27. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Bismillah, LLC*, Case No. CL-2021-0001484 (Fx. Co. Cir. Ct.) (Mason District)
28. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ferdous Hakim and Saliea Hakim*, Case No. CL-2021-0003251 (Fx. Co. Cir. Ct.) (Mason District)
29. *Brian F. Foley, Building Code Official for Fairfax County, Virginia v. Md Kamruzzaman and Moriom Khan*, Case No. GV21-004431 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
30. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Armstrong, Green and Embrey, Inc.*, Case No. GV21-005230 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
31. *Brian Foley, Building Official for Fairfax County, Virginia v. Charbel C. Markhouli and Rita A. Douaihy*, Case No. GV21-005232 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
32. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Jeffrey S. Chown*, Case No. GV21-007842 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
33. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Simple Changes Farm LLC*, Case No. GV21-7843 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
34. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Judy V. Marshall*, Case No. CL-2014-0000688 (Fx. Co. Cir. Ct.) (Providence District)

35. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mahesh B. Patel and Ushaben M. Patel*, Case No. CL-2021-0003401 (Fx. Co. Cir. Ct.) (Providence District)
36. *In Re: March 23, 2021 Hearing of the Board of Supervisors of Fairfax County, Virginia, Samuel Ham v. HHP Holdings, LLC and Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2021-0006069 (Fx. Co. Cir. Ct.) (Springfield District)
37. *In Re: Sidney Harris, Appeal No. 20-02, From the State Building Code Technical Review Board County of Fairfax, Virginia and Hiba Aziz, Building Official for Fairfax County, Virginia v. State Building Code Technical Review Board and Sidney Harris*, Case No. CL 2021-0007643 (Fairfax County Circuit Court) (Springfield District)
38. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Asrat Betew Lulu*, Case Nos. GV21-005576 and GV21-005577 (Fx. Co. Gen. Dist. Ct.) (Sully District)
39. *Hiba Aziz, Acting, Building Official for Fairfax County, Virginia v. Tajinder K. Sharma and Barjinder Kumar*, Case No. GV21-005603 (Fx. Co. Gen. Dist. Ct.) (Sully District)
40. *Board of Supervisors of Fairfax County v. Mr. Bubbles Power Washing Services, LLC*, Case No. GV21-005128 (Fx. Co. Gen. Dist. Ct.) (Lee District)
41. *Board of Supervisors of Fairfax County v. RE/MAX Allegiance*, Case No. GV21-7841 (Fx. Co. Gen. Dist. Ct.) (Providence District)

Board Agenda Item
June 8, 2021

3:30 p.m.

Public Hearing to Amend the Current Appropriation Level in the FY 2021 Revised Budget Plan

ISSUE:

Public Hearing and Board action to adjust the FY 2021 appropriation level to reflect Coronavirus State and Local Fiscal Recovery Funds received through the American Rescue Plan.

RECOMMENDATION:

The County Executive recommends that, after holding a public hearing, the Board approve Supplemental Appropriation Resolution AS 21318 to adjust the *FY 2021 Revised Budget Plan* to reflect Coronavirus State and Local Fiscal Recovery Funds received through the American Rescue Plan.

TIMING:

The public hearing has been advertised for 3:30 p.m. on June 8, 2021. State law allows the Board to act on proposed amendments to the budget on the same day as the public hearing.

BACKGROUND:

On May 18, 2021, the Board of Supervisors authorized staff to advertise a public hearing scheduled to be held on June 8, 2021, regarding the appropriation of emergency funding in the amount of \$111,447,319 through the American Rescue Plan (ARPA) Coronavirus State and Local Fiscal Recovery Funds to respond to the COVID-19 emergency. Total funding of \$222,894,638 will be provided in two tranches, with the first half of the funding provided in May 2021 and the second half provided no earlier than 12 months later. Section 15.2-2507 of the Code of Virginia requires that a public hearing be held prior to Board action. Board approval of an amendment to increase the FY 2021 appropriation level can occur immediately following the public hearing.

ENCLOSED DOCUMENTS:

Attachment 1: Supplemental Appropriation Resolution AS 21318

The *American Rescue Plan (ARPA) Funding Update* was sent electronically on May 14, 2021, and is available online at:

<https://www.fairfaxcounty.gov/budget/sites/budget/files/assets/documents/cares/arpa-funding-update-2021-05-14.pdf>

Board Agenda Item
June 8, 2021

STAFF:

Bryan J. Hill, County Executive
Joseph M. Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Philip Hagen, Deputy Director, Department of Management and Budget

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21318

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 8, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2021, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund 10001 - General Fund

AGENCY

87	Unclassified Administrative Expenses (Nondepartmental)	
	Operating Expenses	\$111,447,319
		<hr/>
		\$111,447,319

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
June 8, 2021

3:30 p.m.

Public Hearing on RZ 2020-LE-013 (Lee Automotive, L.C.) to Rezone from C-6 to I-5 to Permit Industrial Uses with an Overall Floor Area Ratio of 0.29, Located on Approximately 4.39 Acres of Land (Lee District)

This property is located on the E. side of Fort Belvoir and W. side of Backlick Rd., S. of Forest View Dr., and N. of Fullerton Rd. Tax Map 90-4 ((1)) 5B and 5F.

PLANNING COMMISSION RECOMMENDATION:

On May 5, 2021, the Planning Commission voted 10-0 (Commissioners Clarke and Ulfelder were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of RZ 2020-LE-013, subject to the execution of proffered conditions consistent with those dated April 16, 2021, with editorial changes to Proffer 4C and an additional condition for no outdoor servicing of vehicles; and
- Waiver of the major paved trail requirement along the portion of the property that fronts the existing frontage road in favor of the five-foot-wide sidewalk as shown on the GDP and as proffered.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Kelly Posusney, Planner, DPD

Board Agenda Item
June 8, 2021

3:30 p.m.

Public Hearing on SEA 83-D-030-09 (The Madeira School, Inc.) to Amend SE 83-D-030, Previously Approved for a Private School of General Education, to Permit Modifications to Site Design and Development Conditions, Located on Approximately 376.16 Acres of Land Zoned R-E (Dranesville District)

This property is located at 8328 Georgetown Pike, McLean, 22102. Tax Map 20-1 ((1)) 14 and 20-2 ((1)) 1.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2021, the Planning Commission voted 11-0 (Chairman Murphy was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of SEA 83-D-030-09, subject to the proposed development conditions dated May 25, 2021;
- Reaffirmation of a modification of the transitional screening and barrier requirements along all boundaries to that shown on the SEA Plat;
- Reaffirmation of the modification of the trail requirements along Georgetown Pike; and
- Reaffirmation of the waiver of the trail requirement along the Potomac River.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Katelyn Quinn, Planner, DPD

3:30 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Burke Road Realignment – Aplomado Drive to Parakeet Drive (Springfield District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project 2G40-087-003, Burke Road Realignment – Aplomado Drive to Parakeet Drive, in Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On March 9, 2021, the Board authorized advertisement of a public hearing to be held on April 13, 2021, at 2:30 p.m. The Board deferred the public hearing on April 13, 2021, until May 18, 2021, at 4:00 p.m. The Board deferred the public hearing on May 18, 2021, until June 8, 2021, at 3:30 pm.

BACKGROUND:

This project consists of the realignment of Burke Road to eliminate the hazardous curve between Heritage Square Drive and Mill Cove Court and includes replacement of the existing storm drainage pipe at the stream crossing, improving both safety and sight distance, while minimizing roadway flooding. This project also includes the installation of ADA-compliant ramps, pedestrian sidewalk, asphalt trail, and a connection to the existing Liberty Bell Trail along the project length of Burke Road from Aplomado Drive to Parakeet Drive.

Land rights for these improvements are required on thirteen properties, nine of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Street Dedication, Sight Distance, Storm Drainage, Fairfax County Water Authority, Verizon, Virginia Electric and Power Company, and Grading Agreement and Temporary Construction Easements.

Negotiations are in progress with the remaining property owners; however, because

resolution of these acquisitions is not imminent, it may become 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.

FISCAL IMPACT:

Funding is available in Project 2G40-087-000, Spot Program in Fund 40010, County and Regional Transportation Projects. This project is included in the Adopted FY 2022 – FY 2026 Capital Improvement Program (with future Fiscal Years to FY 2031) and is included in the Board's Transportation Priorities Plan (TPP) adopted on January 28, 2014, and as amended on December 3, 2019. No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 4A).

STAFF:

Rachel Flynn, Deputy County Executive

~~Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)~~

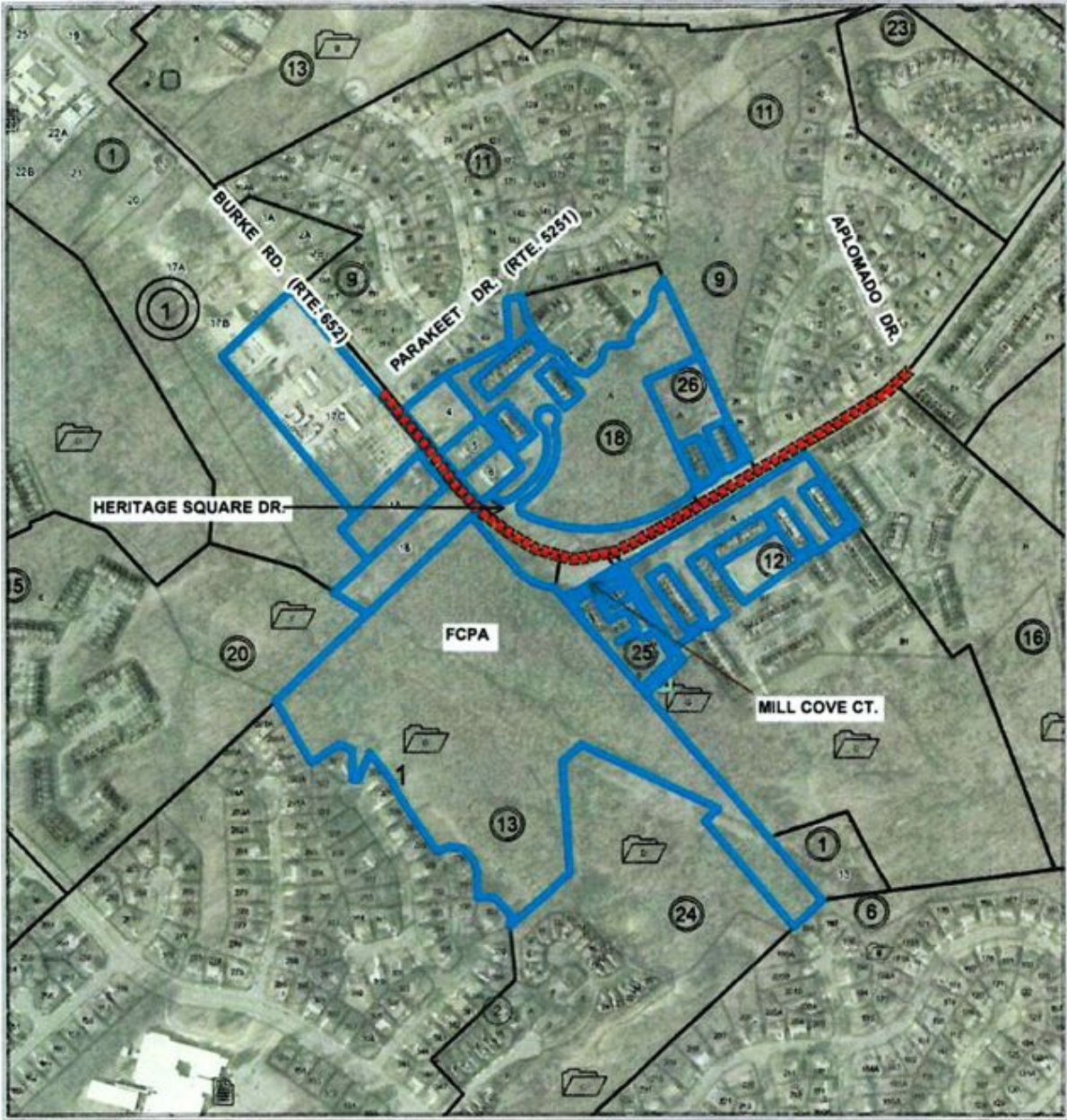
John Kellas, Acting Director, Department of Public Works and Environmental Services (DPWES)

Tom Biesiadny, Director, Department of Transportation

Carey F. Needham, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Pelto, Assistant County Attorney




**BURKE RD REALIGNMENT
APLOMADO DR TO PARAKEET DR**

Project: 2G40-087-003

Tax Map: 078-4

Springfield District

Affected Properties: 

Proposed Improvements: 

0 5 10 20
Miles



ATTACHMENT B

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center on Tuesday, June 8, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project 2G40-087-003, Burke Road Realignment – Aplomado Drive to Parakeet Drive had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than July 30, 2021.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 4A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the realignment of Burke Road to eliminate the hazardous curve between Heritage Square Drive and Mill Cove Court and includes replacement of the existing storm drainage pipe at the stream crossing, improving both safety and sight distance, while minimizing roadway flooding. The

project also includes the installation of ADA-compliant ramps, pedestrian sidewalk, asphalt trail, and a connection to the existing Liberty Bell Trail along the project length of Burke Road from Aplomado Drive to Parakeet Drive as shown and described in the plans of Project 2G40-087-003, Burke Road Realignment – Aplomado Drive to Parakeet Drive on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the Code of Virginia and does hereby authorize and direct the Director, Land Acquisition Division, on or after July 12, 2021, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES

Project 2G40-087-003, Burke Road Realignment – Aplomado Drive to Parakeet Drive
(Springfield District)

	<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER</u>
1.	Darrell C. and Carol A. Marshall, Trustees Address: 9319 Burke Road, Burke VA 22015	078-4-01-0016
2.	Ronald A. and Leta DeAngelis Address: 9401 Burke Road, Burke VA 22015	078-4-01-0017-C
3.	Darrell C. and Carol A. Marshall, Trustees Address: 9325 Burke Road, Burke VA 22015	078-4-01-0018
4.	Heritage Square North HOA Address: Common area at Burke Road @ Heritage Square Drive	078-4-18-0000-A

A Copy – Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 078-4-01-0016

Street Address: 9319 Burke Road, Burke VA 22015

OWNER(S): Darrell C. and Carol A. Marshall, Trustees

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication and Conveyance – 7,133 sq. ft.

Grading Agreement and Temporary Construction Easement – 2,150 sq. ft.

Dominion Virginia Easement – 1,863 sq. ft.

Verizon Easement – 1,863 sq. ft.

Cox Easement – 1,863 sq. ft.

VALUE

Estimated value of interests and damages:

TEN THOUSAND TWO HUNDRED NINETY DOLLARS (\$10,290.00)

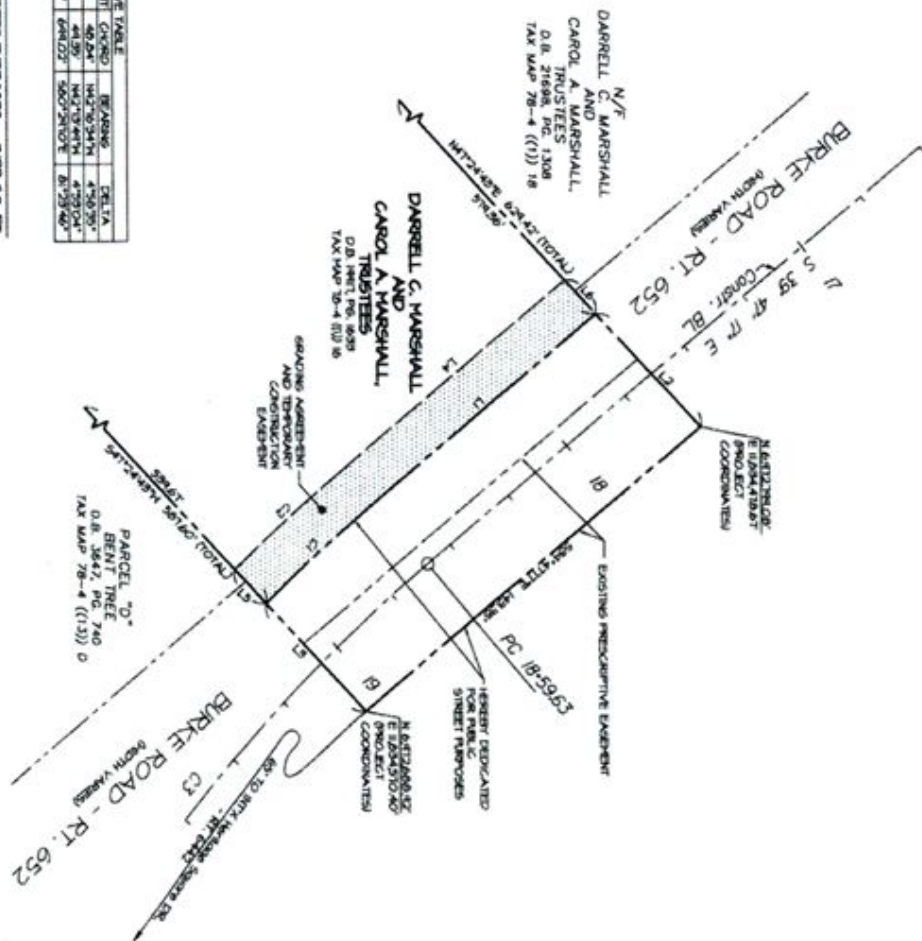
VA STATE ZONE NORTH
VCS 85 NORTH ZONE

V:\2009\15026-03 Burke Rd\PLAT\007\15-026.dwg | Printed on 7/20/2016 3:16 PM | by Jennifer Orr



DEDICATION AREA
DEDICATION FOR PUBLIC STREET PURPOSES = 7,139 SQ. FT.
EASEMENT AREA
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT = 2,150 SQ. FT.

