

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 22, 2021**

AGENDA

- 12:00 Presentations
- 12:00 Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
- 12:00 Matters Presented by Board Members
- 12:00 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District)
- 2 Approval of "\$200 Additional Fine for Speeding" Signs as Part of the Residential Traffic Administration Program (Providence District)
- 3 Supplemental Appropriation Resolution AS 21319 for the Health Department to Accept Grant Funding from Virginia Department of Health for Contact Tracing and Laboratory Testing Activities Related to the COVID-19 Pandemic
- 4 Supplemental Appropriation Resolution AS 21314 for the Department of Neighborhood and Community Services to Accept Grant Funding from the U.S. Department of the Treasury for the Emergency Rental Assistance Program
- 5 Supplemental Appropriation Resolution AS 21320 for the Health Department to Accept Grant Funding from Virginia Department of Health for COVID-19 Epidemiology Support

ACTION ITEMS

- 1 Approval of FY 2021 Year-End Processing
- 2 Approval of and Authorization for the County Executive to Execute an Escrow Agreement for Proffered Public Facilities: Scotts Run South and North Developments (Providence District)
- 3 Approval of a Parking Reduction for Arbor Row, Block A (Providence District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 22, 2021**

**ACTION ITEMS
(continued)**

- 4 Adoption of a Resolution to Apply to the State Board of Elections for a Waiver to Administer a Split Precinct for the Lorton Precinct in the Mount Vernon District, Pursuant to Virginia Code Section 24.2-307
- 5 Approval of the Affordable Housing Advisory Council (AHAC) and Continuum of Care (CoC) Charters and Membership Structure
- 6 Authorization for the Department of Transportation to Apply for Funding and Endorsement for the United States Department of Transportation's FY 2021 Rebuilding American Infrastructure with Sustainability and Equity Discretionary Grant Program (Lee and Mount Vernon Districts)
- 7 Approval of the Consolidated Community Funding Advisory Committee Recommendations for the FY 2023 and FY 2024 Funding Categories for the Consolidated Community Funding Pool
- 8 Approval of Renaming of Clifton Town Meeting Hall after Wayne H. Nickum (Springfield District)

**INFORMATION
ITEMS**

- 1 Endorsement of Volume II District Design Guidelines for Annandale (Mason District)

CLOSED SESSION

Closed Session

**PUBLIC
HEARINGS**

- 3:30 Public Hearing on RZ 2020-LE-013 (Lee Automotive, L.C.) (Lee District)
- 3:30 **To Be Deferred to 7/13/21 at 3:30 p.m.** Public Hearing on PRC-C-020-02 (Tall Oaks at Reston, L.C.) (Hunter Mill District)
- 3:30 Public Hearing on PCA 89-V-059-02 and SE 2020-MV-020 (Lorton Valley Retail, LLC) (Mount Vernon District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 22, 2021**

**PUBLIC
HEARINGS
(continued)**

- 3:30 Public Hearing on SEA 2013-LE-014 and RZ 2021-LE-005 (Select Property, LLC) (Lee District)
- 3:30 **To Be Deferred to 7/27/21 at 3:30 p.m.** Public Hearing on SE 2020-DR-022 (Turner Farmhouse Foundation) (Dranesville District)
- 3:30 **To Be Deferred to 7/13/21 at 3:30 p.m.** Public Hearing on PCA 86-C-119-08/ DPA 86-C-119-04/ PRCA 86-C-119-02 (Boston Properties Limited Partnership) (Hunter Mill District)
- 4:00 Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-3-2 to Establish an Additional Voter Satellite Office at the Gerry Hyland Government Center (Formerly South County Government Center)
- 4:00 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
- 4:00 Public Hearing on Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code) and Chapter 12 (Tree Preservation) of the Public Facilities Manual (PFM) Re: Resource Protection Area (RPA) Planting Requirements
- 4:00 Public Hearing to Consider Proposed Amendments to the Fairfax County Uniformed Retirement System Ordinance
- 4:00 Public Hearing to Consider Parking Restrictions on Plaza Lane (Springfield District)
- 4:30 Public Hearing on a Proposed Zoning Ordinance Amendment Re: Agritourism and Related Changes
- 4:30 Public Hearing on a Proposed Zoning Ordinance Amendment Re: Historic Overlay Districts – State Code Revisions

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 22, 2021**

**PUBLIC
HEARINGS
(continued)**

4:30

Public Hearing on Proposed Plan Amendment 2018-II-M1, McLean Community Business Center, Located South of Dolley Madison Boulevard (Route 123) and Centered Around the Intersection of Old Dominion Drive and Chain Bridge Road (Dranesville District)

4:30

Public Comment



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
June 22, 2021

12:00 p.m.

PRESENTATIONS

- PROCLAMATION — To designate July 2021 as Latinx Conservation Month. Requested by Chairman McKay and Supervisor Palchik.
- RESOLUTION — To recognize Steven T. Edgemon, General Manager of Fairfax Water, for his contributions to the County. Requested by Chairman McKay.
- RESOLUTION — To recognize the 50th anniversary of the first performance at Wolf Trap Foundation for the Performing Arts' Filene Center and for the foundation's cultural and educational contributions. Requested by Supervisor Foust.

STAFF:

Tony Castrilli, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs
Jeremy Lasich, Office of Public Affairs

Board Agenda Item
June 22, 2021

12:00 p.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard June 22, 2021

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

June 22, 2021

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

**APPOINTMENTS TO BE HEARD JUNE 22, 2021
(ENCOMPASSING VACANCIES PROJECTED THROUGH **JULY 2, 2021**)
(Unless otherwise noted, members are eligible for reappointment)**

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Clifford L. Fields; appointed 1/96-1/03 by Hanley; 1/04-1/08 by Connolly; 2/09- 1/20 by Bulova) Term exp. 1/21 <i>Resigned</i> | At-Large Chairman's Representative | | McKay | At-Large Chairman's |
| Kerrie Wilson (Appointed 1/10-1/20 by Foust) Term exp. 1/21 | Dranesville District Representative | | Foust | Dranesville |
| Douglas M. Salik (Appointed 1/20 by Storck) Term exp. 1/21 | Mount Vernon District Representative | | Storck | Mount Vernon |
| Ernestine Heastie (Appointed 2/04-2/19 by L. Smyth; 1/20 by Palchik) Term exp. 1/21 | Providence District Representative | | Palchik | Providence |

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

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

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

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

continued

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i> | Lending Institution Representative | | By Any Supervisor | At-Large |

AIRPORTS ADVISORY COMMITTEE (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|------------------------------------|----------------|-------------------|---------------------|
| Carol Hawn (Appointed 1/97-1/03 by Hanley; 1/06 by Connolly; 2/09-1/18 by Bulova) Term exp. 1/21 | At-Large Chairman's Representative | | McKay | At-Large Chairman's |
| VACANT (Formerly held by Andrew Martin Concannon; appointed 9/15-1/17 by Gross) Term exp. 1/20 <i>Resigned</i> | Mason District Representative | | Gross | Mason |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------|----------------|----------------------|-----------------|
| VACANT (Formerly held by Frieda A. Tatem; appointed 10/93-10/96 by Davis; 9/99-10/02 by Hanley; 10/05-10/08 by Connolly; 11/11-10/17 by Bulova) Term exp. 10/20 Deceased | At-Large #1 Representative | | By Any Supervisor | At-Large |

ATHLETIC COUNCIL (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|---|--------------------------------|-------------------|-----------------|
| Mark H. O'Meara (Appointed 2/19-6/19 by Cook) Term exp. 6/21 | Braddock District Alternate Representative | | Walkinshaw | Braddock |
| Marcia Pape Daniels (Appointed 6/09-6/19 by Cook) Term exp. 6/21 | Braddock District Principal Representative | Marcia Pape Daniels | Walkinshaw | Braddock |
| Brian Luwis (Appointed 7/19 by Foust) Term exp. 3/21 | Dranesville District Alternate Representative | | Foust | Dranesville |
| Gregory Beckwith (Appointed 7/13-5/19 by Foust) Term exp. 3/21 | Dranesville District Principal Representative | | Foust | Dranesville |

Continued

ATHLETIC COUNCIL (2 years)
continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|-----------------------------|-------------------|-----------------|
| VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15 <i>Resigned</i> | Mason District Alternate Representative | | Gross | Mason |
| Barbara R. Lowrey (Appointed 7/99-6/19 by Gross) Term exp. 6/21 | Mason District Principal Representative | | Gross | Mason |
| John J. Corley (Appointed 7/19 by Storck) Term exp. 6/21 | Mount Vernon District Alternate Representative | | Storck | Mount Vernon |
| Mark R. Heilbrun (Appointed 12/10-6/19 by Herrity) Term exp. 6/21 | Springfield District Alternate Representative | Mark R. Heilbrun | Herrity | Springfield |

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|-------------------|------------------------|
| Ken Balbuena (Appointed 9/11-7/19 by Bulova; 7/20 by McKay) Term exp. 6/21 | At-Large Chairman's Representative | | McKay | At-Large Chairman's |
| Raymond K. Smith (Appointed 7/20 by Walkinshaw) Term exp. 6/21 | Braddock District Representative | | Walkinshaw | Braddock |

Continued

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)
continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-------------------------|-------------------|-----------------|
| Barbara Glakas (Appointed 1/12-6/19 by Foust) Term exp. 6/20 | Dranesville District Representative | | Foust | Dranesville |
| Marie Colturi (Appointed 9/19 by Hudgins; 9/19 by Alcorn) Term exp. 6/21 | Hunter Mill District Representative | | Alcorn | Hunter Mill |
| VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i> | Mason District Representative | | Gross | Mason |
| Roberta Kelley Paul (Appointed 7/17-6/20 by Storck) Term exp. 6/21 | Mount Vernon District Representative | | Storck | Mount Vernon |
| Emilie F. Miller (Appointed 7/05-7/19 by Smyth; 7/20 by Palchik) Term exp. 6/21 | Providence District Representative | | Palchik | Providence |
| Kim S. Farington (Appointed 1/19-6/20 by Herrity) Term exp. 6/21 | Springfield District Representative | Kim S. Farington | Herrity | Springfield |
| Debbie Kilpatrick (Appointed 6/18-6/20 by smith) Term exp. 6/21 | Sully District Representative | | Smith | Sully |

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4 years)
 (No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR shall serve as a member of the board.)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|----------------|----------------------|-----------------|
| VACANT (Formerly held by Thomas J. Schroeder; appointed 06/92-2/17 by Bulova) Term exp. 2/21 <i>Resigned</i> | Design Professional #1 Representative | | By Any Supervisor | At-Large |
| Wayne Bryan (Appointed 6/13-2/17 by Bulova) Term exp. 2/21 | Alternate #1 Representative | | By Any Supervisor | At-Large |

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

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

**CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(2 years – limited to 3 consecutive terms)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|----------------|----------------------|-----------------|
| Karen Pica (Appointed 10/14-9/18 by McKay) Term exp. 9/20 <i>Not eligible for reappointment</i> | At-Large #1 Representative | | By Any Supervisor | At-Large |
| Joan Marie Dec (Appointed 10/18 by Smith) Term exp. 9/20 | At-Large #2 Representative | | By Any Supervisor | At-Large |

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

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

CIVIL SERVICE COMMISSION (2 years)
[NOTE: The Commission shall include at least 3 members who are male, 3 members who are female, and 3 members who are from a member of a minority group.]

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

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

COMMISSION ON AGING (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---------------------------------------|----------------|-------------------|-----------------|
| Joseph A. Heastie (Appointed 2/05-5/19 by L. Smyth) Term exp. 5/21 | Providence District Representative | | Palchik | Providence |

COMMISSION FOR WOMEN (3 years)

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

**COMMUNITY ACTION ADVISORY BOARD (CAAB)
(3 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|-------------------|-----------------|
| VACANT (Formerly held by Theodore Choi; appointed 7/19 by Storck) Term exp. 2/22 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |

**COMMUNITY POLICY AND MANAGEMENT TEAM,
FAIRFAX-FALLS CHURCH (2 years)**

CONFIRMATIONS NEEDED:

- Ms. Staci Jones Alexander as the Parent #1 Representative
- Ms. Cristy Gallagher as the Parent #2 Representative
- Ms. Jacqueline Benson as the Parent #3 Representative
- Ms. Annie Henderson as the Parent #4 Representative
- Mr. Joe Klemmer as the Parent #5 Representative

CONSUMER PROTECTION COMMISSION (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|----------------------|-----------------|
| VACANT (Formerly held by Daton Lynch; appointed 9/18 by Smith) Term exp. 7/21 <i>Resigned</i> | Fairfax County Resident #7 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Abrar Omeish; appointed 2/18-9/18 by Bulova) Term exp. 7/21 <i>Resigned</i> | Fairfax County Resident #9 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Umair Javed appointed 2/17-1/19 by L. Smyth) Term exp. 7/21 <i>Resigned</i> | Fairfax County Resident #13 Representative | | By Any Supervisor | At-Large |

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|-------------------|-----------------|
| VACANT (Formerly held by Brian D. Leclair appointed 10/13 by Hyland; 10/16-7/19 by Storck) Term exp. 4/22 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |

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

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

ECONOMIC ADVISORY COMMISSION (3 years)

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

CONFIRMATION NEEDED:

- Ms. Lenore Kelly as the Redevelopment and Housing Authority Representative

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|----------------------|-----------------|
| Linnie Haynesworth (Appointed 4/16-11/17 by Bulova) Term exp. 7/01/21 | At-Large #5 Citizen Representative | | By Any Supervisor | At-Large |
| Catherine Lange (Appointed 11/09-6/17 by Bulova) Term exp. 7/01/21 | At-Large #7 Citizen Representative | | By Any Supervisor | At-Large |

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Elizabeth John; appointed 7/19 by Foust) Term exp. 11/21 <i>Resigned</i> | Dranesville District Representative | | Foust | Dranesville |
| VACANT (Formerly held by Chester Freedenthal; appointed 1/16-11/18 by McKay) Term exp. 11/21 <i>Resigned</i> | Lee District Representative | | Lusk | Lee |
| Ayman Eldarwish (Appointed 10/17 by Gross) Term exp. 11/20 | Mason District Representative | | Gross | Mason |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|------------------------------------|----------------|-------------------|---------------------|
| VACANT (Formerly held by Sondra Seba Hemenway; appointed 9/18 by Bulova) Term exp. 6/21 <i>Deceased</i> | At-Large Chairman's Representative | | McKay | At-Large Chairman's |

continued

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|------------------------|-------------------|-----------------|
| Sam Misleh (Appointed 6/15-6/18 by McKay) Term exp. 6/21 <i>Not eligible for reappointment</i> | Lee District Representative | | Lusk | Lee |
| Morgan Maravich (Appointed 10/18 by Herrity) Term exp. 6/21 | Springfield District Representative | Morgan Maravich | Herrity | Springfield |
| Holly Williamson (Appointed 10/15 by Frey; 6/18 by Smith) Term exp. 6/21 | Sully District Representative | | Smith | Sully |

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|---|----------------------|------------------------|
| Daria Akers (Appointed 11/16- 6/18 by Bulova) Term exp. 6/21 | At-Large Chairman's Representative | Daria Akers <i>(Nomination announced on May 18, 2021)</i> | McKay | At-Large Chairman's |
| VACANT (Formerly held by Willard Ken Garnes; appointed 11/12-6/17 by Bulova; 7/20 by McKay) Term exp. 6/23 <i>Resigned</i> | At-Large #4 Representative | Diana Delvalle Rodriguez (McKay) <i>(Nomination announced on May 18, 2021)</i> | By Any Supervisor | At-Large |

Continued

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------------|---|-------------------|-----------------|
| Karen Abraham (Appointed 2/20 by Walkinshaw) Term exp. 6/21 | Braddock District Representative | Karen Abraham <i>(Nomination announced on May 18, 2021)</i> | Walkinshaw | Braddock |
| Bettina Lawton (Appointed 1/16-9/18 by Hudgins) Term exp. 6/21 | Hunter Mill District Representative | Bettina Lawton <i>(Nomination announced on May 18, 2021)</i> | Alcorn | Hunter Mill |
| Larysa M. Kautz (Appointed 2/20 by Lusk) Term exp. 6/21 | Lee District Representative | Larysa M. Kautz <i>(Nomination announced on May 18, 2021)</i> | Lusk | Lee |

HEALTH CARE ADVISORY BOARD (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------|-------------------|---------------------|
| Michael Christ Trahos (Appointed 7/12-5/16 by Bulova) Term exp. 6/20 | At-Large Chairman's Representative | | McKay | At-Large Chairman's |
| Rosanne Lammers Rodilosso (Appointed 6/99-5/01 by Mendelsohn, 6/05 by DuBois; 7/09-11/17 by Foust) Term exp. 6/21 | Dranesville District Representative | | Foust | Dranesville |
| Rose C. Chu (Appointed 3/87-6/89 by Davis; 6/93 by Trapnell; 5/97-6/17 by Gross) Term exp. 6/21 | Mason District Representative | | Gross | Mason |

continued

HEALTH CARE ADVISORY BOARD (4 years)
continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|----------------|-------------------|-----------------|
| Shikha Dixit (Appointed 1/19 by Storck) Term exp. 6/21 | Mount Vernon District Representative | | Storck | Mount Vernon |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------|----------------|----------------------|-----------------|
| VACANT (Formerly held by Jacqueline Hixson; appointed 6/17 by Hudgins) Term exp. 6/20 <i>Resigned</i> | Consumer #2 Representative | | By Any Supervisor | At-Large |
| Sally J. Patterson (Appointed 7/12-6/18 by Bulova) Term exp. 6/21 | Consumer #3 Representative | | By Any Supervisor | At-Large |
| RJ Narang (Appointed 7/18 by Foust) Term exp. 6/21 | Consumer #5 Representative | | By Any Supervisor | At-Large |
| Veronica C. Doran (Appointed 7/17 by Cook) Term exp. 6/21 | Provider #1 Representative | | By Any Supervisor | At-Large |
| Magalie Emile- Backer (Appointed 1/19 by Storck) Term exp. 6/21 | Provider #2 Representative | | By Any Supervisor | At-Large |
| John J. Whyte (Appointed 9/18 by Foust) Term exp. 6/21 | Provider #3 Representative | | By Any Supervisor | At-Large |

HISTORY COMMISSION (3 years)

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------|----------------|----------------------|-----------------|
| Carole L. Herrick (Appointed 6/06 by DuBois; 6/09-6/18 by Foust) Term exp. 6/21 | At-Large #1 Representative | | By Any Supervisor | At-Large |
| Steve Sherman (Appointed 10/09-12/17 by McKay) Term exp. 12/20 | Citizen #4 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resigned</i> | Historian #1 Representative | | By Any Supervisor | At-Large |

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

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

**LIBRARY BOARD
(4 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|--------------------------------|-------------------|-----------------|
| Philip E. Rosenthal (Appointed 1/18 by Herrity) Term exp. 6/21 | Springfield District Representative | Philip E. Rosenthal | Herrity | Springfield |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------------|----------------|----------------------|-----------------|
| Todd W. Rowley (Appointed 7/13-6/17 by Bulova) Term exp. 6/21 | Fairfax County #3 Representative | | By Any Supervisor | At-Large |

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)

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

Continued

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i> | Dranesville District Representative | | Foust | Dranesville |
| Nabil S. Barbari (Appointed 1/07-9/16 by Gross) Term exp. 6/19 | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Jeffrey Levy; appointed 7/02-6/13 by Hyland) Term exp. 6/16 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 <i>Resigned</i> | Providence District Representative | | Palchik | Providence |
| Peyton Smith (Appointed 10/17 by Smith) Term exp. 6/20 | Sully District Representative | | Smith | Sully |

POLICE CIVILIAN REVIEW PANEL (3 years)

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|----------------|----------------------|-----------------|
| VACANT (Formerly held by Anne Mader; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i> | Commercial or Retail Ownership #2 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Mark S. Ingrao; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i> | Reston Chamber of Commerce lessees on Non-Residential Space Representative | | By Any Supervisor | At-Large |

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--------------------------|--|----------------|-------------------|-----------------|
| NEW POSITION | Residential Owners and HOA/Civic Association #2 Representative | | By Any Supervisor | At-Large |
| NEW POSITION | Residential Owners and HOA/Civic Association #3 Representative | | By Any Supervisor | At-Large |

ROAD VIEWERS BOARD (1 year)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|----------------------------|----------------|-------------------|-----------------|
| Marcus Wadsworth (Appointed 6/09-1/20 by McKay) Term exp. 12/20 | At-Large #3 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i> | At-Large #4 Representative | | By Any Supervisor | At-Large |
| Micah D. Himmel (Appointed 12/11-1/18 by L. Smyth) Term exp. 12/18 | At-Large #5 Representative | | By Any Supervisor | At-Large |

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

CONFIRMATION NEEDED:

- Ms. Syazana Durani as the Reston Association #1 Representative
- Mr. Andy Sigle as the Reston Association #2 Representative
- Ms. Carol Ann Bradley as the Reston Association #4 Representative

TENANT LANDLORD COMMISSION (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Eric Fielding; appointed 6/15-1/19 by Bulova) Term exp. 12/21 <i>Resigned</i> | Citizen Member #3 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Christopher Lee Kocsis; appointed 3/99-11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18 <i>Deceased</i> | Landlord Member #2 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Angelina Panettieri; appointed 6/11-1/15 by L. Smyth) Term exp. 1/18 | Tenant Member #1 Representative | | By Any Supervisor | At-Large |

TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (2 YEARS)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|----------------|-------------------|-----------------|
| VACANT (Formerly held by Barry Mark; appointed 3/15-2/17 by Bulova) Term exp. 2/19 <i>Resigned</i> | Commercial or Retail Ownership #3 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Irene Shin; appointed 1/20 by Palchik) Term exp. 2/21 <i>Resigned</i> | Providence District Representative #2 | | Palchik | Providence |

WATER AUTHORITY (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|------------------------------------|-------------------------|-------------------|---------------------|
| Anthony H. Griffin (Appointed 5/12-6/18 by Bulova) Term exp. 6/21 | At-Large Chairman's Representative | | McKay | At-Large Chairman's |
| J. Alan Roberson (Appointed 8/09-06/18 by Cook) Term exp. 6/21 | Braddock District Representative | J. Alan Roberson | Walkinshaw | Braddock |
| Frank Begovich (Appointed 9/04-06/06 by Kauffman; 6/09-6/18 by McKay) Term exp. 6/21 | Lee District Representative | | Lusk | Lee |

WETLANDS BOARD (5 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|----------------|-------------------|-----------------|
| VACANT (Formerly held by Leslie Jacobs; appointed 5/16-1/20 by Storck) Term exp. 12/24 <i>Resigned</i> | Mt. Vernon District #3 Representative | | Storck | Mt. Vernon |

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

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

AD HOC COMMITTEE

REDISTRICTING ADVISORY COMMITTEE
2021 REDISTRICTING OF THE BOARD OF SUPERVISORS
REPRESENTING:

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--------------------------|--|----------------|-------------------|------------------------|
| NEW POSITION | At-Large Chairman’s Representative | | McKay | At-Large Chairman's |
| NEW POSITION | At-Large Chairman’s Representative | | McKay | At-Large Chairman's |
| NEW POSITION | At-Large Chairman’s Representative | | McKay | At-Large Chairman's |

**REDISTRICTING ADVISORY COMMITTEE
2021 REDISTRICTING OF THE BOARD OF SUPERVISORS
REPRESENTING:**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--------------------------|--|----------------|-------------------|-----------------|
| NEW POSITION | Braddock District Representative | | Walkinshaw | Braddock |
| NEW POSITION | Dranesville District Representative | | Foust | Dranesville |
| NEW POSITION | Hunter Mill District Representative | | Alcorn | Hunter Mill |
| NEW POSITION | Lee District Representative | | Lusk | Lee |
| NEW POSITION | Mason District Representative | | Gross | Mason |
| NEW POSITION | Mount Vernon District Representative | | Storck | Mount Vernon |
| NEW POSITION | Providence District Representative | | Palchik | Providence |
| NEW POSITION | Springfield District Representative | | Herrity | Springfield |
| NEW POSITION | Sully District Representative | | Smith | Sully |
| NEW POSITION | Federation of Citizens Associations Representative | | By Any Supervisor | At-Large |
| NEW POSITION | League of Women Voters Representative | | By Any Supervisor | At-Large |
| NEW POSITION | African-American Community Representative | | By Any Supervisor | At-Large |

**REDISTRICTING ADVISORY COMMITTEE
2021 REDISTRICTING OF THE BOARD OF SUPERVISORS
REPRESENTING:**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--------------------------|---|----------------|----------------------|-----------------|
| NEW POSITION | Hispanic Community Representative | | By Any Supervisor | At-Large |
| NEW POSITION | Asian/Pacific Islander Community Representative | | By Any Supervisor | At-Large |
| NEW POSITION | Arab American Community Representative | | By Any Supervisor | At-Large |
| NEW POSITION | Northern Virginia Chamber of Commerce Representative | | By Any Supervisor | At-Large |
| NEW POSITION | Northern Virginia Labor Federation Representative | | By Any Supervisor | At-Large |

Board Agenda Item
June 22, 2021

12:00 p.m.

Matters Presented by Board Members

Board Agenda Item
June 22, 2021

12:00 p.m.

Items Presented by the County Executive

Board Agenda Item
June 22, 2021

ADMINISTRATIVE - 1

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

ISSUE:

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

RECOMMENDATION:

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

- Four speed humps on Churchill Road (Dranesville District)

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

TIMING:

Board action is requested on June 22, 2021, in order to allow the proposed measures to be installed as soon as possible.

BACKGROUND:

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

On May 4, 2021, FCDOT received verification from the Dranesville District Supervisor's office confirming community support for the Churchill Road traffic calming plan.

Board Agenda Item
June 22, 2021

FISCAL IMPACT:

Funding in the amount of \$40,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Churchill Road, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Churchill Road

Attachment II: Traffic Calming Plan for Churchill Road

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
CHURCHILL ROAD
DRANESVILLE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 22, 2021, at which a quorum was present and voting, the following resolution was adopted:

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

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

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

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

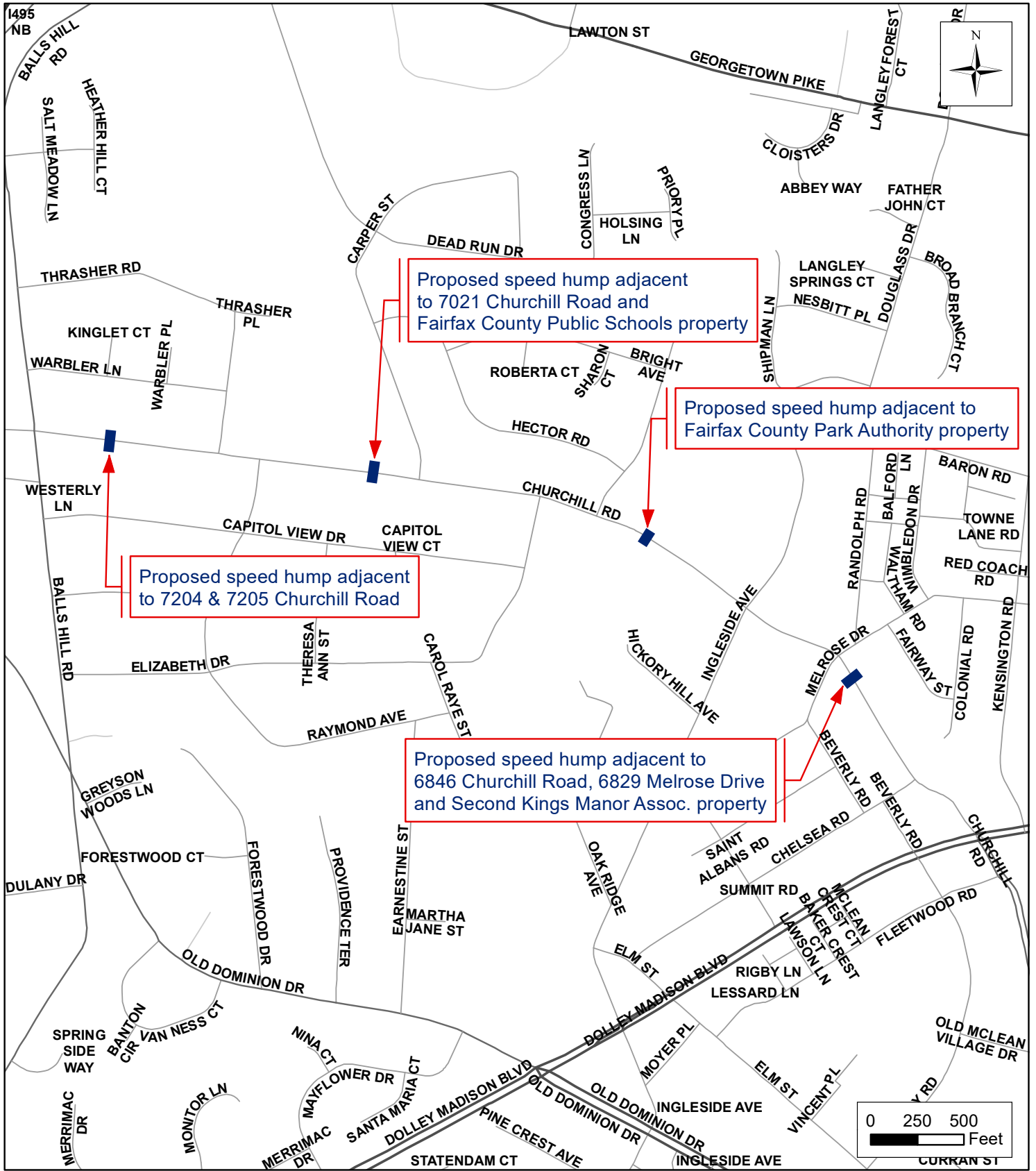
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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

ADOPTED this 22nd day of June, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 21-3, 21-4, 30-1, 30-2

May 2021

Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Churchill Road
Dranesville District



Board Agenda Item
June 22, 2021

ADMINISTRATIVE - 2

Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program (Providence District)

ISSUE:

Board endorsement of “\$200 Additional Fine for Speeding” signs as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval of the resolution (Attachment I) for the installation of “\$200 Additional Fine for Speeding” signs on the following road:

- Vaden Drive between Interstate 66 and Lee Highway (Providence District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) request VDOT to schedule the installation of the approved “\$200 Additional Fine for Speeding” signs (Attachment II) as soon as possible.

TIMING:

Board action is requested on June 22, 2021, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

Section 46.2-878.2 of the Code of Virginia permits a maximum fine of \$200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. These residential roadways must have a posted speed limit of 35 mph or less and must be shown to have an existing speeding problem. To determine that a speeding problem exists, staff performs an engineering review to ascertain that certain speed and volume criteria are met.

Vaden Drive, between Interstate 66 and Lee Highway (Providence District), meets the RTAP requirements for posting the “\$200 Additional Fine for Speeding” Signs. On May 13, 2021, FCDOT received verification from the Providence District Supervisor’s office confirming community support.

Board Agenda Item
June 22, 2021

FISCAL IMPACT:

For the "\$200 Additional Fine for Speeding" signs, \$500 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:

Attachment I: "\$200 Additional Fine for Speeding" Signs Resolution – Vaden Drive

Attachment II: Area Map of Proposed "\$200 Additional Fine for Speeding" Signs – Vaden Drive

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
\$200 ADDITIONAL FINE FOR SPEEDING SIGNS
VADEN DRIVE
PROVIDENCE 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 22, 2021, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Section 46.2-878.2 of the *Code of Virginia* enables the Board of Supervisors to request by resolution signs alerting motorists of enhanced penalties for speeding on residential roads; and

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Vaden Drive from Interstate 66 to Lee Highway. Such road also being identified as a Major Collector Road; and

WHEREAS, community support has been verified for the installation of "\$200 Additional Fine for Speeding" signs on Vaden Drive.

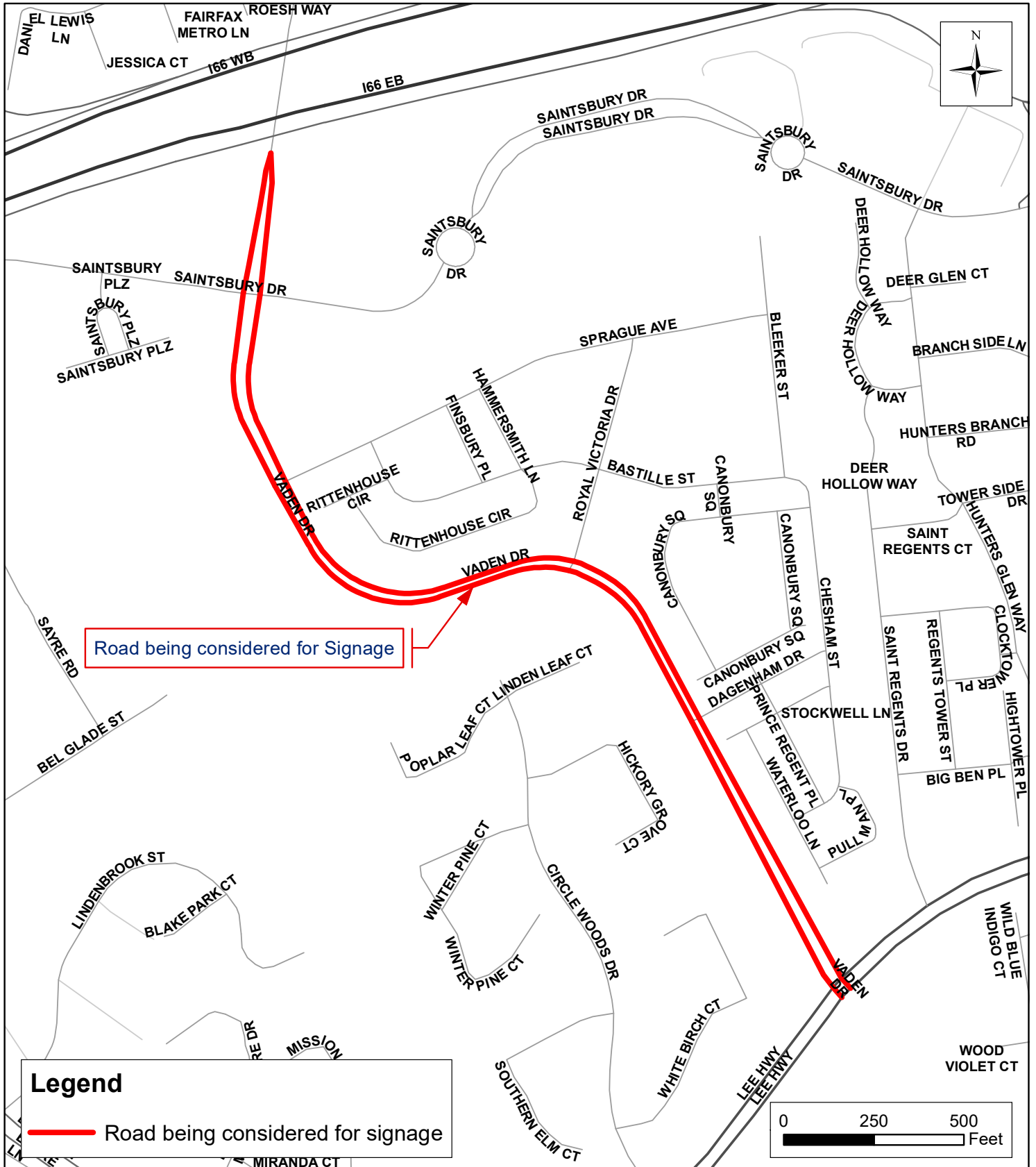
NOW, THEREFORE BE IT RESOLVED that "\$200 Additional Fine for Speeding" signs are endorsed for Vaden Drive from Interstate 66 to Lee Highway.

AND FURTHER, the Virginia Department of Transportation is requested to allow the installation of the "\$200 Additional Fine for Speeding" signage, and to maintain same, with the cost of each sign to be funded from the Virginia Department of Transportation's secondary road construction budget.

ADOPTED this 22nd day of June, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Traffic Calming Plan
 Vaden Drive
 Providence District

May 2021



ADMINISTRATIVE - 3

Supplemental Appropriation Resolution AS 21319 for the Health Department to Accept Grant Funding from Virginia Department of Health for Contact Tracing and Laboratory Testing Activities Related to the COVID-19 Pandemic

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 21319 for the Health Department (HD) to accept funding from the Virginia Department of Health (VDH) in the amount of \$36,761,962 to continue contact tracing and laboratory testing activities related to the COVID-19 pandemic. No Local Cash Match is required. The grant period is from January 1, 2021 to November 17, 2022. When grant funding expires, the County is under no obligation to continue funding the program. Given the timing of the award and the need to begin work quickly, the 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 21319 to accept funding from the Virginia Department of Health in the amount of \$36,761,962 for contact tracing and laboratory testing activities related to the COVID-19 pandemic. 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 Memorandum of Understanding between the Virginia Department of Health and the County.

TIMING:

Board approval is requested on June 22, 2021.

BACKGROUND:

On May 12, 2021, the Virginia Department of Health notified local health districts of available pass thru funding from the Centers for Disease Control and Prevention (CDC) for Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases.

Although Fairfax County has made great progress in vaccinating the community, continued attention to containing COVID-19 infections through contact tracing and

laboratory testing remain critical to the Health Department's efforts. Specifically, VDH has provided funding for the following:

- Contact Tracing: \$19,865,960
Funding has been provided to continue the County's contact tracing and case investigation program which includes interviewing individuals who are confirmed or probable COVID-19 patients along with reaching out to individuals who have come in contact with the COVID-19 patient. VDH previously awarded the County \$17.5 million in support of these activities for a total of \$37.4 million in funding. The \$17.5 million has been fully expended. The Health Department is able to incur expenses for the new funding beginning in January 2021. Based on current monthly expenses, it is anticipated that this funding will be fully expended by June 2021. Once the VDH funding has been expended, the County will pursue FEMA reimbursement. The County will utilize the Coronavirus Relief Fund when other federal/state funding sources are no longer available and for expenses not allowable under the grant agreements.
- Laboratory Testing: \$16,896,002
Funding has been provided to continue laboratory testing and reporting. It will allow the Health Department to build capacity to quickly meet increases in testing demand as well as enhancing data management and analytic capacity. The state previously awarded the County \$5.0 million in support of these activities for a total of \$21.9 million in funding. The \$5.0 million is not yet fully expended; however, staff will utilize both funding streams concurrently based on the allowability of expenses. Funding in support of the laboratory is expected to last until November 2022.

FISCAL IMPACT:

Funding in the amount of \$36,761,962 from the Virginia Department of Health will be used to continue contact tracing and laboratory testing activities related to the COVID-19 pandemic. No Local Cash Match is required. This action does not increase the expenditure level of the Federal-State Grant Fund as funds were added to the reserve as part of the *FY 2021 Third Quarter Review* in anticipation of this award. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

Board Agenda Item
June 22, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Understanding from Virginia Department of Health

Attachment 2: Supplemental Appropriation Resolution AS 21319

STAFF:

Christopher A. Leonard, Deputy County Executive

Gloria Addo-Ayensu, Director, Health Department

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



VIRGINIA DEPARTMENT OF HEALTH
OFFICE OF EPIDEMIOLOGY (OEPI)
DIVISION OF SURVEILLANCE AND INVESTIGATION
109 GOVERNOR STREET
RICHMOND, VIRGINIA 23219

SUBRECIPIENT AGREEMENT

SUBRECIPIENT Number: FRXCOV610-GY21

- I. **PARTIES TO THE AGREEMENT:** This Subrecipient Agreement is entered into by Fairfax County, acting through the Fairfax Health District, 10777 Main Street, Suite # 203, Fairfax, Virginia 22030, hereinafter called the "Subrecipient" and Commonwealth of Virginia through the Department of Health, Office of Epidemiology, Division of Surveillance and Investigation, whose business address is 109 Governor Street, Richmond, Virginia 23219 hereinafter called the "Department."

WHEREAS, the Department desires to enter into an Agreement with the Subrecipient to provide enhancement of COVID-19 epidemiologic services and;

WHEREAS, the Subrecipient desires to perform such services;

THEREFORE, in consideration of their respective undertakings, the Department and the Subrecipient hereby execute this covenant and agree to the following terms.

- II. **PERIOD OF PERFORMANCE:** From execution date of VDH signature on last page through November 17, 2022 and renewable for 1 one year period if additional funding is awarded, under the terms of the current agreement, and at a reasonable time (approximately 90 days) prior to the expiration.
- III. **PURPOSE:** The Subrecipient is partnering with the Department to provide enhancement of COVID-19 epidemiologic services and support for COVID-19 activities out lined in the Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) Grant related to the "ELC Enhancing Detection" supplemental funding. The purpose of this funding is to support necessary expenses to implement and oversee expanded testing capacity for COVID-19/SARS-CoV-2.

IV. **SCOPE OF SERVICES:**

A. Subrecipient to provide enhancement of COVID-19 epidemiologic services. (\$19,865,960) **Funding is provided to cover contractual positions only.** The district will have the flexibility to decide which positions they have the greatest need for in terms of hiring and can utilize the provided funding to best suit their needs. Funding is being provided for the following positions:

1. The COVID-19 Epidemiologist will coordinate a specific epidemiology program within an area to include interpreting program policies and procedures, providing training, monitoring and reviewing data collection/analysis for accuracy and consistency, and serving as a program consultant.
2. The COVID-19 Care Coordinator will be responsible for contacting patients diagnosed with COVID-19, conducting virtual patient needs checks, and connecting patients with local community health resources.
3. The COVID-19 Data Entry Technician will assist the districts efforts by carrying out such activities as: Completing SARS-COV-2 data entry in an accurate and timely manner; Ensuring secure operations to keep SARS-COV-2 laboratory result information confidential; preparing relevant reports as needed; Contribute to team effort by assisting with any other duties as assigned.
4. Case Investigator Supervisors will provide leadership and management of the district CIs/CTs.
5. Case Investigators will initiate case investigations, conduct contact tracing and follow up, and implement containment measures and the local health department level.
6. Contact Tracer Supervisors are responsible for supervising Contract Tracers on the Local Health Department level. They will coordinate administrative issues for Contact Tracers as part of their responsibilities.
7. Contact Tracers will conduct contact tracing including contact elicitation/identification, contact notification and contact follow-up. Activities could include traditional contact tracing and/or proximity/location-based methods, as well as methods adapted for healthcare-specific and congregate settings.
8. Data Managers will work with the district's epi team to clean, control, and maintain accurate, complete and timely data for COVID-19.
9. Fiscal/Administrative Support Technician will assist with processing and verifying invoices submitted for the COVID pandemic.

B. Public Health Laboratory (\$16,896,002)

Subrecipient's main activities while utilizing ELC Enhancing Detection funds includes enhancing laboratory testing and reporting capacity by (1) Training and hiring staff to improve laboratory workforce ability to address issues around laboratory safety, accessioning, testing and reporting results (2) Establishing or expanding capacity to quickly, accurately and safely test for SARS-CoV-2/COVID-19 (which may build capacity to test for other pathogens with potential for broad community spread) among all symptomatic individuals, and secondarily expand capacity to achieve community-based surveillance, including testing of asymptomatic individuals (3) Developing systems to improve speed and efficiency of specimen submission to clinical and reference laboratories (4) Strengthening ability to quickly scale testing as necessary to ensure that

optimal utilization of existing and new testing platforms can be supported to help meet increases in testing demand in a timely manner (5) Performing serology testing with an FDA EUA authorized serological assay in order to conduct surveillance for past infection and monitor community exposure (6) Applying laboratory safety methods to ensure worker safety when managing and testing samples that may contain SARS-CoV-2/COVID-19 (7) Enhancing laboratory testing capacity for SARS-CoV-2/COVID-19 outside of public health laboratories by establishing or expanding capacity to coordinate with public/private laboratory testing providers, including those that assist with surge and with testing for high-risk environments (8) Enhancing data management and analytic capacity in public health laboratories to help improve efficiencies in operations, management, testing, and data sharing by improving efficiencies in laboratory operations and management using data from throughput, staffing, billing, supplies, and orders and ensuring ability to track inventory of testing reagents by device/platform, among other things (9) Enhancing and expanding laboratory information infrastructure, to improve jurisdictional visibility on laboratory data (tests performed) from all testing sites and enable faster and more complete data exchange and reporting by employing a well-functioning Laboratory Information Management System (LIMS) system to support efficient data flows within the PHL and its partners; this includes expanding existing capacity of the current LIMS to improve data exchange and increase data flows through LIMS maintenance, new configurations/modules, and enhancements; implementing new/replacement LIMS where needed (10) Ensuring ability to administer LIMS; ensuring the ability to configure all tests that are in LIMS, including new tests, EUAs, etc., in a timely manner; ensuring expanding needs for administration and management of LIMS system are covered through dedicated staff (11) Interfacing diagnostic equipment to directly report laboratory results into LIMS (12) Putting a web portal in place to support online ordering and reporting; integrating the web portal into the LIMS.

- V. **COMPENSATION:** The Department will reimburse Subrecipient for actual expenditures as a result of services provided under the terms of the basic agreement. Any travel expenses will be reimbursed as per the current, state approved travel regulations available at https://www.doa.virginia.gov/reference/CAPP/CAPP_Topics_Cardinal/20335-2019-July.pdf (Topic# 20335) Payments may be made for services rendered starting with grant funding period beginning January 1, 2021.

Contract Value: \$36,761,962 .

All Subrecipients shall report the actual program income received and expended during the month or billing period on the invoice billing statement. The revenue and expenses shall be traceable through their financial system of record.

Subrecipients will invoice the Department on a monthly basis electronically with supporting documentation. Billing will be due no later than 30 days following the end of each calendar month in which expenses are incurred.

As per state regulations (CAPP Manual topic 20310) it is state policy to pay invoices on the date which payment is due under the terms of a contract, or if such date has not been established, thirty days after receipt of the Subrecipient's invoice by the specified Accounts Payable desk or thirty days after receipt of the goods or services, as specified by the Accounts Payable date-stamped receiving report, whichever is later. Failure by Subrecipient to submit invoices within the prescribed period may forfeit its right to payment from the Department.

Send Invoices to either:

EpiAP@VDH.Virginia.gov (Non-PHI information **only**)

VDH Secure Portal (Invoices **including** PHI – Contact Contract Administrator)

Or: Virginia Department of Health
 Office of Epidemiology – A/P, 11th Floor
 P.O. Box 2448
 Richmond, VA 23218-2448
 Attn: A/P Supervisor

Invoices **must not** be submitted both hardcopy and electronically. In order for invoices to be processed as presented for payment, the document must reference the current/active contract number.

Final reconciliation billing for this agreement ending November 17, 2022, along with any overpayments due to the Department, shall be submitted no later than December 17, 2022.

The Subrecipient will ensure that all expenditures made under this Agreement are recorded correctly, are allowable, and are in support of the objectives of this Agreement. The Subrecipient shall ensure that payroll expenditures in support of this Agreement and as specified in this Agreement are charged accurately and that the employees paid under this Agreement submit Time and Effort (T&E) reports. These T & E Reports shall be maintained on site for VDH review during monitoring visits.

The Subrecipient shall maintain supporting documentation for all expenditures made under this Agreement and maintain such documentation for five years as per GAO/OMB regulations. Any expenditure recorded after this date will be attributed to the next budget period.

These funds may not be used to pay the salary of an individual at a rate in excess of the Executive Level II salary of the Federal Executive Pay Scale, as per Notice of Award.

| CST | COA | FUND | PROG | PROJ | DOLLARS | FUNDING PERIOD | EXP. DEADLINE |
|-----|-----|-------|--------|------------|-----------------|-----------------------|---------------|
| 610 | CB | 10170 | 405005 | 0000117513 | \$36,761,962.00 | 1/1/2021 – 11/17/2022 | 11/17/2022 |

VI. FEDERAL REQUIREMENTS FOR SUBRECIPIENT CONTRACTS

FEDERAL AWARD INFORMATION: Subrecipient of federal awards must be informed of the catalog of Federal Domestic Assistance (CFDA) number, grant name and number, grant year and federal awarding agency. This information will become part of the Contract.

Sub-Award Organization DUNS: 074837626
 Federal Award Identification Number: 6 NU50CK000555-01-07
(FAIN: NU50CK000555)
 Federal Award Date: 6/22/2020

Amount of Sub-Award: \$36,761,962.00
Sub-Award Obligation/Action Date: 1/1/2021
Total Amount of Federal Award: \$234,097,553.00
Name of Federal Grantor: Centers for Disease Control and Prevention
CFDA Number & Name: 93.323 Epidemiology and Laboratory Capacity for Infectious Disease (ELC)

Research & Development: Yes No

FEDERAL AWARD RESTRICTIONS: There are general Federal cost principles that are applicable to all Federal Awards. These general principles are outlined in Part 200 – Uniform Administrative Requirements, Cost Principles, and Subpart F. Audit Requirements for Federal awards (2 CFR Section 200.0 – 200.521). The local health districts are required to adhere to these principles while managing federal grant awards (specifically Subpart E – Cost Principles). The Electronic Code of Federal Regulations can be found at www.eCRF.gov.

General Provisions Sections: 200.400-200.401
Federal equipment 200.313
Procurement guidelines 200.318-200.326
Basic Considerations Sections: 200.402-200.411
Direct and Indirect (F&A) Costs Sections: 200.412 – 200.415
Special Considerations for States, Local Governments and Indian Tribes Sections: 200.416-200.417
General Provisions for Selected Items of Cost Sections: 200.420-200.475 (with exception of 200.424 and 200.475 as these are more applicable to Higher education Institution and other nonprofit organizations.

The Virginia Department of Health, Office of Epidemiology, as a pass-through entity for numerous federal grants, is responsible for ensuring certain activities occur with respect to monitoring of Subrecipients. The above requirements include but are not limited to the following: Subrecipients receiving more than \$750,000 in federal funds, during the Subrecipient’s fiscal year, from any and all sources are required to have a single audit performed in accordance with code (§200.501(a)). When required, the most recent copy of the audit must be provided to the assigned contract monitor within 30 days of the effective date on this Agreement. If any findings were noted in the audit report, corrective actions taken to fully resolved the finding must be provided. If an audit occurs during the term of this Agreement, a copy of that audit and response to any findings must be provided as well. The Subrecipient must provide a written statement if the organization did not receive more than \$750,000 in federal funds.

Federal Funding Accountability and Transparency Act (FFATA) Effective October, 2010, all entities that plan to apply for and ultimately receive a Federal grant/cooperative agreement or receive sub awards directly from recipients of those funds shall:

- Be registered in System for Award Management (SAM) prior to submitting an application or plan. The SAM is a Web-enabled government wide application that collects, validates, stores and disseminates business information about the federal government's trading partners in support of the contract award, grants and the electronic payment processes. SAM information must be updated at least every 12 months to remain active (for both grantees and Subrecipients),
- Have a DUNS number,
- Provide address for primary Virginia service location including nine-digit zip code,
- Provide Executive compensation information for five most highly compensated officers if **all** of the following apply:
 - Organization receives 80% or more of its annual gross revenues in Federal awards,
 - Organization receives \$25,000,000 or more in annual gross revenues from Federal awards,
 - Executive compensation has not previously been reported to any Federal Agency through any other reporting system (If applicable)

Certifications regarding lobbying (2 CFR 200.450)

Certification Regarding Lobbying (2 CFR 200.450) By signing this agreement, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief, that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement in accordance with 2 CFR 200.450. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to VDH. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Monitoring: The Department will monitor the Subrecipient to evaluate the progress and performance of the program. The Subrecipient shall furnish the Department on request information regarding payments claimed for services under this contract. The Department and

Federal personnel shall be provided access to all program-related records and facilities under reasonable request.

The Subrecipient shall retain all books, accounts, reports, files and other records relating to the performance of the contract for a period of five years after its completion. All accounting records must be supported by source documentation and retained in order to show for what purpose funds were spent. All such records shall be made available and produced for inspection when required by the Department.

