

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 14, 2021**

AGENDA

- 9:30 Presentations
- 9:30 Board Appointments to Citizen Boards, Authorities, Commissions,
and Advisory Groups
- 9:30 Matters Presented by Board Members
- 9:30 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Approval of a "Watch for Children" Sign as Part of the Residential
Traffic Administration Program (Providence District)
- 2 Approval of Traffic Calming Measures as Part of the Residential
Traffic Administration Program (Lee District)
- 3 Designation of Plans Examiner Status Under the Expedited Land
Development Review Program
- 4 Street into the Secondary System (Dranesville District)
- 5 Authorization to Advertise a Public Hearing on an Ordinance to
Amend Chapter 3 of the Code of the County of Fairfax, Virginia,
County Employees, by Adding Article 10, Collective Bargaining,
Sections 3-10-1 through 3-10-18
- 6 Authorization to Advertise a Public Hearing to Consider Adopting
an Ordinance to Expand the Singleton's Grove Community
Parking District (Sully District)
- 7 Approval of Traffic Calming Measures as Part of the Residential
Traffic Administration Program (Mason District)
- 8 Approval of Traffic Calming Measures as Part of the Residential
Traffic Administration Program (Mason District)
- 9 Authorization to Advertise a Public Hearing on the Proposed
Issuance of a Subordinate Wastewater Revenue Bond Series
2021A in Connection with Fairfax County Economic
Development Authority Fairfax County Facilities Revenue
Bonds, Series 2021A (Braddock District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 14, 2021**

**ADMINISTRATIVE
ITEMS
(continued)**

- 10 Authorization to Advertise a Public Hearing on a Proposal to Vacate Portions of 7th Place and Unnamed Right of Way (Dranesville District)
- 11 Authorization to Advertise a Public Hearing on Proposed Amendments to Fairfax County Code Section 82-5-32, Removal, Immobilization, and Disposition of Vehicles Unlawfully Parked on Private or County Property
- 12 Supplemental Appropriation Resolution AS 22095 for the Department of Housing and Community Development to Accept Grant Funding from the U.S. Department of Housing and Urban Development for the Continuum of Care Planning Project Grant

ACTION ITEMS

- 1 Approval of a Board of Supervisors' Draft Regular Meeting Schedule for Calendar Year 2022
- 2 Presentation of the Delinquent Tax List for Tax Year 2020 (FY 2021)
- 3 Approval of Revisions to Chapters 1, 2, 5, 7, 16, and 17 of the Personnel Regulations due to Legislation Passed by the 2021 Special Session 1 of the Virginia General Assembly
- 4 Approval of Revisions to Procedural Memorandum No. 11-01, Exempt Service
- 5 Approval of the Local Stormwater Management Grant Program Phase I
- 6 Approval of a Joint Funding Agreement – Fairfax County Partnership with the United States Geological Survey for the Assessment of Reach- and Watershed-Scale Responses to Stream Restoration in Long Branch, Fairfax, Virginia
- 7 Approval of a Resolution Authorizing the Department of Transportation to Apply for Funding for the Virginia Department of Rail and Public Transportation's Transit Ridership Incentive Program

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 14, 2021**

**ACTION ITEMS
(continued)**

- 8 Authorization to Sign Standard Project Agreements for Distribution of I-395/I-95 Toll Revenues to Multi-Modal Projects in the I-395/I-95 Corridor (Lee, Mount Vernon, and Springfield Districts)
- 9 Endorsement of Recommendations to George Mason University on the Master Plan - Phase One Progress Report (Braddock District)
- 10 Approval of a Resolution Endorsing Projects Being Submitted for FY 2027 and FY 2028 Virginia Department of Transportation Revenue Sharing Program Funds (Braddock, Springfield, and Providence Districts)
- 11 Approval of a Resolution Endorsing Projects Being Submitted to the Northern Virginia Transportation Authority for Fiscal Year 2022 to Fiscal Year 2027 Regional Funding

**CONSIDERATION
ITEMS**

- 1 Approval of the Amendments to the Bylaws for the Fairfax County Consumer Protection Commission (CPC)
- 2 Approval of the Amendments to the Bylaws for the Fairfax County Tenant-Landlord Commission (TLC)
- 3 Approval of the Bylaws for the Fairfax County Trespass Towing Advisory Board (TTAB)

**INFORMATION
ITEMS**

- 1 County Holiday Schedule – Calendar Year 2022

CLOSED SESSION

Closed Session

**PUBLIC
HEARINGS**

- 3:30 Public Hearing on SEA 2009-SU-002 (New Cingular Wireless PCS, LLC (D/B/A AT&T Mobility), Trustees of the Centreville United Methodist Church, and Centreville Day School) (Sully District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 14, 2021**

**PUBLIC
HEARINGS
(continued)**

- | | | |
|------|--|--|
| 3:30 | | Public Hearing on SE 2021-MA-002 (Fairfax County Water Authority) (Mason District) |
| 3:30 | | Public Hearing on RZ 2021-MV-004 (Marie J. and Paul L. Charles) (Mount Vernon District) |
| 3:30 | | Public Hearing on RZ 2020-BR-001 (Christopher Land, LLC) (Braddock District) |
| 3:30 | To Be Deferred to
10/19/21 at 3:30
p.m. | Public Hearing on PCA 2006-SU-025-05/CDPA 2006-SU-025-03 (Toll Mid-Atlantic LP Company, Inc. and JLB Realty LLC) (Sully District) |
| 4:00 | | Decision Only on a Proposed Zoning Ordinance Amendment Re: Historic Overlay Districts – State Code Revisions |
| 4:00 | | Public Hearing on Proposed Plan Amendment 2020-030, 8708 Silverbrook Road, East of the Intersection of Silverbrook Road and Southrun Road (Mount Vernon District) |
| 4:00 | | Public Hearing on Proposed Amendments to Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes Enacted During the 2021 Session of the General Assembly to Change Status as a Veteran to Military Status as a Protected Class, Adding a Definition of Military Status to Art. 11.1-3-2 (the Fairfax County Fair Housing Act), Adding the Accessible Parking Language from HB 1971 to Art. 11.1-3-4-2, and Deleting Extraneous Language from Art. 11.1-3-18 |
| 4:30 | | Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 |
| 4:30 | | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Sleepy Hollow Road Walkway - Columbia Pike to Route 7 (Mason District) |
| 4:30 | | Public Hearing on the Acquisition of Certain Land Rights Necessary for Construction of Slipline Replacement #3 (Celadon Lane) (Mason District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
September 14, 2021**

**PUBLIC
HEARINGS
(continued)**

- | | |
|------|--|
| 4:30 | Public Hearing on a Proposal to Prohibit Through Truck Traffic on Hampton Road (Springfield District) |
| 4:30 | Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia – Chapter 4 (Taxation and Finance) to Add a New Article 30 to Establish a Disposable Plastic Bag Tax |
| 4:30 | Public Comment |



Fairfax County, Virginia

BOARD OF SUPERVISORS

AGENDA

**Tuesday
September 14, 2021**

9:30 a.m.

PRESENTATIONS

- PROCLAMATION — To designate September 2021 as Suicide Awareness Month. Requested by Supervisor Walkinshaw and Supervisor Smith.
- PROCLAMATION — To designate September 2021 as Hunger Action Month. Requested by Supervisor Palchik.
- PROCLAMATION — To designate September 15 through October 15, 2021, as Hispanic Heritage Month. Requested by Chairman McKay and Supervisor Palchik.
- RESOLUTION — To recognize Joseph Mondoro, Chief Financial Officer, for his years of outstanding service to Fairfax County. Requested by Chairman McKay and all Supervisors.

STAFF:

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

Board Agenda Item
September 14, 2021

9:30 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard September 14, 2021

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

September 14, 2021

DRAFT

**APPOINTMENTS TO BE HEARD SEPTEMBER 14, 2021
(ENCOMPASSING VACANCIES PROJECTED THROUGH **SEPTEMBER 30, 2021**)**
(Unless otherwise noted, members are eligible for reappointment)

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

<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
VACANT (Formerly held by Mary Frances Tunick; appointed 10/20-3/21) Term exp. 1/22 <i>Resigned</i>	Mason District Representative		Gross	Mason
VACANT (Formerly held by Douglas M. Salik; appointed 1/20 by Storck) Term exp. 1/21 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

ADVISORY SOCIAL SERVICES BOARD
(4-year terms – limited to two full consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Karen Darley (Appointed 5/17-11/17 by Cook) Term exp. 9/21	Braddock District Representative		Walkinshaw	Braddock
Stephanie Sedgwick (Appointed 11/18 by Foust) Term exp. 9/21	Dranesville District Representative		Foust	Dranesville
Sarah Newman (Appointed 2/13-10/17 by Hudgins) Term exp. 9/21	Hunter Mill District Representative		Alcorn	Hunter Mill
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

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4-year terms)

<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

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AFFORDABLE DWELLING UNIT ADVISORY BOARD (4-year terms)

Continued from the previous page

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

**ALCOHOL SAFETY ACTION PROGRAM LOCAL
POLICY BOARD (ASAP) (3-year terms)**

<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

ARCHITECTURAL REVIEW BOARD (3-year terms)

NOTE: Members shall be appointed by the Board as follows: At least two (2) members shall be certified architects; one (1) a landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Kaye Orr (Appointed 6/18-10/18 by Gross) Term exp. 9/21	Related Professional Group #1 Representative		By Any Supervisor	At-Large
Susan Woodward Notkins (Appointed 11/96-9/03 by Hanley; 9/06 by Connolly; 10/09-1/19 by Bulova)	Related Professional Group #3 Representative		By Any Supervisor	At-Large
Samantha Huang (Appointed /19 by Hudgins) Term exp. 9/21	Related Professional Group #4 Representative		By Any Supervisor	At-Large
Michael McReynolds (Appointed 9/20 by Smith) Term exp. 9/21	Related Professional Group #6 Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2-year terms)
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<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
Stephen A. McLaughlin (Appointed 9/98-9/03 by Connolly; 9/05- 9/19 by Smyth) Term exp. 9/21	Providence District Principal Representative		Palchik	Providence

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1-year term)
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<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

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4-year terms)

NOTE: No official, technical assistant, inspector or other employee of the Department of Public Works and Environmental Services, Department of Planning and Development, or Fire and Rescue Department shall serve as a member on this 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-year terms)**

<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-year terms – limited to three 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

**CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4-year terms)**

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

CHILD CARE ADVISORY COUNCIL (2-year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Pam Tinker (Appointed 9/16-9/19 by McKay) Term exp. 9/21	Lee District Representative		Lusk	Lee
Scott Stroh (Appointed 6/17-9/19 by Storck) Term exp. 9/21	Mount Vernon District Representative		Storck	Mount Vernon
Mercedes O. Dash (Appointed 3/15-2/19 by Smyth; 1/20 by Palchik) Term exp. 9/21	Providence District Representative		Palchik	Providence

CIVIL SERVICE COMMISSION (2-year terms)

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

<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 FOR WOMEN (3-year terms)

<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
VACANT (Formerly held by Chelsea H. Smith; appointed 2/20-10/20 by Herrity) Term exp. 10/23 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

COMMUNITY ACTION ADVISORY BOARD (CAAB) (3-year terms)
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<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
VACANT (Formerly held by Sandra Chisholm; appointed 07/20 by Palchik) Term exp. 2/22 <i>Resigned</i>	Providence District Representative		Palchik	Providence

CONSUMER PROTECTION COMMISSION (3-year terms)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Wes Callender (Appointed 9/14-7/18 by Foust) Term exp. 7/21	Fairfax County Resident #6 Representative		By Any Supervisor	At-Large
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

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CONSUMER PROTECTION COMMISSION (3-year terms)

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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Scott Hine; appointed 2/07 by McConnell; 7/09-7/18 by Herrity) Term exp. 7/21 <i>Resigned</i>	Fairfax County Resident #11 Representative		By Any Supervisor	At-Large
Denis Gulakowski (Appointed 5/16-7/18 by Cook) Term exp. 7/21	Fairfax County Resident #12 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-year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michael A. Skvortsov (Appointed 12/16-7/18 by Hudgins) Term exp. 8/21	At-Large Representative		By Any Supervisor	At-Large
Joy Marlene Bryan (Appointed 9/97-706 by Kauffman; 9/09- 7/18 by McKay) Term exp. 8/21	Lee District Representative		Lusk	Lee

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CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3-year terms)

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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Christopher Boeder (Appointed 9/18 by Smyth) Term exp. 8/21	Providence District Representative		Palchik	Providence
Jennifer Chronis (Appointed 12/16-7/18 by Herrity) Term exp. 8/21	Springfield District Representative		Herrity	Springfield

**DULLES RAIL TRANSPORTATION IMPROVEMENT
DISTRICT ADVISORY BOARD, PHASE II (4-year terms)**

<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-year terms)

<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. Eileen Ellsworth as the At-Large #4 Representative

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4- year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	At-Large #9 Representative		By Any Supervisor	At-Large

ENGINEERING STANDARDS REVIEW COMMITTEE (3-year terms)

<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-year terms - limited to two full consecutive terms)

NOTE: Persons may be reappointed after being off for three 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 for this representation would be five members.

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

<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

**FAIRFAX COMMUNITY LONG TERM CARE
COORDINATING COUNCIL (2-year terms)**

CONFIRMATIONS NEEDED:

- Ms. Rikki Epstein as the Advocacy Organizations #1 Representative
- Ms. Catherine S. Cole as the Commission on Aging Representative
- Mr. Douglas Birnie as the Community/Religious Leaders #3 Representative
- Ms. S. Orlene Grant as the Long Term Care Providers #15 Representative
- Mr. Kenneth J. Crum as the Long Term Care Providers #17 Representative
- Mr. Robert Sargeant as the Long Term Care Providers #19 Representative
- Ms. Carol Edelstein as the Long Term Care Providers #20 Representative
- Ms. Melanie Rochon Bush as the Long Term Care Providers #22 Representative
- Mr. Aaron Rebeck as the Long Term Care Providers #24 Representative
- Ms. Nancy Fiedelman as the Long Term Care Providers #25 Representative
- Ms. Sonia Gow as the Long Term Care Providers #26 Representative
- Ms. Matrona Busch as the Long Term Care Providers #27 Representative
- Ms. May F. Al-Barzinji as the Long Term Care Providers #29 Representative
- Ms. Denise Hyater as the Long Term Care Providers #7 Representative
- Ms. Rose Mario as the Long Term Care Providers #9 Representative

HEALTH CARE ADVISORY BOARD (4-year terms)
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<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

HEALTH SYSTEMS AGENCY BOARD

(3-year terms - limited to two full terms, may be reappointed after one 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
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

HISTORY COMMISSION (3-year terms)

NOTE: The Commission shall include at least one member who is a resident from each 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>
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

HUMAN RIGHTS COMMISSION (3-year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by George Alber; appointed 1/16-9/18 by Bulova) Term exp. 9/21 Deceased	At-Large #1 Representative		By Any Supervisor	At-Large
Bryan W. Hudson (Appointed 9/18 by Herrity) Term exp. 9/21	At-Large #3 Representative		By Any Supervisor	At-Large
Meena Bhinge (Appointed 3/16-9/18 by Cook) Term exp. 9/21	At-Large #10 Representative		By Any Supervisor	At-Large

**JUVENILE AND DOMESTIC RELATIONS COURT
CITIZENS ADVISORY COUNCIL (2-year terms)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alicia E. Plerhoples; appointed 10/19 by Foust) Term exp. 1/22 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
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-year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Miriam Smolen; appointed 4/15-07/17) Term exp. 7/21 <i>Resigned</i>	Providence District Representative		Palchik	Providence

**OVERSIGHT COMMITTEE ON DISTRACTED AND
IMPAIRED DRIVING (3-year terms)**

<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
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

Continued on next page

**OVERSIGHT COMMITTEE ON DISTRACTED AND
IMPAIRED DRIVING (3-year terms)**

Continued from previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Peyton Smith (Appointed 10/17 by Smith) Term exp. 6/20	Sully District Representative		Smith	Sully

POLICE CIVILIAN REVIEW PANEL (3-year terms)

<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
VACANT (Formerly held by Douglas Kay; Appointed 2/17 and 2/20 by McKay) Term exp. 2/23 <i>Resigned</i>	Seat #5 Representative		By Any Supervisor	At-Large

**RESTON TRANSPORTATION SERVICE DISTRICT
ADVISORY BOARD (4-year terms)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Angela E. Roberts (Appointed 5/19 by Hudgins) Term exp. 9/21	Apartment or Rental Owner Associations Representative	Angela E. Roberts (Alcorn)	By Any Supervisor	At-Large
Margaret D. Parker (Appointed 9/17 by Hudgins) Term exp. 9/21	Commercial or Retail Ownership #1 Representative	Margaret D. Parker (Alcorn)	By Any Supervisor	At-Large
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
Peter J. Henry (Appointed 9/17 by Hudgins) Term exp. 9/21	Commercial or Retail Ownership #3 Representative	Peter J. Henry (Alcorn)	By Any Supervisor	At-Large
Michael Shindledecker (Appointed 7/20 by Foust) Term exp. 9/21	Dranesville District Representative	Michael Shindledecker	Foust	Dranesville
Kelley Westenhoff (Appointed 9/17 by Hudgins) Term exp. 9/21	Hunter Mill District #1 Representative	Kelley Westenhoff (Alcorn)	Alcorn	Hunter Mill
Joe Koszarek (Appointed 5/19 by Hudgins) Term exp. 9/21	Hunter Mill District #2 Representative	Joe Koszarek (Alcorn)	Alcorn	Hunter Mill
Gary Maupin (Appointed 2/20 by Alcorn) Term exp. 9/21	Resident Member from Reston Town Center Association Representative	Gary Maupin (Alcorn)	By Any Supervisor	At-Large

Continued on next page

**RESTON TRANSPORTATION SERVICE DISTRICT
ADVISORY BOARD (4-year terms)**

Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		By Any Supervisor	At-Large
John R. Mooney (Appointed 9/17 by Hudgins) Term exp. 9/21	Reston Association Representative	John R. Mooney (Alcorn)	By Any Supervisor	At-Large
Robert E. Goudie (Appointed 9/17 by Hudgins) Term exp. 9/21	Reston Town Center Association Representative	Robert E. Goudie (Alcorn)	By Any Supervisor	At-Large

ROAD VIEWERS BOARD (1-year term)

<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

TENANT LANDLORD COMMISSION (3-year terms)

<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

TRESPASS TOWING ADVISORY BOARD (3-year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Denver Supinger (Appointed 9/18 by Bulova) Term exp. 9/21	Citizen Alternate Representative		By Any Supervisor	At-Large

**TYSONS TRANSPORTATION SERVICE DISTRICT
ADVISORY BOARD (2-year terms)**

<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

WETLANDS BOARD (5- year terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Deana M. Crumbling (Appointed 1/14- 10/18 by Bulova) Term exp. 7/31	Alternate #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Leslie Jacobs; appointed 5/16-1/20 by Storck) Term exp. 12/24 <i>Resigned</i>	Mount Vernon District #3 Representative		Storck	Mount Vernon

YOUNG ADULTS ADVISORY COUNCIL (YAA) (2 years)

NOTE: Appointees must be 20-34 years old and serve for 2-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 Dalton J. Bisson; appointed 11/20 by Smith) Term exp. 6/21 <i>Resigned</i>	Sully District Representative		Smith	Sully

NEW BOARD**AFFORDABLE HOUSING ADVISORY COUNCIL (AHAC)**

<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	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	Sully District Representative		Smith	Sully

Board Agenda Item
September 14, 2021

9:30 a.m.

Matters Presented by Board Members

Board Agenda Item
September 14, 2021

9:30 a.m.

Items Presented by the County Executive

ADMINISTRATIVE - 1

Approval of a “Watch for Children” Sign as Part of the Residential Traffic Administration Program (Providence District)

ISSUE:

Board endorsement of a “Watch for Children” sign as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval for the installation of the following:

- One “Watch for Children” sign on Bethany Court (Providence District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved “Watch for Children” sign as soon as possible.

TIMING:

Board action is requested on September 14, 2021, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed signs will be effectively located and will not conflict with any other traffic control devices.

On August 5, 2021, FCDOT received verification from the Providence District Supervisor’s Office confirming community support for a “Watch for Children” sign on Bethany Court.

FISCAL IMPACT:

Funding in the amount of \$300 is available in Fund 300-C30050, Project 2G25-076-000, Traffic Calming Program.

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

None

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

ADMINISTRATIVE - 2

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Lee 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 Bush Hill Drive (Attachment I and Attachment II) consisting of the following:

- Four Speed Humps on Bush Hill Drive (Lee 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 measures as soon as possible.

TIMING:

Board action is requested on September 14, 2021, 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 July 19, 2021, FCDOT received verification from Lee District Supervisor's Office confirming community support for the Bush Hill Drive traffic calming plan.

Board Agenda Item
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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, Traffic Calming Program, Fund 300-C30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Bush Hill Drive
Attachment II: Traffic Calming Plan for Bush Hill 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)
TRAFFIC CALMING MEASURES
BUSH HILL DRIVE
LEE 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, September 14, 2021, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Bush Hill Drive have requested the Lee District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Bush Hill Drive; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Bush Hill Drive 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

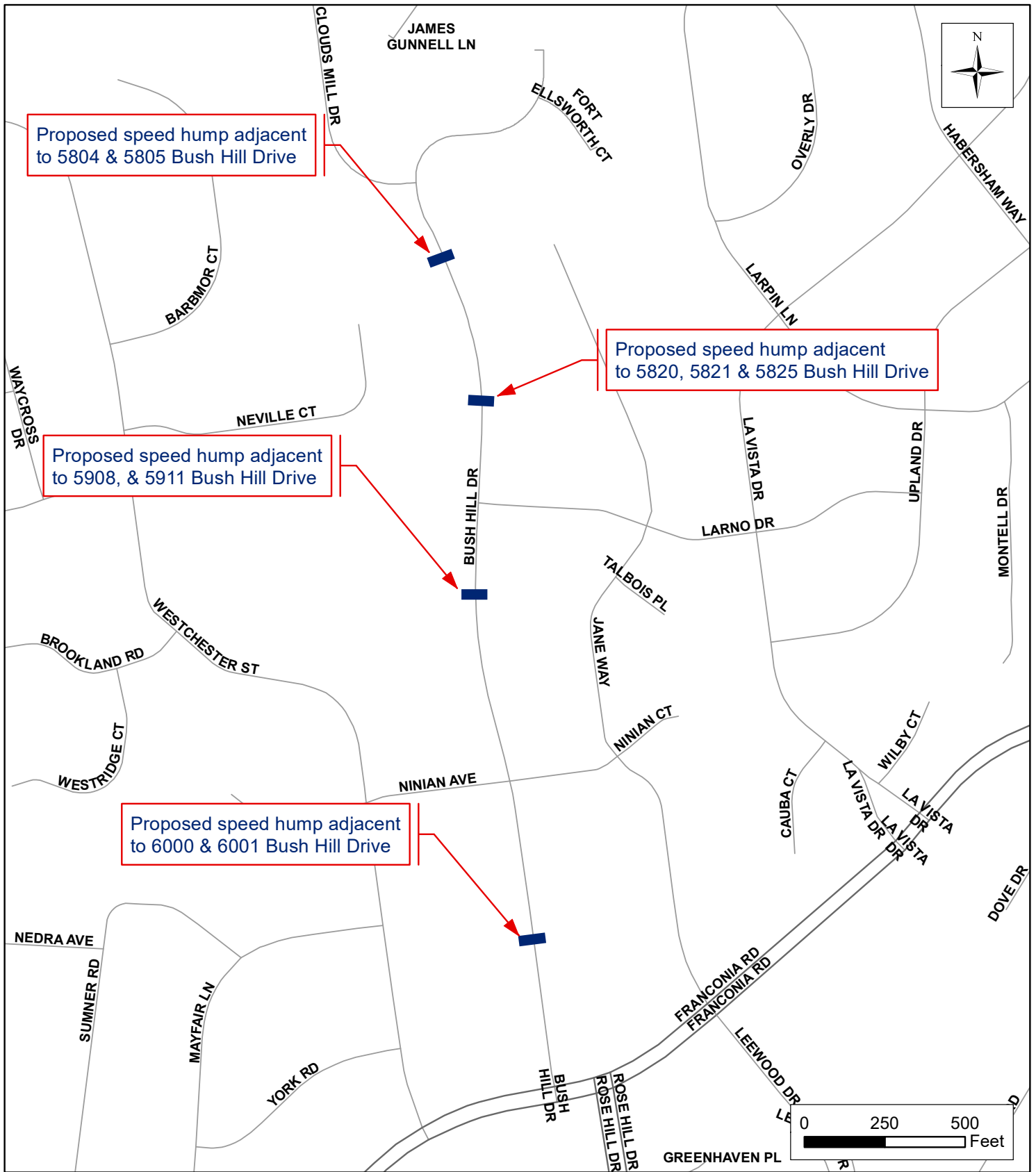
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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 Bush Hill Drive as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 14th day of September, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 81-2, 81-4, 82-1, 82-3

July 2021

Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Bush Hill Drive
Lee District



ADMINISTRATIVE - 3

Designation of Plans Examiner Status Under the Expedited Land Development Review Program

ISSUE:

Board of Supervisors' action to designate one individual as a Plans Examiner to participate in the Expedited Land Development Review Program and to place eight individuals who have elected not to pursue their continuing education requirements into inactive status, pursuant to the adopted criteria and recommendation of the Advisory Plans Examiner Board (APEB).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (the Board) take the following actions:

- Designate the following individual, identified with his registration number, as a Plans Examiner:

Gregory James Ellwood	#344
-----------------------	------

- Designate the following eight individuals, identified with their registration numbers, as inactive Plans Examiners:

Michael Albright	#315
Carlyle Brady	#110
Alan Christoe	#326 (Moved out of area)
Greg Davis	#129 (Retired)
Alex Holleman	#312 (Moved out of are)
Joseph McClellan	#102 (Retired)
Sulaiman Sahebian	#191 (Retired)
Keith Simpson	#314

TIMING:

Routine.

BACKGROUND:

On August 7, 1989, the Board adopted Chapter 117 (Expedited Land Development Review) of *The Code of the County of Fairfax, Virginia*, (The Code) establishing a Plans Examiner Program under the auspices of an APEB. The purpose of the Plans Examiner Program is to expedite the review of site and subdivision plans submitted by certain specially qualified applicants, i.e., Plans Examiners, to the Department of Land Development Services.

The Code requires that the Board designate an individual's status under the Expedited Land Development Review Program.

Plans Examiner Status: Candidates for status as Plans Examiners must meet the education and experience requirements contained in Chapter 117. After the review of his application and credentials, the APEB has found that the one candidate listed above satisfies these requirements. This finding was documented in a letter dated July 20, 2021, from the Chairman of the APEB, James H. Scanlon, P.E., L.S., to Chairman Jeffrey C. McKay.

Inactive Status: Chapter 117 requires Plans Examiners to participate in the Board adopted Continuing Education Program. Consonant with the requirements of Section 117-1-3(a), and subject to Board approval, the APEB will recommend designation of inactive status for individuals electing not to pursue the continuing education program. This status designation continues until and if they wish to reactivate their Designated Plans Examiner (DPE) status by completing the continuing education requirements. An inactive status makes these individuals ineligible to participate in the expedited plan process procedure. At the time, they are placed in inactive status, individuals are provided with information concerning requirements for reinstatement as an active DPE.

In a letter also dated July 9, 2021, from the Chairman of the APEB, eight individuals were identified that have elected not to pursue the continuing education requirements. The APEB recommends that their status become inactive until and if they wish to reactivate their status as a DPE by completing their continuing education requirements.

Staff concurs with these recommendations as being in accordance with Chapter 117 and the Board-adopted criteria.

FISCAL IMPACT:

None.

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

Attachment I – Two letters dated July 9, 2021, and July 20, 2021, from the Chairman of the APEB to the Chairman of the Board of Supervisors.

STAFF:

Rachel Flynn, Deputy County Executive

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



Engineers & Surveyors Institute

"a public/private partnership"

4795 Meadow Wood Lane
Suite 115 East
Chantilly, VA 20151
703-263-2232

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J2 Engineering

Phillip DeLeon, P.E.
VA Dept. Rail & Public Transportation

Alex Faghri, Ph.D.
Virginia Department of Transportation

Glen Faunce
Dewberry

Ann O. Germain, P.E.
christopher consultants, ltd.

Latheasha Hinton
City of Alexandria, F&ES

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Matthew K. Koirtsoyann
Bowman Consulting Group

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A. Morton Thomas & Associates, Inc.

Blake A. Smith, P.E.
Smith Engineering

Ross Stilling
Fairfax Water

Dennis M. Thomas, P.E.
Burgess & Niple, Inc.

Anita M. Tierney
Loudoun County, B&D

Clayton C. Tock, P.E.
Urban, Ltd.

Patrick Veltri
ESE Consultants, Inc.

Robert W. Walker, P.E., CEA
Gordon

Susan S. Wolford, CEA, AICP
Pennoni Associates

Current Past Chairman
John Cummings, P.E.
Rinker Design Associates, P.C.

Executive Director
Jeffrey L. Blackford, P.E.

July 9, 2021

Hon. Jeffrey C. McKay, Chairman
Fairfax County Board of Supervisors
12000 Government Center Parkway
Fairfax, VA 22035

Chairman McKay:

The Board of Supervisors approved the following individuals as Designated Plans Examiners:

<u>Name</u>	<u>Reg. Number</u>
Michael Albright	#315
Carlyle Brady	#110
Alan Christoe	#326 (moved out of area)
Greg Davis	#129 (Retired)
Alex Holleman	#312 (moved out of area)
Joseph McClellan	#102 (Retired)
Sulaiman Sahebian	#191 (Retired)
Keith Simpson	#314

However, they have elected not to pursue the continuing education requirements at this time. It is recommended that their status become inactive until and if they wish to reactivate their status by completing their continuing education requirements. As such, they would no longer be eligible to participate in the expedited plan process procedure.

Following the Board of Supervisors' approval of this recommendation, each will be notified of his/her status change, as well as the procedure to be followed for reinstatement.

Sincerely,

James H. Scanlon, PE, LS

Chairman

Fairfax County Advisory Plans Examiner Board



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Virginia Department of Transportation

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Pennoni Associates

Current Past Chairman
John Cummings, P.E.
Rinker Design Associates, P.C.

Executive Director
Jeffrey L. Blackford, P.E.

July 20, 2021

Hon. Jeffrey C. McKay Chairman
Fairfax County Board of Supervisors
12000 Government Center Parkway
Fairfax, VA 22035

Chairman McKay:

The following named individual was approved by the Fairfax County Advisory Plans Examiner Board for recommendation as Designated Plans Examiner:

Name	Reg. No
Gregory James Ellwood	344

He has been found to meet the qualifications outlined in Chapter 117-1-2 of the Code of Fairfax County is in accordance with the criteria adopted by the Fairfax County Board of Supervisors on February 11, 1991.

Sincerely,

James H. Scanlon, P.E. LS
Chairman
Fairfax County Advisory Plans Examiner Board

Board Agenda Item
September 14, 2021

ADMINISTRATIVE - 4

Street into the Secondary System (Dranesville District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the street listed below be added to the State Secondary System:

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Mehr Farms	Dranesville	Greyson Woods Lane

TIMING:

Routine.

BACKGROUND:

Inspection has been made of this street, and it is recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Form

STAFF:

Rachel Flynn, Deputy County Executive
William D. Hicks, P.E., Director, Department of Land Development Services

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.		VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. PLAN NUMBER: 1237-SD-001 SUBDIVISION PLAT NAME: Mehr Farms COUNTY MAGISTERIAL DISTRICT: Dranesville	
ENGINEERING MANAGER: Robert Burton BY: <u>Nadia Alphonse</u>		FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>06/22/2021</u>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Greyson Woods Lane	CL Old Dominion Drive, Route 738 - 830' NW CL Van Ness Court, Route 4095	381' E to End of Cul-de-Sac	0.07
NOTES:			TOTALS: 0.07

Board Agenda Item
September 14, 2021

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing on an Ordinance to Amend Chapter 3 of the Code of the County of Fairfax, Virginia, County Employees, by Adding Article 10, Collective Bargaining, Sections 3-10-1 through 3-10-18

ISSUE:

Board of Supervisors authorization to advertise a public hearing to amend Chapter 3 of the Code of the County of Fairfax, Virginia, County Employees, by adding Article 10, Collective Bargaining, Sections 3-10-1 through 3-10-18.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendment.

TIMING:

Board action is requested on September 14, 2021, to advertise the public hearing before the Board on October 5, 2021, at 4:00 p.m.

BACKGROUND:

During the 2020 session of the Virginia General Assembly, a bill was passed and signed into law by the Governor giving local governments and school boards the authority to adopt an ordinance or resolution allowing employees to collectively bargain. The law, Virginia Code § 40.1-57.2, had a delayed effective date of May 1, 2021. To begin the process of adopting an ordinance, on September 29, 2020, the Board created a collective bargaining workgroup, led by Personnel and Reorganization Committee (Personnel Committee) Chair Penelope Gross and Supervisor James Walkinshaw. The workgroup included employee group representatives from the Fairfax County Public Schools (FCPS) and General County Government, elected officials from FCPS, County Executive Bryan Hill, FCPS Superintendent Scott Brabrand and other senior staff members. The workgroup met twice in February 2021 and once in April of 2021, and feedback from the group was instrumental in planning related Personnel Committee meetings.

The Personnel Committee met to discuss collective bargaining on March 2, May 25, June 29, and July 20, 2021. The Personnel Committee received a presentation about the framework of collective bargaining from the County's outside legal consultant on March 2, 2021. At the May 25, 2021, meeting, County staff presented a draft collective

Board Agenda Item
September 14, 2021

bargaining ordinance for discussion. As a result of the Board's discussion at these meetings, the draft collective bargaining ordinance has been revised several times, culminating in the draft collective bargaining ordinance that is proposed to be advertised for a public hearing and is enclosed as Attachment 1.