LINE	BEARING	DISTANCE
L1	N0°41'17"W	64.45'
L2	N87°24'43"E	50.00'
L3	S87°24'43"W	41.00'
L4	N0°41'17"E	43.00'
L5	S87°24'43"E	50.00'
L6	N87°24'43"E	64.45'



DEDICATION AREA DETAIL
DEDICATION FOR PUBLIC STREET PURPOSES = 4,300 SQ. FT.
WITHIN PRESCRIPTIVE RIGHT-OF-WAY
DEDICATION FOR PUBLIC STREET PURPOSES = 2,203 SQ. FT.
OUTSIDE PRESCRIPTIVE RIGHT-OF-WAY

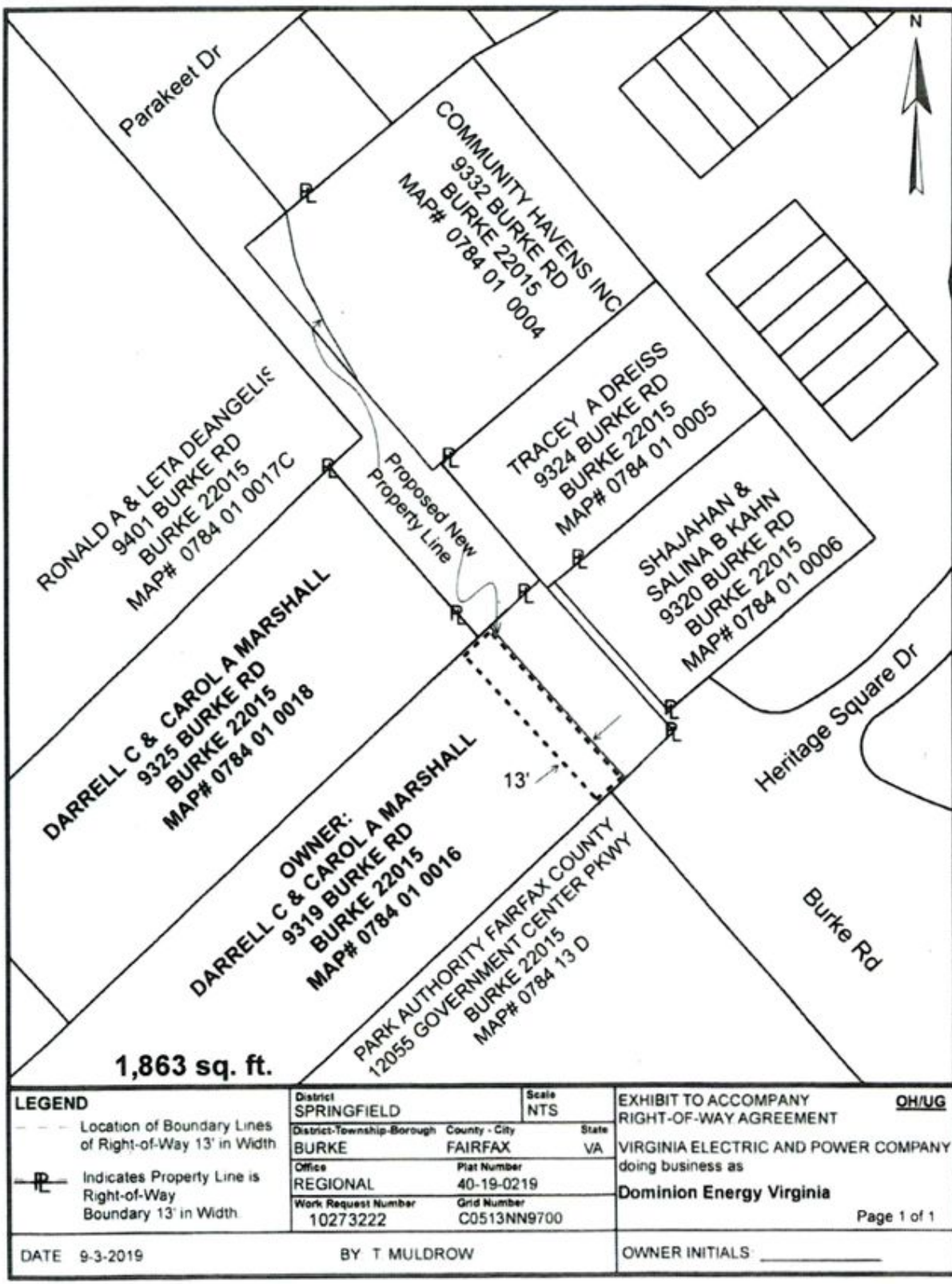


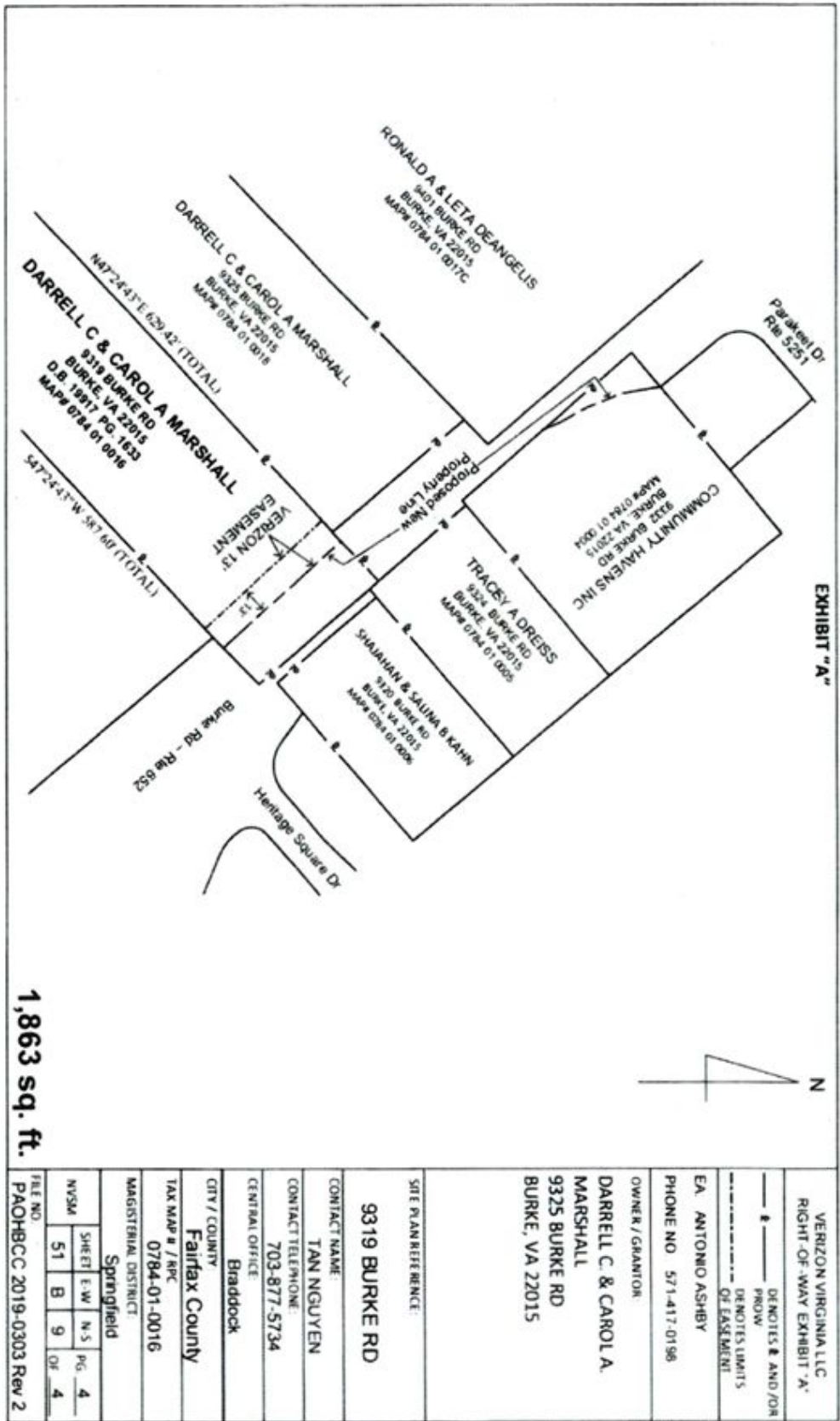
NOTES:
THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE
NECESSARILY SHOWN HEREON.
THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE
BLOCK HEREON AND RECORDED AMONG THE LAND RECORDS OF
FAIRFAX COUNTY, ALL EASEMENTS AND ENCUMBRANCES OF
RECORD ARE SHOWN AS THEY APPEAR ON THE ORIGINAL TRACT AS
DESCRIBED AND SHOWN ON THIS PLAT.
THE INFORMATION SHOWN ON THIS PLAT WAS OBTAINED FROM EXISTING
LAND RECORDS AND DOES NOT REPRESENT THE RESULTS OF AN
ACTUAL FIELD SURVEY.
ALL UNRECORDED EASEMENTS, RIGHTS-OF-WAY, EASEMENTS, OR OTHER
INTERESTS OF THE COUNTY SHALL REMAIN IN FULL FORCE AND EFFECT
UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT
MAP 15-4-01116.

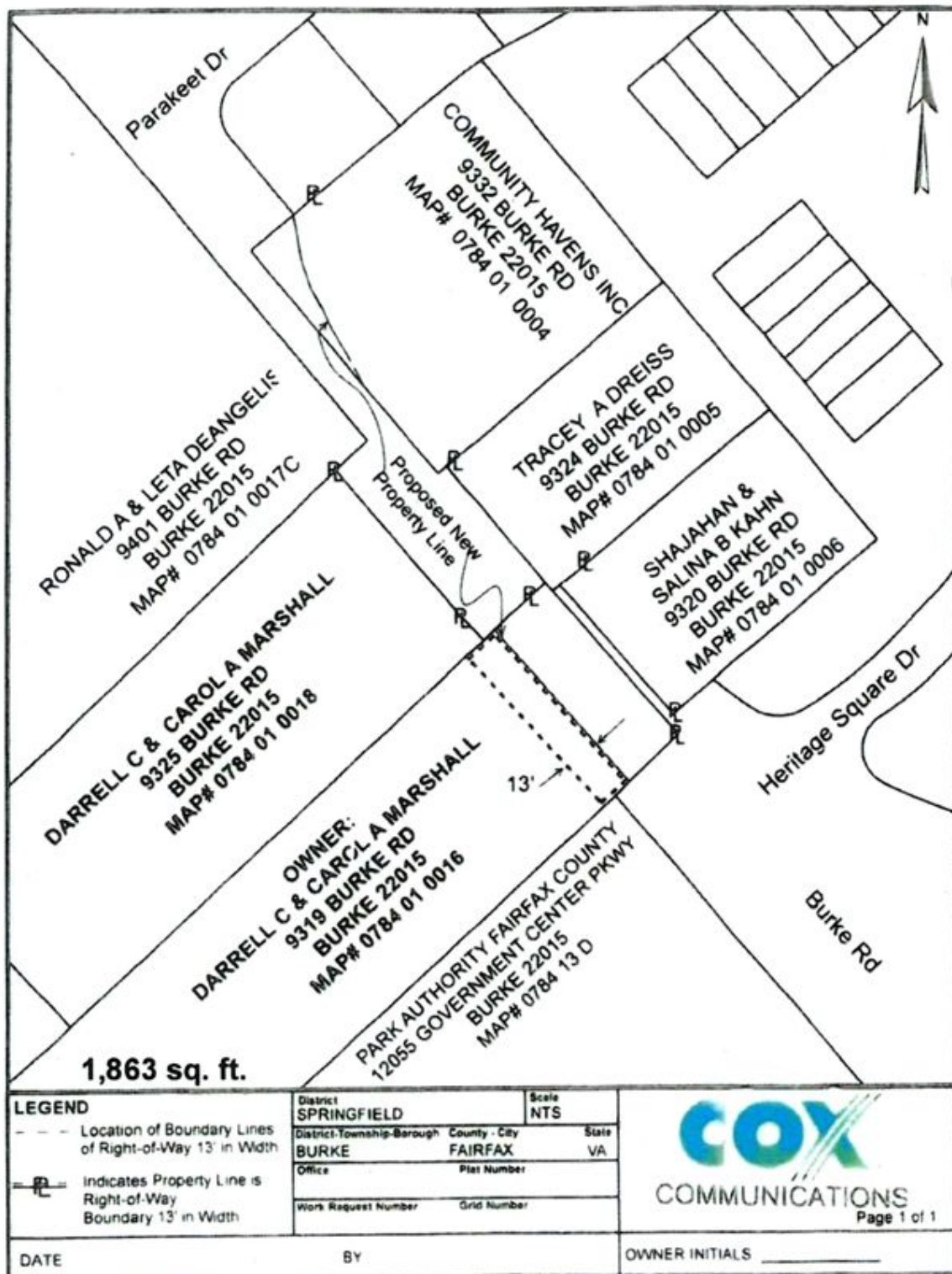
FAIRFAX COUNTY VIRGINIA
DEPARTMENT OF PUBLIC WORKS
1 ENVIRONMENTAL SERVICES
CIVIL ENGINEERING SECTION
15000 GORDON CENTER DRIVE
FAIRFAX, VIRGINIA 22033
SHEET 1 OF 1

PROJECT NUMBER: 2640-001-003
DRIVE
BURKE ROAD - ATLANTIC DRIVE TO PARADE
AND
TEMPORARY CONSTRUCTION EASEMENT
FOR THE PROPERTY OF
DARRELL C. MARSHALL
AND
CAROL A. MARSHALL
TRUSTEES
PREPARED BY: JENNIFER ORR
FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=20' DATE: 7/20/16 DRAWN BY: JLO







ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Number: 078-4-01-0017-C

Street Address: 9401 Burke Road, Burke VA 22015

OWNER(S): Ronald A. and Leta DeAngelis

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication and Conveyance – 18,684 sq. ft.

Grading Agreement and Temporary Construction Easement – 6,469 sq. ft.

VALUE

Estimated value of interests and damages:

SIXTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$63,500.00)



ATTACHMENT 3

AFFECTED PROPERTY

Tax Map Number: 078-4-01-0018

Street Address: 9325 Burke Road, Burke VA 22015

OWNER(S): Darrell C. and Carol A. Marshall, Trustees

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 3,771 sq. ft.

Dominion Virginia Easement – 225 sq. ft.

Verizon Easement – 225 sq. ft.

Cox Easement – 225 sq. ft.

VALUE

Estimated value of interests and damages:

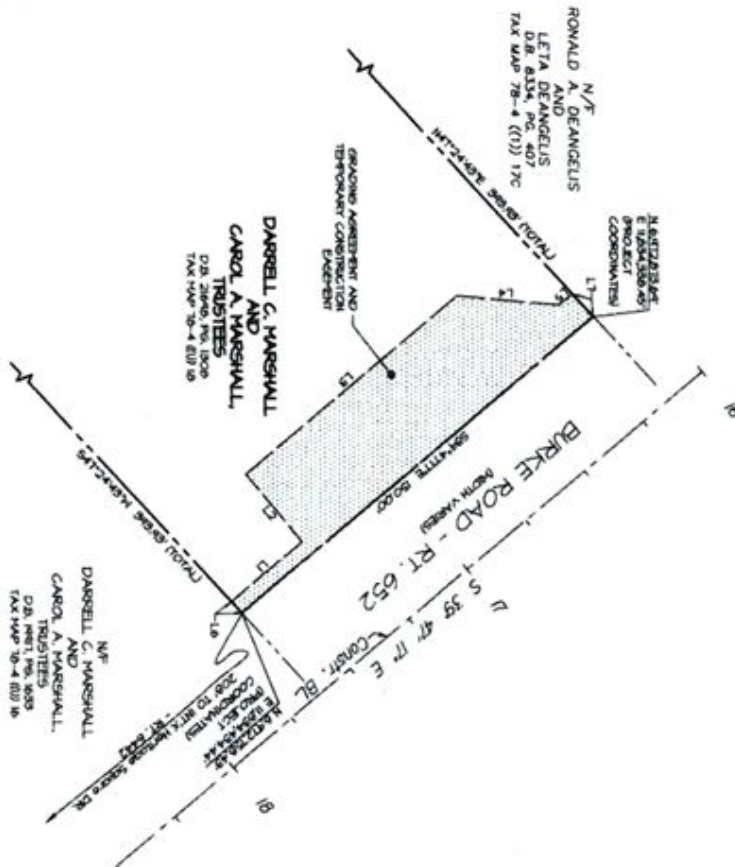
SIXTEEN THOUSAND THREE HUNDRED EIGHTY DOLLARS (\$16,380.00)

VA STATE ZONE NORTH
VGS 83 NORTH ZONE

LINE	TYPE	LENGTH
L1	REAR	50.00
L2	REAR	50.00
L3	REAR	50.00
L4	REAR	50.00
L5	REAR	50.00
L6	REAR	50.00
L7	REAR	50.00

EASEMENT AREA
GRAVING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT * 3,711 SQ. FT.