Should an audit by authorized state or federal official result in disallowance of amounts previously paid to the Subrecipient, the Subrecipient shall reimburse the Department upon demand.

Time and Effort Reporting: The Subrecipient shall comply with time and effort reporting as required by the Federal Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local and Indian Tribal Government). 2 CFR 200.430 Compensation-Personal Services. All employees paid in whole or in part from grant funds should prepare a timesheet indicating the hours worked on each specific project for each pay period. Based on these time sheets and hourly payroll cost for each employee, a statement indicating the distribution of payroll charges should be prepared and placed in the appropriate files and shall be made available for inspection when required by the Department. The Subrecipient shall retain all books, reports, files and other records relating to time and effort reporting for a period of five years after completion.

Audit of Financial Records: The Subrecipient shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Government and Non-Profit organizations) as applicable. The Subrecipient will, if total Federal funds expended are \$750,000 or more a year, have a single or program-specific financial statement audit conducted for the annual period in compliance with the General Accounting Office audit standards. A copy of the portion of the audit that affects the program will be submitted to the Commonwealth of Virginia. If there are no audit findings, a letter indicating no finds shall be submitted. The copy of the portion of the audit findings or the letter indicating no findings shall be sent to the Virginia Department of Health.

If total federal funds expended are less than \$750,000 for a year the Subrecipient must meet the above audit requirements or maintain financial records for such audit that are available for review by appropriate officials of the granting Federal agency, pass-through entity, and the General Accounting Office.

APPROPRIATIONS: The Subrecipient acknowledges the understanding that this Agreement is subject to appropriations and constraints by the State or the Federal government budget.

SMOKE FREE ENVIRONMENT: Public Law 103-277, also known as the Pro-Children Act of 1994, requires that smoking not be permitted in any portion of any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation **and/or the imposition of an administration compliance order on the responsible entity.**

SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Subrecipient desires to subcontract some part of the work specified herein, the Subrecipient shall furnish the Departments names, qualifications and experience of their proposed Subrecipients and shall assure compliance with all requirements of the contract. Subcontracting with local health districts is not allowed.

INTEGRATION AND MODIFICATION: This Agreement constitutes the entire understanding of the parties as to the matters contained herein. No alteration, amendment or modification of this Agreement shall be effective unless in writing and signed by the duly authorized officials of both The Department and Subrecipient.

PRICE ADJUSTMENT: This is a cost reimbursement agreement that is negotiated prior to annual renewal each year depending on the approved budget. The Department approved, price adjustment may be allowed at any time during the term of this Agreement.

CONFIDENTIALITY OF PROPRIETARY INFORMATION, DUPLICATION AND DISCLOSURE: The Subrecipient agrees that proprietary information disclosed by the Department to the Subrecipient for the purpose of a Memorandum of Understanding shall be held in confidence and used only in the performance of the contract. No item designed for or by the Department shall be duplicated or furnished to others without prior written consent. All products and materials including but not limited to papers, data, reports, forms, records, materials, creations, or inventions relating to this contract are sole and exclusive property of the Department. All such materials shall be delivered to the Department in usable condition at any time requested by the Department. The parties agree that the Subrecipient is a public body and nothing in this section will prohibit the Subrecipient from complying with its obligations under the Virginia Freedom of Information Act.

DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (2 CFR 200.213 and 2 CFR 180) By initialing this box, SA, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief that neither the Subrecipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, in accordance with 2 CFR 200.213 and 2 CFR 180.

AUDIT AND ACCESS TO RECORDS PER 2 CFR 200.501- 200.521, by initialing this box, SA, the Subrecipient certifies that it will provide notice of any adverse findings which impact this Sub award and will provide access to records as required by parts 2 CFR 200.336, 200.337, and 200.201 as applicable. If Subrecipient is not subject to the Single Audit Act, then Subrecipient will provide notice of the completion of any required audits and provide access to such audits upon request.

VII. METHOD OF PAYMENT: The Subrecipient will be paid monthly in arrears for services rendered upon receipt of a valid invoice by the Department. Department will pay the Subrecipient for actual expenditures as a result of services performed under the terms of this Agreement, consistent with approved budget. A valid invoice shall be submitted to the Department by the tenth (or designated date) of the month following the month of service. Payment will be made in accordance with the Prompt Payment Act of Virginia by check or EDI.

VIII. TERMS AND CONDITIONS:

- A. **AUDIT:** The Subrecipient shall retain all books, records, and other documents relative to this agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Department, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- B. **APPLICABLE LAWS AND COURTS:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The Department and the Subrecipient are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia, § 2.2-4366*). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the department shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.
- D. **BACKGROUND CHECKS:**
1. The VDH may require a background check for Subrecipient staff assigned to any resulting agreement. The Subrecipient shall be required to pay for all background checks processed for staff assigned to any agreement resulting from this contract agreement at a rate of \$50.00. Fees are on a per background check basis and will be invoiced by VDH Accounting. The Subrecipient employees will be required to complete a form granting authority to release information. The Subrecipient shall allow the VDH access to review Subrecipient staff personnel and employment records.
 2. Background investigation results will be reviewed by the VDH, and are not releasable to the Subrecipient, however, can be provided to the individual of the investigation upon a written request.
 3. In the event agreement award is made prior to completion of background checks, any unfavorable results shall be subject to the terms and conditions of this contract agreement.
 4. In the event of any staff turnover or staff reassignments, the Subrecipient shall notify the VDH and shall submit the appropriate background history questionnaire, authority for release of information and have fingerprints obtained for any proposed new staff member. This shall be in addition to the requirement to provide the required credentials information. The VDH may remove any Subrecipient employee that the Contract Administrator feels threatens the health or safety of staff, security of the facility, or quality of the service provided by the Subrecipient.

- E. **CANCELLATION OF AGREEMENT:** The department reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Subrecipient. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the Subrecipient, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Subrecipient of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- F. **CHANGES TO THE AGREEMENT:** The parties may agree in writing to modify the scope of the Memorandum of Agreement. An increase or decrease in the price to the memorandum of Agreement resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Memorandum of Agreement.
- G. **CONFIDENTIALITY OF PROPRIETARY INFORMATION AND PERSONALLY IDENTIFIABLE INFORMATION:** The Subrecipient assures that information and data obtained as to proprietary information and personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Department's written consent and only in accordance with federal law or the Code of Virginia. Subrecipients who utilize, access, or store proprietary information or personally identifiable information as part of the performance of an agreement are required to safeguard this information and immediately notify the Department of any breach or suspected breach in the security of such information. Subrecipients shall allow the Department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Subrecipients and their employees working on this project may be required to sign a confidentiality statement.
- H. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:

During the performance of this contract, the Subrecipient agrees to (i) provide a drug-free workplace for the Subrecipient's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient that the Subrecipient maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each Subrecipient or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Subrecipient, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- I. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Subrecipient certifies that the Subrecipient does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- J. **RENEWAL OF AGREEMENT:** This agreement may be renewed by the Commonwealth upon written agreement of both parties for one year, under the terms of the current agreement, and at a reasonable time (approximately 90 days) prior to the expiration.

- K. **ANTI-DISCRIMINATION:** By submitting this agreement Subrecipient certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

- 1. During the performance of this contract, the Subrecipient agrees as follows:
 - a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Subrecipient. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

 - b. The Subrecipient, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, will state that such Subrecipient is an equal opportunity employer.

 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

 - d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Subrecipient violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the

whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.

e. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the Subrecipient, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.

2. The Subrecipient will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each Subrecipient or vendor.

L. **ANTITRUST:** By entering into an agreement, the Subrecipient conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said agreement.

M. **PAYMENT:**

1. To Prime Subrecipient:

a. Invoices for items ordered, delivered and accepted shall be submitted by the Subrecipient directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual Subrecipients) or the federal employer identification number (for proprietorships, partnerships, and corporations).

b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Subrecipient at the contract price, regardless of which public agency is being billed.

d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Subrecipients should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the Subrecipient of defects or improprieties in invoices within fifteen (15) days as required in *Code of*

Virginia, § 2.2-4351.,. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).

2. To Subrecipients:

a. Within seven (7) days of the Subrecipient's receipt of payment from the Commonwealth, a Subrecipient awarded a contract under this solicitation is hereby obligated:

(1) To pay the Subrecipient(s) for the proportionate share of the payment received for work performed by the Subrecipient(s) under the contract; or

(2) To notify the department and the Subrecipient(s), in writing, of the Subrecipient's intention to withhold payment and the reason.

b. The Subrecipient is obligated to pay the Subrecipient(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Subrecipient that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Subrecipient performing under the primary contract. A Subrecipient's obligation to pay an interest charge to a Subrecipient may not be construed to be an obligation of the Commonwealth.

3. Each prime Subrecipient who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting department or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from Subrecipient default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the department or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages Subrecipients and Subrecipients to accept electronic and credit card payments.

N. **ASSIGNMENT OF AGREEMENT:** An agreement shall not be assignable by the Subrecipient in whole or in part without the written consent of the Commonwealth.

O. **DEFAULT:** In case of failure to deliver goods or services in accordance with the agreement terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Subrecipient responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

P. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any

Subrecipients are involved, the Subrecipient will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the Subrecipient and any Subrecipients will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Subrecipients who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - \$100,000.

3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Department shall be added as an additional insured to the policy by an endorsement.

4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Subrecipient must assure that the required coverage is maintained by the Subrecipient (or third party owner of such motor vehicle.)

PROFESSIONAL SERVICES - Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)

Code of Virginia § 8.01-581.15

<https://law.lis.virginia.gov/vacode/title8.01/chapter21.1/section8.01-581.15/>

Fairfax County government is self-insured and is prohibited from providing Additional Insured status and agreeing to Holding Harmless or Indemnifying any parties.

- Q. NONDISCRIMINATION OF SUBRECEIPIENTS:** A Subrecipient shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state department, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or

disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

- R. WHISTLEBLOWER PROTECTIONS:** Congress has enacted the whistleblower protection statute 41 U.S.C. Section 4712 to encourage employees to report fraud, waste, and abuse without repercussions. This statute applies to all employees working for Subrecipients, grantees, Subrecipients, and sub grantees in accordance with this agreement. All Subrecipients, grantees, sub grantees, and Subrecipients for federal grants and contracts are required to:

1. Inform their employees in writing of the whistleblower protections under 41 U.S.C. Section 4712 in the predominant native language of the workforce, to include the specific requirements of the statute, and
2. Include this term and condition in any agreement made with a Subrecipient or sub grantee.

The employees' rights under 41 U.S.C. Section 4712 shall survive termination of this agreement.

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

- T. SERVICE ORGANIZATION CONTROLS:** Service Organization Controls (SOC2) may be required for this contract. Please see link for requirements: http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/10305.pdf

CERTIFICATION OF INTERNAL CONTROLS: The Subrecipient shall have clearly delineated processes and procedures for the internal control of sensitive data and processes, which are any data and processes of which the compromising of confidentiality, integrity, and/or availability could have a material adverse effect on Commonwealth of Virginia interests, the conduct of department programs, or to the privacy of which individuals are entitled, when such sensitive data or processes are related to the goods and/or services provided pursuant to this agreement.

The Subrecipient shall provide evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the Subrecipient's internal controls. The most recent version of the report shall be provided to the purchasing office upon request.

Trade secrets or proprietary information contained within the report shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Subrecipient must invoke the protection of Code of Virginia, § 2.2-4342F, in writing, prior to or upon submission of the report, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

If deficiencies in the Subrecipient's internal control processes and procedures are described in the most recent version of the report, the Subrecipient shall automatically submit the report to the purchasing office within a timely manner and shall describe the corrective actions to be put into place by the Subrecipient to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the Commonwealth to make a determination of breach of contract.

The Subrecipient's obligations for certification of internal controls shall survive and continue after completion of this agreement unless the Subrecipient certifies the destruction of the sensitive data at the end of the contract term.

U. CONTINUITY OF SERVICES:

- a) The Subrecipient recognizes that the services under this contract are vital to the Department and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another Subrecipient, may continue them. The Subrecipient agrees:
 - (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
 - (ii) To make all Department owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
 - (iii) That the Department Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Subrecipient to its successor.
- b) The Subrecipient shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.
- c) The Subrecipient shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

- V. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

IX. CONFIDENTIALITY TERMS AND CONDITIONS:

A. DATA PRIVACY

In accordance with § 2.2-2009 of the *Code of Virginia*, during the performance of this contract, Subrecipient is required at all times to comply with all applicable federal and state laws and regulations, including those pertaining to information security and privacy

- B. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The Subrecipient assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, disclosure will not be divulged without the individual's and the department's written consent, and only in accordance with federal law, including the HIPAA Privacy rule or the Code of Virginia.

Subrecipients who utilize, access, or store personally identifiable information (PII), protected health information (PHI), and electronic protected health information (ePHI), in performance of a contract, and in support of the HIPAA Privacy and Security regulations, are required to safeguard PII and PHI by:

- a. implementing appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to ePHI,
- b. implementing appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to ePHI,
- c. ensure that any subcontractors the Subrecipient may engage on its behalf, and will have access to PHI, agrees to the same restrictions and conditions that apply to the business associate with respect to such information, and
- d. immediately notifies the department of any breach, or suspected breach, in the security of such information.

Subrecipients shall allow the department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Subrecipients and their employees working on this project may be required to sign a confidentiality statement.

C. CONFIDENTIALITY OF HEALTH RECORDS:

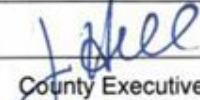

By signature on this agreement, the Subrecipient agrees to comply with all applicable statutory provisions and regulations of the Commonwealth of Virginia and in the performance of this agreement (agreement) shall:

1. Not use or further disclose health records other than as permitted or required by the terms of this agreement or as required by law;
2. Use appropriate safeguards, as defined by HIPAA the Privacy and Security Rules to prevent use or disclosure of health records other than as permitted by this agreement;
3. Report to the Department of Health any use or disclosure of health records not provided for by this Agreement;
4. Mitigate, to the extent practicable, any harmful effect that is known to the Subrecipient of a use or disclosure of health records by the Subrecipient in violation of the requirements of this agreement;
5. Impose the same requirements and restrictions contained in this agreement on its subcontractors and agents;
6. Provide access to health records contained in its records to the Department of Health, in the time and manner designated by the Department of Health, or at the request of the Department of Health, to an individual in order to afford access as required by law;
7. Make available health records in its records to the Department of Health for amendment and incorporate any amendments to health records in its records at the Department of Health request; and

- 8. Document and provide to the Department of Health information relating to disclosures of health records as required for the Department of Health to respond to a request by an individual for an accounting of disclosures of health records.

The Subrecipient shall provide evidence of compliant and ongoing internal control of sensitive and/or private data and processes through a standard methodology, including the Health Insurance Portability and Accountability Act (42 USC Sec. 1320D et seq., the federal rules adopted thereunder (45 CFR Parts 160, 162 and 164, as applicable), and the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the Subrecipient's internal controls. There shall be an appropriate separate instrument, i.e., a business associate agreement (BAA), executed between the parties further protecting the privacy and security of data."

X. STATUS OF PERSONNEL: Caroline Holsinger, Director of the Division of Surveillance and

| SUBRECIPIENT: | VIRGINIA DEPARTMENT OF HEALTH: |
|---|--|
| By:  | By:  |
| Title: County Executive | Title: State Health Commissioner |
| Date: MAY 19 2021 | Date: 6/1/2021 1:44:33 PM EDT |

Investigation, has been designated as the Department administrator for this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby. This Subrecipient Agreement becomes effective on the date of the last signature.

DUNS #: 074837626 (Required) <https://www.dnb.com/duns-number/lookup.html>

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, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment.

FOR COMPLETION BY SUBRECIPIENT:

| |
|--|
| Legal Name Fairfax County |
| City and ZIP+4/ZIP plus four lookup https://tools.usps.com/go/ZipLookupAction_input Fairfax, 22035 X |
| Is the organization registered in SAM? <input type="checkbox"/> YES <input type="checkbox"/> NO (If no, see Section VI Federal Award Information, page 9). To remain active complete the registration and update at least every 12 months at https://www.sam.gov/SAM/ . |

1. In the preceding fiscal year did your organization:

- a. Receive 80% or more of annual gross revenue from federal contracts, subcontracts, grants, loans, subgrants, and/or cooperative agreements; **and**
- b. \$25,000,000 or more in annual gross revenues from federal contracts, subcontracts, grants, loans, subgrants, and/or cooperative agreements; **and**
- c. The public does not have access to this information about the compensation of the senior executives of your organization through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986.

NO

YES (The names and total compensation of the top 5 highly compensated officials must be reported to VDH. *(Total compensation includes cash and non-cash value earned during the past fiscal year including salary and bonus; awards of stock, stock options and stock appreciation rights; and severance and termination payments, and value of life insurance paid on behalf of the employee, and applicable OMB guidance).*)

2005 8 1 1AM

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21319

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 22, 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: | 1CV7101-2021, COVID-19 Health Dept Lab | \$16,896,002 |
| | 1CV7102-2021, COVID-19 Contact Tracing | \$19,865,960 |

Reduce Appropriation to:

| | | |
|---------|---|--------------|
| Agency: | G8787, Unclassified Administrative Expenses | \$36,761,962 |
| Fund: | 500-C50000, Federal-State Grant Fund | |

Source of Funds: Virginia Department of Health, \$36,761,962

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
June 22, 2021

ADMINISTRATIVE - 4

Supplemental Appropriation Resolution AS 21314 for the Department of Neighborhood and Community Services to Accept Grant Funding from the U.S. Department of the Treasury for the Emergency Rental Assistance Program

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 21314 for the Department of Neighborhood and Community Services (NCS) to accept funding from the U.S. Department of the Treasury for the Emergency Rental Assistance (ERA) program, in the amount of \$35,100,967. Funding will allow the County to continue providing financial assistance, including arrearage and prospective rent and utility payments, and other housing expenses. No Local Cash Match is required. The grant period is March 13, 2020 to September 30, 2025. When grant funding expires, the County is under no obligation to continue funding the program. In order to be eligible to receive funding the County needed to accept the grant award no later than May 10, 2021. Therefore, the County Executive signed the grant agreement and accepted the award terms. Formal Board approval is needed to appropriate the funding in the Federal-State Grant.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve AS 21314 for the Department of Neighborhood and Community Services to accept funding from the U.S. Department of the Treasury for the Emergency Rental Assistance program, in the amount of \$35,100,967. Funding will allow the County to continue providing financial assistance, including arrearage and prospective rent and utility payments, and other housing expenses. There are no positions associated with this funding and no Local Cash Match is required.

TIMING:

Board approval is requested on June 22, 2021.

BACKGROUND:

The Emergency Rental Assistance program provides funding to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic. Two separate programs have been established: ERA1 provides up to \$25 billion under the Consolidated Appropriations Act, 2021, which was enacted on December 27, 2020, and ERA2 provides up to \$21.55 billion under the American Rescue Plan Act of 2021, which

Board Agenda Item
June 22, 2021

was enacted on March 11, 2021. Funding is provided directly to the County. The County received \$34,463,869 under ERA1 which was approved by the Board on February 23, 2021. The ERA2 allocation is \$35,100,967 which is comprised of \$27,269,647 awarded as part of the allocation formula determined by the U.S. Department of the Treasury (Treasury) as well as an additional \$7,831,320 based on the high-need designation which was also determined by Treasury. In total, the County has been awarded a total of \$69,564,836 for emergency rental assistance.

Households are eligible for emergency rental assistance funds if one or more individuals meet the following criteria:

- Qualifies for unemployment or has experienced a reduction in household income, incurred significant costs, or experienced a financial hardship during or due, directly or indirectly, to COVID-19;
- Demonstrates a risk of experiencing homelessness or housing instability; and
- The household is a low-income family.

However, eligible households that include an individual who has been unemployed for the 90 days prior to application for assistance and households with income at or below 50 percent of the area median are to be prioritized for assistance.

While funding is available through September 30, 2025, at least 50 percent of the allocation must be expended by March 31, 2022. The County has received 40 percent of the ERA2 allocation. The remaining funding will be released once 75 percent of the current allocation has been expended. There may also be an opportunity for additional funding based on the identified need of both other grantees as well as the County. Treasury has not yet established a process for receiving additional funds.

As the Board may recall, \$20 million of the County's Coronavirus Relief Fund (CRF) was allocated for Basic Needs Supplemental Funding. This funding provided support to the County's existing Coordinated Services Planning (CSP) community-based organizations to support basic needs in the community. The CSP determined eligibility with referral to the community-based organizations. The Emergency Rental Assistance program will utilize the same service delivery model.

It should also be noted that there are differences in the eligibility criteria for the Basic Needs Supplemental Funding and the Emergency Rental Assistance program. Most notably, the Basic Needs Supplemental Funding targets individuals at or below 100 percent AMI as well as mortgage assistance while the Emergency Rental Assistance program targets individuals at or below 80 percent AMI and does not cover mortgage assistance or the procurement of food. Staff will continue the same eligibility criteria defined at the beginning of the pandemic but will need to continue utilizing the

Board Agenda Item
June 22, 2021

Coronavirus Relief Fund for applicants not eligible under the Emergency Rental Relief program. As noted in the CARES Act Stimulus Funding Update – May 2021 update to the Board, \$2.0 million in CRF funding is available to address participants who are not eligible for the Emergency Rental Assistance program as well as food assistance. As mentioned in the February 12, 2021 memo to the Board, landlord outreach and a landlord portal, have been added to the numerous strategies supporting eviction prevention and housing stability. This portal allows landlords to apply for rental assistance on behalf of their tenant.

FISCAL IMPACT:

Funding from the U.S. Department of the Treasury in the amount of \$35,100,966 is available for the Emergency Rental Assistance program. No Local Cash Match is required. Formal budget appropriation will be requested in Fund 50000, Federal-State Grant Fund as part of the *FY 2021 Carryover Review*. Up to 15 percent of the award may be used to offset the County's administrative expenses. While the intent is for the County to only claim administrative expenses if funding remains at the end of the program period, staff are exploring a new ERA system to more efficiently track the various funding streams as required by the Treasury as well as to meet federal reporting requirements.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Grant Acceptance

Attachment 2: Supplemental Appropriation Resolution AS 21314

STAFF:

Christopher A. Leonard, Deputy County Executive

Lloyd E. Tucker, Director, Department of Neighborhood and Community Services (NCS)

Sarah Allen, Deputy Director, NCS

Keisha Dotson, Division Director, NCS

OMB Approved No.: 1505-0270
 Expiration Date: 10/31/2021

U.S. DEPARTMENT OF THE TREASURY
 EMERGENCY RENTAL ASSISTANCE

| | |
|---|--|
| Eligible grantee name and address: County of Fairfax 12000 Government Center Parkway, Suite 552 Fairfax Virginia 22035 | DUNS Number: 074837626 Taxpayer Identification Number: 540787833 Assistance Listing Number and Title: 21.023-Emergency Rental Assistance Program |
|---|--|

Section 3201(a) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury ("Treasury") to make payments to certain eligible grantees to be used to provide emergency rental assistance.

The eligible grantee hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.



Authorized Representative Signature (above)
[To be signed by chief executive officer if recipient is a local government.]

Authorized Representative Name: Bryan Hill

Authorized Representative Title: County Executive

Date Signed:  5/5/21

U.S. Department of the Treasury:



Name of Authorized Representative: Jacob Leibenluft
 Title: Counselor to the Secretary
 Date: 5/7/2021

PAPERWORK REDUCTION ACT NOTICE: The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PRIVACY ACT STATEMENT

AUTHORITY: Solicitation of this information is authorized by the American Rescue Plan Act of 2021, Title III, Pub. L. No. 117-2.

PURPOSE: Treasury is required by the American Rescue Plan Act of 2021 to identify eligible grantees/recipients to provide emergency rental assistance to individuals who qualify for relief under the Act. Eligible grantees/recipients are state, local, and territorial governments which identify households requiring relief according to requirements contained in the Act. Treasury maintains contact information for authorized representatives and contact persons for the purpose of communicating with eligible grantees regarding issues related to implementation of the Act.

ROUTINE USES: The information you furnish may be shared in accordance with the routine uses outlined in the Treasury's system of records notice, Treasury .017 - Correspondence and Contact Information, which can be found at 81 FR 78266 (Nov. 7, 2016).

DISCLOSURE: Disclosure of this information to Treasury is required in order to comply with the requirements the American Rescue Plan Act of 2021.

Disclosure of this information is voluntary, however, grantees/recipients that do not disclose contact information will be unable to communicate with Treasury on issues related to their obligations under the Act and this may affect the status of their award.

U.S. DEPARTMENT OF THE TREASURY
EMERGENCY RENTAL ASSISTANCE
Award Terms and Conditions

1. Use of Funds. Recipient understands and agrees that the funds disbursed under this award may only be used for the purposes set forth in subsection (d) of section 3201 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) (referred to herein as “Section 3201”) and any guidance issued by Treasury regarding the Emergency Rental Assistance program established under Section 3201 (“the Guidance”).
2. Reallocation of Funds. Recipient understands and agrees that any funds allocated by Treasury to Recipient that are not disbursed to Recipient in accordance with Section 3201(c)(2) as a subsequent payment will be reallocated by Treasury to other eligible recipients under Section 3201(e). Such reallocation of funds shall be made in the manner and by the date, which shall be no sooner than March 31, 2022, as may be set by Treasury. Recipient agrees to obligate at least fifty (50) percent of the total amount of funds allocated by Treasury to Recipient under Section 3201 to be eligible to receive reallocated funds under Section 3201(e).
3. Period of Performance. The period of performance for this award begins on the date hereof and ends on September 30, 2025. Recipient shall not incur any obligations to be paid with the funding from this award after such period of performance ends.
4. Administrative costs.
 - a. Recipient may use funds provided to the Recipient to cover both direct and indirect costs.
 - b. The total of all administrative costs, whether direct or indirect costs, may not exceed 15 percent of the total amount of the total award.
5. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as related to this award. Recipient acknowledges that any such information required to be reported pursuant to this section may be publicly disclosed.
6. Maintenance of and Access to Records.
 - a. Recipient shall maintain records and financial documents sufficient to support compliance with Section 3201 and the Guidance.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after the period of performance.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Compliance with Applicable Law and Regulations.
 - a. Recipient agrees to comply with the requirements of Section 3201 and the Guidance. Recipient also agrees to comply with all other applicable federal statutes, regulations, and

executive orders, and Recipient shall provide for such compliance in any agreements it enters into with other parties relating to this award.

- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180 including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- c. Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving or benefitting from federal assistance;

- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
9. False Statements. Recipient understands that false statements or claims made in connection with this award is a violation of federal criminal law and may result in fines, imprisonment, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
10. Conflict of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c), and that such conflict of interest policy is applicable to each activity funded under this award. Recipients and subrecipients must disclose in writing to Treasury or the pass-through agency, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
11. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
12. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; or (2) that are determined by the Treasury Office of Inspector General to have been misused shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Treasury will refer any debt that is more than 180 days delinquent to Treasury's Bureau of the Fiscal Service for debt collection services.
 - c. Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law. Administrative charges, that is, the costs of processing and handling a delinquent debt, shall be determined by Treasury.
13. Disclaimer.
- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this

award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

- b. The acceptance of this award by Recipient does not in any way constitute an agency relationship between the United States and Recipient.

14. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information to any of the list of persons or entities provided below that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; and/or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

15. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 8, 1997), Recipient should and should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

16. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 1, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21314

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 22, 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: G7979, Department of Neighborhood and Community Services

Grants: 1CV7904-2021, Emergency Rental Assistance Program 2.0 \$35,100,967

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses \$35,100,967

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: U.S. Department of the Treasury, \$35,100,967

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
June 22, 2021

ADMINISTRATIVE - 5

Supplemental Appropriation Resolution AS 21320 for the Health Department to Accept Grant Funding from Virginia Department of Health for COVID-19 Epidemiology Support

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 21320 for the Health Department (HD) to accept funding in the amount of \$109,497 from the Virginia Department of Health (VDH) for epidemiology support. Funding from the state's Coronavirus Relief Fund will pay for contract epidemiologic staff who will assist with COVID-19 response activities. No Local Cash Match is required. The grant period is July 1, 2020 to December 31, 2021. When grant funding expires, the County is under no obligation to continue funding the program. Given the timing of the award and the need to begin work quickly, the Memorandum of Understanding (MOU) was signed by the County Executive on May 19, 2021. 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 21320 to accept funding from the Virginia Department of Health in the amount of \$109,497 for contract epidemiology support for COVID-19. 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 22, 2021.

BACKGROUND:

On May 12, 2021, the Virginia Department of Health notified local health districts of available funding through the state's Coronavirus Relief Fund. Funding will provide enhancement to existing COVID-19 epidemiologic services and can only be used for contractual positions. Specifically, the Health Department will pay for additional contract COVID-19 epidemiologists who will assist with interpreting program policies and procedures, provide training, monitoring, reviewing and entering data, and providing reports, as needed.

Board Agenda Item
June 22, 2021

FISCAL IMPACT:

Funding in the amount of \$109,497 from the Virginia Department of Health will be used for contract epidemiologist expenses in support of 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 21320

STAFF:

Christopher A. Leonard, Deputy County Executive

Gloria Addo-Ayensu, Director, Health Department

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



OFFICE OF EPIDEMIOLOGY (OEPI)
DIVISION OF SURVEILLANCE AND INVESTIGATION
109 GOVERNOR STREET
RICHMOND, VIRGINIA 23219

MEMORANDUM OF UNDERSTANDING (MOU)

MOU Number: FRXCRF610-GY21

- I. **PARTIES TO THE AGREEMENT:** This Memorandum of Understanding is entered into by Fairfax County, acting through the Fairfax Health District, 10777 Main Street, Suite #203, Fairfax, Virginia 22030, hereinafter called the "Contractor" and Commonwealth of Virginia through the Department of Health, 109 Governor Street, Richmond, Virginia 23219 hereinafter called the "Department."

WHEREAS, The Department desires to enter into an Agreement with the Contractor to provide enhancement of COVID-19 epidemiologic services and;

WHEREAS, The Contractor desires to perform such services;

THEREFORE, in consideration of their respective undertakings, the Department and the Contractor hereby covenant and agree to the following terms.

- II. **PERIOD OF PERFORMANCE:** From execution date of VDH signature on last page through December 31, 2021.
- III. **PURPOSE:** The Contractor is partnering with the Department to provide enhancement of COVID-19 epidemiologic services and support for COVID-19 activities.
- IV. **SCOPE OF SERVICES:** Provide enhancement of COVID-19 epidemiologic services. Funding is provided to cover contractual positions only and may cover any combination of the following COVID-19 positions:
 - 1) The COVID-19 Epidemiologist will coordinate a specific epidemiology program within an area to include interpreting program policies and procedures, providing training, monitoring and reviewing data collection/analysis for accuracy and consistency, and serving as a program consultant.
 - 2) The COVID-19 Care Coordinator will be responsible for contacting patients diagnosed with COVID-19, conducting virtual patient needs checks, and connecting patients with local community health resources.

- 3) The COVID-Data Entry Technician will assist the districts efforts by carrying out such activities as: Completing SARS-COV-2 data entry in an accurate and timely manner; Ensuring secure operations to keep SARS-COV-2 laboratory result information confidential; Preparing relevant reports as needed; Contribute to team effort by assisting with any other duties as assigned.

V. **COMPENSATION:** The Department will reimburse Contractor for actual expenditures as a result of services provided under the terms of the basic agreement. Any travel expenses will be reimbursed as per the current, state approved travel regulations available at <https://www.doa.virginia.gov/reference.shtml#CAPP> (Topic #20335). Payments may be made for services rendered starting with grant funding period beginning July 2020.

Contract Value: \$109,496.43. Funding source is COVID 19 Relief Funds (CRF).

Contractor will bill The Department on a monthly basis electronically with supporting documentation. Billing will be due no later than 30 days following the end of each calendar month in which expenses are incurred.

As per state regulations (CAPP Manual topic 20310) it is state policy to pay invoices on the date which payment is due under the terms of a contract, or if such date has not been established, thirty days after receipt of the Contractor's invoice by Accounts Payable or thirty days after receipt of the goods or services, as specified by Department's date-stamped receiving report, whichever is later.

Failure by Contractor to submit invoices within the prescribed period may forfeit its right to payment from the Department.

Send Invoices to either:

EpiAP@VDH.Virginia.gov (Non-PHI information **only**)

VDH Secure Portal (Invoices **including** PHI – Contact Contract Administrator)

Or: Virginia Department of Health
Office of Epidemiology – A/P, 11th Floor
P.O. Box 2448
Richmond, VA 23218-2448
Attn: A/P Supervisor

Invoices **must not** be submitted both hardcopy and electronically. In order for invoices to be processed as presented for payment, the document must reference the current/active contract number.

Final reconciliation billing for December 31, 2021, along with any overpayments due to the Department, shall be submitted no later than January 31, 2022.

The Contractor agrees to ensure that all expenditures made under this Agreement are recorded correctly, are allowable, and are in support of the objectives of this Agreement. The

Contractor shall ensure that payroll expenditures in support of this Agreement and as specified in this Agreement are charged accurately and that the employees paid under this Agreement submit Time and Effort (T&E) reports. These T & E Reports shall be maintained on site for VDH review during monitoring visits.

The Contractor shall maintain supporting documentation for all expenditures made under this Agreement and maintain such documentation for five years as per GAO/OMB regulations. Any expenditure recorded after this date will be attributed to the next budget period.

These funds may not be used to pay the salary of an individual at a rate in excess of the Executive Level II salary of the Federal Executive Pay Scale, as per Notice of Award.

| CST | COA | FUND | PROG | PROJ | TK | DOLLARS | FUNDING PERIOD | EXP. DEADLINE |
|-----|-----|-------|--------|------------|----|--------------|-----------------------|---------------|
| 610 | CN | 10110 | 405005 | 0000118242 | | \$109,496.43 | 7/1/2020 – 12/31/2021 | 12/31/2021 |

VI. TERMS AND CONDITIONS:

- A. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Department, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- B. **APPLICABLE LAWS AND COURTS:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The Department and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia, § 2.2-4366*). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the department shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.
- D. **BACKGROUND CHECKS:**
 - 1. The VDH may require a background check for Contractor staff assigned to any resulting agreement. The Contractor shall be required to pay for all background checks processed for staff assigned to any agreement resulting from this contract agreement at a rate of \$50.00. Fees are on a per background check basis and will be invoiced by VDH Accounting. The Contractor employees will be required to complete a form granting authority to release information. The

Contractor shall allow the VDH access to review Contractor staff personnel and employment records.

2. Background investigation results will be reviewed by the VDH, and are not releasable to the Contractor, however, can be provided to the individual of the investigation upon a written request.
 3. In the event agreement award is made prior to completion of background checks, any unfavorable results shall be subject to the terms and conditions of this contract agreement.
 4. In the event of any staff turnover or staff reassignments, the Contractor shall notify the VDH and shall submit the appropriate background history questionnaire, authority for release of information and have fingerprints obtained for any proposed new staff member. This shall be in addition to the requirement to provide the required credentials information. The VDH may remove any Contractor employee that the Contract Administrator feels threatens the health or safety of staff, security of the facility, or quality of the service provided by the Contractor.
- E. **CANCELLATION OF AGREEMENT:** The department reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the Contractor, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- F. **CHANGES TO THE AGREEMENT:** The parties may agree in writing to modify the scope of the Memorandum of Agreement. An increase or decrease in the price to the memorandum of Agreement resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Memorandum of Agreement.
- G. **CONFIDENTIALITY OF PROPRIETARY INFORMATION AND PERSONALLY IDENTIFIABLE INFORMATION:** The Contractor assures that information and data obtained as to proprietary information and personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Department's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store proprietary information or personally identifiable information as part of the performance of an agreement are required to safeguard this information and immediately notify the Department of any breach or suspected breach in the security of such information. Contractors shall allow the Department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

H. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:

During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each Contractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

I. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

J. **RENEWAL OF AGREEMENT:** This agreement may not be renewed.

K. **ANTI-DISCRIMINATION:** By submitting this agreement Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.

e. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the Contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.

2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each Contractor or vendor.

L. **ANTITRUST:** By entering into an agreement, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said agreement.

M. **PAYMENT:**

1. **To Prime Contractor:**

a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number;

social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.

d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the Contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Contractors:

a. Within seven (7) days of the Contractor's receipt of payment from the Commonwealth, a Contractor awarded a contract under this solicitation is hereby obligated:

(1) To pay the Contractor(s) for the proportionate share of the payment received for work performed by the Contractor(s) under the contract; or

(2) To notify the department and the Contractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

b. The Contractor is obligated to pay the Subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a Contractor may not be construed to be an obligation of the Commonwealth.

3. Each prime Contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting department or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from Contractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the department or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages Contractors and Subcontractors to accept electronic and credit card payments.

N. **ASSIGNMENT OF AGREEMENT:** An agreement shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

O. **DEFAULT:** In case of failure to deliver goods or services in accordance with the agreement terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

P. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any Contractors are involved, the Contractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the Contractor and any Subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - \$100,000.

3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Department shall be added as an additional insured to the policy by an endorsement.

4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must

assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

PROFESSIONAL SERVICES - Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)

Code of Virginia § 8.01-581.15

<https://law.lis.virginia.gov/vacode/title8.01/chapter21.1/section8.01-581.15/>

Fairfax County government is self-insured and is prohibited from providing Additional Insured status and agreeing to Holding Harmless or Indemnifying any parties.

Q. NONDISCRIMINATION OF CONTRACTORS: A Contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

R. WHISTLEBLOWER PROTECTIONS: Congress has enacted the whistleblower protection statute 41 U.S.C. Section 4712 to encourage employees to report fraud, waste, and abuse without repercussions. This statute applies to all employees working for Contractors, grantees, Contractors, and sub grantees in accordance with this agreement. All Contractors, grantees, sub grantees, and Subcontractors for federal grants and contracts are required to:

1. Inform their employees in writing of the whistleblower protections under 41 U.S.C. Section 4712 in the predominant native language of the workforce, to include the specific requirements of the statute, and
2. Include this term and condition in any agreement made with a Contractor or sub grantee.

The employees' rights under 41 U.S.C. Section 4712 shall survive termination of this agreement.

S. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise

required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

- T. **SERVICE ORGANIZATION CONTROLS:** Service Organization Controls (SOC2) may be required for this contract. Please see link for requirements: http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/10305.pdf

CERTIFICATION OF INTERNAL CONTROLS: The Contractor shall have clearly delineated processes and procedures for the internal control of sensitive data and processes, which are any data and processes of which the compromising of confidentiality, integrity, and/or availability could have a material adverse effect on Commonwealth of Virginia interests, the conduct of department programs, or to the privacy of which individuals are entitled, when such sensitive data or processes are related to the goods and/or services provided pursuant to this agreement.

The Contractor shall provide evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the Contractor's internal controls. The most recent version of the report shall be provided to the purchasing office upon request. Trade secrets or proprietary information contained within the report shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Contractor must invoke the protection of Code of Virginia, § 2.2-4342F, in writing, prior to or upon submission of the report, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

If deficiencies in the Contractor's internal control processes and procedures are described in the most recent version of the report, the Contractor shall automatically submit the report to the purchasing office within a timely manner and shall describe the corrective actions to be put into place by the Contractor to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the Commonwealth to make a determination of breach of contract.

The Contractor's obligations for certification of internal controls shall survive and continue after completion of this agreement unless the Contractor certifies the destruction of the sensitive data at the end of the contract term.

U. **CONTINUITY OF SERVICES:**

- a) The Contractor recognizes that the services under this contract are vital to the Department and must be continued without interruption and that, upon

contract expiration, a successor, either the Agency or another Contractor, may continue them. The Contractor agrees:

- (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
 - (ii) To make all Department owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
 - (iii) That the Department Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.
- b) The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.
- c) The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

- V. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

VIII. CONFIDENTIALITY TERMS AND CONDITIONS:

- A. **DATA PRIVACY:** In accordance with § 2.2-2009 of the *Code of Virginia*, during the performance of this contract, Contractor is required at all times to comply with all applicable federal and state laws and regulations pertaining to information security and privacy.
- B. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, disclosure will not be divulged without the individual's and the agency's written consent, and only in accordance with federal law, including the HIPAA Privacy rule or the Code of Virginia.

Contractors who utilize, access, or store personally identifiable information (PII), protected health information (PHI), and electronic protected health information (ePHI), in performance of a contract, and in support of the HIPAA Privacy and Security regulations, are required to safeguard PII and PHI by:

- a. implementing appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to ePHI,
- b. ensure that any subcontractors the contractor may engage on its behalf, and will have access to PHI, agrees to the same restrictions and conditions that apply to the business associate with respect to such information, and
- c. immediately notifies the agency of any breach, or suspected breach, in the security of such information.

Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

C. **CONFIDENTIALITY OF HEALTH RECORDS:**

By signature on this agreement, the Contractor agrees to comply with all applicable statutory provisions and regulations of the Commonwealth of Virginia and in the performance of this agreement (agreement) shall:

1. Not use or further disclose health records other than as permitted or required by the terms of this agreement or as required by law;

2. Use appropriate safeguards, as defined by HIPAA the Privacy and Security Rules to prevent use or disclosure of health records other than as permitted by this agreement;
3. Report to the Department of Health any use or disclosure of health records not provided for by this Agreement;
4. Mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of health records by the Contractor in violation of the requirements of this agreement;
5. Impose the same requirements and restrictions contained in this agreement on its subcontractors and agents;
6. Provide access to health records contained in its records to the Department of Health, in the time and manner designated by the Department of Health, or at the request of the Department of Health, to an individual in order to afford access as required by law;
7. Make available health records in its records to the Department of Health for amendment and incorporate any amendments to health records in its records at the Department of Health request; and
8. Document and provide to the Department of Health information relating to disclosures of health records as required for the Department of Health to respond to a request by an individual for an accounting of disclosures of health records.

The contractor shall provide evidence of compliant and ongoing internal control of sensitive and/or private data and processes through a standard methodology, including the Health Insurance Portability and Accountability Act (42 USC Sec. 1320D et seq., the federal rules adopted thereunder (45 CFR Parts 160, 162 and 164, as applicable), and the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the contractor's internal controls. There shall be an appropriate separate instrument, i.e., a business associate agreement (BAA), executed between the parties further protecting the privacy and security of data."

- IX. METHOD OF PAYMENT:** The Contractor will be paid monthly in arrears for services rendered upon receipt of a valid invoice by the Department. Department will pay the Contractor for actual expenditures as a result of services performed under the terms of this Agreement, consistent with approved budget. A valid invoice shall be submitted to the Department by the tenth (or designated date) of the month following the month of service. Payment will be made in accordance with the Prompt Payment Act of Virginia by check, SPCC or EDI. (state payment type)

- X. **STATUS OF PERSONNEL:** Caroline Holsinger, Director for the Division of Surveillance and Investigation, has been designated as the Department administrator for this Agreement.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be duly executed intending to be bound thereby. This Memorandum of Understanding becomes effective on the date of the last signature.

Fairfax County Health District

Virginia Department of Health

 **MAY 19 2021**

Signature and Date
Bryan J. Hill, County Executive

Name and Title (Printed)

Signature and Date

Name and Title (Printed)

DUNS#: 074837626

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, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21320

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 22, 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: 1CV7110-2021, COVID-19 Relief Fund Epidemiology Support \$109,497

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses \$109,497

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Virginia Department of Health, \$109,497

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
June 22, 2021

ACTION - 1

Approval of FY 2021 Year-End Processing

ISSUE:

Board approval to allow staff to process payment vouchers for items previously approved and appropriated in FY 2021.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to process payment vouchers for items previously approved and appropriated in FY 2021 for the interim period from July 1 until the Board approves the *FY 2021 Carryover Review*, which is scheduled for action on October 5, 2021.

TIMING:

Board approval is required on June 22, 2021, since the *FY 2021 Carryover Review* is not scheduled for Board action until October 5, 2021.

BACKGROUND:

The *FY 2021 Carryover Review* is scheduled for final action on October 5, 2021, following a public hearing. In the interim, Board approval is requested to allow staff to process payment vouchers for items previously approved and appropriated in FY 2021 such as capital construction projects and grant-funded programs for the period of July 1 to October 5, 2021, or until final action is taken on the *FY 2021 Carryover Review*. Similar action has been taken in prior years as part of the year-end closeout.

FISCAL IMPACT:

This item relates to funding for previously appropriated items approved in FY 2021 and carried forward to FY 2022 for payment.

ENCLOSED DOCUMENTS:

None.

Board Agenda Item
June 22, 2021

STAFF:

Joe Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Philip Hagen, Deputy Director, Department of Management and Budget

Board Agenda Item
June 22, 2021

ACTION - 2

Approval of and Authorization for the County Executive to Execute an Escrow Agreement for Proffered Public Facilities: Scotts Run South and North Developments (Providence District)

ISSUE:

Approval of and Authorization for the County Executive to execute the Escrow Agreement for Proffered Public Facilities (Agreement) between the Board of Supervisors (Board) and two subsidiaries of Cityline Partners, LLC (Cityline). The Agreement governs the receipt and administration of funds for the design, permitting and construction of public improvements proffered with the Scotts Run South and North developments.

RECOMMENDATION:

The County Executive recommends the Board approve the Agreement (Attachment 1), in substantial form, and authorize the County Executive to execute the Agreement.

TIMING:

Board action is requested on June 22, 2021.

BACKGROUND:

Cityline is the original developer for the Scotts Run South and North developments in Tysons. The developments include land use approvals and related proffers: (1) RZ-2011-PR-010 and RZ 2011-PR-011 (Scotts Run South); and (2) RZ 2011-PR-009 (Scotts Run North). Scotts Run South consists of multiple developable parcels with separate owners, while Scotts Run North still consists of one owner. Collectively, the two owners of the Grant (Tax Map # 29-4 ((06)) Parcel 102) and Lincoln (Tax Map # 29-4 ((06)) Parcel 101A) parcels are referred to as "Performing Owners" and are subsidiaries of Cityline.

Proffered Public Facilities

As depicted on Attachment 2, Scotts Run South proffers generally require the Performing Owners to design, permit and construct, at their expense, three public facilities (known as the "Proffered Public Facilities"):

- 1) a stream restoration of Scotts Run;

- 2) a 210-foot by 250-foot synthetic athletic field located at Tax Map # 29-4 ((06)) 96A;
and
- 3) widening or replacement of the bridge where Chain Bridge Road (formerly named Colshire Meadow Drive) crosses Scotts Run.

Proposed Escrow Agreement for Proffered Public Facilities

The proposed Agreement between the county and the Performing Owners is necessary to facilitate ongoing implementation of the proffers related to completion of the Proffered Public Facilities. A copy of the Agreement is enclosed as Attachment 1. Important elements of the Agreement and related proffers are described below.

Fund Contribution and Disbursing Requirements

The Scotts Run South and North proffers generally require the owners of all other Scotts Run parcels, upon notice from the county, to contribute funds to the county, based on a cost per square foot of developable area of the applicable parcel. The proffers further require the county to hold these funds in escrow for the Performing Owners for reimbursing, on a draw basis, the cost of designing and constructing the proffered public facilities.

The proffers require the Performing Owners to enter into the Agreement with either the county or with an escrow agent governing the specifics of disbursing the funds, such as identifying the materials that Performing Owners must provide to support a draw request and reserve the escrowed funds in connection with the stream restoration and Chain Bridge Road work as described below.

Alignment with Existing Scotts Run Stream Restoration Agreement

After the initial approval of the Scotts Run South proffers in 2013, the county entered into a standalone agreement with the Performing Owners in April 2020 (the 2020 Stream Agreement). The county had separately planned on performing certain stream restoration work on a portion of Scotts Run adjacent to the area where the Performing Owners were required to perform the proffered stream improvement work. In the interests of efficiency, the county and the Performing Owners agreed, pursuant to the 2020 Stream Agreement, for the county to perform all the stream restoration work, and for the Performing Owners to pay a fixed sum to the county from the public facilities escrow, based on the price bid for the work by the contractor procured by the county.

Chain Bridge Road Bridge Conditions of Construction

According to the Scotts Run South proffers, the Performing Owners may be relieved of the obligation to design, permit and construct the Chain Bridge Road bridge improvements if certain conditions are not met. These conditions include: 1) the applicant is granted credit against the proffered contribution from the Tysons Grid Fund for 75% of

the hard and soft costs associated with the bridge construction, and 2) all off-site right-of-way and easements needed from other property owners are provided at no cost to the applicant except for administrative cost. The Scotts Run South proffers would then require the Performing Owners to contribute a certain cash sum to the county to be applied toward the costs of the design and construction of the Chain Bridge Road bridge by others. The proposed escrow agreement requires that this cash sum remain in the escrow until it is determined whether the Performing Owners will be performing the bridge work on Chain Bridge Road.

Athletic Field and Chain Bridge Road Bridge Obligation

Pursuant to the 2020 Stream Agreement, the Performing Owners' responsibility for the stream improvements now consists of a fixed cash contribution to the county from the public facilities escrow. If the county does not receive sufficient funds from other Scotts Run parcel owners to cover a given draw request, the Performing Owners – not the county – must cover the shortfall. The Performing Owners remain similarly responsible for bridge work on Chain Bridge Road, where as noted above, the Performing Owners' obligation may convert to a cash contribution pursuant to the Scotts Run South proffers.

County Oversight of 2020 Stream Agreement and Proposed Escrow Agreement

Financial managers for the Department of Public Works and Environmental Services (DPWES), the Fairfax County Park Authority (FCPA), and Fairfax County Department of Transportation (FCDOT) have developed procedures to oversee the sequence of escrow fund distribution according to the timing of construction described below. This will include enforcing budgetary requirements on each portion of the sequence, following all required purchasing and accounts payable steps, and ensuring that each project is at substantial completion before authorizing next steps. All expenditures will be tracked via restricted account designations and ongoing accounting will be available to ensure that the requirements of these agreements are met.

These two agreements are separate from the escrow agreement that the county approved in July 2020 regarding the fire station also being provided by the Performing Owners and Cityline pursuant to the Scotts Run South and North proffers.

Timing of Construction

Although the Scotts Run South and North proffers do not dictate the sequence in which the proffered public facilities must be constructed, the stream restoration work will likely finish first, followed by the athletic field and then the Chain Bridge Road bridge improvements. Pursuant to the 2020 Stream Agreement, work on the stream improvement has already begun. The athletic field is proffered to be completed no later than three years after the completion of the fire station (to be completed by July 2021) that the Performing Owners are providing under a separate proffer. The improved bridge has no completion commitment date, and thus, will likely be completed third. This de

Board Agenda Item
June 22, 2021

facto schedule informs how financial managers from different agencies will manage the escrow funds, described above.

FISCAL IMPACT:

The Agreement has no fiscal impact on the county; it does not alter the proffered obligations of Cityline and its subsidiaries.

ENCLOSED DOCUMENTS:

Attachment 1 – Escrow Agreement for Proffered Public Facilities
Attachment 2 – Map of Escrow Agreement area

STAFF:

Rachel Flynn, Deputy County Executive
John Kellas, Acting Director, Department of Public Works and Environmental Services
Tom Biesiadny, Director, Fairfax County Department of Transportation
Sara Baldwin, Acting Executive Director, Fairfax County Park Authority
William D. Hicks, P.E., Director, Land Development Services (LDS)
William Marsh, Tysons Urban Center Coordinator, LDS

ASSIGNED COUNSEL:

Ryan A. Wolf, Assistant County Attorney

ESCROW AGREEMENT FOR PROFFERED PUBLIC FACILITIES
(SCOTTS RUN SOUTH / NORTH)

THIS ESCROW AGREEMENT FOR PROFFERED PUBLIC FACILITIES (SCOTTS RUN SOUTH / NORTH) (“Agreement”) is made and entered into this ___ day of _____, 2021, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a body corporate and politic (the “County”); **GRANT 1651 OLD MEADOW ROAD LLC**, a Delaware limited liability company (“Grant”); and **LINCOLN 1700 OLD MEADOW ROAD LLC**, a Delaware limited liability company (“Lincoln”; together with Grant, the “Performing Owners”).