FISCAL IMPACT:

The FY 2022 Adopted Budget Plan includes \$1.0 million and 6/6.0 FTE positions to support collective bargaining for public employees. This includes the addition of \$0.5 million and 5/5.0 FTE positions in the Department of Human Resources and \$0.1 million and 1/1.0 FTE position in the Office of the County Attorney. In addition, \$0.3 million in Fringe Benefits funding is included in Agency 89, Employee Benefits. These positions are necessary to begin to address the new workload associated with labor relations, including legal support, policy administration, contract compliance and system administration. Additional positions and funding are anticipated to be recommended as part of the FY 2021 Carryover Review, and in future budget processes as additional requirements are identified.

ENCLOSED DOCUMENT:

Attachment 1 – Draft Collective Bargaining Ordinance for the September 14, 2021 Board Meeting

STAFF:

Catherine Spage, Director, Department of Human Resources
Christina Jackson, Chief Financial Officer

ASSIGNED COUNSEL:

Elizabeth D. Teare, County Attorney
Karen Gibbons, Deputy County Attorney

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

An ORDINANCE to amend Chapter 3 of the Code of the County of Fairfax, Virginia, County Employees, by adding Article 10, Collective Bargaining, Sections 3-10-1 through 3-10-18, as follows:

CHAPTER 3. – COUNTY EMPLOYEES

ARTICLE 10. - COLLECTIVE BARGAINING.

Section 3-10-1. - Statement of policy.

It is the public policy of Fairfax County to promote a harmonious and cooperative relationship between the County government and its employees to ensure that the workforce is positioned to efficiently meet demands and deliver exceptional services to the community and stakeholders. Unresolved disputes in public service are harmful to employees and the public, and adequate means should be available for preventing disputes and for resolving them when they occur. To that end, it is in the public interest that employees have the opportunity to bargain collectively in good faith, without interference with the orderly processes of government and subject to the limitations of the County's annual budget and appropriations.

Section 3-10-2. - Definitions.

As used in this Article, the following terms shall have the meanings ascribed to them in this section:

Arbitration means the procedure by which the County and an exclusive bargaining representative when involved in a labor-management dispute or impasse, as defined in this Article, submit their differences to a third party for a final and binding decision subject to the provisions of this Article.

Benefits means all forms of non-wage compensation.

County means the County of Fairfax acting through its County Executive or the County Executive's designee.

Collective Bargaining means to perform the mutual obligation of the County, by its representatives, and the exclusive bargaining representative of employees in an appropriate bargaining unit to meet and negotiate in good faith at reasonable times and places, with the good faith intention of reaching an

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agreement, subject to appropriation of funds by the County Board, regarding terms and conditions of employment, including wages, salaries, and all forms of monetary compensation; benefits; personnel policies and practices, working conditions, and hours and scheduling of work, provided that matters reserved as County management rights in Section 3-10-4 are subject to permissive collective bargaining as provided therein. [OPTION to strike “,provided that matters reserved as County management rights in Section 3-10-4 are subject to permissive collective bargaining as provided therein.” This, and a corresponding edit in 3-10-4, would make all items in Section 3-10-4(a) subject to mandatory collective bargaining.] The County shall not negotiate as to matters controlled or preempted by any federal or state constitutional provision, law, rule, or regulation.

Collective bargaining agreement means the written legal contract between the County and an exclusive bargaining agent representing the employees in a bargaining unit authorized by this Article and resulting from collective bargaining as defined in this section. Any collective bargaining agreement negotiated under this Article shall continue in effect following the expiration of its term until such time as superseded by a later agreement.

Confidential employee means any employee who, as part of their job duties, assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations, including a County Board member, the County Executive or Assistant/Deputy County Executive, the County Attorney or Assistant/Deputy County Attorney, and a department head or Assistant/Deputy department head.

Employee means any employee of the County, except it does *not* include anyone who is:

- (1) a seasonal **or temporary** employee as defined in this section;
- (2) a confidential employee, as defined in this section;
- (3) a managerial employee, as defined in this section;
- (4) a supervisor, as defined in this section;
- (5) an intern or volunteer;

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- (6) a new employee for a period of sixty (60) days after such employee's first day of work for the County;
- (7) a member of a board, commission, authority, or other appointee of any public body as defined in state law, unless such member is an Employee who would otherwise be entitled to engage in collective bargaining under the terms of this ordinance; or
- (8) an employee of the courts or of any local constitutional officer as set forth in Article VII, Section 4 of the Virginia Constitution, whether or not the County provides personnel administrative services or supplements state or other funding provided for the personnel of such officers.

Employee organization means an organization in which employees participate, and that exists for the purpose, in whole or in part, of representing employees in collective bargaining concerning labor disputes, wages, hours, and other terms and conditions of employment.

Exclusive bargaining representative and *exclusive bargaining agent* mean the employee organization recognized by the County as the only organization to bargain collectively for all employees in a bargaining unit (as defined in section 3-10-6).

Impasse means the failure of the County and an exclusive bargaining representative to reach agreement in the course of collective bargaining negotiations within the timeframes specified in this Article.

Labor-management dispute means a difference of position as between the County and an exclusive bargaining agent concerning administration or interpretation of the collective bargaining agreement between them; action challenged as a prohibited practice under Section 3-10-16; negotiability of subject matters under this Article; and questions of eligibility of disputes for resolution by mediation or arbitration. It shall not mean disciplinary or other adverse personnel actions within the meaning of Virginia Code Section 15.2-1506, *et seq.*, as implemented by the uniformly applicable County grievance procedure, and specialized state statutory procedures applicable to law enforcement officers and fire and emergency medical services employees.

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Managerial employee means any employee or appointee involved directly in the determination of labor relations or personnel policy or who is responsible for directing the implementation of labor relations or personnel policy at an executive level.

Mediation means an effort by a neutral, third-party factfinder chosen under the terms of this Article to assist confidentially in resolving an impasse, or other labor-management dispute as defined in this section, arising in the course of collective bargaining between the County and the exclusive bargaining agent of a bargaining unit.

Seasonal employee means an employee who is hired into a position for which the customary annual employment is four (4) months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, for reasons related to work demands that arise during those parts of the year.

Supervisor means all personnel who devote a majority of work time to the supervision of two or more employees and have authority to hire, transfer, suspend, layoff, recall, promote, demote, discharge, reward or discipline other employees, or adjust grievances. With respect to General County employees, "supervisor" excludes all employees who serve in a position at the levels S-32 and L-7 and below. With respect to the Fire Department, "supervisor" includes all positions above the rank of Deputy Chief. For personnel in Public Safety Communications, the term includes personnel who serve in a position at the level of P-23 and above. With respect to the Police Department, "supervisor" includes all personnel with the rank of Captain and above.

Strike means, in concerted action with others, an employee's refusal to report to duty or willful absence from their position, or stoppage of work, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment.

Temporary employee means an individual who is employed for not more than 180 days in a 12-month period.

Section 3-10-3. - Employee Rights.

- (a) Employees shall have the right to organize, form, join, assist, and pay dues or contributions to employee organizations, to bargain

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collectively through an exclusive bargaining representative of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection insofar as such activity is not inconsistent with this Article. Employees shall also have the right to refrain from any or all such activities.

- (b) A collective bargaining agreement provision that violates the rights of employees set forth in this section shall be void. A collective bargaining agreement provision that establishes a time period for the exercise of an employee right set forth in this section shall not violate this section.
- (c) The County and each employee organization will refrain from any intimidation or coercion of employees who choose to exercise their rights under this Article.

Section 3-10-4. - County's Rights and Authority.

- (a) This Article shall not be deemed in any way to limit or diminish the authority of the County to manage and direct the operations and activities of the County to the fullest extent authorized and permitted by law. Thus, unless the County elects to bargain regarding the following matters, the County retains exclusive rights:

[OPTION: If the Board wishes to make the following list subject to mandatory collective bargaining instead of permissive bargaining, strike the language in (a) and insert: "Subject to any applicable collective bargaining agreement and the obligation to bargain in good faith, the County retains the rights:"]

- (1) to determine the type and scope of work to be performed by County employees and the manner in which services are to be provided;
- (2) to direct the work of employees and determine the number of employees to perform any work or service;

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- (3) to hire, promote, transfer, assign, retain, classify, and schedule all employees and to suspend, demote, discharge, or take other disciplinary action against employees;
 - (4) to relieve employees from duties by layoff or other reduction-in-force due to lack of work, budget limitations, changed working conditions/requirements or for other reasons in the County's reasonable business judgment and not prohibited by law, except that the implementation procedures to be followed shall be negotiable;
 - (5) to contract for, expand, reduce, sell, transfer, convey, or eliminate particular operations or services of general government, as well as any department, office, or part thereof; and
 - (6) to establish and change standards of behavior or performance, job qualifications, and job descriptions, except that performance evaluation procedures will be negotiable.
- (b) The County retains the right to take whatever actions may be necessary to carry out the County's mission during emergencies. If a collective bargaining agreement includes procedures for how the County and its employees will respond to an emergency (such as snow or other inclement weather), then the terms of a binding collective bargaining agreement shall govern. Otherwise, the County shall meet with the exclusive bargaining representative at the earliest practical time following actions taken in response to an emergency to discuss the effects of such emergency actions on bargaining unit employees as they pertain to matters within the scope of bargaining under this Article and to bargain in good faith over any supplemental collective bargaining agreements that are proposed to address the effects of such emergency actions.
- (c) Nothing in this ordinance or any collective bargaining agreement shall be construed or deemed to impair the Board of Supervisors' plenary authority to determine its tax levies, budgets, and appropriations, as provided in Virginia Code Section 40.1-57.2(B).

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Section 3-10-5. – Employee Use of Work Time for Employee Organization Matters

- (a) Employees shall have the right to hold informal conversations and interactions with one another to discuss workplace and employee organization issues while on duty, provided that such conversations do not interfere with the employee's job duties. Employee organizations shall not hold formal meetings that interfere with the work time of employees, except as provided for in this Article or in a collective bargaining agreement.

[OPTION to add this sentence: "Employees shall also have the right to use County electronic communication systems to discuss employee organization business or activities, or employee organizing activity."]

- (b) Official time: Any employee representing an exclusive bargaining agent in the negotiation of an agreement under this Article, including in an impasse resolution proceeding, or in the representation of other employees in grievances shall be authorized to use time when the employee otherwise would be in a duty status to the extent and in a manner deemed reasonable in the mutual agreement of the County and the exclusive bargaining agent with due consideration for County operational and service demands at the time, or in accordance with negotiated terms of an existing collective bargaining agreement (if applicable).

Section 3-10-6. - Bargaining units.

The County shall recognize only the following bargaining units for the purposes of collective bargaining:

- (a) Police: The police employees' bargaining unit shall consist of all sworn uniformed employees of the police department, including uniformed officers of the Animal Control Unit, except those excluded by definition under Section 3-10-2;
- (b) Fire and Emergency Medical Services: The fire and emergency medical services employees' bargaining unit shall consist of the

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uniformed fire employees, including fire marshals and emergency communications employees, except those excluded by definition under Section 3-10-2; and

- (c) General Government: All other County employees, except those excluded by definition in Section 3-10-2.

Section 3-10-7. – Labor Relations Administrator.

- (a) A labor relations administrator (LRA or the administrator) shall be appointed by the County Executive in the manner set forth in subsection (d) of this section to carry out the duties set out in subsection (j) below.
- (b) Notwithstanding the formal appointment of a Labor Relations Administrator to administer the terms of this Article, the County and the exclusive bargaining agent for each bargaining unit may provide, in a collective bargaining agreement, for regular informal meetings between them in the form of an informal labor relations committee or other similar group staffed by representatives of labor and management. This committee or similar group should endeavor to address problems and concerns before they require the formal attention of the LRA.
- (c) The administrator must be experienced as a neutral in the field of labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interest of the County or any employee organization, including an exclusive bargaining agent for a bargaining unit permitted under this Article.
- (d) Subject to confirmation by the County Board of Supervisors, the County Executive shall appoint the labor relations administrator for a 4-year term from no more than three (3) nominees jointly agreed upon and submitted by: (i) representatives of those employee organizations that have notified the County Executive or his designee of their interest in representing bargaining units permitted by this Article, if no exclusive bargaining agents have been recognized at the time the selection process begins, or (ii) by the exclusive bargaining agents of the bargaining units permitted by this Article, and (iii) an equal number of designees of the County Executive. If the Board does not confirm

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the appointment on the recommendation of the County Executive, an appointment must be made from a new agreed list of three (3) nominees compiled in the same manner.

- (e) Should LRA responsibilities, as set forth below, be required before an LRA is appointed, the County shall secure such services from any impartial agency provider, such as the American Arbitration Association, the Federal Mediation and Conciliation Service, or a similar provider. Such impartial agency provider shall have all of the powers and responsibilities of the LRA as set forth in this Article. The impartial agency provider shall be mutually selected by the County and the participating employee organization(s).
- (f) The administrator's services shall be subject to termination by mutual agreement of the County Executive and a majority of the exclusive bargaining agents of the bargaining units permitted by this Article, and with Board approval. If no exclusive bargaining agent has been certified, then the LRA's services shall be subject to termination by mutual agreement of the County Executive and a majority of those employee organizations that have notified the County Executive of their interest in representing bargaining units permitted by this Article, and with Board approval.
- (g) If the administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve within six (6) months of the date of appointment, the County Executive must appoint a new administrator from the list from which that administrator was selected, subject to Board confirmation, to serve the remainder of the previous administrator's term. Otherwise, the administrator vacancy shall be filled as provided in subsection (d).
- (h) An administrator appointed under this subsection may be reappointed in accordance with the provisions of subsection (d).
- (i) The terms of payment for the services of the administrator, as well as any administrative staffing arrangements for the LRA, shall be set as specified by contract with the County.
- (j) The administrator shall:

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- (1) hold and conduct elections for certification or decertification pursuant to the provisions of this Article and issue the certification or decertification, or cause these actions to occur;
- (2) request from the County or an employee organization, and the County or such organization shall provide, any relevant assistance, service, and data that will enable the administrator to properly carry out duties under this Article;
- (3) hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents, to the extent permitted by applicable law, in proceedings within the responsibility of the administrator under this Article;
- (4) investigate and attempt to resolve or settle, as provided in Section 3-10-14 - Mediation and Arbitration, charges of either the County or an employee organization engaging in prohibited practices as defined in this Article. However, if the County and a certified representative have negotiated a labor-management dispute resolution procedure, the administrator must defer to that procedure to resolve any dispute that properly may be submitted to the procedure, absent a showing that the deferral results in the application of principles contrary to this Article. The administrator must defer to state procedures in any matter governed by the Law-Enforcement Officers' or Firefighters and Emergency Medical Technicians' Bill of Rights set forth in the Virginia Code;
- (5) determine disputed issues of employee inclusion in or exclusion from the bargaining units permitted under this Article;
- (6) obtain any necessary support services and make necessary expenditures in the performance of duties, subject to appropriation;

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- (7) determine any issue regarding the negotiability of any collective bargaining proposal as a subject of bargaining permitted under this Article; and
- (8) exercise any other powers and perform any other duties and functions specified in this Article of an administrative nature.

Section 3-10-8. - Recognition of exclusive bargaining agent.

- (a) A bargaining agent shall be the exclusive representative of all employees in an appropriate bargaining unit described in Section 3-10-6 if the employee organization is selected by a majority of the employees voting in an appropriate bargaining unit in a secret ballot election conducted pursuant to Section 3-10-9, and rules and procedures adopted by the LRA, following a request for recognition. Elections shall be conducted by mail-in ballots unless all parties agree otherwise. Any cost of such election shall be shared equally by the parties involved.
- (b) "Administratively acceptable evidence" to support a petition for recognition or certification by election (see Section 3-10-9) or for decertification (see Section 3-10-10) may consist of a combination of membership cards or a membership roster, evidence of dues payment, or other evidence of bargaining unit employees' desire to be represented by an employee organization for collective bargaining purposes. An authorization that satisfies the Uniform Electronic Transactions Act (Virginia Code Section 59.1-479 *et seq.*) shall be valid for employees' authorization for representation for purposes of a petition filed by an employee organization for exclusive representation. The determination by the LRA of the sufficiency of a showing of support for a representation election shall not be subject to challenge by any person or employee organization or by the County.

Section 3-10-9. – Election of Exclusive Representative.

- (a) An employee organization may request an election be held by submitting a petition for an election to the LRA who shall notify the County Executive in accordance with procedures established and

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published by the LRA, including but not limited to provisions for notice to bargaining unit employees and public notice of election. The petition must represent a showing of interest by at least thirty (30) percent of the employees in a bargaining unit permitted by this Article based upon administratively acceptable evidence.

- (b) Any additional interested employee organization must submit a petition of intervention to the LRA, which must be accompanied by a showing of interest by thirty (30) percent of the employees in the appropriate bargaining unit, based upon administratively acceptable evidence, within twenty-one (21) days of notice of the filing of the petition. A petition for intervention may not be supported by any employee who already supported the initial petition for an election.
- (c) If the LRA determines, after a tabulation of the submitted showing of interest forms, that the petitioning employee organization or any intervening employee organization has not met the required showing of interest, then the LRA must allow not less than fourteen (14) additional days for such employee organization to submit additional showing of interest forms. The 14-day period for submitting such forms commences on the date the LRA provides notice to the petitioning or intervening employee organization of the insufficiency of its forms.
- (d) An election under this Article shall be held within fifty-five (55) calendar days after written notice to all parties of the determination by the LRA of a valid petition for election in accordance with election procedures established by the LRA, which shall include, but not be limited to, provisions regarding employee organization receipt of bargaining unit employee contact information, ballot content, and procedures for mail-in voting. The County must furnish to the LRA and the petitioning and any intervening employee organizations, at least 30 days prior to the election, the name of every employee in the petitioned-for bargaining unit, as well as their department, job title, worksite address, work telephone number, and work email address. The election ballots must contain, as choices to be made by the voter, the name of the petitioning employee organization, the name(s) of any employee organization that has intervened in accordance with the

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provisions of this Article, and a choice of “no representation” by any of the named employee organizations.

- (e) If an employee organization receives a majority of the valid ballots cast by the employees in a permitted bargaining unit, it shall be recognized by the County as the exclusive bargaining agent upon certification of the results. The LRA’s certification of results is final unless, within 14 days after service of the election report and the certification, any party serves on all other parties and files with the LRA objections to the election. Objections must be verified and must contain a concise statement of facts constituting the grounds for the objections. The LRA must investigate the objections and, if substantial factual issues exist, must hold a hearing. Otherwise, the LRA may determine the matter without a hearing. The LRA may invite, either by rule or by invitation, written or oral argument to assist it in determining the merits of the objections. If the LRA finds that the election was not held in substantial conformity with this Article, or if the LRA determines that the outcome of the election was affected, even if by third party interference, it shall require corrective action and order a new election under this section. Otherwise, the LRA must confirm the certification initially issued. In any event, the LRA must make a determination as to whether or not to certify the election within 21 days of the filing of objections.
- (f) Nothing in this Article shall require or permit an election in any bargaining unit within twelve (12) months after a previous election has been held in such bargaining unit pursuant to this Article, notwithstanding the outcome of that election, except that this provision is inapplicable to any election that might be ordered by the LRA under (e).
- (g) No party shall have an advantage over the other in gaining access to employees during organizational or representation campaign activity. Interested employee organizations will receive the same access to bargaining unit employees as is currently provided to outside organizations. Attendance at any meeting on County premises for bargaining unit representation campaign activity by any employee organization pursuant to a properly filed and valid petition for

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representation is voluntary for bargaining unit employees and shall be open to all bargaining unit employees.

Section 3-10-10. - Decertification.

- (a) If a petition for decertification of a recognized exclusive bargaining agent is presented to the LRA showing, by administratively acceptable evidence, that at least thirty (30) percent of the employees in the bargaining unit no longer want the employee organization to be their bargaining agent, then the LRA shall hold an election pursuant to Section 3-10-9 of this Article.
- (b) A petition for decertification of a recognized exclusive collective bargaining agent in an appropriate unit may be filed in the ninety (90)-day period between the one hundred eightieth (180th) and ninetieth (90th) day prior to expiration of any existing collective bargaining agreement for that bargaining unit.
- (c) For a period of one (1) year following recognition or certification of an exclusive bargaining agent, no decertification petitions may be filed.
- (d) If a majority of the employees in an appropriate bargaining unit vote in a secret ballot decertification election to no longer be represented by the employee organization, that organization no longer shall be recognized as the exclusive bargaining agent of the employees in the bargaining unit.

Section 3-10-11. – Rights Accompanying Exclusive Representation.

Any employee organization recognized as the exclusive bargaining agent for employees in an appropriate bargaining unit shall have the following rights:

- (a) To speak on behalf of all members of the unit and shall be responsible for representing the interests of all members of the bargaining unit without discrimination and without regard to employee organization membership.

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- (b) To meet at reasonable times and places to engage in good faith collective bargaining on matters that, under this Article, may be the subject of collective bargaining, in an effort to reach an agreement, subject to the approval of the County Executive or his/her designee with responsibility for the employees in the bargaining unit.
- (c) To meet with bargaining unit employees on the premises of the County in non-secure areas during times when the employees are on break or in a non-duty status. Any other employee organization that has submitted a petition and established a valid question concerning representation of the bargaining unit shall also be permitted to meet with bargaining unit employees with the same limitations. This subsection shall not restrict an exclusive bargaining agent and the County from negotiating for greater access to employees by the exclusive bargaining agent as a provision of a collective bargaining agreement.
- (d) To receive quarterly regarding bargaining unit employees, and within ten (10) days of hire of new bargaining unit employees, the following information: name, job title, worksite location, work phone number, and work email address and, only with the County's consent or with the employee's written consent provided to the County, home address, mobile phone number, and personal email address.
- (e) To have such access to County electronic communications systems as may lawfully be provided in a collective bargaining agreement.

[OPTION for (e) to instead read: "To use County electronic mail systems to communicate employee organization business or activities, or employee organizing activity. Exclusive bargaining agents shall also have the right to use telephones, fax systems, bulletin boards, and other communications systems to communicate with employees regarding collective bargaining, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues, and internal union matters involving the governance or business of the exclusive bargaining agent."]

- (f) To meet with newly hired employees, without charge to the pay or leave time of any of the employees, for a period of 30 minutes, within thirty (30) calendar days from the date of hire during new employee orientations, or if the employer does not conduct new employee

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orientations, at individual or group meetings. The County shall give the exclusive bargaining agent at least ten (10) days' written notice in advance of such an orientation, except a shorter notice may be provided in any instances where there is an urgent need critical to the employer's operations that was not reasonably foreseeable to the County. The County shall provide the exclusive bargaining agent with an electronic list of expected participants at least forty-eight (48) hours in advance of the orientation.

- (g) To be the only labor organization eligible to receive from the County amounts deducted from the pay of employees as authorized by written assignment of the employees, for the payment of regular and periodic dues to the exclusive bargaining agent, unless two exclusive bargaining agents of County employees agree that they can both receive deductions from the same employee. Any such authorization may be revoked in accordance with the terms of the authorization which shall provide a period of irrevocability of not more than one year. An authorization that satisfies the Uniform Electronic Transactions Act (Virginia Code Section 59.1-479 et seq.), including, without limitation, electronic authorizations and voice authorizations, shall be valid for employees' authorizations for payroll deductions and authorization for representation for purposes of a petition filed by an employee organization for exclusive representation. This paragraph does not prohibit employees from having voluntary membership dues payments deducted from their paychecks and forwarded by the County to a group other than an exclusive bargaining agent, provided such employees are advised that their payments are not being transmitted to the exclusive bargaining agent for their bargaining unit.
- (h) To be represented at any formal discussion between one or more representatives of the County and one or more employees in the bargaining unit or their representatives concerning (1) any matter that is within the scope of collective bargaining as set forth in the definition of collective bargaining (see Section 3-10-2); or (2) any examination of bargaining unit employees by a representative of the County in connection with an investigation if the employee reasonably believes that the examination involves matters covered by any collective bargaining agreement then in effect, and the employee requests representation. An individual employee may present a personal

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complaint or question at any time to the County without the intervention of an employee organization, provided that any such organization that is recognized by the County as the exclusive bargaining agent for the bargaining unit in which the employee is a member is afforded an effective opportunity to be present and to offer its view at any meetings held to adjust the matter and that any adjustment made shall not be inconsistent with the terms of any applicable collective bargaining agreement. Such employee or employees who utilize this avenue of presenting personal complaints to the County shall not do so under the name, or by representation, of an employee organization.

[OPTION to add to (h), after the first sentence: “The County shall inform the employee that the employee has a right to union representation prior to any such discussion or interview, and the employee shall have a right to request union representation before proceeding with the discussion or interview.”]

[OPTION to add a new subparagraph: “To meet with individual employees on the premises of the employer during the work day to investigate and discuss grievances, workplace-related complaints, and other workplace issues, provided such meetings do not interfere with the work of the County.”]

Sec. 3-10-12 – Good Faith Bargaining.

- (a) A written request for bargaining must be submitted by the exclusive bargaining agent to the County Executive and negotiations must begin no later than July 1 and conclude (including any required mediation or impasse procedures) by October 15 of any year where an agreement is sought to be effective at the beginning of the next fiscal year, in order to accommodate the County budget process. Failure of the parties to reach agreement by September 1, or at such earlier time as the parties may agree in writing, shall constitute an impasse and trigger impasse resolution procedures under this Article.
- (b) Nothing in this Article requires either party to make any concessions or agree to the other party's proposals.

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(c) Good faith bargaining shall not include submission of or a response to a proposal that:

- (1) violates the rights of employees as set forth in this Article, or
- (2) impairs, restricts, or delegates the authority of the County as set forth in Section 3-10-4, other than as the County may expressly allow as a matter of permissive bargaining.

[Alternative OPTIONS: “impairs, restricts, or delegates the authority of the County as set forth in Section 3-10-4(b) and (c)” or strike (2).]

Section 3-10-13. - Approval of tentative agreement.

(a) When an exclusive bargaining agent and the County Executive’s bargaining representative reach a tentative agreement, they shall reduce it to writing and execute it, signifying the approval of the bargaining agent and the County Executive. No agreement, whether voluntarily negotiated or the result of final, binding arbitration as set forth in this Article, shall be effective or enforceable:

- (1) until a fiscal impact study of the tentative agreement, prepared as bargaining proceeds, has been finalized by the County Department of Management and Budget;
- (2) the fiscal impact study of the tentative agreement is submitted to the County Board, and a public hearing held by the last day of December on the fiscal impact of the tentative agreement;
- (3) the County Board specifies by resolution no later than the last day of December its good faith commitment to appropriate funding necessary for the County to meet obligations under the tentative agreement as set forth in the fiscal impact study provided for in this section, with the understanding that any such resolution remains subject to actual appropriation. If the Board does not resolve to fund any provision(s) of the tentative agreement requiring appropriation, the County Executive and the exclusive bargaining agent may re-open negotiations, which shall be

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scheduled as promptly as possible with the good faith objective to negotiate provisions that may be acceptable to the Board for its consideration within the County's budget preparation and approval schedule. Upon presentation to the Board of any tentative agreement re-negotiated under this subsection before the end of the calendar year, the Board shall consider and may specify by resolution as soon as practicable its good faith commitment to appropriate funding necessary for the County to meet obligations under the tentative agreement, with the understanding that any such resolution remains subject to actual appropriation; and

- (4) the tentative agreement is approved by the exclusive bargaining agent by ratification of the tentative agreement in accordance with the bargaining agent's governing procedures, and evidenced by the signature of an authorized agent which may be an electronic signature made in accordance with applicable state law.
- (b) A written agreement shall be contrary to public policy and therefore shall not bind the parties or be enforceable by either party to the extent that it is not the result of good faith bargaining as defined in this Article.

Section 3-10-14. – Mediation and Arbitration.

(a) Mediation.

- (1) Labor-Management Disputes: The County and an exclusive bargaining agent shall first attempt to resolve labor-management disputes informally by discussion between the parties' designees. In the event that the County and the bargaining agent are unable to informally resolve a labor-management dispute, either party or the parties jointly may submit the dispute to the LRA for mediation pursuant to procedures instituted by the LRA.
- (2) Impasse: In the event that the County and the bargaining agent are unable to reach a collective bargaining agreement by September 1, or at such earlier time as they may mutually agree, an impasse may be called by either party and resolution may be sought by submission of those unresolved issues for mediation by

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

the LRA or a mediator selected through procedures established by the LRA. The parties shall jointly request mediation within five (5) days of such a declared impasse. Whether impasse is declared as set forth herein or triggered by operation of Section 3-10-12 due to failure to reach agreement by September 1, the LRA or other mediator shall set reasonable deadlines for all steps of the mediation process. Negotiations on other matters may continue throughout impasse mediation procedures.

- (3) The mediation process is advisory only, and the LRA or other mediator shall have no authority to bind either party.
 - (4) The mediation process and any comments, statements, or suggestions from the LRA or other mediator or the parties and any documents evidencing the same made or created during the mediation process shall not be disclosed except as required by law.
 - (5) The parties shall share the costs of mediation equally.
- (b) Arbitration: If the County and exclusive bargaining agent are unable to reach agreement resolving any labor-management dispute or impasse submitted to mediation as provided for in this Article by any deadline set forth in procedures provided in this Article or adopted by the LRA, the mediator shall render findings of fact and require the parties to submit their statements of their final position on the issue(s) about which they continue to disagree. Thereafter, the labor-management dispute or impasse shall be submitted to final and binding arbitration, subject to the plenary authority of the Board of Supervisors to determine whether to appropriate funding for the tentative agreement. Such arbitration shall be conducted pursuant to procedures adopted by the LRA which shall, at a minimum, require the parties' joint selection of an arbitrator and shall provide for timing requirements that ensure the conclusion of impasse proceedings on a schedule that complies with Section 3-10-13. The parties shall share the costs of arbitration equally. In making a determination under this subsection, the arbitrator shall consider the following factors:

- (1) Stipulations of the parties;

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

- (2) The interests and welfare of the public;
 - (3) The financial ability of the employer to meet the financial obligations in the proposed collective bargaining agreement;
 - (4) The overall compensation presently received by the employees involved in the arbitration;
 - (5) Comparison of wages, benefits, and working conditions of the employees involved in the arbitration proceedings with the wages, benefits, and working conditions of other persons performing similar services in the public and private sectors, if applicable;
 - (6) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, benefits, and working conditions;
 - (7) Comparison of working conditions of other Fairfax County personnel; and
 - (8) Such other factors that are normally or traditionally taken into consideration in the determination of wages, benefits, and working conditions of employment through voluntary collective bargaining, mediation, arbitration, or otherwise between the parties, in the public sector.
- (c) Any grievance, mediation, arbitration, or other resolution procedure negotiated by the parties and available to challenge disciplinary or other personnel actions set forth in Virginia Code Section 15.2-1506, et seq., shall comply with the minimum requirements set forth in the statute(s), as well as any other statutory grievance rights of law enforcement officers and fire and emergency medical employees.

Section 3-10-15. - Strikes and other job actions.

- (a) Pursuant to Virginia Code Section 40.1-55, any employee of the County or of any agency or authority of the County who, in concert

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

with two or more other such employees, strikes or willfully refuses to perform the duties of their employment shall be deemed by that action to have terminated their employment and shall be ineligible for employment in any position or capacity during the next 12 months by the County. If an employee is terminated under this provision, such employment action shall be noted in the employee's personnel file in the agency and in the central Human Resources Department. The County agrees that no lockout shall take place.

- (b) Following notice and an opportunity to be heard, any employee organization determined to have violated this section shall cease to be accorded recognition under this Article, shall cease to receive any dues or fees collected by paycheck withholding, and shall not be accorded recognition or receive any dues or fees collected by paycheck withholding for a period of one (1) year.

[OPTION to strike (b). Not required by Virginia law but serves as a further deterrent to strikes.]

Section 3-10-16. – Prohibited Practices

Neither the County nor any exclusive bargaining agent shall refuse to negotiate in good faith with respect to matters within the scope of collective bargaining as defined in Section 3-10-2.

- (a) The County and its agents shall not:
- (1) Interfere with, restrain, or coerce employees in the exercise of rights granted by this Article;
 - (2) Dominate or interfere in the administration of any employee organization;
 - (3) Deter or discourage employees or applicants for County positions from becoming or remaining members of an employee organization, or from authorizing dues deductions, or voting to authorize union representation, or exercising any of their rights under this Article.