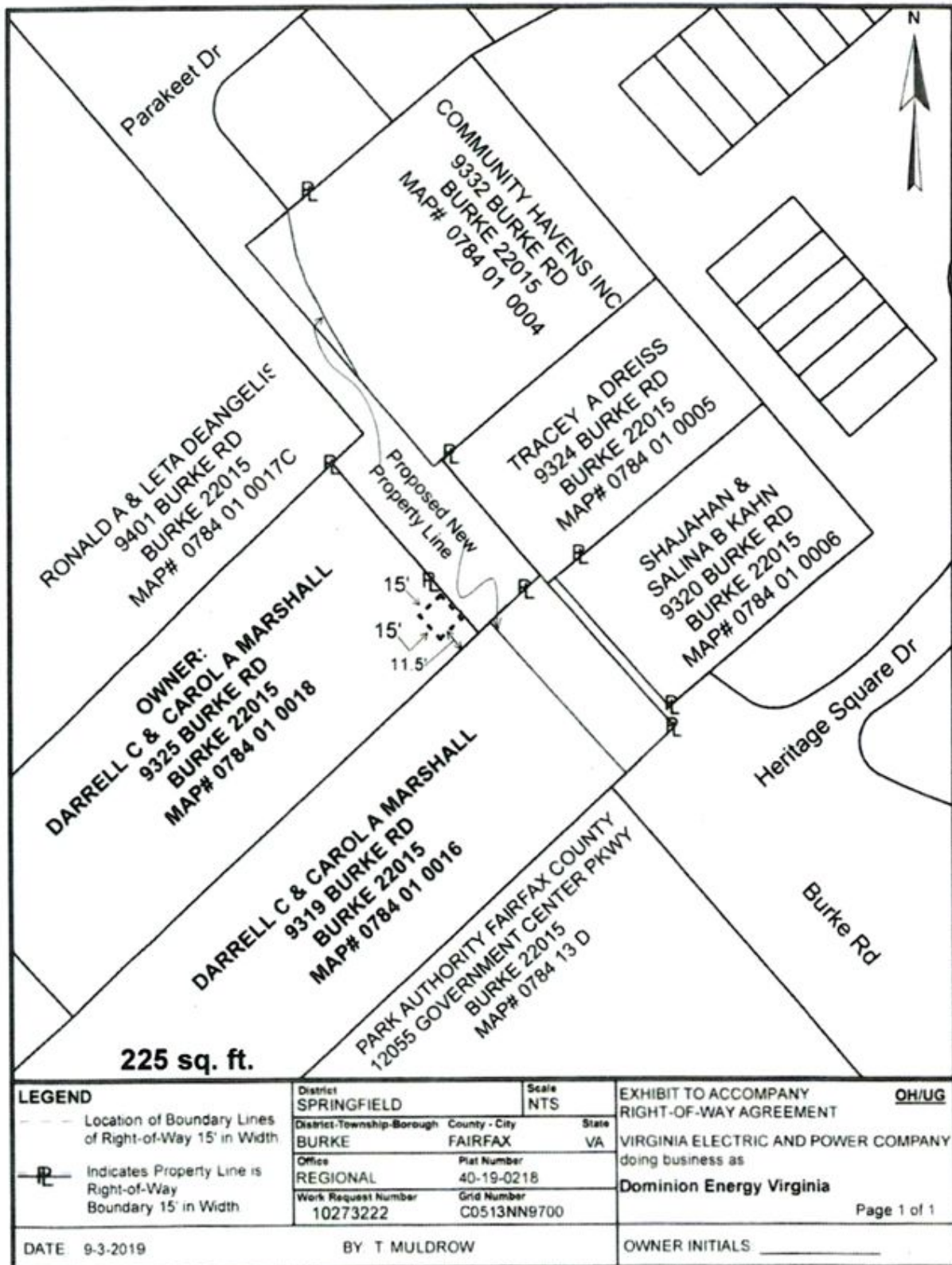
GRAPHIC SCALE

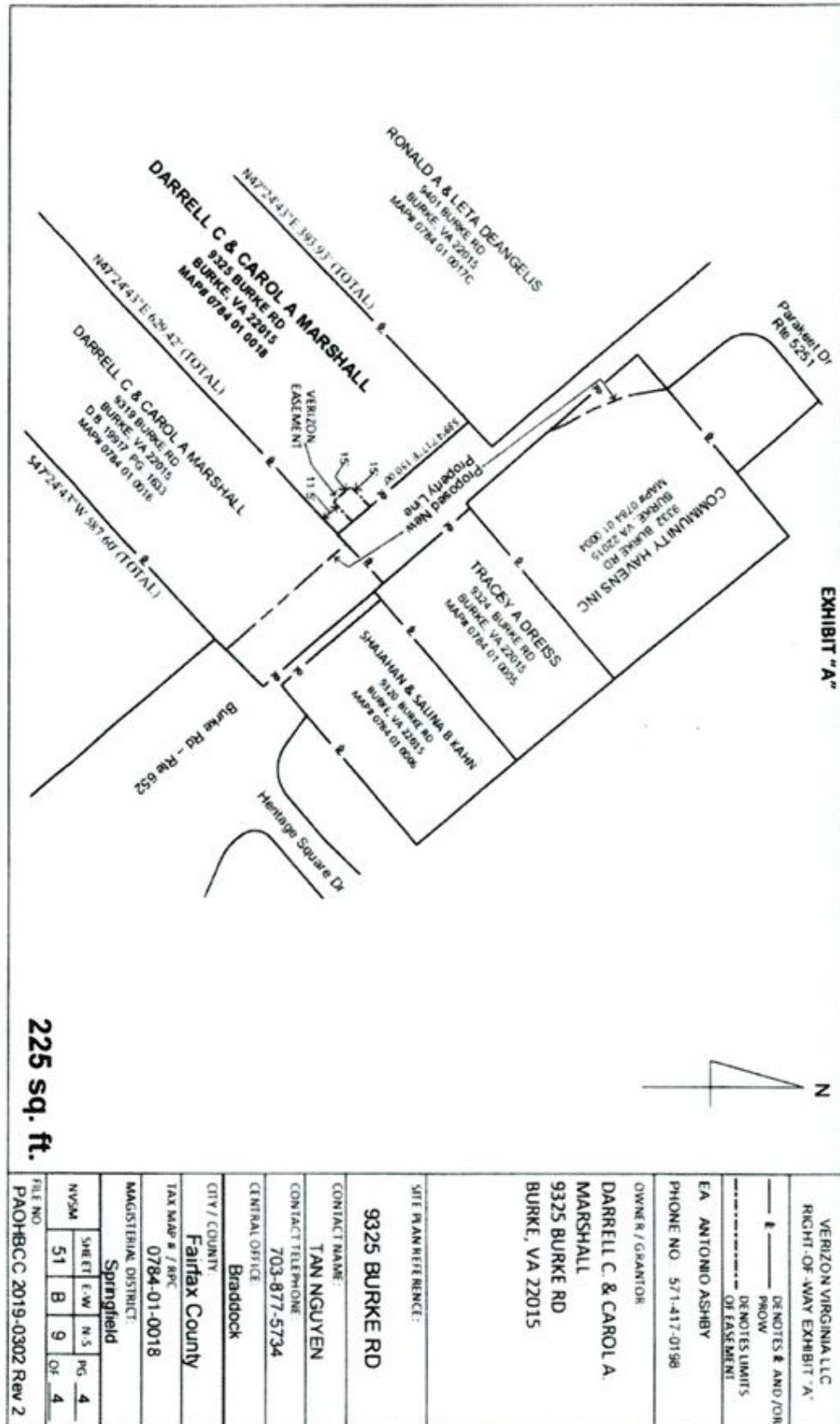


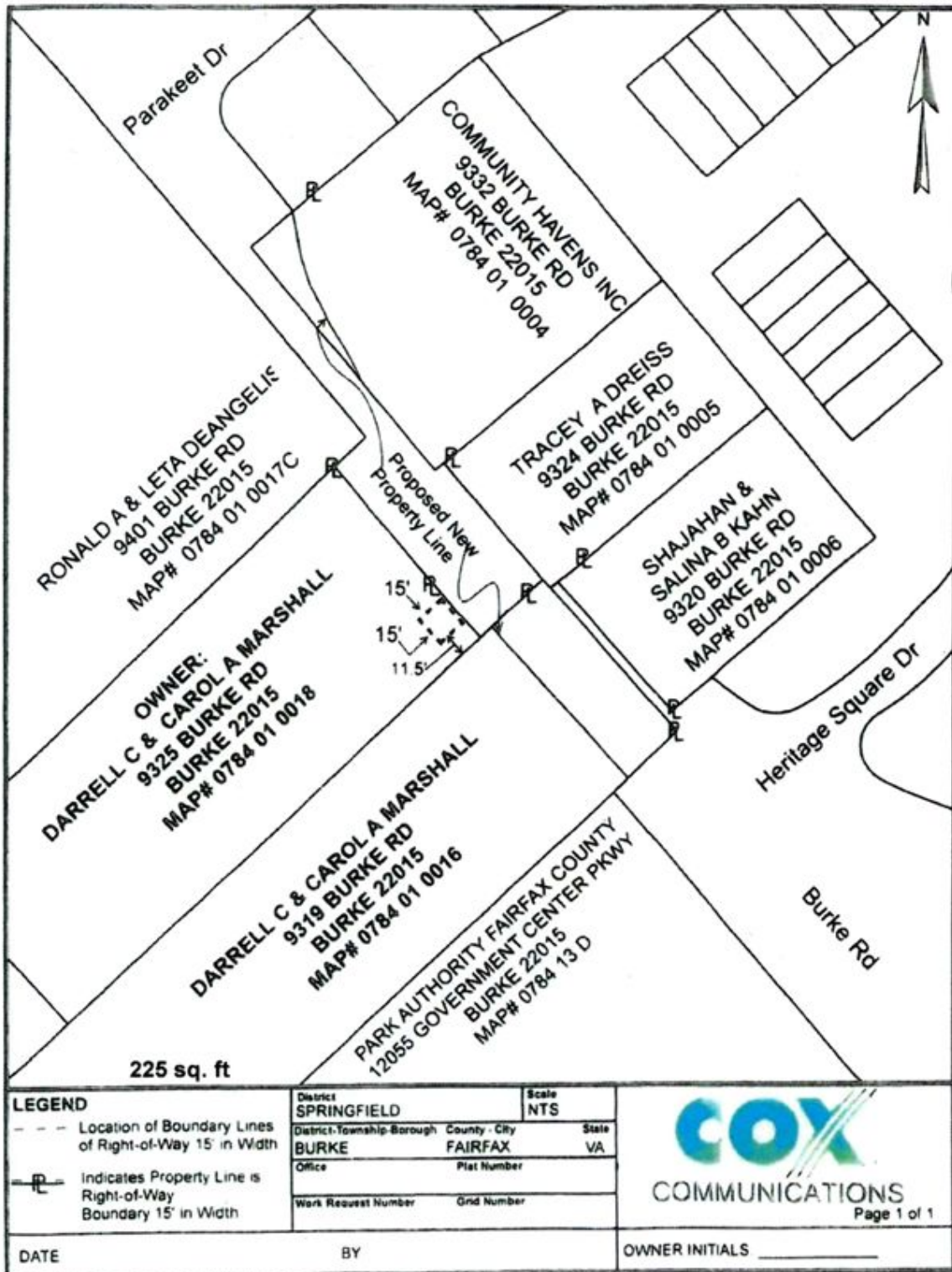
NOTES:
THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE
NECESSARILY SHOWN HEREON.
THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE
BLOCK HEREON AND RECORDED AGAINST THE LAND RECORDS OF
FAIRFAX COUNTY, ALL EASEMENTS AND RIGHTS OF THE LAND, AS
SHOWN HEREON, ARE NOTED IN THE TITLE BLOCK, AS
RECORDED AND SHOWN ON THIS PLAT.
THE INFORMATION SHOWN ON THIS PLAT WAS OBTAINED FROM EXISTING
LAND RECORDS AND DOES NOT REPRESENT THE RESULTS OF AN
ACTUAL FIELD SURVEY OR BOUNDARY SURVEY.
ALL PERSONS, YET UNRECORDED RIGHT-OF-WAY, EASEMENTS, OR OTHER
INTERESTS OF THE COUNTY SHALL REMAIN IN FULL FORCE AND EFFECT
UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
THE PROPERTY DEPICTED ON THIS PLAT IS LOCATED ON ADJACENT
TWP 10-4-010 10.



BARRE ROAD - APLWOOD DRIVE TO PARKWAY
DRIVE
PROJECT NUMBER: 2040-091-003
FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS
& ENVIRONMENTAL SERVICES
CAPITAL PROJECTS, LAND AND TRAIL DIVISION
1000 COMMONWEALTH CENTER PARKWAY
FAIRFAX, VIRGINIA
DATE: 10/1/10
DRAWN BY: JLB
SCALE: 1"=50'







ATTACHMENT 4

AFFECTED PROPERTY

Tax Map Number: 078-4-18-0000-A

Street Address: Common area at Burke Road @ Heritage Square Drive

OWNER(S): Heritage Square North HOA

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Storm Drainage Easement – 370 sq. ft.

Grading Agreement and Temporary Construction Easement – 1,279 sq. ft.

VALUE

Estimated value of interests and damages:

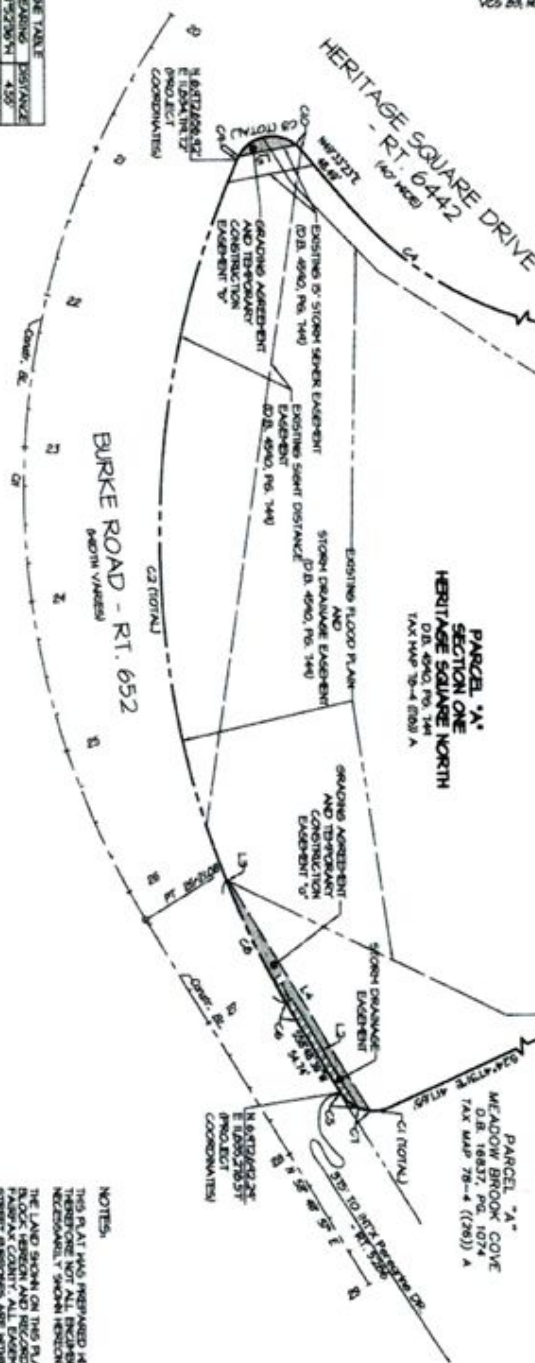
ONE THOUSAND FIVE HUNDRED EIGHTY DOLLARS (\$1,580.00)



LINE TABLE	
LINE	DISTANCE
L1	4.55'
L2	66.14'
L3	2.89'
L4	75.20'
L5	50.33'

CARRE	NUMBER	LENGTH	TARGET	CHARGE	DELTA
C1	25.00	36.48	22.58	10.00	0.00
C2	25.00	36.48	22.58	10.00	0.00
C3	25.00	36.48	22.58	10.00	0.00
C4	25.00	36.48	22.58	10.00	0.00
C5	25.00	36.48	22.58	10.00	0.00
C6	25.00	36.48	22.58	10.00	0.00
C7	25.00	36.48	22.58	10.00	0.00
C8	25.00	36.48	22.58	10.00	0.00
C9	25.00	36.48	22.58	10.00	0.00
C10	25.00	36.48	22.58	10.00	0.00

STORM DRAINAGE EASEMENT	=	370 SQ. FT.
GRADING AGREEMENT AND		
TEMPORARY CONSTRUCTION EASEMENT "a"	=	1043 SQ. FT.
GRADING AGREEMENT AND		
TEMPORARY CONSTRUCTION EASEMENT "b"	=	236 SQ. FT.
TOTAL GRADING AGREEMENT AND		
TEMPORARY CONSTRUCTION EASEMENT	=	1279 SQ. FT.



STORM DRAINAGE EASEMENT
GRADING ASSESSMENT AND
TEMPORARY CONSTRUCTION EASEMENT

NOTES

THIS PLAN IS PREPARED IN WITNESS OF THE TRUTH OF THE TITLE HEREON, WHEREOF NOT ALL INSTRUMENTS TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.

THE LAND SHOWN ON THIS PLAN IS NOT LIEU AND NOT PART OF THE TITLE HEREON, BUT IS SHOWN FOR THE PURPOSE OF IDENTIFYING THE PROPERTY, AND DIRECT INSTRUMENTS ARE WITHIN THE BOUNDS OF THE ORIGINAL TRACT, AND ARE RECORDED AND SHOWN ON THIS PLAN.

THE INFORMATION SHOWN ON THIS PLAN WAS OBTAINED FROM RECORDS AND FROM FIELD SURVEY, AND THE RESULTS OF AN ANALYSIS OF THE INFORMATION SHOWN ON THIS PLAN ARE AS FOLLOWS:

ALL PERSONS A RECORDED GRANT OF PART, EXEMPTION, OR OTHER INTERESTS OF THE COUNTY SHALL, BEHOLD IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.

THE INSTRUMENT DELINEATED ON THIS PLAN IS LOCATED ON ASSIGNMENT MAP 30-4-1006-A

BURGE ROAD - APLONADO DRIVE TO PARADE DRIVE

PROJECT NUMBER: J660-021-003

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKSDEPARTMENT OF PUBLIC WORKS
& ENVIRONMENTAL SERVICES

OPTICAL FACILITIES AND SERVICE BUREAU
2000 BOWEN STREET, SUITE 100
FALLS CHURCH, VIRGINIA 22044

PLAY SHOWS
CITIZEN POLARISSE ELEMENT

FROM PRIVATE PRACTICE AND COLLEGE TEACHING AND

POWER ADJUSTERS AND
TEMPORARY CONSTRUCTION ENGAGEMENTS
THEORY

PARCEL "A"

SECTION ONE

HERITAGE SQUARE NORTH
DIA 4902.06.744

PROPERTY BEING IN THE NAME OF
HERITAGE SQUARE NORTH

MEMBERS ASSOCIATION

DA 440, PM, 751
SPENCERFIELD CONSULT

PAYAK COUNTY, VERMONT
SHEET 1 OF 1

DATE	12/26/2011
------	------------

1998

 **Rinker Design Associates, P.C.** Engineering • Surveying • Land Planning • Transportation • Environmental Services
3385 Discovery Boulevard, Suite 200, Manassas VA, 20108
Telephone: (703) 358-7373 Fax: (703) 287-4443

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Agritourism and Related Changes

ISSUE:

The proposed amendment to the Zoning Ordinance includes changes that will establish a definition for agritourism, provides a tiered approach to regulating agritourism activities, and includes associated standards related to agritourism uses. The amendment also updates the definition of agricultural operation; expands regulations for a bed and breakfast when in association with an agricultural operation; clarifies and expands the regulations for wayside stands including the size and products to be sold; permits farm worker housing as an accessory use to an agricultural operation; and allows food trucks in association with an agritourism use, farm winery, limited brewery, or limited distillery with appropriate standards.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held its public hearing on May 12, 2021, and deferred the decision until May 19, 2021. On May 19, 2021, the Planning Commission voted 10-0-1 (Commissioner Carter abstained; Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Adoption of the staff recommendation for the Zoning Ordinance Amendment titled “Agritourism and Related Changes,” as set forth in the staff report dated May 5, 2021, where options were presented the Planning Commission concurred with the staff recommendation, subject to the following changes:
 - Revise the definition of Agritourism in subsection 9103.2.A to exclude corporate picnics, family reunions, farm-to-table dinners, and weddings as an agritourism activity.
 - Revise Paragraph 1 and add a new Paragraph 2 to subsection 4102.2.B Agritourism to discourage paved parking to read as follows:
 1. Parking must be located on the same lot(s) as the agricultural operation and is not permitted within any public right-of-way. Regardless of subsection 6100.2.C.—to encourage minimal land disturbance and to discourage land cover changes, such as removal of trees or other vegetation—parking spaces are not required to be designated or located on a paved surface. For the purpose of

Board Agenda Item
June 8, 2021

subsection 4102.2.B, a paved surface includes asphalt, poured or precast concrete, brick, stone, or similar impervious surface, but it does not include gravel or grass pavers.

2. In the R-C District, paved surfaces outside a building are permitted in accordance with any applicable stormwater quality and quantity requirements, and the following standards:

- (a) When in association with Tier 1 or Tier 2, paved surfaces outside a building are limited to a total of 2,500 square feet of the lot(s) comprising the agricultural operation.

- (b) When in association with Tier 3 or Tier 4, paved surfaces outside a building are limited to a total of 5,000 square feet of the lot(s) comprising the agricultural operation.

- Revise Paragraph 3 (formerly Paragraph 2) of subsection 4102.2.B Agritourism by revising the column header to read "Tier: Acreage in Agricultural Production," to clarify that the acreage required in each Tier is acreage devoted to agricultural production rather than lot size.
 - Revise Paragraph 5, which will be new Paragraph 6 with the renumbering, and add a new Paragraph 9 to subsection 4102.2.B Agritourism to create special exception standards for paved parking and reformat appropriately. The revisions will read as follows:

6. The Board may approve a special exception to modify one or more of the standards as identified in the subsections below:

- (a) Subsection B(2) to exceed the land area permitted for paved surfaces in the R C District.

- (b) Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees per day and for Tier 4 activities to exceed the number of days per year permitted by an administrative permit.

9. An application to exceed the paved surfaces limitation in subsection B(2) requires the applicant to demonstrate that adequate measures will be taken to address water quantity impacts and prevent water quality degradation, such as by meeting water quality requirements on-site through runoff reduction practices to the maximum extent practicable.

Board Agenda Item
June 8, 2021

- That the legal advertisement be revised prior to the Board of Supervisors' Public Hearing to allow the Board to consider the before-mentioned recommendations and apply the paved parking restrictions in Paragraph 2 to the R-A, R-E, and R-1 Districts with a range from 2,500 square feet to 10,00 square feet and revise Paragraph 6 to permit a special exception in the R-A, R-E, and R-1 Districts.

In addition, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend that the document provided by staff and dated May 19, 2021 be the motion of record documented by the main motion made by Commissioner Andres Jimenez.

In addition, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend that the proposed Zoning Ordinance Amendment, Agritourism and Related Changes, become effective at 12:01 a.m. on July 1, 2021.

Lastly, the Planning Commission noted that a current Priority 2 item on the Zoning Ordinance Amendment Work Program is the 2003 New Millennium Occoquan Task Force report entitled Fulfilling the Promise: The Occoquan Watershed in the New Millennium to establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception, and public uses in the R-C District, review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception, and public uses in the Occoquan and further voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors to consider this item for prioritization during the next update to the Zoning Ordinance Amendment Work Program, recognizing that this would entail a significant outlay of staff resources that will need to be considered as part of the prioritization. The Planning Commission also recommended that this amendment topic be brought to the Planning Commission's Environmental Committee.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors' public hearing be deferred to June 22, 2021, at 4:30 p.m. to allow sufficient time to advertise the proposed changes recommended by the Planning Commission for the Board of Supervisors' consideration and allow staff an opportunity to prepare an addendum to the Staff Report which discusses in more detail the text changes recommended by the Planning Commission.

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June 8, 2021

TIMING:

Board's authorization to advertise – April 13, 2021; Planning Commission Public Hearing – May 12, 2021, at 7:30 p.m.; Planning Commission Decision Only – May 19, 2012; Board's public hearing – June 22, 2021 at 4:30 p.m.

BACKGROUND:

The proposed amendment addresses agritourism, which was identified as a First-Tier item on the 2020 Zoning Ordinance Amendment Work Program (ZOAWP). The Agricultural Districts and Uses topic has been listed on the ZOAWP since 2015, however sub-topic specificity was added in 2017. The changes related to agritourism are prompted by local farms within the County that are looking for economic opportunities associated with agritourism to support their agricultural businesses and allow the conservation of agricultural land, as well as requests from citizens who are concerned about the impacts of these types of activities. The regulation of agritourism is heavily influenced by the Code of Virginia (the Code). Section 15.2-2288.6 of the Code states that agritourism activities are permitted by right in association with an agricultural operation unless there is a substantial impact to the health, safety, or general welfare of the public. The Code does not provide any criteria to be used to measure whether an agritourism activity has such a substantial impact. Therefore, the Zoning Administrator has been reviewing proposals for agritourism activities on a case-by-case basis through the use determination process. Establishing standards in the Zoning Ordinance will provide a more predictable and consistent approach to regulation of these activities, not only for agritourism providers, but also for their neighbors.

Therefore, as laid out more fully in the attached staff report, the proposed amendment establishes a definition of agritourism, including a list of permitted types of agritourism activities, and appropriate standards that address the number of attendees permitted per day on a tiered basis. Four tiers are proposed for agritourism uses with each tier having an associated acreage range and a total number of attendees permitted by right per day. The number of attendees permitted increases with increased acreage as larger land area can accommodate a larger number of people. *(Options have been included to allow the Board to consider a range in the number of attendees permitted in each Tier.)* Parking for all agritourism activities is proposed to be required on the same lot as the agricultural operation and not located on the public rights-of-way to reduce transportation impacts and promote safety when engaging in agritourism activities. In addition to addressing agritourism, staff recommends adopting a selection of related changes. The proposed text changes are based on the adopted Zoning Ordinance Modernization (zMOD) text. Additions made as a part of this amendment are underlined while deletions are struck through. Specifically, the changes include:

- Agricultural Operation: Revises the definition to clarify what uses constitute an agricultural operation and revises the use standards to specify the acreage needed to

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establish the use. *(An option has been included to increase the required acreage that must be dedicated to production of an agricultural product from 5 acres to 7 acres.)*

- Farm Worker Housing: Renames the existing provisions of quarters for a tenant farmer and his family with the new name of farm worker housing and revises the provisions to establish size, location, and recordation requirements.