RECITALS:

R-1. Fairfax County Rezoning Applications RZ 2011-PR-010 and RZ 2011-PR-011 include Proffers, dated April 4, 2013 (as modified to date, the “Scotts Run South Proffers”). The property subject to the Scotts Run South Proffers consists of Land Bay East and Land Bay West, which are each defined in the Scotts Run South Proffers.

R-2. The “Land Bay East Owners” are all of the fee simple owners of parcels in Land Bay East other than the MITRE Block (as defined in the Scotts Run South Proffers). The MITRE Block has no obligations regarding the Public Improvement Proffers as defined in this Agreement.

R-3. The Performing Owners are all of the fee simple owners of Land Bay West.

R-4. Fairfax County Rezoning Application RZ 2011-PR-009 includes Proffers, dated May 29, 2015 (as modified to date, the “Scotts Run North Proffers”). The “Scotts Run North Owner” is the fee simple owner of all of the properties that are subject to the Scotts Run North Proffers (the “Scotts Run North Properties” together with Land Bay East (other than the MITRE Block) and Land Bay West, the “Scotts Run Properties” or, individually, a “Scotts Run Property”).

R-5. Proffers 99.A through 99.C of the Scotts Run South Proffers (collectively, the “Public Improvement Proffers”) obligate the Performing Owners to, among other things, design, permit, construct, and complete the Public Improvements, as defined in the Scotts Run South Proffers (such work, collectively and as further described herein, the “Proffered Work”).

R-6. Specifically, Proffer 99.A of the Scotts Run South Proffers (the “Field Proffer”) obligates the Performing Owners to, among other things, design, permit, construct, and convey an Athletic Field (as defined in the Field Proffer) (the “Athletic Field Work”). Proffer 99.B(i) of the Scotts Run South Proffers (the “Stream Restoration Proffer”) obligates the Performing Owners to, among other things, design, permit, and construct certain stream restoration work and related improvements relating to Scotts Run Stream, as further described in the Stream Restoration Proffer (the “Proffered Stream Restoration Work”). Proffer 99.B(ii) of the Scotts Run South Proffers (the “Stream Hardscape Improvements Proffer”) obligates the Performing Owners to, among other things, design, permit, and construct certain hardscape improvements in the Scotts Run Stream valley, as further described in the Stream Hardscape Improvements Proffer (the “Proffered Stream Hardscape Improvements Work”). Proffer 99.C of the Scotts Run South Proffers (the “Colshire”).

Meadow Bridge Proffer”) obligates the Performing Owners to, among other things, design, permit, and construct certain widening or replacement work relating to Colshire Meadow Drive, as further described in the Colshire Meadow Bridge Proffer (the “Bridge Work”; together with the Athletic Field Work, Proffered Stream Restoration Work and Proffered Stream Hardscape Improvements Work, the “Proffered Work”).

R-7. Proffer 100.A of the Scotts Run South Proffers contemplates the establishment of the Public Facilities Escrow Account (as defined in the Scotts Run South Proffers). Proffer 100.B of the Scotts Run South Proffers (the “SRS Funding Proffer”) obligates the Land Bay East Owners to make a cash payment into the Public Facilities Escrow Account (such payments being defined therein, and referred to in this Agreement, as an “Advance Funding Payment”) as and when required by the terms of the SRS Funding Proffer.

R-8. Proffer 89 of the Scotts Run North Proffers (the “SRN Funding Proffer”) obligates the Scotts Run North Owner to make cash payments into the Public Facilities Escrow Account as and when required by the terms of the SRN Funding Proffer (each such payment also being referred to herein as an Advance Funding Payment).

R-9. Proffer 100.C(i) of the Scotts Run South Proffers allows the Performing Owners to withdraw funds from the Public Facilities Escrow Account to fund the costs associated with the Proffered Work (the “Proffered Work Costs”), subject to the terms of the Scotts Run South Proffers and this Agreement.

R-9. The County and the Performing Owners entered into an Agreement for Construction of Scotts Run Stream Restoration, dated April 7, 2020 (the “April Stream Agreement”), pursuant to which the County and the Performing Owners agreed that if the County were to obtain a bid for the Proffered Stream Restoration Work under a specified amount, in connection with additional stream work being performed and paid for by the County, then the County would perform the Proffered Stream Restoration Work and would draw on the Public Facilities Escrow Account for its costs of performing the Proffered Stream Restoration Work.

R-10. The County has, in fact, obtained a bid for the Proffered Stream Restoration Work in an amount that complies with the April Stream Agreement – specifically, \$705,990.00 – and thus the County may draw on the Public Facilities Escrow Account for such funds in accordance with the terms of this Agreement and the April Stream Agreement.

R-11. The Performing Owners and the County desire to establish the Public Facilities Escrow Account with the County by executing this Agreement. The Performing Owners and, in certain circumstances, the County may make withdrawals from the Public Facilities Escrow Account in accordance with the terms of this Agreement and of the above-referenced Proffers.

NOW, THEREFORE, in consideration of these recitals, the promises and obligations set forth herein, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties agree as follows:

1. **Establishment of Public Facilities Escrow Account.**

(a) The Performing Owners and the County hereby establish the Public Facilities Escrow Account with the County, in accordance with the terms of Scotts Run South Proffers and the terms set forth herein. Nothing in this Agreement shall be deemed a modification, deletion, or other amendment to the terms of the Scotts Run South Proffers.

(b) The County acknowledges that JLB McLean LLC (“JLB”), owner of Tax Map 30-3 ((1)), parcel 6A, has already made its payment required by the SRS Funding Proffer in the amount of \$434,136.34 (the “Garfield Payment”) and that Tysons LW Hotel Associates LP (“Archer”), owner of Tax Map 30-3 ((28)), parcel 3D, has already made its payment required by the SRS Funding Proffer in the amount of \$134,920.56 (the “Archer Payment”; together with the Garfield Payment, the “Completed Payments”). The County will place the Completed Payments into the Public Facilities Escrow Account promptly following the date of this Agreement, together with simple interest (in accordance with Exhibit B, as defined below) from the date each such payment was made to the County to the date of this Agreement, with no further interest pertaining to the period of time before the date of this Agreement being owed.

(c) Pursuant to the SRN Funding Proffer and SRS Funding Proffer, the County has sent written notice that the Performing Owners have commenced development of the Public Improvements to the Scotts Run North Owner and each of the Land Bay East Owners, except JLB and Archer. Such notice has demanded that each of the Land Bay East Owners and Scotts Run North Owner make its Advance Funding Payment to the County in satisfaction of their payment obligations under the SRS Funding Proffer and SRN Funding Proffer, respectively.

2. Deposit of Funds.

(a) The County will hold the Advance Funding Payments in the Public Facilities Escrow Account. All Advance Funding Payments received by the County shall be deposited into the Public Facilities Escrow Account (the amount of funds in the Public Facilities Escrow Account at any given time is referred to as the “Escrowed Funds”). The Public Facilities Escrow Account shall be invested in secure and liquid instruments in accordance with the County Investment Policy, as attached hereto as Exhibit A or otherwise approved by the Performing Owners and the County from time to time. Any amounts earned on the Escrowed Funds shall be added to and be part of the Escrowed Funds. The Public Facilities Escrow Account may be held as part of a larger pool of County-held funds, however, the funds shall be designated as “restricted funds” (or other appropriate designation to ensure that the funds can only be disbursed as provided in this Agreement) and shall be accounted for separately from other funds in such larger pool.

(b) The Performing Owners agree that the Advance Funding Payment amount, calculated in accordance with the applicable proffers, is the figure set forth on Exhibit B, less the Completed Payments.

3. Stream Funds and Colshire Funds.

(a) As noted in Recital R-10 above, the County has obtained a bid for the Proffered Stream Restoration Work, will perform the Proffered Stream Restoration Work pursuant

to the April Stream Agreement and will be able to draw \$705,990.00 from the Public Facilities Escrow Agreement (such amount, reduced by any amounts thereof paid to the County as provided herein and in the April Stream Agreement, the “Stream Restoration Funds”), in accordance with the terms of the April Stream Agreement. The Performing Owners may not withdraw funds from the Public Facilities Escrow Account if such withdrawal would reduce the balance of the Public Facilities Escrow Agreement below the amount of the Stream Restoration Funds.

(b) The Colshire Meadow Bridge Proffer provides, among other things, that in certain circumstances the Performing Owners will be relieved of the obligations under the Colshire Meadow Bridge Proffer to widen or replace the Colshire Meadow Bridge and, in such event, the Performing Owners will instead be required to contribute 25% of the cost to widen or replace Colshire Meadow Bridge, up to the amount of \$1,162,696.00, as escalated in accordance with the Scotts Run South Proffers (the sum of \$1,162,696.00, as adjusted, the “Colshire Funds”). In such event, payment of the Colshire Funds to the County as provided herein shall constitute completion of the Bridge Work.

(c) The Performing Owners may not withdraw funds from the Public Facilities Escrow Account if such withdrawal would reduce the balance of the Public Facilities Escrow Account below the combined amount of (i) the Stream Restoration Funds not yet paid to the County and (ii) the Colshire Funds; provided, however, that if the Performing Owners satisfy the conditions listed in the Colshire Meadow Bridge Proffer and timely commence construction on the Bridge Work, then the Performing Owners may withdraw funds, in accordance with this Agreement, up to the amount of the Stream Restoration Funds not yet paid to the County.

4. Withdrawals of Escrowed Funds.

(a) The Performing Owners may not request a withdrawal of Escrowed Funds, and the County will have no obligation to release any Escrowed Funds, until all of the following conditions have been satisfied:

(i) The Performing Owners have provided the County with a copy of the Performing Owners’ contracts for the design and construction of the applicable Proffered Work, as well as a notice to proceed from the Performing Owners to the general contractor for the applicable Proffered Work;

(ii) Before submitting any Draw Request for the Athletic Field, (A) the Fairfax County Park Authority Planning and Development Division Director shall have approved the design of the Athletic Field, and (B) the Performing Owners shall have provided a copy of the governmentally approved site plan to the Fairfax County Park Authority;

(iii) Before submitting any Draw Request for the Bridge Work, the Performing Owners will provide the Fairfax County Department of Transportation with (A) a copy of the site plan for the Bridge Work, approved by the Virginia Department of Transportation, (B) a cost estimate for the Bridge Work, and (C) a written narrative describing the Bridge Work; and

(iv) Each Performing Owner has provided the County with a W9 form.

(b) Upon satisfaction of the prerequisites listed in Section 4(a) above, the Performing Owners may request draws (each, a “Draw”) from the Escrowed Funds by delivery of a written notice (each, a “Draw Request”) to the County. This Draw Request shall (i) state that it is a Draw Request in accordance with the terms of the Scotts Run South Proffers and this Agreement, (ii) state the amount of the requested Draw, and (iii) be accompanied by the Required Supporting Documentation (as defined below). The Performing Owners shall not make more than one Draw Request in connection with any one Public Improvement Proffer in any calendar month.

(c) The term “Required Supporting Documentation” means the following:

(i) The Performing Owners anticipate entering into a contract with the general contractor for the construction of each of the Public Improvements using the Standard Form of Agreement Between Owner and Contractor (AIA Document A101-2007) and General Conditions of the Contract for Construction (AIA Document A201-2007) (or the AIA Series document which is most suitable based upon the contractual arrangement with the general contractor, e.g., stipulated sum, guaranteed maximum price, cost-plus, etc.) (an “AIA Contract”). If a Draw Request is based upon a Certificate for Payment that is issued by the Architect in accordance with an AIA Contract and that requests a payment amount that is directly based on the contract’s schedule of values, then the Required Supporting Documentation shall consist of the Certificate for Payment issued by the Architect and the Application for Payment (including all supporting documentation) upon which it was issued. The terms Certificate for Payment, Architect, and Application for Payment used in the preceding sentence shall have the meanings ascribed to them in the AIA Contract.

(ii) For Draw Requests other than those described in subsection (i), the Required Supporting Documentation shall consist of the following:

(1) A certification by the Performing Owners that the costs being paid or reimbursed pursuant to the Draw Request are Proffered Work Costs;

(2) Invoices or other reasonable documentation supporting all costs contained within the Draw Request; and

(3) In the event that any invoice represents an installment payment, progress payment or other periodic payment under a contract for lienable work (but expressly excluding amounts payable to architects, engineers, utility providers and others from which lien waivers are not typically obtained as a matter of standard practice in the industry), a lien waiver from the invoicing party covering all prior invoices submitted by the invoicing party pursuant to the subject contract.

(d) The County is entitled to rely upon the factual statements and certifications set forth in a Draw Request and has no obligation to take any steps to confirm the veracity of such statements or certifications.

(e) If the County receives a Draw Request and related Required Supporting Documentation, then the County shall withdraw funds from the Public Facilities Account in an amount equal to the Draw, as may be limited by Section 3(c) above, and deliver such amount (as adjusted, if applicable) to the Performing Owners or its designee within twenty-one (21) days after the date of the County's receipt of the Draw Request. Such funds shall be delivered to the Performing Party and/or to such other party as the Performing Party may direct by electronic funds transfer in accordance with any instructions set forth in the Draw Request or otherwise provided by the Performing Owners to the County.

(f) In the event that the balance of the Public Facilities Escrow Account (exclusive of the Stream Restoration Funds and, as applicable, Colshire Funds, as defined above) is less than the amount of an approved Draw Request, the County shall disburse any remaining funds in the Public Facilities Escrow Account (exclusive of the Stream Restoration Funds and, as applicable, Colshire Funds) as described in this Agreement, together with a notice of the amount of the shortfall. The County shall have no obligation to pay all or any portion of any approved Draw Request from any source other than Escrowed Funds actually received. If an Advance Funding Payment is later deposited into the Public Facilities Escrow Account after an approved but unfunded Draw Request, the County shall reasonably promptly forward such new funds, up to the amount of the approved but unfunded Draw Request, to the Performing Owners or its designee. The obligations of the Performing Owners under the Scotts Run South Proffers shall remain unaffected by any insufficiency of the amount of funds in the Public Facilities Escrow Account at any point. The County shall have no liability for the failure of any owner of the Scotts Run Properties to contribute, timely or otherwise, its Advance Funding Payment.

(g) The County may withdraw the Stream Restoration Funds from the Public Facilities Escrow Account in such amounts and upon such events as set forth in Section 4 of the April Stream Agreement.

(h) If the conditions outlined in the Colshire Meadow Bridge Proffer are not fulfilled by the date the Performing Owners are obligated to commence construction on the Bridge Work, pursuant to the Colshire Meadow Bridge Proffer, then the County may withdraw the Colshire Funds from the Public Facilities Escrow Account.

5. **Waiver; Indemnification.** The County shall not be liable to the Performing Owners in the event that all or any portion of the Escrowed Funds are lost due to the insolvency or bankruptcy of the financial institution(s) with which they are deposited or invested, provided that the County places the funds in a federally insured financial institution as set forth above.

6. **Termination.**

(a) At such time as (i) the Proffered Work has been completed in accordance with the Scotts Run South Proffers (including punch list), (ii) all bonds posted in connection with the Proffered Work have been released, and (iii) all conveyances required by the Public Improvement Proffers have been effectuated, then the Performing Owners shall deliver a written notice to that effect, together with reasonable supporting documentation, to the County.

(b) Within sixty (60) days after receipt of such notice, the County shall (i) disburse any remaining Escrowed Funds, less any Stream Restoration Funds not yet paid to the County, to the Performing Owners, (ii) draw down any Stream Restoration Funds not yet paid to the County, and (iii) close the Public Facilities Escrow Account.

(c) In addition, within thirty (30) days after receipt of such notice, County shall deliver a final and complete accounting to the Performing Owners.

7. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of (i) the County and its successors and assigns and (ii) each Performing Owner and its respective successors and assigns as a fee simple owner of Land Bay West.

8. **Notices.** All notices, demands, or other communications that may be necessary or proper under this Agreement shall be deemed duly given (i) if hand-delivered, upon delivery (or at the time delivery is refused) (hand-delivery to the mail room, a receptionist or other party found at an addressee's address which is a business address shall be deemed hand-delivery to the addressee), or (ii) one (1) business day after being deposited with Federal Express or other reputable overnight delivery service, with a request for next business day service, and with delivery fees fully paid or duly charged to an account with such service, addressed, respectively as follows:

If to a Performing Owner:

Grant 1651 Old Meadow Road
Lincoln 1700 Old Meadow Road
c/o Cityline Partners LLC
1651 Old Meadow Road, Suite 650
Tysons, VA 22102
Attn: Mr. Tasso N. Flocos

With copies to:

Grant 1651 Old Meadow Road
Lincoln 1700 Old Meadow Road
c/o Cityline Partners LLC
1651 Old Meadow Road, Suite 650
Tysons, VA 22102
Attn: Donna P. Shafer, Esq.

and

F. William Gue, III
Attorney at Law
PO Box 647
Fulks Run VA 22830

and

Carmine Fanelle
Chief Operating Officer
DLJ Real Estate Capital Partners LLC
1123 Broadway, Second Floor
New York, NY 10010

If to the County:

Customer & Technical Service Center
Land Development Services
12055 Government Center Parkway, Suite 216
Fairfax, VA 22035
Attention: Chief

With copies to:

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

and:

Land Development Services
12055 Government Center Parkway, Suite 659
Fairfax, VA 22035
Attention: Acting LDS Finance Director

and, if pertaining to the Athletic Field, to:

Fairfax County Park Authority
12055 Government Center Parkway, Suite 421
Fairfax, VA 22035
Attention: Planning and Development Division

and, if pertaining to the Proffered Stream Improvements, to:

Fairfax County Department of Public Works & Environmental Services
12000 Government Center Parkway, Suite 449
Fairfax, VA 22035
Attention: Stormwater Planning Division Director

and, if pertaining to the Bridge Work, to:

Fairfax County Department of Transportation

4050 Legato Road, Suite 400
Fairfax, VA 22033-2867
Attention: Chief, Site Analysis Section

Any party may change its address or addressees for notices by giving written notice to the other parties hereto in the manner described in this Section.

9. **Miscellaneous.**

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

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

(c) Any terms of this Agreement that would require the payment of money by the County other than disbursements from the Public Facilities Escrow Account are subject to appropriations by the Fairfax County Board of Supervisors. If appropriations are not made for any fiscal year, the County will not be obligated to make any payments beyond the amount appropriated.

(d) Time is of the essence with respect to the performance of the obligations of the Parties.

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

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

[Signatures appear on the following pages.]

IN WITNESS WHEREOF, the parties hereto have set their signatures and seals as of the date first above written.

COUNTY:

THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA

By: _____
Name: _____
Title: _____

PERFORMING OWNERS:

GRANT 1651 OLD MEADOW ROAD LLC

By: _____
Name: _____
Title: Executive Vice President and Manager

LINCOLN 1700 OLD MEADOW ROAD LLC

By: _____
Name: _____
Title: Executive Vice President and Manager

EXHIBIT A
COUNTY INVESTMENT POLICY

Please see attached document



County of Fairfax, Virginia

INVESTMENT POLICY

July 2020

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1.0 POLICY

It is the policy of the County of Fairfax, Virginia (County) to invest public funds in a manner which will safely preserve principal, provide adequate liquidity to meet the County's cash flow needs, and optimize returns while conforming to all federal, state and local statutes governing the investment of public funds.

2.0 SCOPE

This investment policy (Policy) applies to all cash and financial investments of the County. These assets, as identified in the Comprehensive Annual Financial Report, include the following funds: general, internal service, special revenue, capital project, enterprise, and agency. Bond proceeds shall be invested in accordance with the requirements and restrictions outlined in bond documents. This Policy excludes retirement funds.

Pooling of Funds - Except for cash in certain restricted and special funds, the County will consolidate cash balances from all funds to maximize investment earnings. Investment income will be distributed to the various funds in accordance with County budgetary guidelines.

3.0 OBJECTIVES

The overall objectives of this Policy are: the preservation of capital and the protection of investment principal (safety); maintenance of sufficient liquidity to meet operating requirements; conformance with federal, state and other legal requirements; diversification to avoid incurring unreasonable risks regarding specific security types or individual financial institutions; and attainment of a market rate of return.

Funds of the County will be invested in accordance with this policy and procedures developed by the Investment Committee.

Funds held for future capital projects (i. e., bond proceeds) shall be invested in such a manner so as to ensure compliance with U.S. Treasury arbitrage regulations.

The portfolio shall be managed with the following objectives in mind:

- Priority 1 - Safety
- Priority 2 - Liquidity
- Priority 3 - Yield

1. Safety - Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

a. Credit Risk - The County will minimize credit risk, the risk of loss due to the failure of the security issuer or bank, by:

- Limiting investments to the safest types of securities.

- Pre-qualifying financial institutions, broker/dealers, intermediaries, and advisers with which the County will do business.
- Diversifying the investment portfolio by issuer and maturity so that potential losses on individual securities will be minimized.

b. Interest Rate Risk - The County will manage the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:

- Structuring the investment portfolio so that securities mature to meet daily liquidity.
- Investing operating funds in short-term securities with a maturity of five years or less from settlement date.

2. Liquidity - The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated by holding at least 5% of the portfolio in daily liquidity investments. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs. Since all possible cash demands cannot be anticipated, the portfolio will invest primarily in securities with active secondary or resale markets.

3. Yield - The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. Securities shall not be sold prior to maturity with the following exceptions:

- A security with declining credit may be sold early to minimize loss of principal.
- A security may be sold before maturity to meet liquidity needs.

4.0 PRUDENCE

In accordance with § 2.2-4514 of the Code of Virginia, public funds held by the Commonwealth, public officers, municipal corporations, political subdivisions, and any other public body of the Commonwealth shall be held in trust for the citizens of the Commonwealth. Any investment of such funds pursuant to the provisions of this chapter shall be made solely in the interest of the citizens of the Commonwealth and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio.

Investment staff, acting in accordance with written procedures and this Policy, and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported immediately to the Investment Committee and appropriate action is taken to control adverse developments.

5.0 ETHICS AND CONFLICTS OF INTEREST

Investment officials shall:

- Refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions.
- Disclose any material interests in financial institutions with which they conduct business within the County.
- Disclose any large personal financial/investment positions that could be related to the performance of the investment portfolio.
- Refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the County.

6.0 DELEGATION OF AUTHORITY

Section 2.2, Chapters 45 and 46 of the Code of Virginia authorizes treasurers or any other persons collecting, disbursing, or otherwise handling public funds to invest public funds. The Investment staff of the Department of Finance are designated as the investors of the County and are responsible for investment decisions and activities in accordance with established written procedures and internal controls as well as operation of the investment program consistent with this Policy, under the direction of the Investment Committee and the Director of Finance (Treasurer of Fairfax County).

The following positions are authorized to make investment transactions on behalf of the County of Fairfax:

- Director, Department of Finance
- Deputy Director, Department of Finance

Investment Staff:

- Investment Manager, Department of Finance Investments & Cash Management (ICM)
- Investment Analysts, Department of Finance ICM Division

6.1 INVESTMENT COMMITTEE

Management of the County's investment portfolio shall be the responsibility of the Investment Committee. The Investment Committee shall consist of the following employees:

- Chief Financial Officer
- Director, Department of Finance
- Director, Department of Tax Administration
- Director, Management and Budget
- Deputy Director, Department of Finance
- Investment Manager, Department of Finance, ICM
- Investment Analysts (2), Department of Finance, ICM

6.2 VOTING HIERARCHY

All members of the Committee shall have voting rights. A majority rule shall consist of five (5) of the eight (8) members, with two (2) of the five (5) majority being either the CFO, Director of the Department of Finance, Director of Management and Budget, or Director of the Department of Tax Administration.

Time sensitive decisions can be decided by polling Investment Committee members via e-mail or telephone and obtaining a majority rule. These items will be presented at the next Investment Committee meeting to document the results for the record.

6.3 INVESTMENT COMMITTEE MEETINGS

The Investment Committee shall meet monthly; meetings will include an economic update and a review of the County's investment portfolio (including investment holdings, issuer's list, monthly portfolio averages, interest revenue earnings and cash flows).

7.0 INVESTMENT PROCEDURES

Investment staff, with approval from the Investment Committee, shall establish written investment policy procedures for the operation of the investment program consistent with this Policy. The procedures should include reference to: safekeeping, repurchase agreements, wire transfer agreements, banking service contracts, cash flow projections, and revenue forecasting and collateral/depository agreements. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this Policy and the procedures established by the investment staff and approved by the Investment Committee.

8.0 AUTHORIZED FINANCIAL INSTITUTIONS

The investment staff shall maintain a list of financial institutions, selected on the basis of credit worthiness, financial strength, experience, and minimal capitalization, authorized to provide investment services to the County (Authorized Financial Institutions). Authorized Financial Institutions will be selected on a competitive basis. A copy of this policy will be delivered to all depositories and Authorized Financial Institutions along with a receipt for same. The receipt will acknowledge delivery of the policy and that the depository and/or Authorized Financial Institution reviewed its content.

Authorized Financial Institutions shall include any of the following:

- 1) Primary security dealers serving as trading counterparties to the New York Federal Reserve.
- 2) Commercial Banks who meet one of two criteria:
 - Must have at least two of the following short term ratings from a Nationally

- Recognized Statistical Rating Organization (NRSRO): AI, PI, FI, or
- Are listed in the Qualified Public Depository list as issued by the Department of the Treasury, Commonwealth of Virginia. In addition, all existing senior bond indebtedness must be rated "A" or better by an NRSRO
- 3) Any direct issuer of commercial paper that meets the credit criteria outlined in the Policy.
- 4) Any issuer of banker's acceptances that meet the credit criteria outlined in the Policy.
- 5) Any regional or secondary market dealer who meet the following criteria or as specifically approved by the Investment Committee:
- Financial institution, if a bank holding company, at a minimum, the bank holding company of the regional dealer must have an existing senior bond indebtedness rating of "A" or better or the equivalent rating by an NRSRO
 - Financial institution must comply with the Financial Industry Regulatory Authority (FINRA) Net Capital Requirements for Broker or Dealers (SEA Rule 15c3-1). The firm shall provide immediate disclosure to the investing government whenever the firm's capital position falls short of the capital requirement.
 - Financial institution shall submit audited financial statements annually.
 - Financial institution shall maintain an active registration and be in good standing with FINRA.
 - Financial institution must have a Total Net Capital of at least \$100 million.
 - Financial institution must have been in business for at least five years.
 - Financial institution must be currently licensed and in good standing in Virginia, the Securities and Exchange Commission, the National Association of Securities Dealers or other applicable self-regulatory organizations.
 - Financial institution, if it deals in government securities, shall comply with the Government Securities Act (Public Law 99-571) established in 1986, which imposed a regulatory structure and net capital requirements for all brokers/dealers in U.S. Government Securities.

9.0 AUTHORIZED INVESTMENTS AND DEPOSITS

Authorized investments for public funds are set forth in the "Investment of Public Funds Act" of the Code of Virginia §§ 2.2-4500 through 2.2-4518. Percentage limitations and rating requirements, where indicated, apply at the time of purchase. When comparing minimum ratings, an equivalent rating from another NRSRO.

Securities that have been downgraded to a level that is below the minimum rating may be sold or held at the Investment Committee's discretion.

Investments not specifically listed below are deemed inappropriate and are prohibited:

| Authorized Investment | VA Code | Maximum % | Maximum Maturity | Minimum Rating | Other Constraints |
|------------------------------|----------------|------------------------------------|-------------------------|---|--|
| U.S. Treasury Obligations | 2.2-4501 (A2) | No Limit | 5 years | N/A | |
| Federal Agencies/GSEs | 2.2-4501 (A2) | No Limit 35% Issuer | 5 years | N/A | |
| Supranationals | 2.2-4501 (A6) | 10% of Portfolio 5% Issuer | 3 years | AAA | Limited to World Bank, Asian Development Bank and African Development Bank |
| Commercial Paper | 2.2-4502 | 35% of Portfolio 5% Issuer | 270 days | 2 of the following: A1, P1, D1, F1 | US Domicile Net worth \$50 mm, Income \$3 mln yearly average |
| Corporate Notes | 2.2-4510 | 25% of Portfolio 5% Issuer | 3 years | 2 of the following: Moody's Aa S&P AA Fitch AA | US Domicile |
| Banker's Acceptance | 2.2-4504 | 35% of Portfolio 5% Issuer | 1 year | A1 P1 | |
| Negotiable CDs | 2.2-4509 | 40% of Portfolio 5% Issuer | 3 years | A1, P1 if < 1 year, AA if > 1 year | |
| Non-Negotiables CDs | 2.2-4401 | 25% of Portfolio 10% | 3 years | N/A | |
| Insured CDs | 2.2-4401 | 15% of Portfolio | 3 years | FDIC Insurance | |
| Repurchase Agreement | 2.2-4507 | 30% of Portfolio 10% Issuer | 1 month | N/A | Collateral Obligations of U.S., Master Repurchase Agreement |
| Bank Demand Deposit | 2.2-4518 | 10% of Portfolio 10% Issuer | N/A | N/A | Virginia Security for Public Deposits Act |

| Authorized Investment | VA Code | Maximum % | Maximum Maturity | Minimum Rating | Other Constraints |
|------------------------------|----------------|--------------------------------|-------------------------|-----------------------|----------------------------|
| Mutual Funds | 2.2-4508 | 30% of Portfolio 10% Issuer | N/A | AAA | Fund balance > \$1 billion |
| LGIP — Daily Liquidity | 2.2-4513.1 | 30% of Portfolio 10% Issuer | N/A | A1, P1, D1, F1 | |
| LGIP — Bond Fund | 2.2-4513.1 | 25% of Portfolio 10% Issuer | N/A | AAA | Maximum duration 2 years |

No additional funds shall be invested in any investment that is listed on Moody's Watchlist, S&P's CreditWatch or Fitch Watch with a short-term negative rating.

Investments will be limited to U.S. dollar denominated instruments.

Prior to purchasing any investment vehicle that has not previously been purchased; the Investment Committee shall obtain an opinion from the County Attorney's Office or Bond Counsel to ensure that the investment is allowable under the provisions of the Code of Virginia and County Code.

10.0 UNAUTHORIZED INVESTMENTS/INVESTMENT STRATEGIES

1. Derivatives - It is the policy of the County not to invest in derivatives, a financial contract whose value derives from the value of underlying stocks, bonds, currencies, commodities, etc.
2. Leveraging - The County may not borrow funds for the express purpose of reinvesting these funds, otherwise known as leveraging.

11.0 COLLATERALIZATION

Collateralization will be required on certificates of deposit, demand deposit accounts and repurchase agreements. Certificates of deposit and demand deposit accounts shall be collateralized through the state collateral pool as required by the Code of Virginia, for any amount exceeding FDIC coverage. All repurchase agreements shall be fully collateralized by U.S. Treasury issues or agencies with maturities of less than ten years. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest for repurchase agreements and the value shall be adjusted daily. Other investments, as applicable, shall be collateralized by the actual security held in safekeeping by the custodian. A clearly marked evidence of ownership must be supplied to the County and retained.

12.0 SAFEKEEPING

All investment securities purchased by the County will be held by a third-party Custodian, whenever applicable, designated by the Director of Finance and evidenced by safekeeping receipt. The Custodian shall issue a monthly account custody report to the County listing the specific

instruments held in safekeeping. It is the Custodian's responsibility to settle all trades in accordance with instructions received from the County; credit the County with all maturities and interest amounts due, notify the County of call notices and report all activity to the County.

All investments shall be safekept in a manner so as to provide the highest level of protection, using guidance provided in the Governmental Accounting Standards Board Statement No. 3.

All trades, where applicable, will be executed by delivery vs. payment (DVP) to ensure that securities are deposited with the County's custodian prior to the release of funds.

13.0 MONITORING AND ADJUSTING THE PORTFOLIO

The Investment staff will:

- Routinely monitor investment holdings of the portfolio, financial markets, and relative values of competing money market instruments.
- Adjust the portfolio accordingly with the approval of the Investment Committee.
- Conduct an annual review of the financial condition, registrations and other qualifications of all approved financial institutions and broker/dealers to ensure they continue to meet the County's guidelines for qualification.
- Keep a current audited financial statement on file for each approved financial institution and broker/dealer.

14.0 PORTFOLIOS: SIZE AND MATURITIES

Funds available for investment are managed in three portfolios: the Liquidity Portfolio which holds funds needed to meet short-term payment obligations; the Core Portfolio which holds funds not expected to be drawn upon for a period of more than one year; and the Revenue Stabilization Portfolio which holds funds not anticipated to be drawn upon for extended periods, but available in response to extraordinary economic conditions.

14.1 The **Liquidity Portfolio** shall hold all funds not allocated to the Core and Revenue Stabilization Portfolios. With the primary objective of providing availability of cash to meet known and anticipated needs and to respond to reasonable levels of unanticipated spending, this is an ultra-short portfolio. A liquidity cushion will be maintained in this portfolio at all times of at least 15% of the County's stable balance at the seasonal low point. This margin of cushion and the size of the Liquidity Portfolio will be revisited annually. Investments will target a weighted average maturity of 90 days or less. No securities in this portfolio may have a maturity greater than one year from the date the purchase settled.

14.2 The **Core Portfolio** shall be sized periodically at the direction of the Investment Committee. This portfolio will be invested in securities maturing no more than three years and

10% of the entire portfolio up to five years from date purchases are settled. The target average maturity is 1.5 years with a maximum of 1.75 years.

14.3 The Revenue Stabilization Portfolio segregates for investment purposes amounts designated by the Board of Supervisors as unavailable for use other than under fiscal conditions for which they were put aside. The size of the Revenue Stabilization Portfolio shall be adjusted annually to an amount no greater than the ending fund balance of the Revenue Stabilization Fund. Although the maximum maturity on investments is three years, the weighted average maturity of the portfolio should not exceed one year.

15.0 COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

Investments shall be awarded on a competitive bid basis to the institution whose percentage yield produces the greatest interest income to the County and complies with safekeeping requirements and investment limitations. Comparative rates must be recorded and documented by the Investment Staff for each competitive trade executed. When non-competitive selections exist, the source will be based on other factors favorable to the County, at the discretion of the Investment Manager, and must be approved and documented for each non-competitive trade executed. Factors may include availability in asset type and issuer and must conform to the Code of Virginia 2.24327 "Preference for Community Reinvestment Activities in Contracts for Investment of Funds".

Market information systems may be used to assess the market and determine that an offering is above the market for a comparable maturity and investment type when a situation makes competitive bidding impractical.

16.0 DIVERSIFICATION

The County will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities. In addition, investments shall be diversified by continuously investing a portion of the portfolio in readily available funds such as overnight repurchase agreements and/or money market mutual funds.

17.0 INTERNAL CONTROL

The Investment staff, with approval from the Investment Committee, is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the County are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. Accordingly, the Investment Portfolio is subject to an annual independent review by an external auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

The internal controls shall address the following points:

- Controls to prevent collusion;
- Separation of transaction authority from accounting and reconciliation activities;
- Custodial safekeeping;
- Avoidance of physical delivery of securities to the County (when possible);
- Clear delegation of authority to subordinate staff members;
- Written confirmation of transactions for investments and wire transfers;
- Development of a wire transfer agreement with the lead bank and custodian;
- Third party custodian to confirm with the Director of Finance, Deputy Director of Finance, or their approved designee, a security sale prior to maturity.

18.0 PERFORMANCE STANDARDS

The County's investment strategy is to buy and hold all investments until maturity. Given this strategy, several benchmarks will be used by the Investment staff as a basis to determine if market yields are being achieved. The yield on the Liquidity Portfolio will be compared to the Local Government Investment Pool (LGIP). The Core Portfolio yield will be compared to the Merrill Lynch 0-3 years U.S. Treasury Index.

19.0 REPORTING REQUIREMENTS

The Investment staff shall generate daily, weekly and monthly investment activity reports for the Investment Committee.

The investment staff will present analysis and discussion of yield curves, market opportunities and portfolio duration at the monthly Investment Committee meetings

A presentation of the market value of the portfolio is issued annually. The method of determining market value is consistent with the General Accounting Standards Board (GASB) Statements 31 and 40.

20.0 INVESTMENT POLICY ADOPTION AND REVIEW

This Policy will be reviewed at least annually by the Fairfax County Investment Committee. All changes/additions will be presented to the Investment Committee for consideration of approval prior to any changes being made to the Policy.

Attachment I

Glossary of Terms

African Development Bank — A regional multilateral development finance institution established to contribute to the economic development and social progress of its member African countries.

Agencies - Informal name that refers to securities issued by agencies of the United States government and U.S. government sponsored enterprises.

Asian Development Bank — An organization providing loans and equity investments for development projects in its member countries, particularly in Southeast and East Asia.

Banker's Acceptance (BA) - A short-term financial instrument that is the unconditional obligation of the accepting bank. Banker's acceptances arise from transactions involving the import, export, transit or storage of goods - domestic as well as international transit. For investors, it is important to realize that the underlying transaction that gives rise to a BA is almost completely irrelevant to the credit quality or the liquidity of the instrument. From an investor's point of view, a BA is a bank obligation that has at least the same credit strength as any CD issued by the same bank. BA's are considered, safe, liquid, short-term money market securities.

Bid or Bid Price - The trading price acceptable to a prospective buyer of securities.

Bond Anticipation Note (BAN) - A short-term note sold by a public entity that will be repaid from the proceeds of an anticipated bond issue.

Book Entry Securities - Stocks, bonds, other securities, and some certificates of deposit that are purchased, sold and held with only manual or computer accounting entries rather than transfers of physical certificates to evidence the transfer. Typically, instead of a physical certificate or instrument, buyers receive only receipts or confirmations as evidence of their ownership.

Book Value - Value at which an asset is carried on a balance sheet.

Callable Bond - A bond in which the issuer has the right to redeem prior to its maturity, under certain conditions.

Broker - A party who brings buyers and sellers together. Brokers do not take ownership of the property being traded.

Certificate of Deposit (CD) - A deposit of funds, in a bank or savings and loan association, for a specified term that earns interest at a specified rate or rate formula. They may be for terms as short as 1 week or as long as or longer than 10 years.

Collateral - Securities exchanges in a repo, reverse repo, buy/sell back, or sell/buy back. Property that a debtor has pledged, mortgaged, or assigned to a creditor.

Commercial Paper - Unsecured, short-term promissory notes issued by corporations for specific amounts and with specific maturity dates. Firms with lower ratings or firms without well-known names usually back their commercial paper with guarantees or bank letters of credit. Commercial paper may be sold on a discount basis or may bear interest. Terms can be as short as 1 day and usually do not exceed 270 days.

Commingled Funds - Money pooled for a common purpose. Often funds pooled for investments.

Coupon - {a} The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. {b} A certificate attached to a bond evidencing interest due on a payment date.

Credit Risk - Credit risk is the risk that a debtor will fail to make timely payments of principal or interest when due or that a company will fail, thus placing loans, fixed-income debt, and equity in danger of being reduced in value or eliminated. Also called default risk.

Dealer - A firm or an individual who buys and sells for his or her own account. Dealers have ownership, even if only for an instant, between a purchase from one party and sale to another party. They are compensated by the spread between the price they pay and the price they receive. Not the same as a broker; however, the same individuals and firms that act as dealers in some transactions may act as brokers in other transactions.

Debenture — A bond secured only by the general credit of the issuer.

Default Risk - The risk arising from the chance that debtors will not make promised payments either on time or in full. Another term for credit risk.

Delivery vs. Payment (DVP) - the simultaneous exchange of securities and cash. The safest method of settling either the purchase or sale of a security. In a DVP settlement, the funds are wired from the buyer's account and the security is delivered from the seller's account in simultaneous, interdependent wires.

Depository Trust Company (DTC) - An organization that holds physical certificates for stock and bonds and issues receipts to owners. Securities held by DTC are immobilized so that they can be traded on a book-entry basis.

Derivatives - Financial instruments whose value depends on the values of underlying assets, interest rates, currency exchange rates, or indexes. For hedging purposes, common derivatives are options, futures, swaps, and swap options. All CMOs are derivatives.

Discount - The amount by which the price for a security is less than its par.

Discount Rate - The percentage rate applied to reduce the redemption value of a security in cases where the difference between such a reduced value and the redemption value is the investor's compensation for owning the security.

Discount Securities - Securities that do not pay periodic interest. Investors earn the difference between the discount issue price and the full face value paid at maturity. Treasury bills, banker's acceptances, and zero coupon bonds are discount securities. Most commercial paper is also issued at a discount.

Diversification - Dividing investment funds among a variety of securities offering independent returns.

DK - Initials for "don't know". A security is said to be "DK'd" when it is delivered to the purchaser or more typically the purchaser's correspondent but is rejected because the purchaser either doesn't know or doesn't agree with one or more of the aspects of the trade.

Duration - a sophisticated measure of the average timing of cash flows from an asset or a liability or from an asset portfolio or a liability portfolio. Essentially, duration is a more accurate measure of maturity because it reflects the timing of cash flows from period interest and/or principal payments in addition to the cash flows represented by the funds transferred at maturity. Duration is computed by summing the present values of all of the future cash flows after multiplying each by the time until receipt, and then dividing that product by the sum of the present value of the future cash flows without weighting them for the time of receipt.

Effective Annual Yield - A seldom-used expression to refer to the yield on an investment expressed on a compound interest basis.

Event Risk - The risk of an unexpected, future decrease in credit quality that is a result of events such as a corporate acquisition or material changes in taxes, laws, or regulations.

Fannie Mae - An informal name for the Federal National Mortgage Association (FNMA). FNMA is a privately owned corporation whose function is to buy government-insured or guaranteed and conventional mortgages. To finance its mortgage purchases, FNMA relies primarily on the sale of debentures and short-term discount notes. FNMA securities are not backed by the full faith and credit of the federal government, but the risk of default is considered to be low.

Farmer Mac — FAMC or the Federal Agricultural Mortgage Corporation. A federally chartered private corporation providing an alternate source of credit for agricultural loans and rural housing.

Federal Credit Agencies - Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, i.e., S&L, small business firms, students, farmers, farm cooperatives, and exporters.

Federal Deposit Insurance Corporation (FDIC) - A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

Federal Funds Rate - The rate for which overnight federal funds are traded.

Federal Home Loan Bank (FHLB) - Unsecured joint and several obligations of the 12 district banks. They are issued with short maturities (under 1 year) to complement the longer-term borrowings of the bank. It raises money by issuing notes and bonds and lends money to savings

and loans and other mortgage lenders based on the amount of collateral the institution can provide.

Floating Rate Bond - Bonds that have a variable-rate coupon that is usually tied to a predetermined index, plus a margin or spread. The spread is a rate that remains constant.

Freddie Mac - An informal name for the Federal Home Loan Mortgage Corporation (FHLMC) or for securities issued by it. The FHLMC was created to promote the development of a nationwide secondary market in conventional residential mortgages. FHLMC may purchase mortgages only from financial institutions that have their deposits or accounts insured by agencies of the Federal government. FHLMC sells its interest in the mortgages it purchases through mortgage-backed securities. These are not backed by the full faith and credit of the U.S. Government.

International Bank for Reconstruction and Development — Also known as the World Bank. An international lending organization offering long term low interest credit for industrial development.

Interest Rate Risk - The risk that changes in prevailing interest rates will adversely affect assets, liabilities, capital, income, and/or expense at different times or in different amounts.

Laddered Maturities - A maturity pattern within a portfolio in which maturities of the assets in the portfolio are equally spaced. Over time, the shortening of the remaining lives of the assets provides a steady source of liquidity or cash flow.

Liquidity - An individual's or a firm's capacity to meet future monetary outflows (whether they are required or optional) from available resources.

Liquidity Risk - The risk that not enough cash will be generated from either assets or liabilities to meet cash requirements. For a bank, cash requirements primarily comprise deposit withdrawals or contractual loan funding's.

Mark to Market - The process of restating the carrying value of an asset or liability to equal its current market value.

Market Risk - The risk of an increase or decrease in the market value or price of a financial instrument. Market values for debt instruments are affected by actual and anticipated changes in prevailing interest rates.

Market Value — The price at which a security is trading and could presumably be purchased or sold.

Master Agreement - A written contract covering all future transactions between the parties to repurchase-reverse repurchase agreements and establishing each party's rights in the transactions. A master agreement often will specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity - The date on which the principal or last principal payment on a debt is due and payable.

Money Market — The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

Offer — The price asked by a seller of securities. (When you are buying securities, you ask for an offer.)

Portfolio - Collection of securities held by an investor.

Portfolio Return - The simplest measurement of portfolio return is interest earnings divided by average daily balances.

Primary Dealer — A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities brokers-dealers, banks, and a few unregulated firms.

Prudent Person Rule - An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state—the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

Public Securities Association (PSA) - An industry trade organization for U.S. brokers/dealers. Among other things, the PSA has developed standard documentation for repurchase agreement transactions and for describing prepayments received from mortgage-backed securities.

Qualified Public Depositories - A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

Rate of Return — The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

Rate Risk - The risk that the entity's earnings and/or its capital may be reduced by an adverse change in prevailing interest rates.

Repurchase Agreement - A form of secured, short-term borrowing in which a security is sold with a simultaneous agreement to buy it back from the purchaser at a future date. Rates paid on repos are short-term money market interest rates and are completely unrelated to the coupon rate paid on the instrument being purchased.

Safekeeping — A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vault for protection.

Securities & Exchange Commission (SEC) — Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SEC Rule 15C3-1 — See Uniform Net Capital Rule.

Settlement Date — Date by which an executed order must be settled, either by a buyer paying for the securities with cash or by a seller delivering the securities and receiving the proceeds of the sale for them.

Treasury Bills — A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Treasury Bonds — Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

Treasury Notes — Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

Trade Date — Date on which a security or commodity future trade actually takes place and the buyer and seller agree upon a transaction.

Uniform Net Capital Rule — Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

Virginia Investment Pool (VIP) — A Section 115 governmental trust fund created under the Joint Exercise of Powers statute of the Commonwealth of Virginia. It provides political subdivisions with an investment vehicle to pool surplus funds and to invest such funds into one or more investment portfolios under the direction and daily supervision of a professional fund manager. The VIP is governed by a Board of Trustees.

Weighted Average Maturity - Calculated as (Percentage of portfolio at cost) x (Maturity date — Today's date). The average maturity calculation for each investment is then totaled.

Yield - The rate of annual income return on an investment expressed as a percentage. {a) **Income Yield** is obtained by dividing the current dollar income by the current market price for the security. {b) **Net Yield or Yield to Maturity** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bonds.

Source: Sheshunoff, Essentials of Cash Management

Attachment II

Revisions and Reviews of Policy

| <u>Date</u> | <u>Action Taken</u> |
|-------------|--|
| 7/23/2020 | Change the minimum rating requirement on Corporate Notes to two of the following: Moody's Aa, S+P AA, Fitch AA. |
| 8/15/2019 | Change the majority rule in Section 6.2 from "A majority rule shall consist of five (5) of the eight (8) members, with one (1) of the five (5) majority being either the CFO, Director of the Department of Finance, Director of Management and Budget, or Director of the Department of Tax Administration, to "A majority rule shall consist of five (5) of the eight (8) members, with two (2) of the five (5) majority being either the CFO, Director of the Department of Finance, Director of Management and Budget, or Director of the Department of Tax Administration. |
| 7/31/2019 | Following are changes to the Investment Policy that were approved on July 31, 2019: <ul style="list-style-type: none"> • Using the term Nationally Recognized Statistical Rating Organization (NRSRO) in lieu of listing the rating companies. • Mutual Funds will replace Government Money Market Funds as authorized investments. • Adding the Director of Management and Budget as a member of the Investment Committee, and changing the majority rule to at least five of eight members, with one member being the CFO, Director of Finance, Director of Tax Administration, or Director of Management and Budget. |
| 7/31/2019 | The balance in the Liquidity portfolio on June 30, 2019 was \$733.2 million. The Committee decided at this time not to change allocations to the Core and Liquidity portfolios. |
| 7/26/2019 | The Investment Committee approved increasing the allocation in the Commonwealth of Virginia's LGIP from 10% of the portfolio balance to 20%, for a period not to exceed 60 days. |
| 12/13/2017 | Combine the present Core, Core Extended, and VIP Bond Fund portfolios into one Core portfolio. <ul style="list-style-type: none"> • Increase the maximum maturity to five years, with no more than 10% of the portfolio past three years. Only U.S. Treasuries and agency securities may have a maturity beyond three years. • Add a new asset class for Supranationals. Investments are limited to the International Bank for Reconstruction and Development, Asian Development |

Bank, and African Development Bank. The maximum maturity for Supranationals is three years.

- **Add Farmer Mac as an approved agency investment.**
- **Increase the maturity on Corporate Notes, Negotiable CDs, Non-negotiable CDs, and Insured CDs to three years.**
- **Benchmarks will be as follows:**
 - **Liquidity Portfolio — LGIP and VIP LGIP**
 - **Core Portfolio — Merrill Lynch 0-3 Year US Treasury Index**
- **Other tweaks to maximum maturities and holdings.**
- **Monthly meetings will include analysis and discussion of yield curve, market opportunities and portfolio duration.**

- 6/14/2016** Investment Policy was reviewed and no changes were made.
- 3/31/2015** Adds Internal Control measure (Section 17.0) that the Custodian is to confirm with Finance Director, Deputy Director, or their approved designee, a security sale prior to maturity. Funds of the County are listed as general, internal service, special revenue, capital project, enterprise, and agency (Section 2.0 Scope). Updates Attachment I to clarify individuals that compose the Investment Staff. Updates Section 9.5, Repurchase Agreements, stating that a Master Repurchase Agreement is required to enter into a repurchase agreement transaction.
- 1/07/2014** Adds the VACoNML Virginia Investment Pool as an authorized investment and extends maximum maturity to the Core Extended Portfolio to two years. Adds new portfolio benchmarks, and updates regulatory bodies.
- 12/5/2012** Expands Insured Certificate of Deposits to include Insured Accounts. This updates policy to include Amendment to Section 2.2.4518 of the Code of Virginia, Insured deposits.
- 6/6/2012** Adds Demand Deposit Account as another investment for daily liquidity.
- 6/22/11** Expands Section 14 by defining various portfolios and establishes the size of the Core Portfolio as 50% of all holdings on June 30.
- 12/15/09** Increase net worth to \$100mln on Authorized Institutions, clarify the "Do Not Buy on Negative Watch" to short term investments, Purchase Date defined as Settlement Date, use short term ratings for eligibility on Bankers Acceptances, separate Banker's Acceptances from Negotiable CD's, separate money funds from

repurchase agreements holdings, reduce holdings from 50% to 40% on Non-Negotiable CD's

9/1/09 Add Insured Deposits as a permitted investment

06/30/09 Annual Review of Policy

04/03/07 Annual Review of Policy

02/10/06 Annual Review of Policy

08/22/06 Clarification on Maximum Maturity based upon Trade Date

02/07/06 Clarification on Unauthorized Investments

05/31/05 Annual review of Policy

09/21/04 **Modification of "Maximum Term" Policy to provide for investment in a Core Portfolio with an average maturity up to 365 days**

05/04/04 **Clarification on Ratings for Commercial Paper and Banker's Acceptances**

03/08/04 Annual Review of Policy

01/14/03 Removal of Japanese BA Restriction. Annual Review of Policy

07/16/02 Annual Review of Policy

03/20/01 Quarterly Review of Policy

09/21/99 Quarterly Review of Policy

08/17/99 Increase in Agency Discount Notes

08/04/99 Increase in Repurchase Agreement Limits

10/20/98 **Update for submission of Investment Policy Certification by the Municipal Treasurers Association**

08/06/98 **Quarterly Review of Policy**

07/21/98 **Commercial Bank - revision of Thompson BankWatch criteria to reflect comprehensive rating.**

05/19/98 **Update to reflect Section 20 Dealer criteria**

05/14/98 **Quarterly Review of Policy**

| | |
|----------|--|
| 11/11/97 | Quarterly Review of Policy |
| 09/30/97 | Update to reflect GFOA Investment Policy Recommendations (Revised 8/97) |
| 08/14/97 | Update to reflect GFOA recommendations and maximum allowable investment term |
| 07/22/97 | Quarterly Review of Policy |
| 03/25/97 | Quarterly Review of Policy |
| 11/14/96 | Quarterly Review of Policy |
| 08/06/96 | Quarterly Review of Policy |
| 05/21/96 | Update to section 1.5 Prudence |
| 05/07/96 | Quarterly Review of Policy |
| 01/31/96 | Quarterly Review of Policy |
| 07/06/95 | Quarterly Review of Policy |
| 06/22/95 | Quarterly Review of Policy |
| 03/28/95 | Quarterly Review of Policy |
| 03/21/95 | Quarterly Review of Policy |
| 06/07/94 | Quarterly Review of Policy |
| 03/22/94 | Quarterly Review of Policy |
| 11/16/93 | Quarterly Review of Policy |
| 08/03/93 | Quarterly Review of Policy |
| 06/29/93 | Quarterly Review of Policy |
| 02/16/93 | Quarterly Review of Policy |
| 07/07/92 | Quarterly Review of Policy |
| 07/07/92 | 2.1-11 Clarification of Repurchase Agreement Policy, (FY 93 #1) |
| 05/19/92 | Swaps, FY 92 #8 |

02/04/92 Administrative Charge (Replaces FY 92 #6 with FY 92 #7)
02/04/92 Quarterly Review of Policy
01/21/92 Administrative Charge, (Replaces FY92 #4 with FY 92 #6)
01/21/92 2.2 South Africa Policy, (FY 92 #5)
11/26/91 Administrative Charge (Replaced by FY 92 #6), (FY 92 #4)
11/07/91 2.1-5 Authorized Investments—Obligations of U.S., (FY 92 #3)
10/29/91 1.2-1 Voting Hierarchy, (FY 92 #2)
10/29/91 Code Reference for Investments, (FY 92 #1)
10/29/91 Quarterly Review of Policy

Attachment III
Code of Virginia

Title 2.2. Administration of Government

Chapter 44. Virginia Security for Public Deposits Act

§ 2.2-4400. Short title; declaration of intent; applicability.