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

- (4) Encourage or discourage membership in any employee organization, committee, or association including by discrimination in hiring, tenure, or other terms and conditions of employment, provided that use of County property and time for meetings and the County's communication system for employee organization business, as may be permitted by this Article or a collective bargaining agreement, shall not be deemed encouragement prohibited by this subsection;
 - (5) Discharge or discriminate against any employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this Article or because the employee has formed, joined, or chosen to be represented by any exclusive bargaining agent;
 - (6) Deny the rights accompanying certification as the exclusive bargaining agent as conferred by this Article;
 - (7) Refuse to bargain collectively with the exclusive bargaining agent as provided in this Article;
 - (8) Refuse to participate in good faith in any agreed-upon impasse resolution procedures or those set forth in this Article;
 - (9) Refuse to reduce a collective bargaining agreement to writing and sign such agreement provided all conditions for an enforceable agreement, as set forth in this Article, have been met; or
 - (10) Enforce any rule or regulation which is plainly in direct conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed.
- (b) No employee organization or its agents shall:
- (1) Interfere with, restrain, or coerce any employee with respect to rights granted in this Article or with respect to selecting an exclusive representative;

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
9/14/21 MEETING OF THE BOARD OF SUPERVISORS**

- (2) Fail to represent an employee who is in a bargaining unit exclusively represented by the employee organization fairly and without discrimination provided such failure is willful or deliberate;
 - (3) Refuse to bargain collectively with the County as provided in this Article;
 - (4) Refuse to participate in good faith in or violate any agreed-upon impasse resolution procedures or those set forth in this Article; or
 - (5) Engage in conduct which is plainly in direct conflict with any applicable collective bargaining agreement.
- (c) Prohibited practice charge procedures.
- (1) Proceedings against a party alleging a violation of this Section shall be commenced by filing a charge with the LRA within 120 days of the alleged violation, or acquiring knowledge thereof, and causing a copy of the charge to be served upon the accused party in the manner of an original notice as provided in Section 3-10-18. The accused party shall have ten (10) days within which to file a written answer to the charge. The LRA may conduct a preliminary investigation of the alleged violation, and if the LRA determines that the charge has no legal or factual basis, the LRA may dismiss the charge. If the charge is not dismissed, the LRA shall promptly thereafter set a time and place for a hearing. The parties shall be permitted to be represented by counsel or other designated representative, summon witnesses, and request the LRA to subpoena witnesses and the production of records on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.
 - (2) The LRA may designate a hearing officer to conduct any hearing. The hearing officer shall have such powers as may be exercised by the LRA for conducting the hearing and shall follow procedures adopted by the LRA for conducting the hearing. The decision of the hearing officer may be appealed to the LRA and the LRA may

**ATTACHMENT 1 TO ADMINISTRATIVE ITEM 5
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hear the case de novo or upon the record as submitted before the hearing officer.

- (3) The LRA shall provide for an official written transcript to report the proceedings, the costs of which shall be borne equally by the parties.
- (4) The LRA shall file its findings of fact and conclusions. If the LRA finds that the party accused has violated any provision of this Section, the LRA may issue an order directing the party to cease and desist engaging in the violation and may order such other reasonable affirmative relief as is necessary to remedy the violation. Under the provisions for court review of arbitration awards set forth in the Uniform Arbitration Act (Virginia Code Sections 8.01-581.01, et seq.), the LRA may petition the circuit court for enforcement of an order made under this Section.
- (5) Findings of the LRA shall be considered as a final award of an arbitrator in accordance with the Virginia Uniform Arbitration Act, Virginia Code Sections 8.01-581.01, et seq. Any party aggrieved by any decision or order of the LRA may, within twenty-one (21) days from the date such decision or order is filed, appeal to the circuit court to obtain judicial review pursuant to the provisions for judicial review set forth in the Uniform Arbitration Act (Virginia Code Sections 8.01-581.01, et seq.).

Section 3-10-17. - Time limits.

Any time limits in this Article may be extended by written agreement of the County, the employee organization, and any other appropriate parties.

Section 3-10-18 – Notices.

Any notice required under the provisions of this Article shall be in writing, but service of any such notice shall be sufficient if mailed by certified mail, return receipt requested, addressed to the last-known address of the parties, unless otherwise provided in this Article or by the rules of the LRA, which rules shall provide for the electronic service of documents. Refusal of certified mail by any party shall be considered service. Prescribed time periods shall commence from the date of the receipt of the notice.

Board Agenda Item
September 14, 2021

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance to Expand the Singleton's Grove Community Parking District (Sully District)

ISSUE:

Board authorization to advertise a public hearing to consider a proposed amendment to Appendix M of *the Code of the County of Fairfax, Virginia* (Fairfax County Code) to expand the Singleton's Grove Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for October 5, 2021, at 3:30 p.m., to consider adoption of a Fairfax County Code amendment (Attachment I) to expand the Singleton's Grove CPD.

TIMING:

The Board of Supervisors should take action on September 14, 2021, to provide sufficient time for advertisement of the public hearing on October 5, 2021, at 3:30 p.m.

BACKGROUND:

Fairfax County Code Section 82-5B authorizes the Board to expand a CPD for the purpose of prohibiting or restricting the parking of the following vehicles on the streets in the CPD: watercraft; boat trailers; motor homes; camping trailers; and any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4.

No such CPD shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location, (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power, (iii) restricted vehicles temporarily parked on a public street within any such CPD for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip, (iv) restricted vehicles that are temporarily parked on a public street within any such CPD for use by federal, state, or local public agencies to provide services.

Board Agenda Item
September 14, 2021

When the Singleton's Grove CPD was established in 2008, an approximately 150-foot portion of Old Centreville Road, located within Virginia Department of Transportation (VDOT) right-of-way and within an area that was zoned residential was included in all documentation leading up to approval. However, this 150-foot portion of Old Centreville Road was omitted from the final approval for unknown reasons. Since then, several trailers and recreational vehicles have been parked here without restriction. Fairfax County Department of Transportation (FCDOT) staff, in coordination with the Office of the County Attorney (OCA), have determined that this 150-foot portion of public roadway should have been included in the original application, which was, at that time, subject to, and in accordance with, the provisions of Fairfax County Code Section 82-5B. Therefore, by direct request from the Sully District Supervisor's Office, staff recommends approval of expanding the CPD to include the additional 150 feet of residentially zoned public right-of-way on Old Centreville Road.

The parking prohibition identified above for the CPD is proposed to be in effect seven days per week, 24 hours per day.

FISCAL IMPACT:

The cost of sign installation is estimated to be \$150. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)

Attachment II: Area Map of Proposed Singleton's Grove CPD

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:

F. Hayden Coddington, Assistant County Attorney

PROPOSED CODE AMENDMENT

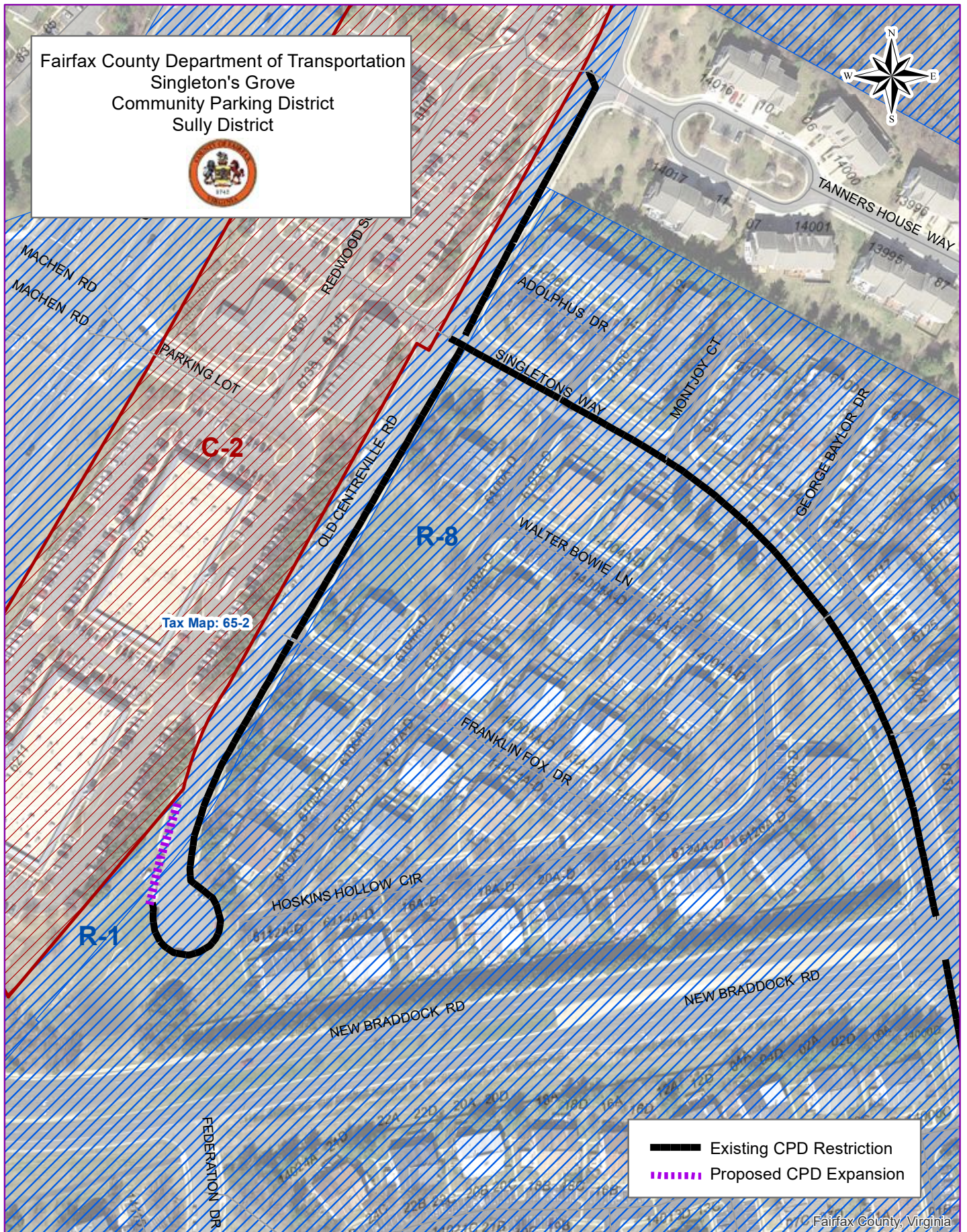
THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

Amend *The Code of the County of Fairfax, Virginia*, by modifying the following street in Appendix M-59, Section (a)(2), Singleton's Grove Community Parking District, in accordance with Article 5B of Chapter 82:

Old Centreville Road (Route 858)

From Tanners House Way, east side, to the cul-de-sac inclusive; ~~east side only and, west side, from the cul-de-sac to the commercial zoning boundary, within the residentially zoned area.~~

Fairfax County Department of Transportation
Singleton's Grove
Community Parking District
Sully District



ADMINISTRATIVE - 7

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason 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 Aspen Lane (Attachment I and Attachment II) consisting of the following:

- One speed hump on Aspen Lane (Mason 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 measures as soon as possible.

TIMING:

Board action is requested on September 14, 2021, 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 August 6, 2021, FCDOT received verification from Mason District Supervisor's Office confirming community support for the Aspen Lane traffic calming plan.

Board Agenda Item
September 14, 2021

FISCAL IMPACT:

Funding in the amount of \$10,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-C30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Aspen Lane
Attachment II: Traffic Calming Plan for Aspen Lane

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
ASPEN LANE
MASON 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, September 14, 2021, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Aspen Lane 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

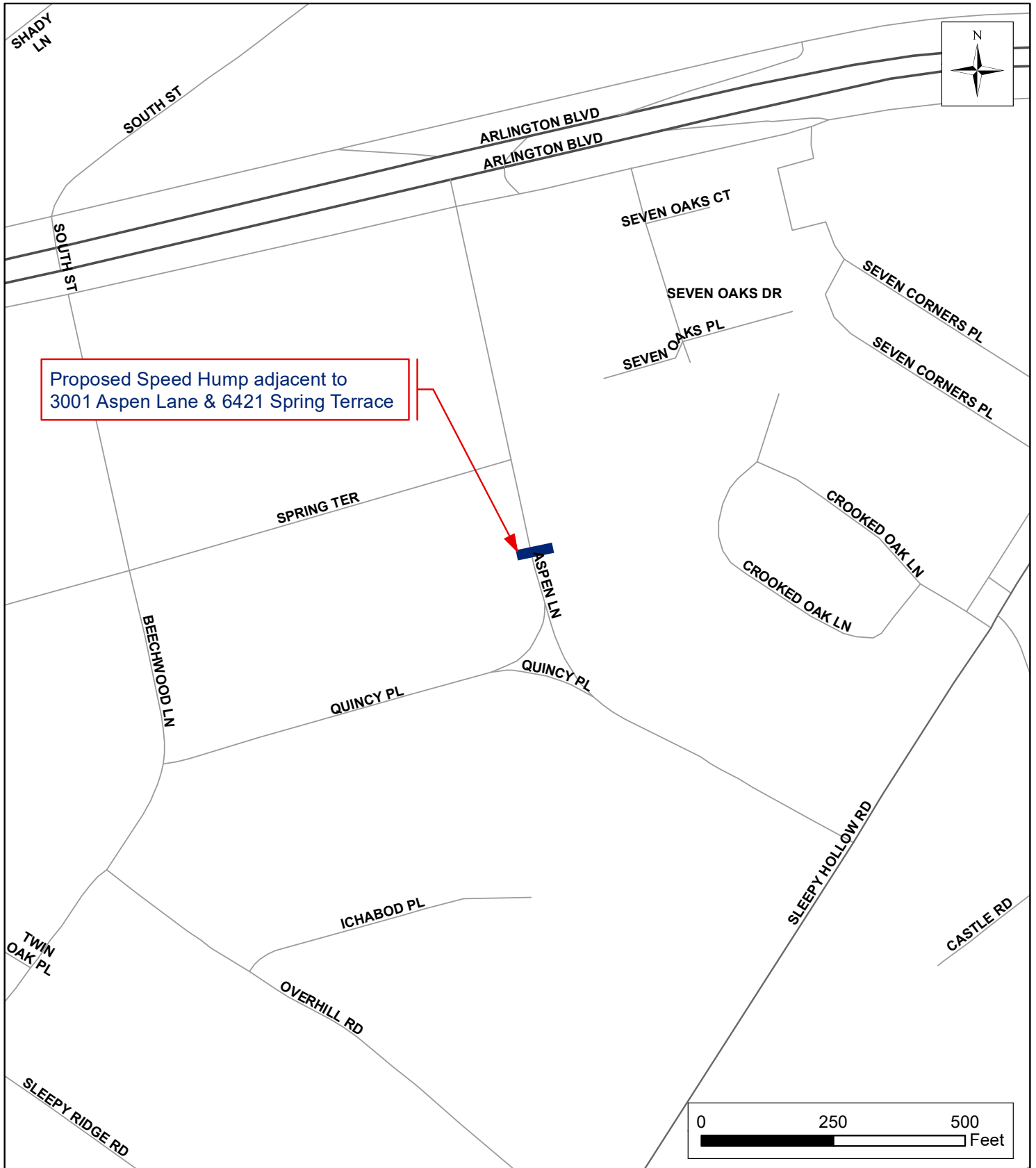
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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 Aspen Lane as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 14th day of September, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 51-3

August 2021

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Aspen Lane
Mason District**



ADMINISTRATIVE - 8

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason 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 Holmes Run Road (Attachment I and Attachment II) consisting of the following:

- Two speed humps on Holmes Run Road (Mason 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 measures as soon as possible.

TIMING:

Board action is requested on September 14, 2021, 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 August 6, 2021, FCDOT received verification from Mason District Supervisor's Office confirming community support for the Holmes Run Road traffic calming plan.

Board Agenda Item
September 14, 2021

FISCAL IMPACT:

Funding in the amount of \$20,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-C30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Holmes Run Road
Attachment II: Traffic Calming Plan for Holmes Run 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
HOLMES RUN ROAD
MASON 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, September 14, 2021, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Holmes Run 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

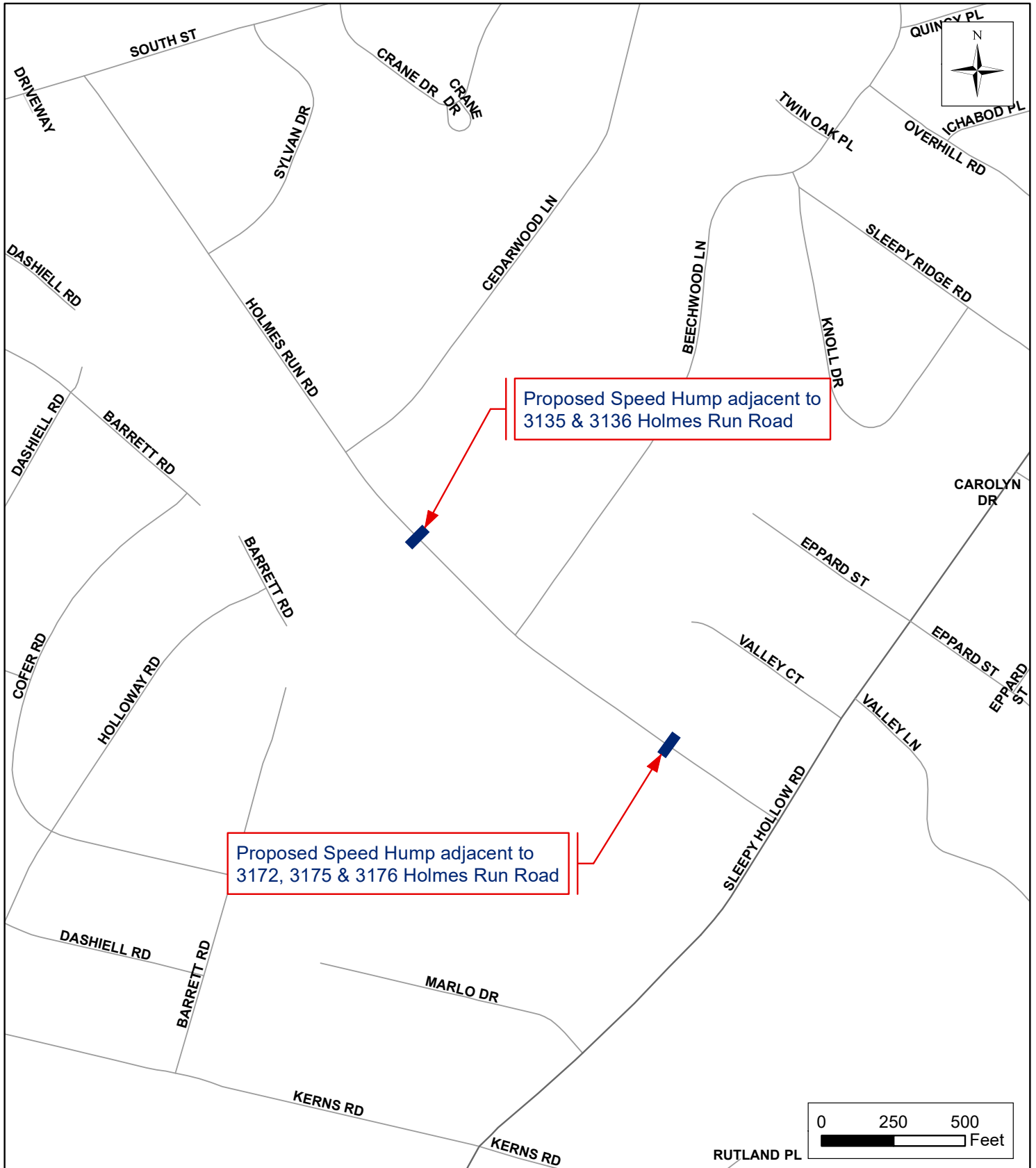
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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 Holmes Run Road as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 14th day of September, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 50-4, 51-3,60-2, 61-1

August 2021

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Holmes Run Road
Mason District**



ADMINISTRATIVE - 9

Authorization to Advertise a Public Hearing on the Proposed Issuance of a Subordinate Wastewater Revenue Bond Series 2021A in Connection with Fairfax County Economic Development Authority Fairfax County Facilities Revenue Bonds, Series 2021A (Braddock District)

ISSUE:

Board authorization is needed to advertise a public hearing on the proposed issuance of a Subordinate Wastewater Revenue Bond Series 2021A (the Subordinate Wastewater Bond) in connection with the Fairfax County Economic Development Authority (EDA) Facilities Revenue Bonds, Series 2021A (the EDA Bonds). While project bids will be opened in early October, the County currently estimates that the EDA Bonds will be issued to fund up to \$93 million in project costs (plus issuance expenses) during the week of October 18, 2021, and proceeds will be used to construct a joint Stormwater and Wastewater operational facility.

The Subordinate Wastewater Bond portion of the total EDA Bonds is estimated to be \$25 million. The Subordinate Wastewater Bond will be issued to the EDA to evidence the Wastewater System's obligation to pay for its allocable share of the debt service on the EDA Bonds. Per the Code of Virginia Section 15.2-2606, the County must advertise and hold a public hearing before authorizing the Subordinate Wastewater Revenue Bond.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish advertisement of a public hearing on the proposed issuance of the Subordinate Wastewater Revenue Bond in connection with the EDA Bonds.

TIMING:

Board approval is requested on September 14, 2021, to provide sufficient time to advertise the proposed Public Hearing on October 5, 2021, at 3:30 p.m.

BACKGROUND:

The joint Stormwater / Wastewater Facility will consolidate Stormwater functions and operations with Wastewater functions to maximize efficiencies and provide for future growth requirements. The Stormwater Planning Division (SWPD), the Maintenance and

Board Agenda Item
September 14, 2021

Stormwater Management Division (MSMD), the Wastewater Collections Division (WCD) and the Wastewater Planning and Monitoring Division (WPMD) will be co-located at one facility. Both Planning Divisions currently work out of the Government Center and the MSMD operates from the West Drive location. MSMD has outgrown the West Drive facilities which are aging and are restricted for expansion by the City of Fairfax. The WCD works from the Robert McGrath facility on Freds Oak Road and is in need of a complete renovation because of its age. The consolidated facility will provide additional infrastructure and efficiencies for operations, and incorporate systems and features to achieve the County's sustainability goals. The facility will support resiliency and provide stormwater and wastewater day-to-day maintenance and emergency field operational support. This project has been included annually in the County's Capital Improvement Program since FY 2009, included in presentations to the Board of Supervisors Environmental Committee, and referenced in all documents related to the sale of the West Drive MSMD parcels to the City of Fairfax.

The current approved total project estimate is \$98 million. Based on current construction market escalation and bidding climate, the Department of Public Works and Environmental Services (DPWES) projects that the total project cost may increase to \$103 million, pending competitive bid results. Stormwater Service Fee revenue of \$10 million was reserved for the design phase of the project in 2017 and the remaining \$93 million is programmed to be financed by the EDA Bonds. The breakdown of funding sources between the two funds is provided below:

Funding Source	Cash	Bond	Total
Stormwater	\$10,000,000	\$68,000,000	\$78,000,000
Wastewater		25,000,000	25,000,000
Total	\$10,000,000	\$93,000,000	\$103,000,000

Based on market conditions as of August 2021, the estimated debt service for this project would be \$5.7 million annually. The first interest payment will be made in FY 2022, and the first principal and interest payment will be made in FY 2023. Debt Service will be repaid on a pro rata basis by the Stormwater Fund for \$4.2 million (73 percent) and Wastewater Fund for \$1.5 million (27 percent).

In May 2021, the County issued Wastewater Revenue Bonds Series 2021A that funded a portion of the County's share of capital projects at its own as well as regional Wastewater Treatment Plants. County Wastewater revenues were pledged on a first priority basis as all bond proceeds were solely for County and regional wastewater related capital projects. Per the 1985 Wastewater Revenue Bond Resolution, the applicable financial criteria that were applied included a rate covenant (e.g. net revenues required to be generated divided by debt service), additional bonds test (metrics to be met prior to the issuance of additional Sewer Revenue bonds) and the

funding of a debt service reserve as part of financial closing (typically equivalent to one year of debt service).

By comparison, the EDA Bonds are recommended to be issued by the EDA on behalf of the County due to the majority Stormwater component of the facility (73 percent). Staff thus recommend that Wastewater should fund its pro rata share of the bond sale (27 percent) on a subordinate basis given the less than majority wastewater footprint in the facility. This subordinate option would also exclude the need to adhere to the aforementioned bond resolution financial criteria – rate covenant, additional bonds test, and the funding of a debt service reserve. Further, it would preserve the cushions available for these financial covenants for future Wastewater Revenue Bonds, next anticipated to be issued in 2023/2024 and beyond. Because the security for the EDA Bonds will be the County's typical pledge (i.e., subject to annual appropriation, to make payments sufficient to pay debt service), the County anticipates the subordinated nature of payments from the Wastewater fund will have no negative impact on the pricing or marketability of the EDA Bonds.

On October 5, 2021, County staff anticipates submitting an Action Item recommending the Board authorize the issuance of the EDA Bonds to formally proceed with the bond sale for this facility. The County will pledge, subject to annual appropriation, to make payments sufficient to pay debt service on the Bonds, with the County to receive a credit against this pledge with respect to payments made by the Wastewater System on the Subordinate Wastewater Revenue Bond. County staff anticipates this plan of finance to be considered by the EDA as part of their October 11, 2021, meeting. This is the same plan of finance and bond documentation that was utilized in four previous series of Fairfax County EDA Facilities Revenue Bonds: School Board Central Administration Building in 2005, Merrifield Human Services Center/Providence Community Center in 2012, Public Safety Headquarters/Workhouse Arts Foundation in 2014, and the Lewinsville Project in 2017. Several maturities of these previously issued EDA Facilities Revenue Bonds are also refinancing candidates. Accordingly, County staff will recommend as part of the overall bond resolution on October 5, 2021, Board approval of additional series of EDA Bonds seeking to generate debt service savings.

FISCAL IMPACT:

The cost of the advertisement will be absorbed within current appropriations. In addition, based on market conditions as of August 2021, the estimated debt service for this project would be \$5.7 million annually. The first interest payment will be made in FY 2022, and the first principal and interest payment will be made in FY 2023. Debt Service will be repaid on a pro rata basis by the Stormwater Fund for \$4.2 million (73 percent) and Wastewater Fund for \$1.5 million (27 percent).

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

Attachment 1 – Subordinate Wastewater Revenue Bond Sale Advertisement

STAFF:

Rachel O'Dwyer Flynn, Deputy County Executive
Christina Jackson, Chief Financial Officer
Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Carey Needham, Deputy Director, Capital Facilities, DPWES
Ellie Coddling, Deputy Director, Stormwater and Wastewater Divisions, DPWES
Shahram Mohsenin, Director, Wastewater Planning and Monitoring Division, DPWES
Joseph LaHait, Debt Manager, Department of Management and Budget

ASSIGNED COUNSEL:

Emily Smith, Assistant County Attorney

**FAIRFAX COUNTY NOTICE OF A PUBLIC HEARING ON THE SALE OF
WASTEWATER SUBORDINATE REVENUE BONDS SERIES 2021A**

NOTICE is hereby given that the Fairfax County Board of Supervisors will hold a **PUBLIC HEARING** on:

**Tuesday
October 5, 2021
Commencing at 3:30 p.m.**

in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of the sale of Wastewater Subordinate Revenue Bonds Series 2021A. **The Fairfax County Board of Supervisors' meeting may be held electronically due to the State of Emergency caused by the COVID-19 pandemic as noted below and is available to view live on Channel 16 and stream live online at www.fairfaxcounty.gov/cableconsumer/channel-16/live-video-stream.** Live audio of the meeting may be accessed at 703-324-7700. *Please contact the Office of the Clerk to the Board at (703) 324-3151 or ClerktotheBOS@fairfaxcounty.gov, or review on-line at www.fairfaxcounty.gov/boardofsupervisors/2021-board-meetings at least one week prior to the meeting for additional information on the status of the meeting (in person or electronic).*

It is estimated that the maximum amount of the Series 2021A Wastewater Subordinate Revenue Bonds will be \$25,000,000. The Series 2021A Wastewater Subordinate Revenue Bonds are being issued to the Fairfax County Economic Development Authority (EDA) to evidence the Wastewater System's allocable share of the debt service on EDA Facilities Revenue Bonds, Series 2021A, which will be issued to fund project costs for a new joint Stormwater and Wastewater operational facility. The bond sale is expected to occur the week of October 18, 2021.

All persons wishing to present their views on these subjects may call the Office of the Clerk for the Board at 703-324-3151, or register online at www.fairfaxcounty.gov/clerk/services/ to be placed on the Speakers List, and may appear and be heard via telephone or pre-recorded video. Deadlines by type of testimony are on the website. If the Board is meeting in person at the Government Center, speakers may also attend and testify in person. In addition, written testimony and other submissions will be received at 12000 Government Center Parkway, Suite 552, Fairfax, 22035 and ClerktotheBOS@fairfaxcounty.gov. As required by law, copies of the full text of proposed ordinances, plans and amendments, as applicable, as well as information concerning the documentation for the proposed fee, levy, or increase, are on file and may be examined at the Office of the Clerk to the Board of Supervisors, Suite 552 of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. For the convenience of the public, copies may also be distributed to the County's Regional and Community Public Libraries.

Fairfax County supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a County program, service, or activity, should contact the ADA representative in the Clerk's Office, 703-324-3151, TTY: 703-324-3903, as soon as possible but no later than 48 hours before the scheduled event.

GIVEN under my hand this ____ day of September 2021.

Jill G. Cooper
Clerk for the Board of Supervisors

Ad Run Dates: September 17 and September 24

ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing on a Proposal to Vacate Portions of 7th Place and Unnamed Right of Way (Dranesville District)

ISSUE:

Authorization of a public hearing on a proposal to vacate portions of 7th Place and Unnamed Right of Way.

RECOMMENDATION:

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

TIMING:

The Board should take action on September 14, 2021, to provide sufficient time to advertise the public hearing for October 19, 2021, at 3:30 p.m.

BACKGROUND:

The applicant, GeoEnv Engineers & Consultants, LLC, on behalf of their client, Mrs. Diana Watkins, is requesting that portions of 7th Place and Unnamed Right of Way be vacated under §15.2-2272(2) of the Virginia Code. Mrs. Watkins is seeking this request to meet the minimum lot size requirements to develop a new house on her land.

The subject portions of 7th Place and Unnamed Right of Way, west of the intersection of 7th Place and Hitt Avenue, are currently unimproved. The subject portion of 7th Place was dedicated as part of the El Nido subdivision (Liber B7 Page 203) on the plat dated 1906, and the subject portion of Unnamed Right of Way was dedicated as part of the Pimmit Park Addition to the El Nido subdivision (Liber Z7 Page 332) on the plat dated 1916. The subject portions of 7th Place and Unnamed Right of Way are not in the VDOT Secondary System of Highways.

Traffic Circulation and Access

The vacation will have no impact on pedestrian, transit, or vehicle circulation and access.

Board Agenda Item
September 14, 2021

Easements

The project manager has certified that all easement requirements for the project have been met.

The proposal to vacate these rights-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Development, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue Department, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas, and Verizon. None of these indicated any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter of Justification
Attachment II: Notice of Intent to Vacate
Attachment III: Ordinance of Vacation
Attachment IV: Metes and Bounds
Attachment V: Vacation Plat
Attachment VI: Vicinity Map
Attachment VII: Exhibits Showing Potential Subdivision and Use of Vacated Area

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Jeff Hermann, Division Chief, FCDOT
Greg Fuller, Jr., Section Chief, FCDOT
Michelle Guthrie, FCDOT
Jeffrey Edmondson, FCDOT

ASSIGNED COUNSEL:

Pamela K. Peltó, Assistant County Attorney



Date: March 15, 2021

**FAIRFAX COUNTY DEPARTMENT OF PLANNING & ZONING, 8TH FLOOR
12055 GOVERNMENT CENTER PARKWAY
FAIRFAX, VA 22035-5503**

**RE: LETTER OF JUSTIFICATION
VACATION OF UNIMPROVED RIGHT-OF-WAY WITHIN FAIRFAX COUNTY MAINTAINED ROAD
7TH PLACE AT LOTS 1 AND C EL NIDO ESTATES
ZONE: R-3; DEED BOOK Z-7, PAGE 332**

On behalf of our client, Mrs. Diana Watkins of 1614 7th Place, McLean, Virginia, **GeoEnv Engineers & Consultants, LLC (GEE)** hereby request your approval for the proposed vacation a part of the existing un-improved right-of-way of 7th Place located in from of Lots 1 and C El Nido Estates, and the un-named and un-improved 20-ft wide easement located on the southern side of Lot 1 El-Nido Subdivision, as shown the attached vacation plat. This vacation is being requested per Section 15.2.2272 (2) of the Code of Virginia. The part of the un-improved right-of-way of 7th Street, and the unimproved 20-ft road to be vacated are shown on the attached plat prepared by GEE and dated March 3, 2021. The vacated lands will become outlots to be later deeded proportionally to adjacent properties. Upon approval of the vacation plat, Outlot A-4 will be deeded to the owners of Lot 63B, Outlot A-6, containing 1,046 sf of land, which is part of the un-named ROW will be deeded the owners of Lot 1, and Outlot A-5, containing 1,178 sf of land, and being a part of the un-improved ROW will be deeded to new Lot C. Similarly, Area A-8 containing 242 sf of the vacated 20-ft unimproved road will be deeded to Lot 63. Area A-10, containing 1,050 sf of land, will be deeded to Lot 62, and Area A-10, containing 1,050 sf of land, will be then deeded to New Lot 1.

No known underground or above ground utilities are located within the portion 7th Street right-of-way or the 20-ft road to be vacated. The lands to be vacated are currently not improved and minimally maintained by the adjacent properties owners. Therefore, we believe that the vacating the portion of the county right-of-way will minimize the right-of-way maintained by Fairfax county and, upon consolidations, will allow the adjacent lands to subdivided in accordance with the Fairfax zonig Ordinance.

In order to shorten the vacation process, we hereby request that this vacation be done administratively. This will allow the property owners to move forward with incorporating the vacated lands into their properties, and thus expedite the proposed subdivision process for Lot C.

We trust that the above justifications are sufficient to grant the land vacation as shown. If you have any questions, please contact the undersigned engineer at 703-593-8090.

Very truly yours,


Ibrahim (Abe) Chehab, P.E.
Principal Engineer



Attachment: Vacation Plat

NOTICE OF INTENT TO
ADOPT AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

(7th Place and Unnamed Right of Way)

Dranesville District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on October 19, 2021, at 3:30 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, pursuant to Virginia Code Ann. § 15.2-2204, vacating a part of the plat of El Nido Estates Subdivision, recorded in Deed Book B-7 at Page 203, on which is shown a portion of 7th Place and a part of the plat of the Pimmit Park Addition to the El Nido subdivision, on which is shown a portion of an Unnamed 20-foot Right of Way. The road is located on Tax Map 30-4 and is described and shown on the metes and bounds schedule prepared by GeoEnv Engineers and Consultants, LLC, dated May 26, 2021, and vacation plat prepared by GeoEnv Engineers and Consultants, LLC, dated June 21, 2021, both of which are on file in the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number (703) 877-5600.