- Wayside Stands: Allows wayside stands to be permanent structures; revises the size limitations; states which products may be sold; and relocates provisions from the Accessory Uses category to be located only in association with an agricultural operation.

- Bed and Breakfast: Allows a bed and breakfast by right when in association with an agricultural operation located on 20 acres with limitations on permitted events. *(An option has been added to allow the Board to consider requiring an administrative permit with Health Department review for Bed and Breakfasts that are proposed as part of an Agricultural Operation.)*

- Food Trucks: Allows food trucks in association with an agritourism use, farm winery, limited brewery, or limited distillery with limitations on the number of trucks, hours, and location.

Staff convened a workgroup comprised of local farmers, farm winery operators, property owners, and other stakeholders to better understand these agricultural uses and receive feedback on the proposal. The proposed amendment has also been presented to local land use committees, the zMOD land use attorneys and citizens workgroups, the Agricultural and Forestal District Advisory Committee, and the Fairfax Food Council's Urban Agriculture workgroup. Staff proposes that the amendment be adopted with a delayed effective date to coincide with the effective date of the zMOD Ordinance.

Staff met with the Planning Commission's Land Use Process Review Committee on January 14, 2021. In response to questions raised during the meeting, staff prepared a memorandum responding to those items. The memorandum can be found in Attachment 2.

FISCAL IMPACT:

The fee schedule has been revised to include administrative permit fees for Tier 4 agritourism, and bed and breakfast in conjunction with an agricultural operation. The administrative permit fee for Tier 4 agritourism is proposed to be \$205 with a \$50 renewal fee. The administrative fee for bed and breakfast is proposed to be \$205. However, the advertisement allows the Board to consider a fee of \$205 to \$435. Alternatively, the Board could consider an administrative permit fee of up to \$200 and a renewal fee of \$70 for a two-year period. These fees are consistent with other fees established for similar types of administrative permits such as: general fee unless otherwise listed, accessory living unit, community garden, farmer's market, and short-term lodging. Additionally, a special exception fee of \$4,090 for agritourism has also

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been proposed. The advertisement allows the Board to consider a fee of \$4,090 to \$8,180. This fee is consistent with the fee associated with farm winery, limited brewery, or limited distillery. It is expected that the revenue impact of these changes will not be significant. Department of Planning and Development staff will work with staff from the Department of Management and Budget to monitor these fees and any budgetary adjustments will be made at future quarterly reviews as appropriate.

ENCLOSED DOCUMENTS:

Attachment 1 – The Staff Report can be found online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/agritourism/agritourism-staff-report.pdf>

Attachment 2 – The Memorandum to the Planning Commission can be found online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/agritourism/lupr-memo-4-6-21.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

Barbara Byron, Director, Department of Planning and Development (DPD)

Leslie B. Johnson, Zoning Administrator, DPD

William Mayland, Deputy Zoning Administrator, DPD

Sara Morgan, Senior Planner, DPD

ASSIGNED COUNSEL:

Laura Gori, Senior Assistant County Attorney

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 1045 Bellview Road, McLean, VA 22102 (Dranesville District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 1045 Bellview Road, McLean, VA 22102 (Tax Map No. 020-3 ((01)) 005A) and approval of a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 1045 Bellview Road blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

The property has a lengthy case history dating back to December 14, 2016, when a complaint was received regarding a vacant and abandoned property. On December 21, 2016, an inspection was conducted by Department of Code Compliance staff. Based on that inspection, the structures were placarded as Unsafe, and Notices of Violation were issued to the property owner for property maintenance code violations. After repeated complaints by neighbors regarding trespassers, new notices were issued in September 2017. Failure to respond to the notices resulted in the case being forwarded to the County Attorney's Office for litigation. On May 11, 2018, a default judgement was

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entered, and since that time, over \$111,000 in fines have been assessed, with daily fines continuing to accrue. The property has been secured by both county forces as well as by the Qatar Embassy; however, trespassers have continued to break into and vandalize the buildings. On October 31, 2020, a fire occurred at the property, resulting in the total loss of the main structure.

Located on the subject property are several abandoned structures: the remains of the burned 3298 square foot stucco dwelling with a full basement, a 3552 square foot pool building, a 1320 square foot pool, a 576 square foot stable, and an 8600 square foot accessory building. The primary structure was constructed in 1985 but is now in a significant state of collapse, and further collapse is likely.

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising him of this determination. On April 8, 2021, staff received correspondence from Mr. Bruce Smith, an attorney for the owner. The correspondence did not include a blight abatement plan, but a letter of intention to have the structures demolished. On April 30, 2021, Mr. Smith did submit a blight abatement plan which is acceptable, and on May 3, 2021, a rough grading plan was submitted to Land Development Services for review. In a follow up conversation on May 5, 2021, Mr. Smith requested a 90-day deferral of the public hearing. Mr. Smith mentioned a developer has expressed interest in the purchase of the property. Because of the history of this property, the fact this property is a public nuisance, and the serious unsafe condition of the property, staff recommends moving forward with the adoption of the ordinance. Staff recommends that in the event the owner fails to begin implementation of the blight abate plan by obtaining the demolition permit within thirty days of this hearing, and complete demolition of all structures with final approval of the demolition permit within two weeks of the issuance of the demolition permit, the county will proceed with their plan for the demolition of all structures.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such and ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be

Board Agenda Item
June 8, 2021

blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within forty-five (45) days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$175,000.

It is anticipated that the costs to demolish the structure will be recovered from the property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 1045 Bellview Road, McLean (Dranesville District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
1045 Bellview Rd. McLean
Tax Map 020-3 ((01)) 0005A



Attachment 1
1045 Bellview Rd. McLean
Tax Map 020-3 ((01)) 0005A



**ORDINANCE FOR 1045 BELLVIEW ROAD
(DRANESVILLE DISTRICT)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 1045 Bellview Road (Dranesville District) identified on the Fairfax County Tax Map as 020-3 ((01)) 005A ("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within forty five (45) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)

1045 Bellview Road (Dranesville District)

TAX MAP NUMBER

020-3 ((01)) 005A

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Mishal H. Al Thani

CASE: # 201608315 SR #173585

OWNER'S ADDRESS: C/o Embassy of the State of Qatar - 2555 M Street NW,
Washington DC 20037

ADDRESS OF BLIGHTED PROPERTY: 1045 Bellview Road, McLean, VA 22102

TAX MAP NO.: 020-3 ((01)) 0005A **MAGISTERIAL DISTRICT:** Dranesville

2021 ASSESSED VALUE \$1,101,630 **LAND:** \$1,037,000 **IMPROVEMENTS:** \$64,630

PROPERTY ZONING: R-1 **YEAR BUILT:** 1985

TAX STATUS: current through December 2020

DESCRIPTION:

Located on the subject property are several abandoned structures: the remains of the burned 3298 square foot stucco dwelling with a full basement, a 3552 square foot pool building, a 1320 square foot pool, a 576 square foot stable, and an 8600 square foot accessory building. On October 31, 2020, a fire occurred at this property, resulting in the total loss of the dwelling. The outbuildings remain on the lot in deteriorating conditions. The property has a lengthy case history dating back to December 14, 2016, when a complaint was received regarding a vacant and abandoned property. There is clear evidence of trespassers and illegal activities. It was referred to the blight abatement program (BAP) on June 25, 2020 after ongoing, yet unsuccessful litigation resulting in over \$111,000 in fines.

The structure was constructed in 1985 according to Fairfax County Tax Records. The owner has retained legal counsel, who has relayed his intention to demolish the structures, but has not submitted a blight abatement plan. Blight Abatement Program staff feels that the dwelling and accessory structures are not economically feasible to repair and recommends demolition

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 1045 Bellview Road was referred to the Blight Abatement Program (BAP) on June 25, 2020, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

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June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 2506 Fleming Street,
Alexandria, VA 22306 (Mount Vernon District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 2506 Fleming Street, Alexandria, VA 22306 (Tax Map No. 093-1 ((09)) (02) 0505) and to approve a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 2506 Fleming Street blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

The structure has a property maintenance complaint history beginning in October 2018 which resulted in litigation in May 2019. An inspection conducted by a property maintenance investigator on January 8, 2020, determined that the property was unsafe for occupancy, and the structure was placarded; however, the property owner repeatedly entered and occupied the dwelling. On September 15, 2020, by directive of the Maintenance Official, the property was secured by county personnel. The structure lacks normal maintenance to a point that there are major structural members compromised from years of water infiltration and neglect, and collapse is likely. The

Board Agenda Item
June 8, 2021

owner has made no attempt to abate the maintenance code violations and has not responded to any correspondence from blight abatement staff.

Located on the subject property is a 954 square foot brick dwelling constructed in 1951. The roof and floor system of the structure are deteriorated to the point of collapse.

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising her of this determination. To date, there has been no response from the owner nor otherwise submitted a spot blight abatement plan acceptable to the County.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such and ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$41,000.

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It is anticipated that the costs to demolish the structure will be recovered from the property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 2506 Fleming Street, Alexandria (Mount Vernon District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
2506 Fleming Street, Alexandria
Tax Map 093-1 ((09)) (02) 0505



Attachment 1
2506 Fleming Street, Alexandria
Tax Map 093-1 ((09)) (02) 0505



**ORDINANCE FOR 2506 FLEMING STREET
(MOUNT VERNON DISTRICT)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 2506 Fleming Street (Mount Vernon District) identified on the Fairfax County Tax Map as 093-1 ((09)) (02) 0505 ("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)
2506 Fleming Street (Mount Vernon District)

TAX MAP NUMBER
093-1 ((09)) (02) 0505

ATTACHMENT 3

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Heirs of Emma Saltess

CASE: # 202004997 SR #176814173585

OWNER'S ADDRESS: PO Box 324, Alexandria, VA 22313

ADDRESS OF BLIGHTED PROPERTY: 2506 Fleming Street, Alexandria, VA 22313

TAX MAP NO.: 093-1 ((09)) (02) 0505 **MAGISTERIAL DISTRICT:** Mount Vernon

2020 ASSESSED VALUE: \$ 225,000 **LAND:** \$215,000 **IMPROVEMENTS:** \$10,000

PROPERTY ZONING: R-1 **YEAR BUILT:** 1951

TAX STATUS: current through December 2020

DESCRIPTION:

Located on the subject property is a 954 square foot brick dwelling constructed in 1951. The roof and floor system of the structure are deteriorated to the point of collapse. An inspection conducted by a property maintenance investigator on January 8, 2020 determined that the property was unsafe for occupancy, and the structure was placarded; however, the property owner repeatedly entered and occupied the dwelling. On September 15, 2020, by directive of the Maintenance Official, the property was secured by county personnel. The structure lacks normal maintenance to a point that there are major structural members compromised from years of water infiltration and neglect, and collapse is likely. The structure was constructed in 1951 according to Fairfax County Tax Records. The owner has not responded to any correspondence from Blight Abatement Program (BAP) staff and has not submitted a blight abatement plan. BAP staff feels that the dwelling and accessory structures are not economically feasible to repair and recommends demolition.

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 2506 Fleming Street was referred to the Blight Abatement Program (BAP) on September 22, 2020, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property.

after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 3110 Covington Street, Fairfax, VA 22031 (Providence District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 3110 Covington Street, Fairfax, VA 22031 (Tax Map No. 048-4 ((01)) 0021) and approval of a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 3110 Covington Street blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

The property has a lengthy complaint history dating back to December 2016. Investigations of the property in September 2015 resulted in notices of violation being sent to the owners of record, and the case was referred to the blight program. The maintenance code violations were not prosecuted because of the inability to serve the owners, one of whom is deceased, and the other who resides outside of the United States. The structure was secured, the maintenance case was closed, and the blight case was closed as it did not meet the blight criteria at that time. On April 6, 2020, a new case was generated by concerns from the Police Department. Inspections revealed that the property had significantly deteriorated, was no longer secured, and

Board Agenda Item
June 8, 2021

was occupied by squatters. The dwelling was placarded, and notices of violation were sent to the property owners of record. In July 2021, the case was forwarded to the County Attorney's Office for litigation; however, the obstacle of serving the out-of-country owner had not changed.

Located on the subject property is an abandoned, 1,572 square foot masonry dwelling constructed in 1939. The structure lacks normal maintenance, with large holes in the siding and overhangs, exposing the structural members to the elements. The ceiling has collapsed, and the rear sliding door has been broken to allow entry to the structure and is lying inside the structure. The structure was posted as unsafe on April 20, 2020.

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising her of this determination. To date, there has been no response from the owner nor otherwise submitted a spot blight abatement plan acceptable to the County.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such an ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

Board Agenda Item
June 8, 2021

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$47,000.

It is anticipated that the costs to demolish the structure will be recovered from the property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 3110 Covington Street, Fairfax, VA (Providence District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
3110 Covington Street, Fairfax
Tax Map # 048-4 ((01)) 0021
Providence District



Attachment 1
3110 Covington Street, Fairfax
Tax Map # 048-4 ((01)) 0021
Providence District



**ORDINANCE FOR 3110 COVINGTON STREET
(PROVIDENCE)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 3110 Covington Street (Providence District) identified on the Fairfax County Tax Map as 048-4 ((01)) 0021 ("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site. The County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)

3110 Covington Street (Providence District)

TAX MAP NUMBER

048-4 ((01)) 0021

ATTACHMENT 3

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Maria L. And Gilbert L. Wells

CASE: # 202001710 SR #178793

OWNER'S ADDRESS: 4132 Arkansas Ave. NW, Washington, DC 20011

ADDRESS OF BLIGHTED PROPERTY: 3110 Covington Street, Fairfax, VA 22031

TAX MAP NO.: 048-4 ((01)) 0021 **MAGISTERIAL DISTRICT:** Providence

2020 ASSESSED VALUE: \$451,000 **LAND:** \$440,000 **IMPROVEMENTS:** \$11,400

PROPERTY ZONING: R-1 **YEAR BUILT:** 1939

TAX STATUS: Delinquent \$7,646.71 through December 2020

DESCRIPTION:

Located on the subject property is an abandoned, 1,572 square foot masonry dwelling constructed in 1939. The structure lacks normal maintenance, with large holes in the siding and overhangs, exposing the structural members to the elements. The ceiling has collapsed, and the rear sliding door has been broken to allow entry to the structure and is lying inside the structure. The structure was posted as unsafe on April 20, 2020. The structure was constructed in 1939 according to Fairfax County Tax Records. The owner has not to Blight Abatement Program (BAP) staff and has not submitted a blight abatement plan. BAP staff feels that the dwelling and accessory structures are not economically feasible to repair and recommends demolition

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 3110 Covington Street was referred to the Blight Abatement Program (BAP) on December 15, 2020, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 6012 Pike Branch Drive,
Alexandria, VA 22310 (Lee District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 6012 Pike Branch Drive, Alexandria, VA 22310 (Tax Map No. 082-4 ((12)) 0003) and approval of a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 6012 Pike Branch Drive, blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to address a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

The structure has been abandoned since a fire occurred in the basement level of the house in February 2015. Subsequently, a small portion of the first floor is structurally unsound, and the Fire Department declared the house uninhabitable. In addition, certain windows and doors are not in sound condition and the roof of the sun porch is damaged. See attached Notice of Violation (NOV) issued on October 15, 2019, for an updated listing of all violations. The property has a history of repeated complaints from neighboring residents as well as unsuccessful litigation.

The subject property is an abandoned, 2,456 square foot two-story wood and masonry

Board Agenda Item
June 8, 2021

dwelling with a full basement, attached garage, and two porches, constructed in 1954. The first Notice of Violation (NOV) was issued on October 23, 2015, followed by several other NOVs, over the years, which were sent to the owners of record, Martina Simpkins and Anthony Simpkins, at the address of record (a P.O. Box). The owners did not respond to any of the County's NOVs and as a result, in 2019, County staff performed exterior cleanup and placed a lien on the property.

On December 10, 2020, the Neighborhood Enhancement Task Force (NETF) reviewed the property documentation, and a preliminary blight determination was established. Blight Abatement Program (BAP) staff sent certified and regular notices, on December 15, 2020, to the owners of record, at the P.O. Box address shown on the tax record, as well as copies by e-mail to the mortgage company. Neither the owners of record nor the mortgage company responded to the County's notifications and/or addressed the blighted conditions. Nor have the owners submitted a blight abatement plan for the property.

In 2021, the County continued to reach out to the Simpkins by phone and left voicemail messages. On March 10, 2021, both Martina and Anthony Simpkins responded by text messages to Jack Weyant, Director of the Department of Code Compliance. On March 11, 2021, Mr. Weyant spoke with Mr. Simpkins by phone. Mr. Weyant relayed the history of NOVs and the County's plan to proceed with its Spot Blight Abatement Plan unless the Simpkins submitted an abatement plan. On March 12, 2021, Mr. Simpkins followed up with an e-mail to Mr. Weyant, directing the County to communicate with the Simpkins through their attorney and to send all prior correspondence to him. This information was sent to their attorney on March 12, 2021. In addition, Fairfax's Office of the County Attorney reached out to him and spoke by phone on March 26, 2021. Their attorney indicated that submittal of a blight abatement plan was a high priority of the Simpkins. To date, no acceptable blight abatement plan has been submitted.

Although the County will continue to seek cooperation from the owners to eliminate the blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Code, be held to adopt an Ordinance declaring the property to be blighted, and to approve the blight abatement plan, whose purpose will be to purchase the property through eminent domain or to demolish the structure. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with eminent domain or demolition, as determined by the Board of Supervisors. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. If the property is purchased by the County through eminent domain the County will, in turn, sell the property to a responsible buyer capable of repairing the blight and making the home occupiable. If the County demolishes the house, it will then pursue reimbursement from the owner

Board Agenda Item
June 8, 2021

who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land and records.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the purchase of the property or its demolition from blight abatement funds already designated for this purpose. The structure is assessed for \$10,400 and the land is assessed for \$292,000, but prior to any purchase the County would be required to have the property appraised by an independent appraiser. The demolition cost is estimated at approximately \$60,000.

Funds recovered by the sale of the property or funds received via reimbursement from the owner (for demolition costs) will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 6012 Pike Branch Drive, Alexandria, VA (Lee District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
6012 Pike Branch Drive
Tax Map # 082-4 ((12)) 0003
Lee District



Attachment 1
6012 Pike Branch Drive
Tax Map # 082-4 ((12)) 0003
Lee District



**ORDINANCE FOR 6012 PIKE BRANCH DRIVE
(LEE DISTRICT)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 6012 Pike Branch Drive, (Lee District) identified on the Fairfax County Tax Map No. 082-4 ((12)) 0003 ("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by either acquiring the property by eminent domain, or demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)
6012 Pike Branch Drive (Lee District)

TAX MAP NUMBER
082-4 ((12)) 0003

ATTACHMENT 3

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Martina Simpkins and Anthony Simpkins

CASE: # 201906224 SR #165941

OWNER'S ADDRESS: P.O. Box 191, Great Falls, VA, 22066

ADDRESS OF BLIGHTED PROPERTY: 6012 Pike Branch Drive, Alexandria, VA 22310

TAX MAP NO.: 082-4 ((12)) 0003 **MAGISTERIAL DISTRICT:** Lee

2020 ASSESSED VALUE: \$302,400 **LAND:** \$292,000 **IMPROVEMENTS:** \$10,400

PROPERTY ZONING: R-2 **YEAR BUILT:** 1954

TAX STATUS: Current through December 2020

DESCRIPTION:

Located on the subject property is an abandoned 2,456 square foot two-story wood and masonry dwelling with a full basement, attached garage, and two porches. The structure has been vacant since a fire occurred in the basement level of the house in February 2015, a small portion of the first floor is structurally unsound, and the Fire Department declared the house uninhabitable. In addition, certain windows and doors are not in sound condition and the roof of the sun porch is damaged.

The structure was constructed in 1954 according to Fairfax County Tax Records. The owner has been in contact with staff but has not submitted an acceptable blight abatement plan. BAP staff feels that the dwelling and accessory structures may salvageable, and the plan will be to purchase the property through eminent domain or to demolish the structure. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance and if the Ordinance is adopted, will obtain and independent appraisal for the property to determine if it economically feasible to repair or demolish.