A. This chapter may be cited as the "Virginia Security for Public Deposits Act."

B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of collateral for public deposits in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.

C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter. Public depositors are required to secure their deposits pursuant to several applicable provisions of law, including but not limited to §§ [2.2-1813](#), [2.2-1815](#), [8.01-582](#), [8.01-600](#), [15.2-1512.1](#), [15.2-1615](#), [15.2-2625](#), [15.2-6611](#), [15.2-6637](#), [58.1-3149](#), [58.1-3150](#), [58.1-3154](#), and [58.1-3158](#).

D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided that (i) such deposits do not exceed 10 percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have received at least one of the following short-term deposit ratings: (a) not less than A-1 by Standard & Poor's; (b) not less than P-1 by Moody's Investors Service, Inc.; or (c) not less than F1 by Fitch Ratings, Inc.

1973, c. 172, §§ [2.1-359](#), [2.1-361](#); 1984, c. 135; 2000, cc. [335](#), [352](#); 2001, c. 844; 2010, cc. [640](#), [674](#); 2020, c. [333](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Dedicated method" or "opt-out method" means the securing of public deposits without accepting the contingent liability for the losses of public deposits of other qualified public depositories, pursuant to § [2.2-4404](#) and regulations and guidelines promulgated by the Treasury Board.

"Defaulting depository" means any qualified public depository determined to be in default or insolvent.

"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

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1973, c. 172, §§ [2.1-359](#), [2.1-361](#); 1984, c. 135; 2000, cc. [335](#), [352](#); 2001, c. 844; 2010, cc. [640](#), [674](#); 2020, c. [333](#).

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"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

"Eligible collateral" means securities or instruments authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds as well as Federal Home Loan Bank letters of credit issued in accordance with guidelines promulgated by the Treasury Board.

"Located in Virginia" means having a main office or branch office in the Commonwealth where deposits are accepted, checks are paid, and money is lent.

"Pooled method" means securing public deposits by accepting the contingent liability for the losses of public deposits of other qualified public depositories choosing this method, pursuant to § 2.2-4403 and regulations and guidelines promulgated by the Treasury Board.

"Public deposit" means moneys held by a public depositor who is charged with the duty to receive or administer such moneys and is acting in an official capacity, such moneys being deposited in any of the following types of accounts: nonnegotiable time deposits, demand deposits, savings deposits, or any other transaction accounts.

"Public depositor" means the Commonwealth or any county, city, town or other political subdivision thereof, including any commission, institution, committee, board, or officer of the foregoing and any state court.

"Qualified escrow agent" means the State Treasurer or any bank or trust company approved by the Treasury Board to hold collateral pledged to secure public deposits.

"Qualified public depository" means any national banking association, federal savings and loan association or federal savings bank located in Virginia, any bank, trust company or savings institution organized under Virginia law, or any state bank or savings institution organized under the laws of another state located in Virginia authorized by the Treasury Board to hold public deposits according to this chapter.

"Required collateral" of a qualified public depository means the amount of eligible collateral required to secure public deposits set by regulations or an action of the Treasury Board.

"Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415.

1973, c. 172, § 2.1-360; 1984, c. 135; 1987, c. 718; 1996, c. 77; 1998, cc. 20, 21; 2001, c. 844; 2008, c. 7; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4402. Collateral for public deposits.

Qualified public depositories shall elect to secure deposits by either the pooled method or the dedicated method. Every qualified public depository shall deposit with a qualified escrow agent eligible collateral equal to or in excess of the required collateral. Eligible collateral shall be valued as determined by the Treasury Board. Substitutions and withdrawals of eligible collateral may be made as determined by the Treasury Board.

Notwithstanding any other provisions of law, no qualified public depository shall be required to give bond or pledge securities or instruments in the manner herein provided for the purpose of securing deposits received or held in the trust department of the depository and that are secured as required by § 6.2-1005 of the Code of Virginia or that are secured pursuant to Title 12, § 92a of the United States Code by securities of the classes prescribed by § 6.2-1005 of the Code of Virginia.

No qualified public depository shall accept or retain any public deposit that is required to be secured unless it has deposited eligible collateral equal to its required collateral with a qualified escrow agent pursuant to this chapter.

1973, c. 172, § 2.1-362; 2001, c. 844; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4403. Procedure for payment of losses by pooled method.

When the Treasury Board determines that a qualified public depository securing public deposits in accordance with this section is a defaulting depository, it shall as promptly as practicable take steps to reimburse public depositors for uninsured public deposits using the following procedures:

1. The Treasury Board shall ascertain the amount of uninsured public deposits held by the defaulting depository, either with the cooperation of the Commissioner of Financial Institutions, the receiver appointed for such depository, or by any other means available.
2. The amount of such uninsured public deposits ascertained as provided in subdivision 1, plus any costs associated with liquidation, shall be assessed by the Treasury Board first against the defaulting depository to the extent of the full realizable market value of the collateral pledged to secure its public deposits.
3. In the event the realized value of the pledged collateral in subdivision 2 is insufficient to satisfy the liability of the defaulting depository to its public depositors and the Treasury Board, the Treasury Board shall assess the remaining liability against all other qualified public depositories securing public deposits according to the following ratio: total average public deposit balance for each qualified public depository held during the immediately preceding twelve months divided by the total average public deposit balance for the same period held by all qualified public depositories under this section other than the defaulting depository.
4. Assessments made by the Treasury Board in accordance with subdivision 3 shall be payable by the close of business on the second business day following demand. Upon the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall promptly take possession of the eligible collateral deposited with the non-paying depository's escrow agent and liquidate the same to the extent necessary to pay the original assessment plus any additional costs necessary to liquidate the collateral.

5. Upon receipt of such assessments and the net proceeds of the eligible collateral liquidated from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the defaulting depository's liability to them, net of any applicable deposit insurance.

1973, c. 172, § 2.1-363; 1978, c. 14; 1984, c. 135; 2001, c. 844;2009, c. 64;2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4404. Procedure for payment of losses by dedicated method.

When the Treasury Board determines that a qualified public depository securing public deposits in accordance with this section is a defaulting depository, it shall as promptly as practicable take steps to reimburse public depositors of all uninsured public deposits using the following procedures:

1. The Treasury Board shall ascertain the amount of uninsured public deposits held by the defaulting depository with the cooperation of the Commissioner of Financial Institutions, the receiver appointed for such depository or by any other means available.
2. The amount of such uninsured public deposits ascertained as provided in subdivision 1, plus any costs associated with liquidation of the eligible collateral of the defaulting depository, shall be assessed by the Treasury Board against the defaulting depository. The State Treasurer shall promptly take possession of the eligible collateral deposited by such depository with the depository's escrow agent, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the net proceeds to the Treasury Board.
3. Upon receipt from the State Treasurer of the eligible collateral liquidated, the Treasury Board shall reimburse the public depositors from the proceeds of the collateral up to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

1984, c. 135, § 2.1-363.1; 2001, c. 844;2009, c. 64;2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4.405. Powers of Treasury Board relating to the administration of this chapter. The Treasury Board shall have power to:

1. Make and enforce regulations and guidelines necessary and proper to the full and complete performance of its functions under this chapter;
2. Prescribe and enforce regulations and guidelines fixing terms and conditions consistent with this chapter under which public deposits must be secured;
3. Require additional collateral, in excess of the required collateral of any or all qualified public depositories as it may determine prudent under the circumstances;

4. Determine what securities or instruments shall be acceptable as eligible collateral, and fix the percentage of face value or market value of such securities or instruments that can be used to secure public deposits;
5. Establish guidelines to permit banks to withdraw from the procedures for the payment of losses under § 2.2-4403 and instead be governed by the procedures for the payment of losses under § 2.2-4404, consistent with the primary purpose of protecting public deposits;
6. Require any qualified public depository to provide information concerning its public deposits as requested by the Treasury Board; and
7. Determine when a default or insolvency has occurred and to take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim arising in case of default or insolvency.

1973, c. 172, § 2.1-364; 2001, c. 84'1;2009, c. 64;2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4406. Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets.

Upon payment in full to any public depositor on any claim presented pursuant to § 2.2-4403 or 2.2-4404, the Treasury Board shall be subrogated to all of such depositor's rights, title and interest against the depository in default or insolvent and shall share in any distribution of such defaulting or insolvent depository's assets ratably with other depositors. Any sums received from any such distribution shall be paid to the other qualified public depositories against which assessments were made, in proportion to such assessments, net of any proper payment or expense of the Treasury Board in enforcing any such claim.

1973, c. 172, § 2.1-365; 2001, c. 844;2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4407. Mandatory deposit of public funds in qualified public depositories.

Public deposits required to be secured pursuant to this chapter shall be deposited in a qualified public depository.

1973, c. 172, § 2.1-366; 2001, c. 844;2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4408. Authority to make public deposits.

A. All public depositors are hereby authorized to make public deposits under their control in qualified public depositories, securing such public deposits pursuant to this chapter.

B. Local officials handling public deposits in the Commonwealth may not require from a qualified public depository any pledge of collateral for their deposits in excess of the requirements of this chapter.

1973, c. 172, § 2.1-367; 1980, c. 538, § 2.1-234.5; 1998, cc. 20, 21; 2001, c. 844; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4409. Authority to secure public deposits; acceptance of liabilities and duties by public depositories.

All qualified public depositories are hereby authorized to secure public deposits in accordance with this chapter and shall be deemed to have accepted the liabilities and duties imposed upon it pursuant to this chapter.

1973, c. 172, § 2.1-368; 2001, c. 841; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4410. Liability of public depositors.

When deposits are made in accordance with this chapter no official of a public depositor shall be personally liable for any loss resulting from the default or insolvency of any qualified public depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his agents.

1973, c. 172, § 2.1-370; 2001, c. 841; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4411. Reports of qualified public depositories.

By the tenth day after the end of each calendar reporting month or when requested by the Treasury Board each qualified public depository shall submit to the Treasury Board an electronic report of such data required by the Treasury Board to demonstrate that the current market value of its pledged collateral was equal to or greater than the amount of required collateral for the previous month, certified as to its accuracy by an authorized official of the qualified public depository.

Upon request by a public depositor, a qualified public depository shall provide a schedule detailing the public deposit accounts reported to the Treasury Board for that depositor, as well as

the amount of total public deposits held by that depository at the close of the applicable month and the total market value of the collateral securing such public deposits.

1973, c. 172, § 2.1-369; 1979, c. 154; 2001, c. 841; 2010, cc. 640, 674.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 2.2. Administration of Government

Chapter 45. Investment of Public Funds Act

§ 2.2-4500. Legal investments for public sinking funds.

The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any sinking funds belonging to them or within their control in the following securities:

1. Bonds, notes and other evidences of indebtedness of the Commonwealth, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth upon which there is no default; provided, that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by the county, city, town, district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the Commonwealth or its political subdivisions upon which there is no default.
4. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank and bonds and other obligations issued, guaranteed or assumed by the African Development Bank.

5. Savings accounts or time deposits in any bank or savings institution within the Commonwealth provided the bank or savings institution is approved for the deposit of other funds of the Commonwealth or other political subdivision of the Commonwealth.

1956, c. 184, § 2-297; 1958, c. 102; 1966, c. 677, § 2.1-327; 1970, c. 75; 1974, c. 288; 1986, c. 270; 1988, cc. 526, 834; 1996, cc. 77, 508; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4501. Legal investments for other public funds.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in the following:

1. Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Stocks, bonds, notes and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that within the 20 fiscal years next preceding the making of such investment, such state has not been in default for more than 90 days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.
4. Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth upon which there is no default, provided that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to

the terms of the issue, the standards of judgment and care required in Article 9 (§ 64.2-780 et seq.) of Chapter 7 of Title 64.2, without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed by the provisions of this section without limitation.

5. Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town, or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that (i) within the 20 fiscal years next preceding the making of such investment, such city, county, town, or district has not been in default for more than 90 days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by it; (ii) such city, county, town, or district shall have been in continuous existence for at least 20 years; (iii) such city, county, town, or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town, or district issuing the same; (v) the city, county, town, or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of such city, county, town, or district (including the issue in which such investment is made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed 10 percent of the value of the taxable property in such city, county, town, or district, to be ascertained by the valuation of such property therein for the assessment of taxes next preceding the making of such investment.

6. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, by **the Asian Development Bank or by the African Development Bank.**

B. This section shall not apply to funds authorized by law to be invested by the Virginia Retirement System or to deferred compensation plan funds to be invested pursuant to § 51.1-601 or to funds contributed by a locality to a pension program for the benefit of any volunteer fire department or volunteer emergency medical services agency established pursuant to § 15.2-955.

C. Investments made prior to July 1, 1991, pursuant to § 51.1-601 are ratified and deemed valid to the extent that such investments were made in conformity with the standards set forth in Chapter 6 (§ 51.1-600 et seq.) of Title 51.1.

1956, c. 184, § 2-298; 1966, c. 677, § 2.1-328; 1980, c. 596; 1988, c. 834; 1991, c. 379; 1992, c. 810; 1996, c. 508; 1999, c. 772; 2001, c. 844; 2007, c. 67; 2008, c. 295; 2015, cc. 502, 503.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4502. Investment of funds of Commonwealth, political subdivisions, and public bodies in "prime quality" commercial paper.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in "prime quality" commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of the United States, or of any state thereof including paper issued by banks and bank holding companies. "Prime quality" means that the paper has received at least two of the following ratings: (i) at least prime 1 by Moody's Investors Service, Inc.; (ii) at least A1 by Standard & Poor's; or (iii) at least F1 by Fitch Ratings, Inc., provided that at the time of any such investment:

1. The issuing corporation, or its guarantor, has a net worth of at least \$50 million; and
2. The net income of the issuing corporation, or its guarantor, has averaged \$3 million per year for the previous five years; and
3. All existing senior bonded indebtedness of the issuer, or its guarantor, has received at least two of the following ratings : (i) at least A by Moody's Investors Service, Inc.; (ii) at least A by Standard & Poor's; or (iii) at least A by Fitch Ratings, Inc.

Not more than 35 percent of the total funds available for investment may be invested in commercial paper, and not more than five percent of the total funds available for investment may be invested in commercial paper of any one issuing corporation.

B. Notwithstanding subsection A, the Commonwealth, municipal corporations, and other political subdivisions and public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, except for sinking funds, in commercial paper other than "prime quality" commercial paper as defined in this section, provided that:

1. Prior written approval is obtained from the governing board, committee, or other entity that determines investment policy. The Treasury Board shall be the governing body for the Commonwealth; and
2. A written internal credit review justifying the creditworthiness of the issuing corporation is prepared in advance and made part of the purchase file.

1973, c. 232, § 2.1-328.1; 1974, c. 295; 1976, c. 665; 1986, c. 170; 1987, c. 73; 1988, c. 834; 1992, c. 769; 2001, c. 844; 2020, c. 333.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4503. Investments by Fairfax County finance director.

Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any such law, the director of finance of Fairfax County may invest, redeem, sell, exchange, and reinvest unexpended or surplus moneys, in any fund or account of which he has custody or control in bankers acceptances.

1980, c. 50, § 2.1-328.2; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4504. Investment of funds by the Commonwealth and political subdivisions in bankers' acceptances.

Notwithstanding any provisions of law to the contrary, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in bankers' acceptances.

1981, c. 18, § 2.1-328.3; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4505. Investment in certificates representing ownership of treasury bond principal at maturity or its coupons for accrued periods.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, in certificates representing ownership of either treasury bond principal at maturity or its coupons for accrued periods. The underlying United States Treasury bonds or coupons shall be held by a third-party independent of the seller of such certificates.

1983, c. 117, § 2.1-328.5; 1985, c. 352; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4506. Securities lending.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, political subdivisions and all public bodies of the Commonwealth may engage in securities lending from the portfolio of investments of which they have custody and control, other than sinking funds. The Treasury Board shall develop guidelines with which such securities lending shall fully comply. Such guidelines shall ensure that the state treasury is at all times fully collateralized by the borrowing institution.

1983, c. 268, § 2.1-328.6; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4507. Investment of funds in overnight, term and open repurchase agreements.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth, may invest any and all moneys belonging to them or within their control in overnight, term and open repurchase agreements that are collateralized with securities that are approved for direct investment.

1985, c. 352, § 2.1-328.8; 1988, c. 834; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4508. Investment of certain public moneys in certain mutual funds.

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds that are governed by the provisions of § 2.2-4500, in one or more open-end investment funds, provided that the funds are registered under the Securities Act (§ 13.1-501 et seq.) of the Commonwealth or the Federal Investment Co. Act of 1940, and that the investments by such funds are restricted to investments otherwise permitted by law for political subdivisions as set forth in this chapter, or investments in other such funds whose portfolios are so restricted.

1986, c. 170, § 2.1-328.9; 1988, c. 834; 1996, c. 508; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4509. Investment of funds in negotiable certificates of deposit and negotiable bank deposit notes.

Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, and other political subdivisions and all other public bodies of the Commonwealth may invest any or all of the moneys belonging to them or within their control, other than sinking funds, in negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks:

1. With maturities not exceeding one year, that have received at least two of the following ratings: (i) at least A-1 by Standard & Poor's; (ii) at least **P-1** by Moody's Investors Service, Inc.; or (iii) at least F1 by Fitch Ratings, Inc.; and

2. With maturities exceeding one year and not exceeding five years, that have received at least two of the following ratings: (i) at least AA by Standard & Poor's; (ii) at least Aa by Moody's Investors Service, Inc.; or (iii) at least AA by Fitch Ratings, Inc.

1998, cc. 20, 21, § 2.1-328.15; 2001, c. 844;2020, c. 333.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4510. Investment of funds in corporate notes.

A. Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in high quality corporate notes with maturities of no more than five years that have received at least two of the following ratings: (i) at least Aa by Moody's Investors Service, Inc.; (ii) at least AA by Standard and Poor's; or (iii) at least AA by Fitch Ratings, Inc.

B. Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes that have received at least two of the following ratings: (i) at least A by Moody's Investors Service, Inc.; (ii) at least A by Standard and Poor's; or (iii) at least A by Fitch Ratings, Inc.

As used in this section, "qualified public entity" means any state agency or institution of the Commonwealth, having an internal or external public funds manager with professional investment management capabilities.

C. Notwithstanding any provision of law to the contrary, the Department of the Treasury may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes with a rating of at least BBB or Baa2 by two rating agencies. One of the two qualifying ratings shall be (i) at least Baa2 by Moody's Investors Service, Inc.; (ii) at least BBB by Standard and Poor's; or (iii) at least BBB by Fitch Ratings, Inc. With regard to investment securities rated below A, the Commonwealth Treasury Board shall establish strict investment guidelines concerning the investment in such securities and monitor the performance of the securities for compliance with the investment guidelines.

1987, c. 187, § 2.1-328.10; 1988, c. 834; 1994, c. 145;2001, c. 844;2002, cc. 18, 438;2005, c. 30; 2020, c. 333.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4511. Investment of funds in asset-backed securities.

Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in asset-backed securities with a duration of no more than five years with a rating of at

least AAA or Aaa by two rating agencies. One of the two qualifying ratings shall be (i) at least Aaa by Moody's Investors Service, Inc.; (ii) at least AAA by Standard and Poor's; or (iii) at least AAA by Fitch Ratings, Inc.

As used in this section, "qualified public entity" means any state agency, institution of the Commonwealth or statewide authority created under the laws of the Commonwealth having an internal or external public funds manager with professional investment management capabilities.

1994, c. 145, § 2.1-328.13; 1997, c. 29; 2001, c. 844; 2020, c. 333.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4512. Investment of funds by State Treasurer in obligations of foreign sovereign governments.

Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys in any fund or account over which he has custody and control, other than sinking funds, in fully hedged debt obligations of sovereign governments and companies that are fully guaranteed by such sovereign governments with a maturity of no more than five years that have received at least two of the following ratings: (i) at least Aaa by Moody's Investors Service, Inc.; (ii) at least AAA by Standard and Poor's; or (iii) at least AAA by Fitch Ratings, Inc.

Not more than 10 percent of the total funds of the Commonwealth available for investment may be invested in the manner described in this section.

1988, c. 461, § 2.1-328.11; 2001, c. 844; 2020, c. 333.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4513. Investments by transportation commissions.

Transportation commissions that provide rail service may invest in, if required as a condition to obtaining insurance, participate in, or purchase insurance provided by, foreign insurance companies that insure railroad operations.

1988, c. 834, § 2.1-328.12; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4513.1. Investment of funds in qualified investment pools.

A. Notwithstanding the provisions of Article 1 (§ 15.2-1300 et seq.) of Chapter 13 of Title 15.2, in any locality in which the authority to invest moneys belonging to or within the control of the locality has been granted to its elected treasurer, the treasurer may act on behalf of his locality to become a participating political subdivision in qualified investment pools without an ordinance adopted by the locality approving a joint exercise of power agreement. For purposes of this section, "qualified investment pool" means a jointly administered investment pool organized as a trust fund pursuant to Article 1 of Chapter 13 of Title 15.2 that has a professional investment manager.

B. Investments in qualified investment pools described in this section shall comply with the requirements of this chapter applicable to municipal corporations and other political subdivisions.

C. The provisions of this section shall not apply to local trusts established pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2 to fund postemployment benefits other than pensions.

2017, cc. 792, 819.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4514. Commonwealth and its political subdivisions as trustee of public funds; standard of care in investing such funds.

Public funds held by the Commonwealth, public officers, municipal corporations, political subdivisions, and any other public body of the Commonwealth shall be held in trust for the citizens of the Commonwealth. Any investment of such funds pursuant to the provisions of this chapter shall be made solely in the interest of the citizens of the Commonwealth and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

1996, c. 437, § 2.1-328.14; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4515. Collateral and safekeeping arrangements.

Securities purchased pursuant to the provisions of this chapter shall be held by the public official, municipal corporation or other political subdivision or public body or its custodial agent who may not otherwise be a counterparty to the investment transaction. Securities held on the books of the custodial agent by a custodial agent shall be held in the name of the municipal

corporation, political subdivision or other public body subject to the public body's order of withdrawal. The responsibilities of the public official, municipal corporation, political subdivision or other public body shall be evidenced by a written agreement that shall provide for delivery of the securities by the custodial agent in the event of default by a counterparty to the investment transaction.

As used in this section, "counterparty" means the issuer or seller of a security, an agent purchasing a security on behalf of a public official, municipal corporation, political subdivision or other public body or the party responsible for repurchasing securities underlying a repurchase agreement.

The provisions of this section shall not apply to (i) investments with a maturity of less than 31 calendar days or (ii) the State Treasurer, who shall comply with safekeeping guidelines issued by the Treasury Board or to endowment funds invested in accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2.

1988, c. 834, § 2.1-329.01; 2001, c. 844; 2008, c. 184.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4516. Liability of treasurers or public depositors.

When investments are made in accordance with this chapter, no treasurer or public depositor shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.

1979, c. 135, § 2.1-329.1; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4517. Contracts on interest rates, currency, cash flow or on other basis.

A. Any state entity may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the state entity, as represented by bonds or investments, in whole or in part, on the interest rate cash flow or other basis desired by the state entity. Such contract or other arrangement may include contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the state entity in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the state entity, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by a nationally recognized rating agency, and any other

criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board, the governing body of the state entity or any public funds manager with professional investment capabilities duly authorized by the Treasury Board or the governing body of any state entity authorized to issue such obligations to make such determinations.

As used in this section, "state entity" means the Commonwealth and all agencies, authorities, boards and institutions of the Commonwealth.

B. Any money set aside and pledged to secure payments of bonds or any of the contracts entered into pursuant to this section may be invested in accordance with this chapter and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to this section.

2002, c. 407.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4518. Investment of funds in deposits.

A. Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, other political subdivisions, and all other public bodies of the Commonwealth, each referred to in this section as a "public entity," may invest any or all of the moneys belonging to them or within their control in accordance with the following conditions:

1. The moneys are initially invested through any federally insured bank or savings institution selected by the public entity that is qualified by the Virginia Treasury Board to accept public deposits;
2. The selected bank or savings institution arranges for the deposit of the moneys in one or more federally insured banks or savings institutions wherever located, for the account of the public entity;
3. The full amount of principal and any accrued interest of each such deposit is covered by federal deposit insurance;
4. The selected bank or savings institution acts as custodian for the public entity with respect to each deposit issued for the public entity's account; and
5. At the same time that the public entity's moneys are deposited, the selected bank or savings institution receives an amount of deposits from customers of other financial institutions wherever located equal to or greater than the amount of moneys invested by the public entity through the selected bank or savings institution.

B. After deposits are made in accordance with the conditions prescribed in subsection A, such deposits shall not be subject to the provisions of Chapter 44 (§ 2.2-4400 et seq.), § 2.2-4515, or any security or collateral requirements that may otherwise be applicable to the investment or

deposit of public moneys by government investors.

2008, c. 103;2010, c. 33.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-4519. Investment of funds by the Virginia Housing Development Authority and the Virginia Resources Authority.

A. For purposes of §§ 36-55.44 and 62.1-221 only, the following investments shall be considered lawful investments and shall be conclusively presumed to have been prudent:

1. Obligations of the Commonwealth. Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth, and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Obligations of the United States. Stocks, bonds, treasury notes, and other evidences of indebtedness of the United States, including the guaranteed portion of any loan guaranteed by the Small Business Administration, an agency of the United States government, and those unconditionally guaranteed as to the payment of principal and interest by the United States; bonds of the District of Columbia; bonds and notes of the Federal National Mortgage Association and the Federal Home Loan Banks; bonds, debentures, or other similar obligations of federal land banks, federal intermediate credit banks, or banks of cooperatives, issued pursuant to acts of Congress; and obligations issued by the United States Postal Service when the principal and interest thereon is guaranteed by the government of the United States. The evidences of indebtedness enumerated by this subdivision may be held directly, in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Obligations of other states. Stocks, bonds, notes, and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that within the 20 fiscal years next preceding the making of such investment, such state has not been in default for more than 90 days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.
4. Obligations of Virginia counties, cities, or other public bodies. Stocks, bonds, notes, and other evidences of indebtedness of any county, city, town, district, authority, or other public body in the Commonwealth upon which there is no default, provided that if the principal and interest is payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest

equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in the Uniform Prudent Investor Act (§ 64.2-780 et seq.), without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed fully by the provisions of this section without limitation.

5. Obligations of cities, counties, towns, or districts of other states. Legally authorized stocks, bonds, notes, and other evidences of indebtedness of any city, county, town, or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than 90 days, provided that (i) within the 20 fiscal years next preceding the making of such investment, the city, county, town, or district has not been in default for more than 90 days in the payment of any part of principal or interest of any stock, bond, note, or other evidence of indebtedness issued by it; (ii) the city, county, town, or district shall have been in continuous existence for at least 20 years; (iii) the city, county, town, or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes, or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town, or district issuing the same; (v) the city, county, town, or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of the city, county, town, or district, including the issue in which such investment is made, after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed 10 percent of the value of the taxable property in the city, county, town, or district, to be ascertained by the valuation of such property therein for the assessment of taxes next preceding the making of such investment.

6. Obligations subject to repurchase. Investments set forth in subdivisions 1 through 5 may also be made subject to the obligation or right of the seller to repurchase these on a specific date.

7. Bonds secured on real estate. Bonds and negotiable notes directly secured by a first lien on improved real estate or farm property in the Commonwealth, or in any state contiguous to the Commonwealth within a 50-mile area from the borders of the Commonwealth, not to exceed 80 percent of the fair market value of such real estate, including any improvements thereon at the time of making such investment, as ascertained by an appraisal thereof made by two reputable persons who are not interested in whether or not such investment is made.

8. Bonds secured on city property in Fifth Federal Reserve District. Bonds and negotiable notes directly secured by a first lien on improved real estate situated in any incorporated city in any of the states of the United States which lie wholly or in part within the Fifth Federal Reserve District of the United States as constituted on June 18, 1928, pursuant to the act of Congress of December 23, 1913, known as the Federal Reserve Act, as amended, not to exceed 60 percent of the fair market value of such real estate, with the improvements thereon, at the time of making

such investment, as ascertained by an appraisal thereof made by two reputable persons who are not interested in whether or not such investment is made, provided that such city has a population, as shown by the federal census next preceding the making of such investments, of not less than 5,000 inhabitants.

9. Bonds of Virginia educational institutions. Bonds of any of the educational institutions of the Commonwealth that have been or may be authorized to be issued by the General Assembly.

0. Securities of the Richmond, Fredericksburg and Potomac Railroad Company. Stocks, bonds, and other securities of the Richmond, Fredericksburg and Potomac Railroad Company, including bonds or other securities guaranteed by the Richmond, Fredericksburg and Potomac Railroad Company.

1. Obligations of railroads. Bonds, notes, and other evidences of indebtedness, including equipment trust obligations, which are direct legal obligations of or which have been unconditionally assumed or guaranteed as to the payment of principal and interest by, any railroad corporation operating within the United States that meets the following conditions and requirements:

a. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have not been less than \$10 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned an average of at least two times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment. The term "total fixed charges" as used in this subdivision and subdivision c shall be deemed to refer to the term used in the accounting reports of common carriers as prescribed by the regulations of the Interstate Commerce Commission; and

c. The aggregate of the average market prices of the total amounts of each of the individual securities of such corporation junior to its bonded debt and outstanding at the time of the making of such investment shall be equal to at least two-thirds of the total fixed charges for such railroad corporation for the fiscal year next preceding the making of such investment capitalized at an annual interest rate of five percent. Such average market price of any one of such individual securities shall be determined by the average of the highest quotation and the lowest quotation of the individual security for a period immediately preceding the making of such investment, which period shall be the full preceding calendar year plus the then-expired portion of the calendar year in which such investment is made, provided that if more than six months of the calendar year in which such investment is made shall have expired, then such period shall be only the then-expired portion of the calendar year in which such investment is made, and provided further that if such individual security shall not have been outstanding during the full extent of such period, such period shall be deemed to be the length of time such individual security shall have been outstanding.

12. Obligations of leased railroads. Stocks, bonds, notes, other evidences of indebtedness, and any other securities of any railroad corporation operating within the United States, the railroad lines of which have been leased by a railroad corporation, either alone or jointly with other railroad corporations, whose bonds, notes, and other evidences of indebtedness shall, at the time of the making of such investment, qualify as lawful investments for fiduciaries under the terms of subdivision 11, provided that the terms of such lease shall provide for the payment by such lessee railroad corporation individually, irrespective of the liability of other joint lessee railroad corporations, if any, in this respect, of an annual rental of an amount sufficient to defray the total operating expenses and maintenance charges of the lessor railroad corporation plus its total fixed charges, plus, in the event of the purchase of such a stock, a fixed dividend upon any issue of such stock in which such investment is made, and provided that if such investment so purchased shall consist of an obligation of definite maturity, such lease shall be one which shall, according to its terms, provide for the payment of the obligation at maturity or extend for a period of not less than 20 years beyond the maturity of such obligations so purchased, or if such investment so purchased shall be a stock or other form of investment having no definite date of maturity, such lease shall be one which shall, according to its terms, extend for a period of at least 50 years beyond the date of the making of such investment.

13. Equipment trust obligations. Equipment trust obligations issued under the "Philadelphia Plan" in connection with the purchase for use on railroads of new standard gauge rolling stock, provided that the owner, purchaser, or lessee of such equipment, or one or more of such owners, purchasers, or lessees, shall be a railroad corporation whose bonds, notes, and other evidences of indebtedness shall, at the time of the making of such investment, qualify as lawful investments for fiduciaries under the terms of subdivision 11, and provided that all of such owners, purchasers, or lessees shall be both jointly and severally liable under the terms of such contract of purchase or lease, or both, for the fulfillment thereof.

0. Preferred stock of railroads. Any preference stock of any railroad corporation operating within the United States, provided such stock and such railroad corporation meet the following conditions and requirements:

a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;

b. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;

c. The total fixed charges, as defined in subdivision 11 b, of such corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned an average of at least two and one-half times annually for the seven fiscal years preceding the making of such investment and at least two times for the fiscal year immediately preceding the making of such investment; and

d. The aggregate of the average market prices of the total amount of each of the individual securities of such corporation, junior to such preference stock and outstanding at the time of the making of such investment, shall be at least equal to the par value of the total issue of the preference stock in question plus the total par value of all other issues of its preference stock having either the same rank as, or a senior rank to, the issue of such preference stock plus total fixed charges, as defined in subdivision 11 b, for such railroad corporation for the fiscal year next preceding the making of such investment capitalized at an annual interest rate of five percent. Such average market price of any one of such individual securities shall be determined in the same manner as prescribed in subdivision 11 c.

15. Obligations of public utilities. Bonds, notes, and other evidences of indebtedness of any public utility operating company operating within the United States, provided such company meets the following conditions and requirements:

a. The gross operating revenue of such public utility operating company for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least one and three-quarters times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment;

c. In the fiscal year next preceding the making of such investment, the ratio of the total par value of the bonded debt of such public utility operating company, including the total bonded indebtedness of all its subsidiary companies, whether assumed by the public utility operating company in question or not, to its gross operating revenue shall not be greater than four to one; and

d. Such public utility operating company shall be subject to permanent regulation by a state commission or other duly authorized and recognized regulatory body.

The term "public utility operating company" as used in this subdivision and subdivision 16 means a public utility or public service corporation (i) of whose total income available for fixed charges for the fiscal year next preceding the making of such investment at least 55 percent thereof shall have been derived from direct payments by customers for service rendered them; (ii) of whose total operating revenue for the fiscal year next preceding the making of such investment at least 60 percent thereof shall have been derived from the sale of electric power, gas, water, or telephone service and not more than 10 percent thereof shall have been derived from traction operations; and (iii) whose gas properties are all within the limits of one state, if more than 20 percent of its total operating revenues are derived from gas.

16. Preferred stock of public utilities. Any preference stock of any public utility operating company operating within the United States, provided such stock and such company meet the following conditions and requirements:

- a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;
- b. The gross operating revenue of such public utility operating company for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;
- c. The total fixed charges of such public utility operating company, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes, including income taxes, an average of at least two times annually for the seven fiscal years preceding the making of such investment and at least two times for the fiscal year immediately preceding the making of such investment;
- d. In the fiscal year next preceding the making of such investment, the ratio of the sum of the total par value of the bonded debt of such public utility operating company, the total par value of the issue of such preference stock, and the total par value of all other issues of its preference stock having the same or senior rank to its gross operating revenue shall not be greater than four to one; and
- e. Such public utility operating company shall be subject to permanent regulation by a state commission or other duly authorized and recognized regulatory body.

17. Obligations of the following telephone companies. Bonds, notes, and other evidences of indebtedness of American Telephone and Telegraph, Bell Atlantic, Bell South, Southwestern Bell, Pacific Telesis, Nynex, American Information Technologies, or U.S. West, and bonds, notes, and other evidences of indebtedness unconditionally assumed or guaranteed as to the payment of principal and interest by any such company, provided that the total fixed charges, as reported for the fiscal year next preceding the making of the investment, of such company and all of its subsidiary corporations on a consolidated basis shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least one and three-fourths times annually during the seven fiscal years preceding the making of the investment and at least one and one-half times during the fiscal year immediately preceding the making of the investment.

18. Obligations of municipally owned utilities. The stocks, bonds, notes, and other evidences of indebtedness of any electric, gas, or water department of any state, county, city, town, or district whose obligations would qualify as legal for purchase under subdivision 3, 4, or 5, the interest and principal of which are payable solely out of the revenues from the operations of the facility for which the obligations were issued, provided that the department issuing such obligations meets the requirements applying to public utility operating companies as set out in subdivisions 15 a through c.

19. Obligations of industrial corporations. Bonds, notes, and other evidences of indebtedness of any industrial corporation incorporated under the laws of the United States or of any state thereof, provided such corporation meets the following conditions and requirements:

- a. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;
- b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, and depletion in the case of companies commonly considered as depleting their natural resources in the course of business, an average of at least three times annually during the seven fiscal years preceding the making of the investment and at least two and one-half times during the fiscal year immediately preceding the making of the investment;
- c. The net working capital of such industrial corporation, as shown by its last published fiscal year-end statement prior to the making of such investment, or in the case of a new issue, as shown by the financial statement of such corporation giving effect to the issuance of any new security, shall be at least equal to the total par value of its bonded debt as shown by such statement; and
- d. The aggregate of the average market prices of the total amounts of each of the individual securities of such industrial corporation, junior to its bonded debt and outstanding at the time of the making of such investment, shall be at least equal to the total par value of the bonded debt of such industrial corporation at the time of the making of such investment, such average market price of any one of such individual securities being determined in the same manner as prescribed in subdivision 11 c.

20. Preferred stock of industrial corporations. Any preference stock of any industrial corporation incorporated under the laws of the United States or of any state thereof, provided such stock and such industrial corporation meet the following conditions and requirements:

- a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;
- b. The gross operating revenue of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating revenue for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$10 million;
- c. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes, including income taxes, and depletion in the case of companies commonly considered as

depleting their natural resources in the course of business, an average of at least four times annually for the seven fiscal years preceding the making of such investment and at least three times for the fiscal year immediately preceding the making of such investment;

d. The net working capital of such industrial corporation, as shown by its last published fiscal year-end statement prior to the making of such investment, or, in the case of a new issue, as shown by the financial statement of such corporation giving effect to the issuance of any new security, shall be at least equal to the total par value of its bonded debt plus the total par value of the issue of such preference stock plus the total par value of all other issues of its preference stock having the same or senior rank; and

e. The aggregate of the lowest market prices of the total amounts of each of the individual securities of such industrial corporation junior to such preference stock and outstanding at the time of the making of such investment shall be at least two and one-half times the par value of the total issue of such preference stock plus the total par value of all other issues of its preference stock having the same or senior rank plus the par value of the total bonded debt of such industrial corporation. Such lowest market price of any one of such individual securities shall be determined by the lowest single quotation of the individual security for a period immediately preceding the making of such investment, which period shall be the full preceding calendar year plus the then-expired portion of the calendar year in which such investment is made, and if such individual security shall not have been outstanding during the full extent of such period, such period shall be deemed to be the length of time such individual security shall have been outstanding.

21. Obligations of finance corporations. Bonds, notes, and other evidences of indebtedness of any finance corporation incorporated under the laws of the United States or of any state thereof, provided such corporation meets the following conditions and requirements:

a. The gross operating income of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating income for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

b. The total fixed charges of such corporation, as reported for the fiscal year next preceding the making of the investment, shall have been earned, after deducting operating expenses, depreciation, and taxes, other than income taxes, an average of at least two and one-half times annually during the seven fiscal years preceding the making of the investment and at least two times during the fiscal year immediately preceding the making of the investment;

c. The aggregate indebtedness of such finance corporation as shown by its last fiscal year-end statement, or, in the case of a new issue, as shown by the financial statement giving effect to the issuance of any new securities, shall be no greater than three times the aggregate net worth, as represented by preferred and common stocks and surplus of such corporation; and

d. The aggregate of the average market prices of the total amounts of each of the individual securities of such finance corporation, junior to its bonded debt and outstanding at the time of the making of such investment, shall be at least equal to one-third of the sum of the par value of the bonded debt plus all other indebtedness of such finance corporation as shown by the last

published fiscal year-end statement, such average market price of any one of such individual securities being determined in the same manner as prescribed in subdivision 11 c.

22. Preferred stock of finance corporations. Any preference stock of any finance corporation incorporated under the laws of the United States or of any state thereof, provided such stock and such corporation meet the following conditions and requirements:

a. Such stock shall be preferred as to dividends, such dividends shall be cumulative, and such stock shall be preferred as to assets in the event of liquidation or dissolution;

b. The gross operating income of such corporation for the fiscal year preceding the making of such investment, or the average of the gross operating income for the five fiscal years next preceding the making of such investment, whichever of these two is the larger, shall have been not less than \$5 million;

c. The total fixed charges of such finance corporation, as reported for the fiscal year next preceding the making of such investment, plus the amount, at the time of making such investment, of the annual dividend requirements on such preference stock and any preference stock having the same or senior rank, such fixed charges and dividend requirements being considered the same for every year, shall have been earned, after deducting operating expenses, depreciation, and taxes, including income taxes, an average of at least three and one-half times annually for the seven fiscal years preceding the making of such investment and at least three times for the fiscal year immediately preceding the making of such investment;

d. The aggregate indebtedness and par value of the purchased stock, both the issue in question and any issues equal or senior thereto, of such finance corporation as shown by its last published fiscal year-end statement, or, in the case of a new issue, as shown by the financial statement giving effect to the issuance of any new securities, shall be no greater than three times the aggregate par value of the junior securities and surplus of such corporation; and

e. The aggregate of the lowest market prices of the total amounts of each of the individual securities of such finance corporation junior to such preference stock and outstanding at the time of the making of such investment shall be at least equal to one-third of the sum of the par value of such preference stock plus the total par value of all other issues of preference stock having the same or senior rank plus the par value of the total bonded debt plus all other indebtedness of such finance corporation as shown by the last published fiscal year-end statement, such lowest market price of any one of such individual securities being determined in the same manner as prescribed in subdivision 20 e.

23. Federal housing loans. First mortgage real estate loans insured by the Federal Housing Administrator under Title II of the National Housing Act.

24. Certificates of deposit and savings accounts. Certificates of deposit of, and savings accounts in, any bank, banking institution, or trust company, whose deposits are insured by the Federal Deposit Insurance Corporation at the prevailing rate of interest on such certificates or savings accounts; however, no such fiduciary shall invest in such certificates of, or deposits in, any one bank, banking institution, or trust company an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as a deposit in such bank, banking

institution, or trust company by the Federal Deposit Insurance Corporation. A corporate fiduciary shall not, however, be prohibited by the terms of this subdivision from depositing in its own banking department, in the form of demand deposits, savings accounts, time deposits, or certificates of deposit, funds in any amount awaiting investments or distribution, provided that it shall have complied with the provisions of §§ 6.2-1005 and 6.2-1007, with reference to the securing of such deposits.

25. Obligations of International Bank, Asian Development Bank, and African Development Bank. Bonds and other obligations issued, guaranteed, or assumed by the International Bank for Reconstruction and Development, the Asian Development Bank, or the African Development Bank.

26. Deposits in savings institutions. Certificates of deposit of, and savings accounts in, any state or federal savings institution or savings bank lawfully authorized to do business in the Commonwealth whose accounts are insured by the Federal Deposit Insurance Corporation or other federal insurance agency; however, no such fiduciary shall invest in such shares of any one such association an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as an account in such association by the Federal Deposit Insurance Corporation or other federal insurance agency.

27. Certificates evidencing ownership of undivided interests in pools of mortgages. Certificates evidencing ownership of undivided interests in pools of bonds or negotiable notes directly secured by first lien deeds of trust or mortgages on real property located in the Commonwealth improved by single-family residential housing units or multi-family dwelling units, provided that (i) such certificates are rated AA or better by a nationally recognized independent rating agency; (ii) the loans evidenced by such bonds or negotiable notes do not exceed 80 percent of the fair market value, as determined by an independent appraisal thereof, of the real property and the improvements thereon securing such loans; and (iii) such bonds or negotiable notes are assigned to a corporate trustee for the benefit of the holders of such certificates.

28. Shares in credit unions. Shares and share certificates in any credit union lawfully authorized to do business in the Commonwealth whose accounts are insured by the National Credit Union Share Insurance Fund or the Virginia Credit Union Share Insurance Corporation, provided no such fiduciary shall invest in such shares an amount from any one fund in his or its care which shall be in excess of such amount as shall be fully insured as an account in such credit union by the National Credit Union Share Insurance Fund or the Virginia Credit Union Share Insurance Corporation.

B. Whenever under the terms of this section the par value of a preference stock is required to be used in a computation, there shall be used instead of such par value the liquidating value of such preference stock in the case of involuntary liquidation, as prescribed by the terms of its issue, in the event that such liquidating value shall be greater than the par value of such preference stock; or in the event that the preference stock in question has no par value, then such liquidating value shall be used instead; or when such preference stock shall be one of no par value and one for **which no such liquidating value shall have been so prescribed, then for the purposes of such computation the preference stock in question shall be deemed to have a value of \$100 per share.**

C. When any security provided for in this section is purchased by a fiduciary and at the time of such purchase the statement for the preceding fiscal year of the corporation issuing the security so being purchased has not been published and is therefore not available, the statement of such corporation for the fiscal year immediately prior to such preceding fiscal year shall be considered the statement for such preceding fiscal year and shall have the same force and effect as the statement for the fiscal year preceding such purchase, provided the date of such purchase is not more than four months after the end of the last fiscal year of the corporation.

D. In testing a new issue of securities under the provisions of this section, it shall be permissible, in determining the number of times that fixed charges or preferred dividend requirements have been earned, to use pro forma fixed charges or dividend requirements, provided the corporation or its corporate predecessor has been in existence for a period of not less than seven years.

E. Investments made under the provisions of this section, if in conformity with the requirements of this section at the time such investments were made, may be retained even though they cease to be eligible for purchase under the provisions of this section, but shall be subject to the provisions of the Uniform Prudent Investor Act (§ 64.2-780 et seq.).

2012, c. 614.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

EXHIBIT B

ADVANCE FUNDING PAYMENT AMOUNTS

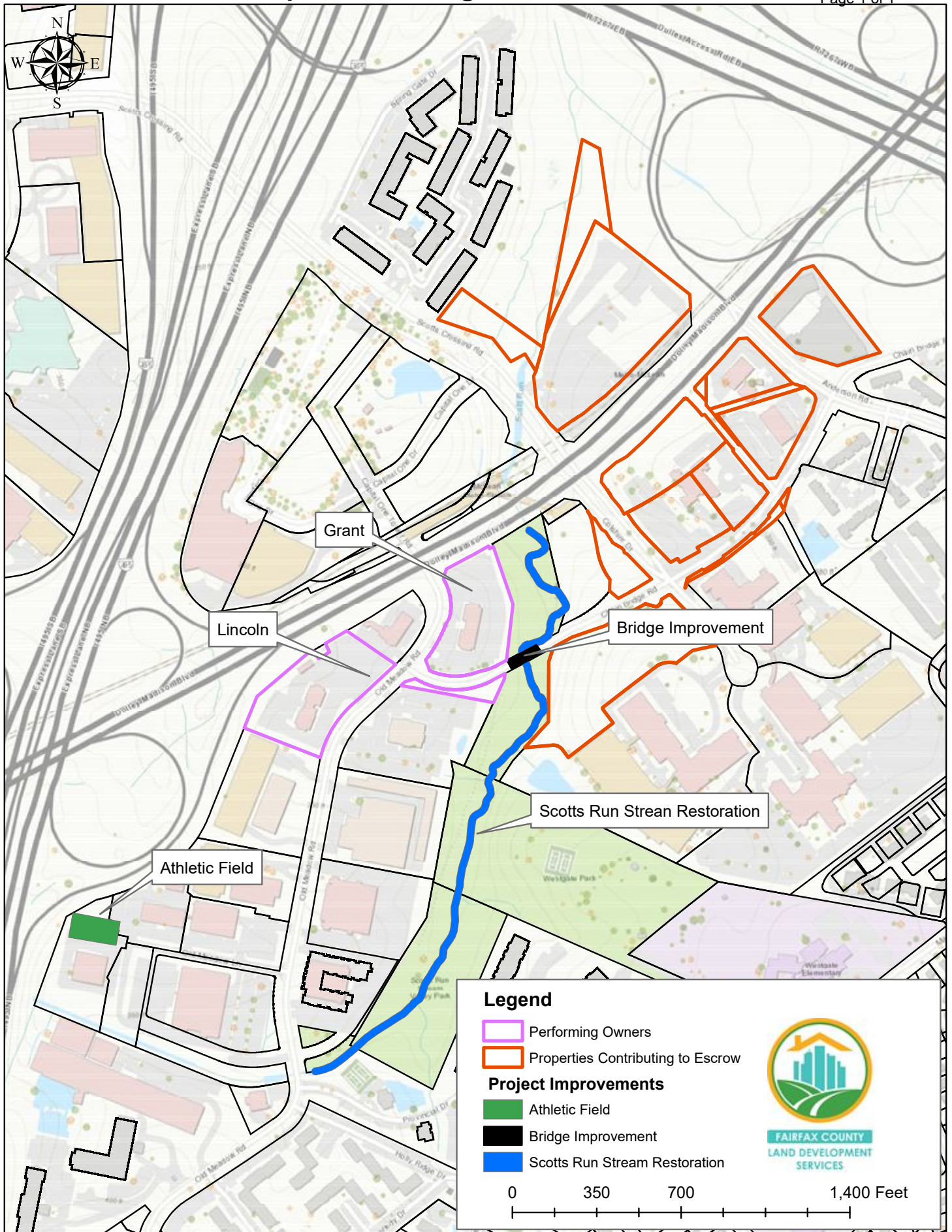
Please see attached document.