All persons wishing to speak on this subject may call the Office of the Clerk to the Board, (703) 324-3151, to be placed on the Speaker's List, or may appear and be heard.

DRANESVILLE DISTRICT.

§ 15.2-2272(2)

ADOPTION OF AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

(7th Place and Unnamed Right of Way)

Dranesville District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax County, Virginia, on October 19, 2021, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. § 15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia: that Part of the Plat of EL NIDO, recorded in Deed Book B-7 at Page 203, on which is shown the 50 feet wide street dedication for Seventh Place from Great Falls Avenue to its terminus, a distance of approximately 612 feet, located on Tax Map 30-4, Part of the Plat of PIMMIT PARK Addition to EL NIDO, recorded in Deed Book Z-7 Page 332, on which is shown the 20 feet wide street dedication for an unnamed right of way from Eighth Street to its terminus at Seventh Street, a distance of 220 feet, also located on Tax Map 30-4, and both are described and shown on the metes and bounds schedule and plat prepared by GeoEnv Engineers & Consultants, LLC, dated May 26, 2021 and June 21, 2021, respectively, and attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2272(2).

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

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

§15.2-2272(2)



May 26, 2021

PAGE 1 OF 9

METES & BOUNDS
NEW LOT 1 PIMMIT PARK EL NIDO SUBDIVISION
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101

Beginning at a point located at the northern corner of Lot 1 with Lot 2 Pimmit Park El Nido Subdivision and running $S49^{\circ}25'27''E$, a distance of 105.00 feet to a point located at the southeastern corner of said Lot 1 Pimmit Park El Nido Subdivision with the Right-of-Way of 7th Place (VA Route 2818); thence turning and running $S40^{\circ}34'33''W$, a distance of 80.15 feet to a corner point located at along southeastern property line of original Lot 1 El Nido Estates Subdivision; thence turning and running $S49^{\circ}25'27''E$, a distance of 25.00 feet (L6) to a corner point located at the beginning of curve C1; thence turning and running $S40^{\circ}34'33''W$, a distance of 41.85 feet (L7) to a corner point located along the northeastern property line of new outlot A-4; thence turning and running $N49^{\circ}25'27''W$, a distance of 25.00 feet (L4) to a corner point located along the southeastern property line of original Lot 1 El Pimmit Park Nido Subdivision; thence turning and running $S40^{\circ}34'33''W$, a distance of 118.00 feet to a corner point located along the southeastern property line the un-named and un-improved 20-ft Road; thence turning and running $N49^{\circ}25'27''W$, a distance of 105.00 feet to corner point located the northwester property line of original Lot 1 Pimmit Park El-Nido Subdivision; thence turning and running $N40^{\circ}34'33''E$, a distance of 6.00 feet to the point of beginning. Containing 14,486 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART AN UN-UNIMPROVED 50-FT RIGHT-OF-WAY
7TH PLACE (VA ROUTE 2818)
D.B. Z-7, PG 332
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101
(DEDICATED TO NEW LOT 1 EL NIDO ESTATES SUBDIVISION)**

Beginning at a point located along the southeastern property line of Lot 1 El-Nido Estates and running $N40^{\circ}34'33''E$, a distance of 41.85 feet (L5) to a corner point located along the same southeastern property line of Lot 1 El Nido Estates; thence turning and running $S49^{\circ}25'27''E$, a distance of 25.00 feet (L6) to a corner point located at the beginning of curve C1 for the new 7th Place (VA Route 2818) right-of-way; thence turning and running $S40^{\circ}34'33''W$, a distance of 41.85 feet (L7) to a point located along the northern property line of Outlot A-4; thence turning and running $N49^{\circ}25'27''W$, a distance of 25.00 feet (L4) to the point of beginning. Containing 1,046 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF 20-FT UN-NAMED AND UN-IMPROVED
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101
(DEDICATED TO NEW LOT 1 EL NIDO ESTATES SUBDIVISION)**

Beginning at a point located along the southeastern property line of the abandoned Un-Named and Un-Improved 20' Road and running $N49^{\circ} 25' 27''W$, a distance of 105.00 feet to a corner point located along the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $N40^{\circ} 34' 33''E$, a distance of 10.00 feet to a corner point located at the northwestern corner of Lot 1 with the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $S49^{\circ} 25' 27'' E$, a distance of 105.00 feet to a point located along the southeastern property line of Lot 1 El-Nido Estates Subdivision; thence turning and running $S40^{\circ} 34' 33''W$, a distance of 10.00 feet to the point of beginning. Containing 1,050 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

METES & BOUNDS
NEW LOT C EL NIDO ESTATES SUBDIVISION
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101

Beginning at a point located along the southeastern corner of original Lot C with the right-of-way of 6th Place (VA Route 2809) and running N49°25' 27" W, a distance of 235.00 feet to a corner point located along the southern property line of Outlot A-4; thence turning and running N40° 34' 33"E, a distance of 41.85 feet (L7) to the beginning of curve (C1) for the new 7th Place (VA Route 2818) right-of-way; then turning and running along said curve C1, a radius of 26.00 feet, a length of 34.85 feet and chord of 32.30 feet to a point located along the northwestern property line of original Lot C El Nido Estates; thence turning and running N40° 34' 33"E, a distance of 46.19 feet to a corner point located at the northeastern corner of original Lot C with 7th Place (VA Route 2818); thence turning and running S53° 06' 28"E feet, a distance of 210.43 feet to a corner point located at the northeastern corner of said Lot C with the 6th Place (VA Route 2809); thence turning and running S40° 34' 33"W, a distance of 122.01 feet to the point of beginning. Containing 25,380 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF AN UN-UNIMPROVED 50-FT RIGHT-OF-WAY
7TH PLACE (VA ROUTE 2818)
D.B. Z-7, PG 332
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101
(DEDICATED TO NEW LOT C EL NIDO ESTATES SUBDIVISION)**

Beginning at a point located at the northwestern corner of Lot C with Outlot A-2 El Nido Estates, and running N49°25'27"W, a distance of 25.00 feet (L8) to a corner point located along the eastern property line of Outlot A-4, thence turning and running N40°34'33"E, a distance of 41.85 feet (L7) to the beginning of curve (C1) for along the new 7th Place (VA Route 2818) right-of-way; thence turning and running along said curve C1, a radius of 26.00 feet, a length of 34.85 feet and chord of 32.30 feet to a point located along the northwestern property line of Lot C El Nido Estates; thence turning and running S40°34'33"E, a distance of 62.30 feet (L9+L10) to the point of beginning. Containing 1,178 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF UN-NAMED UN-IMPROVED 20' ROAD
DEDICATED TO LOT 62 EL-NIDO ESTATES SUBDIVISION**

Beginning at a point located along the southeastern property line of the abandoned Un-Named and Un-Improved 20' Road and running $N49^{\circ}25'27''W$, a distance of 80.84 feet to a corner point located at the northwestern corner of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $N40^{\circ}34'33''E$, a distance of 10.00 feet (L16) to a corner point located along the northwestern line of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $S49^{\circ}25'27''E$, a distance of 80.84 feet to a point located along the southeastern line of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $S40^{\circ}34'33''W$, a distance of 10.00 feet to the point of beginning. Containing 808.4 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF UN-NAMED UN-IMPROVED 20' ROAD
DEDICATED TO LOT 63B EL-NIDO ESTATES SUBDIVISION**

Beginning at a point located at the southwestern corner of the abandoned Un-Named and Un-Improved 20' Road and running $N49^{\circ} 25' 27''W$, a distance of 24.16 (L15) feet to a corner point located at the northwestern line of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $N40^{\circ} 34' 33''E$, a distance of 10.00 feet (L16) to a corner point located along the centerline of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $S49^{\circ} 25' 27''E$, a distance of 24.16 (L17) feet to a point located along the southeastern line of the abandoned Un-Named and Un-Improved 20' Road; thence turning and running $S40^{\circ} 34' 33''W$, a distance of 10.00 feet (L14) to the point of beginning. Containing 242.0 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF AN UN-UNIMPROVED 50-FT RIGHT-OF-WAY
7TH PLACE (VA ROUTE 2818)
D.B. Z-7, PG 332
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101
OUTLOT A-4 TO BE DEDICATED TO LOT 63B**

Beginning at a point located along the northeastern property line of Lot 63B and running N 49° 25' 27" W, a distance of 50.00 feet (L2) to another point located along northeastern property line of Lot 63B; thence turning and running N40° 34' 33"E, a distance of 16.0 feet (L3) to a point located along a 20-ft wide un-named and un-improved road; thence turning and running S49° 25'27"E, a distance of 50.00 feet (L4 + L8) to a point located at the northwestern corner of Lot C, thence turning and running S40°34'33"W, a distance of 16.0 feet (L1) to the point of beginning. Containing 800 square feet of land, more or less.

All being particularly described on a plat attached hereto and made a part thereof.

**VACATION OF PART OF AN UN-UNIMPROVED 50-FT RIGHT-OF-WAY
7TH PLACE (VA ROUTE 2818)
D.B. Z-7, PG 332
MCLEAN, DRANESVILLE DISTRICT, FAIRFAX COUNTY, VIRGINIA 22101
(DEDICATED TO NEW LOT C EL NIDO ESTATES SUBDIVISION)**

Beginning at a point located at the northwestern corner of Lot C with Outlot A-2 El Nido Estates, and running $N49^{\circ}25'27''W$, a distance of 25.00 feet (L8) to a corner point located along the eastern property line of Outlot A-4, thence turning and running $N40^{\circ}34'33''E$, a distance of 41.85 feet (L7) to the beginning of curve (C1) for along the new 7th Place (VA Route 2818) right-of-way; thence turning and running along said curve C1, a radius of 25.00 feet, a length of 34.85 feet and chord of 32.30 feet to a point located along the northwestern property line of Lot C El Nido Estates; thence turning and running $S40^{\circ}34'33''E$, a distance of 45.29 feet (L10) to the point of beginning. Containing 1,178 square feet of land, more or less.

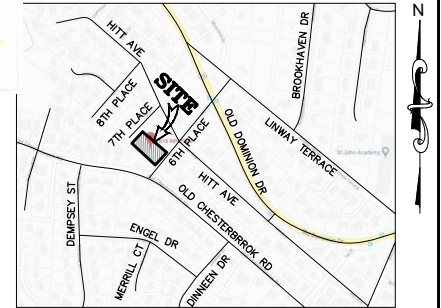
All being particularly described on a plat attached hereto and made a part thereof.

GENERAL NOTES:

1. THIS PLAT HAS BEEN PREPARED TO VACATE THE UN-NAMED AND UN-IMPROVED RIGHT-OF-WAY, CREATED BY THE SUBDIVISION OF EL NIDO ESTATES AS RECORDED IN D.B. Z-7, P.G. 332.
2. THE PLAT DOES NOT REPRESENT A CURRENT LAND BOUNDARY SURVEY. THE BOUNDARY INFORMATION SHOWN ON THIS PLAT WAS OBTAINED FROM THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.
3. THERE ARE NO RESOURCE PROTECTION AREA AND FLOOD PLAIN.
4. ALL PREVIOUSLY RECORDED RIGHT-OF-WAY, EASEMENTS OR OTHER INTERESTS OF THE COUNTY SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN ON THIS PLAT.
5. PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.
6. NO KNOWN GRAVE SITE OR BURIAL SITE EXIST ON THE LOT.
7. NO KNOWN UTILITIES LOCATED WITHIN THE RIGHT OF WAY TO BE VACATED.
8. THE AREA SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X", AREA DETERMINED TO BE OUTSIDE THE 100-YEAR FLOOD PLAIN, AS SHOWN ON THE FEMA MAP #51059C0170E EFFECTIVE DATE: SEPTEMBER 17, 2010.
9. THE LAND DELINEATED HEREON MEETS THE MINIMUM ERROR OF CLOSURE OF 1 IN 20,000.
10. ANY FUTURE EASEMENT OR AUTHORIZATION FOR ELECTRIC, CABLE, TELEPHONE OR GAS SERVICES TO BE FURNISHED TO THE PROPERTY MUST COMPLY WITH THE PROVISIONS OF 15.2-2241(6) OF THE VIRGINIA CODE.
11. THIS SURVEYOR/ENGINEER WILL MONUMENT THE PERIMETER OF THE LAND HERON PLATTED USING IRON PIPE OR OTHER PERMANENT MARKER. MONUMENTATION OF INTERNAL LOTS, STREETS, OUTLOTS, AND PARCELS CREATED BY RECORDATION OF THIS PLAT ARE COVERED BY SUBDIVISION ORDINANCE AND SURETY BOND AND WILL BE INSTALLED BY A LAND SURVEYOR LICENSED IN THE COMMONWEALTH PRIOR TO BOND RELEASE BY FAIRFAX COUNTY.

ATTACHMENT V

BY _____	
Date _____	Addressing Reviewer _____
FINAL PLAT	
RECOMMENDED FOR APPROVAL FAIRFAX COUNTY LAND DEVELOPMENT SERVICES	
ALL STREET LOCATIONS AND/OR EASEMENTS CONFORM TO THE REQUIREMENTS OF THIS OFFICE. THIS APPROVAL IS NOT A COMMITMENT TO PROVIDE PUBLIC SANITARY SEWER.	
BY _____	
Date _____	Director, Site Development and Inspection Division or Agent _____
APPROVED FOR BOARD OF SUPERVISORS FAIRFAX COUNTY, VIRGINIA	
BY _____	
Date _____	Director, Land Development Services or Agent _____
APPROVAL VOID IF PLAT IS NOT OFFERED FOR RECORD ON OR BEFORE _____	



VICINITY MAP
SCALE: 1"=500'

PLAT SHOWING

VACATION ON AN
UN-NAMED/UNIMPROVED RIGHT- OF- WAY
CREATED BY THE SUBDIVISION OF
EL NIDO ESTATES
D.B. Z-7, PG. 332
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA 22101

DATE: JUNE 21, 2021

SURVEYOR'S/ENGINEER'S CERTIFICATE:

I, IBRAHIM A. CHEHAB, DULY AUTHORIZED PROFESSIONAL ENGINEER IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THE PART OF UN-NAMED & UN-IMPROVED RIGHT -OF-WAY TO BE VACATED IS RECORDED AT DEED BOOK Z-7, P.G. 332; ALL AMONG THE LAND RECORDS OF THE COUNTY OF FAIRFAX, VIRGINIA.

I FURTHER CERTIFY THAT THE LAND EMBRACED BY RIGHT-OF-WAY VACATION PROPOSED LIES ENTIRELY WITHIN THE BOUND OF ORIGINAL TRACT, THAT THIS PLAT REPRESENTS AN ACCURATE SURVEY OF THE SAME AND THAT ALL THE BEARINGS ARE WITH REFERENCE TO VCS83; THAT THE RIGHT-OF-WAY AREA TO BE VACATED ARE ACCURATELY DESCRIBED BY METES AND BOUNDS, COURSE AND DISTANCES. I FURTHER CERTIFY THAT PERMANENT PROPERTY CORNERS WILL BE PLACED AS REQUIRED.

GIVEN UNDER MY HAND THIS _____ DAY OF _____ 2021.

IBRAHIM A. CHEHAB
(PROFESSIONAL ENGINEER)
L.C. #022968

SIGNATURE

PREPARED BY

GeoEnv GeoEnv Engineers & Consultants, LLC
Civil, Environmental & Geotechnical Engineering
10875 Main Street, Suite 213
Fairfax, VA 22030
Phone: 703.591.7170
Fax: 703.591.7074


SHEET 1 OF 2

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	34.85'	26.00'	76.80	S88° 42' 18"W	32.30'

LINE TABLE		
LINE #	LENGTH	BEARING
L1	16.00'	S40° 34' 33"W
L2	50.00'	N49° 25' 27"W
L3	16.00'	N40° 34' 33"E
L4	25.00'	S49° 25' 27"E
L5	41.85'	N40° 34' 33"E
L6	25.00'	N49° 25' 27"W
L7	41.85'	S40° 34' 33"W
L8	25.00'	S49° 25' 27"E
L9	17.01'	S40° 34' 33"W
L10	45.29'	S40° 34' 33"W
L11	29.85'	S49° 25' 27"E
L12	16.00'	N49° 25' 27"W
L13	29.85'	N49° 25' 27"W
L14	10.00'	S40° 34' 33"W
L15	24.16'	N49° 25' 27"W
L16	10.00'	N40° 34' 33"E
L17	24.16'	S49° 25' 27"E
L18	6.00'	N40° 34' 33"E

VACATION ON AN
UN-NAMED/UNIMPROVED RIGHT- OF- WAY
CREATED BY THE SUBDIVISION OF
EL NIDO ESTATES
D.B. Z-7, PG. 332
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA 22101

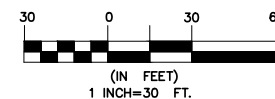
PREPARED BY

 **GeoEnv** *GeoEnv Engineers & Consultants, LLC*

Civil, Environmental & Geotechnical Engineering
10875 Main Street, Suite 213
Fairfax, VA 22030
Phone: 703.591.7170
Fax: 703.591.7074

SHEET 2 OF 2

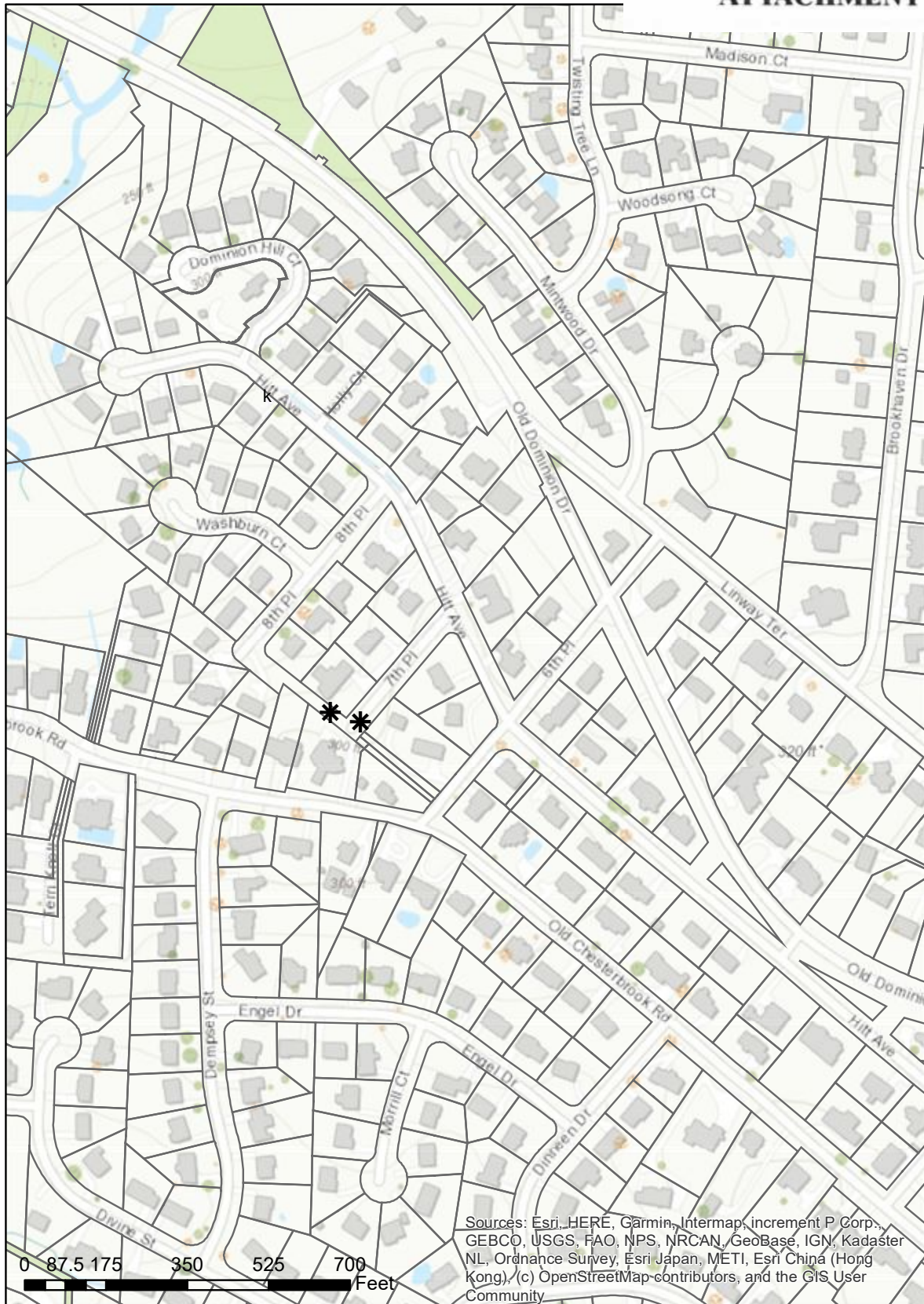
GRAPHIC SCALE



7th Place and Unnamed Right of Way Vacation

Dranesville District

ATTACHMENT VI



Tax Map 30-4

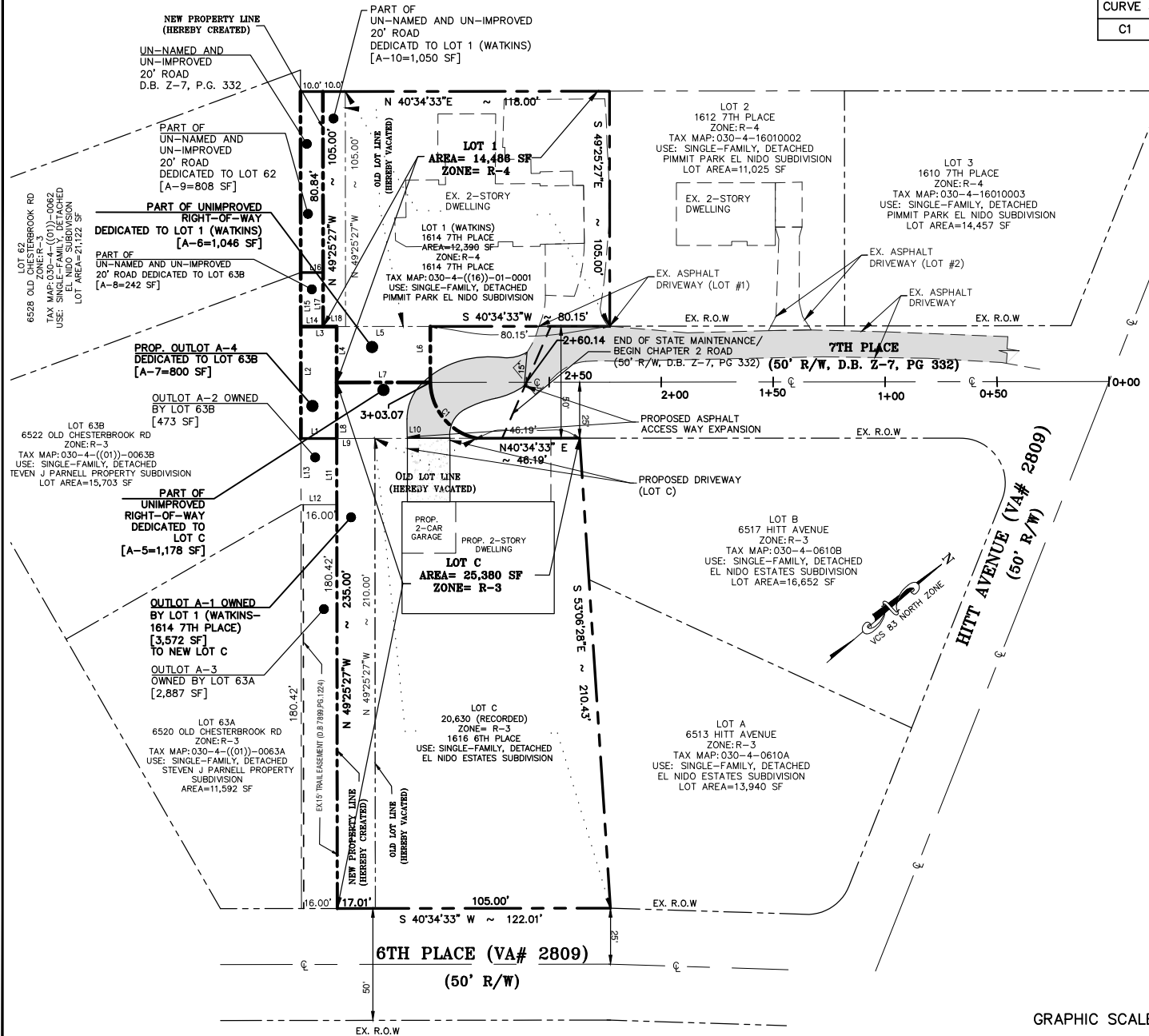
* Denotes Area to be Vacated

CURVE TAB

CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	34.85'	26.00'	76.80	S88° 42' 18"W	32.30'

LINE TABLE

LINE #	LENGTH	BEARING
L1	16.00'	S40° 34' 33"W
L2	50.00'	N49° 25' 27"W
L3	16.00'	N40° 34' 33"E
L4	25.00'	S49° 25' 27"E
L5	41.85'	N40° 34' 33"E
L6	25.00'	N49° 25' 27"W
L7	41.85'	S40° 34' 33"W
L8	25.00'	S49° 25' 27"E
L9	17.01'	S40° 34' 33"W
L10	45.29'	S40° 34' 33"W
L11	29.85'	S49° 25' 27"E
L12	16.00'	N49° 25' 27"W
L13	29.85'	N49° 25' 27"W
L14	10.00'	S40° 34' 33"W
L15	24.16'	N49° 25' 27"W
L16	10.00'	N40° 34' 33"E
L17	24.16'	S49° 25' 27"E
L18	6.00'	N40° 34' 33"E



PLAT SHOWING

PRELIMINARY LAYOUT
 REFLECTING THE USE OF VACATED RIGHT-OF-WAY
 EL NIDO ESTATES
 D.B. Z-7, PG. 332
 DRANESVILLE DISTRICT
 FAIRFAX COUNTY, VIRGINIA 22101

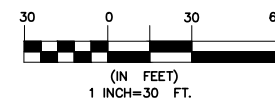
DATE: JUNE 21, 2021

PREPARED BY

GeoEnv GeoEnv Engineers & Consultants, LLC

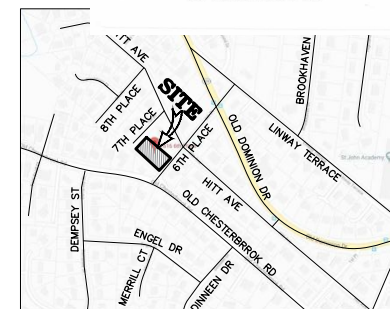
Civil, Environmental & Geotechnical Engineering
 10875 Main Street, Suite 213
 Fairfax, VA 22030
 Phone: 703.591.7170
 Fax: 703.591.7074

GRAPHIC SCALE



SHEET 1 OF 1

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	34.85'	26.00'	76.80	S88° 42' 18"W	32.30'



VICINITY MAP
SCALE: 1"=500'

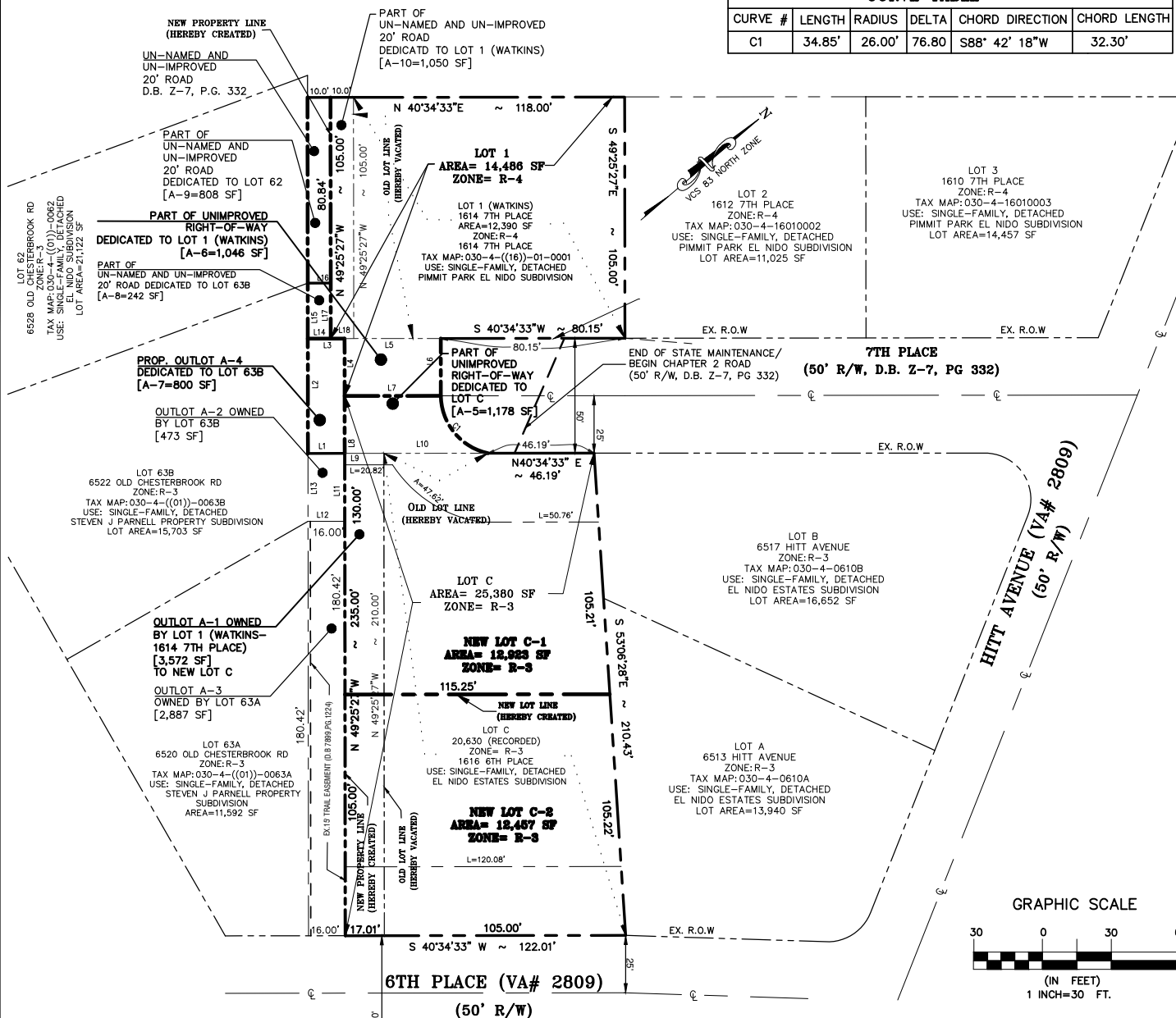
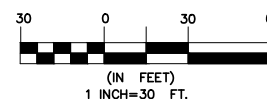
LINE TABLE		
LINE #	LENGTH	BEARING
L1	16.00'	S40° 34' 33"W
L2	50.00'	N49° 25' 27"W
L3	16.00'	N40° 34' 33"E
L4	25.00'	S49° 25' 27"E
L5	41.85'	N40° 34' 33"E
L6	25.00'	N49° 25' 27"W
L7	41.85'	S40° 34' 33"W
L8	25.00'	S49° 25' 27"E
L9	17.01'	S40° 34' 33"W
L10	45.29'	S40° 34' 33"W
L11	29.85'	S49° 25' 27"E
L12	16.00'	N49° 25' 27"W
L13	29.85'	N49° 25' 27"W
L14	10.00'	S40° 34' 33"W
L15	24.16'	N49° 25' 27"W
L16	10.00'	N40° 34' 33"E
L17	24.16'	S49° 25' 27"E
L18	6.00'	N40° 34' 33"E

PLAT SHOWING

SUBDIVISION OF
LOT 'C' (D.B. 11808, PG. 1454)
EL NIDO ESTATES
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA 22101

SCALE: 1"=30' DATE: AUGUST 20, 2021

GRAPHIC SCALE



LOT #	LOT AREA (MIN. REQUIRED)	LOT AREA (Provided)	ACRE	LOT TYPE	LOT WIDTH REQUIRED (FT)	LOT WIDTH PROVIDED (FT)	REMARKS
C-1	10,500	12,923	0.2967	INTERIOR	80	117.26	O.K.
C-2	10,500	12,457	0.2860	INTERIOR	80	199.2	O.K.
ROW DEDICATION	-	-	-	-	-	-	-
TOTAL AREA	-	25,380	0.5826	-	-	-	-

LOT SHAPE FACTOR CALCULATIONS				
LOT #	LOT PERIMETER, P (LF)	LOT AREA, A (SF)	LOT SHAPE FACTOR (P^2/A)	REMARKS
C-1	427.16	12,923	14.12 < 35	O.K.
C-2	447.49	12,457	16.08 < 35	O.K.

PREPARED BY

GeoEnv GeoEnv Engineers & Consultants, LLC

Civil, Environmental & Geotechnical Engineering
10875 Main Street, Suite 213
Fairfax, VA 22030
Phone: 703.591.7170
Fax: 703.591.7074

SHEET 1 of 1

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing on Proposed Amendments to Fairfax County Code Section 82-5-32, Removal, Immobilization, and Disposition of Vehicles Unlawfully Parked on Private or County Property

ISSUE:

Board of Supervisors authorization to advertise a public hearing on proposed amendments to Fairfax County Code Section 82-5-32. The proposed amendments will increase fees for trespass towing.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on the proposed amendments to Fairfax County Code Section 82-5-32.