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 6012 Pike Branch Drive was referred to the Blight Abatement Program (BAP) on September 16, 2019, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends an independent appraisal to determine the feasibility of acquiring the property through eminent domain or the demolition the dilapidated structures and removing all debris on the property if the owners fail to cure the blighted conditions of the property after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 7821 Belvedere Drive,
Alexandria, VA 22306 (Mount Vernon District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 7821 Belvedere Drive, Alexandria, VA 22306 (Tax Map No. 102-1 ((06)) 0018) and approval of a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 7821 Belvedere Drive blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

Located on the subject property is an abandoned, 936 square foot wood frame dwelling constructed in 1950. The property has been neglected and the dwelling lacks normal maintenance. The lot is overgrown with vegetation growing onto the structure causing further deterioration of the structure. The structure is known to be vacant since at least 2006. The case has been litigated, and a default judgement was entered on February 26, 2021. The owner has not responded to Blight Abatement Program (BAP) staff and has not submitted a blight abatement plan.

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June 8, 2021

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising him of this determination. To date, there has been no response from the owner nor otherwise submitted a spot blight abatement plan acceptable to the County.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such an ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$43,000.

It is anticipated that the costs to demolish the structure will be recovered from the property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

Board Agenda Item
June 8, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 7821 Belvedere Drive, Alexandria (Mount Vernon District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
7821 Belvedere Drive, Alexandria
Tax Map 102-0 ((06)) 0018
Mount Vernon District



Attachment 1
7821 Belvedere Drive, Alexandria
Tax Map 102-0 ((06)) 0018
Mount Vernon District



**ORDINANCE FOR 7821 BELVEDERE DRIVE
(MOUNT VERNON)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 7821 Belvedere Drive (Mount Vernon) identified on the Fairfax County Tax Map as 102-1 ((06)) 0018 ("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)

7821 Belvedere Drive (Mount Vernon)

TAX MAP NUMBER

102-1 ((067)) 0018

ATTACHMENT 3

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Michael Vincent Carter

CASE: # 201903145 SR #164247

OWNER'S ADDRESS: 7507 Republic Court, Unit 304, Alexandria, VA 22306

ADDRESS OF BLIGHTED PROPERTY: 7821 Belvedere Drive, Alexandria, VA 22306

TAX MAP NO.: 102-1 ((06)) 0018 **MAGISTERIAL DISTRICT:** Mount Vernon

2020 ASSESSED VALUE: \$232,000 **LAND:** \$222,000 **IMPROVEMENTS:** \$10,000

PROPERTY ZONING: R-2 **YEAR BUILT:** 1950

TAX STATUS: current through December 2020

DESCRIPTION:

Located on the subject property is an abandoned, 936 square foot wood frame dwelling constructed in 1950. The property has been neglected and the dwelling lacks normal maintenance. The lot is overgrown with vegetation growing onto the structure causing further deterioration of the structure. The structure is known to be vacant since at least 2006. The owner has not responded to Blight Abatement Program (BAP) staff and has not submitted a blight abatement plan. BAP staff feels that the dwelling and accessory structures are not economically feasible to repair and recommends demolition

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 7821 Belvedere Drive was referred to the Blight Abatement Program (BAP) on July 31, 2019, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
June 8, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 7704 Schelhorn Road,
Alexandria, VA 22306 (Mount Vernon District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 7704 Schelhorn Road, Alexandria, VA 22306 (Tax Map No. 102-1 ((07)) (07) 0500) and approval of a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 7704 Schelhorn Road blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021 at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

On January 19, 2019, a fire occurred at this residential property, which resulted not only in the total loss of the dwelling, but also in the death of the property owner, whose body was found in the rubble. The dwelling was placarded as unsafe by the fire department and turned over to DCC as a property maintenance issue.

A maintenance code violation was issued to the owner of record in April 2019; however, the notices were returned unclaimed and all subsequent attempts to locate a next of kin

Board Agenda Item
June 8, 2021

have been unsuccessful. By order of the Maintenance Official, a fence was installed around the burnt structure to secure it from the public.

Located on the property are the remains of the 1,002 square foot uninhabitable dwelling, and several outbuildings. A significant amount of debris is strewn about the property, the lot is overgrown, and the structures continue to deteriorate.

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising her of this determination. To date, there has been no response from the owner nor otherwise submitted a spot blight abatement plan acceptable to the County.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such an ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$40,000.

It is anticipated that the costs to demolish the structure will be recovered from the

Board Agenda Item
June 8, 2021

property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 7704 Schelhorn Road, Alexandria (Mount Vernon District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
7704 Schelhorn Road, Alexandria
Tax Map # 102-1 ((07)) (07) 0500
Mount Vernon District



Attachment 1
7704 Schelhorn Road, Alexandria
Tax Map # 102-1 ((07)) (07) 0500
Mount Vernon District



**ORDINANCE FOR 7704 SCHELHORN ROAD
(MOUNT VERNON)**

WHEREAS, a goal of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property "spot blight" as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 7704 Schelhorn Road (Mount Vernon) identified on the Fairfax County Tax Map as 102-1 ((07)) (07) 0500("Property") meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)
7704 Schelhorn Road (Mount Vernon)

TAX MAP NUMBER
102-1 ((07)) (07) 0500

ATTACHMENT 3

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Robert E. and Dale A. Barnes (deceased)

CASE: # 201906648 SR # 166711

OWNER'S ADDRESS: 7704 Schelhorn Road, Alexandria, VA 22306

ADDRESS OF BLIGHTED PROPERTY: 7704 Schelhorn Road, Alexandria, VA 22306

TAX MAP NO.: 102-1 ((07)) (07) 0500 **MAGISTERIAL DISTRICT:** Mount Vernon

2020 ASSESSED VALUE: \$362,270 **LAND:** \$359,000 **IMPROVEMENTS:** \$ 3,270

PROPERTY ZONING: R-2 **YEAR BUILT:** 1950

TAX STATUS: Delinquent \$13,412.44 through December 2020

DESCRIPTION:

Located on the property are the remains of the 1,002 square foot uninhabitable dwelling, and several outbuildings. A significant accumulation of debris is strewn about the property, the lot is overgrown, and the structures continue to deteriorate. The structure has been in this condition since January 19, 2019, when a fire occurred at which resulting not only in the total loss of the dwelling, but also in the death of the property owner. The structure was constructed in 1950 according to Fairfax County Tax Records. All correspondence has been sent to the address listed on the tax records but have been returned unclaimed. All attempts to locate a next of kin have been exhausted. Since there are no known heirs, there has been no written blight abatement plan submitted. BAP staff feels that the dwelling is not economically feasible to repair and recommends demolition.

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 7704 Schelhorn Road was referred to the Blight Abatement Program (BAP) on October 9, 2019, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property after receiving written notice of the Board's adoption of the Blight Abatement Ordinance.

Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
June 8, 2021

4:30 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, Sections 82-1-2, 82-1-3, 82-1-31, 82-3-14, 82-5-1, 82-5-32, 82-5-41, 82-6-15, 82-6-16, 82-6-26, 82-6-56, 82-6-33, 82-6-41, 82-6-42, 82-6-49, 82-7-1, 82-9-1, and 82-9-3.

RECOMMENDATION:

The County Executive recommends approval of the proposed amendments to Chapter 82.

TIMING:

On May 18, 2021, the Board authorized a public hearing to consider this matter on June 8, 2021, at 4:30 p.m.

BACKGROUND:

As 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 2020 General Assembly Special Session I, 2021 General Assembly Session, and the 2021 General Assembly Special Session I. A summary of the changes as a result of the General Assembly amendments affecting Chapter 82 is provided in Attachment 2. An additional housekeeping to Chapter 82, portions of Section 82-1-2 (Definitions), 82-1-3 (Enforcement by County officers; officers to be uniformed), 82-1-31 (Arrest for misdemeanors; release on summons and promise to appear; admitting to bail; violations), 82-3-14 (Inspection of vehicles), 82-5-1 (Parking prohibited in Specified Places), 82-5-32 (Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property), 82-5-41 (Removal or immobilization of motor vehicles), 82-6-15 (Signs on windshields, etc.), 82-6-16 (Suspension of objects or alteration of vehicle so as to obstruct view of driver), 82-6-26 (Exhaust system in good working order required), 82-6-33 (Illegal use of defective or unsafe equipment), 82-6-41 (Rear lamps), 82-6-42 (Stop lamps), 82-6-49 (When lights to be lighted; number of lights to be lighted at any time; use of warning lights), 82-6-56 (Signs on windshields, etc.) 82-7-1 (Width of vehicles and exception as to size), 82-9-1

Board Agenda Item
June 8, 2021

(Pedestrians crossing highways or streets), and 82-9-3 (Pedestrians stepping into highway or street where they cannot be seen) update legal citations and language.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic 82-1-6

Attachment 2 - Summary of 2020 General Assembly Special Session I, 2021 General Assembly Session, and the 2021 General Assembly Special Session Amendments Affecting Chapter 82, Motor Vehicles and Traffic

Attachment 3 – Proposed Amends to Chapter 82, Motor Vehicles and Traffic 82-1-2, 82-1-3, 82-1-31, 82-3-14, 82-5-1, 82-5-32, 82-5-41, 82-6-15, 82-6-16, 82-6-26, 82-6-56, 82-6-33, 82-6-41, 82-6-42, 82-6-49, 82-7-1, 82-9-1, and 82-9-3

Attachment 4 – Summary of citation updates and language changes

STAFF:

David M. Rohrer, Deputy County Executive
Kevin Davis, Chief of Police

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

Article 1. – In General.

Section 82-1-6. Adoption of State Law

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2020~~ 2021, 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, ~~2020~~ 2021.

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	<u>46.2-301</u>
18.2-268.3	<u>18.2-271.1</u>	<u>46.2-301.1</u>
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
18.2-268.7	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	46.2-341.26:7
18.2-268.12	46.2-112	46.2-341.26:9

46.2-341.27	46.2-618	46.2-816.1
46.2-341.28	46.2-704	46.2-817
<u>46.2-345.3</u>	46.2-711	46.2-818.1
<u>46.2-346</u>	46.2-715	46.2-818.2
46.2-349	46.2-716	46.2-819.4
46.2-357	46.2-724	46.2-820
46.2-371	46.2-730	46.2-821
46.2-373	46.2-800	46.2-822
46.2-376	46.2-801	46.2-823
46.2-379	46.2-802	46.2-824
46.2-380	46.2-803	46.2-825
46.2-391.01	46.2-804	46.2-826
46.2-391.2	46.2-805	46.2-827
46.2-391.3	46.2-806	46.2-828
46.2-391.4	46.2-807	46.2-828.2
46.2-392	46.2-808	46.2-829
46.2-393	46.2-808.1	46.2-830
46.2-398	46.2-808.2	46.2-831
46.2-602.3	46.2-810	46.2-832
46.2-612	46.2-811	46.2-833
46.2-613	46.2-812	46.2-833.1
46.2-616	46.2-814	46.2-834
46.2-617	46.2-816	46.2-835

46.2-836	46.2-861	46.2-880
46.2-837	46.2-861.1	46.2-882
46.2-838	46.2-862	46.2-882.1
<u>46.2-839</u>	46.2-863	46.2-883
46.2-841	46.2-864	46.2-884
46.2-842	46.2-865	46.2-885
46.2-842.1	46.2-865.1	46.2-886
46.2-844	46.2-866	46.2-887
46.2-845	46.2-868	46.2-888
46.2-846	46.2-868.1	46.2-889
46.2-848	46.2-869	46.2-890
46.2-849	46.2-870	46.2-891
46.2-850	46.2-871	46.2-892
46.2-851	46.2-872	46.2-893
46.2-852	46.2-873	46.2-894
46.2-853	46.2-874	46.2-895
46.2-854	46.2-876	46.2-896
46.2-855	46.2-877	46.2-897
46.2-856	46.2-878	46.2-898
46.2-857	46.2-878.1	46.2-899
46.2-858	46.2-878.2	46.2-900
46.2-859	46.2-878.3	46.2-902
46.2-860	46.2-879	46.2-903

46.2-904	46.2-929	46.2-1021
46.2-904.1	46.2-930	46.2-1022
<u>46.2-905</u>	46.2-932	46.2-1023
46.2-906	<u>46.2-936</u>	46.2-1024
46.2-908.1	46.2-937	46.2-1025
46.2-909	<u>46.2-940</u>	46.2-1026
46.2-910	46.2-942	46.2-1027
46.2-911.1	46.2-1001.1	<u>46.2-1030</u>
46.2-912	46.2-1001	46.2-1031
46.2-914	46.2-1002	46.2-1032
46.2-915	<u>46.2-1003</u>	46.2-1033
46.2-915.2	46.2-1004	46.2-1034
46.2-918	46.2-1010	46.2-1035
46.2-919	46.2-1011	46.2-1036
46.2-919.1	46.2-1012	46.2-1037
46.2-920	<u>46.2-1013</u>	46.2-1038
46.2-921	<u>46.2-1014</u>	46.2-1039
46.2-922	46.2-1015	46.2-1040
<u>46.2-923</u>	46.2-1016	46.2-1041
46.2-924	46.2-1017	46.2-1043
<u>46.2-926</u>	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

<u>46.2-1049</u>	46.2-1077.01	46.2-1116
46.2-1050	46.2-1078	46.2-1118
<u>46.2-1052</u>	46.2-1079	46.2-1120
46.2-1053	46.2-1080	46.2-1121
<u>46.2-1054</u>	46.2-1081	46.2-1130
46.2-1055	46.2-1082	46.2-1137
46.2-1056	46.2-1083	46.2-1150
46.2-1057	46.2-1084	46.2-1151
46.2-1058	46.2-1088	46.2-1154
46.2-1059	46.2-1088.1	46.2-1155
46.2-1060	46.2-1088.2	46.2-1156
46.2-1061	46.2-1088.5	<u>46.2-1157</u>
<u>46.2-1063</u>	46.2-1088.6	46.2-1158
46.2-1064	46.2-1090	46.2-1158.01
46.2-1065	46.2-1091	46.2-1158.02
46.2-1066	46.2-1092	46.2-1158.1
46.2-1067	46.2-1093	46.2-1172
46.2-1068	46.2-1102	46.2-1173
46.2-1070	46.2-1105	46.2-1216
46.2-1071	46.2-1110	46.2-1218
46.2-1072	46.2-1111	46.2-1219.2
46.2-1076	46.2-1112	46.2-1231
46.2-1077	46.2-1115	46.2-1234

46.2-1240	46.2-1309	46.2-1561
46.2-1242	46.2-1508.2	46.2-2910
46.2-1250	46.2-1552	

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*.

(20-83-82; 25-84-82; 14-85-82; 16-87-82; 29-88-82; 20-89-82; 30-89-82; 18-90-82; 36-90-82; 23-91-82; 37-91-82; 37-92-82; 46-92-82; 33-93-82; 27-94-82; 17-95-82; 35-95-82; 25-96-82; 41-96-82; 18-97-82; 21-98-82; 20-99-82; 27-00-82; 25-01-82; 24-02-82; 33-02-82; 26-03-82; 25-04-82; 22-05-82; 18-06-82; 21-07-82; 45-08-82; 52-08-82; 41-09-82; 21-10-82; 22-11-82; 13-12-82; 15-12-82; 48-13-82; 27-14-82; 21-15-82; 21-16-82; 11-17-82; 21-18-82; 21-19-82; [10-20-82](#).)

ATTACHMENT 2

SUMMARY OF 2020 GENERAL ASSEMBLY SPECIAL SESSION I, 2021 GENERAL ASSEMBLY, AND 2021 GENERAL ASSEMBLY SPECIAL SESSION I 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*.

An Act to amend § 18.2-271.1 of the Code of Virginia relating to restricted operators licenses. Removes the requirement that an individual eligible for a restricted operator's license as a result of a Driving While Intoxicated offense pay their fines and costs before being issued a restricted operator's license.

An Act to amend and reenact §§ [46.2-301](#), and [46.2-301.1](#), of the Code of Virginia and to repeal § [46.2-357](#) of the Code of Virginia, relating to habitual offenders; repeal. Repeals the remaining provisions of the Habitual Offender Act.

An Act to amend and reenact §§ [46.2-839](#) and [46.2-905](#) of the Code of Virginia, relating to overtaking a bicycle or certain other vehicles. Requires the driver of a motor vehicle to change lanes when overtaking a bicycle or certain other vehicles when the lane of travel is not wide enough for the overtaking motor vehicle to pass at least three feet to the left of the overtaken vehicle. The amendment also removes the limitations on riding bicycles and certain other vehicles two abreast.

An Act to amend and reenact § [46.2-346](#) of the Code of Virginia, relating to identification privilege cards; penalties. Adds identification privilege cards issued under § [46.2-345.3](#) to be included as a credential issued under Chapter 3 of Title 46.2 of the Code of Virginia and apply to the unlawful acts enumerated in the statute. This amendment has a delayed effective date of January 1, 2022.

An Act to amend and reenact §§ [46.2-100](#) and [46.2-208](#) of the Code of Virginia, relating to privileged information. Limits the release of Department of Motor Vehicles (DMV) privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. The amendment requires the DMV to notify the subject of the request that such a request was made and the identity of the entity that made the request. The amendment requires any entity receiving privileged information from the DMV to enter into a written agreement with the DMV prior to such release of such information and prohibits any entity from rereleasing any such DMV information

to any third party unless explicitly permitted to do so in the entity's agreement with the DMV.

An Act to amend and reenact § [46.2-1063](#) of the Code of Virginia, relating to the bumper height of registered passenger motor vehicles. The amendment repeals § [46.2-747](#) of the Code of Virginia, relating to the bumper height of motor vehicles bearing street rod license plates.

An Act to amend and reenact §§ [46.2-936](#) and [46.2-940](#) of the Code of Virginia, relating to the promise to appear after the issuance of a summons for violations of Title 46.2 punishable as a misdemeanor. Provides that if any person refuses to give a written promise to appear, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release the person from custody. Under current law, any person refusing to give such written promise to appear is required to be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction.

An Act to amend and reenact § [46.2-1049](#) of the Code of Virginia, relating to exhaust systems. No law-enforcement officer shall stop a motorcycle, moped, motorized skateboard, scooter, or motor vehicle for a violation of this section.

An Act to amend and reenact § [46.2-923](#) of the Code of Virginia, relating to how and where pedestrians are to cross highways. No law-enforcement officer shall stop a pedestrian for a violation of this section.

An Act to amend and reenact § [46.2-926](#) of the Code of Virginia, relating to pedestrians stepping into the highway. No law-enforcement officer shall stop a pedestrian for a violation of this section.

An Act to amend and reenact § [46.2-1003](#) of the Code of Virginia, relating to a motor vehicle operating on a highway with defective equipment. Requires that the equipment be both defective and unsafe. No law-enforcement officer shall stop a motor vehicle for a violation of this section.

An Act to amend and reenact § [46.2-1013](#) of the Code of Virginia, relating to tail lights. Requires that all required tail lights be constructed and so mounted in their relation to the rear license plate as to illuminate the license plate and be of an approved type. No law-enforcement officer shall stop a motor vehicle for a violation of this section.

An Act to amend and reenact § [46.2-1014](#) of the Code of Virginia, relating to brake lights. No law-enforcement officer shall stop a motor vehicle, trailer, or semitrailer for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no required brake lights.

An Act to amend and reenact § [46.2-1030](#) of the Code of Virginia, relating to when lights are to be lighted, the number of lights to be lighted at any time, and the use of warning lights. No law-enforcement officer shall stop a motor vehicle for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A of the statute.

An Act to amend and reenact § [46.2-1052](#) of the Code of Virginia, relating to tinting films, signs, decals, and stickers on windshields. No law-enforcement officer shall stop a motor vehicle for a violation of this section.

An Act to amend and reenact § [46.2-1054](#) of the Code of Virginia, relating to the suspension of objections or alteration of vehicles so as to obstruct the driver's view. The amendment clarifies that the prohibition only applies to suspended objects that substantially obstruct the driver's view. No law-enforcement officer shall stop a motor vehicle for a violation of this section.

An Act to amend and reenact § [46.2-1157](#) of the Code of Virginia, relating to required inspection of motor vehicles. No law-enforcement officer shall stop a motor vehicle due to an expired inspection sticker until the first day of the fourth month after the original expiration date.

ATTACHMENT 3

Proposed Amendments to Chapter 82, Motor Vehicles and Traffic

ARTICLE 1. - In General.