EXHIBIT B - SCOTTS RUN PUBLIC FACILITY CONTRIBUTIONS
PROPERTY OWNERS FOR ESCROW CONTRIBUTIONS TO PUBLIC FACILITIES

GFA per total development area information from 'Tysons 2016-2017 Progress Report on the Implementation of the Comprehensive Plan', '2017 Tysons Annual Report', and/or CDP approved information
Escalation per Consumer Price Index for all Urban Consumers (CPI-U) - Proffer section 101

| Property Owner | Mailing Address | Tax Number | Development Name | TOTAL GFA Per CDP | Site Plan GFA | Development Status | Baseline Value for Escrow (\$0.90/SF) | Escalated Value for Escrow | Contribution Status | Interest Calculation (to June 23, 2021) | | |
|--|---------------------------------|--|--|-------------------|---------------|--------------------|--|----------------------------|-----------------------|--|--------------|------------------------|
| Scotts Run North RZ 2011-PR-009 | | | | | | | | | | | | |
| 1 | 1820 Dolley Madison LLC | 1820 Dolley Madison LLC c/o Capital One, N.A. 1600 Capital One Drive McLean, VA 22102 | 29-4 ((5)) parcels 9, 9A, and 10A | 1,500,000 | | SRS North | CDP Approved | \$ 1,350,000.00 | \$1,490,552.35 | N | | |
| Scotts Run South RZ 2011-PR-010 | | | | | | | | | | | | |
| 2 | Johnson I 7600 Colshire LLC | 1651 Old Meadow Road Suite 650 Cityline Partners LLC McLean, VA 22102 Attn: Sandy Flanagan | 30-3 ((46)) parcel 2A and parcel C | 1,207,480 | | Johnson 1 A, B | Johnson 1A&B (CDP Approved / Interim FDP Approved) Johnson 1C&D (FDP Approved) | \$ 1,086,732.00 | \$1,215,263.30 | N | | |
| 3 | LMC Scotts Run Holdings LLC | LMC A Lennar Company 950 Herndon Parkway, Suite 240 Herndon, VA 20170 Attn: Stuart Cain | 30-3 ((46)), parcel 2B | 468,200 | 465,026 | Johnson D | 8293-SP-003 in review | \$ 418,523.40 | \$468,023.51 | N | | |
| 4 | SCD Scotts Run LLC | SCD Scotts Run LLC c/o Skanska USA Commercial Dev. Inc. 1776 Wilson Blvd., Suite 250 Arlington, VA 22209 | 30-3 ((46)), parcel 1 | 483,000 | 483,000 | Johnson C | | \$ 434,700.00 | \$486,113.37 | N | | |
| 5 | Taylor Colshire Meadow LLC | 1651 Old Meadow Road Suite 650 Cityline Partners LLC McLean, VA 22102 Attn: Sandy Flanagan | 30-3 ((28)) parcel C3 | 1,039,380 | | Taylor A, B, C | CDP Approved | \$ 935,442.00 | \$1,046,079.74 | N | | |
| 6 | Tysons LW Hotel Associates LP | Tysons LW Hotel Associates LP c/o Lodgeworks Partners LP 8100 E 22nd St, Unit 500 Wichita, KS 67226 | 30-3 ((28)) parcel D3 | 218,200 | 141,879 | Archer Hotel | Site Plan Approved 8293-SP-001 | \$ 127,691.10 | \$137,503.10 | Partial. \$134,920.56 paid on 12/17/2019. \$2,582.54 owing for 2,566 SF outstanding. | \$1,472.10 | |
| 7 | Van Buren 1616 Anderson LLC | 1651 Old Meadow Road Suite 650 Cityline Partners LLC McLean, VA 22102 | 30-3 ((28)), parcel A & 30-3 ((46)), parcel B1 | 473,560 | | Van Buren | CDP Approved | \$ 426,204.00 | \$476,612.52 | N | | |
| 8 | JLB McLean LLC | PO Box 34472 c/o Ryan LLC Washington, DC 20043 | 0303 01 0006A | 475,694 | 475,346 | Gar+E6field A & B | Completed 1217-SP 002 | \$ 427,811.40 | 434,136.34 | Y - Paid on 7/8/2016 | \$31,133.72 | |
| 9 | Westgate 1600 Anderson Road LLC | 1651 Old Meadow Road Suite 650 Cityline Partners LLC McLean, VA 22102 Attn: Sandy Flanagan | 30-3 ((1)) parcels 6B, 6C, and 6F | 414,720 | | Westgate | CDP Approved | \$ 373,248.00 | \$417,393.25 | N | | |
| TOTAL | | | | | | | | \$ 5,580,351.90 | \$6,171,677.48 | | \$ 32,605.82 | |
| TOTAL WITH INTEREST | | | | | | | | | | | | \$ 6,204,283.30 |

Map of Escrow Agreement Area



Board Agenda Item
June 22, 2021

ACTION - 3

Approval of a Parking Reduction for Arbor Row, Block A (Providence District)

ISSUE:

Board of Supervisors (Board) approval of a 9.3 percent reduction (76 fewer spaces) of the required residential parking for Arbor Row, Block A, Tax Map 29-4 ((7)) 10A, 10B (Property).

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction for Arbor Row, Block A, pursuant to Paragraph 5A of Section 11-102 and Paragraph 1 of Section 6-509 of the Zoning Ordinance (Ordinance) based on the property's proximity to mass transit and furtherance of the goals of the Tysons Corner Urban Center, as demonstrated in the parking study #25530-PKS-001 (Attachment II), and subject to the conditions in Attachment I. The requested reduction is for a rate of 1.0 space per zero- and 1-bedroom units, a rate of 1.2 spaces per 2-bedroom units, and no reduction in the rate for 3-bedroom units. Based on the proposed unit mix, the overall reduction in residential parking would be 9.3 percent.

TIMING:

Board action is requested on June 22, 2021.

BACKGROUND:

The Arbor Row, Block A, property was approved for multi-family residential development with supporting ground floor retail under RZ 2011-PR-023, which rezoned this property to the Planned Tysons Corner (PTC) urban district. In the PTC district, minimum parking requirements for residential development are based on the property's distance to a metro station entrance. Block A is located greater than one-quarter to a half mile to the Tysons Corner Metro Station entrance which requires a minimum parking rate of 1.1 space per unit for zero- and one-bedroom units, 1.35 spaces per unit for 2-bedroom units, and 1.6 spaces per unit for 3-bedroom units. The applicant proposes parking rates of 1.0, 1.2, and 1.6 spaces per unit type, respectively. This represents an overall reduction of 9.3 percent based on the currently proposed unit mix.

Recent national data from transit-rich, urban environments, such as Tysons, shows parking demand for multi-family developments are less than the minimum requirements for the PTC district. The rates proposed by the applicant align with Institute of

Board Agenda Item
June 22, 2021

Transportation Engineers (ITE) Parking Generation, 5th Edition (2019) data for similarly located multi-family developments.

Proffers approved with RZ 2011-PR-023, dated September 14, 2011, and revised October 26, 2012, commit the applicant to providing unbundled parking, which means that residential units will be rented exclusive of parking. This provides a cost savings to residents who do not need one or more spaces as well as providing flexibility in managing the parking supply. The applicant also committed to a robust transportation demand management (TDM) program which has a relationship to both parking demand and supply. Encouragement to use other modes of transportation can lead to reduced vehicle ownership which can reduce the need for one or more vehicles to be parked. Conversely, a lower parking supply requires users to make transportation decisions based on availability and cost, which will cause some potential parking users to choose other modes of transportation to and from the site. This request can also be supported due to the site's location in a high-density, mixed-use area. The expectation is that residents within these communities will require less parking as they are able to walk, bicycle, or use public transport to access work/life activities, goods, and services. While residents may not give up vehicle ownership entirely, they are more likely to own fewer vehicles than residents in lower-density areas not well served by transit, thereby reducing parking demand.

The applicant is proposing an overall 9.3 percent reduction of the required residential parking. The required minimum number of spaces is 823; the applicant is proposing a minimum of 747 spaces or 76 fewer spaces overall. The ground floor retail has no minimum required parking consistent with PTC parking rates. A comparison of Ordinance required parking and the proposed parking at full buildout is summarized in Table 1.

Table 1. Comparison of Ordinance Required and Proposed Parking for Arbor Row, Block A, Tax Map 29-4 ((7)) 10A & 10B

| Land Use/Unit Type | Proposed Number of Units | Minimum Rate Required by Ordinance | Ordinance Required Number of Spaces | Proposed Parking Rate | Proposed Minimum Number of Spaces | Proposed Reduction |
|---------------------|--------------------------|------------------------------------|-------------------------------------|-----------------------|-----------------------------------|--------------------|
| Multi-Family | | | | | | |
| 0 to 1-bedroom unit | 469 | 1.1 spaces/unit | 515.9 | 1.0 space/unit | 469.0 | 9.1% |
| 2-bedroom unit | 199 | 1.35 spaces/unit | 268.7 | 1.2 spaces/unit | 238.8 | 11.1% |
| 3-bedroom unit | 24 | 1.6 spaces/unit | 38.4 | 1.6 spaces/unit | 38.4 | 0% |
| Totals | 692 | | 823 | | 747 | 9.3% |

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This recommendation reflects a coordinated review by the Department of Planning and Development, Office of the County Attorney and Land Development Services (LDS).

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I – Parking Reduction Conditions dated April 29, 2021

Attachment II – Parking Reduction Request (25530-PKS-001) from Wells + Associates dated September 18, 2020

STAFF:

Rachel Flynn, Deputy County Executive

William D. Hicks, P.E., Director, Department of Land Development Services (LDS)

Janet Leavitt, P.E., Chief, Site Code Research and Development (SCRD), LDS

Michael Davis, Parking Program Manager, SCR D, LDS

ASSIGNED COUNSEL:

Patrick Foltz, Assistant County Attorney

PARKING REDUCTION CONDITIONS
APRIL 29, 2021

1. These conditions apply to the current owners, their successors and assigns (hereinafter 'owners') of the parcels identified as Tax Map 29-4 ((7)) 10A and 10B.
2. Off-street parking for the uses designated below must be provided at the following parking rates:
 - Residential Multi-Family up to a maximum of 694 units with an approximate mix of 65% 1-bedroom units and 35% 2-bedroom units in accordance with FDP 2011-PR-023-1:
 - 0 to 1-bedroom units: 1.0 space/unit
 - 2-bedroom units: 1.2 spaces/unit
 - 3-bedroom units: 1.6 spaces/unit
3. Any uses not listed in Condition #2 must provide parking at rates required by the Zoning Ordinance.
4. The owners will provide an unspecified number of spaces to serve the commercial uses. Such spaces will be in addition to the minimum number of spaces required for the residential uses. The owners must provide signage to direct customers to the ground level parking area identified for commercial uses. The parking spaces must be marked and managed to accommodate the commercial uses.
5. The site must be developed in substantial conformance with RZ 2011-PR-023.
6. The conditions of approval of this parking reduction must be incorporated into any site plan or site plan revision submitted to the Director of Land Development Services (Director) for approval.
7. The owners must submit a parking space utilization study for review and approval by the Director at any time in the future that the Zoning Administrator or the Director so requests. Following review of that study, or if a study is not submitted within 90 days after its request, the Director may require alternative measures to satisfy the property's on-site parking needs. Such measures may include, but are not limited to, compliance with the full parking requirements specified in the Zoning Ordinance.
8. Any parking utilization study prepared in response to a request by the Zoning Administrator or the Director must be based on applicable requirements of *The Code of the County of Fairfax, Virginia* and the Zoning Ordinance in effect at the time of the study's submission.
9. Any parking provided must comply with the applicable requirements of the Zoning Ordinance and the Fairfax County Public Facilities Manual including the provisions

referencing the Americans with Disabilities Act and the Virginia Uniform Statewide Building Code.

10. These conditions of approval are binding on the owners and must be recorded in the Fairfax County Land Records in a form acceptable to the County Attorney. If these conditions have not been recorded and an extension has not been approved by the Director, approval of this parking reduction request will expire without notice six months from its approval date.

WELLS + ASSOCIATES
MEMORANDUM



11220 Assett Loop
 Suite 202,
 Manassas, VA 20109
 703-365-9262
 WellsandAssociates.com

TO: Michael Davis
 Site Code Research and Development (SCRD)

FROM: Kevin R. Fellin, P.E.

SUBJECT: Parking Reduction Request

RE: Arbor Row – Block A; Tax Map: 29-4 ((7)) 10A and 10B

DATE: September 18, 2020

Purpose: The purpose of this memorandum is to submit a formal parking reduction request to Fairfax County’s Parking Program Manager for a project already zoned PTC in Tysons.

Pre-Submission Meeting: A pre-submission meeting occurred on Wednesday, September 10, 2020 via video conference.

Parking Reduction Request: Reduce the minimum multi-family parking ratio for “0-1 Bedroom” and “2 Bedroom” dwelling units as summarized below.

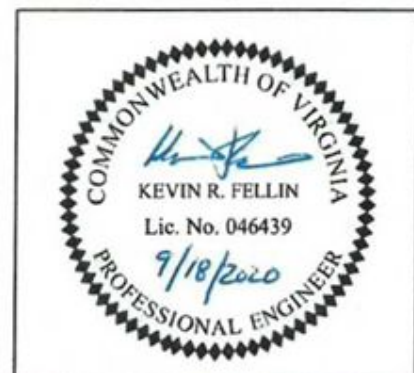
| Tysons TOD District (>1/4 – 1/2 Mile to Metro) Multi-Family | Current Requirement | | Proposed Requirement | | Parking Reduction Request | |
|---|---------------------|-----|----------------------|-----|---------------------------|-----|
| | Min | Max | Min | Max | Min | Max |
| 0-1 Bedroom | 1.1 | 1.4 | 1.0 | 1.4 | -0.1 (-9.1%) | --- |
| 2 Bedroom | 1.35 | 1.7 | 1.2 | 1.7 | -0.15 (-11.1%) | --- |
| 3+ Bedroom | 1.6 | 2.0 | 1.6 | 2.0 | --- | --- |

- (1) Residential parking ratios are per dwelling unit.
- (2) No reduction is requested for units with 3 or more bedrooms.

Applicant: Washington Property Company

Professional Engineers Seal

Filed Concurrently with Application #: TBD



WELLS + ASSOCIATES

MEMORANDUM

Site Location: Block A is located in the southwest quadrant of the Westbranch Drive (N-S)/Westpark Drive (E-W) intersection within Tysons and the Providence Magisterial District of Fairfax County. **See Attachment 1**

Tysons Conceptual

Land Use Map: As depicted in the Comprehensive Plan, the subject site falls within the "Transit Station Mixed-Use" area of Tysons. **See Attachment 2**

Tysons Conceptual

Intensity Map: As depicted in the Comprehensive Plan, the subject site falls within a TOD district that is 1/3 to 1/2 mile from a Metrorail station entrance. **See Attachment 3**

Tax Map #: Tax Map: 29-4 ((7)) 10A and 10B

Parcel Size: ±5.19 Acres

Buildings A1/A2 Development Program:

- ±694 Multi-Family Dwelling Units (DU)
- ±481 DU (0-1 Bedroom, 69.3%)
 - ±185 DU (2 Bedrooms, 26.7%)
 - ±28 DU (3+ Bedrooms, 4.0%)

±8,000 square feet of gross floor area (GFA) of Retail Sales Establishment
or ±6,160 square feet of net floor area (NFA) @ ±77% building efficiency

Site Layout: **See Attachment 4**

Proposed Uses

Subject to

Parking Reduction: Multi-Family 0-1 and 2-bedroom DUs (Only)

Background:

The subject Block A site is part of the overall Arbor Row rezoning application that was rezoned (RZ 2011-PR-023) from the C-3 (Office) to the PTC (Planned Tysons Corner Urban) district subject to proffers dated September 14, 2011, as revised October 26, 2012. Block A was approved for residential uses with support retail. There are no proposed changes to the approved development program on Block A.



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MEMORANDUM

Arbor Row was originally developed with seven (7) office buildings and associated parking lots. To date, at least three of the original office buildings have been demolished in preparation for the site's on-going redevelopment. None of the existing seven (7) original office buildings are proposed to be retained. The Arbor Row development plan included a building program, which encompassed the entire approximate 19-acre site. The eight (8) approved buildings would result in 2,575,685 GSF (gross square feet) of development, all of which are located between 1/4 and 1/2 mile from the Tysons Corner Metrorail Station. The overall FAR (Floor Area Ratio) was calculated at 3.06. The buildings were organized into a series of six new blocks (Blocks A through F) with the various building sites oriented toward Westpark Drive.

On April 5, 2016, the Board of Supervisors approved a PCA/CDPA (2011-PR-023) for Block D subject to proffer revisions dated July 30, 2015 as revised through April 4, 2016. Block D was originally to be developed with a hotel with support/ ancillary retail uses. With the approval of PCA/CDPA 2011-PR-023, Block D was approved for residential uses with support/ ancillary ground floor retail uses. The overall FAR increased to 3.09.

On June 25, 2019, the Board of Supervisors approved a second PCA/CDPA (2011-PR-023-02) for Blocks B, C1, and C2 subject to proffer revisions dated May 7, 2018 as revised through May 31, 2019. Block B, C1, and C2 were originally to be developed with office uses with support/ancillary retail uses. With the approval of PCA/CDPA 2011-PR-023-2, Blocks B/C1 were approved for a continuing care facility (CCF) while Block C2 remained office. The overall FAR remained the same.

Zoning District: The referenced property is currently zoned PTC (Planned Tysons Corner Urban District) that permits the subject uses of Block A.

Existing Parking Reductions: There are no existing parking reductions in place for any of the existing or approved/unbuilt uses associated with Arbor Row beyond current PTC parking requirements.

TOD District: The subject site is located within a Tysons designated Transit Oriented Development District that is quantified by the Comprehensive Plan as being >1/4 mile – 1/2 mile to a Metrorail Station entrance.



WELLS + ASSOCIATES

MEMORANDUM

Block A Parking Requirement:

Current PTC Code Parking Requirement (1) (2)

| Uses | Amount | Units | Current Parking Ratio Requirements | | PTC Code Required Spaces | |
|---------------------------------------|-------------------|------------|------------------------------------|-----|--------------------------|--------------|
| | | | Min | Max | Min | Max |
| MF 0-1 Bedroom | 481 | DU | 1.1 | 1.4 | 529.1 | 673.4 |
| MF 2 Bedroom | 185 | DU | 1.35 | 1.7 | 249.8 | 314.5 |
| MF 3+ Bedroom | 28 | DU | 1.6 | 2.0 | 44.8 | 56.0 |
| Retail Sales Est. | 8,000 | GFA | | | | |
| 1 st 5,000 GFA | 5,000 | GFA | 0 | 0 | 0 | 0 |
| Remaining Floor Area | 3,000 or 2,310 | GFA NFA | 0 | 6.0 | 0 | 13.9 |
| Total PTC Code Required Spaces | | | | | 824 | 1,058 |

Proposed Parking Requirement (1) (2)

| Uses | Amount | Units | Proposed Parking Ratio Requirements | | Proposed Required Minimum Spaces | |
|---|-------------------|------------|-------------------------------------|-----|----------------------------------|--------------|
| | | | Min | Max | Min | Max |
| MF 0-1 Bedroom | 481 | DU | 1.0 | 1.4 | 481.0 | 673.4 |
| MF 2 Bedroom | 185 | DU | 1.2 | 1.7 | 222.0 | 314.5 |
| MF 3+ Bedroom | 28 | DU | 1.6 | 2.0 | 44.8 | 56.0 |
| Retail Sales Est. | 8,000 | GFA | | | | |
| 1 st 5,000 GFA | 5,000 | GFA | 0 | 0 | 0 | 0 |
| Remaining Floor Area | 3,000 or 2,310 | GFA NFA | 0 | 6.0 | 0 | 13.9 |
| Total Proposed Minimum Spaces | | | | | 748 | 1,058 |
| Difference (Proposed minus Code) | | | | | (76) | 0 |

(3) Residential parking ratios are per dwelling unit.

(4) Retail Sales Establishment parking ratios are per 1,000 NFA where the first 5,000 GFA located on the ground or street level is not included in the calculation of required parking.

Overall Parking Supply:

The site's overall parking supply will be equal to or between the proposed minimum and the current PTC maximum required spaces. The overall Block A parking supply will collectively serve both the Block A1 and Block A2 buildings allowing the sharing of spaces as needed. Parking will be primarily provided through a combination of structured garage spaces beneath the Block A1 and Block A2 buildings as well as surface spaces on-site. The structured parking garages beneath Block A1 and Block A2 will be interconnected to support vehicular traffic movements.



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MEMORANDUM

Commercial

Parking Supply:

Even though the minimum parking requirement for commercial uses within a PTC TOD District is zero (0) parking spaces, the actual commercial parking supply will be dependent on the use. Neighborhood serving retail will require fewer parking spaces where destination retail (e.g. restaurants) will require more parking spaces. The project will accommodate commercial parking spaces on-site through a combination of dedicated spaces and/or spaces that could be shared with the residential spaces. If a destination commercial use is secured, supplemental parking spaces could be provided utilizing an attendant (valet) parking program during the peak parking demand periods.

Parking Reduction

Request Basis:

Section 11-102.5.A of the County's Zoning Ordinance states:

"Subject to conditions it deems appropriate, the Board may reduce the number of off-street parking spaces otherwise required by the strict application of the provisions of this Part when a proposed development is within:

- A. *Reasonable walking distance to a mass transit station wherein the station either exists or is programmed for completion within the same time frame as the completion of the subject development;"*

Other Factors:

The following is list of other supporting factors that include National Parking Data, excerpts from the approved Final Development Plan (FDP), proffers, and other information.

1. **National Parking Data.** The Institute of Transportation Engineers (ITE) Parking Generation Manual, 5th Edition was published in 2019 to provide additional information to assist analysts to forecast parking demands. It provides various parking ratios for specific land uses that were developed through numerous nationwide data collection efforts. As such, ITE published a parking supply ratio of 0.8 spaces per bedroom for mid-rise multifamily housing sites that are considered "General Urban/Suburban – Within ½ mile of rail transit". When ITE's parking supply ratio of 0.8 spaces per bedroom was applied to the proposed unit mix [481 1-BR units, 185-2BR units, and 28-3+BR units], the resulting overall minimum parking requirement would be 748 spaces which equals the resulting 748 spaces provided by the proposed minimum parking ratios of 1.0 spaces per 1-BR dwelling units, 1.2 spaces per 2-BR dwelling units, and 1.6 spaces per 3+BR units.
2. **FDP Development Tabulations, Note 6.** Parking required and provides is estimated based on FDP documents. For reporting purposes herein, residential parking is based on an approximate unit type mix of 65% 1 BR and 35% 2 BR. Number of



WELLS + ASSOCIATES

MEMORANDUM

required parking spaces may be changed based on final dwelling unit count, final bedroom mix, final specific building uses, and final GFA, which is to be determined at the time of final site plan. The Applicant reserves the right to provide more or less parking at the time of final site plan provided the allowable parking rates set forth in Sect. 6-509 are not exceeded at the build out of the overall development.

3. **Proffer 84 - Parking Requirements.** Parking on the Subject Property shall be provided in accordance with the parking requirements for the PTC District set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDP. Tandem and valet parking shall be permitted and, subject to Board approval, shall count toward parking requirements. Tandem parking spaces may be used for residential units with two cars and in office and hotel buildings where spaces are assigned by building management. The exact number of parking spaces to be provided for each Block shall be refined with approval of the FDP and determined at the time of site plan approval based on the specific uses of each Block. If changes in the mix of uses or unit types result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking garages, so long as the maximum height and footprints of the parking garages do not increase from that shown on the CDP. Parking at revised ratios may be provided, as may be permitted by a future amendment to the Zoning Ordinance. Optional use of revised ratios shall not require a PCA, CDPA or FDPA, provided there is no increase in the size or height of above-grade parking garages beyond minor adjustments to what is shown on the CDP.
4. **Proffer 89 – Unbundle Parking for Residential Uses.** All for-sale residential units must be offered exclusive of parking (i.e., at a separate cost). All leases for residential units shall be offered exclusive of parking.
5. **Arbor Row Staff Report Statement [via September 12, 2012 Staff Report, Page 43 (or PDF Page 265 of 709)].** “The parking tabulations provided by the applicant on the CDP show that 4,128 parking spaces will be provided on-site in parking structures. This parking will be spread across all the blocks in the proposed neighborhood. While the tabulations show that this application is providing fewer than the maximum number of parking spaces allowed, the applicant has proffered to conform to the Zoning Ordinance requirements on parking, which allows the applicant some leeway to provide more parking than depicted on the CDP. Staff continues to urge the applicant to provide the fewest parking spaces needed to adequately support the uses on-site.”



WELLS + ASSOCIATES

MEMORANDUM

6. **Tysons Circulator Access.** Fairfax Connector – Route 423 (Park Run – Westpart) is an existing Tysons Circulator bus route that currently serves the site with bus stops along Westpark Drive. This circulator route provides bus service to the Tysons Corner Metrorail Station on weekdays and the weekend.
7. **Transportation Demand Management (TDM).** Arbor Row is subject to a robust TDM proffer (Proffer 78) that has a goals to reduce peak hour vehicle trips and support non-auto modes of transportation.

**Impact to the
Adjacent Area:**

Section 11-102.5 of the County’s Zoning Ordinance states a parking reduction based on unique characteristics “*will not adversely affect the site or the adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods.*”

Given the parking reduction is located within the Tysons Urban Center TOD District, County staff strongly urges Applicants to provide the fewest parking spaces needed to adequately support the uses. Further, the subject parking reduction is limited to only to the site’s 1-Bedroom (9.1% reduction) and 2-Bedroom (11.1% reduction) unit types.

Please see the contact information below if you have any questions or might require any additional materials.

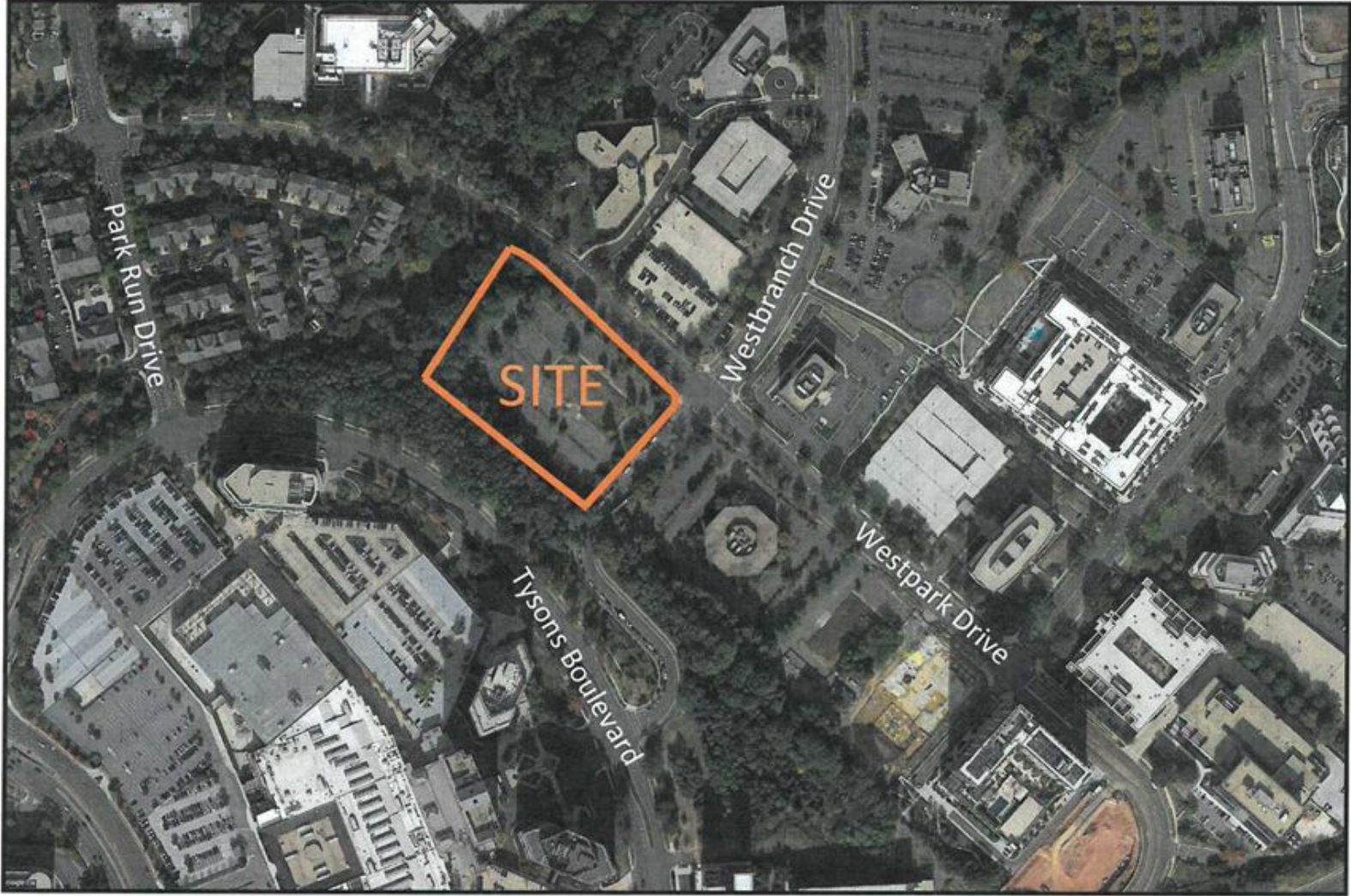
Contact

Information:

Kevin R. Fellin, P.E. (Submitter)
Wells+Associates
11220 Assett Loop
Suite #202
Manassas, Virginia 20109
krfellin@wellsandassociates.com
703-676-3652

Daryl South (Applicant)
Washington Property Company
4719 Hampden Lane
Bethesda, Maryland 20814
dsouth@washproperty.com
240-482-8108



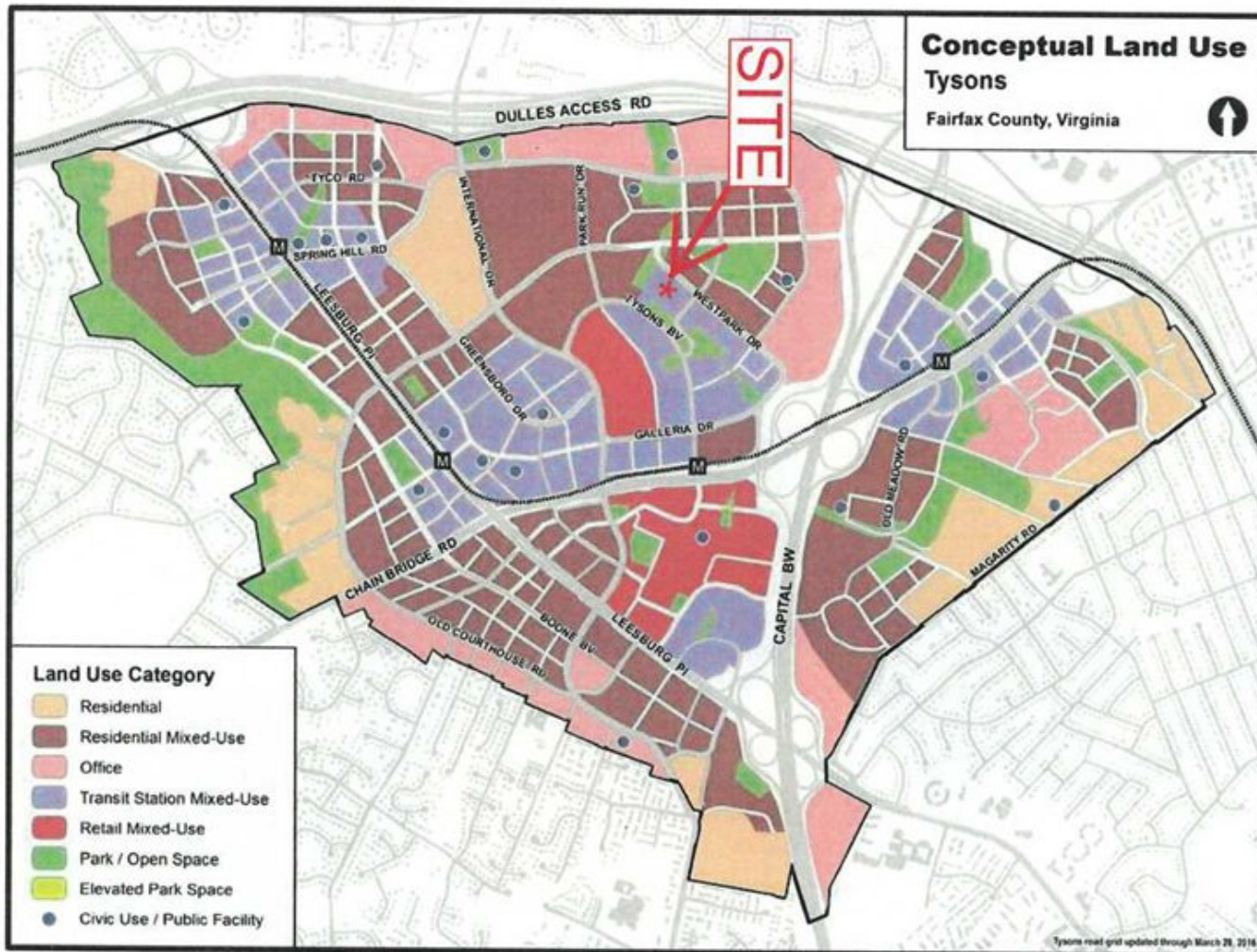


Attachment 1
Site Location Map



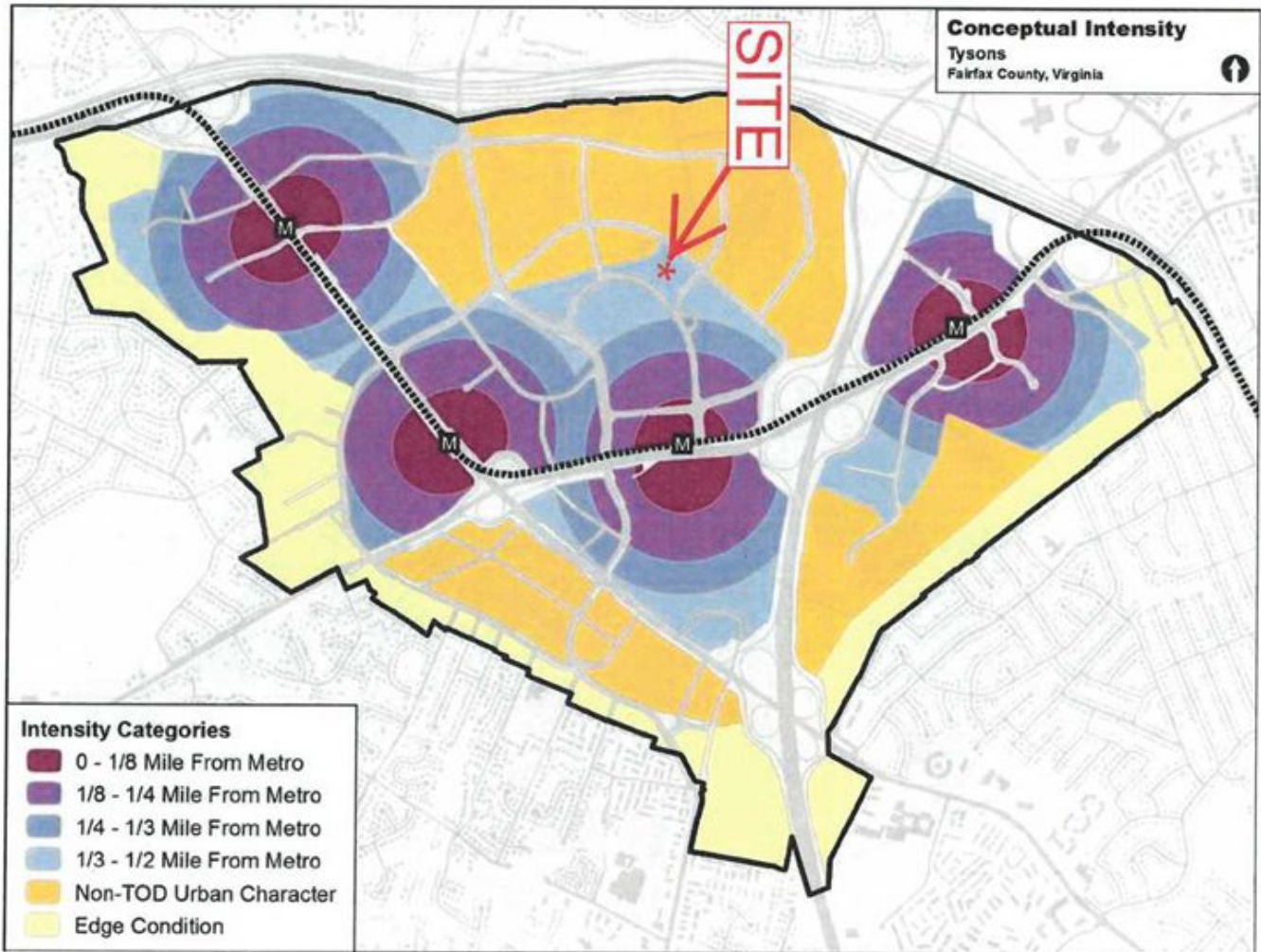
Arbor Row - Block A
Fairfax County, Virginia





Note: Planned park spaces are shown conceptually on Map 9.

MAP 3



MAP 4

PROJECT:
ARBOR ROW

PROJECT OWNER:
WESTPARK AND WESTBRANCH-PRIVATE
MEDICAL HQ 22702

DATE: 08-15-18

WASHINGTON
PROPERTY
COMPANY

PROJECT ADDRESS:

SCHEMATIC DESIGN

DATE: 08-15-18

DESIGNED BY: [REDACTED]

DATE: 08-15-18

DESIGNED BY: [REDACTED]

DATE: 08-15-18

DESIGNED BY: [REDACTED]

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ARCHITECTURAL SITE
PLAN

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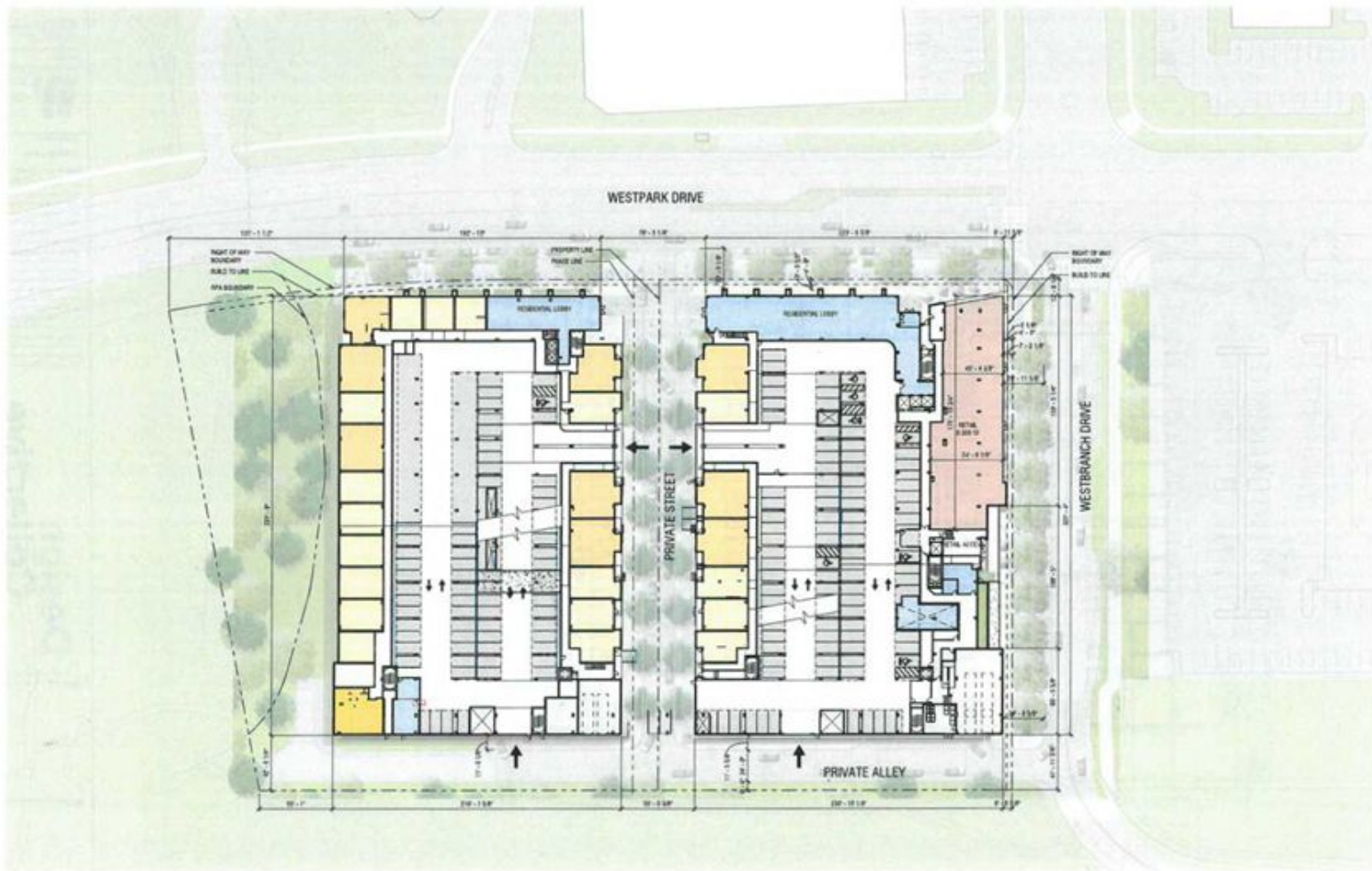
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A100



LEVEL 1 - SITE PLAN



Board Agenda Item
June 22, 2021

ACTION - 4

Adoption of a Resolution to Apply to the State Board of Elections for a Waiver to Administer a Split Precinct for the Lorton Precinct in the Mount Vernon District, Pursuant to Virginia Code Section 24.2-307

ISSUE:

A resolution to apply to the State Board of Elections (State Board) for a waiver to administer Lorton precinct in the Mount Vernon District as a precinct split between Virginia House of Delegates District 42 and Virginia House of Delegates District 43, as required by Virginia Code Section 24.2-307, and authorizing Office of Elections staff to submit a waiver application on behalf of the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution, confirming its decision to apply to the State Board for a waiver to administer a split precinct for the Lorton precinct, and authorizing Office of Elections staff to submit an application on behalf of the Board.

TIMING:

Board action is requested on June 22, 2021.

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 general election, precincts that are currently split by House of Delegates district lines must be divided and redrawn to eliminate the split. However, if division would result in a County precinct with fewer than 100 voters, then Section 24.2-307 requires that the Board of Supervisors apply to the State Board for a waiver to administer a split precinct for the year in which the waiver is granted. The State Board may grant the waiver or may require the locality to operate a precinct with fewer than the minimum number of voters otherwise required. The Virginia Department of Elections (ELECT) has established a website for submission of such applications, which requires attachment of a resolution or motion confirming the governing body's decision to seek a waiver.

The County currently has five precincts that are split between Virginia House of

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Delegates districts. Four of the split precincts, the Lane precinct in the Lee District; and Baileys, Weyanoke, and Camelot precincts in the Mason District, can be divided without resulting in precincts with fewer than 100 voters. Those four precincts are the subject of a Public Hearing on June 22, 2021.

However, Lorton precinct is currently split between House of Delegates District 42 and House of Delegates District 43, and eliminating the split would create a precinct with fewer than 100 voters. As a result, Section 24.2-307 requires that the Board apply to the State Board for a waiver to administer Lorton precinct as a split precinct for elections held this calendar year. 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. Until that time and for the reasons above, staff recommends that the Board of Supervisors confirm its decision to seek, and authorize Office of Elections staff to file an application for, a waiver to administer Lorton precinct as a split precinct via adoption of the attached resolution (Attachment 2).

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Election Precincts and Polling Places
Attachment 2: Resolution to Apply for a Waiver to Administer Lorton Precinct in the Mount Vernon District as a Split Precinct

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.)

1 **RESOLUTION TO APPLY FOR A WAIVER TO ADMINISTER LORTON PRECINCT IN THE**
2 **MOUNT VERNON DISTRICT AS A SPLIT PRECINCT**

3
4 At a regular meeting of the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”)
5 held in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center
6 Parkway in Fairfax, Virginia, held on June 22, 2021, the following resolution was adopted:
7

8 **WHEREAS**, Virginia Code Section 24.2-307, as amended in 2020, requires each precinct to be wholly
9 contained within a single congressional, Senate, House of Delegates, and local election district throughout
10 the County for each election year, and
11

12 **WHEREAS**, Virginia Code Section 24.2-307 further requires, in each year ending in one, that local
13 governing bodies establish precinct boundaries consistent with congressional, Senate, House of Delegates,
14 and local election district lines adopted by the appropriate authority by June 15 of that year, unless any
15 such districts lines have not been adopted by June 15, in which case the governing body may use the
16 district lines as they existed on June 15 in establishing the precinct boundaries to be used for the elections
17 to be held in November of that year, and
18

19 **WHEREAS**, all Virginia House of Delegates seats are on the ballot in the November 2021 general
20 election, and
21

22 **WHEREAS**, legislation to redraw the Virginia House of Delegates districts will not be adopted before
23 June 15, 2021, and therefore the districts currently in effect will be used for the elections to be held in
24 November 2021, and
25

26 **WHEREAS**, the Lorton precinct in the Mount Vernon District is currently split between House of
27 Delegates District 42 and House of Delegates District 43, and
28

29 **WHEREAS**, the moratorium on changes to precinct boundaries imposed in anticipation of decennial
30 redistricting under Virginia Code Section 24.2-309.2 ended as of May 15, 2021, and
31

32 **WHEREAS**, Virginia Code Section 24.2-307 further requires that County precincts have no fewer than
33 100 registered voters, and
34

35 **WHEREAS**, Virginia Code Section 24.2-307 further requires that a locality’s governing body must apply
36 to the State Board of Elections for a waiver to administer a split precinct if a split cannot be eliminated
37 without creating a precinct that has fewer than the permitted, minimum number of voters, and
38

39 **WHEREAS**, eliminating the House of Delegates split in the Lorton precinct would result in a precinct
40 containing fewer than 100 registered voters; and
41

42 **WHEREAS**, the State Board of Elections will permit Office of Elections staff to submit such a waiver
43 application on behalf of the Board of Supervisors if the Board has adopted a resolution confirming its
44 decision to seek a waiver, and
45

46 **NOW THEREFORE BE IT RESOLVED** that the Board of Supervisors, in accordance with Virginia
47 Code Section 24.2-307, shall apply to the State Board of Elections for a waiver to administer the Lorton
48 precinct as a split precinct for any elections held in 2021; and

49
50 **BE IT FURTHER RESOLVED** that Office of Elections staff may file the Board’s waiver application, in
51 accordance with the procedures of the State Board of Elections.

52
53

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

54
55
56

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

57
58
59

ACTION - 5

Approval of the Affordable Housing Advisory Council (AHAC) and Continuum of Care (CoC) Charters and Membership Structure

ISSUE:

Board of Supervisors (Board) approval of the charters for the Affordable Housing Advisory Council (AHAC), formerly known as the Affordable Housing Advisory Committee, and the Continuum of Care (CoC) Committee as a committee of AHAC; and the membership structure of AHAC.

RECOMMENDATION:

The County Executive recommends approval of the AHAC and CoC Committee charters, and recommends the AHAC membership structure, including confirming appointments of existing members. The County Executive further recommends instituting a three-year retrospective to evaluate the efficacy of the AHAC structure.

TIMING:

Board action is requested on June 22, 2021, in order for the AHAC and CoC Committee charters to begin with Fiscal Year 2022.

BACKGROUND:

The AHAC was first established by the Board on May 23, 2005, with an initial purpose to oversee and provide advice regarding the original Penny for Affordable Housing. AHAC recommended goals and priorities, defined “affordability,” provided guidance on the Penny Fund’s business plan and procedures, monitored effectiveness of the Penny Fund and enhanced community outreach.

The U.S. Department of Housing and Urban Development’s (HUD) Rule 24 CFR 578, Subpart B, entitled “Establishing and Operating a Continuum of Care,” requires that communities receiving homeless assistance funding must have a board to act on behalf of the stakeholders. In 2008, the Governing Board of the Partnership to Prevent and End Homelessness (OPEH) was created to comply with this HUD requirement. In 2020, OPEH merged with the Department of Housing and Community Development (HCD), and the Governing Board was dissolved.

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As a result of the dissolution, a new board must be established to remain in compliance with HUD requirements. Because OPEH has merged with HCD, the updated AHAC structure will include the CoC Committee, which will act as the HUD-required board. The AHAC and CoC Committee Charters (Attachments 1 and 2) are intended to promote a common understanding as to the purpose, duties, and method of operation for AHAC and the CoC Committee respectively. Importantly, this update intentionally connects AHAC and the CoC Committee with the principles of the One Fairfax racial and social equity policy and embraces housing as fundamental to equitable communities.

Each AHAC and CoC Committee member will serve a two-year term on alternating annual fiscal year cycles. The AHAC Co-Chairs will each serve four-year terms on alternating biennial fiscal year cycles. To ensure continuity between AHAC and the CoC Committee, the Chair of the CoC Committee will also serve on AHAC.

To allow for continuity, the proposed membership structure as set forth in Attachment 3 recommends that thirteen existing AHAC members each serve an initial one-year term for the July 1, 2021-June 30, 2022 period. Attachment 3 also proposes for continuity that the two existing Co-Chairs serve initial terms – one for two years and one for four years. Five seats on AHAC will need appointments for the initial one-year term and sixteen appointments will be necessary to serve the July 1, 2021-June 30, 2023 initial two-year term. Appointments by the Board of Supervisors to AHAC will be managed through the Chairman's office. Additionally, appointments will be made by the Director of the Department of Housing and Community Development as well as specific Boards, Authorities and Commissions in accordance with Attachment 3. These appointments will also be confirmed by the Board.

AHAC will meet on a quarterly basis, with additional meetings as needed. AHAC may establish an Executive Committee and committees or working groups as needed to accomplish its goals. AHAC will provide regular reports to the Board of Supervisors and County Executive, the Fairfax County Redevelopment and Housing Authority and other related Boards, Authorities and Commissions, as needed to ensure progress in achieving the Communitywide Housing Strategic Plan, the Countywide Strategic Plan and any additional adopted or successor affordable housing development or preservation guidance.

Likewise, the CoC Committee will meet on a quarterly basis, with additional meetings as needed. The CoC Committee may establish subcommittees or working groups as needed to accomplish its goals. The CoC Committee will develop regular reports that will be provided by AHAC to the Board of Supervisors and County Executive, Fairfax County Continuum of Care and other related boards, authorities and commissions as

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needed to ensure progress in achieving the goal of preventing and ending homelessness.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Affordable Housing Advisory Council Charter

Attachment 2 – Continuum of Care Committee Charter

Attachment 3 – Affordable Housing Advisory Council Membership

STAFF:

Christopher Leonard, Deputy County Executive

Thomas Fleetwood, Director, Department of Housing and Community Development (HCD)

Teresa Lepe, Deputy Director, Real Estate, Finance and Development, HCD

Tom Barnett, Deputy Director, Office to Prevent and End Homelessness (OPEH), HCD

Judith Cabelli, Director, Affordable Housing Development Division, HCD

Jamie Ergas, Continuum of Care Manager, OPEH, HCD

ASSIGNED COUNSEL:

Cynthia A. Bailey, Deputy County Attorney

Susan Timoner, Assistant County Attorney

**CHARTER
AFFORDABLE HOUSING ADVISORY COUNCIL**

- TITLE:** **Affordable Housing Advisory Council (AHAC)**
This Charter is intended to promote a common understanding as to the Affordable Housing Advisory Council’s purpose, duties and method of operation.
- DATE INITIATED:** July 1, 2021
- PURPOSE:** Recognizing that housing is foundational for all, the purpose of the Council is to provide recommendations to the Board of Supervisors, consistent with the One Fairfax initiative, regarding the implementation and achievement of the Communitywide Housing Strategic Plan, County resource requirements identified in the annual Budget Guidance, any additional adopted affordable housing development or preservation guidance, as well as recommendations on overarching policies and programs that synthesize County efforts related to both housing affordability and homelessness.
- STRUCTURE:** The Affordable Housing Advisory Council (AHAC) will include the Continuum of Care Committee (CoC). The Council and its Committee will each have separate governing documents to enable the successful implementation of duties. To ensure continuity between the Council and its Committee, the Chair of the CoC Committee will serve on AHAC.
- RESTRICTIONS:** None
- STAFF:** Director, Department of Housing and Community Development
- TERM:** Each Council member will serve a two-year term on alternating annual fiscal year cycles. The Co-Chairs will each serve four-year terms on alternating biennial fiscal year cycles.
- DUTIES:** The Council will:
- Use an equity lens in all its work and recommendations to determine who benefits and who is burdened by past and current actions, how to mitigate burdens, and how housing benefits might be more broadly shared and, by cultivating an inclusive culture that intentionally includes diverse perspectives and interests represented by individuals who reflect the County’s diversity and are committed to housing affordability for all throughout the County;

- Monitor and provide advice regarding the progress toward achieving the Communitywide Housing Strategic Plan recommendations, with a particular focus on the housing unit production and preservation goals specified by the Affordable Housing Resource Panel, included in the annual Budget Guidance, and any additional adopted affordable housing development or preservation guidance;
- Enhance community outreach by communicating with and educating the public about the benefits to the whole community of having housing that is affordable to all residents; the importance of preserving the affordable housing opportunities to prevent displacement and maintain affordable housing opportunities throughout the County; the importance and goals of the Communitywide Housing Strategic Plan, the Countywide Strategic Plan and any additional adopted or successor affordable housing development or preservation guidance, and resource requirements to achieve the goals;
- Recommend affordable housing development and preservation fund goals and priorities;
- Review and provide guidance for the use of funds allocated for the equitable development and preservation of affordable housing;
- Monitor effectiveness of affordable housing fund(s) on a biennial basis and suggest course corrections as needed;
- Recommend innovative affordable housing strategies;
- Review CoC Committee recommendations going to the Board of Supervisors to ensure alignment with the Communitywide Housing Strategic Plan;
- Synthesize and develop overarching policy and program recommendations for affordable housing and homelessness; and
- Understand housing affordability and homelessness challenges in the broader context of poverty, education, health, ability, economic mobility, and systemic racism.