TIMING:

Board action is requested on September 14, 2021, to advertise the public hearing before the Board of Supervisors on October 5, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code § 46.2-1232 enables the County to regulate the removal or immobilization of trespassing vehicles. Va. Code § 46.2-1233 enables the County to regulate towing fees. The County's trespass towing regulations are set forth in County Code Section 82-5-32. Trespass towing is requests for towing services made by the owner, manager, or lessee of private property, or the authorized agency thereof, or under contract between such person and a towing and recovery operator that specifies what tows are to be made from the property when a vehicle is on the property in violation of law or rules promulgated by the owner, manager, or lessee of the private property. Additionally, the allowable fees are set forth in County Code Section 82-5-32 paragraph (g), Rates and charges. These rates are charged to and collected from the vehicle owner by the towing and recovery operator. These fees were last increased in 2014.

Board Agenda Item
September 14, 2021

On January 27, 2021, the Fairfax County Trespass Towing Advisory Board (TTAB) voted unanimously to recommend to the Board of Supervisors an increase in certain trespass towing fees as shown in the table below:

Trespass Towing Fees	Current Fee	TTAB Proposed Fee
Hookup and Initial Towing Fee (GVWR of 7,500 pounds or less)	\$135	\$150
Towing between 7:00 p.m. and 8:00 a.m.*	\$25	\$30
Towing on any Saturday or Sunday*	\$25	\$30
Towing on a holiday*	\$25	\$30
<i>*In no event shall more than two such fees be charged for towing any such vehicle.</i>		

Accordingly, the TTAB is proposing an amendment to Fairfax County Code Section 82-5-32(g)(2)(A)(iii)(I) to increase the hookup and initial towing fee for vehicles with a GVWR of 7,500 pounds or less from \$135 to \$150.

The TTAB is further proposing amendments to Fairfax County Code Section 82-5-32(g)(2)(A)(iii)(IV) to increase the fee charged for towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday from \$25 to \$30. In no event shall more than two such fees be charged for towing any such vehicle.

The proposed amendments would set these fees at the maximum allowable amounts authorized by Va. Code § 46.2-1233.1.

Board Agenda Item
September 14, 2021

Following the TTAB vote, staff forwarded a memo to the Board of Supervisors on March 15, 2021, with the TTAB proposed fee increase recommendation. Included in the memo to the Board of Supervisors was the jurisdictional survey of Planning District 8 localities. An updated table is shown below:

Planning District 8 Trespass Towing Fees	Hookup and Initial Towing Fee (GVWR of 7,500 pounds or less)	Towing between 7:00 p.m. and 8:00 a.m.	Towing on any Saturday, Sunday, or holiday
Fairfax County (Proposed)	\$135 (\$150)	\$25 (\$30)	\$25 (\$30)
Arlington County	\$135	\$25	\$25
City of Alexandria	\$135	\$25	\$25
City of Fairfax *	\$150	\$30	\$30
City of Falls Church	\$135	\$25	\$25
City of Manassas*	\$150	\$30	\$30
City of Manassas Park*	\$150	\$30	\$30
Loudoun County*	\$150	\$30	\$30
Prince William County **	\$150	\$30	\$30
*These Planning District 8 jurisdictions do not regulate trespass towing or limit fees. Absent local limits on trespass towing fees set pursuant to Va. Code § 46.2-1233, operators can charge no more than the maximum charges provided in Va. Code § 46.2-1233.1.			
**Hookup and Initial Towing Fee (GVWR of 10,001 or less)			

Board Agenda Item
September 14, 2021

When reviewing trespass towing fees, staff uses an index of cost elements relevant to trespass tow operations. These cost elements include salaries and wages, vehicle purchases, fuel, insurance, and maintenance expenses. In the most recent review, staff used July 2021 data from the Bureau of Labor Statistics Indices. As a result of this review, an increase for the initial hookup and tow fee is supported as shown in the table below and an increase of \$15.00 would set the fee at the maximum allowable amount authorized by Va. Code § 46.2-1233.1.

Towing Cost Element	Weight	July 2021 BLS Index	% Change	Weighted Change	Current Rate	Cost Element Change
Salaries, Wages, and Profits	0.62	273.00	15.2%	9.4%	\$135	\$12.71
Vehicle Purchases	0.14	157.20	7.1%	1.0%	\$135	\$1.35
Fuel	0.11	276.75	-12.6%	-1.4%	\$135	-\$1.88
Insurance	0.08	567.46	31.0%	2.5%	\$135	\$3.35
Maintenance	0.05	318.03	20.2%	1.0%	\$135	\$1.37
Total Composite Index	1.00					
Total Index Change				12.5%		\$16.90

Board Agenda Item
September 14, 2021

Using the same formula, an increase for towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday is supported as shown in the table below:

Towing Cost Element	Weight	July 2021 BLS Index	% Change	Weighted Change	Current Rate	Cost Element Change
Salaries, Wages, and Profits	0.62	273.00	15.2%	9.4%	\$25	\$2.35
Vehicle Purchases	0.14	157.20	7.1%	1.0%	\$25	\$0.25
Fuel	0.11	276.75	-12.6%	-1.4%	\$25	-\$0.035
Insurance	0.08	567.46	31.0%	2.5%	\$25	\$0.62
Maintenance	0.05	318.03	20.2%	1.0%	\$25	\$0.25
Total Composite Index	1.00				\$25	
Total Index Change				12.5%		\$3.13

The Tenant-Landlord Commission received a staff presentation on the proposed amendments on August 12, 2021.

The Consumer Protection Commission received a staff presentation on the proposed amendments on August 17, 2021.

The Trespass Towing Advisory Board held a public hearing on the proposed amendments on August 25, 2021. The TTAB voted unanimously to recommend to the Board of Supervisors the proposed amendments to Fairfax County Code Section 82-5-32, to increase fees for trespass towing.

FISCAL IMPACT:
None.

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Va. Code § 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.

Attachment 2: Va. Code § 46.2-1233. Localities may regulate towing fees.

Attachment 3: Va. Code § 46.2-1233.1 Limitation on charges for towing and storage of certain vehicles.

Attachment 4: Proposed Amendment; draft Fairfax County Code § 82-5-32(g)-Strikethrough

Attachment 5: Proposed Amendment; draft Fairfax County Code § 82-5-32(g)-Clean

Attachment 6: Staff Report to Trespass Towing Advisory Board, August 25, 2021

STAFF:

Michael S. Liberman, Director, Department of Cable and Consumer Services (DCCS)

Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:

John Burton, Assistant County Attorney

Code of Virginia

Title 46.2. Motor Vehicles

Subtitle III. Operation

Chapter 12. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking

Article 3. Trespassing Vehicles, Parking, and Towing

§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles

A. The governing body of any county, city, or town may by ordinance regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property. In the event that a vehicle is towed from one locality and stored in or released from a location in another locality, the local ordinance, if any, of the locality from which the vehicle was towed shall apply.

B. No local ordinance adopted under authority of this section shall require that any towing and recovery business also operate as or provide services as a vehicle repair facility or body shop, filling station, or any business other than a towing and recovery business.

C. Any such local ordinance may also require towing and recovery operators to (i) obtain and retain photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs at their main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating (a) the maximum charges allowed by local ordinance, if any, for all their fees for towing, recovery, and storage services and (b) the name and business telephone number of the local official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is towed, verbal approval of an agent designated in the local ordinance who is available at all times; and (iv) obtain, at the time the vehicle is towed, if such towing is performed during the normal business hours of the owner of the property from which the vehicle is being towed, the written authorization of the owner of the property from which the vehicle is towed, or his agent. Such written authorization, if required, shall be in addition to any written contract between the towing and recovery operator and the owner of the property or his agent, except for vehicles being towed from a locality within Planning District 8 or Planning District 16, which shall not require written authorization if such written contract is in place. Any such written contract governing a property located within Planning District 8 or Planning District 16 shall clearly state the terms on which towing and recovery operators may monitor private lots on behalf of property owners. For the purposes of this subsection, "agent" shall not include any person who either (a) is related by blood or marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery operator's business.

D. Any such ordinance adopted by a locality within Planning District 8 may require towing companies that tow vehicles from the county, city, or town adopting the ordinance to other localities, provided that the stored or released location is within the Commonwealth of Virginia and within 10 miles of the point of origin of the actual towing, (i) to obtain from the locality from which such vehicles are towed a permit to do so and (ii) to submit to an inspection of such towing company's facilities to ensure that the company meets all the locality's requirements, regardless of whether such facilities are located within the locality or elsewhere. The locality may impose and collect reasonable fees for the issuance and administration of permits as provided for in this subsection. Such ordinance may also provide grounds for revocation, suspension, or modification of any permit issued under this subsection, subject to notice to the permittee of the revocation,

suspension, or modification and an opportunity for the permittee to have a hearing before the governing body of the locality or its designated agent to challenge the revocation, suspension, or modification. Any tow truck driver who removes or tows a vehicle, pursuant to any such ordinance, that is occupied by an unattended companion animal as defined in § 3.2-6500 shall, upon such removal, immediately notify the animal control office of the locality in which the vehicle is being removed or towed. Nothing in this subsection shall be applicable to public safety towing.

Code 1950, § 46-541; 1952, c. 352; 1954, c. 435; 1958, c. 541, § 46.1-551; 1978, cc. 202, 335; 1979, c. 132; 1983, c. 34; 1985, c. 375; 1989, cc. 17, 727; 1990, cc. 502, 573; 2006, cc. 874, 891; 2009, cc. 186, 544; 2012, cc. 149, 812; 2017, c. 825; 2018, cc. 411, 412.

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

Code of Virginia

Title 46.2. Motor Vehicles

Subtitle III. Operation

Chapter 12. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking

Article 3. Trespassing Vehicles, Parking, and Towing

§ 46.2-1233. Localities may regulate towing fees

The governing body of any locality may by ordinance set reasonable limits on fees charged for the removal of motor vehicles, trailers, and parts thereof left on private property in violation of § 46.2-1231, and for the removal of trespassing vehicles under § 46.2-1215, taking into consideration the fair market value of such removal.

Localities in Planning District 8 and Planning District 16 shall establish by ordinance (i) a hookup and initial towing fee of no less than \$135 and no more than the maximum charges provided in § 46.2-1233.1 and (ii) for towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday, an additional fee of no less than \$25 and no more than the maximum charges provided in § 46.2-1233.1 per instance; however, such ordinance shall also provide that in no event shall more than two such additional fees be charged for towing any vehicle.

Code 1950, § 46-541; 1952, c. 352; 1954, c. 435; 1958, c. 541, § 46.1-551; 1978, cc. 202, 335; 1979, c. 132; 1983, c. 34; 1985, c. 375; 1989, cc. 17, 727; 1990, cc. 502, 571, 573; 2016, c. 476; 2018, cc. 411, 412; 2019, cc. 117, 460; 2020, c. 31.

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

Code of Virginia

Title 46.2. Motor Vehicles

Subtitle III. Operation

Chapter 12. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking

Article 3. Trespassing Vehicles, Parking, and Towing

§ 46.2-1233.1. Limitation on charges for towing and storage of certain vehicles

A. Unless different limits are established by ordinance of the local governing body pursuant to § 46.2-1233, as to vehicles towed or removed from private property, no charges imposed for the towing, storage, and safekeeping of any passenger car removed, towed, or stored without the consent of its owner shall be in excess of the maximum charges provided for in this section. No hookup and initial towing fee of any passenger car shall exceed \$150. For towing a vehicle between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or holiday, an additional fee of no more than \$30 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for storage and safekeeping for a period of 24 hours or less. Except for fees or charges imposed by this section or a local ordinance adopted pursuant to § 46.2-1233, no other fees or charges shall be imposed during the first 24-hour period.

B. The governing body of any county, city, or town may by ordinance, with the advice of an advisory board established pursuant to § 46.2-1233.2, (i) provide that no towing and recovery business having custody of a vehicle towed without the consent of its owner impose storage charges for that vehicle for any period during which the owner of the vehicle was prevented from recovering the vehicle because the towing and recovery business was closed and (ii) place limits on the amount of fees charged by towing and recovery operators. Any such ordinance limiting fees shall also provide for periodic review of and timely adjustment of such limitations.

1990, c. 266; 1993, c. 598; 2006, cc. 874, 891; 2013, c. 592; 2018, cc. 324, 363; 2020, c. 31.

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

**AN ORDINANCE AMENDING
CHAPTER 82 OF THE FAIRFAX COUNTY CODE, RELATING TO
MOTOR VEHICLES AND TRAFFIC**

Draft of August 25, 2021

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Section 82-5-32(g) relating to Motor Vehicles and Traffic.

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

1. That Section 82-5-32(g) is amended and readopted as follows:

CHAPTER 82 – Motor Vehicles and Traffic.

Article 5. – Stopping, Standing and Parking.

Section 82-5-32. Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property.

(g) Rates and charges.

(1) *Change to rates and charges.*

- (A) Changes in rates and charges for trespass towing services rendered by operators shall be approved by the Board.
- (B) The Board may consider changes in rates or charges upon recommendation of the Director or the Advisory Board.
- (C) The Director shall conduct a review of rates every two years.
- (D) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board pursuant to a public hearing, which shall be scheduled as soon as analysis, investigation, and administration allow. All recommendations of the Advisory Board and the Director shall be conveyed to the Board for its consideration and determination.
- (E) Whenever the Director or Advisory Board determines a rate change is warranted, all registered operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business in Fairfax County. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

Notice of Proposed Rate Change

A proposed change in trespass towing rates is under consideration by the Fairfax County government. The proposed rates are: (Insert description of the proposed changes).

The proposed trespass towing rate change shall be considered by the Trespass Towing Advisory Board at a public hearing. The date, time and location of the public hearing may be obtained by calling the Department of Cable and Consumer Services. Any interested person may appear before the Advisory Board to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable and Consumer Services at 703-324-5966.

- (F) Notices with respect to a proposed rate change shall be posted within ten days of the staff report for such change and shall remain posted until the change in rates is denied or becomes effective.

(2) *Rates and charges.*

- (A) It shall be unlawful for an operator to charge any fees exceeding the fees set forth in this section.

(i) Immobilization. An operator may charge a vehicle owner a maximum fee of \$75.00 for the release of a vehicle when it is immobilized. No other fee of any type may be charged.

(ii) Drop fee. An operator may charge a vehicle owner a maximum fee of \$50.00 for the release of a vehicle prior to towing the vehicle from private property. No other fee of any type may be charged.

(iii) Hookup and initial towing fee shall not exceed:

(I) ~~\$135.00~~ \$150.00 for vehicles with GVWR of 7,500 pounds or less.

(II) \$250.00 for vehicles with GVWR of 7,501 pounds through 10,000 pounds.

(III) \$500.00 for vehicles with GVWR greater than 10,000 pounds.

(IV) For towing a vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, a maximum additional fee of ~~\$25~~ \$30 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle.

(V) No other fees or charges shall be imposed during the first 24 hour period.

(iv) Storage fee for the safekeeping of vehicles:

(I) No charge shall be made for storage and safekeeping of a vehicle for the first 24 hours the vehicle is on the storage site.

(II) After the vehicle is on the storage site for more than 24 hours, a vehicle storage fee may be charged for each subsequent 24-hour period, or any portion thereof, at a rate not to exceed \$50.00 for any vehicle 22 feet or less in length, or \$5.00 per foot for any vehicle over 22 feet in length.

(v) If an administrative fee for notification of lien holder, owner, agent or other interested party is charged, it shall not exceed \$75.00. This fee may only apply after the vehicle is on the storage site over three full business days. If an administrative fee is charged, a copy of the Virginia Department of Motor Vehicles report shall be attached to the receipt given to the vehicle owner.

(vi) No other fees shall be charged unless expressly set forth herein.

(B) Upon vehicle release, the operator shall give the vehicle owner a receipt itemizing all charges.

(C) An operator shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the owner's vehicle as a condition of the owner retrieving the towed vehicle.

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

3. That the provisions of this ordinance shall take effect on October 31, 2021.

GIVEN under my hand this _____ day of _____, 2021

Jill G. Cooper
Clerk for the Board of Supervisors

**AN ORDINANCE AMENDING
CHAPTER 82 OF THE FAIRFAX COUNTY CODE, RELATING TO
MOTOR VEHICLES AND TRAFFIC**

Draft of August 25, 2021

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Section 82-5-32(g) relating to Motor Vehicles and Traffic.

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

1. That Section 82-5-32(g) is amended and readopted as follows:

CHAPTER 82 – Motor Vehicles and Traffic.

Article 5. – Stopping, Standing and Parking.

Section 82-5-32. Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property.

(g) Rates and charges.

(1) *Change to rates and charges.*

- (A) Changes in rates and charges for trespass towing services rendered by operators shall be approved by the Board.
- (B) The Board may consider changes in rates or charges upon recommendation of the Director or the Advisory Board.
- (C) The Director shall conduct a review of rates every two years.
- (D) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board pursuant to a public hearing, which shall be scheduled as soon as analysis, investigation, and administration allow. All recommendations of the Advisory Board and the Director shall be conveyed to the Board for its consideration and determination.
- (E) Whenever the Director or Advisory Board determines a rate change is warranted, all registered operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business in Fairfax County. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

Notice of Proposed Rate Change

A proposed change in trespass towing rates is under consideration by the Fairfax County government. The proposed rates are: (Insert description of the proposed changes).

The proposed trespass towing rate change shall be considered by the Trespass Towing Advisory Board at a public hearing. The date, time and location of the public hearing may be obtained by calling the Department of Cable and Consumer Services. Any interested person may appear before the Advisory Board to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable and Consumer Services at 703-324-5966.

- (F) Notices with respect to a proposed rate change shall be posted within ten days of the staff report for such change and shall remain posted until the change in rates is denied or becomes effective.

(2) *Rates and charges.*

- (A) It shall be unlawful for an operator to charge any fees exceeding the fees set forth in this section.

(i) Immobilization. An operator may charge a vehicle owner a maximum fee of \$75.00 for the release of a vehicle when it is immobilized. No other fee of any type may be charged.

(ii) Drop fee. An operator may charge a vehicle owner a maximum fee of \$50.00 for the release of a vehicle prior to towing the vehicle from private property. No other fee of any type may be charged.

(iii) Hookup and initial towing fee shall not exceed:

(I) \$150.00 for vehicles with GVWR of 7,500 pounds or less.

(II) \$250.00 for vehicles with GVWR of 7,501 pounds through 10,000 pounds.

(III) \$500.00 for vehicles with GVWR greater than 10,000 pounds.

(IV) For towing a vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, a maximum additional fee of \$30 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle.

(V) No other fees or charges shall be imposed during the first 24 hour period.

(iv) Storage fee for the safekeeping of vehicles:

(I) No charge shall be made for storage and safekeeping of a vehicle for the first 24 hours the vehicle is on the storage site.

(II) After the vehicle is on the storage site for more than 24 hours, a vehicle storage fee may be charged for each subsequent 24-hour period, or any portion thereof, at a rate not to exceed \$50.00 for any vehicle 22 feet or less in length, or \$5.00 per foot for any vehicle over 22 feet in length.

(v) If an administrative fee for notification of lien holder, owner, agent or other interested party is charged, it shall not exceed \$75.00. This fee may only apply after the vehicle is on the storage site over three full business days. If an administrative fee is charged, a copy of the Virginia Department of Motor Vehicles report shall be attached to the receipt given to the vehicle owner.

(vi) No other fees shall be charged unless expressly set forth herein.

(B) Upon vehicle release, the operator shall give the vehicle owner a receipt itemizing all charges.

(C) An operator shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the owner's vehicle as a condition of the owner retrieving the towed vehicle.

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

3. That the provisions of this ordinance shall take effect on October 31, 2021.

GIVEN under my hand this _____ day of _____, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



Trespass Towing Fees

Staff Report to the
Trespass Towing Advisory Board

Rebecca L. Makely, Director, Consumer Services Division
Department of Cable and Consumer Services
August 25, 2021





Overview

- TTAB Proposal
- Review of Code of Virginia
- Jurisdictional Survey of Trespass Towing Fees
- Trespass Towing Fee Analysis
- Summary of Analysis
- Staff Report
- Timeline
- Resources



Trespass Towing Advisory Board Proposal

Trespass Towing Fees	Current Fee	TTAB Proposed Fee	Increase
Hookup and Initial Towing Fee (GVWR of 7,500 pounds or less)	\$135	\$150	11%
Towing between 7:00 p.m. and 8:00 a.m.*	\$25	\$30	20%
Towing on any Saturday or Sunday*	\$25	\$30	20%
Towing on a holiday*	\$25	\$30	20%
<i>*In no event shall more than two such fees be charged for towing any such vehicle.</i>			



Localities may regulate towing fees.

Va. Code § 46.2-1233

Virginia localities within Planning District 8 may establish by ordinance fees no less than \$135, \$25, \$25, and \$25 respectively, for the rates on the preceding table.

- [Fairfax County adopted the above fees in 2014.](#)



Limitation on charges for towing and storage of certain vehicles.

Va. Code § 46.2-1233.1

The maximum allowable fees set forth in the above section are \$150, \$30, \$30, and \$30 respectively, for the rates on the preceding table.

- Fairfax County adopted fees are \$135, \$25, \$25, and \$25 respectively.



Planning District 8 Trespass Towing Fees	Hookup and Initial Towing Fee (GVWR of 7,500 pounds or less)	Towing between 7:00 p.m. and 8:00 a.m.	Towing on any Saturday, Sunday, or holiday
Fairfax County (Proposed)	\$135 (\$150)	\$25 (\$30)	\$25 (\$30)
Arlington County	\$135	\$25	\$25
City of Alexandria	\$135	\$25	\$25
City of Fairfax*	\$150	\$30	\$30
City of Falls Church	\$135	\$25	\$25
City of Manassas*	\$150	\$30	\$30
City of Manassas Park*	\$150	\$30	\$30
Loudoun County*	\$150	\$30	\$30
Prince William County**	\$150	\$30	\$30

**These Planning District 8 localities do not regulate trespass towing or limit fees. Absent local limits on trespass towing fees set pursuant to Va. Code § 46.2-1233, operators can change no more than the maximum charges provided in Va. Code § 46.2-1233.1. **Hookup and Initial Towing Fee (GVWR of 10,001 or less).*



Trespass Towing Fee Analysis

- Comparison period is the BLS Index from the last calendar year (2014) since towing fees were increased, as compared to the current calendar year (2021).
- Weighted outcome assigned to each formula criteria.
- The weighted percentage is applied to the most current year (2021) of trespass towing fees.
- The result is the recommended increase or decrease in the trespass towing fee in Fairfax County.



Trespass Towing Fee Formula Criteria

1. Salaries, Wages, and Profits Growth Rate
 - *Per the BLS index, the percent change from April 2014 to July 2021, for income*
2. Vehicle Purchases Growth Rate
 - *Per the BLS index, the percent change from April 2014 to July 2021, for new vehicle purchases*
3. Fuel Growth Rate
 - *Per the BLS index, the percent change from April 2014 to July 2021, for motor fuel*
4. Insurance Growth Rate
 - *Per the BLS index, the percent change from April 2014 to July 2021, for private transportation insurance*
5. Maintenance Growth Rate
 - *Per the BLS index, the percent change from April 2014 to July 2021, for motor vehicle maintenance and repair*



Trespass Towing Fee Formula – Initial Hookup and Towing Fee

Towing Cost Element	Weight	July 2021 BLS Index	% Change	Weighted Change	Current Fee	Cost Element Change
Salaries, Wages, and Profits	0.62	273.00	15.2%	9.4%	\$135	\$12.71
Vehicle Purchases	0.14	157.20	7.1%	1.0%	\$135	\$1.35
Fuel	0.11	276.75	-12.6%	-1.4%	\$135	-\$1.88
Insurance	0.08	567.46	31.0%	2.5%	\$135	\$3.35
Maintenance	0.05	318.03	20.2%	1.0%	\$135	\$1.37
Total Composite Index	1.00					
Total Index Change				12.5%		
Projected Fee Increase						\$16.90



Trespass Towing Fee Formula – Towing Between 7 p.m. – 8:00 a.m., Saturday, Sunday, and Holiday

Towing Cost Element	Weight	July 2021 BLS Index	% Change	Weighted Change	Current Fee	Cost Element Change
Salaries, Wages, and Profits	0.62	273.00	15.2%	9.4%	\$25	\$2.35
Vehicle Purchases	0.14	157.20	7.1%	1.0%	\$25	\$0.25
Fuel	0.11	276.75	-12.6%	-1.4%	\$25	-\$0.35
Insurance	0.08	567.46	31.0%	2.5%	\$25	\$0.62
Maintenance	0.05	318.03	20.2%	1.0%	\$25	\$0.25
Total Composite Index	1.00					
Total Index Change				12.5%		
Projected Fee Increase						\$3.13



Summary of Analysis

- As a result of the formula analysis, at least a \$15.00 increase in the initial hookup and towing fee is supported.
 - TTAB has proposed a fee of \$150, an increase of \$15 from the current fee of \$135.
- As a result of the formula analysis, at least a \$3.13 increase in the towing fee between 7:00 p.m.- 8:00 a.m., Saturday, Sunday, and holidays is supported.
 - TTAB has proposed a fee of \$30, an increase of \$5 from the current fee of \$25.



Staff Report

- The Trespass Towing Fee Formula Analysis supports the Trespass Towing Advisory Board recommendation to propose certain increases to certain trespass towing fees.



Timeline

- January 27, 2021 – TTAB voted to recommend to the BOS an increase in trespass towing fees.
- March 15, 2021 – Staff forwarded a memo to the BOS with TTAB proposal.
- July 28, 2021 - Staff report to TTAB and request to consider to Advertise Public Hearing.
- August 12, 2021 – Staff presentation to Tenant-Landlord Commission.
- August 17, 2021 – Staff presentation to the Consumer Protection Commission.
- August 25, 2021 – TTAB Public Hearing.
- September 14, 2021 – BOS Admin Item and request to consider to Advertise Public Hearing.
- October 5, 2021 – BOS Public Hearing at 4:00 p.m.
- October 31, 2021 – Amendment becomes effective, if approved by BOS.



Resources

- Fairfax County Code Section 82-5-32 – Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property.
 - https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOFAVI1976_CH82MOVETR_ART5STSTPA_S82-5-32REIMDIVEUNPAPRCOPR
- Fairfax County Trespass Towing Services
 - <https://www.fairfaxcounty.gov/cableconsumer/csd/regulation-licensing/trespass-towing>
- Staff Contact
 - Rebecca L. Makely, Director, Consumer Services Division, DCCS
Rebecca.Makely@fairfaxcounty.gov; 703-324-5947

ADMINISTRATIVE - 12

Supplemental Appropriation Resolution AS 22095 for the Department of Housing and Community Development to Accept Grant Funding from the U.S. Department of Housing and Urban Development for the Continuum of Care Planning Project Grant

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 22095 for the Department of Housing and Community Development (HCD), Office to Prevent and End Homelessness (OPEH) to accept grant funding from the U.S. Department of Housing and Urban Development (HUD) in the amount of \$265,626. Funding will continue to support Continuum of Care planning activities. Due to the COVID-19 pandemic, HUD awarded funding through a non-competitive process in FY 2022 and increased funding from \$130,000 to \$265,626. While this award is included in the FY 2022 Adopted Budget Plan, the additional funding will support a new 1/1.0 FTE grant position bringing the total positions funded through this award to 2/2.0 FTEs. The required 25 percent match will be met with in-kind resources. No Local Cash Match is required. The grant period is from August 1, 2021, to July 31, 2022; however, the new position will not be added until Board approval. When grant funding expires, the County is under no obligation to continue funding the program.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution 22095 in the amount of \$265,626 from the U.S. Department of Housing and Urban Development for Continuum of Care planning activities. Funding will support 1/1.0 FTE new grant position along with an existing 1/1.0 FTE grant position for a total of 2/2.0 FTE grant positions. No Local Cash Match is required.

TIMING:

Board approval is requested on September 14, 2021. This Board item is being presented at the earliest subsequent Board meeting since receiving the award notification.

BACKGROUND:

The Continuum of Care Planning Project Grant provides funding under the Continuum of Care (CoC) program to meet additional HUD requirements to conduct CoC homeless system planning, project monitoring and evaluation, compliance activities and related

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CoC functions associated with consolidating homeless assistance programs and monitoring their progress. The existing position serves as the CoC Associate and staff the coordination of the program. The new position is needed to support the access, assessment, prioritization and referral processes for Emergency Housing Vouchers, non-congregate shelters, ESG-CV (COVID-19 Emergency Solutions Grant) rapid rehousing, and a Singles Diversion Pilot. HUD has indicated that the increased funding will be continued in future program years.

The aforementioned programs are new programs added through COVID-19 funding and the current staff in OPEH does not have the capacity to take on these additional tasks. Further, there are added requirements around Coordinated Entry data standards starting October 2021 prescribed by the U.S. Housing and Urban Development and the need for a data driven evaluation of the Coordinated Entry system to further the goals of One Fairfax that require additional support to complete. The Prioritization Pool, which is the referral submission process for many housing projects under the Coordinated Entry system, has expanded to incorporate referral processing systems from other Health and Human Services agencies such as the Community Services Board and Department of Family Services. Ongoing support and case consultations are necessary to provide timely and accurate information regarding the availability of housing solutions for the most vulnerable in Fairfax County. In addition, as Health and Human Services agencies continue to move towards more data driven project performance, there are multiple ongoing data reports that need frequent and timely updates to identify process issues, highlight successes, and assist in increasing housing placements for people experiencing homelessness. Finally, in order to create the flexibility needed to manage an ever-changing system, specific attention is needed in gathering, receiving, and implementing feedback from various stakeholders including program participants regarding access, assessment, prioritization, and referral.

FISCAL IMPACT:

Funding from the U.S. Department of Housing and Urban Development, in the amount of \$265,626, will be used to continue Continuum of Care planning activities. The 25 percent match requirement will be met utilizing in-kind resources. 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 grant awards. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITION:

There are 2/2.0 FTE grant positions associated with this award (1/1.0 FTE new grant position and 1/1.0 FTE existing grant position). The County has no obligation to continue funding these positions when the grant funding expires.

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Grant Agreement for VA0412L3G012000

Attachment 2: Supplemental Appropriation Resolution AS 22095

STAFF:

Christopher A. Leonard, Deputy County Executive

Tom Fleetwood, Director, Department of Housing and Community Development
(HCD)

Thomas Barnett, Deputy Director, HCD



**U.S. Department of Housing and Urban Development
Office of Community Planning and Development
820 First Street NE Suite 300
Washington, DC 20002**

**Grant Number (FAIN): VA0412L3G012000
Tax ID Number: 54-0787833
DUNS Number: 074837626**

**CONTINUUM OF CARE PROGRAM (CDFS# 14.267)
GRANT AGREEMENT**

This Grant Agreement (“this Agreement”) is made by and between the United States Department of Housing and Urban Development (“HUD”) and Fairfax County Office to Prevent and End Homelessness (the “Recipient”).

This Agreement, the use of funds provided under this Agreement (the “Grant” or “Grant Funds”), and the operation of projects assisted with Grant Funds are governed by title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11301 et seq. (the “Act”), the Continuum of Care Program rule at 24 CFR part 578 (the “Rule”), as amended from time to time, and the Fiscal Year (FY) 2020 Continuum of Care (CoC) Program Non-competitive Funding Notice, Notice CPD-21-01. Capitalized terms that are not defined in this Agreement shall have the meanings given in the Rule.

Only the project (those projects) listed below are funded by this Agreement. HUD’s total funding obligation for this grant is \$265,626, allocated between the projects listed below and, within those projects, between budget line items, as shown below.

Project No.	Grant Term	Budget Period/Performance Period	Total Amount
VA0412L3G012000	12	08-01-21-07-31-22	\$265,626

allocated between budget line items as follows:

a. Continuum of Care planning activities	\$265,626
b. Leasing	\$0
c. Rental assistance	\$0
d. Supportive Services	\$0
e. Operating costs	\$0
f. Homeless Management Information System	\$0
g. Administrative costs	\$0
h. Relocation costs	\$0
i. HPC homelessness prevention activities:	
Housing relocation and stabilization services	\$0
Short-term and medium term rental assistance	\$0

Pre-award Costs for Continuum of Care Planning

The Recipient may, at its own risk, incur pre-award costs for continuum of care planning awards, after the date of the HUD selection notice and prior to the start date of the award budget period/performance period, if such costs: a) are consistent with 2 CFR 200.458; and b) would be allowable as a post-award cost; and c) do not exceed 10 percent of the total funds obligated to this award. The incurrence of pre-award costs in anticipation of an award imposes no obligation on HUD either to make the award, or to increase the amount of the approved budget, if the award is made for less than the amount anticipated and is inadequate to cover the pre-award costs incurred.

These provisions apply to all Recipients:

The Agreement constitutes the entire agreement between the parties, and may be amended only in writing executed by HUD and the Recipient.

The budget period/performance period of renewal projects funded by this Agreement will begin immediately at the end of the budget period/performance period (or final operating year for Supportive Housing Program (SHP) and Shelter Plus Care (S+C) grants being renewed for the first time) under the grant agreement being renewed. Eligible costs incurred between the end of Recipient's budget period/performance period (or final operating year for SHP and S+C grants being renewed for the first time) under the grant agreement being renewed and the date this Agreement is executed by both parties may be reimbursed with Grants Funds from this Agreement. No Grant Funds for renewal projects may be drawn down by Recipient before the end date of the project's budget period/performance period (or final operating year for SHP and S+C grants being renewed for the first time) under the grant that has been renewed.

The Recipient must complete the attached "Indirect Cost Rate Schedule" and return it to HUD with this Agreement. The Recipient must provide HUD with a revised schedule when any change is made to the rate(s) included in the schedule. The schedule and any revisions HUD receives from the Recipient will be incorporated into and made part of this Agreement, provided that each rate included satisfies the applicable requirements under 2 CFR part 200 (including appendices).