Section 82-1-2. - Definitions. [¶](#)

- (a) The following words and phrases, when used in this Chapter, shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:
- (1) *Antique motor vehicle.* Every motor vehicle, as herein defined, which was actually manufactured, or designated by the manufacturer as a model manufactured in a calendar year not less than twenty-five (25) years prior to January 1 of each calendar year and is owned solely as a collector's item, and is used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation, may be classified by the Commissioner as an antique motor vehicle.
 - (2) *Bicycle* shall include pedal bicycles with helper motors rated less than one brake horsepower, which produce only ordinary pedaling speeds up to a maximum of twenty (20) miles per hour, provided such bicycles so equipped shall not be operated upon any highway or public vehicular area of this State by any person under the age of sixteen (16) years.
 - (3) *Business district.* The territory contiguous to a highway where seventy-five percent (75%) or more of the total frontage, or both sides of the highway, for a distance of three hundred (300) feet or more is occupied by buildings actually in use and operation for business purposes.
 - (4) *Camping trailer.* Every vehicle which has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.
 - (5) *Chapter.* The word "Chapter" as used herein shall mean and refer to this Ordinance.
 - (6) *Chauffeur.* Every person employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.
 - (7) *Commission* shall mean the State Corporation Commission.
 - (8) *Commissioner* shall mean the Commissioner of the Division of Motor Vehicles of this State.
 - (9) *County* shall mean Fairfax County, Virginia.
 - (10) *Dealer.* Every person engaged in the business of buying, selling or exchanging motor vehicles, trailers and semitrailers in this County and who has an established place of business for such purpose in this County and at which place of business the books and records of such dealer are kept and at which a substantial part of the business of such dealer is conducted.
 - (11) *Division* shall mean the Division of Motor Vehicles of this State.
 - (12) *Essential parts.* All integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity of a vehicle.
 - (13) *Farm tractor.* Every motor vehicle designed and used as a farm, agricultural or horticultural implement for drawing plows, moving machines and other farm, agricultural or horticultural

machinery and implements, including self-propelled mowers designed and used for mowing lawns.

- (14) *Financial responsibility.* Ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use or operation of a motor vehicle, in the amount of Twenty-five Thousand Dollars (\$25,000.00) because of bodily injury to or death of any one person and, subject to such limit for one person, in the amount of Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in any one accident, and in the amount of Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property in any one accident.
- (15) *Foreign vehicles.* Every motor vehicle, trailer or semitrailer which shall be brought into the State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in the State.
- (16) *Highway.* The entire width between boundary lines of every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this County, including the streets, alleys and publicly maintained parking lots in the County, and for law enforcement purposes only the entire width between boundary lines of all private roads or private streets located within any residential development containing five hundred (500) or more lots.
- (17) *Intersection.*
 - (A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
 - (B) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.
 - (C) For purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.
- (18) *License plate.* A device containing letters, numerals or a combination of both, attached to a motor vehicle, trailer or semitrailer to indicate that such motor vehicle, trailer or semitrailer is properly registered with the Division.
- (19) *Manufacturer.* Every person engaged in the business of constructing or assembling motor vehicles, trailers or semitrailers at an established place of business in this State.
- (20) *Metal tires.* All tires, the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.
- (21) *Mobile home.* Every vehicle not otherwise classified herein which has noncollapsible sides, which contains sleeping quarters and may or may not contain bathing and cooking facilities and every trailer not designed for the transportation of property but used primarily for office space and is designed to be drawn by a motor vehicle.
- (22) *Motorcycle.* Every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, except any such vehicle as may be included within the term "farm tractor" as defined in this Section.
- (23) *Motorhome.* Every private motor vehicle with a normal seating capacity of not more than ten (10) persons, including the driver, designed primarily for use as living quarters for human beings.
- (24) *Motor vehicle.* Every vehicle as defined in this Section which is self-propelled or designed for self-propulsion. Any structure designed, used or maintained primarily to be loaded on or affixed

to a motor vehicle to provide a mobile dwelling, sleeping place, office of commercial space, shall be considered a part of a motor vehicle. For the purpose of this Chapter, any device herein defined as a bicycle shall be deemed not to be a motor vehicle.

- (25) *Nonresident.* Every person who is not domiciled in this State, except:
 - (A) Any foreign corporation which is authorized to do business in this State by the State Corporation Commission shall be deemed a resident of this State for the purpose of this Chapter; provided, however, that in the case of corporations incorporated in this State but doing business without the State, only such principal place of business or branches located within this State shall be dealt with as residents of this State.
 - (B) A person who becomes engaged in a gainful occupation in this State for a period exceeding sixty (60) days, shall be deemed a resident for the purposes of this Chapter.
 - (C) A person other than a nonresident student as defined in paragraph (20) of this Section who has actually resided in this State for a period of six (6) months, whether employed or not, or who has registered a motor vehicle, listing an address within this State in the application for registration, shall be deemed a resident for the purposes of this Chapter.
- (26) *Nonresident student.* Every nonresident person who is enrolled as a full-time student in an accredited institution of learning in this State and who is not gainfully employed.
- (27) *Operation or use for rent or for hire, etc.* The terms operation or use for rent or for hire, and the term *business of transporting persons or property*, wherever used in this title, shall mean any owner or operator of any motor vehicle, trailer or semitrailer operating over the highways of this State who accepts or receives compensation for the service, directly or indirectly; but such terms shall not be construed to mean a "truck lessor" as defined herein.
- (28) *Operator.* Every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
- (29) *Owner.* A person who holds the legal title of a vehicle or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Chapter, except that in all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee upon payment of the rent stipulated, the lessor shall be regarded as the owner of such vehicle and the vehicle shall be subject to such requirements of this Chapter as are applicable to vehicles operated for compensation; provided, however, that a "truck lessor" as defined in *Code of Virginia*, Section 46.2-100(36), shall be regarded as the owner, and his vehicles shall be subject to such requirements of this Chapter as are applicable to vehicles of private carriers.
- (30) *Peace or police officer.* Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- (31) *Person.* Every natural person, firm, partnership, association or corporation.
- (32) *Pickup or panel truck.* Every motor vehicle designed for the transportation of property with a registered gross weight of seven thousand five hundred (7,500) pounds or less.
- (33) *Pneumatic tires.* All tires inflated with compressed air.
- (34) *Private road or driveway.* Every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (35) *Reconstructed vehicle.* Every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used.

- (36) *Rescue vehicle.* The term "rescue vehicle" is defined as any vehicle designed or utilized for the principal purposes of supplying resuscitation or other emergency relief where human life is endangered.
- (37) *Residence district.* The territory contiguous to a highway not comprising a business district where seventy-five percent (75%) or more of the total frontage, on both sides of the highway, for a distance of three hundred (300) feet or more is occupied by dwellings and land improved for dwelling purposes, or by dwellings, land improved for dwelling purposes and land or buildings in use for business purposes.
- (38) *Road tractor.* Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.
- (39) *Roadway* shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or unpaved area.
- (40) *Safety zone.* The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (41) *School bus.* Any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is:
- (i) Designed and used primarily for the transportation of pupils to and from public, private or parochial schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; and
 - (ii) Painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and
 - (iii) Is equipped with warning devices prescribed in Section 46.2-1090, *Code of Virginia*. School buses manufactured prior to July 1, 1974, may continue to have the words "Stop, State Law" in black letters of specified size on front and rear.
- (42) *Semitrailer.* Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.
- (43) *Shoulder* shall mean that part of a highway between the portion regularly travelled by vehicular traffic and the lateral curb line or ditch.
- (44) *Solid rubber tires.* Every tire made of rubber other than a pneumatic tire.
- (45) *Specially constructed vehicles.* Any vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as defined in this Section.
- (46) *Street.* Such term shall have the same meaning as the term "highway," as defined in this Section.
- (47) *Superintendent* shall mean the Superintendent of the Department of State Police of this State.
- (48) *Tractor truck.* Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.
- (48.1) *Traffic infraction* shall mean any violation of any provision of this Chapter, or of any rules or regulations established thereunder, not expressly defined as a felony or misdemeanor, and otherwise not punishable by incarceration or by a fine of more than One Hundred Dollars (\$100.00). The term "traffic infraction", used in any other Chapter of this Code, or in any rule or regulation adopted pursuant to any provision of this Chapter, shall have this same meaning and effect.

- (49) *Traffic lane or lane.* shall mean that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.
- (50) *Trailer.* Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.
- (51) *Truck.* Every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a gross weight in excess of seven thousand five hundred (7,500) pounds.
- (52) *Truck lessor.* A person who holds the legal title to any motor vehicle, trailer or semitrailer which is the subject of a bona fide written lease for a term of one (1) year or more to another person, provided that:
 - (A) Neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in *Code of Virginia*, Section 56-273; and
 - (B) The leased motor vehicle, trailer or semitrailer is used exclusively for the transportation of property of the lessee; and
 - (C) The lessor is not employed in any capacity by the lessee; and
 - (D) The operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and
 - (E) A true copy of such lease, verified by affidavit of the lessor, is filed with the Commissioner.
- (53) *Vehicle.* Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks and except any vehicle as may be included within the term bicycle as herein defined. (3-13-63; 1961 Code, § 16-2; 37-76-82; 9-78-82; 34-78-82; 19-79-82; 26-81-82; 30-89-82.)

Footnotes:

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2. For similar state law, see Va. Code Ann. ~~§46.1-4~~ 46.2-100.

Section 82-1-3. - Enforcement by County officers; officers to be uniformed.

- (a) Every police officer shall enforce the provisions of this Chapter; provided that such officer shall be uniformed at the time of such enforcement or shall display his badge, or other sign of authority; and provided further, that all officers making arrests incident to the enforcement of this ~~Title-Chapter~~ shall be paid fixed and determined salaries for their services and shall have no interest in, nor be permitted by law to accept the benefit of, any fine or fee resulting from the arrest or conviction of an offender against any provision of this ~~Title- Chapter~~.
- (b) With the consent of the landowner, any such officer or other uniformed employee of the police department may patrol the landowner's property to enforce State or County motor vehicle registration and licensing requirements.
- (c) Any law enforcement officer may patrol the streets and roads within subdivisions of real property or within a condominium pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or land submitted to a horizontal property regime pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.). ~~Code of Virginia, Chapter 4.1 (§ 55-79.1 et seq.) or 4.2 (§ 55-79.39 et seq.) of Title 55,~~ which streets and roads are maintained by the owners of the lots or parcels of land within ~~any such the~~ subdivision or the owners of condominium units within any ~~such~~ horizontal property regime or any association of such owners, on the request or with the consent of the owners or association of

owners, to enforce the provisions of Title 46.2 of the Code of Virginia punishable as felonies, misdemeanors, or traffic infractions. Code of Virginia, Chapters 1 through 4 (§§ 46.1-1 through 46.2-347) of Title 46.4. (3-13-63; 1961 Code, § 16-3; 37-76-82; 26-81-82.)

Section 82-1-31. - Arrest for misdemeanors; release on summons and promise to appear; admitting to bail; violations.

- (a) Whenever any person is detained by or in the custody of an arresting officer ~~arrested~~, including an arrest on a warrant, for a violation of any provision of this Chapter, ~~except of Section 82-4-17,~~ the arresting officer shall, except as otherwise provided in Section 82-1-34 or any other Section of this Chapter, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest unless the person arrested shall demand an earlier hearing and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours at a convenient hour, and before a court having jurisdiction. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place, forthwith release him from custody.
- (b) For purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this Chapter, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.
- (c) ~~Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction under this Chapter. If any person refuses to give such written promise to appear under the provisions of this section, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody.~~
- (d) Any person who willfully violates his written promise to appear or fails to appear at the time and place specified in such summons or notice issued, ~~given~~ in accordance with this Section, shall be guilty of a misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.
- (e) Any officer violating any of the provisions of this Section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This Section shall not be construed to limit the removal of a police officer for other misconduct in office. (3-13-63; 1961 Code, § 16-30; 37-76-82; 9-78-82.)

Section 82-3-14. - Inspection of vehicles.

- (a) The Superintendent may at any time compel, by proclamation of the Governor or otherwise, the owner or operator of any motor vehicle, trailer or semitrailer operated or parked on the ~~upon a~~ highways ~~within this in the~~ Commonwealth to submit such vehicle to an inspection of its mechanism and equipment by an official inspection station, designated for that purpose, and any such owner or operator who fails to submit a motor vehicle, trailer or semitrailer operated or parked on ~~upon~~ the highways of this State to such inspection or who fails or refuses to correct or have corrected in accordance with the requirements of this title any mechanical defects found by such inspection to exist shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of Section 46.2-113 of the *Code of Virginia*, and each day upon which such motor vehicle, trailer or semitrailer is operated over any highway of this State after failure to comply with this law shall constitute a separate offense; provided, that the penalty provided herein shall not be imposed upon

any owner or operator for operation of a motor vehicle, trailer or semitrailer after the expiration of a period fixed for the inspection thereof, over the most direct route between the place where such vehicle is kept or garaged and an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station for such inspection.

- (b) The provisions of this Section shall not apply to any vehicle for transporting well-drilling machinery licensed under *Code of Virginia*, Section 46.2-700 or to any vehicle as defined under *Code of Virginia*, Section 46.2-100 and licensed pursuant to *Code of Virginia*, Section 46.2-730.
- (c) No law-enforcement officer shall stop a motor vehicle due to an expired vehicle inspection sticker until the first day of the fourth month after the original expiration date. (1950 Va. Code, § 46-317; 1950, h. 691; 1958, c. 541; 3-13-63; 1961 Code, § 16-51; 37-76-82; 9-78-82; 34-78-82.)

Footnotes:

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32. For similar state law, see Va. Code Ann., § 46.2-1157.

Section 82-5-1. - Parking prohibited in Specified Places.

- (a) No person shall park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
 - (1) On a sidewalk;
 - (2) In front of, or within ten feet to either side of, a public or private driveway;
 - (3) In or within 20 feet of an intersection;
 - (4) Within 15 feet of a fire hydrant located on private or public property or within a fire lane as defined in chapter 62 (Fire Protection), of the Code of the County of Fairfax;
 - (5) In or within 20 feet of a crosswalk;
 - (6) Repealed;
 - (7) Within 30 feet upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
 - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;
 - (9) Within 50 feet of the nearest rail of a railroad grade crossing;
 - (10) Within 20 feet of the driveway entrance to any fire station and on the street opposite the entrance to any fire station within 75 feet of the entrance when properly ~~sign~~ posted;
 - (11) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;
 - (12) On the roadway side of any vehicle parked at the edge or curb of the street;
 - (13) Upon any bridge or other elevated structure upon a street or highway or within a tunnel;
 - (14) At any place where official signs prohibit parking;
 - (15) Repealed; or

- (16) So as to prevent the use of curb ramps located on public property or on privately owned property open to the public.
- (b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle or shift, change or move the levers, brake, starting device, gears, or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so. (3-13-63; Code, § 16-121; 14-74-16; 37-76-82; 38-76-82; 28-80-82; 17-83-82; 34-84-82; 31-91-82; 49-93-82; 18-97-82; 48-09-82.)

Section 82-5-32. - Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property.

- (a) *Applicability.* Section 82-5-32 establishes the minimum requirements for all trespass towing initiated in Fairfax County. Fairfax County Code shall also apply to a trespassing vehicle towed from Fairfax County and stored outside the County.
- (b) *Definitions.* The following words and phrases shall have the meanings respectively ascribed to them in this section:

"Advisory Board" means the Fairfax County Trespass Towing Advisory Board.

"Board" means the Fairfax County Board of Supervisors.

"Commission" means the Fairfax County Consumer Protection Commission.

"County" means the County of Fairfax, Virginia.

"Department" or "DCCS" means the Fairfax County Department of Cable and Consumer Services.

"Director" means the Director of the Fairfax County Department of Cable and Consumer Services or the duly assigned agent of the Director of the Department.

"Driver" means a person who drives or is in actual physical control of a tow truck. A driver shall have obtained all required documents issued by the state in order to operate a tow truck while providing towing services.

"Drop fee" means a fee that is charged a vehicle owner for disconnecting a tow truck from a vehicle prior to leaving private property.

"Equipment" means any tow truck, vehicle or related machinery or tools used to provide towing.

"Immobilize" means a procedure or piece of equipment, such as a boot, used to prevent a vehicle from moving. Immobilization does not include attachment to a tow truck.

"Law-enforcement officer" means any officer authorized by law to direct or regulate traffic, or to make arrests for violations of the Code of Virginia or local ordinances.

"Locality" means the geographical area of control of a county, city, or town.

"Locality permit" means a document indicating an operator has been approved to immobilize or trespass tow vehicles in Fairfax County and store vehicles both inside and outside of Fairfax County.

"Operator" or "towing and recovery operator" means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck.

"Personal property" means any property in a vehicle which is not attached to or considered to be necessary for the proper operation of the vehicle.

"Property owner" means the owner, operator, authorized agent, or lessee of any land, space, or area used for parking, including any county, city, or town, or authorized agent of the person having control of such premises.

"Registration certificate" means a document indicating an operator has been approved to trespass tow and store vehicles within Fairfax County.

"State" means the Commonwealth of Virginia.

"Storage site" means a location where vehicles are taken until the owner reclaims the vehicle or it is sold. The location must meet all requirements specified in this section.

"Tow" or "towed" means when the tow truck has engaged a vehicle by a physical or mechanical means that causes the towed vehicle to be removed from private property.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus, and (ii) having a manufacturer's gross vehicle weight rating (GVWR) of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

"Trespass tow" means requests for towing services made by the owner, manager, or lessee of private property, or the authorized agent thereof, or under contract between such person and a towing and recovery operator that specifies what tows are to be made from the property when a vehicle is on the property in violation of law or rules promulgated by the owner, manager, or lessee of the private property.

"Vehicle" means every device in, on, or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

"Vehicle owner" means the owner, operator, authorized agent, or lessee of a vehicle.

(c) *Exclusions.*

(1) This section shall not apply to:

- (A) Police, fire, or public health vehicles, or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another at the direction of police, fire or public health officials.
- (B) Vehicle repossession activities.
- (C) Vehicles towed, moved, or stored at the request of a law-enforcement officer.

(2) The provisions of this section shall not be construed to prohibit vehicles from being towed when such towing is otherwise permitted by law.

(d) *Signs.*

(1) Permanent signs, clearly visible during daytime and nighttime hours, shall be posted at all entrances to the parking area that conspicuously disclose that such vehicle shall be towed or immobilized.

(2) Such signs, at a minimum, shall: (all measurements are approximate)

- (A) Be made of metal.
- (B) Be 18 inches high and 12 inches wide.
- (C) Contain reflective red letters and red reflective graphics on a reflective white background, with a $\frac{3}{8}$ inch reflective red trim strip $\frac{3}{8}$ inch in from the entire outer edge of the sign.
- (D) Contain the international Towing symbol that is at least 5 inches high by 11 inches wide as found in the Federal Highway Administration, "*Manual on Uniform Traffic Control Devices*".

- (E) Use Series B or Clearview lettering found in the Federal Highway Administration, "*Manual on Uniform Traffic Control Devices*".
 - (F) Contain "Towing Enforced" in a font size of two inch letters.
 - (G) Contain "If towed Call 703-691-2131" in a font size of one inch letters, which is the Fairfax County Department of Public Safety Communications (DPSC) telephone number. However, if the tow originated in the Town of Vienna, the sign shall contain, "If Towed Call 703-255-6366" and if the tow originated in the Town of Herndon, the sign shall contain, "If Towed Call 703-435-6846".
 - (H) Paragraphs (2)(A) through (2)(F) shall be effective January 1, 2015.
- (3) Signs posted in a government road right-of-way must meet Virginia Department of Transportation standards and all applicable Virginia laws to include the bottom of the sign mounted at least seven feet above the ground. Signs posted on private property are not required to meet this height requirement as long as they are clearly visible.
 - (4) Sign contents may also include additional information such as, but not limited to, the name of the property or name and telephone number of the designated operator in a font size of 19/32 inch letters.
 - (5) In addition to the mandatory entrance signs, other area signs may be used to specify any other requirements for parking.
 - (6) The requirement for signs shall not apply to single-family residence properties not subject to common interest community regulations (as defined in Va. Code § ~~55-528-54.1-2354.1~~, as amended).
 - (7) No signage of the type required in this section shall be required to effect the towing of a vehicle unlawfully parked in a spot reserved for persons with disabilities or in a "Fire Lane" that is approved and marked in accordance with County and state requirements.
 - (8) Trespassing vehicle on property not marked by signs.
 - (A) Non-residential properties. A notice must be conspicuously affixed to a trespassing vehicle with a warning the vehicle is liable to be towed 48 hours after such notice is posted.
 - (i) The notice must contain the date and time of posting.
 - (ii) A vehicle found to be trespassing a second time on the same unmarked property may be towed immediately. A warning notice is not required.
 - (B) Vehicles trespassing on single-family residence properties not subject to common interest community regulations may be towed immediately. No notice is required.
- (e) *Property owner.*
- (1) A property owner may have a vehicle towed to a storage site or immobilized without the permission of the vehicle owner if the vehicle is occupying property without permission of the property owner, and if conditions set forth in this section are met.
 - (A) The property owner has executed a contract with a towing and recovery operator that specifies what tows are to be made from the property when a vehicle is parked on the property in violation of law, or rules promulgated by the owner, manager, or lessee of the private property. Such contract shall clearly state the terms under which towing and recovery operators may monitor private lots on behalf of property owners.
 - (B) Copies of such written contracts shall be retained for three years after the date of the last tow or immobilization approved by the agreement.
 - (2) In lieu of having such vehicle towed or immobilized, the property owner on which the vehicle is located may request a law enforcement officer issue, on the premises, a citation to the vehicle owner.