METHOD OF OPERATIONS:

The Council will meet on a quarterly basis, and as needed. The Council may establish an Executive Committee, committees or working groups as needed to accomplish its goals. The Council will provide regular reports to the Board of Supervisors and County Executive, the Fairfax County Redevelopment and Housing Authority and other related boards, authorities and commissions, as needed to ensure progress in achieving the Communitywide Housing Strategic Plan, the Countywide Strategic Plan and any additional adopted or successor affordable housing development or preservation guidance.

**CHARTER
CONTINUUM OF CARE COMMITTEE**

- TITLE:** **Continuum of Care (CoC) Committee**
This Charter is intended to promote a common understanding among the members of the Continuum of Care Committee as to the Committee’s purpose, duties and method of operation.
- DATE INITIATED:** July 1, 2021
- PURPOSE:** As a Committee of the Affordable Housing Advisory Council, the purpose of the Continuum of Care Committee is to provide community leadership and policy guidance, consistent with the One Fairfax policy, to ensure the successful end to homelessness in the Fairfax-Falls Church community. The Committee serves in compliance with the U.S. Department of Housing and Urban Development (HUD) Rule 24 CFR 578, Subpart B, entitled “Establishing and Operating a Continuum of Care.”
- RESTRICTIONS:** None
- STAFF:** Deputy Director, Office to Prevent and End Homelessness, Department of Housing and Community Development
- TERM:** Each Committee member will serve a two-year term on alternating annual fiscal year cycles. The Chair of the Continuum of Care Committee will serve on the Affordable Housing Advisory Council.
- DUTIES:** The Committee will:
- Use an equity lens in all its work and recommendations to determine who benefits and who is burdened by past and current actions, how to mitigate burdens, and how housing benefits might be more broadly shared and, by cultivating an inclusive culture that intentionally includes diverse perspectives and interests represented by individuals who reflect the County’s diversity and are committed to housing affordability for all throughout the County;
 - Develop, monitor, and update the Continuum of Care’s Strategic Plan to prevent and end homelessness;
 - Exercise executive stewardship over the pooled funding and resources available for addressing homelessness in the Fairfax-Falls Church community;
 - Review and monitor aggregate CoC-wide performance of all CoC and ESG programs through HMIS data, such as the Annual Progress Report (APR), Annual Homeless Assessment

Report (AHAR), HUD System Performance Measures, Longitudinal System Analysis (LSA), Point in Time (PIT) count, and Housing Inventory Chart (HIC);

- Promote shared responsibility and decision-making among all partners;
- Involve and engage all segments of the community to ensure their participation in the work of preventing and ending homelessness;
- Enhance outreach to the community by communicating with and educating the public about the benefits to everyone in the community to ending

METHOD OF OPERATIONS:

The Committee as a whole will meet on a quarterly basis, and as needed. The Committee may establish subcommittees or working groups as needed to accomplish its goals. The Committee will develop regular reports that will be provided by the Council to the Board of Supervisors, Fairfax County Continuum of Care and other related boards, authorities and commissions as needed to ensure progress in achieving the goal of preventing and ending homelessness.

Affordable Housing Advisory Council Membership

| APPOINTMENT | TERM | | | | |
|--|---|----------------------------------|--------------------------------|--------------------------------|---------------|
| | July 1, 2021- June 30, 2022 | July 1, 2022- June 30, 2023 | July 1, 2023- June 30, 2024 | July 1, 2024- June 30, 2025 | |
| | Four Year Co-Chair Term 1 ¹ | | | | |
| | Four Year Co-Chair Term 1 ² | | Four Year Co-Chair Term 1 | | |
| | Even Year Term | Even Year Term | Even Year Term | Even Year Term | |
| | Odd Year Term | | Odd Year Term | | |
| Appointed by the Board of Supervisors | | | | | |
| 1 | Co-Chair Appointed by Chairman | Kerrie Wilson ² | Kerrie Wilson | Kerrie Wilson | Kerrie Wilson |
| 2 | Co-Chair Appointed by Chairman | Richard Sullivan Jr ³ | Richard Sullivan Jr. | | |
| 3 | Braddock | | | | |
| 4 | Dranesville | | | | |
| 5 | Hunter Mill | | | | |
| 6 | Lee | | | | |
| 7 | Mason | | | | |
| 8 | Mt. Vernon | | | | |
| 9 | Providence | | | | |
| 10 | Springfield | | | | |
| 11 | Sully | | | | |
| Appointed by the Director of the Department of HCD, Confirmed by the Board of Supervisors | | | | | |
| 12 | Business, Economic Development, Health | | | | |
| 13 | Business, Economic Development, Health | John Boylan ⁴ | | | |
| 14 | Business, Economic Development, Health | Ava Nguyen ⁴ | | | |
| 15 | For-Profit Real Estate Industry | Nicholas Bracco ⁴ | | | |
| 16 | Affordable Housing Developer/Owner | Shelley Murphy ⁴ | | | |
| 17 | Advocacy Group | David Levine ⁴ | | | |
| 18 | Advocacy Group | | | | |
| 19 | Financial Institution | | | | |
| 20 | Faith Community | Jon Smoot ⁴ | | | |
| 21 | Consumer Appointee | | | | |
| 22 | Consumer Appointee | | | | |
| Confirmed by the Board of Supervisors | | | | | |
| 23 | Disability Services Board | Cookie Blitz ⁴ | | | |
| 24 | Redevelopment and Housing Authority | Richard Kennedy ⁴ | | | |
| 25 | Human Services Council | Jerry Poje ⁴ | | | |
| 26 | Community Action Advisory Board | Ken McMillon ⁴ | | | |
| 27 | Alliance for Human Services | Maureen Blum ⁴ | | | |
| 28 | Northern Virginia Affordable Housing Alliance | Michelle Krockner ⁴ | | | |
| 29 | NAACP | Mary Paden ⁴ | | | |
| 30 | Advisory Social Services Board | | | | |
| 31 | Community Services Board | | | | |
| 32 | Fairfax County Public Schools School Board | | | | |
| 33 | Planning Commission | | | | |
| 34 | Health Care Advisory Board | | | | |
| 35 | Human Rights Commission | | | | |
| 36 | Chair of Continuum of Care Committee | | | | |

¹Co-Chair Terms to Last Four Years on Opposing Two Year Cycles²Current AHAC Co-Chair to Assume Four Year Term³Current AHAC Co-Chair to Assume Two Year Term⁴Current AHAC Member to Remain for One Year Term

AHAC Member Affiliations

Member and Role

Kerrie Wilson, Cornerstones, Inc., Co-Chair
The Honorable Richard C. "Rip" Sullivan, Jr., Virginia Housing of Delegates, Co-Chair
Cookie Blitz, Disability Services Board
Marlene W. Blum, Alliance for Human Services
John Boylan, Dulles Regional Chamber of Commerce
Nicholas Bracco, The Michaels Development Group
Richard Kennedy, Fairfax County Redevelopment and Housing Authority
Michelle Krockner, Northern Virginia Affordable Housing Alliance
David Levine, Good Shepherd Housing
Ken McMillon, Community Action Advisory Board
Shelley Murphy, Wesley Housing
Ava Nguyen, Northern Virginia Association of Realtors
Mary Paden, NAACP
Jerry Poje, Human Services Council
Jon Smoot, Habitat for Humanity of Northern Virginia

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ACTION - 6

Authorization for the Department of Transportation to Apply for Funding and Endorsement for the United States Department of Transportation's FY 2021 Rebuilding American Infrastructure with Sustainability and Equity Discretionary Grant Program (Lee and Mount Vernon Districts)

ISSUE:

Board of Supervisors authorization is requested for the Fairfax County Department of Transportation (FCDOT) to apply for funding from the United States Department of Transportation (USDOT) FY 2021 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant Program. Funding in the amount of \$25.0 million will be requested for the Richmond Highway Bus Rapid Transit (BRT) Project. The project application requires a project endorsement resolution (Attachment 1) from the local governing body; therefore, Board approval of Attachment 1 is also requested.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize FCDOT to apply for funding in the amount of \$25.0 million through the FY 2021 RAISE Discretionary Grant Program and to adopt the project endorsement resolution in substantial form of Attachment 1.

TIMING:

Board approval is requested on June 22, 2021, to meet the submission deadline of July 12, 2021.

BACKGROUND:

The FY 2021 Consolidated Appropriations Act appropriated \$1.0 billion to be awarded by the USDOT for National Infrastructure Investments. In addition, on April 13, 2021, USDOT issued a Notice of Funding Opportunity for the FY 2021 RAISE grant program. The RAISE Grant Program is a successor to the Better Utilizing Investments to Leverage Development (BUILD) and Transportation Investment Generating Economic Recovery (TIGER) grant programs.

The FY 2021 RAISE grants are for capital investments in surface transportation that will have a significant local or regional impact. Eligible projects include, but are not limited to:

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- Highway, bridge, or other road projects
- Public transportation projects
- Passenger and freight rail transportation projects
- Port infrastructure investments
- Intermodal projects
- Transportation facilities on tribal land
- Planning and pre-construction activities for any of the above

RAISE grant applications will be evaluated based on the following criteria: safety, environmental sustainability, quality of life, economic competitiveness, state of good repair, innovation, and partnership. The FY 2021 Appropriations Act states that FY 2021 RAISE funds are only available for obligation through September 30, 2024, and must be expended by September 30, 2029.

Formal Board authorization is requested for FCDOT to apply for FY 2021 RAISE Grant funds. FCDOT staff reviewed the program's criteria and recommends applying for the Richmond Highway Bus Rapid Transit (BRT) Project, previously approved by the Board in the Transportation Priorities Plan on January 28, 2014, as revised on December 3, 2019. FCDOT will be seeking the maximum grant award of \$25.0 million. The following is a brief description of the project:

The Richmond Highway BRT project includes median running BRT along Richmond Highway (US Route 1) from the Huntington Metrorail Station to Fort Belvoir. This multi-modal project will include: nine new transit stations; cycle tracks for bicyclists; continuous sidewalks; while accommodating automobiles and other motorized vehicles. The project will also include Intelligent Transportation System improvements to facilitate BRT service, e.g., transit signal priority and signal pre-emption for emergency vehicles.

In May 2015, the Fairfax County Board of Supervisors endorsed Phases 1 and 2 as the preferred transit alternative, which implements median running BRT from the Huntington Metrorail Station area to Fort Belvoir. The County is working with a Project Management Consultant (PMC) team that is helping with the delivery of the first two phases of the project including BRT design, environmental compliance, and funding strategy. The project team is currently undertaking design and environmental work.

FISCAL IMPACT:

The total project estimate is \$730.0 million. To date, the County has secured approximately \$335.8 million to support this project. Grant funding of \$25.0 million is being requested from USDOT for the Richmond Highway BRT project. The total

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required non-Federal match of 20 percent (\$5 million) will be met using Northern Virginia Transportation Authority (NVTA) regional funding. No new General Fund resources are required. If funding is awarded, staff will submit another item to accept the award and the associated appropriation.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of Endorsement for FY2021 United States Department of Transportation RAISE Grant Program Grant Application

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT

Noelle Dominguez, Chief Coordination Section, CFD, FCDOT

Ray Johnson, Chief, Funding Section, CFD, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, June 22, 2021, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses and approves a submission to the United States Department of Transportation Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant Program for \$25,000,000 in funding for the Richmond Highway Bus Rapid Transit Project.

Adopted this 22nd of June, 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

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ACTION - 7

Approval of the Consolidated Community Funding Advisory Committee
Recommendations for the FY 2023 and FY 2024 Funding Categories for the
Consolidated Community Funding Pool

ISSUE:

Board of Supervisors' approval of the FY 2023 and FY 2024 funding categories for the Consolidated Community Funding Pool (CCFP), as recommended by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the FY 2023 and FY 2024 funding categories for the CCFP as recommended by the CCFAC.

TIMING:

The decision on the categories for CCFP funding is requested in June to allow staff time to prepare the next Request for Proposals for the CCFP, for release in the fall of 2021.

BACKGROUND:

The Board of Supervisors has charged the CCFAC with the responsibility for overseeing the CCFP. As part of that responsibility, the CCFAC recommends funding categories for the funding pool for each two-year cycle. Throughout the CCFP's history, the CCFAC has strategically adjusted the categories to meet the County's changing needs and to recognize the changing nature of community-based providers.

In response to a December 1, 2020, Joint Board Matter directing staff to review the Consolidated Community Funding Pool (CCFP) with a specific eye toward the basic needs of housing and food supports, a set of process changes were presented to the Board through a Memo dated March 16, 2021, as actionable for the next funding cycle. These changes address troubling service level gaps that have developed in past funding cycles. A multidisciplinary workgroup comprised of Consolidated Community Funding Advisory Committee (CCFAC) members, nonprofit executive directors, and County staff worked to develop functional process changes to the CCFP.

Lane one (CCFP RFPI), similar to previous funding cycles, will award funding to programs to support important services which build self-sufficiency, provide health programs, assist with financial stability, encourage positive behaviors, and build strong

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social networks through prevention programs and services. Lane two (CCFP RFPII) will use data to allocate emergency housing and emergency food intervention supports to all areas of the County, proportionate to need. This approach applies lessons learned from the process used to disburse \$20 million of the CARES Act Supplemental Basic Needs dollars, essentially ensuring funding is proportionate to identified need. This shift in strategy will initially allocate between \$5-\$6 million dollars of the current CCFP budget to emergency food and emergency housing programs. Moving forward, the funding amount in this lane may vary by cycle based on the needs of the community. The language in this RFP will be specific and directly address housing and food to ensure supports are available without gaps in services. Past funding cycle gaps and the impact of COVID-19 have highlighted the need to ensure adequate emergency basic needs are resourced throughout the county.

The CCFP is a competitive funding process where often basic needs of housing and food supports competes for funding with non-basic needs programs and services. Prior funding cycles have utilized a single Request for Proposal (RFP) process to facilitate the competitive nature of the CCFP. Moving forward, these process improvement measures will create two RFP processes. Appropriately, the CCFP offers no guarantee to any organization to be funded.

These changes were presented and discussed at the January 10, 2021, CCFAC meeting, as well as at the February 2, 2021, Community Action Advisory Board (CAAB) meeting. The recommendations were supported by both committees with the implementation proposed to begin in the next funding cycle starting July 1, 2022. As a reminder, the CCFP is a consolidated competitive funding source made up of the County's general funds, Community Services Block Grant (CSBG) and Community Development Block Grant (CDBG) to form one streamlined RFP process.

- Community Engagement Efforts

During each funding cycle review, the CCFAC utilizes a consistent process for gathering community and Board input, and also analyzes current data and trends. To prepare for the FY 2023- FY 2024 cycle, an online survey was available from September 29, 2020 – October 31, 2020, for community input. The County's social media tools and other social networking platforms, like Next-door, were used to promote and advertise the online survey. The survey link was also shared with various Boards, Authorities and Commissions, nonprofit partners, interfaith networks, community members and County staff. As a result of this effort, 589 responses were received from across the County.

- CCFAC

The CCFAC collectively supports the process improvement recommendations to the CCFP. The CCFAC also explicitly recognizes the value of health and human services

that emphasize neighborhoods (geographically defined) and communities (shared interests, not bound to one location), as well as for individuals and families. It is recognized that CCFP funding is for services and is not to be considered as a general source of funding for organizations.

Staff and the CCFAC believes that this new two-lane strategy CCFP and these outcome-focused categories support current Board initiatives, encompass the One Fairfax policy and support health and human services system initiatives. Collectively they help strengthen efforts in the community and reflect a critical continuum of stability, connectedness, well-being, and self-sufficiency opportunities based on the need, condition, and potential among those being served.

- Board of Supervisors Input

Individual feedback sessions were held with all BOS members and/or their staff between May 13, 2021, and June 3, 2021, on the draft categories. Board member feedback did not result in any significant changes, however additional service examples are included below for illustrative purposes.

The table below outlines the recommended funding categories for the FY 2023 and FY 2024 funding cycle, including their respective outcome statements and service examples.

Overarching Statement

These categories were identified as needs and are aligned with health and human services determinants. Each outcome statement focuses on a broad community definition and specifically includes all individuals and families, income levels, abilities, and ages. ***Where appropriate, providing case management, transportation, high quality and affordable childcare, linguistically and culturally appropriate services and/or other resources that remove barriers and allow participation, may be included in all seven categories of CCFP RFPI and case management may be included within the two categories of CCFP RFPII.***

Funding Categories for CCFP RFP I

| Category | Outcome Statement and Service Examples (May include some of the following examples, but are not limited to) |
|---|--|
| <p>FINANCIAL STABILITY (Financial Assistance to Financial Empowerment)</p> | <p>To have the ability to possess and maintain sufficient income to consistently meet their basic needs – with no or minimal financial assistance or subsidies from private or public organizations.</p> <ul style="list-style-type: none"> • Financial literacy/management training and counseling to foresee and prevent financial crises. • Financial counseling • Financial asset formation • Affordable, accessible, quality childcare for family members transitioning into the workforce. • Legal Services • Employment assistance, job and entrepreneurship training • Financial exploitation prevention services |
| <p>FOOD AND NUTRITION</p> | <p>To have reliable and consistent access to sufficient, affordable and nutritious food. To have access to information and education about healthy and nutritious food and the opportunity to develop the knowledge and resources to practice healthy eating.</p> <ul style="list-style-type: none"> • Nutrition education programs • Farmers markets, food co-ops, mobile markets, neighborhood distribution sites, community gardens • Food provision programs that offer case management services towards self-sufficiency |
| <p>HEALTH</p> | <p>To have access to primary, specialty, oral, behavioral, and long-term health care, particularly prevention services. To develop the knowledge and resources to practice healthy behaviors and to take action to prevent and manage disease and adverse health conditions.</p> <ul style="list-style-type: none"> • Healthcare affordability and accessibility services, particularly oral, visual, and auditory • Health fairs and health screening clinics, dental clinics, inoculations, nutrition education • Primary medical/dental services and specialty care |

| | |
|---|--|
| | <ul style="list-style-type: none"> • Behavioral health services (e.g., suicide prevention, mental health, drug prevention/recovery) • Senior/Older adults' health care (e.g., hospice, home care) |
| <p>HOUSING</p> | <p>To have safe, stable, and accessible living accommodations along with other basic necessities. To have access to affordable housing with the accommodations and supportive services necessary to live as independently as possible in a community setting.</p> <ul style="list-style-type: none"> • Services to support housing stability and to maximize tenants' ability to live independently (e.g., case management, mental health, alcohol and substance abuse, independent living, home health visits, vocational, health, furniture and other household goods, peer support and social activities) • Services to assist individuals transitioning from institutional to home or community-based care. • Services to assist individuals and families to locate housing, including opportunities for seniors and persons with special needs. • Services to assist households with low-cost housing rehabilitation, repairs, and replacements to address accessibility, safety or critical issues needed to preserve affordable housing for low-income seniors, persons with disabilities or persons with low income. |
| <p>LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT</p> | <p>To have the ability to read, write, and communicate effectively in order to manage finances and attain employment goals through academic and vocational achievement. To have access to quality early care and education and supports to develop employment and independent living skills.</p> <ul style="list-style-type: none"> • English proficiency services and/or instruction • Early child development services • Services that provide employment and training skills to effectively assist individuals with disabilities to live independently. • Adult education, credentialing • Supportive employment • Digital access and literacy programs |

| | |
|--|---|
| <p>POSITIVE BEHAVIORS AND HEALTHY RELATIONSHIPS</p> | <p>To develop positive behaviors and healthy relationships that are safe and free from abuse, neglect and trauma and promote physical, emotional, mental, and social well-being.</p> <ul style="list-style-type: none"> • Counseling services • Conflict resolution and anger management training and counseling • Youth-based prevention programs and services focusing on positive behaviors and healthy relationships. • Trauma recovery services • Domestic violence and sexual abuse prevention and recovery services |
| <p>SUPPORT/COMMUNITY/ SOCIAL NETWORKS</p> | <p>To have information about and access to local services, including community-based transportation and childcare, and the ability to establish and maintain communal and social relationships.</p> <ul style="list-style-type: none"> • Courses that teach language or culture to help groups interact positively. • Courses that teach language or culture to help groups interact positively. • Mentoring programs • Language and cross-cultural assistance • Social environments for isolated/homebound individuals • Respite services to help caregivers. • Affordable, accessible, quality childcare to help parents/guardians stay employed. • Affordable transportation, especially for vulnerable populations • Supportive programs for persons with disabilities • Access to recreational activities (rec centers, classes, etc.) • Wi-Fi/Internet access and computer support |

Funding Categories for CCFP RFP II

| Category | Outcome Statement and Service Examples (May include some of the following examples, but are not limited to) |
|-------------------------------------|--|
| EMERGENCY FOOD ASSISTANCE | <p>To have reliable and consistent access to sufficient, affordable, and nutritious food.</p> <ul style="list-style-type: none"> • Neighborhood distribution sites • Emergency and/or supplemental food programs |
| EMERGENCY HOUSING ASSISTANCE | <p>To have safe, stable, and accessible living accommodations along with other necessities.</p> <ul style="list-style-type: none"> • Provision of temporary or emergency shelter and supportive services to individuals and families, including youth, experiencing homelessness. • Programs and services that address eviction prevention or housing crisis. • Services to assist individuals and families without stable housing, including opportunities for seniors and persons with special needs. • Provision of temporary or emergency shelter and supportive services to individuals and families, including youth, experiencing homelessness • Utility payments • Rental assistance |

CCFAC Recommendation

Based on the review and analysis of community input, supportive data, and health and human services outcome information, the CCFAC recommends that the Board of Supervisors approve the nine categories as shown above for FY 2023 and FY 2024.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

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STAFF:

Christopher A. Leonard, Deputy County Executive

Lloyd E. Tucker, Director, Department of Neighborhood and Community Services

Thomas E. Fleetwood, Director, Department of Housing and Community Development

Michael Becketts, Director, Department of Family Services

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ACTION - 8

Approval of Renaming of Clifton Town Meeting Hall after Wayne H. Nickum (Springfield District)

ISSUE:

Board approval to rename Clifton Town Meeting Hall after Wayne H. Nickum.

RECOMMENDATION:

The County Executive recommends that the Board acknowledge the contributions of Wayne H. Nickum to the County and Town of Clifton by renaming the “Clifton Town Meeting Hall” as the “Wayne H. Nickum Clifton Town Hall.”

TIMING:

Board action is requested on June 22, 2021, to expedite the renaming of the Town Hall.

BACKGROUND:

The Mayor of the Town of Clifton and the Clifton Town Council approached the Board about honoring Wayne Nickums’ forty-plus years of contributions to the County by naming the Clifton Town Meeting Hall in his honor. Mr. Nickum served as Mayor of the Town for 10 years and a Town Council Member for over 30 years, retiring from the Council in 2018. Among his many accomplishments was securing the listing of the Town on the National Register of Historic Places and his coordination of the 100th anniversary event commemorating the Town’s founding.

Based on Mr. Nickum’s tireless advocacy for Town and County residents, Supervisor Herrity initiated the request that the Clifton Town Meeting Hall be renamed as the “Wayne H. Nickum Clifton Town Hall” at the January 26, 2021 regular meeting of the Board of Supervisors. Pursuant to the Board’s policy for Naming County Facilities at a Board Member’s Request, the Board forwarded the request to the Fairfax County History Commission in compliance with the policy.

On June 4, 2021, the History Commission concurred with the Board’s recommendation, highlighting Mr. Nickum’s long record of public service and noting that he has left a lasting legacy on the Town. The History Commission has now submitted its report to the Board for its final consideration and for adoption of a resolution authorizing the name change.

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Staff recommends that the Board approve the attached resolution designating the “Clifton Town Meeting Hall” as the “Wayne H. Nickum Clifton Town Hall” in line with the History Commission’s ratification.

FISCAL IMPACT:

Minimal costs associated with new signage will be funded by the Facilities Management Department.

ENCLOSED DOCUMENTS:

Attachment 1 – Report of Fairfax History Commission
Attachment 2 – Resolution

STAFF:

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

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney



Fairfax County History Commission

10360 North Street
Fairfax, Virginia 22030-2514
fairfaxcounty.gov/history-commission/



June 4, 2021

To: Pat Herry, Supervisor, Springfield District, Fairfax County Board of Supervisors
Michael Perez, Legislative Aide, Pat Herry, Fairfax County Board of Supervisors
William Holloway, Mayor, The Town of Clifton
Cheryl-Ann Repetti, Chairperson, Fairfax County History Commission
Jordan Tannenbaum, Commissioner, Fairfax County History Commission
Elise R Murray, Chairman of The Inventory Committee, Fairfax County History Commission

From: Lynne Garvey-Hodge, Fairfax County History Commission,
Vice Chairperson & Commissioner, Springfield District

IN RE: The re-naming of the "Clifton Town Meeting Hall" to the "Wayne H. Nickum Town Hall"

In concurrence with the request submitted on January 26, 2021 by Supervisor Pat Herry to the Fairfax County Board of Supervisors, and as the History Commissioner that has served Springfield District and The Town of Clifton, and having been a resident of Clifton for 20+ years and represents the Springfield District along with Jordan Tannenbaum, I hereby support, encourage and request that the current name of the "Clifton Town Meeting Hall" be named the "Wayne H. Nickum Town Hall".

Please note the following additional items of information in support of Mr. Nickum's good work in the history of the Town of Clifton:

* Mr. Nickum's greatest contribution (and there are many) to Clifton's past, present and future history is the energy and effort he spear-headed as Mayor of the town, to ensure the Town be placed on the National Register of History Places (NRHP). The research, documentation, verbiage and professionalism contained in the nomination report was voluminous, detailed, well-researched and inclusive of all the actual Town buildings and properties. The report reflected documentation of 62 contributing buildings, 1 contributing site, and 1 contributing object in the Town of Clifton. They include 53 residences, 3 churches, 4 commercial buildings, and 2 local government buildings mostly built between 1880 and 1910. Notable buildings include the Clifton Presbyterian Church (1871), Clifton Baptist Church (1912), Clifton Hotel (1869), the Mayhugh Tavern (c. 1870), the Ford House (c. 1880), the Cross House (c. 1886), Buckley Brothers Store (c. 1900), the M. M. Payne House (1903), and "Red Gables" (1908). The nomination was formally accepted into the NRHP in 1985. The report's vast inclusivity has provided clear identification and subsequent protection to the Town – so that certain guidelines by the Town's Architectural Review Board reflect an assiduous focus on ensuring the historicity of building

additions, renovations and alterations to the 62 original structures. Such contributing buildings are clearly well maintained, restored as needed and honor the place and time of Clifton's heritage as a late 19th Century post-Civil War railroad town. The Town was formally incorporated in 1902.

* Mr. Nickum not only served the Town as Mayor for 10 years, he gave 41 years and 2 months to the town as a civil servant. Serving on Town Council numerous times in roles other than Mayor as well as serving multiple terms as Treasurer for the Clifton Betterment Association.

* Active in virtually every aspect of the Town's existence – from assisting with his beloved chain saw with downed tree removal, dangerous hanging limbs and residential property repairs, Mr. Nickum could be seen walking the sidewalks of the Town anytime day and night to ensure it's safety and sense of community. His jovial manner was reflected in the "ringmaster" attire he would don to lead many a 4th of July Town parades. Events such as the Haunted Trail, 5K Race, Candlelight Home Tours, the paintings and repair of many structures – all saw the touch of his hand. As a neighbor I can attest to his willingness to provide solutions to unexpected residential plumbing issues and the dismembering of large, downed trees after seasonal storms. Free with advice to new comers, a willingness to "walk the extra mile", tip his famous railroad cap or provide advice on landscape decisions, Mr. Wickum's presence in the Town's midst has been an enormous gift – a gift that will know no end.

* Mr. Nickum was on hand when America's First Lady Nancy Reagan and George Will visited Clifton's Heart and Hand restaurant as a quick luncheon get-away from the demands of Washington, DC politics. Nancy was said visiting The Town of Clifton was one of her favorite "outings". Mr. Nickum helped coordinate the 100th Anniversary of the Town in 2002 and he worked passionately to ensure the contents of the buried time capsule of that place and time were complete and that residents could contribute as they deemed appropriate. Pictures of Mr. Nickum may be found on no less than five pages in the Arcadia Publishing pictorial essay book, "Clifton". (author, L. Garvey-Hodge, 2009)

* To quote the current Mayor William Holloway, "Wayne is the one who charted and directed the course the Town would take for all future times. His is a lasting legacy that we and the many people who visit Clifton see and enjoy every day."

* As to all information entered here and in support of Supervisor Pat Herrity's January, 2021 petition, we can all indeed say to Wayne H. Nickum, "Well Done, Good and Faithful Servant!"

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, June 22, 2021, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, in recognition of Wayne H. Nickum’s 40 plus years of service to the Town of Clifton through his duties as Mayor, Town Council Member and community leader, Supervisor Herrity initiated a request for the renaming of the Clifton Town Meeting Hall in Mr. Nickum’s honor on January 26, 2021,

WHEREAS, in compliance with the Board’s policy for Naming County Facilities at a Board Member’s Request (Facility Naming Policy), the Board forwarded the renaming request to the Fairfax County History Commission for their evaluation,

WHEREAS, the History Commission found that Mr. Nickum had made significant contributions to the Town and the County during his years of public service, citing as his greatest contribution his successful advocacy for the Town of Clifton to be added to the National Register of Historic Places;

WHEREAS, in light of his personal commitment and professional dedication to the advancement of the Town, the History Commission approved the renaming of the “Clifton Town Meeting Hall” as the “Wayne H. Nickum Clifton Town Hall” at its meeting on June 4, 2021,

WHEREAS, after presentation of the History Commission’s evaluation of the naming proposal to the Board (Attachment 1), the Facility Naming Policy requires that the Board adopt a resolution authorizing the name change of the facility,

WHEREAS, the Board finds that it would be in the best interest of the residents of Fairfax County to rename the Town Hall after Wayne H. Nickum.

NOW, THEREFORE, it is **RESOLVED** that the County Executive is authorized to take whatever actions are necessary to rename the “Clifton Town Meeting Hall” as “Wayne H. Nickum Clifton Town Hall” in recognition of his longstanding service to the County.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

INFORMATION - 1

Endorsement of Volume II District Design Guidelines for Annandale (Mason District)

Improving an area's physical appearance and visual image is an essential component in achieving the vision established in the Comprehensive Plan for the county's Commercial Revitalization Districts and Areas (CRDs and CRAs). Urban design guidelines for these areas have been created to assist in achieving that goal.

The Urban Design Guidelines for the CRDs and CRAs are organized into two volumes. The Volume I Urban Design Guidelines for the CRDs and CRAs contains broad recommendations and urban design ideas for streets, streetscapes, parks, landscaping, parking, and building exteriors that are pertinent to all of the CRDs and CRAs and therefore, to avoid repetition in each District Volume, is provided in a single volume applying to all areas. The Board endorsed these guidelines on November 20, 2018. The Volume II District Guidelines for an individual CRD or CRA serve as a companion document to Volume I and provide character, design, and placemaking ideas that are specific to the area.

The Annandale Urban Design Guidelines were published in May 2011 as supplemental guidance on the urban design goals for development in Comprehensive Plan amendment [ST10-CW-2CP] for the Annandale Community Business Center (CBC). In 2018, following the creation of the Volume I Urban Design Guidelines for all CRDs and CRAs, it was determined the existing Annandale Urban Design Guidelines would be reformatted and updated to become the Volume II District Design Guidelines for Annandale. The Volume II District Design Guidelines for Annandale (Guidelines) apply to development proposals for all properties located within the Annandale CRD and, to the greatest extent possible, to the Annandale CBC. The Volume II Guidelines reduce redundant text and account for evolving best practices since 2010.

The Guidelines are not regulatory and are not intended to control or dictate a particular architectural style or site design solution. They are to be used by land owners and their consultants in the design of their projects, and by staff, the Planning Commission, the Board of Supervisors, and the community in the evaluation of such projects. They are a complementary document to the Comprehensive Plan, Zoning Ordinance, and the Public Facilities Manual. The Guidelines provide detailed recommendations for elements such as streetscapes, planting strategies, building mass, and architectural form that emphasize high quality design concepts, while allowing the flexibility for applicants to create their own distinct character within their projects or to devise alternative strategies for achieving the design intent of these elements.

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The Guidelines were developed by the Community Revitalization Section (CRS) of the Department of Planning and Development (DPD). Staff from various affected county departments and agencies participated throughout the process, including but not limited to the DPD, the Department of Transportation (DOT), the Park Authority, and the Department of Public Works and Environmental Services (DPWES) including the Maintenance and Stormwater Management Division (MSMD), Utilities Design & Construction Division (UDCD), and the Urban Forest Management Division (UFMD). Outreach and engagement on the updated Volume II District Design Guidelines for Annandale was undertaken in consultation with the Annandale Central Business District Planning Committee (ACBDPC) at strategic points of guideline development from 2018 to 2020, and the wider Annandale community in early 2021. The outreach process to inform the community and to solicit feedback on the draft Guidelines occurred via two virtual public presentations and an online survey during February 2021. One public presentation was hosted by the DPD CRS and the other by the Mason District Land Use Committee (MDLUC). A recording of the DPD CRS public meeting was posted on the Revitalization website for all to view (www.fcrevite.org).

The DPD CRS promoted the community input opportunity on the Guidelines through announcements to community organizations and individuals, listservs, social media platforms, and NextDoor posts. The DPD CRS produced flyers in three languages (English, Spanish and Korean) for e-distribution and physical posting. Notification also occurred via the Mason District website, monthly newsletter, DPD and Mason District social media platforms, and an announcement in the Falls Church Press-News. A Channel 16-produced video explaining the Guidelines was also posted on the Revitalization website for educational purposes. The community outreach undertaken provided multiple opportunities for stakeholders to provide input on the Guidelines. DPD incorporated the feedback received, as appropriate, to produce the final documents.

Unless otherwise directed by the Board, staff will use the Volume II District Design Guidelines for Annandale in its review of development applications and will provide them to interested parties as a resource for addressing the Comprehensive Plan's urban design guidance and streetscape standards in this area.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Volume II District Design Guidelines for Annandale, can be found online at: <https://www.fcrevite.org/sites/default/files/Assets/Documents/Urban-Design-Guidelines/Vol2-DDG-Annandale-Full-Document-May25-2021-A-1a.pdf>

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STAFF:

Rachel Flynn, Deputy County Executive

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

Chris Caperton, Deputy Director, DPD

Elizabeth Hagg, Director, Community Revitalization Section, DPD

Laura Baker, Revitalization Program Manager, Community Revitalization Section, DPD

Beth Elliott, Planner II, Urban Centers Section, DPD

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. *Melinda Norton, Cecilia Gonzalez, Amjad Arnous, John A. McEwan, Mary Lou McEwan, Laura Quirk Niswander, Nagla Abdelhalim, Robert Ross, Helen Ross, Sanjeev Anand, Anju Anand, Melinda Galey and Travis v. Board of Supervisors of Fairfax County, Virginia*, Record No. 201028 (Va. Sup. Ct.)
 - 2. *John Michael Wolfe v. Patrick R. Wooley, et al.*; Case No. 20-2165 (U.S. 4th Cir. Ct. App.)
 - 3. *Jonate Williams v. Fairfax County*, Case No. 1:21-cv-00598 (E.D.Va.)
 - 4. *David Berry, Carol A. Hawn, Helen H. Webb, and Adrienne A. Whyte v. Board of Supervisors of Fairfax County*, Case No. CL-2021-0003366 (Fx. Co. Cir. Ct.) (Countywide)
 - 5. *Clyde A. Miller and Carol A. Hawn v. Board of Supervisors of Fairfax County*, Case No. CL-2021-0006071 (Fx. Co. Cir. Ct.) (Countywide)
 - 6. *Joseph A. Glean v. Board of Supervisors, Michael J. McGrath, and Christopher J. Pietsch*, Case No. CL-2019-0001067 (Fx. Co. Cir. Ct.)
 - 7. *Rodger E. Perkins v. Fairfax County Police Dept.*, Case No. GV21-005011 (Fx. Co. Gen. Dist. Ct.); *Rodger E. Perkins v. Government of Fairfax County*, Case No. GV21-007795 (Fx. Co. Gen. Dist. Ct.)
 - 8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kim-Dung T. Nguyen and Ted Nguyen*, Case No. CL-2021-0005644 (Fx. Co. Cir. Ct.) (Braddock District)
 - 9. *Elizabeth Perry, Virginia Maintenance Code Official v. The Schmoker Family Trust Dated October 3, 2007 (Daniel N. Schmoker, Ada-Ann Schmoker Trustees)*, Case No. GV21-006658 (Fx. Co. GDC) (Braddock District)

10. *Hiba Aziz, Building Official v. Jong Hun An*, Case No. GV21-008082 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
11. *Hiba Aziz, Building Official v. Sagita P. Punit and Prasad Nagaraj*, Case No. GV21-008078 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
12. *Hiba Aziz, Building Official v. David Lupton and Pratima P. Lupton*, Case No. GV21-006743 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
13. *Hiba Aziz, Building Official v. Jaswinder Singh and Anupreet Kaur*, Case No. GV21-006745 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
14. *Leslie Johnson, Fairfax County Zoning Administrator v. Salena Azaad, Zalena Kahn-Ramprashad*, Case No. CL 2021-7584 (Fx. Co. Cir. Ct.) (Hunter Mill District)
15. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Sunil Chacko and Tomoko Fujimoto*, Case No. GV20-013295 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
16. *Elizabeth Perry, Virginia Maintenance Code Official v. The Doris W. Wood Revocable Trust, Doris W. Wood, Trustee*, Case No. GV 21-008075 (Fx. Co. GDC) (Hunter Mill District)
17. *Hiba Aziz, Code Official for Fairfax County, Virginia v. Chuanhao Jin and Yanguan Jin*, Case No. GV21-008876 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
18. *Hiba Aziz, Building Official v. Quang K. On*, Case No. GV 21-008079 (Fx. Co. Gen. Dist. Ct.) (Lee District)
19. *Brian F. Foley, Building Code Official for Fairfax County, Virginia v. Pit Stop Real Estate Holdings LLC*, Case No. GV21-004430 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
20. *Hiba Aziz, Building Official v. Sultanewas Nahida*, Case No. GV21-006748 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
21. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Roger M. Firestone*, Case No. CL-2017-0012653 (Fx. Co. Cir. Ct.) (Providence District)
22. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Marisol Ferrel*, Case No. CL-2008-0010799 (Fx. Co. Cir. Ct.) (Providence District)
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Marisol Ferrel*, Case No. CL-2016-0005993 (Fx. Co. Cir. Ct.) (Providence District)

24. *Board of Supervisors of Fairfax County and William Hicks, Director of the Fairfax County Department of Land Development Services v. Adolfo Parina Sandi*, Case No. CL-2021-0007932 (Fx. Co. Cir. Ct.) (Providence District)
25. *Leslie B. Johnson, Zoning Administrator v. David and Nyaint Morgan*, Case No. GV 21-008076 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ron Jagannathan*, Case No. CL-2021-0004708 (Fx. Co. Cir. Ct.) (Sully District)
27. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Garrett M. Sefrin and Emily R. Sefrin*, Case No. GV21-006752 (Fx. Co. Gen. Dist. Ct.) (Sully District)
28. *Hiba Aziz, Building Official v. Mario Amaro*, Case No. GV 21-008077 (Fx. Co. Gen. Dist. Ct.) (Sully District)
29. *Board of Supervisors of Fairfax County v. H.K. Lee Academy of Tae Kwon Do*, Case No. GV21-004451 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
30. *Board of Supervisors of Fairfax County v. Samson Companies, LLC*, Case No. GV21-004452 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

Board Agenda Item
June 22, 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.

On June 8, 2021, the Board of Supervisors deferred this public hearing to June 22, 2021, at 3:30 p.m.

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

**To Be Deferred to
7/13/21 at 3:30 p.m.**

Board Agenda Item
June 22, 2021

3:30 p.m.

Public Hearing on PRC-C-020-02 (Tall Oaks at Reston, L.C.) to Approve a PRC Plan Associated with RZ-C-020 to Permit Additional Parking for an Existing Assisted Living Facility, Located on Approximately 2.45 Acres of Land Zoned PRC (Hunter Mill District)

This property is located on the N. side of North Shore Dr., E. of its intersection with Wiehle Ave. Tax Map 18-1 ((5)) 8B.

PLANNING COMMISSION RECOMMENDATION:

On May 19, 2021, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors approval of PRC C-020-02, subject to the proposed development conditions dated May 19, 2021, and approval of Parking Reduction Study #3828-PKS-001-01, subject to the proposed conditions contained in Appendix 6 of the Staff Report.

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)

Joseph Onyebuchi, Planner, DPD

Board Agenda Item
June 22, 2021

3:30 p.m.

Public Hearing on PCA 89-V-059-02 (Lorton Valley Retail, LLC) to Amend RZ 89-V-059, Previously Approved for a 125,000 Square Foot Shopping Center, to Permit Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.13, Located on Approximately 19.74 Acres of Land Zoned C-6 (Mount Vernon District) (Concurrent with SE 2020-MV-020)

and

Public Hearing on SE 2020-MV-020 (Lorton Valley Retail, LLC) to Convert a Financial Institution with a Drive Through to a Restaurant with a Drive Through, Located on Approximately 5.79 Acres of Land Zoned C-6 (Mount Vernon District) (Concurrent with PCA 89-V-059-02)

This property is located on the E. side of Ox Rd. between Weatherly Way and Blu Steel Way. Tax Map(s) 106-2 ((1)) 9A and 106-2 ((7)) 1, 4, and 5.

This property is located at 8981 Ox Rd., Lorton, 22079. Tax Map 106-2 ((7)) 1.

PLANNING COMMISSION RECOMMENDATION:

On May 19, 2021, the Planning Commission voted 11-0 (Commission Ulfelder was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 89-V-059-02, subject to the execution of proffered conditions consistent with those dated April 29, 2021;
- Approval of SE 2020-MV-020, subject to proposed development conditions dated May 4, 2021;
- Reaffirmation of the previously approved modification for the transitional screening and barrier requirements in favor of the buffers and barriers previously approved for the northern, western, eastern, and southern property boundaries; and
- Reaffirmation of the previously approved waiver of the service drive requirement along Route 123.

Board Agenda Item
June 22, 2021

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Zach Fountain, Planner, DPD

Board Agenda Item
June 22, 2021

3:30 p.m.

Public Hearing on SEA 2013-LE-014 (Select Property, LLC) to Amend SE 2013-LE-014, Previously Approved for Vehicle Sale, Rental, and Ancillary Service Establishment and Waiver of Minimum Lot Size/Lot Width, to Allow Modifications to Site and Development Conditions to Permit a Vehicle Sale, Rental, and Ancillary Service Establishment and Associated Modifications to Site Design and Development Conditions, Located on Approximately 31,451 Square Feet of Land Zoned C-6 and R-1 (Lee District) (Concurrent with RZ 2021-LE-005)

and

Public Hearing on RZ 2021-LE-005 (Select Property, LLC) to Rezone from R-1 and C-6 to C-6 to Permit a Vehicle Sale, Rental, and Ancillary Service Establishment with an Overall Floor Area Ratio of 0.33, Located on Approximately 0.73 Acres of Land (Lee District) (Concurrent with SEA 2013-LE-014)

This property is located at 5630 South Van Dorn St., Alexandria, 22310. Tax Map 81-2 ((3)) 8A.

This property is located on the N. side of McGuin Dr. and W. side of South Van Dorn St. Tax Map 81-2 ((3)) 8A.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2021, the Planning Commission voted 10-0-1 (Commissioner Clarke abstained from the vote and Chairman Murphy was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of RZ 2021-LE-005, subject to the execution of proffered conditions consistent with those dated May 25, 2021;
- Approval of SEA 2013-LE-014, subject to the proposed development conditions dated May 25, 2021;
- Modification of the requirement for transitional screening along the western boundary of the site;
- Modification of the requirement for a barrier to be provided along the western boundary;

Board Agenda Item
June 22, 2021

- Modification of the requirement for peripheral parking lot landscaping along the eastern and southern boundaries to that shown on the generalized development/special exception amendment plat;
- Modification to permit the maximum gate width to exceed fifteen percent (15%) of the lot width in favor of that shown on the generalized development plan/special exception amendment plat; and
- Waiver of the requirement to provide a loading space.

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)

Joseph Onyebuchi, Planner, DPD

**To Be Deferred to
7/27/21 at 3:30 p.m.**

Board Agenda Item
June 22, 2021

3:30 p.m.

Public Hearing on SE 2020-DR-022 (Turner Farmhouse Foundation) to Permit a Public Benefit Association and Modification of the Front Yard Setback for the Existing Farmhouse, Located on Approximately 4.95 Acres of Land Zoned R-1 (Dranesville District)

This property is located at 10609 Georgetown Pike, Great Falls, 22066. Tax Map 12-1 ((1)) 24D (pt.).

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission's Public Hearing on this application is scheduled for July 14, 2021. The Planning Commission's recommendation will be forwarded upon decision.

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

**To Be Deferred to
7/13/21 at 3:30 p.m.**

Board Agenda Item
June 22, 2021

3:30 p.m.

Public Hearing on PCA 86-C-119-08/ DPA 86-C-119-04/ PRCA 86-C-119-02 (Boston Properties Limited Partnership) to Amend the Proffers, Conditions, and Development Plan for RZ 86-C-119, Previously Approved for Mixed Use Development, to Add Office as a Permitted Use on Block D and Associated Modifications to Proffers and Site Design at an Intensity of 7.25 Floor Area Ratio for Block D and 3.22 Floor Area Ratio for the Overall Development, Located on Approximately 2.06 Acres of Land Zoned PRC (Hunter Mill District)

This property is located on the E. side of Town Center Parkway, N. of Sunset Hills Rd. and S. of the Washington and Old Dominion Trail. Tax Map 17-3 ((22)) 5.

PLANNING COMMISSION RECOMMENDATION:

On May 19, 2021, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 86-C-119-08, DPA 86-C-119-04, and PRCA 86-C-119-02, subject to the execution of proffered conditions consistent with those dated May 5, 2021;
- Approval of PRCA 86-C-119-02, subject to the proposed development conditions dated May 6, 2021;
- Reaffirmation of a modification of Par. 1 of Sect. 2-505 of the Zoning Ordinance to permit development of corner lots to that shown on the DPA/PRC Plan;
- Reaffirmation of a modification of Sect. 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the DPA/PRC Plan;
- Reaffirmation of a modification of Sects. 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the DPA/PRC Plan;
- Reaffirmation of a modification of Par. 2 of Sect. 17-201 of the Zoning Ordinance to permit the streetscape and on-road bicycle lanes to that shown on the DPA/PRC Plan in lieu of the minor paved trail as shown on the Countywide Trails Plan;

Board Agenda Item
June 22, 2021

- Reaffirmation of a modification of Par. 14 of Sect. 17-201 of the Zoning Ordinance for installation of streetlights;
- Reaffirmation of a modification of Section 8-0201.3 of the Public Facilities Manual to permit on-street bicycle lanes as shown on the DPA/PRC Plan in lieu of the minor paved trail as shown on the Countywide Trails Plan;
- Reaffirmation of a modification of Section 12-0510.4.E (5) to permit the use of structural cells to allow a reduction of the minimum planting area and to permit trees to be located closer than four feet to a restrictive barrier;
- Reaffirmation of a modification of Section 12-0515.6B of the Public Facilities Manual to allow landscaping trees to be located within five feet of a stormwater easement that contains pipes for Phase 1 of the development; and
- Reaffirmation of a modification of Section 12-0515.6E of the Public Facilities Manual to permit trees to be planted within the Virginia Department of Transportation right-of-way to count towards the 10-year tree canopy requirement.

In a follow-on motion, the Planning Commission voted 10-0-1 (Commissioner Sargeant abstained from the vote and Commissioner Ulfelder was absent from the meeting) to recommend that the Board of Supervisors direct the Department of Land Development Services and the Fairfax County Department of Transportation to work with the Washington Metropolitan Area Transit Authority (WMATA), Virginia Department of Transportation, and Dominion Energy Virginia to improve access and safety for pedestrians and bicyclists to Transit stations with a goal to improve pedestrian safety, increase flexibility in street design, increase transit ridership and improve access, especially for people that depend on transit for daily use. The Planning Commission recommended the consideration of the following specific actions:

Improving the Design of Travel Lanes:

- Providing wide crosswalks at intersections within walking distance to transit stations;
- Reducing the corner radii at all intersections and providing a double ramp for the handicapped that directs pedestrians to each crosswalk instead of a single ramp currently in use that directs pedestrians to the middle of the intersections;
- Avoiding additional lanes to speed vehicular travel at intersections with high pedestrian volumes including right turn lanes and multiple left turn lanes;

**To Be Deferred to
7/13/21 at 3:30 p.m.**

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June 22, 2021

- Reducing lane width from 12 feet to 10 - 11 feet; and
- Providing a substantial area of refuge for pedestrians and bicyclists on divided streets.

Improving the Sidewalk Areas: Improving the design of sidewalk areas that provide for pedestrian safety and encourage the use of transit by:

- Avoiding the use of mountable curbs in pedestrian-oriented areas and instead using straight curbs;
- Providing closely spaced street trees between the curb and sidewalk area to protect pedestrians;
- Allowing non-standard features including benches, trash enclosures, banners, and landscaping within the public right-of-way without waivers; and
- Allowing appropriate and safe pedestrian-oriented streetlights in the public right-of-way.

WMATA Access: Improving the design of the WMATA Stations for pedestrians and bicyclists.

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)
Mary Ann Tsai, Branch Chief, DPD

Board Agenda Item
June 22, 2021

4:00 p.m.

Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-3-2 to Establish an Additional Voter Satellite Office at the Gerry Hyland Government Center (Formerly South County Government Center)

ISSUE:

Public hearing to consider an ordinance that proposes to amend Fairfax County Code Section 7-3-2 to establish an additional voter satellite office for absentee voting in person at the Gerry Hyland Government Center (formerly South County Government Center).

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On May 18, 2021, the Board authorized a public hearing to be held on June 22, 2021, at 4:00 p.m. to consider this ordinance. Board action on June 22, 2021, will ensure sufficient time to prepare the newly approved voter satellite office for use; secure all equipment and retain staff needed to operate the office; and inform voters of the office location no later than 55 days prior to the November 2, 2021, General Election.