This Agreement shall remain in effect until the earlier of 1) written agreement by the parties; 2) by HUD alone, acting under the authority of 24 CFR 578.107; 3) upon expiration of the budget period/performance period for all projects funded under this Agreement; or 4) upon the expiration of the period of availability of Grant Funds for all projects funded under this Agreement.

HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Recipient's applicant profile in e-snaps. Recipient notifications to HUD shall be to the HUD Field Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

The Agreement constitutes the entire agreement between the parties and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states and units of local government certify that they are following a current HUD approved CHAS (Consolidated Plan).

This agreement is hereby executed on behalf of the parties as follows:

UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development

By:

Michael D. Rose

(Signature)

Michael D. Rose , Director

(Typed Name and Title)

July 22, 2021

(Date)

RECIPIENT

Fairfax County Office to Prevent and End Homelessness

(Name of Organization)

Department of Housing and Community Development

By:

[Signature]

(Signature of Authorized Official)

~~Dean Klein, Director~~ *Tom Fleetwood, Director*

(Typed Name and Title of Authorized Official)

7/27/2021

(Date)

INDIRECT COST RATE SCHEDULE

Agency/Dept./Major Function	Indirect cost rate	Direct Cost Base
N/A	none %	none
	%	
	%	
	%	

This schedule must include each indirect cost rate that will be used to calculate the Recipient's indirect costs under the grant. The schedule must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR §200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Base Allocation Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

To learn more about the indirect cost requirements, see 24 CFR 578.63; 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 22095

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 September 14, 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 2022, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	H3838, Department of Housing and Community Development	
Grants:	1380100-2021, Continuum of Care Planning Grant	\$265,626

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$265,626
Fund:	500-C50000, Federal-State Grant Fund	
Source of Funds:	U.S. Dept of Housing and Urban Development	\$265,626

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
September 14, 2021

ACTION - 1

Approval of a Board of Supervisors' Draft Regular Meeting Schedule for Calendar Year 2022

ISSUE:

Board approval of a draft regular meeting schedule for January through December 2022.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the draft regular meeting schedule for January through December 2022.

TIMING:

The Board should take action on September 14, 2021, in order that accommodations to implement this calendar can proceed in advance of January.

BACKGROUND:

The *Code of Virginia*, Section 15.2-1416, requires a governing body to establish the days, times and places of its regular meetings at the annual meeting, which is the first meeting of the year. Therefore, the draft schedule for the 2022 calendar is presented for Board approval. The section further states that "meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year."

Scheduled meetings may be adjourned and reconvened but not beyond the time fixed for the next regular meeting. The Board may schedule additional meetings or adjust the schedule of meetings approved at the annual meeting by following the procedures established in the statute cited above, which include the provision of adequate notice of all such meetings.

At the first meeting of the Board of Supervisors in January, staff will present the January-December 2022 Draft Schedule to the Board for formal adoption.

ENCLOSED DOCUMENTS:

Attachment 1: January-December 2022 Draft Schedule for Board of Supervisors' Regular Meetings and Potential 2022 Tuesday dates for Board Committee Meetings

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

DRAFT

2022 Board of Supervisors Meeting Schedule

January 25, 2022	May 24, 2022
February 8, 2022	June 7, 2022
February 22, 2022	June 28, 2022
March 8, 2022	July 19, 2022
March 22, 2022	August 2, 2022
April 12, 2022	September 13, 2022
<ul style="list-style-type: none"> • 9:30 to 4:00 p.m. Board Meeting • 4:00 p.m. Budget Public Hearing 	October 11, 2022
April 13 and April 14, 2022	October 25, 2022
<ul style="list-style-type: none"> • 3:00 p.m. – Budget Public Hearings 	November 1, 2022
April 26, 2022 (Budget Mark-up)	December 6, 2022
May 10, 2022	

Potential 2022 Tuesday Dates for Board Committee Meetings

(Listed below are Tuesday dates that would be available for scheduling
of Board Committee meetings in 2022)

January 11	June 14
February 1	July 26
February 15	September 20
March 1	October 4
March 15	October 18
March 29	November 22
May 17	December 13

The Budget pre-Mark-up meeting is scheduled on Friday, April 22, 2022.

ACTION - 2

Presentation of the Delinquent Tax List for Tax Year 2020 (FY 2021)

ISSUE:

Presentation to the Board of the annual list of delinquent real estate, personal property, and business, professional, occupational license (BPOL) taxes; presentation of the annual list of small uncollectable accounts. Review of delinquent collection program.

RECOMMENDATION:

The County Executive recommends that (1) staff continue to pursue the collection of delinquent taxes found in Attachment A and continue collection of non-tax delinquencies; and (2) the Board removes certain small uncollectable overdue accounts listed in Attachments B and C pursuant to Virginia Code § 58.1-3921.

TIMING:

Routine.

BACKGROUND:

In accordance with the Virginia Code, the Department of Tax Administration (DTA) has prepared a list of delinquent taxpayers for tax year 2020 (FY 2021) for Board consideration (Attachment A). DTA and its agents will continue to pursue the collection of all taxes and other charges due that are within the statute of limitations in accordance with Virginia Code §§ 58.1-3933 and 58.1-3940.

Presented below is a summary of delinquent taxes still outstanding for Tax Year 2020, as of June 30, 2021:

	<u>Tax year 2020 (FY 2021)</u>	
	<u>Accounts</u>	<u>Local Tax Amount</u>
Real Estate	2,432	\$ 11,637,720
Personal Property – Vehicles	50,083	\$ 9,886,624
Business Personal Property	2,657	\$ 3,922,433
Public Service Corp. Properties	6	\$ 9,667
BPOL	<u>1,945</u>	<u>\$ 3,616,486</u>
Total	57,123	\$ 29,072,930

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The list being presented to the Board is a "snapshot" of outstanding delinquent taxes as of June 30, 2021. This includes delinquent taxpayers who may already be on a payment plan and delinquencies of taxpayers in bankruptcy.

For perspective, the total amount of all unpaid current year taxes, or \$29 million, represents less than 1% of the levy for Tax Year 2020 (FY 2021). Of the \$9,886,624 in delinquent vehicle taxes, \$2,218,911 is from business owned and used vehicles and \$7,667,713 is from personal property taxes on personally owned and used vehicles.

To avoid undue hardship on citizens during the COVID-19 pandemic, the Board instituted several measures during tax year 2020. On March 24, 2020, the Board passed two resolutions to help individuals and businesses. The first resolution extended the deadline to file returns for 2020 personal property taxes by both individuals and businesses to June 1, 2020. The second extended the deadline to pay the first half of 2020 real estate taxes by 30 days to August 28, 2020. On June 23, 2020, the Board of Supervisors approved a reduction in both the 2020 real estate and personal property late payment penalty rate from 10% to 5% and eliminated the additional late payment penalty of 15% for personal property tax payments past due more than 30 days. Additionally, DTA eliminated other administrative fees and postponed referral of delinquent accounts to its collection agents, thereby temporarily suspending many collection actions. Prior to referring tax year 2020 delinquencies, DTA also sent additional delinquent tax bills to taxpayers to encourage payment plans in an attempt to avoid additional referral costs. The impact of these changes, as well as the overall economic impact of COVID-19, are reflected in the following sections.

Pursuant to Virginia Code § 58.1-3958 and by prior Board action, the county engages in major outsourcing for delinquent collections. Private collection agents are compensated by a 20% fee which is added to the total delinquency, enabling the County to reduce program expenditures. DTA still provides substantial account research, reconciliation, adjudication, and oversight in support of the collection efforts. Outsourcing the bulk of collections with private collection agencies continues to be very productive and successful. In light of efforts to minimize financial impact on those affected by the COVID-19 pandemic, collection strategies by DTA's agents were limited to phone calls and letters with an emphasis on balances referred prior to the pandemic. During this time, collection actions, including the use of wage and bank liens, continued for accounts with parking tickets or out-of-state license plates.

The collection agent for personal property taxes, BPOL taxes, and parking tickets is a Fairfax County company, Nationwide Credit Corporation (NCC). NCC collected \$9 million in delinquent personal property taxes and vehicle registration fees and \$1.3 million in delinquent BPOL revenue in FY 2021.

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These results were achieved through a robust collection program that included more than 2.2 million telephone calls using automated outbound dialing technology. In addition, NCC sent more than 67,121 dunning letters, and issued approximately 5,421 bank and wage liens.

In addition to delinquent taxes, parking ticket collections are also outsourced. United Public Safety, a division of T2 Company, handles the front-end ticket processing and current collections for DTA. NCC pursues the collection of delinquent parking tickets. Ticket collections totaled approximately \$1.8 million in FY 2021.

The private law firm of Taxing Authority and Consulting Services (TACS), based in Richmond, Virginia, handles the County's collection on delinquent real estate accounts. With coordination and oversight from DTA, TACS collected approximately \$8.2 million in delinquent real estate taxes for Fairfax County in FY 2021. Of this amount, \$1.2 million came as a result of litigation being initiated and/or from the sale of non-judicial properties at auction. TACS also collected \$60,436 in zoning violations fees.

Although the County Attorney's Office is now only rarely involved in collections actions that have been likewise outsourced to TACS, the County Attorney's Office continues to handle all collection matters before the bankruptcy courts. A total of 116 new bankruptcy collection cases were opened in FY 2021, and \$2.4 million was collected from all bankruptcy matters.

Despite the significant changes to the collection process due to the pandemic, the County still collected more than \$32 million in net delinquent taxes in FY 2021 for all prior tax years. Strong collection efforts are also reflected in the current year tax collection rates:

	<u>FY 2021</u>
Real Estate	99.61 %
Personal Property (local share)	96.21 %
BPOL	97.53 %

Under the non-tax delinquent collection program, DTA works with agencies to improve billing operations, clarify the potential collection actions to be taken, and standardize the use of Set-Off Debt opportunities and referrals to NCC. The individual agencies, and in some cases DTA, pursue initial collection efforts. After the statutory period of 90 days, delinquent accounts are referred to NCC. Working together, we collected approximately \$1.4 million in FY 2021.

Finally, Virginia Code §§ 58.1-3921 and 58.1-3924 state that upon submission to the Board of a list of small tax amounts for which no bills were sent (Attachment B) and a

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list of small uncollected balances of previously billed taxes (Attachment C), credit shall be given for these uncollected taxes. The lists presented in Attachments B and C average \$2.00 per account:

	<u>Accounts</u>	<u>Dollars</u>
Real Estate	8,407	\$ 1,718
Personal Property	<u>21,570</u>	\$ <u>50,564</u>
TOTAL	29,977	\$ 52,282

FISCAL IMPACT:

None. Collection agents collect their fee directly from the delinquent taxpayers, not to exceed 20% of the amount collected plus administrative costs as specified by law.

ENCLOSED DOCUMENTS:

Attachment A - Delinquent Taxpayers for Tax Year 2020 (FY 2021)

Attachment B - Tax Year 2020 accounts valued less than \$5 that were not billed

Attachment C - Tax Year 2020 "balance due" accounts of less than five dollars

(Attachments A, B, and C listed above are computer printouts which will be made available in the Board Conference Room on September 14, 2021, from 9:00 a.m. - 4:30 p.m.)

STAFF:

Christina Jackson, Chief Financial Officer

Jaydeep "Jay" Doshi, Director, Department of Tax Administration (DTA)

Gregory A. Bruch, Director, Revenue Collection Division, DTA

Kimberly Seburnia, Assistant Director, Revenue Collection Division, DTA

ASSIGNED COUNSEL:

Corinne N. Lockett, Senior Assistant County Attorney

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ACTION - 3

Approval of Revisions to Chapters 1, 2, 5, 7, 16, and 17 of the Personnel Regulations due to Legislation Passed by the 2021 Special Session 1 of the Virginia General Assembly

ISSUE:

Revisions to the Fairfax County Personnel Regulations are proposed to ensure compliance with HB 2161/SB 1410 which took effect July 1, 2021.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Chapters 1, 2, 5, 7, 16, and 17 of the Personnel Regulations, as specified below.

TIMING:

Board action is requested on September 14, 2021, and the revisions are retroactive to the date HB 2161/SB 1410 took effect, July 1, 2021.

BACKGROUND:

During the 2021 Special Session 1 of the General Assembly, HB 2161/SB 1410 was passed, signed into law by the Governor, and took effect July 1, 2021. HB 2161/SB 1410 expanded the protections for veterans by explicitly prohibiting discrimination in public employment based upon military status which was defined in the bills as:

- (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

As a result, Chapters 1, 2, 5, 7, 16, and 17 of the Personnel Regulations require amendment.

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Following an advertised public hearing held on August 3, 2021, the Civil Service Commission considered the below referenced proposed revisions to the Personnel Regulations. The Office of the County Attorney reviewed all proposed revisions. At the hearing, the Department of Human Resources gave an overview of the proposed revisions for each chapter.

David Lyons, on behalf of the Fairfax Workers Coalition, submitted written comment supporting the proposed changes. The written comments were reviewed and considered by the Commission and are part of the hearing record. No additional public comment was provided.

The following content highlights proposed changes, by chapter:

Chapter 1 — Authority and Scope of Fairfax County Merit System Ordinance and Personnel Regulations (Attachment 1)

Removed the word veteran and replaced it with the word military in Section 1.9-2.

Chapter 2 – Definitions (Attachment 2)

Added language defining military status on Page 2-7.

Chapter 5 — Recruitment and Examination (Attachment 3)

Removed the phrase veterans' status or disabled veterans' and replaced with the word military in Section 5.1-1.

Chapter 7 — Certification and Appointment (Attachment 4)

Removed the phrase "status as a veteran" and replaced with military status and removed the remaining reference to veteran and replaced with military status in Section 7.8-1.

Chapter 16 - Conduct and Discipline - Standards of Conduct Addendum No. 1 (Attachment 5)

Under the Personal Behavior and Conduct heading, removed veterans' status and disabled veterans' status and replaced with military status in the first paragraph of the section reading "Employees are expected to,"; and added military status to the list of protected classes in the first paragraph of the "Employees are prohibited from" section; and removed veterans' status or disabled veterans' status and replaced with military status in the fourth paragraph of the "Employees are prohibited from" section.

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Chapter 17— Grievance Procedure (Attachment 6)

Removed the veterans' status or disabled veterans' and replaced with the word military status in Section 17.3-2(d); and corrected the citation in Section 17.5-4(e) from Va. Code § 15.2-1507(a)(9) to § 15.2-1507(A)(9).

In accordance with the Merit System Ordinance, the proposed revisions were forwarded to the Civil Service Commission for public hearing. The public hearing was held on August 3, 2021, and the Commission's comments are included as Attachment 7.

FISCAL IMPACT:

None noted.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Revisions to Chapter 1 of the Personnel Regulations
Attachment 2: Proposed Revisions to Chapter 2 of the Personnel Regulations
Attachment 3: Proposed Revisions to Chapter 5 of the Personnel Regulations
Attachment 4: Proposed Revisions to Chapter 7 of the Personnel Regulations
Attachment 5: Proposed Revisions to Chapter 16 of the Personnel Regulations
Attachment 6: Proposed Revisions to Chapter 17 of the Personnel Regulations
Attachment 7: Civil Service Commissioners' Memorandum

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

CHAPTER 1

Authority and Scope of Fairfax County Merit System Ordinance and Personnel Regulations

1.1 Authority

- 1 The Fairfax County Merit System is established by the Merit System Ordinance (Article 1, Chapter 3, Code of Fairfax County).
- 2 The Ordinance provides for adoption of Personnel Regulations and amendments thereto by the Board of Supervisors after consideration of the views of the County Executive, Human Resources Director, Employees Advisory Council and the Civil Service Commission. The Commission shall advertise and conduct a public hearing on each proposed change to the Personnel Regulations before submitting its recommendation to the Board of Supervisors. The Board of Supervisors also may amend the Personnel Regulations on its own motion without following the above procedure; however, any amendment adopted on the Board's own motion shall be referred to the County Executive, Human Resources Director, Employees Advisory Council and Civil Service Commission for comment, and the Civil Service Commission shall advertise and hold a public hearing before submitting its recommendations to the Board of Supervisors for further consideration by the Board.
- 3 To the extent that they are consistent with the Code of Virginia and the Fairfax County Merit System Ordinance, Personnel Regulations adopted by the Board of Supervisors have the force of law. Any provision of the Personnel Regulations which conflicts with the Code of Virginia or the Merit System Ordinance, or with any future amendment to the Code or Ordinance, shall be without effect until it has been amended to conform. Such suspension of effect shall relate only to those specific provisions which are in conflict with the Code or Ordinance and shall not affect other provisions of the Personnel Regulations which are not so in conflict.

1.2 Scope

- 1 These Regulations apply to all positions and persons in the competitive service, as defined in the Ordinance.
- 2 Portions of these Regulations also may apply to the exempt service. Provisions, which apply to the exempt service, shall so state, or may be applied by reference in administrative directives issued by the County Executive as provided in the Ordinance.

- 3 In accordance with Section 3-1-1(c)(2) of the Ordinance, the Personnel Regulations also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing bodies of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered under the Ordinance and Personnel Regulations in the same manner as if those employees were in the administrative service of the County.
- 4 Whenever a person is designated by his or her position by these regulations to take an action or to approve or disapprove an action, the person's deputy, if any; the person, if any, who has been designated to act in an acting capacity for that position; and his or her superiors are authorized to take, approve, or disapprove the action.

1.3 Administration of Program

- 1 The Fairfax County Merit System shall be administered by the Human Resources Director.
- 2 The objective of the Department of Human Resources shall be to provide those services to County officials and employees, which can best be obtained through a central office, staffed with specially trained personnel. This goal is dependent on the establishment and recognition of certain procedures, which will assist supervisors in maintaining high standards of performance while protecting employees from arbitrary and capricious actions. The Regulations which outline these procedures are based on the assumption that a sound public personnel program can best be developed by the delegation of specified powers to appointing authorities, while making the Human Resources Director responsible for provision of necessary advice, leadership and support, and for ensuring that the standards contained in the Personnel Regulations are met.

1.4 Final Administrative Authority

Final administrative authority shall rest with the County Executive for all Merit System employees except as otherwise provided in the Code of Virginia. When necessary to continue County operations, the County Executive may suspend any rule in these Personnel Regulations to address catastrophic emergency situations (such as pandemic flu) following a Declaration of Emergency consistent with the County's Comprehensive Emergency Management Program, State and Federal law. The Board of Supervisors may revise or rescind such rule suspension at any time following the County Executive's action when deemed to be in the best interest of the County. The rule suspension will automatically end at the close of the declared emergency, if not revoked or rescinded earlier by the County Executive or Board of Supervisors.

1.5 Civil Service Commission

The Civil Service Commission shall have the composition, responsibilities, authority and duties prescribed in the Ordinance, plus such other responsibilities, authority and duties as may be prescribed in these Regulations or by the Board of Supervisors.

1.6 Human Resources Director

- 1 The Human Resources Director shall have such qualifications and shall perform such duties as are specified in the Merit System Ordinance.
- 2 The Human Resources Director shall perform such additional functions as are specified in these Regulations or as may be directed by the Board of Supervisors and the County Executive, provided that such functions are consistent with the Code of Virginia and the Code of Fairfax County.
- 3 The Human Resources Director is authorized to issue procedural directives to implement these Regulations.

1.7 Department Heads

- 1 The department head is the appointing authority for the employees working in his or her department. A department head is responsible for personnel administration in his or her department.
- 2 In accordance with the provisions of these Personnel Regulations, a department head may delegate the authority to act with respect to certain matters of personnel administration to his or her deputy or designee. When a department head delegates such authority, he or she still retains the management responsibility for actions taken or not taken pursuant to such delegation of authority.

1.8 Employees Advisory Council

- 1 The Merit System Ordinance establishes an Employees Advisory Council, the purpose of which shall be to provide a continuing medium through which all employees in the competitive service may contribute their advice and suggestions for the improvement of a career merit system and other aspects of the government of Fairfax County.
- 2 The operation of the Employees Advisory Council shall be in accordance with the rules and procedures adopted by the Civil Service Commission and concurred in by the Board of Supervisors.

1.9 Equal Employment Opportunity

- 1 It is the policy of Fairfax County to provide equal opportunity to all employees and potential employees.
- 2 No officer or employee of the County shall discriminate against any employee or applicant for employment with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, retirement, or any other aspect of employment on the basis of race, color, sex, creed, religion, national origin, age, disability, pregnancy or related medical conditions, gender identity, sexual orientation, genetic information, or ~~veteran~~ **military** status.
- 3 No officer or employee of the County shall retaliate against any employee with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, retirement, or any other aspect of employment because the employee has used or has participated in the County's grievance procedure, has complied with any law of the United States, or of the Commonwealth, or has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors, the County Executive, or other governmental authority.
- 4 The Human Resources Director shall maintain a current Diversity Plan to achieve equal employment opportunity goals.

Commented [AJ1]: Removed veteran and added military

1.10 Veterans' Preference

Consistent with the requirements and obligations to protected classes under federal and Virginia law and the requirements of Fairfax County Code Section 3-1-21 and Section 1.9 of this chapter, in making initial appointments to the County service appointing authorities shall take into consideration or give preference to an applicant's status as an honorably discharged veteran of the armed forces of the United States, provided that such veteran meets all of the knowledge, skills, and eligibility requirements for the applied for position. Appointing authorities shall give additional consideration to veterans who have a service-connected disability rating fixed by the United States Department of Veterans Affairs. Such consideration or preference shall be limited to initial appointments to County service and shall not be required in demotions, promotions or transfers.

CHAPTER 2

Definitions

Allocation

The assignment of a position to its appropriate class in relation to duties performed.

Anniversary Date

The date on which an employee is appointed to start in a merit position. The anniversary date for public safety employees can change based on promotion dates, with exceptions noted in chapter four of these regulations.

Appeal

An application or procedure for review of an alleged grievance submitted or instituted by an employee to the Civil Service Commission or to other higher authority.

Appointing Authority

The officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make appointments. The appointing authority is generally responsible for personnel administration within a given department. As used in these regulations, the term "appointing authority" is synonymous with the term "department head."

Appointment

The offer to and acceptance by a person of a position.

Assembled Examination

An examination for which applicants are required to appear at a specific place for the purpose of taking a test.

Break in Service

Any separation from the service of Fairfax County whether by resignation, lay-off, dismissal, unsatisfactory service, disability, retirement, or absence without leave of three days or more when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a "break in service."

Bullying

Bullying occurs when an individual or group attempts to or does intimidate, humiliate, demean, dehumanize, or otherwise cause harm to another individual or group. Bullying can be physical

conduct, verbal conduct or non-verbal conduct, and includes cyberbullying. A determination of whether conduct constitutes bullying is based on factors such as the context, the frequency, and the severity, particularly when the conduct involves a single incident. Bullying is different from discrimination and harassment based on someone's protected status (e.g., race, gender), and from workplace violence.

Business Day

Calendar days exclusive of Saturdays, Sundays, and legal holidays.

Class

A group of positions, which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.

Class Series

A number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series and each is usually given a designation either by Roman numerals, beginning with the lowest level as I, next level II, or by rank adjectives such as the junior, intermediate or senior level, etc.

Class Specification

A written description of a class consisting of a class title, a general statement of the level of work, a statement of the distinguishing features of work, some examples of work, and the minimum qualifications for the class.

Classification

The grouping of positions in regard to: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay.

Classification Review or Reclassification Review

An evaluation of the duties and responsibilities of a position performed by the Department of Human Resources to determine the appropriateness of the present class. Appropriateness will be determined on the basis of: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay. The review will result in the position retaining its present class assignment; or being assigned to an existing lower class, or being assigned to an existing higher class; or being assigned to a new class created by amendment to the Classification and Compensation Plans.

Classification Plan

The official or approved system of grouping positions into appropriate classes, consisting of three parts: (1) a schematic index to the class specifications; (2) the class specifications; and (3) rules for administering the classification plan.

Compensation

The standard rates of pay, which have been established for the respective classes of work, as set forth in the compensation plan.

Compensation Plan

The official schedule of pay approved by the Board of Supervisors assigning one or more rates of pay to each pay grade.

Compensatory Leave

Time off in lieu of monetary payment for overtime worked.

Compensatory Time Eligible

Employees in pay grades S-26, P/O/C-27, F-31 or above and L-02 or above, excluding any classes designated as exceptions in a procedural memorandum issued by the Human Resources Director.

Competitive Promotion

A promotion based on a competitive examination with appointment to the higher-level position restricted to a specific number of persons receiving the highest ratings.

Competitive Service

All officers and positions in the service of Fairfax County as defined in the Merit System Ordinance.

Continuous Service

Employment without interruption, including merit service with the Fairfax County School System, except for absences on approved leave or absences to serve in the Armed Forces of the United States, or absences of less than one calendar year when followed by reemployment or reinstatement. Service prior to normal or early retirement from a County retirement system shall not be counted.

Deferred Retirement Option Plan (DROP)

An option in lieu of immediate retirement in which an employee remains employed by his/her department, but no longer contributes to his/her respective retirement system and must retire within 3 years of election to DROP. DROP participants retain the rights and privileges of merit employees.

Definition of Duties

The work requirements for each position in terms of the importance, difficulty, and extent of supervision and responsibility attaching thereto.

Demotion

Assignment of an employee from one class to another, which has a lower maximum rate of pay.

Department

An administrative branch including a line of work and a group of employees under the immediate charge of a chief executive officer or officers of a department, institution, court, board, or commission of the County government, which latter officer or officers shall be known as the department head.

Department Head

An employee appointed by the Board of Supervisors to oversee, direct or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in these regulations, the term "department head" is synonymous with the term "appointing authority."

Deputy

One or more individuals authorized to act in specific functional areas for the department head.

Eligible

A person who has successfully met required qualifications for a particular class.

Eligible List

An eligible list is a list of applicants who meet the minimum qualifications for the class for which they applied, as determined under the provisions of Chapter 5.

Employee

An individual who is legally employed by the County and is compensated through the County payroll for his services. Individuals or groups compensated on a fee basis are not included.

Examination

The process of testing, evaluating or investigating the fitness and qualifications of applicants.

Exempt Service

Those positions not included in the competitive service as defined in the Merit System Ordinance.

Extended Family Including Household Member

Includes employee's spouse, son, daughter, parents, parent in-laws, siblings, stepsister, stepbrother, stepchild, stepparent, grandparents, grandchildren, aunt, uncle, niece, nephew, employee's respective in-laws, first cousin, or children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home.

Fire Protection Personnel

24-hour shift employees in the Fire and Rescue Department who perform suppression and rescue duties as defined in the Fair Labor Standards Act (29 CFR Sec. 553.3).

Fair Labor Standards Act (FLSA)

Legislation originally enacted by Congress in 1938, which establishes requirements with respect to minimum wage, overtime, compensation and record keeping.

FLSA Eligible (FLSA Non-exempt)

An employee who holds a position covered by the minimum wage, mandatory overtime, or recordkeeping provisions of the FLSA. FLSA Eligible employees must be compensated with overtime pay or compensatory time for all hours worked over the FLSA threshold for overtime, as outlined in the definition of overtime. FLSA Eligible employees are in pay grades S-21, P-23, O/C-21, F-27 and below. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

FLSA Exempt

An employee who holds a position that is not covered by the mandatory overtime provisions of the Fair Labor Standards Act.

Full-Time Employee

Any employee who is regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel regularly scheduled to work at least 2,912 hours in 12 consecutive months.

Full-Time Position

Any position which is authorized to be filled for at least 2,080 hours in 12 consecutive months or fire protection personnel position authorized for at least 2,912 hours in 12 consecutive months.

Hourly Rate of Pay

The hourly rate of pay is shown on the County pay plans for the minimum, midpoint, and maximum of each pay range. Public safety pay plans shall include such intermediate rates as deemed appropriate. Hourly rates are carried out to four places after the decimal. The hourly rate is derived by dividing annual salary by 2,080, which is the number of scheduled hours for a full time employee. The hourly rate for fire protection personnel assigned to a 24-hour shift is derived by dividing the annual salary by 2,912, which is the number of scheduled hours for a full time fire protection employee.

Immediate Family Including Household Member

Includes employee's spouse, son, daughter, parents, parents-in-law, siblings, grandparents, children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home.

Incumbent

An employee occupying a position in the County service.

Law Enforcement Personnel

Sworn employees of the Police Department (including animal protection police officers), Fire and Rescue Department, and Office of the Sheriff who are empowered to enforce laws, have the power of arrest and have undergone (or will be undergoing) on-the-job training or similar instruction as defined in the Fair Labor Standards Act (29 CFR Sec. 553.4). The term also includes security personnel in correctional institutions.

Longevity Pay Increment

An increase in compensation established in the compensation plan as a reward for long and faithful service for public safety employees. Longevity pay increments are granted in accordance with the conditions specified in Chapter 4 of the Personnel Regulations and are subject to Board of Supervisors appropriation.

Merit Employee

Any employee in the competitive service, as defined in the Merit System Ordinance.

Merit System

The system of personnel administration applicable to the competitive service. It includes the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive, or Human Resources Director.

Military Status

Means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

Commented [A11]: Added Military Status definition.

Minimum Wage

The minimum hourly wage to be paid to employees as designated by the United States Department of Labor, or Commonwealth of Virginia (whichever is higher).

Multi Rater Option

The use of feedback from persons in addition to the immediate supervisor as part of the performance review process.

Negative Time Reporting

The time and attendance reporting method for employees only required to report exceptions to scheduled hours.

Open Examination

An examination open to the public and not limited to applicants in County service.

Overtime (FLSA)

Time worked or on paid leave by an employee (excluding employees in law enforcement and fire protection as defined herein) in excess of 40 hours during his/her seven consecutive days work period. Overtime for law enforcement personnel shall be time worked or on paid leave in excess of 86 hours (80 hours for sworn Police Officers, Animal Protection Police Officers, and Deputy Sheriffs scheduled to work a 40-hour week) during his/her 14-consecutive day work period. Overtime for fire protection personnel shall be time worked or on paid leave in excess of 212 hours during his/her 28-consecutive day work period.

Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime stated above.

Overtime Pay

Compensation paid to an employee for overtime work performed in accordance with these rules. The rate of pay for overtime compensation will be either 1 times the hourly rate or 1 and 1/2 times the regular rate of pay as prescribed in Section 4.15 of these rules.

Part-Time Employee

An employee who is not regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel not regularly scheduled to work at least 2,912 hours in 12 consecutive months.

Part-Time Position

Any position, which does not meet the definition of full-time position.

Pay Grade

A combination of letter and number symbol indicating the pay range on a county pay schedule assigned to one or more classes in the Compensation Plan.

Pay Grade Reallocation Review

An evaluation of a class performed by the Department of Human Resources to determine the appropriateness of the present pay grade. The review will result in the class retaining its present pay grade assignment; or being assigned a higher or lower pay grade requiring amendment to the Compensation Plan. Such a review may include but is not limited to pay factors including prevailing area levels of pay, internal evaluation of the relative worth of the class and economic and related fiscal concerns.

Pay Period

The 14-consecutive calendar day period utilized for the calculation of paychecks and the crediting of leave earned.

Pay Range

Rates of pay assigned to a pay grade on a County pay schedule in the Compensation Plan. For non-public safety employee classes, a pay range shall consist of the minimum and maximum rates of pay and the mid-point of the range. Pay ranges assigned to grades allocated to classes of public safety employees shall consist of the minimum (step 1) and maximum rates of pay (step 9) as well as intermediate and longevity steps.

Pay Rate

A specific dollar amount expressed as an annual rate, a bi-weekly rate, or an hourly rate, as shown in a County Pay Plan.

Pay Status

Any period in which an employee is actually working or using paid leave.

Performance Pay Increase

An increase in compensation, which may be granted to an employee by his/her department head or designee for performance that meets the requirements specified for such pay increases.

Performance Pay Increase (PPI) Date

The date an employee's performance pay increase is effective. The PPI date for non-uniformed public safety employees will be at the start of the first full pay period at the beginning of the fiscal year, during years when performance pay increases are granted by the Board of Supervisors. Public safety employees' PPI dates will be the beginning of the first full pay period following the incumbent's anniversary date, during years when performance pay increases are granted.

Performance Review Period

The 12-month performance evaluation review period for non-uniformed public safety employees begins July 1 and concludes on June 30, each year. Review periods for public safety staff correspond to each incumbent's anniversary date.

Position

Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

Positive Time Reporting

The time and attendance reporting method for employees required to report all absences and hours worked.

Primary Position

When an employee holds more than one position with the County, one of the positions is designated as the primary and the other as the secondary for the purpose of calculating pay and benefits and tracking employment history. If the two positions are equal in pay and scheduled hours, the primary position is the one the employee occupied first. Otherwise, the primary position is the position with higher pay and/or hours.

Probationary Period

The working test or trial period of employment beginning with the date of appointment to a particular class.

Promotion

Assignment of an employee from one class to another, which has a higher maximum rate of pay.

Promotional Examination

A competitive examination restricted to persons who are on regular appointment in the County classified service or to persons who are eligible to reinstatement thereto.

Public Safety Employees

For the purposes of these regulations, public safety employees include all uniformed employees in the Police Department, Fire and Rescue Department and the Office of the Sheriff. It also includes all other job classes that are included on P/O/C/F pay scales.

Qualifications

The minimum educational, experience and personal requirements, which must be fulfilled by a person preliminary to appointment or promotion.

Reduction in Rank

Assignment of an employee from one class to another class, which has a lower maximum rate of pay. Same as demotion.

Reemployment

Reappointment of a former merit employee, who had completed the probationary period and was separated in good standing but did not retire, which is not considered a reinstatement as defined herein.

Reemployment List

A list of names of former County employees with a break in service of less than one calendar year, arranged in order of their right to reinstatement as defined in Section 2.60, or reemployment in lower classes of the same or similar series as that in which the employee was serving at the time of termination.