(f) *Operator.* Trespass tow operators must comply with all requirements of this section.

(1) *Registration certificate.*

- (A) All operators engaged in immobilizing or towing vehicles without the consent of the vehicle owner in Fairfax County must register with the Department of Cable and Consumer Services prior to the initiation of any such operations, and by January 31 of each subsequent year.
- (B) To obtain a registration certificate, the following information and documents must be provided to the Department:
 - (i) Name, address and telephone number of the business engaged in immobilizing or towing;
 - (ii) Name and telephone number of the business owner or chief executive officer (CEO);
 - (iii) Copy of the operator's business license;
 - (iv) Address, telephone number, and vehicle storage capacity of each storage site to which vehicles will be towed;
 - (v) Copy of each office and storage site Non-Residential Use Permit and,
 - (vi) Number of tow trucks to be operated in Fairfax County.
 - (vii) Proof of insurance as required by Va. Code § 46.2-2143, as amended, and shall include provisions for notice by the insurance carrier to the Director prior to termination of such coverage.
- (C) Application shall be made on forms provided by the Department.
- (D) The department must be notified of any changes to information previously provided by the operator within 30 calendar days of the change.

(2) *Locality permit.*

- ~~(A)~~ (A) All operators engaged in towing vehicles without the consent of the vehicle owner in Fairfax County and storing those vehicles outside of Fairfax County must obtain an approved locality permit prior to the initiation of any such operations and by January 31 of each subsequent year.
 - (i) The initial application and annual renewal fee for each operator shall be \$150.00.
 - (ii) The initial inspection fee for each storage site outside of Fairfax County shall be \$450.00.
- (B) To obtain a locality permit, the following information and documents must be provided to the Department:
 - (i) Name, address and telephone number of the business engaged in immobilizing or towing;
 - (ii) Name and telephone number of the business owner or chief executive officer (CEO);
 - (iii) Copy of the operator's business license issued by the jurisdiction in which the operator is headquartered;
 - (iv) Address, telephone number, and vehicle storage capacity of each storage site to which vehicles will be towed;
 - (v) Copy of each office and storage site occupancy permit issued by the zoning agency in the jurisdiction in which the storage site is located.
 - (vi) Number of tow trucks to be operated in Fairfax County.

- (vii) Proof of insurance as required by Va. Code 46.2-2143, as amended, and shall include provisions for notice by the insurance carrier to the Director prior to termination of such coverage. —
- (C) Application shall be made on forms provided by the Department.
- (D) The Department must be notified of any changes to information previously provided by the operator within 30 calendar days of the change.
- (3) *Registration certificates and locality permits.*
 - (A) It shall be unlawful for any person to procure, or assist another to procure, through theft, fraud, or other illegal means, a registration certificate or locality permit from the Department. Any violation of any provision of this section shall be punishable as a Class 2 misdemeanor.
 - (B) Any person or entity other than the Department that sells, gives, or distributes, or attempts to sell, give or distribute any document purporting to be a registration certificate or locality permit to conduct a trespass towing business in Fairfax County is guilty of a Class 1 misdemeanor.
- (4) *Operational requirements.*
 - (A) The operator shall be open for business 24 hours a day and seven days per week, unless the operator has no vehicles immobilized or stored at an approved storage site.
 - (B) All tow truck safety devices must be operational, used, and comply with local, state, and federal laws and regulations.
 - (C) An operator shall not tow a vehicle from private property or immobilize a vehicle on private property unless the vehicle is parked on the property in violation of law or rules promulgated by the owner, manager, or lessee of the private property.
 - (D) All tow trucks shall have the following identifying markings of a contrasting color to the truck body on both sides of each tow truck:
 - (i) The operator's business name as registered with the Department in a font not less than three inches in height.
 - (ii) The operator's telephone number in a font not less than three inches in height.
 - (iii) Truck number in a font not less than four inches in height.
 - (E) Each tow truck, while trespass towing, shall have a copy of the current Fairfax County trespass towing registration certificate or locality permit in the tow truck.
 - (F) Each immobilization device shall have a label, clearly visible while the device is in position immobilizing a vehicle, that lists the operator's name and telephone number, immobilization fee, and the Department's name and telephone number.
 - (G) The Fairfax County Department of Public Safety Communications (DPSC) shall be notified no later than 30 minutes after initiating the immobilization or towing of a vehicle. However, whenever a vehicle is towed or immobilized from sites within the Town of Herndon or the Town of Vienna, the operator, shall notify the law enforcement agency in those localities as applicable.
 - (H) Such notification shall include the:
 - (i) Operator name and driver employee number who towed or immobilized the vehicle;
 - (ii) Make, model, color, year, vehicle identification number of the towed or immobilized vehicle;
 - (iii) License plate type (such as passenger car, truck, dealer, taxi, disabled), number, state, and year of license of the towed or immobilized vehicle;

- (iv) Address where the vehicle was towed or immobilized from;
 - (v) Reason for the tow or immobilization;
 - (vi) Time such tow or immobilization was initiated; and
 - (vii) Storage site address where the vehicle is located and the operator's telephone number.
- (I) It shall be unlawful to fail to report a tow or immobilization as required by this section. Violation of the reporting requirements of this section shall constitute an invalid tow resulting in no charge to the owner for the release of the vehicle.
- (J) Any tow truck driver who tows a vehicle that is occupied by an unattended companion animal, as defined by Va. Code § 3.2-6500, as amended, shall, upon such removal, immediately notify the Animal Services Division of the Fairfax County Police Department (FCPD). Such notification should be made to the Fairfax County DPSC non-emergency telephone number.
- (K) Upon leaving private property, a driver must tow each vehicle directly to a storage site registered with the Department. Changing the towing vehicle shall not be permitted unless the original towing vehicle becomes non-operational.
 - (i) The vehicle must remain in that lot for 30 calendar days if the owner fails to claim the vehicle.
 - (ii) A vehicle towed outside of Fairfax County may not be towed more than ten miles from the origin of the tow, and must remain in the Commonwealth. The straight line ten-mile radius from a storage site outside of Fairfax County shall be determined by the Director using the Fairfax County GIS & Mapping Services Branch data.
- (L) Photographic evidence clearly substantiating the vehicle's condition, location, and reason for the vehicle's tow or immobilization must be made prior to connecting the tow truck to the vehicle.
- (M) While being towed, vehicles shall be properly secured in accordance with all laws, regulations, and tow truck vehicle manufacturer recommendations.
- (N) Nothing in this section shall release the operator from liability for failure to use reasonable care to prevent the load from shifting or falling.
- (O) Records. An operator shall maintain written and electronic records for each towed or immobilized vehicle for a period of three years after such tow or immobilization. Records to be retained shall include:
 - (i) A record of the property owner's approval;
 - (ii) The information required to be provided to the DPSC and other local law enforcement agencies pursuant to this section;
 - (iii) A legible copy of the receipt provided to vehicle owner; and
 - (iv) Photographs and any other documentation supporting the tow.
- (5) *Storage site requirements.*
 - (A) Every site to which trespassing vehicles are towed, stored, and available for return to the vehicle owner shall comply with the following requirements:
 - (i) A storage site must be staffed, and open for business 24 hours per day and seven days per week, unless the operator has no vehicles towed from a location in Fairfax County stored at the storage site.
 - (ii) Each storage site must be properly zoned and approved for storage of towed vehicles, as evidenced by an occupancy permit issued by the zoning agency in the

jurisdiction in which the storage site is located. Each storage site must also be registered with the Department.

- (iii) A storage site shall be lighted during the hours of darkness to afford clear visibility to all portions of the storage site.
- (iv) A towed vehicle shall not be stored more than a reasonable walking distance from the area where towing and storage fee payments are received.
- (v) The operator shall exercise reasonable care to keep the towed vehicle and its contents safe and secure at all times, which shall include appropriate permanent fencing.
- (vi) No operator may take a vehicle to a storage site which does not meet these standards and all other applicable ordinances and regulations:
 - (a) A clearly visible sign must be posted at the entrance of the storage site that provides the operator's name and telephone number; and
 - (b) The telephone for the posted number shall be answered 24 hours a day.
 - (c) A clearly visible sign with a list of all of the operator's fees for trespass immobilization, towing and storage services, and the operator's contact information.
 - (d) A clearly visible sign available from the Department of Cable and Consumer Services, listing the Department's web site, office address, and telephone number.

(6) *Personal property.*

- (A) Nothing shall be removed from the vehicle without the express consent of the vehicle owner.
- (B) Personal property must be released immediately upon the vehicle owner's request without charge, and it shall be the duty of the operator to return it to the vehicle owner if the vehicle owner claims the items prior to release or disposition of the vehicle. Any lien created under this section shall not extend to any personal property.

(7) *Vehicle release.*

- (A) If the vehicle owner of the vehicle is present and removes the vehicle from the property or corrects the violation before the vehicle is connected to the tow truck, no fee shall be charged the vehicle owner;
- (B) If the vehicle has been connected to the tow truck and has not yet left private property, the vehicle shall not be towed upon request of the vehicle owner. The vehicle owner shall be liable for a drop fee, as set forth in this section, in lieu of towing, provided that the vehicle owner or representative is present and ready, willing, and able to pay the required drop fee and removes the vehicle from the property or corrects the violation.
- (C) An immobilized or a towed vehicle moved to a storage site shall be immediately available for release at the request of the vehicle owner.
- (D) The operator shall accept the following forms of payment for any trespass towing fees:
 - (i) Cash;
 - (ii) Two major national credit cards;
 - (iii) MasterCard or Visa debit cards; and
 - (iv) Personal checks shall be accepted when credit/debit card machines are not available or are inoperable.

- (E) In all cases when a vehicle is immobilized, towed, or fees charged, the operator shall provide the vehicle owner with a receipt that bears the:
 - (i) Complete name, address, and telephone number of the operator that towed the vehicle;
 - (ii) Time the vehicle was towed;
 - (iii) Address from which the vehicle was towed;
 - (iv) Authority for the tow (entity or person authorizing the tow);
 - (v) Reason for the tow;
 - (vi) Driver employee number; (the corresponding driver's name shall be provided to the FCPD; and/or the Director upon request)
 - (vii) Time the vehicle was released;
 - (viii) An itemized list of all fees assessed in the immobilization, towing, storage, and/or release of the vehicle;
 - (ix) The printed name of the person to whom the vehicle was released; and
 - (x) The name and telephone number of the Department where vehicle owners may file a consumer complaint.
- (F) If any requirements of this section are not met, for such immobilization or tow, no fee shall be charged.
- (8) *Compliance.*
 - (A) The operator shall provide to the vehicle owner, upon request, a copy of the authority for the tow; including, without limitation, photographs and other documentation supporting the tow.
 - (B) Right of entry. Whenever it is necessary for the purposes of this section, the duly authorized agent of the Director may enter any trespass towing business, business establishment, or storage site property to obtain information, conduct surveys, audits, compliance reviews, or investigations.
- (g) *Rates and charges.*
 - (1) *Change to rates and charges.*
 - (A) Changes in rates and charges for trespass towing services rendered by operators shall be approved by the Board.
 - (B) The Board may consider changes in rates or charges upon recommendation of the Director or the Advisory Board.
 - (C) The Director shall conduct a review of rates every two years.
 - (D) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board pursuant to a public hearing, which shall be scheduled as soon as analysis, investigation, and administration allow. All recommendations of the Advisory Board and the Director shall be conveyed to the Board for its consideration and determination.
 - (E) Whenever the Director or Advisory Board determines a rate change is warranted, all registered operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business in Fairfax County. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

Notice of Proposed Rate Change

A proposed change in trespass towing rates is under consideration by the Fairfax County government. The proposed rates are: (Insert description of the proposed changes).

The proposed trespass towing rate change shall be considered by the Trespass Towing Advisory Board at a public hearing. The date, time and location of the public hearing may be obtained by calling the Department of Cable and Consumer Services. Any interested person may appear before the Advisory Board to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable and Consumer Services at 703-324-5966.

- (F) Notices with respect to a proposed rate change shall be posted within ten days of the staff report for such change and shall remain posted until the change in rates is denied or becomes effective.

(2) *Rates and charges.*

- (A) It shall be unlawful for an operator to charge any fees exceeding the fees set forth in this section.
 - (i) Immobilization. An operator may charge a vehicle owner a maximum fee of \$75.00 for the release of a vehicle when it is immobilized. No other fee of any type may be charged.
 - (ii) Drop fee. An operator may charge a vehicle owner a maximum fee of \$50.00 for the release of a vehicle prior to towing the vehicle from private property. No other fee of any type may be charged.
 - (iii) Hookup and initial towing fee shall not exceed:
 - (I) \$135.00 for vehicles with GVWR of 7,500 pounds or less.
 - (II) \$250.00 for vehicles with GVWR of 7,501 pounds through 10,000 pounds.
 - (III) \$500.00 for vehicles with GVWR greater than 10,000 pounds.
 - (IV) For towing a vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, a maximum additional fee of \$25 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle.
 - (V) . No other fees or charges shall be imposed during the first 24 hour period.
 - (iv) Storage fee for the safekeeping of vehicles:
 - (I) No charge shall be made for storage and safekeeping of a vehicle for the first 24 hours the vehicle is on the storage site.
 - (II) After the vehicle is on the storage site for more than 24 hours, a vehicle storage fee may be charged for each subsequent 24-hour period, or any portion thereof, at a rate not to exceed \$50.00 for any vehicle 22 feet or less in length, or \$5.00 per foot for any vehicle over 22 feet in length.
 - (v) If an administrative fee for notification of lien holder, owner, agent or other interested party is charged, it shall not exceed \$75.00. This fee may only apply after the vehicle is on the storage site over three full business days. If an administrative fee is charged, a copy of the Virginia Department of Motor Vehicles report shall be attached to the receipt given to the vehicle owner.
 - (vi) No other fees shall be charged unless expressly set forth herein.
- (B) Upon vehicle release, the operator shall give the vehicle owner a receipt itemizing all charges.

- (C) An operator shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the owner's vehicle as a condition of the owner retrieving the towed vehicle.
- (h) *Penalties and remedies for violations.*
 - (1) *All trespass towing.*
 - (A) It shall be unlawful for any person to violate any of the provisions of this section, or any regulation adopted pursuant to this section. Unless otherwise stated, these violations shall constitute traffic infractions punishable by a fine of not more than that provided for a Class 4 misdemeanor.
 - (B) It shall be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring a registration certificate or locality permit, or to make any false statements or entry on records required to be kept by this section.
 - (C) An operator shall be suspended if the operator's insurance is no longer in effect. Suspension shall be in accordance with Section 82-5-32(h)(2)(B) and (D).
 - (2) *Locality permit operators.*
 - (A) *Denial.*
 - (i) The Director may deny an operator's locality permit application to conduct a trespass towing business in Fairfax County if the operator:
 - (I) Does not have an approved storage site; or
 - (II) Does not possess a valid business license; or
 - (III) Is not properly licensed by the state; or
 - (IV) Provides false information on the application.
 - (ii) The operator may reapply after application deficiencies are corrected. If the denial is based on 82-5-32(h)(2)(A)(i)(IV), the denial shall remain in force for one year from the date of denial.
 - (B) *Suspension.*
 - (i) The Director may suspend an operator's Fairfax County locality permit for a period of one to 60 days and/or until proof of compliance is provided to the satisfaction of the Director for any of the following reasons, but not limited to:
 - (I) Operating a tow vehicle that fails to meet federal, state, and local codes.
 - (II) Any violations of this section which regulate conduct, reporting, and record-keeping.
 - (III) Occurrence of any of the grounds for denial of a registration application or locality permit, listed in Section 82-5-32(h)(2)(A).
 - (IV) Failure to maintain the storage site(s) and/or operation(s) in good order and repair.
 - (V) Failure to pay all fees and taxes imposed insofar as such fees relate to operation of a trespass towing business.
 - (VI) Failure to maintain proper insurance.
 - (VII) Valid consumer complaints regarding trespass towing operation.
 - (ii) Any suspension for a violation of Sections 82-5-32(h)(2)(B)(i)(I) and (VI) shall become effective upon the date of any such violation without notification pursuant to paragraph (d) below.

(C) *Revocation.*

- (i) An operator's locality permit may be revoked by the Director for, but not limited to, any of the following reasons:
 - (I) If an operator fails to correct deficiencies for which the operator was suspended;
 - (II) The operator makes or causes or allows to be made any false statement in writing for the purpose of procuring a locality permit;
 - (III) If an operator makes or causes or allows to be made any false statement or entry on records required to be kept by this section;
 - (IV) Conducts operations in the County while under suspension; or
 - (V) At the discretion of the Director for multiple violations by the locality permit holder of any of the provisions of this section within a twelve-month period.

(D) *Notification.*

- (i) Written notice of any denial, suspension, or revocation under the above provisions of this section shall be given by the Director to the operator in person, or by email, and by certified mail. Such suspension or revocation shall be effective seven calendar days after the deposit of such notice in the US mail unless otherwise specified in this section.
- (ii) Locality permits that have been suspended or revoked shall be returned to the Director within seven calendar days from the effective date of the suspension or revocation, provided such suspension was ordered for more than seven calendar days.

(E) *Appeal.* Procedure for appeal of action by the Director.

- (i) If the Director denies, suspends or revokes any operator's locality permit, any party aggrieved thereby may appeal such decision to the Commission.
- (ii) An appeal shall be filed with the Department of Cable and Consumer Services by the appellant or by the legal representative of the appellant. Appeals shall be in writing, and appeals shall include a brief statement of the reasons thereof. Appeals shall be filed within 45 calendar days of receipt of the notice of denial, suspension, or revocation, and signed by the appellant or the legal representative of the appellant.
- (iii) Upon receipt of notice of appeal, the Commission shall set a time and place for such hearing and shall give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals shall be scheduled and determined as promptly as practicable and in no event more than 60 calendar days from the date the notice of appeal is filed.
- (iv) An appeal may be withdrawn at any time by the appellant or his agent prior to the Commission meeting by giving written notice to the Director.
- (v) An appeal may also be administratively withdrawn by the Director if it is determined that the appeal was the result of an error.
- (vi) The Commission shall consider the case record as well as the statements offered by any interested party and shall consider the matter *de novo*, and the Commission shall, upon the basis of the record before it, affirm, modify or reverse the decision of the Director.
- (vii) If the Commission affirms the decision of the Director to suspend or revoke an operator's a locality permit, then the suspension or revocation shall be effective from the date of the Commissioner's order.

- (viii) If the Commission reverses the decision of the Director, the Director shall issue or restore the operator's locality permit, in accordance with its order.
 - (ix) Except as otherwise provided in this section, an appeal of the decision of the Director to suspend or revoke an operator's locality permit shall stay the effective date of the suspension or revocation.
 - (x) However, if any suspension or revocation of an operator's locality permit is based on failure to follow appropriate safety procedures or falsifying documents, then the order of the Director shall remain in effect until the Commission has rendered its decision on the appeal.
- (F) The provisions of this section are not exclusive and do not relieve the parties or the contracts subject thereto from compliance with all other applicable provisions of law.
- (G) *Code or regulatory conflict.* In the event of a conflict between an action of the state and the County, the County ordinance shall be controlling, provided such provisions are no less stringent than requirements imposed by action of the state. (3-13-63; 1961 Code, § 16-135; 34-78-82; 19-79-82; 30-89-82; 1-94-82, § 1; 19-06-82; 05-12-82; 04-13-82; 20-14-82; 51-17-82.)

Section 82-5-41. - Removal or immobilization of motor vehicles against which there are outstanding parking violations.