BACKGROUND:

On July 1, 2020, concurrent with the establishment of “no excuse” absentee voting in Virginia, Virginia Code Section 24.2-701.2 now requires the governing body of each county and city to establish the locations of voter satellite offices by ordinance, if any such offices are desired.

Under the new law, the Board of Supervisors may establish as many voter satellite offices as it deems necessary to support countywide absentee voting in person, subject to the physical and accessibility requirements of Virginia Code Section 24.2-701.2.

In the November 2020 Election, Fairfax County’s Central Absentee Precinct accounted for 8% of the total votes cast in the Commonwealth of Virginia. Approximately 33% of the total ballots cast in Fairfax County for this election were cast early in person at one of the fourteen voter satellite offices or at the Fairfax County Government Center. The trend of absentee/early voting in person in Fairfax County is expected to increase.

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If approved, the proposed ordinance would establish an additional voter satellite office at the following location:

Gerry Hyland Government Center (formerly South County Government Center)
8350 Richmond Highway
Alexandria, Virginia 22309

FISCAL IMPACT:

Funding is available in the agency's FY 2022 Adopted Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Voter Satellite Offices

Attachment 2: Map of Proposed Additional Voter Satellite Office

Attachment 3: 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

§ 24.2-701.1. Absentee voting in person.

A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. In the case of a special election, excluding for federal offices, if time is insufficient between the issuance of the writ calling for the special election and the date of the special election, absentee voting in person shall be available as soon as possible after the issuance of the writ.

Any registered voter offering to vote absentee in person shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § [24.2-706](#).

Except as provided in subsection F, a registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § [24.2-643](#). If he does not show one of the forms of identification specified in subsection B of § [24.2-643](#), he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § [24.2-1016](#), that he is the named registered voter he claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § [24.2-649](#), may be assisted in preparation of this statement in accordance with that section. The provisions of § [24.2-649](#) regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. A voter who does not show one of the forms of identification specified in this subsection or does not sign this statement shall be offered a provisional ballot under the provisions of § [24.2-653](#). The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to § [24.2-653.01](#) and this section.

B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar or a voter satellite office established pursuant to § [24.2-701.2](#). For purposes of this chapter, such office shall be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections. Any applicant who is in line to cast his ballot when the office of the general registrar or voter satellite office closes shall be permitted to cast his absentee ballot that day.

C. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.

D. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary. However, such requirement shall not apply when (i) voting systems that are being used pursuant to subsection C are located in the office of the general registrar or voter satellite office and (ii) the general registrar or an assistant registrar is present.

E. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

F. This subsection shall apply in the case of any individual who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a federal election in the state. At such election, such individual shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). The identification requirements of subsection B of § [24.2-643](#) and subsection A of § [24.2-653](#) shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § [24.2-653.01](#) and this section.

2019, cc. [278](#), [668](#), [669](#); 2020, cc. [735](#), [856](#), [1064](#), [1065](#), [1149](#), [1151](#), [1201](#).

§ 24.2-701.2. Absentee voting in person; voter satellite offices.

A. The governing body of any county or city may establish, by ordinance, voter satellite offices to be used in the locality for absentee voting in person. The governing body may establish as many offices as it deems necessary. No change in, including the creation or abolishment of, any voter satellite office shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the locality once a week for two successive weeks.

B. Any voter satellite office shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purposes of completing the application for an absentee ballot in person pursuant to §§ [24.2-701](#) and [24.2-706](#). Any such location shall have adequate facilities for the protection of all elections

materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.

C. Voter satellite offices 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. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each voter satellite office for the conduct of elections.

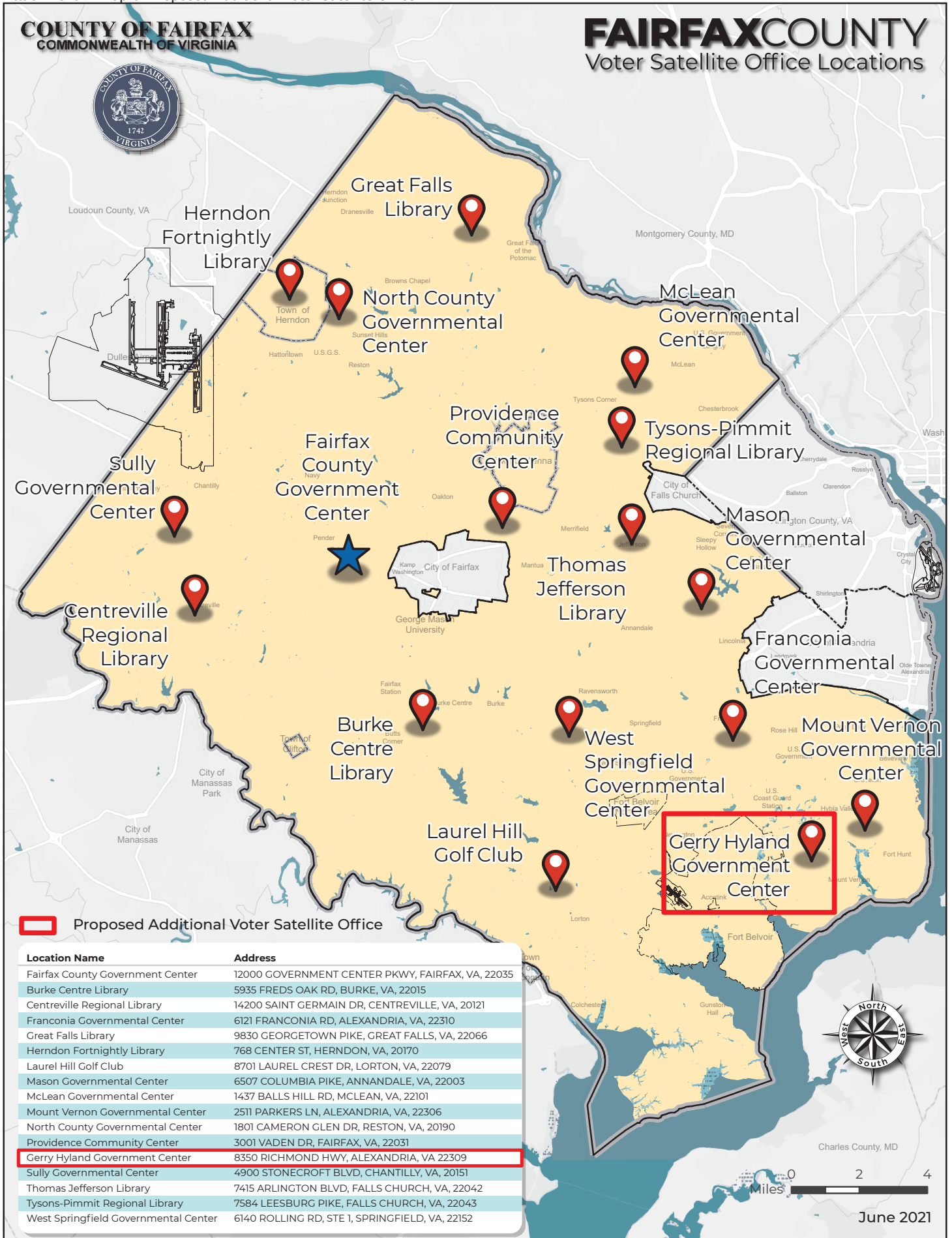
E. Not later than 55 days prior to any election, the general registrar shall post notice of all voter satellite office locations in the locality and the dates and hours of operation of each location in the office of the general registrar and on the official website for the county or city. Such notice shall remain in the office of the general registrar and on the official website for the county or city for the duration of the period during which absentee voting in person is available. If the county or city does not have an official website, such notice shall be published in a newspaper of general circulation in the county or city at least once prior to the election but not later than 55 days prior to such election.

F. If an emergency makes a voter satellite office unusable or inaccessible, the electoral board or the general registrar shall provide an alternative voter satellite office, subject to the approval of the State Board, and shall give notice of the change in the location of the voter satellite office. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

G. The provisions of subsection E of § [24.2-310](#) providing certain limited circumstances in which a local electoral board may approve an exception to the prohibition on the distribution of campaign materials inside the prohibited area outside of a polling place shall apply to voter satellite offices and the building in which such offices may be located.

H. A voter satellite office established pursuant to this section shall be deemed to be the equivalent of an office of the general registrar for purposes of completing an application for an absentee ballot in person pursuant to §§ [24.2-701](#), [24.2-701.1](#), and [24.2-706](#).

2020, cc. [856](#), [1149](#), [1151](#), [1201](#).



1 **AN ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE SECTION**
2 **7-3-2 AND ESTABLISH A VOTER SATELLITE OFFICE AT THE GERRY HYLAND**
3 **GOVERNMENT CENTER**

4
5 **Draft of As Adopted on June 22, 2021**

6
7 **AN ORDINANCE to amend and readopt Fairfax County Code Section 7-3-2**
8 **and establish an additional voter satellite office at the Gerry Hyland**
9 **Government Center pursuant to Virginia Code Section 24.2-701.2.**

10
11 **Be it ordained that the Board of Supervisors of Fairfax County:**

12
13 **1. That Section 7-3-2 of the Fairfax County Code is amended and**
14 **readopted, as follows:**

15 **Section 7-3-2. – Voter Satellite Offices.**

16 Voter satellite offices are hereby established at the following locations:

- 17
18
19
20
21 **(a). – Burke Centre Library**
22 5935 Freds Oak Road, Burke, Virginia 22015
- 23
24 **(b). – Centreville Regional Library**
25 14200 Saint Germain Drive, Centreville, Virginia 20121
- 26
27 **(c). – Franconia Governmental Center**
28 6121 Franconia Road, Alexandria, Virginia 22310
- 29
30 **(d). – Great Falls Library**
31 9830 Georgetown Pike, Great Falls, Virginia 22066
- 32
33 **(e). – Herndon Fortnightly Library**
34 768 Center Street, Herndon, Virginia 20170
- 35
36 **(f). – Laurel Hill Golf Club**
37 8701 Laurel Crest Drive, Lorton, Virginia 22079
- 38
39 **(g). – Mason Governmental Center**
40 6507 Columbia Pike, Annandale, Virginia 22003
- 41
42 **(h). – McLean Governmental Center**
43 1437 Balls Hill Road, McLean, Virginia 22101
- 44
45

- 46 **(i). – Mount Vernon Governmental Center**
47 2511 Parkers Lane, Alexandria, Virginia 22306
48
- 49 **(j). – North County Governmental Center**
50 1801 Cameron Glen Drive, Reston, Virginia 20190
51
- 52 **(k). – Providence Community Center**
53 3001 Vaden Drive, Fairfax, Virginia 22031
54
- 55 **(l). – Gerry Hyland Government Center**
56 8350 Richmond Highway, Alexandria, Virginia 22309
57
- 58 **(lm). – Sully Governmental Center**
59 4900 Stonecroft Boulevard, Chantilly, Virginia 20151
60
- 61 **(mn). – Thomas Jefferson Library**
62 7415 Arlington Boulevard, Falls Church, Virginia 22042
63
- 64 **(no). – Tysons-Pimmit Regional Library**
65 7584 Leesburg Pike, Falls Church, Virginia 22043
66
- 67 **(op). – West Springfield Governmental Center**
68 6140 Rolling Road, Springfield, Virginia 22152
69

70 **2. That this ordinance shall become effective upon adoption.**
71

72
73 GIVEN under my hand this _____ day of _____, 2021.
74

75
76 _____
77 Jill G. Cooper
78 Clerk for the Board of Supervisors
79 Department of Clerk Services
80

Board Agenda Item
June 22, 2021

4:00 p.m.

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:

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 adoption of this ordinance.

TIMING:

On June 8, 2021, the Board authorized a public hearing to be held on June 22, 2021, at 4:00 p.m. to consider this ordinance. Board action on June 22, 2021, will provide sufficient time to notify voters in advance of the November 2, 2021, General and Special Elections.

BACKGROUND:

Virginia Code Section 24.2-307 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 divided and redrawn to eliminate the split, or be granted a waiver available only in limited circumstances not applicable to any of the four precincts listed below.

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 dividing precincts that contain more than one congressional, Senate, House of Delegates, or

Board Agenda Item
June 22, 2021

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 divide 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.

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

Board Agenda Item
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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.

Attachment 1: Virginia Code pertaining to Election Polling Places

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

| June 2021 SUMMARY OF PRECINCT AND POLLING PLACE CHANGES | | | | | | | |
|--|------------------------|---------------------------|-----------------------------|------------------------------------|------------------------------------|-----------------------------|---|
| 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 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:

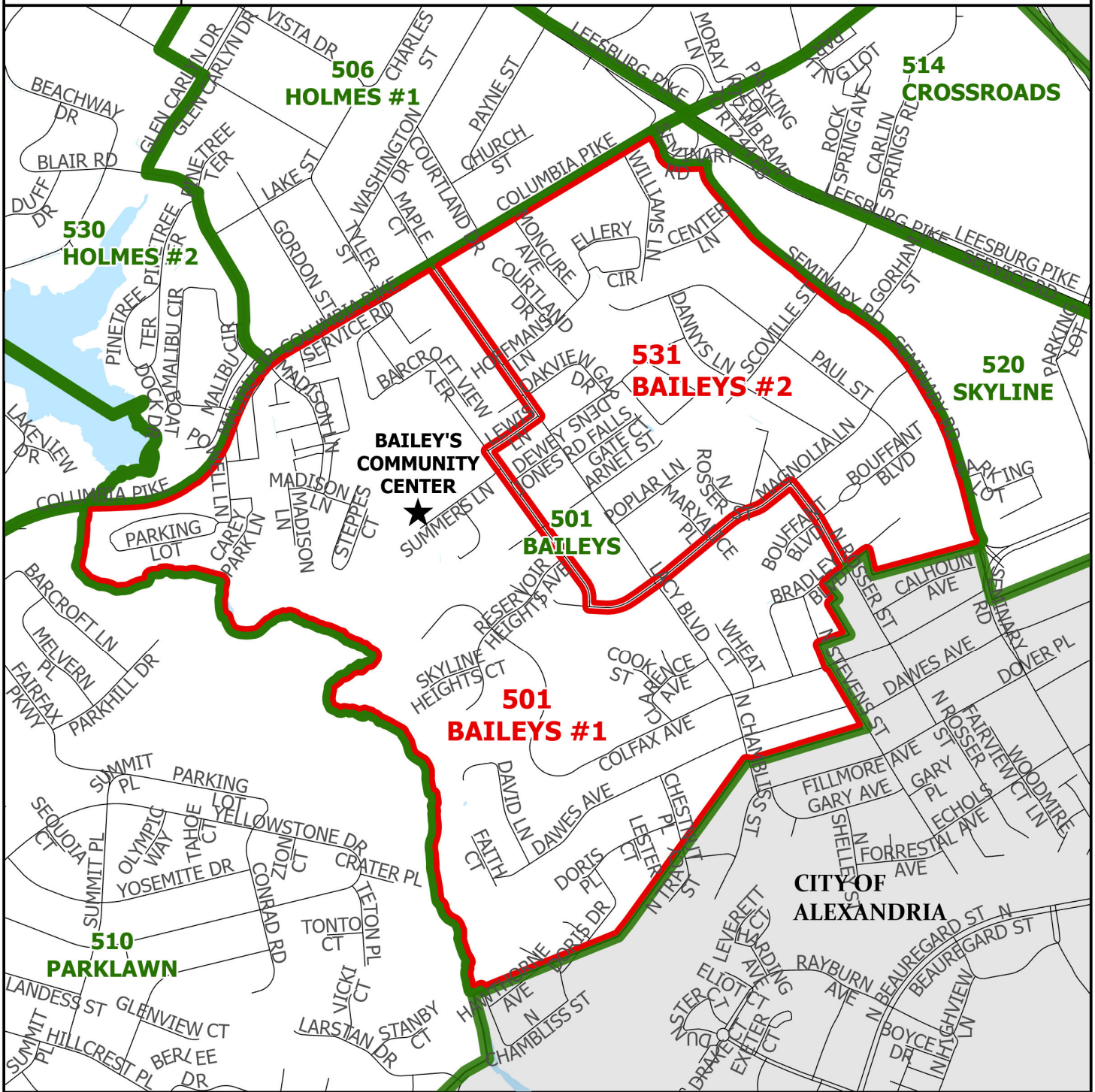
Beginning at the intersection of Woodburn Road and Gallows Road, thence with Gallows Road in a southeasterly direction to its intersection with Holly Road, thence with Holly Road in a southerly direction to its intersection with King Arthur Road, thence with King Arthur Road in a southwesterly direction 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



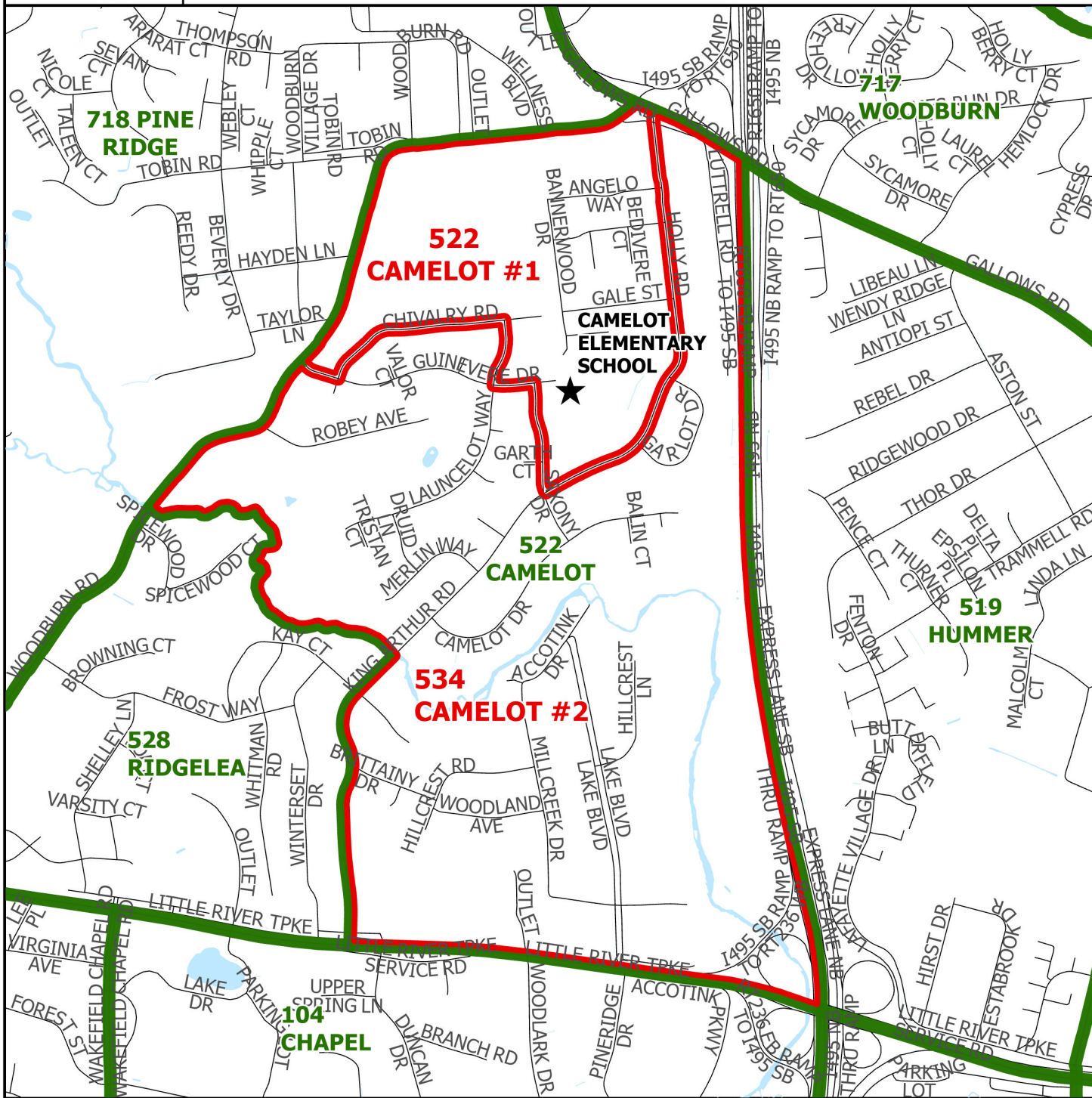
Proposed Precinct Split for 501 Baileys

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



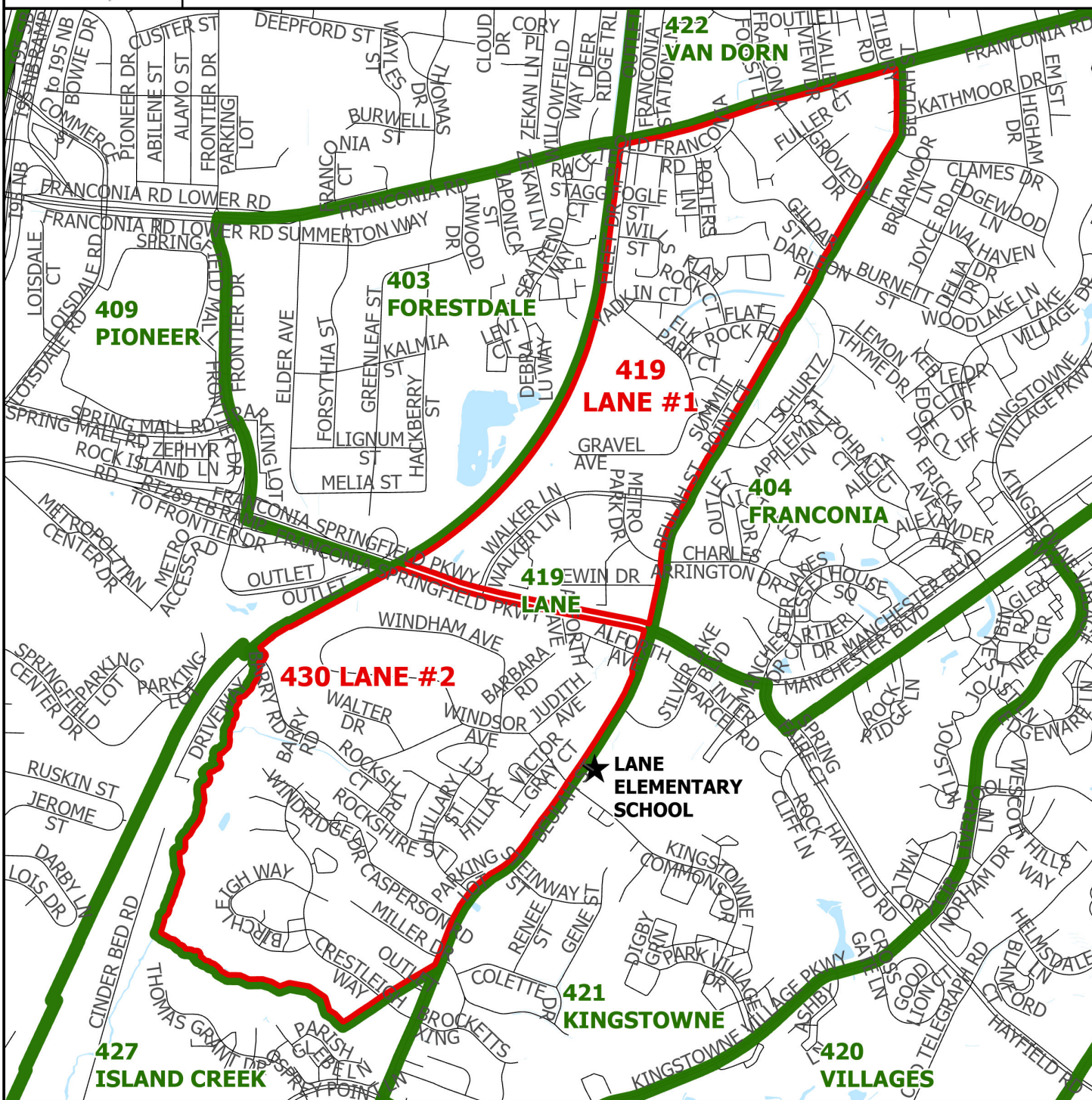
Proposed Precinct Split for 522 Camelot

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



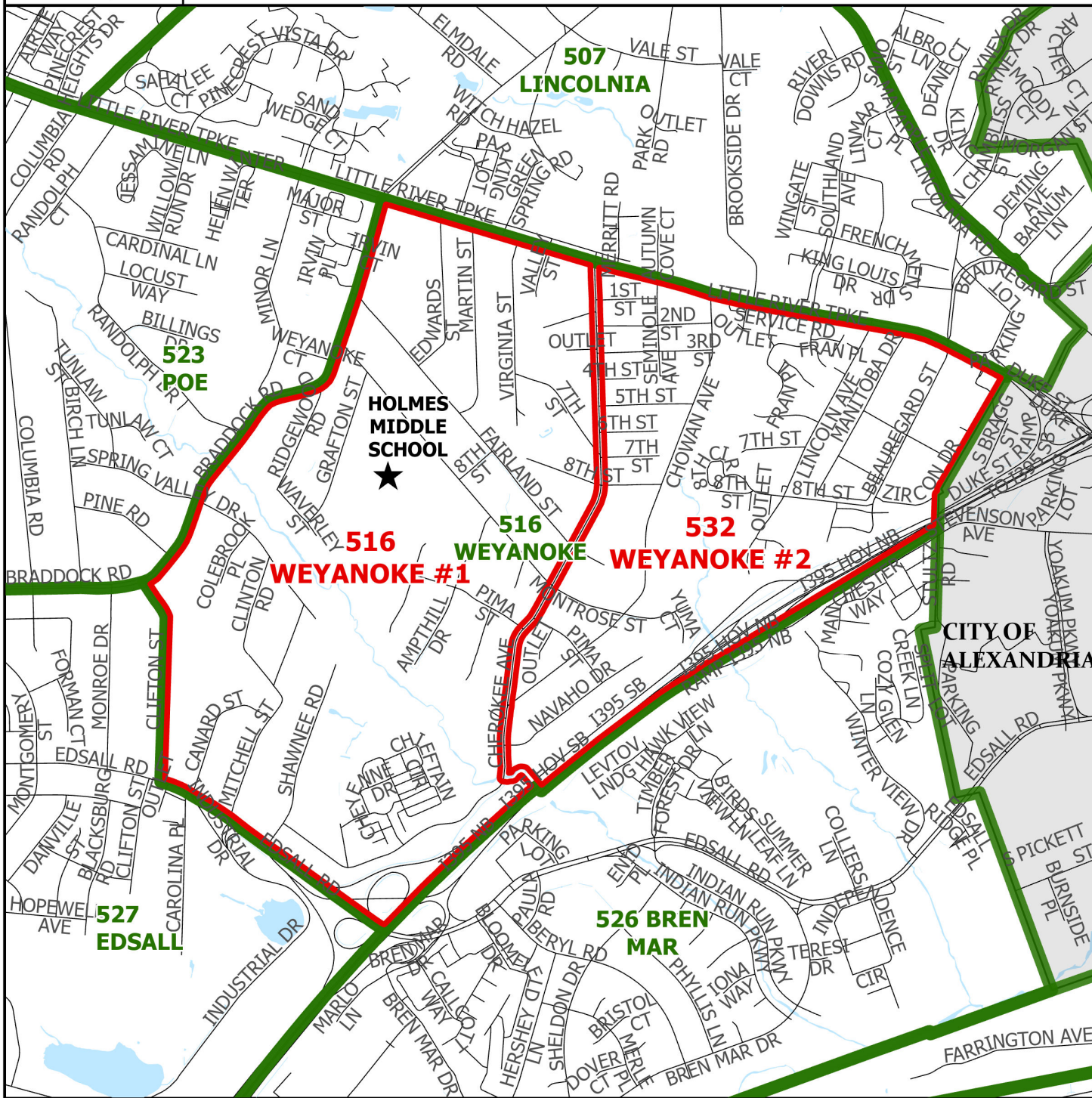
Proposed Precinct Split for 419 Lane

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.

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

9
10
11 **Draft of As Adopted on June 22, 2021**

12
13 AN ORDINANCE to amend and readopt Sections 7-2-7, 7-2-8, and 7-2-13 of the
14 Fairfax County Code relating to election precincts and polling places to eliminate
15 precincts split by House of Delegate district boundaries by creating, adding, and
16 renaming precincts for Lane precinct, Baileys precinct, Weyanoke precinct, and
17 Camelot precinct.

18
19 Be it ordained that the Board of Supervisors of Fairfax County:

20
21 **1. That Sections 7-2-7, 7-2-8, and 7-2-13 of the Fairfax County Code are**
22 **amended and readopted:**

23
24 **Section 7-2-7. - Lee District.**

25
26 The Lee District shall consist of these election precincts: Bush Hill, Cameron,
27 Clermont, Crestwood, Fairfield, Forestdale, Franconia, Garfield, Greenspring,
28 Groveton, Hayfield, Huntley, Hybla Valley, Island Creek, Kingstowne, Lane No. 1,
29 Lane No. 2, ~~Lane~~, Lynbrook, Mount Eagle, Pinewood, Pioneer, Rose Hill, Van
30 Dorn, Villages, and Virginia Hills.

31
32 **Section 7-2-8. - Mason District.**

33
34 The Mason District shall consist of these election precincts: Baileys No. 1,
35 Baileys No. 2, ~~Baileys~~, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill,
36 Camelot No. 1, Camelot No. 2, ~~Camelot~~, Columbia, Crossroads, Edsall, Glen
37 Forest, Holmes No. 1, Holmes No. 2, Hummer, Lincolnia, Masonville, Parklawn,
38 Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut
39 Hill, Westlawn, Weyanoke No. 1, Weyanoke No. 2, ~~Weyanoke~~, and Willston.

43 **Section 7-2-13. - General provisions.**
 44

45 All references to election precincts shall refer to those precincts, together with the
 46 descriptions and maps of the boundaries and polling places for each of those
 47 precincts, which were adopted by the Board of Supervisors on March 24, 2003,
 48 as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26,
 49 2007, September 10, 2007, March 10, 2008, January 12, 2009, March 9, 2010,
 50 July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012,
 51 March 19, 2013, July 9, 2013, November 18, 2014, June 23, 2015, December 8,
 52 2015, July 12, 2016, July 11, 2017, March 20, 2018, December 4, 2018, and
 53 April 9, 2019, December 3, 2019, March 24, 2020, ~~and~~ March 23, 2021, and
 54 June 22, 2021, kept on file with the clerk to the Board of Supervisors. Whenever
 55 a road, a stream, or other physical feature describes the boundary of a precinct,
 56 the center of such road, stream, or physical feature shall be the dividing line
 57 between that precinct and any adjoining precinct.
 58

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

| 61 <u>Supervisor District</u> | 62 <u>Precinct</u> | 63 <u>Polling Place</u> |
|-------------------------------|----------------------------|---|
| 64 Lee District | 65 Lane #2 66 (new) | 67 Lane Elementary School 68 7137 Beulah Street 69 Alexandria, Virginia 22315 |
| 70 Mason District | 71 Baileys #2 72 (new) | 73 Baileys Community Center 74 5920 Summers Lane 75 Falls Church, Virginia 22041 |
| 76 Mason District | 77 Weyanoke #2 78 (new) | 79 Holmes Middle School 80 6525 Montrose Street 81 Alexandria, Virginia 22312 |
| 82 Mason District | 83 Camelot #2 84 (new) | 85 Camelot Elementary School 86 8100 Guinevere Drive 87 Annandale, Virginia 22003 |

88 **3. That the following precincts are renamed:**

| 89 <u>Supervisor District</u> | 90 <u>Precinct</u> | 91 <u>Polling Place</u> |
|-------------------------------|---|---|
| 92 Lee District | 93 Lane #1 94 (old name "Lane" 95 but same address 96 and polling place) | 97 Lane Elementary School 98 7137 Beulah Street 99 Alexandria, Virginia 22315 |

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Mason District Baileys #1 Baileys Community Center
(old name "Baileys"
but same address 5920 Summers Lane
and polling place) Falls Church, Virginia 22041

Mason District Weyanoke #1 Holmes Middle School
(old name "Weyanoke"
but same address 6525 Montrose Street
and polling place) Alexandria, Virginia 22312

Mason District Camelot #1 Camelot Elementary School
(old name "Camelot"
but same address 8100 Guinevere Drive
and polling place) 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

Board Agenda Item
June 22, 2021

4:00 p.m.

Public Hearing on Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code) and Chapter 12 (Tree Preservation) of the Public Facilities Manual (PFM) Re: Resource Protection Area (RPA) Planting Requirements

ISSUE:

Board of Supervisors (Board) adoption of proposed amendments to the Chesapeake Bay Preservation Ordinance (Ordinance) and Chapter 12 (Tree Preservation) of the PFM that address planting requirements for RPAs. The amendments are necessary to update the requirements.

PLANNING COMMISSION RECOMMENDATION:

On May 12, 2021, the Planning Commission recommended, by a vote of 10-0-1 (Commissioner Strandlie abstained from the vote and Commissioner Ulfelder was absent from the meeting), that the Board adopt the proposed amendments as set forth in the Staff Report dated April 13, 2021.

RECOMMENDATION:

The County Executive recommends that the Board approve the proposed amendments as set forth in the Staff Report dated April 13, 2021.

The proposed amendments have been prepared by the Department of Land Development Services (LDS) in coordination with the Office of the County Attorney and the Department of Public Works and Environmental Services (DPWES). The proposed amendments have been recommended for approval by the Engineering Standards Review Committee.

TIMING:

Board action is requested on June 22, 2021. On April 13, 2021, the Board authorized advertising the public hearings. The Planning Commission held a public hearing on May 12, 2021. If adopted, the proposed amendments will become effective on June 23, 2021, at 12:01 a.m.

BACKGROUND:

Under the Ordinance, plantings are required to establish new RPA buffers, revegetate disturbed RPAs, and establish vegetated areas outside of RPAs to mitigate approved RPA encroachments. Section 118-3-2(d) of the Ordinance sets the following performance criteria for the buffer component of the RPA: “To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a buffer area that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained, if present, and established where it does not exist.” Both the Ordinance and the PFM include required planting densities for RPAs that satisfy the general performance criteria. The required planting densities in the Ordinance and PFM are different and use different methods to determine the number of plants required. The proposed amendments reconcile these differences by revising the planting densities in the PFM and incorporating them into the Ordinance by reference.

In 2019, the Board authorized an amendment to the Ordinance that would have replaced the planting densities in the Ordinance with a requirement to meet the PFM requirements. At that time, the plan was to adopt the amendment to the Ordinance and then update the planting requirements in the PFM. However, the Planning Commission recommended that the amendment to the Ordinance coincide with an amendment to the PFM. At its public hearing, the Board agreed and directed that the amendment to the Ordinance be re-advertised with the related amendments to the PFM. These proposed amendments to the Ordinance and PFM have been prepared in response to the Board’s directive. Guidance on application of the revised planting requirements and preparation of planting plans will be provided on the county’s website.

The revised PFM standards were prepared in consultation with the Stormwater Planning and Urban Forest Management Divisions of DPWES. The revised PFM standards have been presented to the Board’s Land Use Policy Committee, the Planning Commission Environment Committee, the Environmental Quality Advisory Council (EQAC), the Ordinance’s Exception Review Committee (ERC), the Tree Commission, the Northern Virginia Builders Association, NAIOP, and the Engineers and Surveyors Institute (ESI). The Virginia Department of Environmental Quality (DEQ) has made a preliminary determination that the proposed amendments are consistent with the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

PROPOSED AMENDMENTS:

The proposed amendments revise the current RPA planting requirements in the PFM, which are incorporated into the Ordinance by reference. The updated planting densities are based on local experience with DPWES stream restoration projects. Additional planting options and a reduction in the number of shrubs required will result in significant cost savings.

The proposed amendments:

- Eliminate existing differences between the Ordinance and PFM requirements.
- Consolidate all the RPA planting density requirements in one location, the PFM.
- Include requirements for each of the five planting components: 1) overstory trees; 2) understory trees; 3) shrubs; 4) permanent groundcover; and 5) temporary groundcover.
- Include multiple options for the size of trees that may be planted to meet the requirements. As the size decreases, the number of trees to be planted increases.
- Reduce the caliper (diameter) of the largest size overstory tree option from 2 in. to 1.5 in.
- Reduce the caliper (diameter) of the largest size understory tree option from 2 in. to 3/4 in.
- Reduce the number of shrubs required from 1,089 to 654 per acre.
- Require that all plants, except for temporary groundcover, must be native species.
- Require use of the Digital Atlas of Virginia Flora for identifying native plant species.
- Include a simplified procedure for computing 10-year tree canopy for areas planted in accordance with RPA planting density requirements.
- Reduce the caliper (diameter) of replacement trees for trees illegally removed from RPAs from 2 in. to 1.5 in.

The proposed amendments are discussed in more detail in the Staff Report (Attachment 1) and included as Attachments A and B to the Staff Report.

REGULATORY IMPACT:

The proposed amendments do not create any new regulatory requirements. The proposed amendments eliminate discrepancies between the Ordinance and PFM by establishing updated planting requirements in the PFM and incorporating them into the Ordinance by reference. They also provide additional guidance on implementation. The proposed amendments reduce the cost of compliance by reducing the number of shrubs required to be planted and providing additional planting options that use smaller sized trees.

FISCAL IMPACT:

Implementation of the proposed amendments will have no impact on the county budget.

Board Agenda Item
June 22, 2021

ENCLOSED DOCUMENTS:

Attachment 1 – The Staff Report dated April 13, 2021 can be found online at:

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/pfm/staff-report-chapter-118-pfm.pdf>

Attachment 2 – The Planning Commission Verbatim Excerpt dated May 12, 2021 can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim51221codeamendmentchapters118and12.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

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

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

ASSIGNED COUNSEL:

Marc E. Gori, Assistant County Attorney

Board Agenda Item
June 22, 2021

4:00 p.m.

Public Hearing to Consider Proposed Amendments to the Fairfax County Uniformed Retirement System Ordinance

ISSUE:

Public hearing on proposed amendments to Article 3 of Chapter 3 of the Code of the County of Fairfax, which sets forth the ordinance for the Fairfax County Uniformed Retirement System (URS).

RECOMMENDATION:

The County Executive recommends that the Board approve the proposed amendments to the URS ordinance for the purpose of changing certain provisions with respect to service-connected disabilities suffered by URS members. The URS Board of Trustees has reviewed and supports the proposed amendments.

TIMING:

On May 18, 2021, the Board authorized advertisement of a public hearing on June 22, 2021, at 4:00 p.m.

BACKGROUND:

At the March 2, 2021, meeting of its Personnel Committee, the Board was presented with several proposed amendments to service-connected disability provisions in the URS ordinance relating to alternative placement. In response, the Board directed that these amendments be scheduled as soon as possible for a public hearing.

PROPOSED AMENDMENTS:

The proposed URS ordinance amendments would:

- Enable a member of the URS who has reached full-service retirement eligibility but who has sustained a work-related injury/illness, the ability to continue working (at same rank and benefits) through the alternative placement program.
- Enable a member of the URS in DROP who sustains a work-related injury/illness to participate in the alternative placement program (at same rank and benefits) for the remainder of the member's DROP period.

Board Agenda Item
June 22, 2021

FISCAL IMPACT:

These changes do not represent benefit enhancements, would not impact the URS's funded status, and would not require an increase in the County's contribution to the URS.

ENCLOSED DOCUMENTS:

Attachment 1: Amendments to Chapter 3, Article 3 (with changes noted)

Attachment 2: March 3, 2021 Letter from Cheiron Regarding Actuarial Impact on the URS Change Regarding Service-Connected Disability During DROP

STAFF:

Joseph Mondoro, Chief Financial Officer

Jeff Weiler, Executive Director, Fairfax County Retirement Systems

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Benjamin R. Jacewicz, Assistant County Attorney

Section 3-3-36. - Service-connected disability retirement.

- (a) Any member in service may, at any time before his or her **normal** retirement date, retire on account of disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service. The Board shall determine a member is disabled due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which applied or construed language under the Virginia Workers' Compensation Act. Furthermore, in making this determination, the Board shall consider any medical record or information and/or any further tests or examinations required pursuant to Section 3-3-10.1.
- (b) The member or his or her employer shall be required to submit a written application setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service but shall not be more than 90 days prior to the date of such application. Prior to submitting such application, the member shall be required to apply for workers' compensation to which he or she may be entitled. The member shall be required to submit to the Board copies of the dispositions as made of his or her workers' compensation claim and any subsequent awards or other documents reflecting any modification or termination of such benefits. With respect to the determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-3-34, who applies for retirement pursuant to this Section, and whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-34.
- (d) Any member who applied for service-connected disability retirement on or before (effective date of amendment [December 16, 1985]) shall have his or her eligibility for such retirement governed by the provisions of this Section in effect on that date. Members applying thereafter shall have their eligibility determined by the provisions of this Section.
- (e) When an application for service-connected disability retirement has been submitted by a member or on his or her behalf by his or her employer, the appointing authority for the agency in which the member is employed shall certify whether or not there exist any vacant positions within the agency the essential physical job functions of which the member could perform, with or without reasonable accommodation; this certification shall be provided to the member and to the Board. The appointing authority shall have a continuing obligation to notify the member and the Board if any such position becomes vacant between the time of the appointing authority's initial certification and the Board's action on the member's retirement application. A member who has applied for service-connected disability retirement who meets the physical requirements for such position, with or without reasonable accommodation, and who can be retrained to fulfill the other requirements for any such position shall be given the option to accept such position and withdraw his or her application for service-connected disability retirement or to decline such position and proceed with his or her application for service-connected disability retirement. A member shall have seven days from the date of the appointing authority's certification that a position is available to make his or her election as to whether he or she shall accept the position or proceed with his or her retirement application; the failure of the member to make such election shall constitute an election to proceed with his or her application for retirement. In the event that the member elects not to accept a position for which he or she has received notification, the appointing authority shall have no further duty to notify the member and the Board of any further positions that may subsequently become available. In the event that no such positions are vacant or the member elects not to accept a vacant position, the application for service-connected disability retirement shall proceed to a determination by the Board. The certification by an appointing authority that no such positions exist within the member's agency

constitutes an application of specific County personnel policies, procedures, rules and regulations. (1961 Code, § 9-106; 11-74-9; 20-81-3; 24-85-3; 48-96-3; 34-04-3; 3-16-3; 22-18-3.)

Section 3-3-56. - Deferred retirement option program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) Definitions.

- (1) *DROP period* shall mean the three-year period immediately following the commencement of the member's participation in the DROP.
- (2) *Eligible member* shall mean any member who is, or shall become within 60 days, eligible for normal service retirement benefits as those are defined in Section 3-3-33(a).

(b) Election to participate.

- (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Fairfax County Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP.
- (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.
- (3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to Section 3-3-33(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.
- (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three years.
- (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-3-2(a)(2), an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) Continued employment.

- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member shall perform the services of that position or any other position to which he or she is promoted or transferred.
- (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.

- (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County to its employees and shall remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement allowances and benefits of a retiree.
 - (4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.
 - (5) If a participating DROP member's continued employment with the County is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement allowances and benefits shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County position, and the member shall begin to receive his or her normal retirement benefits.
 - (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.
 - (7) Upon commencement of a participating DROP member's DROP period, the County shall cease to withhold contributions to the System from the participating DROP member's salary.
 - (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.
- (d) DROP account.
- (1) Upon commencement of the participation of a member of Plans A, B, C, and D in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) and the additional retirement allowance pursuant to Section 3-3-55 shall be paid into the member's DROP account. Upon commencement of the participation of a member of Plan E, in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) shall be paid into the member's DROP account; the additional retirement benefits provided for in Section 3-3-33(a)(3) shall not be credited to the DROP accounts of members of Plan E, although members of Plan E shall remain eligible to receive the additional retirement benefits provided for in Section 3-3-33(a)(3) upon the completion of their DROP period, if they then meet the requirements for eligibility for such benefits set forth in Section 3-3-33(a)(3). Upon commencement of the participation of a member of Plan F in the DROP, the member's service retirement allowance pursuant Section 3-3-33(a) shall be paid into the member's DROP account, the additional retirement benefits provided for in Section 3-3-33(d) and Section 3-3-55(d) shall not be credited to the DROP accounts of members of Plan F.
 - (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of-living adjustment provided to retirees pursuant to Section 3-3-45. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in

adjustments to the monthly amount credited to a participating DROP member's DROP account.

- (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent, compounded monthly. Interest shall not be pro-rated for any period less than a full month.
 - (4) Contributions by the County and the participating DROP member into the System for the participating DROP member shall cease.
 - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
 - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.
- (e) Cessation of County employment.
- (1) At the conclusion of a participating DROP member's DROP period, the member's County employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:
 - (A) The member may receive payment of his or her DROP account balance as a lump sum.
 - (B) The member may elect to roll over his or her DROP account balance into an "eligible retirement plan," as defined in Section 3-3-54(b)(2).
 - (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
 - (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
 - (E) The member may divide his or her DROP account balance in half, and may then elect to use 50 percent of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this Subsection, the member shall receive payment of his or her DROP account balance as a lump sum.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County employment shall be treated as the end of the DROP period for all purposes of this Section.
- (3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's

separation from County service shall be treated as the end of the DROP period for all purposes of this Section.

- (f) Death or disability during DROP period.
- (1) (A) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-3-33(c), the participating DROP member's surviving spouse shall receive payment of the participating DROP member's DROP account balance and shall begin to receive allowances and benefits pursuant to the joint and last survivor option election of the participating DROP member.
- (B) If a participating DROP member dies during the DROP period, and the participating DROP member's death is a service-connected accidental death as set forth in Section 3-3-38, the member's beneficiary shall receive the benefits provided for in Section 3-3-38(a)(1); if there is no designated beneficiary on record with the System, payment of these amounts shall be to the member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-3-33(c), the participating DROP member's surviving spouse shall receive the benefits provided for in Section 3-3-38(a)(1)(B) and the participating DROP member's DROP account balance, and shall begin to receive allowances and benefits pursuant to the joint and last survivor election of the participating DROP member.
- (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
- (A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in Section 3-3-35, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
- (B) In the case that a participating DROP member suffers a service-connected disability as set forth in Section 3-3-36 ~~or a severe service-connected disability as set forth in Section 3-3-37.2~~, the participating DROP member may elect either: (i) to receive the service-connected disability retirement allowances and benefits ~~or the severe service-connected disability retirement allowances and benefits~~ to which he or she would otherwise be entitled; (ii) to continue his or her DROP period by accepting a position pursuant to Section 3-3-36(e); or (iii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.
- (C) In the case that a participating DROP member suffers a severe service-connected disability as set forth in Section 3-3-37.2, the participating DROP member may elect either: (i) to receive the severe service-connected disability retirement allowances and benefits to which he or she would otherwise be entitled; or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (36-03-3; 41-08-3; 27-10-3; 01-11-3; 27-12-3; 3-16-3; 10-19-3.)

***Via Electronic Mail***

March 3, 2021

Mr. Jeff Weiler
Fairfax County Uniformed Retirement System
12015 Lee Jackson Memorial Highway, Suite 350
Fairfax, Virginia 22033

***Re: Actuarial Impact on the Uniformed Retirement System
Change Regarding Service-Connected Disability During DROP***

Dear Jeff:

We are writing to provide information on the potential changes to the Fairfax County Uniformed Retirement System (URS). The change would be to allow for those who are participating in the DROP program, and who subsequently suffer a service-connected disability but are able to secure a Section 3-3-36(e) position, to continue with their DROP participation rather than forfeiting their DROP balance to receive a disability benefit. It further allows for those who suffer a severe service-connected disability to elect to receive their normal retirement benefit and DROP balance in lieu of the severe service-connected disability benefit.

We do not believe that such a change would result in any actuarial cost impact to the URS. This is because the valuation assumptions used in valuing DROP members does not assume any disability will occur between the DROP entry and DROP exit dates and so the proposed alternatives for those suffering service-connected disability while in DROP are what is already being valued under this System.

This letter was prepared for Fairfax County Retirement Systems for the purposes described herein. This cost estimate is not intended to benefit any third party, and Cheiron assumes no duty or liability to any such party.

Assumptions and Statement of Reliance

This cost estimate was prepared using the same actuarial assumptions and methods as described in our June 30, 2020 actuarial valuation report.

This letter and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as applicable laws and regulations. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. I am not an attorney, and our firm does not provide any legal services or advice.

Mr. Jeff Weiler
Fairfax County Uniformed Retirement System
March 3, 2021
Page 2

Please call if you have any questions or comments.

Sincerely,
Cheiron

A handwritten signature in blue ink that reads "Fiona E. Liston". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Fiona E. Liston, FSA, EA
Principal Consulting Actuary



Board Agenda Item
June 22, 2021

4:00 p.m.

Public Hearing to Consider Parking Restrictions on Plaza Lane (Springfield District)

ISSUE:

Public hearing to consider a proposed amendment to Appendix R of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish parking restrictions on Plaza Lane in the Springfield District.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix R of the Fairfax County Code. This amendment will prohibit commercial vehicles, recreational vehicles and trailers as defined, respectively, in Fairfax County Code §§ 82-5-7, 82-5B-1, and 82-1-2(a)(50), from parking on the east side of Plaza Lane.

TIMING:

The public hearing was authorized on May 18, 2021, for June 22, 2021, at 4:00 p.m.

BACKGROUND:

Fairfax County Code Section 82-5-37(4) authorizes the Board of Supervisors to designate restricted parking on the non-residential side of any street which serves as a boundary between an area zoned for residential use and an area zoned for nonresidential use on which parking is restricted on the residential side of that street. This designation can be made provided the restriction would further the residential character of the abutting residential community, would facilitate the free and unrestricted vehicular travel along that street, and would promote the health, safety, and general welfare of the abutting residential community.

In 2010, the Board of Supervisors approved the Springfield District Large Area Community Parking District (CPD). As a result, recreational vehicles and all trailers are prohibited from parking in areas zoned residential throughout the district. Shenandoah Crossing, a residential community abuts the west side of Plaza Lane, and is thereby restricted by the Springfield District CPD.

The property management representative of Greenbriar Corporate Center contacted the Springfield District office seeking assistance to restrict commercial vehicles,

Board Agenda Item
June 22, 2021

recreational vehicles and trailers from parking on the unrestricted east side of Plaza Lane, which sits across Plaza Lane from the residential community.

In keeping with the residential character that is present on the west side of Plaza Lane, and to equally serve the interests of the adjacent businesses, staff is recommending a parking restriction for all commercial vehicles, recreational vehicles, and trailers on the east side of Plaza Lane along the commercially zoned area that is across the street from a residentially zoned district.

FISCAL IMPACT:

The cost of sign installation is estimated to be \$200. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the Fairfax County Code, Appendix R (General Parking Restrictions)

Attachment II: Area Map of Proposed Parking Restriction

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

Henri Stein McCartney, Sr. Transportation Planner, FCDOT

Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Patrick V. Foltz, Assistant County Attorney

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX R

Amend *The Code of the County of Fairfax, Virginia*, by adding the following to Appendix R, in accordance with Section 82-5-37:

Plaza Lane (Route 7163).

Commercial vehicles, recreational vehicles, and trailers, as defined, respectively, in Fairfax County Code §§ 82-5-7, 82-5B-1, and 82-1-2(a)(50), shall be restricted from parking on the east side of Plaza Lane, from Lee Jackson Memorial Highway to the southern commercial property driveway.

Fairfax County
Department of Transportation
Proposed Parking Restrictions
Springfield District



Tax Map: 45-1



LEE JACKSON MEMORIAL HWY

PLAZA LN

R-20

C-6

13135

45-1

84 A-D

BLUEBERRY LN

LEAFCREST LN

Proposed Parking Restriction
(Plaza Lane)

No Parking Commercial Vehicles, Recreational
Vehicles, and Trailers

4:30 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, see Attachment 1, 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 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

Board Agenda Item
June 22, 2021

degradation, such as by meeting water quality requirements on-site through runoff reduction practices to the maximum extent practicable.