Regular Rate of Pay

The rate of pay to be utilized for the calculation of overtime pay in accordance with FLSA requirements. The regular rate is derived by dividing the total amount of eligible pay for the work period (including the hourly rate and shift differential) by the number of hours worked during the work period.

Reinstatement

Reappointment of a former merit employee who had completed the probationary period and was separated in good standing, but did not retire, after a break in service of less than one calendar year to the position or class formerly held.

Restoration

A return to a position in a class in which status was formerly held where there has been no break in service.

Scheduled Hours

The number of hours that an employee is scheduled to work on a recurring basis as reflected in the personnel record for the position occupied. Scheduled hours serve as the basis for planning and budgeting activities as well as leave calculation rules as specified in Chapter 10 of the Personnel Regulations.

Self-Assessment

The completion of a performance evaluation form by the employee to provide his/her assessment of their performance during the review period.

Separation

Leaving a position for any of the following reasons:

- Resignation
- Lay-Off (Separation of an employee from a position to which s/he was legally certified and appointed as a result of the abolition of a position, lack of work, or lack of funds.)
- Dismissal for Cause referred to as simply Dismissal (Separation from County employment for cause. This designation is the most severe form of discipline and bars the individual from further employment with Fairfax County Government.)
- Unsatisfactory Service Separation (A department head may separate an employee for unsatisfactory service whenever the work habits, attitudes, production or personal conduct of an employee falls below the desirable standards for continued employment. A resignation initiated by an employee may be designated as unsatisfactory service by a department head if adequate grounds exist. Reasons for unsatisfactory service separations shall include but are not limited to: insufficient advance notice prior to resignation; unsatisfactory performance in the duties of the position; separation during the initial probationary period; and undesirable behavior or other similar reasons not of a degree warranting dismissal. This designation does not automatically bar the individual from employment with Fairfax County Government.
- Disability
- Death

Straight Pay Eligible

Employees in pay grades S-22 to S-25, P-24 to P-26, O-22 to O-26, C-22 to C-26, F-29 and L-01. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

Suspension

An enforced leave of absence without pay for disciplinary purposes or pending investigation of charges made against an employee.

Transfer

Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of different pay ranges, between positions of the same class or between positions of different classes.

Unassembled Examination

An examination in which qualifications are evaluated on the basis of records or education and experience submitted by the applicants, supplemented by any information obtained by an investigation.

Vacancy

A position which has been newly established or which has been rendered vacant by the resignation, death or other removal of the previous incumbent.

Veteran

Any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

Workday

Days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

Workweek

The seven-consecutive day period beginning at 12:00 a.m. Saturday and ending the following Friday at 11:59 p.m. during which an employee (excluding law enforcement and fire protection personnel as defined herein) is scheduled to work.

Work Period

The period during which an employee is scheduled to work. For all employees except law enforcement and fire protection personnel as defined herein, the work period shall be the work week which comprises one half of a pay period. The work period for fire protection personnel shall be a 28-consecutive calendar day period beginning at 12:00 a.m. Saturday and ending at 11:59 p.m. Friday and covering two pay periods. The work period for law enforcement personnel shall be a 14-consecutive calendar day period beginning at 12:00 a.m. Saturday, ending at 11:59 p.m. Friday, and covering one pay period.

CHAPTER 5

Recruitment and Examination

5.1 Overview of the Process

- 1 By law, appointments to positions in the competitive service of Fairfax County must be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, political affiliation, disability, pregnancy or related medical conditions, gender identity, sexual orientation, genetic information, ~~veterans' status, or disabled veterans'~~ **military** status, and on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform.
- 2 To accomplish this end:
- a. Positions in the competitive service are advertised periodically in a manner designed to reach a broad sector of qualified potential applicants. Applications are accepted for an individual position or specified group of positions.
 - b. In the case of positions for which vacancies occur with some frequency or periodically in large numbers, applications may be accepted at intervals for specific classes rather than for specific positions and qualified applicants may be placed on eligibility lists and certified from such lists for consideration by department heads or deputies as vacancies occur;
 - c. Applicants are selected from certification lists for further screening, which usually includes either a personal or panel interview.
 - d. Applicants are screened through a variety of processes which usually includes either a personal or panel interview and may include written, oral, and performance testing, and evaluation of education and experience. The best qualified are certified for only those positions advertised.
 - e. Family members, members of households and extended relationships (as defined in Chapter 2) of an applicant/employee shall not participate in any part of the screening or selection process (including development of the process) in which the applicant/employee is on the eligible list.
 - f. Successful applicants are appointed and serve a one-year probation period.
- 3 When an adequate number of well qualified potential applicants for a position exist within the competitive service, competition may be restricted to County employees unless doing so would create or perpetuate a serious imbalance of the work force in

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terms of race or sex, in which case the position will be advertised for open competition. However, when there are an adequate number of well qualified applicants for a particular position in an agency, the Human Resources Director may restrict admission to the examination for that position to current employees of the department.

- 4 The Human Resources Director is responsible for all aspects of the recruitment and certification process, except those aspects delegated by him/her to department heads as authorized in these regulations; and for ensuring that all appointments to positions in the competitive service comply with the Merit System Ordinance and these regulations. Periodically, the Human Resources Director will offer training on laws, regulations and techniques pertinent to interviewing potential employees.
- 5 Any applicant who believes that his/her failure to receive an appointment was the result of illegal discrimination as defined in the Merit System Ordinance has certain appeal rights defined herein.

5.2 Announcement of Vacancies

- 1 In the interest of minimizing delay in filling vacancies, department heads or designee should inform the Human Resources Director of actual or impending vacancies as soon as this information becomes available.
 - a. This is accomplished by reviewing and updating the class specification and position description, as needed, in advance of submitting an on-line personnel requisition to advertise the vacancy.
 - b. Once the class specification and position description have been reviewed and approved, the department shall submit an on-line personnel requisition including a position number, job description, physical requirements, number of vacancies, a list of special or preferred qualifications, required background checks, supplemental questions for screening the preferred qualifications, the selection procedure to be used, and the length of the announcement
 - c. A vacancy may be advertised and applicants certified before the vacancy occurs, but no appointment may become effective more than three pay periods before the position is vacant unless dual encumbrance has been authorized by the County Executive or his/her designee.
- 2 The announcement period for job vacancies shall be at least two weeks unless otherwise authorized by the Human Resources Director, or designee.
 - a. If, in the opinion of the Human Resources Director, or designee, there is an adequate pool of potential applicants and there is an urgent need to fill the

position the announcement period may be reduced to one week but in no case shall the announcement period be less than five business days.

- b. Except for public safety uniformed jobs, the Human Resources Director may accept applications after the closing date if the eligibility or certification list for a position has not been issued.
 - c. Positions for which a continuing need for applicants exists or for which recruitment is particularly difficult may be announced with an open or indefinite closing date, and applicants may be placed on an eligibility list or certified at any time after the announcement has been open for five business days.
- 3 Each announcement of a vacancy shall include information on the position (e.g., number of vacancies, title, salary, duties, minimum and preferred qualifications, supplemental questions, screening process, closing date) so applicants have sufficient information to be able to consider whether to apply for the position.
 - 4 Job announcements shall be available through multiple online sources and may include printed communications, which are likely to reach a large and varied population.

5.3 Evaluation of Applicants

- 1 The Human Resources Director or his/her designee may investigate any applicant's statements regarding their qualifications and experience to ensure their accuracy and completeness.
- 2 The content of all evaluations, including interviews, shall be based on bona fide occupational qualifications pertinent to the duties to be performed. Department heads or deputies shall ensure that all interviewers are aware of legal restrictions on the types of questions, which may be asked of applicants.
- 3 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

5.4 Disqualification of Applicants

- 1 In addition to failure to meet basic qualifications, a finding of any of the following facts may be cause for rejection of an applicant.
 - a. The applicant has falsely stated any material fact or has attempted to practice deception or fraud in his/her application.

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- b. The applicant has any disqualifying condition (mental or physical); although the mere finding of such shall not be disqualifying if reasonable accommodation can be made.
 - c. The applicant currently is a substance abuser, except that a history of substance abuse shall not in itself disqualify a person in recovery.
 - d. The applicant has been found guilty of a felony, misdemeanor, or crime involving moral turpitude, or has committed disgraceful conduct, such as to render him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.
 - e. The applicant has a recent record of previous unsatisfactory service in County employment or elsewhere of such a nature as to demonstrate unsuitability for employment in a position of the class for which he/she is applying.
 - f. The applicant has used or attempted to use, prior to, during or subsequent to the examination, fraud or pressure of any kind for the purpose of bettering his/her grade on the examination or to obtain certification to any position.
 - g. The applicant has received a dishonorable discharge from the Armed Forces resulting from conviction by a general court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or the County service.
 - h. The applicant has received a bad conduct discharge from the Armed Forces resulting from conviction by a special court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.
- 2 When such finding is made, the Human Resources Director may reject the application and may cancel the eligibility of the applicant if he/she already has been certified or has attained a place on an eligible list. In the event the applicant has already received an appointment, the Human Resources Director may take appropriate action to remove him/her from the County service. The applicant shall be informed in writing of the action taken under this provision and of the reason therefore, and shall be advised of the method of appeal outlined in the following subsection.
- 3 Any person whose application is rejected by order of the Human Resources Director, whose eligibility is canceled or who is removed from any position under the provisions of this rule may make a written request to the Human Resources

Director for reconsideration, giving his/her reasons therefore, within fifteen business days of the date on which he/she received notice of this action. The decision of the Human Resources Director is final, except that an employee in the competitive service who is dismissed in accordance with this section after having completed his/her initial probationary period may grieve his/her dismissal under the provisions of Chapter 17.

5.5 Investigations and Fingerprinting

- 1 Department heads or their designees are responsible for verifying references and claimed veteran status of prospective appointees.
- 2 Investigations of the backgrounds of candidates for public safety positions will be conducted by the various public safety agencies. The backgrounds of candidates for other sensitive positions may be investigated at the request of a department head or designee with the concurrence of the Human Resources Director.
- 3 Selected candidates receiving a conditional offer of employment in a sensitive position will be fingerprinted and the prints forwarded to the Federal Bureau of Investigation for checking against its records. Any such candidate who refuses to be fingerprinted shall be disqualified. Candidates with a conviction or convictions on their record that are incompatible with the nature of employment in the sensitive position may be denied employment and the conditional offer of employment rescinded.
- 4 Selected candidates receiving a conditional offer of employment into a position identified by the agency director as a position of trust shall be required to submit for a credit check. Any candidate who refuses to do so shall be disqualified and the conditional offer of employment shall be rescinded. The agency director or designee shall review credit reports of candidates who receive an unfavorable report and take action in accordance with Personnel/Payroll Administration Policies and Procedures, Memorandum No. 56, Credit Check Requirements for Positions of Trust.
- 5 All appointees will be required to present evidence of United States citizenship or, in the case of non-citizens, evidence of eligibility to work in the United States as required by law. All appointees who have claimed veteran status will be required to present evidence of the status claimed.

5.6 Medical Examinations

- 1 The Human Resources Director shall designate classes for which a pre-employment medical examination shall be required.

- 2 Candidates who fail such examinations shall be disqualified, but such failure shall not disqualify any individual from consideration for a position for which the physical qualification he/she failed to meet does not apply.

5.7 Security and Retention of Applications and Related Records

- 1 Applications of successful and unsuccessful candidates and selection process shall be securely retained in accordance with the Library of Virginia Retention Schedule GS-3.
- 2 Individual applicant performance and records shall not be discussed or shared outside of the Human Resources Director or designee, department director or designee and interview panel.
- 3 Retention of records may be in paper, photographic or electronic form.

5.8 Promotional Public Safety/Uniformed Employee Examinations

- 1 Qualifying Scores
 - a. In establishing qualifying scores, the Human Resources Director or his/her designee may consider the following factors: minimum standards of job performance, distribution of candidates' raw scores in a particular examination, standard deviation of test scores, test reliability, adverse impact, validity and standard error of measurement.
 - b. When an exam consists of several components, such as written, performance and physical portions, a candidate may be required to attain a qualifying score in each portion of the exam.
- 2 Method of Breaking Ties
 - a. If two or more candidates attain the same final score, the tie shall be resolved in favor of the applicant who receives the highest score in the most heavily weighted portion of the examination. If a tie still exists, scores on the remaining portions of the examination will be considered in order of their relative weight. If a tie still exists, the tie shall be resolved in favor of the applicant, who is a veteran. If the tie is between an applicant who is a veteran and an applicant who is a veteran with a service-connected disability rating, the tie will be resolved in favor of the latter applicant for the veteran with a service-connected disability rating.

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- b. For promotional examinations for uniformed public safety job classes, if the tie extends beyond the procedure noted above, the tie shall be resolved in favor of the employee having the longest period of continuous service in the class series, beginning with date of appointment to the public safety class series (police, fire, sheriff).

-3 Notice of Examination Results for Public Safety Examinations

If an examination was conducted for the purpose of establishing a continuing eligibility list, all successful candidates will be advised of the results as soon as practicable after establishment of the list. Such notice shall include the following information:

- a. The position class,
- b. The length of time the list will be maintained,
- c. The number of persons on the list, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible, and
- d. The individual's position on the list as determined by applicable sections of Chapter 6 of these Regulations, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible.

-4 Examination Security

- a. Family members, members of households and extended relationships (as defined in Chapter 2) of candidates eligible to participate in an examination shall not serve on a promotional examination committee, as a pre-tester, nor in the administration of the examination.
- b. Committee members, pre-testers and personnel who participate in test administration are prohibited from discussing any component of an examination except as authorized by the Human Resources Director.

-5 Examination Reevaluations

- a. For written multiple choice exams that test the candidate's technical knowledge (such as departmental operating manuals, standard operating procedures, etc.), candidates may request a reevaluation of their examination papers with a view towards obtaining a higher score providing such request is made to the Human Resources Director within 15 business days following written notification of the

examination results. Other types of written exams (including but not limited to situational judgment tests, multiple choice in-baskets, etc.) that measure other abilities are not subject to reevaluation.

- b. When a request for reevaluation results in a candidate obtaining a higher score so that the relative standing of the candidate on an eligible list is changed, the Human Resources Director shall review certifications made subsequent to the promulgation of the eligible list and determine whether or not the initial and incorrect score resulted in the candidate's losing certification. When, as a result of error, a certification has been lost to an eligible candidate, the Human Resources Director shall place the name of the candidate on the eligible list so that he/she benefits from the next certification. Appointments already made from such eligible lists shall not be affected by such correction.
- c. Reevaluation of performance-based examinations (including but not limited to practical examinations and assessment centers) shall not be allowed. However, candidates may request an explanation of their performance rating in such exams providing such request is made to the Human Resources Director within 15 business days following written notification of the examination results. The explanation shall be provided by the examining staff of the Employment Division and the Agency Test Evaluators, if any. Staff shall answer questions of the candidate, including information on how the test was graded and how scores were obtained in general. Staff shall not normally reveal individual scores on specific dimension ratings.

-6 Eligible Lists

- a. The names of applicants who meet minimum qualifications as determined by an examination, which is numerically scored, shall be placed on the appropriate eligible list in order of their total scores or grouped into bands. Candidates will be grouped into bands based on similar scores. If grouped into bands, at least two bands (well-qualified and qualified) are required and within each band all eligible candidates will be considered tied.
- b. In the event of a tie in scores, veterans, shall be listed ahead of non-veterans, and veterans with a service connected disability rating shall be listed ahead of other veterans. Within each band all eligible applicants within the band will be considered tied.

CHAPTER 7

Certification and Appointment

7.1 Appointments to the Competitive Service

- 1 Merit appointment indicates that the employee has been selected for appointment in accordance with the provisions of Chapters 5 and 6 of the Regulations. Merit employees shall receive annual and sick leave and other fringe benefits.
- 2 Merit positions may be filled from within or outside the merit system. Appointments from within the system may be promotions, lateral transfers or demotions.
- 3 Merit employees scheduled for 20 or more hours per week, including those in more than one merit position, shall have all the benefits of full-time merit employees, including:
 - A. Leave Accrual: Annual and sick leave will accrue as stated in Chapter 10 of the Fairfax County Personnel Regulations.
 - B. Health Benefits: Employees scheduled to work less than 31 hours per week may be subject to higher premium payments for certain benefits, in accordance with county benefits policy.
 - C. Performance Pay Increases: Employees holding more than one merit position are eligible to receive pay increases in all positions.

7.2 Status of Employees and Positions

- 1 Merit employees normally occupy positions in the competitive service and exempt employees normally occupy positions in the exempt service. In exceptional circumstances, however, particularly when it is urgent that a position be filled without delay, a merit employee may occupy a position in the exempt service or an exempt employee may occupy a position in the competitive service.
- 2 Except as provided in 7.2-3 below, a merit employee shall not have his/her status changed to exempt while assigned to a position in the exempt service when there has been no break in service. There shall be no change in the merit employee's rights and benefits entitlement while serving in an exempt service a position. When a merit employee is appointed to an exempt service a position, the personnel action request form shall indicate in what manner it is planned to return the employee to a merit position. The rules governing temporary acting promotion or demotion shall apply. Upon return to the merit position, the

employee's grade, salary and performance pay increase date shall be determined as if the exempt appointment had not occurred.

- 3 A merit employee may occupy an exempt position without a change in status for no longer than ninety days. A merit employee who accepts an appointment in excess of ninety days to an exempt position loses his/her merit status, but may be reinstated to a position in the competitive service at his/her former merit grade and salary within one calendar year of the end of the exempt appointment.

7.3 Certification of Applicants

- 1 Upon receipt of a personnel requisition, the Human Resources Director or designee shall promptly announce the vacancy and certify applicants following the procedures specified in Chapters 5 and 6.
- 2 Following the closing date of the job announcement, the Human Resources Director or designee will establish a certification list of the best qualified applicants and submit it to the agency contact

When creating the certification list, in addition to the employment standards, necessary knowledge, skills and abilities as defined in the class specification and position description, consideration shall be given to the following: the number of vacant positions to be filled from that list, applicant responses to supplemental application questions, preferred qualifications considered critical to successful performance in the job when approved by the Human Resources Director or designee, as well as the diversity needs as identified in the agency's Diversity Plan. Where possible, the certification list should contain at least ten applicants.

- 3 Applicants shall be certified in accordance with the following rules.
 - a. If a position has been announced exclusively as a promotional opportunity open only to current employees, only current County employees shall be certified.
 - b. Applicants shall be listed in alphabetical order on certification lists furnished to departments. The certification list shall identify the applicants who are veterans and veterans with a service-connected disability rating.
- 4 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

7.4 Selection and Appointment

- 1 Before making any appointment, the department head or his/her designee shall review the applications of all certified applicants and shall interview at least one more than half of those certified.
- 2 For the purpose of this subsection, the department head's designee may be either an individual or a panel. Department heads are encouraged to use panels for all positions. When panels are used, either to review applications or to conduct interviews, they should be constituted with due regard for the demographic characteristics of the certified applicants. Due to the scope and rigorous nature of the selection procedures used for public safety job classes, interviews are not required for these job classes except when deemed appropriate at the discretion of the department head or deputy.
- 3 The department head or his/her designee should review and consider the performance records of current and former employees who are finalists for a job vacancy.
- 4 Department heads or deputies normally should complete the process of screening, interviewing and appointing within 30 calendar days of receipt of a certification list. If a period longer than 30 days is required to make a selection, department heads or deputies shall consider the likelihood that the best qualified applicants may no longer be available. This subsection does not apply to applicants for uniformed public safety positions, who are required to undergo additional screening after initial certification and whose appointments may be timed to coincide with the convening dates of training academy classes.
- 5 Appointment to a vacancy in the competitive service shall be made by the proper department head or deputy from those applicants certified by the Human Resources Director or designee. Such appointment shall be indicated by the completion of a personnel action request form.
- 6 No applicant shall seek or attempt to use any political endorsement in connection with any merit system appointment and no consideration shall be given to political or partisan affiliation, activity or endorsement in selecting candidates for original or promotional appointment in the merit service.
- 7 Every appointee shall be required to show proof of identity and proof of eligibility to work in the United States, before his/her appointment becomes effective.

7.5 Probationary Period

- 1 Except as noted in 7.5-2 below every merit appointee shall serve a probationary period of twelve months after original appointment (initial probationary period) or promotion (promotional probationary period). The probationary period shall be

used for closely observing the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and for separating any new employee or demoting any promoted employee whose performance does not meet the performance requirements.

- 2 Sworn police officers, animal protection police officers, deputy sheriffs, and uniformed firefighters shall serve an initial probationary period of twelve months commencing with the date of graduation from the appropriate training academy. Public safety communicators shall serve an initial probationary period of twelve months commencing upon graduation from the Department of Public Safety Communications Academy and the completion of a 10 week on the job training program. The performance pay increase date shall be determined by the date of original appointment. For all other merit employees, the initial probationary period shall commence with the date of appointment.
- 3 With the approval of the Human Resources Director, a department head or deputy may extend the initial or promotional probationary period in limited circumstances situations where the employee has been unable to perform the duties for which he or she was hired due to extended absence or extended period of restricted duty for medical reasons as covered by paid family leave (PFL) or FMLA for a period not to exceed 120 calendar days.
 - a. Requests for extension of the probationary period must be made in writing to the Human Resources Director stating the specific facts and circumstances justifying the request. The request for extension must be made in advance of the expiration of the employee's probationary period and may be granted under the following circumstances:
 - (1) when an employee is absent from work on an approved absence in excess of 30 calendar days during the probationary period;
 - (2) when an employee is unable to perform the assigned duties of the job for which he/she was hired for a period in excess of 30 days, such as when serving in a temporary light duty assignment to accommodate a medical condition.
 - b. Such extension shall commence on the date the employee resumes the assigned duties of the job for which he/she was hired.
- 4 An employee serving in the initial probationary period is eligible to apply for, be certified to, and be appointed to a class of a higher level. Under such circumstances, a promotional probationary period begins with the date of the promotion but the initial probationary period expires twelve months from initial appointment date unless extended in accordance with the provisions of this action.

- 5 Unless alleging illegal discrimination, an employee serving an initial appointment probationary period including extensions authorized in accordance with this section has no right to grieve or appeal under these rules. Any employee who has satisfactorily completed an initial probationary period and who is serving a probationary period following promotion retains his/her grievance rights.

7.6 Underfill Appointments

- 1 With the approval of the Human Resources Director or designee, an applicant who does not meet all the employment standards as outlined in the class specification and approved position description for a merit class may be appointed competitively to fill a position in that class at a lower grade than that of the class under the conditions specified in this section.
- 2 Underfills are appropriate under the following circumstances:
 - a. When recruitment difficulties exist for a class at the authorized grade.
 - b. When appointees require specialized training and work experience within a particular function to meet the performance standards for the position at the authorized grade.
 - c. When underfilling a position is part of an authorized upward mobility program for career employees.
 - d. A reclassification action changes the classification of the position and the incumbent does not meet the minimum qualifications.
- 3 When it is planned or likely that a position will be underfilled, the vacancy announcement will so state.
- 4 Before making a formal offer of an underfill appointment, the department head or deputy shall prepare a written underfill agreement, which must be approved by the Human Resources Director or designee in advance of the offer. The agreement shall include at least the following information:
 - a. The specific training and experience requirements the employee must meet before promotion to the authorized grade.
 - b. The manner in which they are to be met and the time frame within which the appointee is expected to meet the performance standards for the position, which standards shall be included within the agreement.
 - c. A statement to the effect that promotion will be made without further competition when the appointee meets the terms of the agreement and the

performance standards of the authorized position; and that if the appointee fails to do so within the allotted time the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation or a statement to the effect that after successfully completing the terms of the agreement, the employee will be required to compete for promotion to the higher level position and if not selected, the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation.

- d. A statement that the employee's pay shall revert to its pre-agreement level if the employee, before satisfying the agreement's terms and conditions, discontinues performance under the agreement or takes a position with the County different than the one authorized under the agreement.
- 5 Underfill agreements normally will be for a period of not more than one year but may be for periods of up to four years in multi-tiered underfill agreements. The department head or deputy may extend an underfill agreement without the Human Resources Director approval if the employee necessarily is absent for more than 30 consecutive calendar days or because of the unavailability of required training. The department head or deputy must inform the Human Resources Director of all such extensions.

7.7 *Appointment of Family Members, Members of Household or Extended Relationships*

- 1 Except as provided herein, no applicant/employee shall be hired, reinstated, reemployed, transferred, promoted or demoted to a position which places him/her in a direct supervisory line as defined herein or otherwise permits them to participate in any personnel action relative to a family member or members of his/her household or extended relationships.
- 2 This prohibition may also be extended to positions, in which the duties involve access, review, verification, authorization, or approval of the transactions of family members, members of household, or extended relationships in financial, personnel, purchasing, or other sensitive matters, even though the respective functions are in different departments. Such positions will be identified by an affected department head or designee, with the approval of the Human Resources Director.
- 3 For purposes of this regulation, the definition of 'Extended Family Including Household Member' is defined in Chapter 2.
- 4 For the purposes of this regulation, "Extended Relationships" is defined as those personal relationships creating a potential conflict of interest or having the possibly of creating adverse impact (actual or perceived) on supervision, safety,

and security. Additionally, a direct supervisory line is defined as those situations where an employee, regardless of job description or title, has authority to hire, transfer, promote, assign, reward, discipline or terminate other employees or has responsibility to direct their work or conduct their performance evaluation. This also includes those situations where an employee effectively is able to recommend these actions where such recommendations are given substantive weight in the final decisions being made.

- 5 If a change occurs which causes employees to be in conflict with this regulation, one of the employees shall be transferred to a vacant position within the County. In the absence of an agreement which is satisfactory to all the concerned parties, the employee with the lower grade, or, if they are of the same grade, the employee with the fewer years of County service shall be transferred.
- 6 Requests for exceptions to this policy shall be submitted in writing to the Human Resources Director, who has the authority to waive this regulation when it is in the best interest of the County to do so. The approved exception request shall be maintained in each employee's respective personnel file.

7.8 Applicant Right of Appeal on Discriminatory Practices

- 1 An applicant who is not employed by the County at the time of his/her application and who believes he/she has been discriminated against on the basis of race, sex, color, religion, national origin, age, disability, pregnancy or related medical conditions, gender identity, sexual orientation, political affiliation, genetic information, ~~military status as a veteran~~ or disabled ~~military status veteran~~ during the selection process may file an appeal on the alleged discriminatory practice. A bona fide occupational requirement for any position, the minimum age qualifications for public safety occupations, and the exclusion of family members, members of household, or extended relationships as defined in Section 7.7 shall not be appealable except as provided in Sec. 7.5-5.
- 2 Such an appeal stating the alleged discriminatory practice and the corrective action desired must be filed in writing with the Director of the Office of Human Rights and Equity Programs within fifteen business days of the date the applicant knew or should have known that he/she was not selected for employment.
- 3 The Director of the Office of Human Rights and Equity Programs shall investigate the allegations and respond in writing to the applicant within twenty business days.
- 4 Should the applicant believe the Director of the Office of Human Rights and Equity Programs' response to be unsatisfactory, the applicant may file a written request for a hearing with the Civil Service Commission. The applicant's request for a hearing must contain a complete statement of the alleged discriminatory practice and the corrective action desired, and must be filed within fifteen

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Attachment 4

business days of receipt of the Director of the Office of Human Rights and Equity Programs' response.

- 5 The Civil Service Commission shall set a time and place for such hearing to be held not more than thirty workdays after receipt of such request. At its discretion, the Commission may appoint a hearing officer to hear the appeal.
- 6 The hearing shall be conducted in accordance with hearing procedures adopted by the Civil Service Commission.
- 7 After the hearing, the Commission shall forward an advisory finding on the merit of the appeal and disposition of the case to the County Executive. The Commission does not have the authority to award or recommend monetary damages.

CHAPTER 16**Conduct and Discipline****16.1 Purpose and Scope**

The purpose of this Chapter is to establish the standards of conduct for County employees and to prescribe procedures for warning and the progressive discipline of such employees.

16.2 Policy

It shall be the policy of Fairfax County government to ensure that all employees observe the Code of Ethics and the Standards of Conduct as prescribed herein. It shall be the policy of the County to ensure that all department heads and supervisors treat and discipline employees under their respective jurisdictions in a fair and equitable manner. Employees who feel they have not been so treated have a right to present their grievances following the procedures outlined in Chapter 17.

16.3 Definitions**-1 Informal Warnings**

Oral Warnings - such actions are excluded under the grievance procedure

-2 Formal Warnings

Written Reprimands

-3 Formal Disciplinary Actions

a. Suspensions

b. Dismissals

c. Disciplinary Demotions

16.4 Responsibilities**-1 Each employee will:**

a. Observe the Standards of Conduct, code of ethics, and other workplace rules.

b. Conduct him/herself, both on and off the job, in a manner, which will reflect credit

on the County government, and respective departments.

-2 Department heads and supervisors will:

- a. Inform employees of rules governing conduct and discipline as well as other workplace rules and special requirements;
- b. Treat employees in a fair and equitable manner;
- c. Investigate apparent employee offenses, by following the county's policy on harassment, discrimination, and retaliation;
- d. Administer appropriate disciplinary action when warranted and as described in this Chapter; and
- e. Consult with the Human Resources Director or his/her designees if necessary where disciplinary action involving loss of pay is contemplated.

-3 Human Resources Director and his/her staff will:

- a. Provide information and guidance to supervisors at all levels on standards of conduct and effective use of progressive discipline;
- b. Provide advice and assistance to supervisors in the uniform and equitable interpretation and application of the provisions of this Chapter;
- c. Ensure that the workplace rules and special requirements established by department heads and supervisors are not in conflict with the provisions of this Chapter;
- d. Evaluate management practices in the administration of discipline and compliance with standards of conduct within departments and provide recommendations to department heads when such management practices require changes; and
- e. Advise department heads on policies, procedures, the outcome of bullying investigations, and recommend appropriate action.

-4 Department heads will make the final decision on issuance of formal disciplinary actions of suspension, dismissal, or disciplinary demotions.

16.5 Disciplinary Actions

Disciplinary action will be taken only for good cause and after careful review of allegations with a goal, where appropriate, of correcting problem situations. However, disciplinary action must be taken when warranted to promote the efficiency of the Fairfax County service. The severity of the disciplinary action will be determined by the severity of the

misconduct and review of the employee's work record.

- 1 Oral Reprimand or Warning. When a supervisor deems that an informal oral reprimand or warning is warranted, he/she will:
 - a. Advise the employee, in private, of the specific infraction of the rule or breach of conduct and the date it occurred;
 - b. Allow the employee an opportunity to explain and weigh the explanation;
 - c. If warranted, administer the reprimand or warning informally; and
 - d. Maintain an informal record of the discussion with the employee's knowledge of such a record.
- 2 Written Reprimand. When a supervisor determines that an offense is of such a nature that a record should be placed in an employee's personnel file maintained within the Department of Human Resources, a letter of reprimand will be prepared. The letter will contain:
 - a. Statement of charges in sufficient written detail to enable the employee to understand fully the violation, infraction, conduct, or offense for which he/she is being disciplined;
 - b. Statement that it is an official letter of reprimand and that it will be placed in the employee's official personnel folder;
 - c. Previous offenses in those cases where the letter is considered a continuation of progressive discipline; and
 - d. Statement that similar occurrences could result in a proposal that more severe disciplinary action be initiated, up to and including dismissal.
- 3 Suspension. When a supervisor determines that an offense requires a more severe disciplinary action than a written reprimand, he/she will:
 - a. Investigate alleged employee offenses promptly; obtain all pertinent facts in the case (time, place, events and circumstances) including, but not limited to, making contact with persons involved or having knowledge of the incident;
 - b. Discuss the case including the length of suspension with higher levels of supervision, where appropriate;
 - c. Consult with the Human Resources Director or his/her designee if necessary when suspensions are contemplated;

d. Prepare and submit advance notice letter to appropriate levels for review and approval; and

e. Consider employee's reply to the advance notice letter and make final recommendation to department head. The department head will make the final decision.

-4 Dismissal. The dismissal of an employee shall constitute the most severe type of disciplinary action authorized under this Chapter. This action should only be taken when a department head has determined that an employee is unsuited for employment in Fairfax County. When this determination has been made, the procedures outlined in the preceding paragraphs under Suspensions will be followed.

-5 Disciplinary Demotion. Separate and apart from disciplinary actions described in the preceding paragraphs, a department head may initiate a non-job performance demotion when an employee willfully violates or fails to comply with the requirements imposed by the Standards of Conduct or when an employee willfully participates in prohibited conduct as described by this Chapter. When such action is contemplated, the procedure outlined in the preceding paragraphs under Suspensions will be followed.

-6 When disciplinary action is necessary, the department head may enter into an Employee Assistance Program Disciplinary Diversion Agreement under conditions set forth in procedures established by the Human Resources Director.

16.6 Criteria for Advance Notice Letter

-1 The advance notice letter must include:

a. Statement of charges in sufficient detail to enable the employee to understand fully the violation, infraction, conduct, or offense for which he/she is being disciplined;

b. Type of disciplinary action (suspension, dismissal, or disciplinary demotion);

c. A list of previous offenses, if any, which have been considered in arriving at the current disciplinary action;

d. Effective date of disciplinary action (no sooner than ten (10) business days from the date of advance notice letter) and employee's right to reply (five (5)) business days from receipt of the letter);

e. Employee's right to grieve should the final decision result in a suspension, dismissal or disciplinary demotion; and

f. Statement that the action proposed, if implemented, will become a permanent part of

his/her personnel file.

16.7 *Circumstances When Administrative Leave Is Appropriate Prior to Compliance with Advance Notice Letter Provisions*

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed or when circumstances are such that the retention of the employee in an active duty status may result in damage to County property or may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers, or the general public, the department head or designee may temporarily assign him/her to duties in which these conditions will not exist or place the employee on administrative leave until appropriate disciplinary action, if any, is determined and the provisions of Section 16.6 have been followed.