- (a) Any motor vehicle parked on a public highway or public ground against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed, by towing or otherwise, to a place within Fairfax County or in an adjacent locality designated by the chief law-enforcement officer for the temporary storage of the vehicle, or the vehicle may be immobilized in a manner which will prevent its removal or operation except by authorized law-enforcement personnel.
- (b) Any motor vehicle parked upon private property, including privately owned streets and roads, may be removed or immobilized in the manner provided in paragraph (a) above, provided the following conditions are met:
 - (1) No motor vehicle may be removed or immobilized from property that is owned or occupied as a single-family residence.
 - (2) The owner of the property or an association of condominium or apartment ~~or condominium~~ owners formed pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Horizontal Property Act (§ 55.1-2000 et seq.) ~~Va. Code §§ 55-79.1, et seq., or Va. Code §§ 55-79.39, et seq.,~~ has given written authorization to enforce this section.
 - (3) The Fairfax County Board of Supervisors has provided written assurance to the property owner that he will be held harmless from all loss, damage or expense, including costs and attorney's fees, which may be incurred as a result of the removal or immobilization of the vehicle.
- (c) The removal or immobilization of the vehicle shall be by or under the direction of an officer or employee of the police department or sheriff's office.
- (d) The law-enforcement officer or employee removing or immobilizing the motor vehicle, or directing the removal or immobilization, shall inform as soon as practicable the owner of the removed or immobilized vehicle of the nature and circumstances of the unsettled parking violation notices for which the vehicle was removed or immobilized.
- (e) If the motor vehicle is immobilized, there shall be placed on the vehicle, in a conspicuous manner, a notice warning that the vehicle has been immobilized and that any attempt to move the vehicle might damage it.

- (f) The owner of an immobilized vehicle, or other person acting on his behalf, shall be allowed at least twenty-four hours from the time of immobilization to repossess or secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that time period may result in the removal of the vehicle to a storage area for safekeeping under the direction of law-enforcement personnel.
- (g) The owner of a removed or immobilized motor vehicle, or other person acting on his behalf, shall be permitted to repossess or to secure the release of the vehicle by payment of the outstanding parking violation notices for which the vehicle was removed or immobilized and by payment of all costs incidental to the immobilization, removal, and storage of the vehicle, and the efforts to locate the owner of the vehicle.
- (h) If the owner fails or refuses to pay the fines and costs identified in (g) above, or should the identity or whereabouts of the owner be unknown and unascertainable, the motor vehicle may be sold in accordance with the procedures set forth in *Va. Code* § 46.2-1213, after giving notice to the owner at his last known address and to the holder of any lien of record with the office of the Virginia Department of Motor Vehicles. (20-02-82.)

Section 82-6-15. - Signs on windshields, etc.

- (a) It shall be unlawful for any person to operate any motor vehicle upon a highway with any sign, poster or other nontransparent material ~~upon the front on the~~ windshield, ~~sideshields-front or rear side windows,~~ or rear windows of such motor vehicle other than a certificate or other paper required to be placed by law or which may be permitted by the Superintendent. The size and placement location of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent.
- (b) Notwithstanding the provisions of Subsection (a) of this Section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle so located as to reflect to the operator of such vehicle a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle, any or all of the following shall be lawful:
 - (1) To operate a motor vehicle equipped with one (1) optically grooved clear plastic right-angle rear view lens, attached to one (1) rear window of such motor vehicle, not exceeding eighteen (18) inches in diameter in the case of a circular lens or not exceeding eleven (11) inches by fourteen (14) inches in the case of a rectangular lens, which enables the operator of the motor vehicle to view below the line of sight as viewed through the rear window ~~provided such vehicle is equipped with a mirror on each side of such vehicle so located as to reflect to the operator a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle;~~
 - (2) To have affixed to the rear window, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or
 - ~~(3) To have affixed to the rear window or windows of a motor vehicle any sunshading material; or~~
 - ~~(4)~~
 - (3) To operate a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.
- (c) Nothing in this section shall be construed as prohibiting the affixing to the rear window of a motor vehicle of a single sticker no larger than ~~a circle four (4) inches in diameter~~ 20 square inches if such sticker is totally contained within the lower five inches of the glass of the rear window, nor shall the provisions of Subsection (b) of this Section be applied to a motor vehicle to which but one (1) such sticker is so affixed.

(d) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-152; 34-78-82.)

Footnotes:

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112. For similar state law, see Va. Code Ann., § 46.2-1052.

Section 82-6-16. - Suspension of objects or alteration of vehicle so as to obstruct view of driver.

(a) It shall be unlawful for any person to operate a motor vehicle upon a highway with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of such motor vehicle in such a manner as to substantially obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window, or to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield; ~~provided~~ However, that this Section shall not apply when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the operator a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle.

(b) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-153.)

Footnotes:

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113. For similar state law, see Va. Code Ann., § 46.2-1054.

Section 82-6-26. - Exhaust system in good working order required.

(a) No person shall drive and no owner of a motor vehicle shall permit or allow the operation of any owned vehicle upon a highway unless such motor vehicle is equipped with an exhaust system ~~of a type installed as standard factory equipment, or comparable to that designed for use upon the particular vehicle as standard factory equipment,~~ in good working order and in constant operation to prevent excessive or unusual levels of noise, ~~annoying smoke and escape of excessive gas, steam or oil~~ provided, however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment or other equipment that has been submitted to and approved by the Superintendent or meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation. An exhaust system shall not be deemed to prevent excessive or unusual noise if it permits or allows the escape of noise in excess of that permitted by the standard factory equipment exhaust system of private passenger vehicles or trucks of standard make.

(b) The term "exhaust system," as used in this Section, means all the parts of a motor vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.

(c) Chambered pipes shall not be deemed to be an effective muffling device to prevent excessive or unusual noise as required in Subsection (a).

- (d) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-163.)

Footnotes:

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125. For similar state law, see Va. Code Ann., § 46.2-1049.

Section 82-6-33. - Illegal use of defective or unsafe equipment.

- (a) It shall be unlawful for any person to use or have as equipment upon a motor vehicle operated on a highway any device or equipment mentioned in Section 82-6-32 which is defective and in unsafe condition.
- (b) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-171.)

Section 82-6-41. - ~~Rear lamps~~ Tail lights.

- (a) Every motor vehicle, trailer or semitrailer which is being drawn at the end of one or more other vehicles, ~~or motorcycles,~~ shall carry at the rear ~~a lamp capable of exhibiting a two~~ red lights plainly visible in clear weather from a distance of five hundred (500) feet to the rear of such vehicle and such rear lamp shall be constructed and so mounted in its relation to the rear license plate as to illuminate by a white light such license plate so that the same may be read from a distance of fifty (50) feet to the rear of such vehicle; or a separate white light shall be so mounted as to illuminate and make visible such rear license from a distance of fifty (50) feet to the rear of such vehicle, such rear light or special white light to be of a type that has been approved by the Superintendent.
- (b) In any instance where the rear lamp is to be installed on a boat trailer and the boat extends beyond the end of the trailer or to the end of the trailer, an approved portable light assembly or assemblies may be attached to the exposed rear of the boat; provided such installation complies with the visibility requirements of this Section.
- (c) No law-enforcement officer shall stop a motor vehicle for a violation of subsection (a). (3-13-63; 1961 Code, § 16-177.)

Section 82-6-42. - ~~Stop lamps~~ Brake lights.

- (a) Every motor vehicle, trailer or semitrailer, except an antique vehicle not originally equipped with a ~~stop lamp~~ brake light, registered in this State and operated on the highways in this State shall be equipped with at least ~~one (1) stop lamp~~ two brake lights of a type approved by the Superintendent which automatically exhibits a red or amber light plainly visible in clear weather from a distance of five hundred (500) feet to the rear of such vehicle when the ~~foot brake pedal is actuated~~ brake is applied. ~~(1976.)~~
- (b) No law-enforcement officer shall stop a motor vehicle, trailer, or semitrailer for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no brake lights that meet the requirements set forth in subsection (a).

Section 82-6-49. - When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

- (a) Every vehicle in operation upon a highway shall display lighted head lamps and illuminating devices as required by this Article from ~~a half (1/2) hour after sunset to a half (1/2) hour before~~ (i) sunset to sunrise; (ii) during any other time when because of rain, smoke, fog, snow, sleet, and at any other time when, due to insufficient light or other unfavorable atmospheric conditions, persons in vehicles on the highway are not clearly visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of five hundred (500) feet.
- (b) Not more than four (4) lamps used to provide general illumination ahead of the vehicle, including at least two (2) head lamps and any other combination of fog lamps, ~~passing lamps, driving lamp~~ or other auxiliary lamp approved by the Superintendent shall be lighted at any time; provided, however, this limitation shall not preclude the display of such warning lights as may be authorized in Section 82-6-48, nor such lights as may be authorized by the Superintendent for purposes of identification, other than warning lights.
- (c) Vehicles equipped with warning lights authorized in Section 82-6-48 shall display such lights at all times when engaged in emergency calls, and if engaged in towing disabled vehicles or in constructing, repairing and maintaining public highways or utilities on or along public highways, such lights shall be displayed during the periods prescribed in paragraph (a) of this Section.
- (c) No law enforcement officer shall stop a motor vehicle for a violation of this section, except that a law enforcement officer may stop a vehicle if it displays no lighted head lamps during the time periods set forth in subsection (a). (3-13-63; 1961 Code, § 16-184.)

Footnotes:

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132. For similar state law, see Va. Code Ann., § 46.2-1030.

Section 82-6-56. - Lights on parked vehicles.

Whenever a vehicle is parked or stopped upon a highway, whether attended or unattended, during the period from ~~a half (1/2) hour after sunset to a half (1/2) hour before~~ sunrise, there shall be displayed upon such ~~vehicle~~ vehicle one or more lamps projecting a white or amber light visible in clear weather from a distance of five hundred (500) feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of five hundred (500) feet to the rear. No lights need be displayed upon any such vehicle when legally parked. (3-13-63; 1961 Code, § 16-191.)

Section 82-7-1. - Width of vehicles and exceptions as to size.

- (a) No vehicle, including any load thereon, but excluding the mirror required by Section 82-6-13 shall exceed a total outside width as follows:
 - (1) Repealed;
 - (2) Passenger bus operated in an incorporated city or town when authorized under Va. Code Ann., § ~~46-2-180~~ 46.2-1300, one hundred two (102) inches;

- (3) Other vehicles, ninety-six (96) inches; and
- (4) School buses one hundred (100) inches wide while in motion and one hundred eighteen (118) inches wide when stopped to pick up or discharge students. (3-13-63; 1961 Code, § 16-193; 19-79-82.)

Footnotes:

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139. For similar state law, see Va. Code Ann., § 46.2-1105.

Section 82-9-1. - Pedestrians crossing highways or streets.

- (a) When crossing highways ~~or streets~~, pedestrians shall not carelessly or maliciously interfere with the orderly passage of vehicles. They shall cross whenever possible only at intersections or marked crosswalks. Where any intersection of ~~highways or streets~~ contain no marked crosswalks, pedestrians shall not be guilty of negligence as a matter of law for crossing at any such intersection or between intersections when crossing by the most direct route.
- (b) Pedestrians may cross at an intersection diagonally when all traffic entering the intersection has been halted by lights, ~~semaphores or signals by a peace or police officer~~ other control devices, or by a law-enforcement officer.
- (c) No law-enforcement officer shall stop a pedestrian for a violation of this section. (3-13-63; 1961 Code, § 16-221.)

Footnotes:

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160. For similar state law, see Va. Code Ann., § 46.2-923.

Section 82-9-3. - Pedestrians stepping into highway ~~or street~~ where they cannot be seen.

- (a) No Pedestrians pedestrian shall ~~not~~ step into ~~that portion of~~ a highway ~~or street~~ open to moving vehicular traffic at any point between intersections where their presence would be obscured from the vision of drivers of approaching vehicles by a vehicle or other obstruction at the curb or side, -except to board a passenger bus or to enter a safety zone, in which event they shall cross the highway or street only at right angles.
- (b) No law-enforcement officer shall stop a pedestrian for a violation of this section. (3-13-63; 1961 Code, § 16-223.)

Footnotes:

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162. For similar state law, see Va. Code Ann., § 46.2-926.

ATTACHMENT 4

SUMMARY OF AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 18.2, Title 46.2, Title 54.1 and Title 55.1 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Section 82-1-2 related to definitions. Updates the referenced citation in footnote 2 to § [46.2-100](#) of the Code of Virginia.

Section 82-1-3 related to enforcement by County officer; officers to be uniformed. Updates related to enforcement referenced Code of Virginia, Chapter 4.1 (§ 55-79.1 et seq.) or 4.2 (§55-79.39 et seq.) of title 55 to the [Virginia Condominium Act](#) (§ 55.1-1900 et seq.) or the [Horizontal Property Act](#) (§ 55.1-2000 et seq.). Updates language regarding a request or consent to enforce the provisions of Title 46.2 of the Code of Virginia.

Section 82-1-31 related to the promise to appear after the issuance of a summons for violations of a traffic offense punishable as a misdemeanor under § [46.2-936](#) of the Code of Virginia. Provides that if any person refuses to give a written promise to appear, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release the person from custody.

Section 82-3-14 related to vehicle inspections. Updates language related to § [46.2-1157](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle due to an expired vehicle inspection sticker until the first day of the fourth month after the original date.

Section 82-5-1 related to parking prohibited in specified places. Clarification update to subsection (a)(10) from the prohibited parking from being properly signed to being properly posted.

Section 82-5-32 related to removal, immobilization, and disposition of vehicles unlawfully parked on private or county property. Updates Subsection (d)(6) referenced citation to § [54.1-2354](#) of the Code of Virginia.

Section 82-5-41 related to regulation of parking areas designated as bus stops for public transportation; authority; penalties for violation. Updates related to enforcement referenced Code of Virginia, Chapter 4.1 (§ 55-79.1 et seq.) or 4.2 (§55-79.39 et seq.) of title 55 to the [Virginia Condominium Act](#) (§ 55.1-1900 et seq.) or the [Horizontal Property Act](#) (§ 55.1-2000 et seq.). Updates language regarding a request or consent to enforce the provisions of Title 46.2 of the Code of Virginia.

Section 82-6-15 related to signs on windshield. Updates language related to § [46.2-1052](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle for a violation of this section.

Section 82-6-16 related to suspension of objects or alterations that obstruct the view of the driver of a motor vehicle. Updates language related to § [46.2-1054](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle for a violation of this section.

Section 82-6-26 related to exhaust systems in good working order. Updates language related to § [46.2-1049](#) of the Code of Virginia to allow the use of a comparable design or other equipment approved by listed organizations, and prohibits law-enforcement from stopping a motor vehicle for a violation of this section.

Section 82-6-33 related to defective or unsafe motor vehicle equipment. Updates language related to § [46.2-1003](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle for a violation of this section.

Section 82-6-41 related to tail lights. Updates language related to § [46.2-1013](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle for a violation of this section.

Section 82-6-42 related to brake lights. Updates language related to § [46.2-1014](#) of the Code of Virginia and prohibits law-enforcement from stopping a motor vehicle, trailer, or semitrailer for a violation of this section, except that a vehicle may be stopped if it displays no brake lights.

Section 82-6-49 related to when lights may be lighted and the number of lights. Updates language related to § [46.2-1030](#) of the Code of Virginia.

Section 82-6-56 related to lights on parked vehicles. Corrects typographical spelling and updates language related to § [46.2-1037](#) of the Code of Virginia.

Section 82-7-1 related to width of vehicles and exceptions as to size. Updates the referenced statute to § [46.2-1300](#) of the Code of Virginia.

Section 82-9-1 related to pedestrians crossing highways or streets. Updates language related to § [46.2-923](#) of the Code of Virginia and prohibits law-enforcement from stopping a pedestrian for a violation of this section.

Section 82-9-3 related to pedestrians stepping into the highway or street. Updates language related to § [46.2-926](#) of the Code of Virginia and prohibits law-enforcement from stopping a pedestrian for a violation of this section.

Board Agenda Item
June 8, 2021

4:30 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 5, Offenses

ISSUE:

Public hearing on amendments to the Code of the County of Fairfax, Chapter 5, Offenses, Section 5-1-1.

RECOMMENDATION:

The County Executive recommends approval of the proposed amendments to Chapter 5.

TIMING:

On May 18, 2021; the Board authorized a public hearing to consider this matter on June 8, 2021, at 4:30 p.m.

BACKGROUND:

As a housekeeping measure to update Chapter 5, Section 5-1-1 (Drunkenness and profane swearing) have been amended to reflect changes made to the Code of Virginia by the 2020 General Assembly. A summary of the change as a result of the General Assembly amendment affecting Chapter 5 is provided in Attachment 2.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendment to Chapter 5, Offenses, Section 5-1-1 (Drunkenness)

Attachment 2 - Summary of 2020 General Assembly Special Amendment

STAFF:

David M. Rohrer, Deputy County Executive
Kevin Davis, Chief of Police

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendment to
Chapter 5, Offenses

Article 1. – Offenses Against Public Peace and Safety

Section 5-1-1.- Drunkenness and ~~profane swearing.~~

~~(a) If any person profanely curse or swear or be~~ is drunk in public he ~~shall be deemed~~
is guilty of a Class 4 misdemeanor.

In any area in which there is located court-approved detoxification center, a law enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

~~(b) If any person shall be convicted for being drunk in public three (3) times within one~~
~~(1) year, such person shall be guilty of a Class 3 misdemeanor. (1961 Code, § 17-~~
~~2; 35-86-5.)~~

ATTACHMENT 2

SUMMARY OF 2020 GENERAL ASSEMBLY, AMENDMENTS AND REPEAL AFFECTING CHAPTER 5

The information presented below summarizes changes to Title 18.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 5 of the *Code of the County of Fairfax*.

An Act to amend and reenact § [18.2-388](#) of the Code of Virginia relating to intoxication in public. Updated to remove profanely, curses or swears from the Code of Virginia.

Board Agenda Item
June 8, 2021

4:30 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 1,
General Provisions

ISSUE:

Public hearing on amendments to the Code of the County of Fairfax, Chapter 1, Offenses, Section 1-1-15.

RECOMMENDATION:

The County Executive recommends approval of the on the proposed amendments to Chapter 1.

TIMING:

On May 18, 2021, the Board authorized a public hearing to consider this matter on June 8, 2021, at 4:30 p.m.

BACKGROUND:

As a housekeeping measure to update Chapter 1, Section 1-1-15 (Issuance and service of summons in place of warrant in misdemeanor case; failure to appear separate violation.) has been amended to reflect changes made to the Code of Virginia by the 2021 General Assembly Special Session. A summary of the change as a result of the General Assembly amendment affecting Chapter 1 is provided in Attachment 2.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendment to Chapter 1, General Provisions, Section 1-1-15 (Issuance and service of summons in place of warrant in misdemeanor case; failure to appear separate violation)

Attachment 2 - Summary of 2021 General Assembly Special Session Amendment

Board Agenda Item
June 8, 2021

STAFF:

David M. Rohrer, Deputy County Executive
Kevin Davis, Chief of Police

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendment to
Chapter 1, General Offenses

Article 1. – General Provisions.

Section 1-1-15. - Issuance and service of summons in place of warrant in misdemeanor case; failure to appear separate violation.

- (a) Whenever any person is arrested for a violation of any provision of this Code punishable as a misdemeanor, except as otherwise provided in [Section 82-1-31](#), or provided in *Code of Virginia*, Title 46.2, or Section 18.2-266, as amended, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.
- (b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction, who shall proceed according to provisions of *Code of Virginia*, Section 19.2-123, as amended.
- (c) Any person who willfully violates his written promise to appear, given in accordance with this Section, shall be guilty of a Class 1 misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.
- (d) Anything in this Section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this Section, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail in lieu of issuing the summons, who shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he may determine proper.
- (e) Notwithstanding the above, if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, the officer may take such person before a magistrate or other issuing authority of the County and request the issuance of a warrant. (32-76-1.)

ATTACHMENT 2

SUMMARY OF 2021 GENERAL ASSEMBLY, AMENDMENTS AFFECTING CHAPTER 1

The information presented below summarizes changes to Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 1 of the *Code of the County of Fairfax*.

An Act to amend and reenact [Section 1-1-15](#) of the County Code as it relates to § [46.2-936](#) of the Code of Virginia and the arrest for misdemeanor and the release of persons on a summons. Updated to add an exception as otherwise provided in [Section 82-1-31](#) of the County Code to allow a persons to be forthwith released on a summons without a written promise to appear.