- 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 10,000 square feet and revise Paragraph 6 to permit a special exception in the R-A, R-E, and R-1 Districts to exceed the limitation on paved surfaces, if the Board imposes the paving restrictions in those districts.

Attachment 2 incorporates the Planning Commission recommendation into the proposed text of the amendment.

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 matter be coordinated with the Board's Environmental Committee.

The verbatims of the Planning Commission's May 12 and May 19, 2021, meetings can be found as Attachment 3 and Attachment 4.

RECOMMENDATION:

The County Executive recommends the Board adopt the proposed Zoning Ordinance Amendment regarding Agritourism and Related Changes with a delayed effective date of 12:01 a.m. on July 1, 2021. Staff supports the recommendation made by the Planning Commission to incorporate the limitations on the amount of pavement associated with agritourism activities in an effort to better protect the Occoquan Watershed and the R-C District. Additional options for the Board's consideration are outlined in the BACKGROUND section of this Agenda Item.

TIMING:

Board's authorization to advertise – April 13, 2021; Planning Commission Public Hearing – May 12, 2021, decision deferred to May 19, 2021; Board's Public Hearing – June 8, 2021, public hearing deferred to June 22, 2021, at 4:30 p.m to allow for readvertisement to incorporate additional options for the Board's consideration.

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

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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 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.

Additional Options Advertised for Board Consideration:

Events – At the Planning Commission public hearing, there was public testimony regarding allowing weddings and other private events as a permitted agritourism

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activity, particularly when weddings were not specifically included as a permitted agritourism use in the State Code. Testimony primarily focused on these uses as being of a “commercial” nature that was not appropriate as a by-right agritourism activity particularly in the R-C zoned areas of the county. Staff acknowledges the concerns raised by the public and the Planning Commission regarding increased traffic, noise, and potential water quality impacts associated with increased parking that could be associated with these events. However, in staff’s opinion, the limitation on the number of attendees per day, the parking standards as revised by the Planning Commission, and the existing provisions of the Noise Ordinance, address potential impacts. Additionally, in staff’s opinion, private events such as corporate picnics, family reunions, and farm-to-table dinners are not an expansion of the definition of agritourism contained in the State Code, because the State Code definition includes activities carried out for recreational or entertainment purposes, which could be privately operated and for which the participant may pay to participate. Staff is concerned that some of these private events do meet the definition of agritourism and would need to be allowed to remain in compliance with the State Code. Further, staff’s proposal to allow weddings codifies the current practice of allowing weddings at farm wineries and agritourism activities, even though that use is not explicitly included in the Virginia Code’s definition of agritourism. Jurisdictions such as Prince William County, Isle of Wight County, and Orange County allow weddings and other private events as agritourism, subject to varying limits on acreage, number of events, attendees, and the like. Albemarle County excludes weddings from agritourism activities but allows them in association with farm wineries, breweries, and distilleries. Augusta County and the City of Virginia Beach require the wedding, wedding reception, party, retreat, and other activities to primarily consist of participation in an agritourism activity. Entities such as the American Planning Association, Virginia Cooperative Extension, and Virginia Farm Bureau also consider weddings and these other types of private events to be agritourism. Staff therefore recommends that the Board restore paragraph four to the definition of agritourism.

Alternatively, the Board could choose to adopt a variation of the Planning Commission’s and staff’s recommendations to allow corporate picnics, family reunions, and farm-to-table dinners, but exclude weddings from the list of events in paragraph four of the definition of agritourism.

Tiers: Column Header - The Planning Commission recommended revising the column header for the table in subsection 4102.2.B.(3) 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. This was aimed at ensuring the minimum acreage for Tier 1, which is currently listed as five acres, is consistent with the definition of an agricultural operation, which requires a minimum of five acres dedicated to production of an agricultural product. Staff suggests further clarification, however, to avoid unintended consequences to the higher tiers. While there is a benefit to identifying

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the type of acreage required in each tier as well as reiterating all agritourism activities must first meet the definition of an agricultural operation, staff feels this can be done through a footnote in the table. Further, staff suggests revising the header to read “Tier: Acreage of lot(s) comprising the Agricultural Operation.” This will remove the ambiguity of what the acreage is required within the ranges while maintaining the idea that more land area can accommodate more attendees. See Table below:

| <i>Tier: Acreage of lot(s) comprising the Agricultural Operation [1]</i> | <i>Total Attendees per Day</i> |
|--|--------------------------------|
| <i>Tier 1: Five [or 7] to less than 10 acres</i> | <i>75</i> |
| <i>Tier 2: 10 to less than 20 acres</i> | <i>150</i> |
| <i>Tier 3: 20 to less than 80 acres</i> | <i>300</i> |
| <i>Tier 4: 80 acres or more</i> | <i>350</i> |
| <i>Note: [1] At least 5 acres [or 7, depending on the baseline number approved by the Board] within each Tier must be dedicated to agricultural production and meet the definition of agricultural operation.</i> | |

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 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.

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ENCLOSED DOCUMENTS:

Attachment 1 – The Staff Report, revised May 5, 2021, 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 – Proposed Text with Planning Commission Recommendation

Attachment 3 – The Planning Commission Verbatim dated May 12, 2021, can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim51221zoaagritourism.pdf>

Attachment 4 –The Planning Commission Verbatim dated May 19, 2021, can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim051921zoaagritourism.pdf>

STAFF:

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ASSIGNED COUNSEL:

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David Stoner, Deputy County Attorney

**Proposed Text with Planning Commission Recommendation for
Proposed Zoning Ordinance Regarding Agritourism and Related Changes
June 8, 2021**

This document is based on the Zoning Ordinance Modernization (zMOD) adopted Zoning Ordinance dated March 23, 2021. Additions made as a part of the Agritourism and Related Changes amendment are underlined while deletions are struck through. This document includes revisions made by the Planning Commission at their May 19, 2021, meeting.

Article 9 - Definitions and Ordinance Interpretation

9103. Uses

2. Agricultural and Related Uses

INSTRUCTION: Amend the definitions of agricultural operation and add new definitions for wayside stand, farm worker housing and agritourism.

A. Agricultural and Related Uses

Agricultural Operation

Any ~~commercial operation, including related structures, on a minimum of five acres of land that is devoted to the bona fide production, harvesting, and sale of crops and other agricultural products, including livestock, dairy, aquaculture, poultry, horticultural, floricultural, viticulture~~ viticultural, and silviculture-silvicultural, and other agricultural products. An agricultural operation may include agritourism uses, farm worker housing, and wayside stand as an accessory use.

The definition of agricultural operation does not preclude the keeping of livestock on parcels of two acres or more in size, as permitted by subsection 4102.7.K(6), or gardening and composting, as permitted as an accessory use.

An agricultural operation does not include a garden center, commercial stockyard/feed lot, landscape contracting services, on-site processing of agricultural products, riding or boarding stable, or the above-ground application or storage of sewage sludge. ~~An agricultural operation must specifically qualify under all state and local laws in order to use any exemptions or special provisions afforded to such uses by the Code of Virginia.~~

1 **Farm Worker Housing**

2 A dwelling unit accessory to an agricultural operation in which a farm worker(s) resides.
 3 A farm worker is a seasonal or full-time employee of the agricultural operation.

4 **Wayside Stand**

5 A structure designed and used for the display and retail sale of agricultural products as
 6 defined in Va. Code Sect. 3.2-6400 and foods products permitted by subdivisions A 3, 4,
 7 and 5 of Sect. 3.2-5130.

8 **Agritourism**

9 Any activity accessory to an agricultural operation that allows members of the general public to
 10 view or enjoy rural activities for recreational, entertainment, or educational purposes,
 11 regardless of whether the participant paid to participate in the activity. These activities may be
 12 permitted at a property with a farm winery, limited brewery, or limited distillery subject to the
 13 limits on attendees in subsection 4102.2.C, which limits apply collectively to public or private
 14 events and activities and agritourism uses on that property. Agritourism activities include but
 15 are not limited to the following:

- 16 1. Farm tours, including educational or entertainment programs, workshops, or
 17 demonstrations;
 18 2. Harvest-your-own activities;
 19 3. Seasonal festivals and attractions, including crop mazes or hayrides;
 20 4. Events including, but not limited to, corporate picnics, family reunions, farm-to-table
 21 dinner, weddings, and similar uses; ***[Planning Commission recommends removing this***
 22 ***activity from the definition.***
 23 5. Hiking, horseback riding, and other natural activities;
 24 6. Historical and cultural activities; and
 25 7. Other activities as determined by the Zoning Administrator.

26 **INSTRUCTION: Delete the wayside stand definition from the Accessory Uses category.**

27 **7. Accessory Uses**

28 ~~**Wayside Stand**~~

29 ~~A temporary structure or use of land designed for the display and retail sale of agriculture products~~
 30 ~~grown on the premises, with no space for customers within the structure itself.~~

1 **INSTRUCTION:** Amend Table 4101.1 by adding new use of agritourism with associated permissions;
 2 add “P” to the bed and breakfast use in the R-A – R-1 Districts when associated with an agritourism
 3 use on 20 acres or more; remove the wayside stand permissions as they have been relocated to
 4 agricultural operation; and update changes to the referenced use-specific standards as a result of
 5 renumbering and relettering.

6 Article 4 - Use Regulations

7 4101. Use Tables

8 3. Use Table for Residential, Commercial, and Industrial Districts

9

| TABLE 4101.1.: Use Table for Residential, Commercial, and Industrial Districts | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|-----------------------|---------------------|---------------------|---------------------|-----|-----|-----|-----|-----|------|------|------|----------------------|-------|-----|-----|-----|----------------------|-----|--|-----|-----|-----|-----|-----|-----|-----|-----|----------------------|----------|
| P = permitted; SE = special exception; SP = special permit; <i>blank cell</i> = not allowed | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Use | Residential Districts | | | | | | | | | | | | Commercial Districts | | | | | Industrial Districts | | Use-Specific Standards NOTE: General Standards also apply | | | | | | | | | | |
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | |
| AGRICULTURAL AND RELATED USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural and Related Use: activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural Operation | P | P | P | P | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.A | |
| Agritourism | A AP SE | A AP SE | A AP SE | A AP SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.1.I 4102.2.B | |
| Farm Winery, Limited Brewery, or Limited Distillery | P SE | P SE | P SE | P SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.BC | |
| Stable, Riding or Boarding | SE SP | SE SP | SE SP | SE SP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.CD | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Food and Lodging: establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed and Breakfast ¹ | P or AP SE | P or AP SE | P or AP SE | P or AP SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.D |
| ACCESSORY USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wayside Stand | A | A | A | A | A | A | | | | | | | | | | | | | | | | | | | | | | | | 4102.7.P |

¹ Advertised to allow the Board to consider an administrative permit for bed and breakfast in the R-A, R-C, R-E, and R-1 Districts when located in conjunction with an agricultural operation.

| TABLE 4101.1.: Use Table for Residential, Commercial, and Industrial Districts P = permitted; SE = special exception; SP = special permit; <i>blank cell</i> = not allowed A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|--|-----|-----|----------------------|
| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | Use-Specific Standards NOTE: General Standards also apply | | | |
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | | I-5 | I-6 | |
| TEMPORARY USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Food Truck | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.1.I 4102.8.E |

1

4102. Use Standards

2. Agricultural and Related Uses

Agricultural and Related Uses

INSTRUCTION: Amend the standards for agricultural operation to add the minimum acreage required to establish the use; add provisions related to wayside stands and increase the size limitation for wayside stands located on 80 acres or more; and establish standards for farm worker housing.

A. Agricultural Operation

Standards when permitted by right:

- (1) The A minimum lot area is of five acres must be dedicated to the production of an agricultural product, as defined in Va. Code Sect. 3.2-6400, unless otherwise stated in a larger acreage is required by this Ordinance for a use related to an agricultural operation.
[Advertised to allow the Board to consider increasing the minimum acreage from 5 acres to 7 acres]
- (2) The retail sale of agricultural products produced on-site is permitted from a wayside stand in accordance with the following standards:-
 - (a) A wayside stand is permitted only on a lot(s) containing an agricultural operation;
 - (b) When located in conjunction with an agricultural operation that is less than 20 acres, a wayside stand may be 400 square feet or less;
 - (c) When located in conjunction with an agricultural operation that is 20 acres to less than 80 acres, a wayside stand may be 600 square feet or less; [Advertised range: 400 to 800 square feet]
 - (d) When located with an agricultural operation that is 80 acres or more, a wayside stand may be 1,600 square feet or less; [Advertised range: 800 to 1,600 square feet]
 - (e) A wayside stand may be used for the sale of agricultural products or agricultural- or silvicultural-related items incidental to the agricultural operation, and foods products permitted by subdivisions A 3, 4, and 5 of Sect. 3.2-5130 of the Code of Virginia or related state laws and regulations, as well as limited sales of agricultural- or silvicultural-related items produced off-site. Plants that are balled, burlapped, and bedded are not considered as having been grown on the same property;
 - (f) A wayside stand is not subject to the location requirements set forth in subsection 4102.2.A but must be located a minimum distance of 25 feet from any lot line; and
 - (g) A wayside stand must be located to allow adequate off-street parking spaces and safe ingress and egress to the adjacent street.
- (3) Barns and other structures for the housing of animals are allowed, subject to the setbacks in subsection 4102.7.J(6).
- (4) When accessory to an agricultural operation, farm worker housing is permitted on a lot(s) comprising that agricultural operation of 20 acres or more subject to the following:
 - (a) Farm worker housing may be located in a structure detached from the principal single-family dwelling on the lot(s) where the agricultural operation is located and must

1 comply with the applicable zoning district bulk regulations for single-family detached
 2 dwelling;

3 **(b)** The structure may contain a single-family dwelling unit or up to five dwelling units but
 4 may not exceed 2,000 square feet in size; [Advertised to permit the Board to consider
 5 any size from 1,500 to 5,000 square feet]

6 **(c)** Occupancy of the structure, whether as a single-family dwelling unit or up to five
 7 dwelling units, may not exceed a total of ten occupants; and

8 **(d)** Before occupancy of the structure, the property owner must record a notice in the land
 9 records that the structure is for farm worker housing only. The statement must include a
 10 description of the property and must be indexed in the Grantor Index in the name of the
 11 property owner.

12 **(5)** Agritourism, and a farm winery, limited brewery, or limited distillery, are permitted in
 13 accordance with the standards in subsections 4102.2.B. and C.

14
 15 **INSTRUCTION: Establish use standards for new agritourism use, and reletter standards for farm**
 16 **winery, limited brewery, or limited distillery (4102.2.B) and stable, riding or boarding (4102.2.C),**
 17 **accordingly.**

18 **B. Agritourism**

19 Standards applicable to all agritourism uses:

20 **(1)** Parking must be located on the same lot(s) as the agricultural operation and is not
 21 permitted within any public right-of-way. Regardless of subsection 6100.2.C.—to encourage
 22 minimal land disturbance and to discourage land cover changes, such as removal of trees or
 23 other vegetation—parking spaces are not required to be designated or located on a paved
 24 surface. For the purpose of subsection 4102.2.B, a paved surface includes asphalt, poured or
 25 precast concrete, brick, stone, or similar impervious surface, but it does not include gravel
 26 or grass pavers. [Planning Commission recommends revisions to this proposed standard,
 27 reflected above, to discourage paved parking.]

28 **(2)** In the R-C District, paved surfaces outside a building are permitted in accordance with any
 29 applicable stormwater quality and quantity requirements, and the following standards:
 30 [Planning Commission recommends this additional standard limiting paved surfaces.
 31 Advertised to permit the Board to consider applying the limit to the R-A, R-E, and R-1
 32 Districts]

33 **(a)** When in association with Tier 1 or Tier 2, paved surfaces outside of a building are
 34 limited to a total of 2,500 square feet of the lot(s) comprising the agricultural operation.
 35 [Advertised to permit the Board to consider any size from 2,500 to 10,000 square feet]

36 **(b)** When in association with Tier 3 or Tier 4, paved surfaces outside of a building are
 37 limited to a total of 5,000 square feet of the lot(s) comprising the agricultural operation.
 38 [Advertised to permit the Board to consider any size from 2,500 to 10,000 square feet]

39 **(3)** The total number of attendees per day is limited per the table below. The Board may
 40 approve a special exception for Tiers 1, 2, and 3 to exceed the number of attendees and may
 41 approve a special exception for Tier 4 to exceed the number of days allowed by
 42 administrative permit. [Advertised to permit the Board to consider renaming the column
 43 header from “Tier” to “Tier: Acreage in Agricultural Production”]

| | |
|---|---------------------------------------|
| <p><u>Tier</u> [Planning Commission recommends revising header to “Tier: Acreage in Agricultural Production.” Staff recommends further clarification and recommends revising the header to “Tier: Acreage of lot(s) comprising the Agricultural Operation [1]”]</p> | <p><u>Total Attendees per Day</u></p> |
| <p><u>Tier 1: Five [or 7] to less than 10 acres</u></p> | <p><u>75</u></p> |
| <p><u>Tier 2: 10 to less than 20 acres</u></p> | <p><u>150</u></p> |
| <p><u>Tier 3: 20 to less than 80 acres</u></p> | <p><u>300</u></p> |
| <p><u>Tier 4: 80 acres or more</u></p> | <p><u>350</u></p> |
| <p>[Staff recommends the following note. “Note: [1] At least 5 acres [or 7, depending on the baseline number approved by the Board] within each Tier must be dedicated to agricultural production and meet the definition of agricultural operation.”]</p> | |

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[Advertised to permit the Board to consider any number of total attendees per day from 50 to 150 for Tier 1, 100 to 200 for Tier 2, 250 to 350 for Tier 3, and 300 to 400 for Tier 4, and to consider an increase in the minimum acreage in Tier 1 from 5 to 7.]

(4) Agritourism uses, events, or activities must not include any of the following:

- (a)** Helicopter rides;
- (b)** Fireworks displays;
- (c)** Antique/flea markets;
- (d)** Go-cart/all-terrain vehicle tracks;
- (e)** Mechanized amusement park rides;
- (f)** Hot air balloons;
- (g)** Spa services;
- (h)** The operation of a commercial restaurant requiring approval by the Health Department;
or
- (i)** Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.

Standards when permitted by administrative permit:

(5) Tier 4 agritourism activities that exceed 350 total attendees per day may be permitted by administrative permit, subject to the following requirements:

- 1 (a) More than 350 attendees are permitted per day for no more than 150 days per year
 2 [Advertised range: 100 to 150 days per year];
 3 (b) An administrative permit is valid for a period of two years and may be renewed on a
 4 five-year basis with approval of the Zoning Administrator. Any subsequent expansion or
 5 change of permit holder of the Tier 4 agritourism administrative permit may require
 6 submission of a new permit application as determined by the Zoning Administrator;
 7 (c) A description of sanitary arrangements and facilities to be used by the public and
 8 employees must be submitted with the application; and
 9 (d) A transportation management and parking plan must be submitted with the application.
 10 The plan must demonstrate that adequate parking is provided on-site, detail how
 11 attendees will enter and exit the property, and include measures that will be taken to
 12 prevent traffic stacking on the public right-of-way.

13 **Standards when permitted by special exception:**

- 14 (6) The Board may approve a special exception to modify one or more of the standards as
 15 identified in the subsections below: [Planning Commission recommends revisions to this
 16 proposed standard, reflected within, to create a special exception for paved parking.]
 17 (a) Subsection B(2) to exceed the land area permitted for paved surfaces in the R-C District.
 18 [Advertised to permit the Board to consider including R-A, R-E, and R-1 Districts.]
 19 (b) Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees
 20 per day and for Tier 4 activities to exceed the number of days per year permitted by an
 21 administrative permit.
 22 (7) A description of the sanitary arrangements and facilities to be used by the public and
 23 employees must be submitted with the application.
 24 (8) A transportation management and parking plan must be submitted with the application. The
 25 plan must demonstrate that adequate parking is provided on-site, detail how attendees will
 26 enter and exit the property, and include measures that will be taken to prevent traffic
 27 stacking on the public right-of-way.
 28 (9) An application to exceed the paved surfaces limitation in subsection B(2) requires the
 29 applicant to demonstrate that adequate measures will be taken to address water quantity
 30 impacts and prevent water quality degradation, such as meeting water quality requirements
 31 on-site through runoff reduction practices to the maximum extent practicable. [Planning
 32 Commission recommends adding this standard for special exceptions to exceed paved
 33 parking restrictions.]
 34

35 **INSTRUCTION: Remove lodging from the type of events or activities prohibited at a Farm Winery,**
 36 **Limited Brewery, or Limited Distillery from 4102.2.C.(4)(c) and renumber.**

37 **C. B. Farm Winery, Limited Brewery, or Limited Distillery**

38 **Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-C**
 39 **District:**

- 40 (4) A farm winery, limited brewery, or limited distillery may be used for alcohol production,
 41 sales, and tastings. In addition, the hosting of public or private events or activities is allowed
 42 in accordance with the following standards:

1 (c) Events or activities must not include any of the following:

- 2 1. Helicopter rides;
- 3 2. Fireworks displays;
- 4 3. Antique/flea markets;
- 5 4. Go-cart/all-terrain vehicle tracks;
- 6 5. Mechanized amusement park rides;
- 7 6. Hot air balloons;
- 8 ~~7. Lodging;~~
- 9 ~~7.~~ ~~8.~~ Spa services;
- 10 ~~8.~~ ~~9.~~ The operation of a commercial restaurant requiring approval by the Health
- 11 Department; or
- 12 ~~9.~~ ~~10.~~ Any other similar use determined by the Zoning Administrator to have a
- 13 substantial impact on the health, safety, and welfare of the public.

14 **Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-A,**

15 **R-E, and R-1 Districts:**

16 (6) A farm winery, limited brewery, or limited distillery may be used for alcohol production,

17 sales, and tastings. The hosting of public events or activities is allowed, as follows:

18 (d) Events or activities must not include any of the following:

- 19 1. Helicopter rides;
- 20 2. Fireworks displays;
- 21 3. Antique/flea markets;
- 22 4. Go-cart/all-terrain vehicle tracks;
- 23 5. Mechanized amusement park rides;
- 24 6. Hot air balloons;
- 25 ~~7. Lodging;~~
- 26 ~~7.~~ ~~8.~~ Spa services;
- 27 ~~8.~~ ~~9.~~ The operation of a commercial restaurant requiring approval by the Health
- 28 Department; or
- 29 ~~9.~~ ~~10.~~ Any other similar use determined by the Zoning Administrator to have a
- 30 substantial impact on the health, safety, and welfare of the public.
- 31

32 **INSTRUCTION: Amend the bed and breakfast provisions to establish by right standards and standards**

33 **that apply to all bed and breakfasts, and address subsequent renumbering within the bed and**

34 **breakfast subsection.**

35 **5. Commercial Uses**

36 **Food and Lodging**

37 **D. Bed and Breakfast**

1 **Standards applicable to all bed and breakfasts:**

- 2 (1) A bed and breakfast must be located within a single-family detached dwelling unit. Any
 3 alterations or improvements to the single-family dwelling must not alter the exterior
 4 appearance from that of a dwelling.
 5 (2) A bed and breakfast may not include a restaurant as an accessory use. However, breakfast
 6 and other light fare may be provided for guests.
 7 (3) All off-street parking and loading spaces must be located outside of a minimum side or rear
 8 setback when the setback abuts property zoned to a residential district or a residential area
 9 of a planned district.

10 **Standards when permitted by right:** *[Advertised to allow the Board to consider requiring an*
 11 *administrative permit with Health Department review for bed and breakfasts operated in*
 12 *conjunction with an agricultural operation. Drafted standards 4 and 5 will apply regardless of*
 13 *whether the Board approves as by right or requires an administrative permit.]*

- 14 (4) A bed and breakfast is permitted only in conjunction with an agricultural operation located
 15 on 20 acres or more.
 16 (5) Events are allowed only when permitted under the agritourism provisions in subsection
 17 4102.2.B.

18 **Standards when permitted by special exception:**

- 19 ~~(1) A bed and breakfast must be located within a single-family detached dwelling unit, which~~
 20 ~~may include residential accessory structures. Any alterations of structures must not alter~~
 21 ~~their exterior appearance from that of a dwelling or residential accessory structure.~~
 22 ~~(2) A bed and breakfast may not include a restaurant as an accessory use. However, breakfast~~
 23 ~~and other light fare may be provided for guests.~~
 24 ~~(6) 3. Accessory rental of the facility to individuals who are not staying overnight or events or~~
 25 ~~use of the facility for events, such as wedding receptions, parties, or other similar activities~~
 26 ~~is not allowed, by individuals who are not staying overnight is not allowed unless specifically~~
 27 ~~approved by the Board. In approving such accessory rental, the Board may impose~~
 28 ~~conditions, including limitations on the number, size, days, and hours of events.~~
 29 ~~(4) All off-street parking and loading spaces must be located outside of minimum side and rear~~
 30 ~~setbacks that abut an R district or a residential area of a P district.~~
 31 ~~(7) 5. A maximum of three off-street parking spaces may be located within the minimum front~~
 32 ~~setback, except the Board may authorize additional parking spaces within the front setback~~
 33 ~~if the proposed additional parking spaces will not adversely affect the character of the~~
 34 ~~surrounding residential area.~~
 35 ~~(8) 6. All off-street parking and loading spaces must be screened to minimize adverse impacts~~
 36 ~~on adjacent residential properties.~~

38 **INSTRUCTION: Delete Par. Q. Wayside Stand, from the Accessory Uses Category as they are being**
 39 **revised and relocated to the agricultural operation use standards.**

40 **7. Accessory Uses**

41 **P. Wayside Stand**

1 **Standards when permitted by right:**

- 2 ~~(1) A wayside stand is permitted only on a lot containing at least two acres and during the crop-~~
 3 ~~growing season.~~
- 4 ~~(2) A wayside stand may not exceed 400 square feet in gross floor area and must be removed~~
 5 ~~after the crop-growing season.~~
- 6 ~~(3) Wayside stands may only be used for the sale of agricultural products grown on the same~~
 7 ~~property. Plants that are balled, burlapped, and bedded are not considered as having grown~~
 8 ~~on the same property.~~
- 9 ~~(4) Wayside stands are not subject to the location requirements set forth in subsection~~
 10 ~~4102.7.A, but must be located a minimum distance of 25 feet from any lot line.~~
- 11 ~~(5) Wayside stands must be located to allow adequate off-street parking spaces and safe~~
 12 ~~ingress and egress to the adjacent street.~~

13

14 **INSTRUCTION: Amend the food truck provisions to allow food trucks in association with an**
 15 **agritourism use or a farm winery, limited brewery, or limited distillery, and establish time limits and**
 16 **location requirements.**

17 **8. Temporary Uses**

18 **E. Food Truck**

- 19 **(1)** Food trucks may be permitted on property owned by the County, Park Authority, or Fairfax
 20 County Public Schools or in conjunction with the approval of an administrative permit for a
 21 special event and are not subject to the standards in subsections (2) through (7) below. The
 22 use must comply with all applicable regulations, including the Health Department and the
 23 Department of Cable and Consumer Services requirements.

24 **Standards when permitted by administrative permit:**

- 25 **(2)** A food truck may not be operated without a food truck location permit and an annual food
 26 truck operation permit (see subsection (4) below).
- 27 **(3)** Food trucks are permitted as an accessory use in the following locations:
- 28 **(a)** In a planned district, but only in commercial areas;
- 29 **(b)** In any industrial or commercial district;
- 30 **(c)** On any construction site with an active building permit and ongoing construction
 31 activity;
- 32 **(d)** In conjunction with any approved nonresidential use in a residential district or a
 33 residential area of a planned district, limited to 12 times per calendar year per approved
 34 location. This time limitation may be exceeded with special exception approval in
 35 accordance with subsection 8100.3, special permit approval in accordance with
 36 subsection 8100.4, or as specifically permitted with an approved final development plan
 37 or executed proffers-; and
- 38 **(e)** In conjunction with an agritourism use or a farm winery, limited brewery, or limited
 39 distillery.
- 40 **(4)** Food trucks may be operated from an approved location, subject to the following
 41 procedures:

- 1 (a) The owner of property on which a food truck may be located must file a food truck
 2 location permit application with the Zoning Administrator on forms furnished by the
 3 County.
- 4 (b) Each year, the owner and/or operator of any food truck doing business in the County
 5 must file a food truck operation application with the Zoning Administrator on forms
 6 furnished by the County. The permit application must be accompanied by the written
 7 consent of the private property owner or authorized agent authorizing the food truck to
 8 be located on their approved food truck location and by a copy of the property owner's
 9 food truck location permit. If a food truck operates on more than one site, only one food
 10 truck operation application is required to be obtained from the Zoning Administrator for
 11 such food truck, provided that the property owner on any additional sites has obtained
 12 a food truck location permit for that site, the food truck operator has written consent
 13 from the property owner or authorized agent to operate on that site, and the food truck
 14 is operating in conformance with that approval. The operation of any food truck is
 15 subject to all Health Department and Department of Cable and Consumer Services
 16 permits/licenses.
- 17 (c) Upon the finding that the application complies with the standards set forth in
 18 subsection (5) below, the Zoning Administrator will approve the permit application,
 19 setting forth conditions that protect the public health, safety and welfare and
 20 adequately protect adjoining properties from any adverse impacts of the food truck,
 21 which may include, but are not limited to, hours of operation, location, parking,
 22 vehicular access, and safety requirements.
- 23 (5) All food trucks must be located and operated in compliance with the following standards:
- 24 (a) Food trucks must be located on private property with the written consent of the
 25 property owner or authorized agent holding an approved food truck location permit.
- 26 (b) Food trucks may only be permitted in conjunction with a principal use consisting of a
 27 minimum of 25,000 square feet of gross floor area or on a construction site with an
 28 active building permit and on-going construction activity. This standard does not apply
 29 to food trucks operated in conjunction with approved nonresidential uses in residential
 30 districts in accordance with subsection (3)(d) above or to food trucks in conjunction with
 31 uses listed in subsection (3)(e) above.
- 32 (c) Food trucks may only operate for a maximum of four hours in any one day at any one
 33 location, including set-up and break-down, except as specified in subsection (i) below.
- 34 (d) A maximum of three food trucks are permitted at any one location at the same time,
 35 provided that additional food trucks may be permitted in conjunction with
 36 administrative permits or other special events regulated by any proffered condition,
 37 development condition, special exception, or special permit.
- 38 (e) Food trucks may not be located in any fire lane, travel lane, entrance/exit, or any
 39 required parking space.
- 40 (f) Food trucks must be located on a level, paved, or gravel surface with safe pedestrian
 41 access.
- 42 (g) The vicinity around the food truck must be kept clean and free of debris.
- 43 (h) Trash receptacles must be provided.
- 44 (i) In addition to the standards above, food trucks in conjunction with an agritourism
 45 activity or a farm winery, limited brewery, or limited distillery must be located and
 46 operated in compliance with the following standards:

- 1 (i) Food trucks located on less than 20 acres may operate for a maximum of four hours
 - 2 in any one day at any one location, including set-up and break-down. [Advertised
 - 3 range: 4 to 12 hours];
 - 4 (ii) Food trucks located on 20 acres or more may operate for a maximum of eight hours
 - 5 in any one day at any one location, including set-up and break-down [Advertised
 - 6 range: 4 to 12 hours]; and
 - 7 (iii) Food trucks must be located 100 feet from all property lines.
 - 8 (6) Any food truck location permit or food truck operation permit is revocable by the Zoning
 - 9 Administrator because of the failure of the property owner or the food truck operator to
 - 10 comply with any of the provisions of this subsection 4102.8.E.
 - 11 (7) All other sale of goods or services from any vehicle other than a food truck are subject to all
 - 12 the regulations for the zoning district in which the sale is conducted, but this regulation does
 - 13 not prohibit any vending from vehicles on public streets that is not otherwise prohibited by
 - 14 law.
 - 15 (8) Each food truck must be in substantial conformance with any proffered condition,
 - 16 development plan, special exception, or special permit for the site on which it operates. If
 - 17 any proffered condition, development plan, special exception or special permit approval
 - 18 specifically precludes food trucks or otherwise regulates food trucks, including the location,
 - 19 hours of operation, or number of food trucks, the zoning approval will govern that aspect of
 - 20 the food truck location or operation in lieu of the standards in this Section 4102.8.E. Unless
 - 21 otherwise specified in any zoning approval, all provisions of this Section 4102.8.E apply.
- 22 **Standards when permitted by special exception or special permit:**
- 23 (9) The Board or BZA, as applicable, in conjunction with the approval for a nonresidential use in
 - 24 a residential district or a residential area of a planned district, may allow food trucks in
 - 25 excess of twelve times per calendar year.

27 **INSTRUCTION: Amend Table 6100.1 to add parking requirements for agritourism.**

28 Article 6 – Parking and Loading

29 6100. Off-Street Parking

30 4. Minimum Required Off-Street Vehicle Parking Spaces

31 A. Table of Required Parking Spaces

| TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces | |
|--|--|
| Use | Minimum Parking Requirement |
| AGRICULTURAL AND RELATED USES | |
| Agricultural and Related Uses | |
| Agricultural Operation | No minimum requirement |
| <u>Agritourism</u> | <u>When by right: No minimum requirement</u> |

| | |
|--|---|
| | <p><u>When by administrative permit: subject to the Zoning Administrator's determination that a parking plan demonstrates adequate parking is provided on-site</u> <u>When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking.</u></p> |
| <p>Farm Winery, Limited Brewery, or Limited Distillery</p> | <p>When by right: No minimum requirement When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking.</p> |
| <p>Stable, Riding or Boarding</p> | <p>As determined by the Director, based on a review of each proposal to include such factors as the number of spaces to accommodate employees, horse trailers, students, customers, and guests anticipated to be on-site at any one time, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand.</p> |

1

1 **INSTRUCTION:** Amend Table 8102.1 to add the administrative permit and renewal fee for agritourism
 2 Tier 4 and special exception fee for agritourism.

3 Article 8 - Administration, Procedures, 4 and Enforcement

5 8102. Fee Schedule

6 1. Fee Schedule

7

| TABLE 8102.1: FEE SCHEDULE | | |
|---|-----------------|--|
| This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code. | | |
| APPLICATION TYPE | | FEE |
| ADMINISTRATIVE PERMITS | | |
| General Fee Unless Otherwise Listed | | \$205 |
| Accessory Uses | | |
| Accessory Living Unit | Permit | \$200 |
| | Renewal Fee | \$70 |
| Agritourism Tier 4 | Permit | \$205 |
| | Renewal Fee | \$50 |
| Bed and Breakfast in conjunction with an agricultural operation | Two Year Permit | \$205 <i>[advertised range: \$205 - \$435; the Board could also consider an administrative permit fee of up to \$200 and a renewal fee of \$70 for a two-year period]</i> |
| | | |
| Family Health Care Structure | | \$100 |
| Home-Based Business | | \$100 |
| Limited Riding or Boarding Stable | | \$50 |
| Short-Term Lodging | Two Year Permit | \$200 |
| | | |

8

| SPECIAL EXCEPTIONS | | | |
|---|---|--|---------|
| Standard fees for special exception approvals are listed below. | | | |
| General Fee Unless Otherwise Listed | | \$16,375 | |
| Principal Uses | | | |
| Agritourism | | <u>\$4,090</u> [advised range \$4,090 - \$8,180] | |
| Farm Winery, Limited Brewery, or Limited Distillery | R-C District: Development of a new use or expansion of an existing use for any agricultural building or structure: | That does not permit access by any member of the public, whether a customer, guest, or attendee at a public or private event or activity | \$1,000 |
| | | With no construction of buildings or structures over 40 SF in GFA or no land disturbance over 2,500 SF | \$4,090 |
| | | R-C District: Establishment of a new use or expansion of an existing use with construction of buildings or structures over 400 SF in GFA or land disturbance over 2,500 SF | \$8,180 |
| | | R-A, R-C, R-E, And R-1 District: Modification of the number of attendees, frequency and/or duration of events or activities | \$4,090 |
| | Stable, Riding or Boarding | | \$8,180 |

4:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Historic Overlay Districts – State Code Revisions

ISSUE:

The proposed Zoning Ordinance Amendment is initiated in response to a Virginia Code amendment. This year, the General Assembly adopted SB1457, which amended Virginia Code § 15.2-2306: Preservation of historical sites and architectural areas, to add a new subsection (D). This new subsection, which became effective on April 7, 2021, authorizes a locality utilizing the urban county executive form of government to include a provision in an ordinance adopted under § 15.2-2306 that would (i) allow public access to any historic area, landmark, building, structure, or land; or (ii) provide that no subdivision may occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein. This provision applies only to a parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation on or after January 1, 1973.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held its public hearing on June 9, 2021, and deferred the decision until June 16, 2021. On June 16, 2021, the Planning Commission voted 10-0 (Commissioners Spain and Strandlie were absent from the meeting) to recommend to the Board adoption of the staff recommendation for the Zoning Ordinance Amendment titled “Historic Overlay Districts – State Code Revisions,” as set forth in the Staff Report dated May 19, 2021 (Attachment 1), and subject to revision to subsection 3101.19.C(4) of the proposed text to read as follows:

- (4)** In association with a proposed development, the Board may impose or accept any condition it deems necessary to ensure any proposed use will satisfy the general and additional standards applicable to this HOD. This may include a condition to allow public access to the Wellington at River Farm HOD and its landmark, buildings, structures, or land to the extent permitted by local, state, or federal law.

Attachment 2 incorporates the Planning Commission recommendation into the proposed text of the amendment.

The Planning Commission also recommended the Board adopt the proposed Zoning Ordinance Amendment with a delayed effective date of 12:01 a.m. on July 1, 2021.

The verbatim of the Planning Commission's June 9 and June 16, 2021, meetings can be found as Attachment 3 and Attachment 4.

RECOMMENDATION:

The County Executive recommends the Board adopt the proposed Zoning Ordinance Amendment with a delayed effective date of 12:01 a.m. on July 1, 2021.

TIMING:

Board's authorization to advertise – April 13, 2021; Planning Commission Public Hearing – June 9, 2021, decision deferred to June 16, 2021; Board's Public Hearing – June 22, 2021, at 4:30 p.m.

BACKGROUND:

On April 13, 2021, the Board adopted a Resolution directing staff to analyze the changes in SB1457, which took effect on April 7, 2021. SB1457 authorizes the County to include a provision in its historic overlay district (HOD) ordinance to allow public access to such historic area, landmark, building, structure, or land subject to the HOD provisions, or provide that no subdivision may occur within an HOD unless approved by the Architectural Review Board (ARB) or, on appeal, by the Board as being compatible with the historic nature of the area, landmarks, buildings, or structures within an HOD when a property or HOD is adjacent to a navigable river and a national park and, in part or as a whole, subject to an easement granted by the National Park Service or the Virginia Outdoors Foundation on or after January 1, 1973. Considering SB1457's grant of additional authority, the Board directed staff to study and propose an amendment to the Zoning Ordinance that corresponds with this new legislation.

The proposed amendment would grant the ARB additional authority to hear and decide applications for any proposed subdivision—including any subdivision plat, plan, or construction plan—of any parcel or parcels within a HOD whose district-specific regulations require such ARB approval. This additional authority will ensure the ARB's approval will protect the historic district by making a determination that any proposed subdivision would be compatible with the historic nature of the district, including with its landmarks, buildings, or structures. Furthermore, the proposed amendment would require ARB approval of any proposed subdivision in the Wellington at River Farm Historic Overlay District (WHOD). It would also allow the Board, ~~in conjunction with proposed development or as otherwise appropriate, to impose or accept any condition or restriction it deems necessary to ensure any use proposed within the WHOD will be~~

~~compatible with and will not adversely affect any residential area~~ **in association with a proposed development, to impose or accept any condition it deems necessary to ensure any proposed use will satisfy the general and additional standards applicable to this HOD and may include a condition to allow public access to the WHOD.**

REGULATORY IMPACT:

The proposed amendment would give the ARB additional authority to hear and decide applications for any proposed subdivision—including any subdivision plat, plan, or construction plan—of any parcel or parcels within an HOD whose district-specific regulations require such ARB approval and would revise the regulations governing the WHOD to include such a requirement. Furthermore, the proposed amendment would allow the Board, in conjunction with proposed development or as otherwise appropriate, to impose or accept any condition or restriction it deems necessary to ensure any use proposed within the WHOD will be compatible with and will not adversely impact any residential area and may include a condition to allow public access to the WHOD.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report can be found online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/historic-overlay-districts-staff-report.pdf>

Attachment 2 – Proposed Text with Planning Commission Recommendation

Attachment 3 – June 9, 2021, Planning Commission Verbatim can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim060921zoa-historicoverlaydistricts.pdf>

Attachment 4 – June 16, 2021, Planning Commission Verbatim can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim61621zoahistoricoverlaydistrictsstatecodevisions.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

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

Leslie B. Johnson, Zoning Administrator, DPD

Board Agenda Item
June 22, 2021

REVISED

William Mayland, Deputy Zoning Administrator, DPD
Laura Arseneau, Branch Chief, Heritage Resources and Plan Development, DPD
Lily Yegazu, Senior Planner, Zoning Administration Division, DPD

ASSIGNED COUNSEL:

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

In the amendment shown below, text to be deleted is identified with strike-through and highlighting and text to be added is shown in red and underlined.

INSTRUCTION:

1. Amend subsection 3101.6.B to require ARB approval of certain subdivisions as shown below.
2. Amend subsection 3101.19.C by adding new subsections (1) and (4) and renumber the remaining subsections as shown below.

Article 3 – Overlay and Commercial Revitalization Districts

3101. Historic Overlay Districts

6. Administration of Historic Overlay District Regulations

B. Zoning Applications, and Site, Subdivision, Grading and Sports Illumination Plans

(1) ARB review and recommendation is required on applications for a rezoning, special exception, special permit, and variance, and for site plans, subdivision plats (except when review and approval is expressly required), grading plans (except when review and approval is expressly required), and sports illumination plans. This review must include consideration of the potential impact of the proposal on the historical, architectural, or archaeological significance of the district. In addition, the following should also be considered:

~~(1)~~ (a) The impact of the proposed use, including the intensity, density, and scale of development, on existing conditions in the district;

~~(2)~~ (b) Any change to the visual character of the district including views to and from historic, contributing, and non-contributing properties;

~~(3)~~ (c) The location of buildings, structures, streets, parking areas, and planting and landscape features;

~~(4)~~ (d) Any change to existing grades, drainage patterns, landscaping, or similar features as a result of permanent or temporary site construction activities; and

1 ~~(5)~~ (e) Any change to non-structural site elements, such as vehicular access, yard
2 requirements, or utility easements that may affect the historic character of the
3 district.

4 (2) ARB review and approval is required of any application for a proposed subdivision—
5 including any subdivision plat, plan, or construction plan—of any parcel or parcels
6 within a Historic Overlay District whose district-specific regulations require such ARB
7 approval.

8 (a) Any ARB approval must include a determination that the proposed subdivision
9 would be compatible with the historic nature of the district, including with its
10 landmarks, buildings, or structures.

11 (b) In addition, the ARB’s review also includes consideration of the standards in
12 subsection 3101.6.B(1) above.

13 **19. Wellington at River Farm Historic Overlay District**

14 **C. Additional Standards**

15 (1) Any application for a proposed subdivision—including a subdivision plat, subdivision
16 plan or construction plan—requires review and approval by the ARB, in accordance
17 with subsection 3101.6.B(2).

18 ~~(1)~~ (2) Any use approved must utilize the existing historic resources on the property and
19 demonstrate that the use, including any proposed new improvements or
20 additions, will be in harmony with the district-specific purpose of the Wellington
21 at River Farm HOD.

22 ~~(2)~~ (3) Any new improvement and addition—including structure, sign, fence, street
23 furniture, outdoor graphic, and public and private utilities—must be in
24 conformance with adopted Design Guidelines for the Wellington at River Farm
25 HOD ~~Historic Overlay District~~ and must be designed in a manner that will protect
26 and preserve the existing historic resources, viewshed, archaeological resources,
27 and historical character of the area.

28 (4) In association with a proposed development, the Board may impose or accept any
29 condition it deems necessary to ensure any proposed use will satisfy the general and
30 additional standards applicable to this HOD. This may include a condition to allow

1 public access to the Wellington at River Farm HOD and its landmark, buildings,
2 structures, or land to the extent permitted by local, state, or federal law.

3
4 **INSTRUCTION: Revise subsection 8103.4.C to add a new subsection (3) and renumber remaining**
5 **subsections accordingly, as shown below.**

6 **Article 8 – Administration,** 7 **Procedures, and Enforcement**

8 **8103. Review and Decision-Making Bodies**

9 **4. Architectural Review Board**

10 **B. Powers and Duties**

11 The ARB has the following powers and duties:

- 12 **(1)** In a Historic Overlay District, to hear and decide applications for building permits and
13 sign permits.
- 14 **(2)** To review and make recommendations on all applications for rezoning, special
15 exception, special permit, and variance, and any site plan, subdivision plat, grading plan,
16 and sports illumination plan in Historic Overlay Districts.
- 17 **(3)** To hear and decide applications for any proposed subdivision—including any subdivision
18 plan, plat, or construction plan—of any parcel or parcels within a Historic Overlay
19 District whose district-specific regulations require such ARB approval.
- 20 **(3)** **(4)** To propose, as deemed appropriate, the establishment of additional Historic Overlay
21 Districts and revisions to existing Historic Overlay Districts.
- 22 **(4)** **(5)** To assist and advise the Board, the Planning Commission, and other County
23 departments and agencies in matters involving historically, architecturally, culturally, or
24 archaeologically significant sites and buildings such as appropriate land usage, parking
25 facilities, and signs.

1 ~~(5)~~ (6) To assist the Zoning Administrator in reviewing of applications for new utility
2 distribution or transmission poles 50-feet or lower in height proposed to be constructed
3 within the right-of-way of a Virginia Byway, or on property that is both adjacent to a
4 Virginia Byway and listed on the County Inventory of Historic Sites. To assist the Zoning
5 Administrator, the ARB may provide application specific recommendations or formulate
6 general recommended criteria or design guidelines for the installation of such poles in
7 these areas.

8 ~~(6)~~ (7) To advise owners of historic buildings or structures on problems of preservation.

9 ~~(7)~~ (8) To formulate recommendations concerning the establishment of an appropriate
10 system of markers for Historic Overlay Districts and selected historic sites and buildings,
11 including proposals for the installation and care of such markers.

12 ~~(8)~~ (9) To advise the Board of Supervisors in the preservation, restoration, and conservation
13 of historic, cultural, or archaeological buildings, sites, or areas in the County by
14 cooperating with and enlisting assistance from the Fairfax County History Commission,
15 the Virginia Department of Historic Resources, the National Trust for Historic
16 Preservation, and other interested parties, both public and private.

17 ~~(9)~~ (10) To make available to the Fairfax County Library, on request, copies of reports, maps,
18 drawings, and other documents bearing on the historical significance and architectural
19 history of landmarks considered by or brought to the attention of the ARB, and permit
20 copies to be made for permanent keeping in the library's historical collection.

21 ~~(10)~~ (11) To employ secretarial assistance and pay salaries, wages, and other incurred
22 necessary expenses, in accordance with appropriations by the Board.

23

Board Agenda Item
June 22, 2021

4:30 p.m.

Public Hearing on Proposed Plan Amendment 2018-II-M1, McLean Community Business Center, Located South of Dolley Madison Boulevard (Route 123) and Centered Around the Intersection of Old Dominion Drive and Chain Bridge Road (Dranesville District)

ISSUE:

Plan Amendment (PA) 2018-II-M1 proposes new Comprehensive Plan guidance for the McLean Community Business Center (CBC). This will foster opportunities to implement a vision developed for the area to 1) focus redevelopment to the center of the CBC, 2) provide additional opportunities for residential use, and 3) encourage a signature public open space amenity, among other goals. Specifically, the Plan amendment proposes a mix of uses for the CBC totaling approximately 3,850 residential units and 3,150,000 square feet of non-residential uses. The amendment also recommends additional bike and pedestrian facilities and a new parks concept. The area is currently planned for approximately 2,175 residential units and approximately 3,365,000 square feet of office, retail, and institutional uses.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2021, the Planning Commission held a public hearing and voted 11-0 (Chairman Murphy was absent from the meeting) to defer decision only for Plan Amendment 2018-II-M1 to a date certain of June 9, 2021.

On June 9, 2021, the Planning Commission voted 10-0 (Commissioners Clarke and Jimenez were absent from the meeting) to recommend that the Board of Supervisors adopt a Planning Commission alternative to the staff recommendations detailed in the Staff Report and the Staff Report Addendum.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – May 26, 2021
Planning Commission decision only – June 9, 2021
Board of Supervisors public hearing – June 22, 2021

BACKGROUND:

On April 10, 2018, the Board of Supervisors authorized the consideration of Comprehensive Plan Amendment 2018-II-M1 for the McLean CBC. The last significant review of the Comprehensive Plan recommendations for the entirety of the CBC was over 20 years ago. There was a strong desire in the community to encourage revitalization efforts through consideration of updates to the Plan. The Board directed staff to review recommendations for future land uses, development intensities, street design, public facilities, and urban design. The proposed Plan amendment was developed by staff and the McLean CBC Task Force, which was appointed by the Dranesville District Supervisor and comprised of representatives from neighborhood and community organizations, landowners, and business associations. The task force held 29 public meetings between May 2018 and December 2020.

The proposed Plan amendment proposes new guidance for the McLean CBC that will foster revitalization and the creation of a walkable mixed-use district in the center of the McLean CBC. The recommendations focus development in the center of the CBC, while maintaining the existing community serving character along the periphery of the CBC and providing a transition to surrounding residential neighborhoods. Development in the center of the CBC will utilize a form-based approach which provides flexibility to respond to market conditions while setting parameters through height limits, urban design, and a development cap. This Plan amendment proposes the introduction of additional residential uses to the CBC which will increase the diversity of housing inventory from that which exists today. The amendment also recommends a high-quality pedestrian experience with buildings close to the sidewalk, active ground floor retail uses, multimodal streets with facilities for pedestrians and bicyclists, and a network of well distributed connected public park spaces throughout the CBC.

A Staff Report Addendum was published on May 12, 2021, and proposed revisions to the Staff Report published on April 7, 2021, based on comments from the community. Proposed revisions include the addition of a milestone development level for residential units as a point at which a public facility and transportation analysis would be completed. Additionally, the addendum proposes changes to language related to school mitigation measures, interim development conditions, parking, and maximum height and land use recommendations for the Edge Zone.

The Planning Commission alternative dated June 9, 2021, includes changes providing further clarification on transportation recommendations related to Center Street, deleting the Parking Management section, a recommended height of 40 feet for the entirety of Land-Unit G-2, and more detail regarding the milestone development level and analysis.

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June 22, 2021

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

The Planning Commission verbatim excerpt, dated May 26, 2021 is available online at: <https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim52621pa2018-ii-m1mcleancommunitybusinesscenterstudy.pdf>

The Planning Commission verbatim excerpt dated June 9, 2021 is available online at: [https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim060921pa2018-ii-m1mcleancommunitybusinesscenterstudy\(deconly\).pdf](https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim060921pa2018-ii-m1mcleancommunitybusinesscenterstudy(deconly).pdf)

The Staff Report for PA 2018-II-M1 has been previously furnished and is available online at: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/mcleancbcstudy/2018-ii-m1-staff-report.pdf>

The Staff Report Addendum for PA 2018-II-M1 has been previously furnished and is available online at: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/mcleancbcstudy/addendum-pa-2018-ii-m1.pdf>

The June 9, 2021 proposed Planning Commission Alternative is available online at: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/Assets/Documents/CompPlanAmend/mcleancbcstudy/DraftPlanText/McLean%20CBC%20Draft%20PC%20changes%20for%20webFinal.pdf>

STAFF:

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Elizabeth Hagg, Director, Community Revitalization Section, DPD
David Stinson, Planner II, PD, DPD

Board Agenda Item
June 22, 2021

4:30 p.m.

Public Comment on Issues of Concern