16.8 *Probationary Employees*

- 1 The disciplinary procedures prescribed herein shall be applicable to those employees of the competitive service assigned to a merit position. Employees are not covered by the rules of progressive discipline until they have completed a probationary period of twelve (12) months and any extensions authorized in accordance with the provisions of Chapter 7 after original appointment and may be terminated without benefit of this procedure.
- 2 All employees are required to observe the Code of Ethics and Standards of Conduct prescribed herein.

ADDENDUM NUMBER 1 TO CHAPTER 16

STANDARDS OF CONDUCT

All employees, regardless of grade, title or length of county service **are expected to adhere to the following Standards of Conduct.** Violation of the Standards of Conduct is grounds for disciplinary action up to and including dismissal.

Leave and Attendance

Employees are expected to:

Comply with rules and regulations governing hours of work, absences, use of leave.

Employees are prohibited from:

Failing to report to work as scheduled without proper notice to supervisor;

Leaving work without permission;

Arriving late for work on a consistent basis.

Personal Behavior and Conduct

Employees are expected to:

Demonstrate professionalism and support the county's commitment to excellent customer service at all times;

Exercise courtesy, respect and tact when dealing with fellow employees and the public regardless of age, race, color, religion, sex, creed, national origin, marital status, disability, pregnancy or related medical conditions, gender identity, sexual orientation, genetic information, union or political affiliation, **military status**, ~~veterans' status, disabled veterans' status~~, or any other factor unrelated to the impartial conduct of county business.

Commented [AJ1]: Added military status. Removed veterans' status, disabled veterans' status

Comply with a proper order of an authorized supervisor.

Employees are prohibited from:

Harassing fellow employees, county vendors, or members of the public on the basis of race, color, religion, sex, creed, sexual orientation, national origin, age, marital status, **military status**, disability, pregnancy or related medical conditions, gender identity, genetic information, or any other characteristic now or hereafter protected by federal, state or county law. This prohibition includes, but is not limited to, sexual harassment;

Commented [AJ2]: Added military status

Engaging in rude or unprofessional behavior or disorderly conduct even if the behavior is not expressly forbidden by regulation or law;

Engaging in bullying, as defined in Chapter 2 of these regulations.

Using racial, sexist or ethnic slurs or other language that disparages any person on the basis of age, race, color, religion, sex, national origin, marital status, disability, pregnancy or related medical conditions, gender identity, sexual orientation, creed, genetic information, union or political affiliation, ~~veterans' status, or disabled veterans'~~ **military** status.

Commented [AJ3]: Removed veterans' status, or disabled veterans'. Added military

Being convicted of a crime that is committed on the job or a felony in Virginia of such nature that the public or other employees may be endangered if the employee remains in his or her position or of such nature that reasonably undermines the public trust in the employee's ability to perform his or duties.

Engaging in conduct on or off duty that violates federal or state law, county ordinances or policies when the violation is related to the employee's activity as a county employee or to county business or when it undermines public trust in the county or the employee's ability to perform his or her duties.

Manufacturing, distributing, possessing, using or being under the influence of alcohol or illegal drugs while at work or on county premises with the exception of attendance at events where alcohol is permitted during off duty hours;

Threatening, assaulting, intimidating, or harassing another employee or a member of the public;

Using obscene language toward fellow employees, supervisors, subordinates and/or members of the public;

Abusing supervisory authority through favoritism, harassment, discrimination, or mistreatment of employees.

Protection and proper use of County data, property, funds, and records

Employees are expected to:

Use public property, resources, and funds in accordance with established procedures;

Maintain confidentiality with regard to client or customer information in accordance with state and federal law, county ordinance and county policy;

Maintain employee confidentiality by preventing the disclosure of personal information to any unauthorized party.

Employees are prohibited from:

Using County data, facilities, equipment, property or employees for other than officially approved activities, except as permitted under County policy or procedure;

Engaging in any action prohibited by county information technology policy or procedure;

Carelessly or willfully causing destruction of county property;

Knowingly falsifying or conspiring to falsify any county record or report whether paper or electronic, (e.g., resume, time and attendance reports, workers' compensation claims, travel and/or expense vouchers).

Driving

Employees are expected to:

Operate all county vehicles in accordance with federal, state and local driving laws;

Operate privately owned vehicles being used in the performance of County business in accordance with state and local driving laws;

Remain aware of status of operator's license and report any suspension or revocation of driving privileges to their supervisor immediately if job duties require the operation of a vehicle for county business.

Employees are prohibited from:

Knowingly operating a vehicle on county business without a valid operator's license;

Possessing, using, or being under the influence of alcohol, illegal drugs, or prescription drugs that might adversely affect one's ability to drive, while driving a county vehicle or while driving a personal vehicle on county business.

Safety

Employees are expected to:

Promote safe and healthy working environment by complying with all appropriate safety and health regulations;

Promptly report safety and health hazards so that they can be corrected before injuries result;

Dress in appropriate attire, uniform or safety equipment as specified by the standards and work rules for the agency and position;

Immediately report workplace violence to your supervisor or appropriate authority.

Employees are prohibited from:

Bringing a gun, either concealed or displayed, to work or onto county premises, with the exception that employees of county agencies may store a lawfully possessed firearm and ammunition in a locked motor vehicle on county premises. This prohibition shall apply to all employees, except those authorized to carry a firearm at work or onto county premises based on the nature of their work. Such employees may do so only if specifically authorized by their appointing authority.

Bringing any weapon (except a gun as expressly permitted above), either concealed or displayed, to work or onto county premises, unless specifically authorized to do so by the appointing authority. For the purposes of this standard of conduct, the term weapon includes instruments of combat, or any object carried for the purpose of inflicting or threatening bodily injury.

Outside Employment/Conflict of Interest/Political Activities of Employees

Employees are expected to:

Disqualify themselves in any decision where a conflict of interest may be presumed to exist;

Obtain permission from their appointing authority prior to engaging in any private business activity, employment or other activity outside of work that conflicts or interferes with full discharge of their official duties or the work they perform as a county employee.

Employees are prohibited from:

Accepting anything of value for performing, or refraining from performing, an official job-related act; or accepting anything of value in order to assist another person in obtaining a county job, promotion, or contract;

Using information obtained in connection with county employment in order to obtain financial gain for the employee or others;

Accepting anything that might tend to influence the manner of performance of county employment or that might be intended to influence the manner in which a county employee performs his or her job;

Having a personal interest in any contract with the county;

Participating in matters related to their employment in which the interests of the county employee, or the interests of the county employee's family members or business associates, might be affected.

Engaging in political activities, as defined in state law and County ordinance, while on duty, in uniform, or on the premises of their employment with the County.¹

Using their official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign or to discriminate against any employee or applicant for employment because of that person's political affiliations or participation in permitted political activities or failure to participate in political activities, whether permitted or not.²

Discriminating in the provision of public services, including, but not limited to, firefighting, emergency medical, or law enforcement services, or responding to requests for such services, on the basis of the political affiliation or political activities of the person or organization for which such services are provided or requested.³

Suggesting or implying that the County has officially endorsed a political party, candidate, or campaign.⁴

¹ See Va. Code Ann. § 15.2-1512.2(B).

² Va. Code Ann. § 15.2-1512.2(D).

³ Va. Code Ann. § 15.2-1512.2(E).

⁴ Va. Code Ann. § 15.2-1512.2(F).

ADDENDUM NUMBER 2 TO CHAPTER 16

CODE OF ETHICS FOR THE MERIT SERVICE OF FAIRFAX COUNTY, VIRGINIA

Fairfax County Code of Ethics is intended to inspire a superior level of conduct, sensitivity and sound judgment for all employees.⁵ The code is intended to complement, not replace, all professional code of ethics. Employees should be aware of and abide by their respective professional values and requirements. All employees must perform their designated function in a manner that reflects the highest standards of ethical behavior. All employees must uphold their responsibility as trusted public servants. All employees are obligated to respect, honor, and uphold the Constitution, laws and legal regulations, policies and procedures of the United States, the Commonwealth of Virginia, and the County of Fairfax.

The Code of Ethics is supported by six core principles that form the ethical foundation of the organization: Honesty, Public Service, Respect, Responsibility, Stewardship, and Trust.

- I. **Honesty:** Be truthful in all endeavors; be honest and forthright with each other and the general public.
- II. **Public Service:** Ensure all actions taken and decisions made are in the best interest of the general public and enrich and protect quality of life.
- III. **Respect:** Treat all individuals with dignity; be fair and impartial; affirm the value of diversity in the workplace and in Fairfax County; appreciate the uniqueness of each individual; create a work environment that enables all individuals to perform to the best of their abilities.
- IV. **Responsibility:** Take responsibility for actions; work a full day; conduct all workplace actions with impartiality and fairness; report concerns in the workplace, including violations of laws, policies and procedures; seek clarification when in doubt; ensure that all decisions are unbiased.
- V. **Stewardship:** Exercise financial discipline with assets and resources; make accurate, clear and timely disclosures to the public; maintain accurate and complete records; demonstrate commitment to protecting entrusted resources.
- VI. **Trust:** Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

⁵ For the purpose of this document, the term employee includes all persons, volunteers and all elected and appointed officials working on behalf of Fairfax County.

CHAPTER 17

GRIEVANCE PROCEDURE

17.1 Purpose

The purpose of the grievance procedure is to provide a fair, detailed process whereby employees may voice complaints concerning issues related to their personal employment experience and/or circumstance with the County. The objective is to improve employee-management relations through a prompt and fair method of resolving problems.

17.2 Coverage of Personnel

- 1 All merit employees in the competitive service of the County who have satisfactorily completed their initial probationary period are eligible to file complaints under this procedure.
- 2 Excluded from the grievance procedure are the following:
 - a Employees in the exempt service, except as specifically provided otherwise in the procedural directives for the administration of the exempt service issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c);
 - b Employees serving their initial probationary periods unless their complaints include allegations of discrimination as defined in Section 17.3-2d and 17.3-2e;
 - c Sworn police employees who have elected to proceed under the "Law-Enforcement Officers Procedural Guarantee Act." Such employees shall be given written notification of their right to initiate a grievance under the County's Grievance Procedure. They may choose to file the grievance under either procedure, but not both

17.3 Types of Complaints

- 1 Employee complaints will be classified at the point of grievability determination (see Section 17.5-4) as one of the following:
 - a Grievable, with a binding decision from a hearing panel of the Civil Service Commission;
 - b Nongrievable but eligible for a hearing and an advisory decision from a hearing officer appointed by the Chair of the Civil Service Commission;

- c. Nongrievable with no hearing.
- 2 Grievable complaints which receive binding decisions from a three-member panel of the Civil Service Commission hearing the appeal include:
 - a. Dismissals, unsatisfactory service separations, demotions and suspensions;
 - b. The application of specific County personnel policies, procedures, rules and regulations;
 - c. Acts of retaliation as a result of utilization of this procedure, or for participation in the grievance of another county employee;
 - d. Discrimination against an employee, including a probationary employee, on the basis of race, color, creed, religion, age, disability, national origin, sex, political affiliation, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, union affiliation, genetic information, ~~veterans status, or disabled veterans~~ **or military** status;
 - e. Discrimination or retaliation against an employee, including a probationary employee, because of participation in political activities permitted under state law and County ordinances or failure to participate in political activities, whether permitted or not by state law or County ordinance;
 - f. Acts of retaliation because the employee (i) has complied with any law of the United States or of the Commonwealth, (ii) has reported any violation of such law to a governmental authority, (iii) has sought any change in law before the Congress of the United States or the General Assembly (iv) has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors Audit Committee, the Auditor to the Board, his/her department head, or to any other federal, state, or County government authority, such as the Commonwealth's Attorney for the County of Fairfax, or the U.S. Attorney for the Eastern District of Virginia.
 - g. For the purpose of sub-paragraphs (c) and (f) of this section, there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.
- 3 Nongrievable complaints eligible to receive advisory decisions from a hearing officer appointed by the Chair of the Civil Service Commission include:
 - a. The physical plant;
 - b. The methods and conditions of the specific job;
 - c. Relations with fellow employees;

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- d. Performance appraisals;
- e. Written reprimands;
- f. 120-day Performance Improvement Plans (as defined in section 12.6-2(b) and provided for in 12.11-2 of these regulations).

17.4 Nongrievable Complaints

- 1 Complaints that are not grievable under this procedure include:
 - a. The establishment and revision of wages or salaries, position classification, employee benefits;
 - b. Oral reprimands;
 - c. The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations;
 - d. Failure to promote, except where the employee contends that established promotional policies or procedures were not followed or applied fairly;
 - e. Discharge, lay-off or suspension from duties because of lack of work or reduction-in-work-force, except where such actions affect an employee who has been reinstated within the previous six months by the Civil Service Commission as the result of the final determination of a grievance. In such cases, the department must show that there was a valid business reason for the action and that the employee was notified of such reason in writing prior to the effective date of the action;
 - f. Management of County employees including the right to make personnel appointments in accordance with adopted selection policies and techniques, to establish rules and regulations governing work performance and performance evaluations, to transfer and assign employees within the County, to determine the need for shift operation and rotation of the workweek, to assign overtime, to determine job training and career development, and to determine duties or actions in emergency situations.
- 2 Appeals of position classification are handled in accordance with the criteria set forth in Section 3.6.

17.5 Steps of the Procedure

-1 Step 1: Immediate Supervisor

An employee who has a complaint shall discuss the problem directly with his/her supervisor within twenty (20) business days of the date the employee should have reasonably gained knowledge of the event giving rise to the complaint.

A verbal reply by the Supervisor shall be made to the complaint during the discussion or within five business days following the meeting.

-2 Step 2: Division Supervisor

If the complaint is not resolved after the first step meeting and where there is a division supervisor, the employee may reduce the complaint to writing on "Complaint Form - Second Step." All grievance forms are obtainable from the Department of Human Resources.

The employee shall specify the relief sought through the use of this procedure. The fully completed Complaint Form shall be delivered by the employee to the division supervisor within five (5) business days of the first step meeting or the supervisor's reply, if given at a later date. The division supervisor shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the division supervisor shall be made to the complaint within five business days following the meeting.

-3 Step 3: Department Head

If the reply from the second step meeting is not acceptable to the employee, or where no division supervisor exists, the employee may appeal the last response to the department head.

"Complaint Form - Third Step" shall be completed by the employee and delivered to the department head within five business days of receipt of the last response. The department head shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the department head shall be made to the complaint within five business days following the meeting.

When it is necessary for a department head to obtain relevant technical guidance from a centralized department director (i.e. human resources, budget, procurement) in order to respond to a grievance, a written request for assistance will be made to the alternate department head outlining the scope of the issue and

assistance required. The complainant's department head retains responsibility for providing the written Step 3 response.

-4 Step 4: Grievability Determination

- a. When a complaint cannot be satisfactorily resolved pursuant to Steps 1 through 3 above, the employee shall request on the appropriate form a determination concerning the grievability of the complaint within ten business days of receipt of the third step reply.
- b. All requests for grievability determination shall be submitted to the County Executive. The County Executive will determine whether the employee is entitled to access to the grievance procedure and if the complaint is grievable, and if so, based upon the criteria set forth in Section 17.3, establish whether the grievant shall receive a binding or an advisory decision. Grievability and access determinations by the County Executive shall be made within ten calendar days of receipt of such request.
- c. Decisions regarding grievability and access are appealable only to the Fairfax County Circuit Court. Such appeals shall be made by filing a notice of appeal with the County Executive within ten calendar days from the date of receipt of the decision. The County Executive, or his/her designee, shall transmit to the Clerk of the Circuit Court a copy of the County Executive's decision, a copy of the notice of appeal, and the exhibits constituting the record of the grievance within ten calendar days of receipt of the notice of appeal. A list of the evidence furnished to the County shall also be provided to the grievant.
- d. The Circuit Court shall have a hearing on the issue of grievability and/or access within thirty (30) days of receipt of the record of the grievance by the Circuit Court Clerk. The Court may affirm, reverse or modify the decision of the County Executive.
- e. The decision of the Circuit Court is final and is not appealable. Procedures governing the review by the Circuit Court are found in Virginia Code §15.2-1507(a)(9).
- f. In no case shall the County or Commonwealth's Attorney be authorized to decide the issue of grievability.

-5 Step 5: Appeal to the Civil Service Commission

- a. If the complaint has been determined to be grievable, with a binding decision or nongrievable with an advisory decision as provided herein, the employee may file a request for hearing on the appropriate form with the Fairfax

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County Civil Service Commission. The employee shall file the request within ten business days following the receipt of the determination that the complaint is grievable.

- b. Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after the receipt of the employee's appeal request. The Executive Director of the Commission in scheduling hearings on appeals shall give priority on its docket to dismissal and unsatisfactory service separation cases. The Executive Director of the Commission shall notify the employee and the department head in writing of the time and place of the appeal hearing.
- c. The jurisdiction and authority of the hearing panels of the Civil Service Commission shall be confined exclusively to those complaints previously determined to be grievable as provided herein. While a panel of the Commission hearing the appeal has authority to determine the appropriate application of an existing rule or policy, they do not have the authority to add to, detract from, alter, amend or modify in any way County or department policy or procedure, and its findings shall be consistent with all applicable laws and ordinances.
- d. No member of the Civil Service Commission or an appointed hearing officer shall hear a grievance if he/she has direct involvement with the grievance being heard, or with the complaint or dispute giving rise to the grievance. The following relatives of a participant in the grievance process or a participant's spouse are prohibited from hearing said grievance: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin.

17.6 Remedies

- 1 The panel of the Commission hearing the appeal is empowered to uphold or reverse the action being grieved or, in appropriate circumstances, choose a modified remedy.
- 2 In grievances entitled to a binding decision the following guidelines pertaining to remedial action shall apply:
 - a Dismissals and Unsatisfactory Service Separations-The panel of the Commission hearing the appeal may deny relief, reinstate the employee while imposing lesser disciplinary actions such as demotion or suspension, or reinstate the employee.

- b. Disciplinary Demotions pursuant to Personnel Regulation 16.5-5 - The panel of the Commission hearing the appeal may deny relief, impose lesser disciplinary sanctions, or revoke the disciplinary demotion.
- c. Suspensions - The panel of the Commission hearing the appeal may deny relief, impose a lesser suspension, instruct that a written reprimand be substituted for the suspension, or revoke the disciplinary suspension.
- d. Back Pay and Restoration of Benefits in Appeals of Dismissals, Demotions, Suspensions, and Unsatisfactory Service Separations:
 - i. If an employee is reinstated, he/she shall be given back pay for the period of separation contingent upon his/her making full disclosure of all earnings he/she received during separation, which shall be an offset against back pay. In the event the employee fails to provide to the panel of the Commission hearing the appeal such evidence as it deems necessary to determine the amount of the offset, the employee shall forfeit his/her right to back pay.
 - ii. In cases of suspension, the employee shall be entitled to back pay for the period of suspension revoked by the panel of the Commission hearing the appeal under the same conditions as sub-section (1).
 - iii. A lesser sanction in dismissal cases shall include a suspension without pay covering some or all of the period of separation, notwithstanding any other provision of the Personnel Regulations.
 - iv. In the event that the panel of the Commission hearing the appeal imposes a demotion in lieu of an unsatisfactory service separation or dismissal, back pay may be awarded, at the discretion of the panel of the Commission hearing the appeal, for the period of separation at the rate of pay for the lower level classification.
 - v. Back pay shall be computed on the basis of the employee's regularly scheduled hours of work and shall not include any overtime that the employee might have earned.
 - vi. For any period of time that an employee is entitled to receive back pay, he/she shall be given service credit towards retirement and shall be reinstated in the appropriate retirement system with his/her previous plan election, provided that he/she repays into the system all contributions that he/she withdrew on separation. The employer shall ensure that all contributions and deductions attributable to such service are made.

- vii Similarly, for purposes of accruing leave, the employee shall be given credit towards his/her total years of service for any period of time that he/she is entitled to back pay. The employee shall also be credited with any leave that he/she would have accrued during that period.
 - viii Upon reinstatement, the employee shall be placed in the health plan that he/she was in at the time of separation with the same options that he/she had previously elected. The effective date of coverage will be the first of the month following reinstatement. A reinstated employee may opt for retroactive coverage in the event that it would be to his or her advantage. The employee must pay his or her share of retroactive coverage premiums. Claims expenses incurred for the retroactive period will be adjusted upon payment of the premium and the employee will be reimbursed for out-of-pocket costs above those he or she will have incurred had the coverage been in effect. The employee may be reimbursed for monies expended by the employee to obtain medical insurance during the period of separation up to the amount of the employer's contribution that would have been incurred had the employee been in service during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs incurred during the period of separation. In the event the employee elected to continue his or her County health insurance under COBRA during the period of separation, the employee shall be reimbursed the difference between the premium he or she paid under COBRA and what he or she would have paid had he or she continued to be employed during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs during the period of separation, except as provided above.
 - ix. Upon reinstatement, an employee's salary shall be adjusted to reflect any performance pay increases that would have been received had the employee not been separated.
 - f. Promotions - The panel of the Commission hearing the appeal may deny relief, order the promotional procedure redone, order a retroactive promotion, order the grievant promoted immediately if there is an available vacancy or promoted to the next available vacancy.
- 3 In cases other than dismissals, unsatisfactory service separations, demotions, suspensions, or performance evaluations, the panel of the Commission hearing the appeal may deny the relief sought by the employee or grant such relief as is necessary to place the employee in the situation he/she would have been in had the Personnel Regulations or policies been properly interpreted and/or applied in the first instance. In no event shall the employee be awarded any damages, nor shall the

relief granted by the panel of the Commission hearing the appeal affect the rights of other employees.

- 4 Acts of Reprisal and Discrimination - Where the panel of the Commission hearing the appeal determines that any act of reprisal or discrimination as defined in this chapter is the reason for the adverse employment action grieved by the employee, the panel of the Commission hearing the appeal shall have the authority to revoke the adverse employment action. In the event the adverse employment action is one of the actions described in Sections 2 or 3 of this section, the panel of the Commission hearing the appeal may apply the remedial actions provided under those subsections. The panel of the Commission hearing the appeal shall also affirm such adverse employment actions taken to the extent that they were not the result of reprisal or discrimination.
- 5 Damages, Attorney's Fee and Costs - The panel of the Commission hearing the appeal shall have no authority to order the payment of damages of the grievant's or the County's attorney's fees or costs.
- 6 Recommendations - Regardless of whether the panel of the Commission hearing the appeal grants the individual grievant any relief, such panel may make whatever recommendations to the Board of Supervisors or County Executive it deems appropriate.

17.7 Conduct of Grievance Step Meetings

- 1 Personal face-to-face meetings are required at all steps. The employee and the County management may have a representative present at all steps. If the employee is represented by legal counsel, management likewise has the option of being represented by counsel. The parties to the grievance may by mutual agreement waive any or all intermediate steps or meetings, with the exception of the initial complaint, reducing the complaint to writing and the request for grievability determination. Upon written request from the grievant to the Department head, County management shall waive the first and second step grievance meetings in cases of termination, suspension, or demotion. Time spent attending grievance step meetings, Circuit Court hearings or a hearing before a panel of the Civil Service Commission during the grievant's regularly scheduled hours shall be considered work time and the use of personal leave is not required.
- 2 At all steps, appropriate witnesses also may be asked to provide information. Witnesses shall be present only while actually providing testimony.
- 3 In any complaint involving a charge of discrimination, at the request of any party to the grievance, the Director of the Office of Equity Programs, or his/her designee, may attend step meetings.

17.8 Grievant's Expenses

- 1 The grievant must bear any cost involved in employing representation or in preparing or presenting his/her case.
- 2 Whenever possible, grievances will be handled during the regularly scheduled workhours of the parties involved. Civil Service Commission hearings are held during the County's business day whenever possible.
- 3 A panel of the Civil Service Commission has no authority to award legal fees or punitive damages.

17.9 Extension of Time

- 1 The parties to the grievance, by mutual agreement, or the County Executive or his/her designee, upon the request of one of the parties and showing of just cause, may extend any or all of the time periods established in this procedure.

17.10 Compliance with Procedural Requirements of this Procedure

- 1 After the initial filing of a written complaint, failure of either the employee or the respondent to comply with all substantial procedural requirements of the grievance procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive, or his/her designee.
- 2 The County Executive, or his/her designee, may require a clear written explanation of the basis for just cause extensions or exceptions to any of the substantial procedural requirements. The County Executive, or his/her designee, shall determine all compliance issues.
- 3 Any party aggrieved by the determination of the County Executive or his/her designee on a compliance issue may obtain judicial review of the determination by filing a petition with the Fairfax County Circuit Court within thirty days of the compliance determination.

17.11 Resolution Prior to Hearing

Any grievance shall be considered settled at the completion of any step if all parties are satisfied. In fact, it is expected that the great majority of grievances will be settled at the first or second step. However, nothing in this procedure should be construed as limiting the employee's right to exhaust the remedies provided by this

procedure.

17.12 Hearings

- 1 Hearings shall be conducted as described in Addendum 1 to Chapter 17.
- 2 Hearings shall be open to the public. However, upon request of either party, the hearing shall be private. The hearing officer or the panel of the Commission hearing the appeal, by majority vote, may close a hearing to the public if the testimony about to be presented might impugn the personal reputation of a party or witness to said hearing, or if the right to privacy of such party or witness requires that the hearing be closed. Parties and their representatives shall be allowed to attend the hearing at all times. All witnesses shall be excluded from the hearing, except when testifying, at the request of either party.
- 3 Failure of either party without just cause to comply with all substantial procedural requirements at the hearing shall result in a decision in favor of the other party in accordance with the procedures under Pers. Reg. §17.10.
- 4 The decision of the panel of the Commission hearing the appeal shall be announced after the deliberations by that hearing panel at the conclusion of the hearing and shall be filed in writing by the Chairperson of that hearing panel of the Civil Service Commission or by the Hearing Officer with the parties not later than ten business days after the completion of the hearing. Copies of the decision shall be transmitted to the Human Resources Director, the employee, the employee's department head and the County Executive. The Hearing Officer also shall transmit a copy of the advisory decision to the Executive Director of the Civil Service Commission.
- 5 The majority decision of the panel of the Commission hearing the appeal shall be final and binding. Either party may petition the Fairfax County Circuit Court for an order requiring implementation of a binding decision from the panel of the Commission hearing the appeal. Notwithstanding any other provision of this chapter to the contrary, a final decision of a panel of the Civil Service Commission hearing the appeal rendered under this procedure which would result in the reinstatement of any employee of the Sheriff's Department, who had been terminated for cause, may be reviewed by the Fairfax County Circuit Court upon the petition of the County. Such review by the Circuit Court shall be limited to the question of whether the decision of the panel of the Civil Service Commission hearing the appeal was consistent with the provisions of law and written policy.
- 6 The decision of the Hearing Officer shall be advisory to the County Executive.
- 7 All decisions in the grievance procedure shall be consistent with the provisions of

law and written policy. Any challenge to the relief granted by the decision of a panel of Civil Service Commission hearing the appeal on the grounds of inconsistency with written policy shall be submitted by either party within five (5) workdays to the County Executive, or his/her designee, who is empowered to decide such questions and to direct reconsideration by the Commission, where appropriate. If the County Executive or his/her designee has a direct involvement in the grievance the decision shall be made by the Commonwealth's Attorney. Notwithstanding the above, after receipt of a decision of a hearing panel of the Civil Service Commission the County Executive or his/her designee, may on his/her own action, within ten business days, remand to the panel of the Commission that heard the appeal for further consideration a decision in which the relief granted appears to be inconsistent with written policy.

17.13 Severability

Should any article, section, subsection, sentence, clause, or phrase of these regulations, procedures and/or addenda, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

ADDENDUM NUMBER 1**PROCEDURE FOR GRIEVANCE HEARINGS AND APPEALS**Preamble

The panel of the Commission hearing the appeal shall not be bound by Statutory or Common Law rules of pleading or evidence. Hearings will be conducted so as to ascertain the rights of the parties accurately and expeditiously.

The Commission

The Commission consists of twelve members who will sit in rotating panels of three to hear grievance appeals. The panel of three members will be selected as follows and will meet as needed to hear and decide those matters determined to be grievable under the grievance procedure.

Commissioners will be randomly assigned to a schedule to conduct appeal hearings. When a hearing is scheduled, the next three Commissioners on the schedule will be contacted to participate in that hearing. If a Commissioner is unable to participate in a hearing for which he/she has been selected, the next available member on the schedule will be contacted. When the absence of a scheduled panel member cannot be avoided, no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. In this situation, the next available member on the schedule will be contacted to serve on that panel. If an appeal is settled or withdrawn prior to the scheduled hearing, the panel members assigned to hear that appeal will be assigned to the next appeal scheduled. Once each Commissioner has been selected from the schedule to serve on a panel, the twelve Commissioners will again be randomly assigned to a new schedule. The schedule and the assigned panel members are considered confidential. The names of the panel members will not be released prior to a scheduled hearing.

The first Commissioner who is selected from the schedule and is able to participate in the hearing will serve as chair for that hearing.

Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or, by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after receipt of the employee's appeal request.

A simple majority of the hearing panel will prevail in any decision made by the panel. The panel hearings will be held during the County's normal business hours continuing until all evidence has been heard and arguments made. Upon the conclusion of the evidence and argument, the hearing

panel will recess the hearing while it deliberates in closed session and makes its findings. Upon the conclusion of the panel's deliberations, the panel will come out of closed session and resume the hearing to cast the panel members' individual votes, state the findings of the panel, and conclude the hearing. A written decision prepared by the Hearing Officer and signed by the chair of the panel that heard the appeal will be filed with the Executive Director and distributed to the parties within ten business days of the conclusion of the hearing.

The Hearing Officer

The Hearing Officer is an independent attorney retained by the Commission to conduct hearings on grievances which receive advisory decisions and to advise the panel of the Commission hearing the appeal concerning legal and procedural matters in cases in which the parties are represented by counsel. The Hearing Officer does not vote on matters before the panel of the Commission hearing the appeal and participates in deliberations only to the extent of advising the panel of the Commission hearing the appeal concerning legal and procedural matters. The Hearing Officer is responsible for conducting hearings in an orderly and expeditious fashion; and makes rules on evidentiary and procedural questions. The rulings are advisory and may be overturned by the panel of the Commission hearing the appeal.

In hearings before the panel of the Commission hearing the appeal in which the parties are not represented by counsel, and at all prehearing conferences, the Executive Director of the Commission shall act as hearing officer.

A. Prehearing Requirements

- A Prehearing Conference will be held by the Prehearing Officer prior to a panel hearing or the Hearing Officer. The following matters will be addressed:
 1. Definition of the scope of the case, the specific issues to be presented to the panel of the Commission hearing the appeal, and the specific regulations and/or ordinances allegedly violated.
 2. Stipulations and agreements which will expedite the hearing are greatly encouraged, including but not limited to (1) stipulations of fact; (2) stipulations as to evidence which will be admitted without objection; (3) stipulations with respect to testimony which will be admitted in written form.
 3. All exhibits and documents will be exchanged at or before the Prehearing Conference. Documents shall be marked for identification and tabbed for ease of reference. Any exhibit not provided at or before the Prehearing Conference will not be admitted as evidence, absent a showing of good cause. If as a result of the Prehearing Conference there is an outstanding request for the production of documents, such request must be complied with not later than ten business days prior to the date of the hearing, or the date set in the Prehearing Conference Report, whichever is sooner. Any objection to

the admissibility of a proposed exhibit or document shall be raised no later than the date set at the Prehearing Conference and if not resolved, the issue will be clearly defined by the Prehearing Officer for consideration by the panel of the Commission hearing the appeal or the Hearing Officer.

4. Witness lists will be exchanged at or before the scheduled Prehearing Conference. Any witness not so designated will not be permitted to testify, absent a showing of good cause. If as a result of the Prehearing Conference, there are to be deletions or additions to the witness lists, such changes will be submitted no later than ten business days prior to the date of the hearing, or the Prehearing Conference Report, whichever is sooner. Witness lists shall include the name, address and telephone number of each witness identified and a brief statement of the substance of the expected testimony. If, upon the petition of a party, the County Executive finds that a witness who is listed by a party and who is a County employee has relevant, material, and non-cumulative testimony and that the party seeking to call the witness at the panel hearing has been unable to secure attendance of the witness before the hearing panel despite the party's reasonable and diligent efforts, the County Executive shall order the County employee witness to appear at the hearing to give testimony. Upon such order to appear being issued by the County Executive to a County employee, any County employee so ordered who fails to appear at the hearing may be subject to disciplinary action as provided in Chapter 16.
5. County management shall provide the Commission with copies of the grievance record as part of its exhibits submitted at the Prehearing Conference. A copy of the grievance record shall be provided to the grievant by County management at the same time but in no event any later than ten days prior to the hearing before the panel of the Commission hearing the appeal.
6. The hearing date(s) will be set at the Prehearing Conference in accordance with the time estimates provided by both parties.

B. Continuances

Requests for continuances shall be in writing with a copy to the opposing party and submitted to the panel of the Commission hearing the appeal and/or Hearing Officer at least five workdays prior to the hearing date. The panel of the Commission hearing the appeal and/or Hearing Officer may grant such requests only where good cause is shown.

C. Hearing Procedure

Hearings on appeals will be heard by the panel of the Commission hearing the appeal or the Hearing Officer in accordance with the following order and procedures:

1. Opening statement by the moving party. (The County shall be considered as the moving party in suspensions, demotions, dismissals and Unsatisfactory Service Separations. In all other cases, the employee is considered to be the moving party.)
2. Opening statement by the responding party.
3. Presentation of moving party's case by direct examination.
4. Cross-examination.
5. Questions, if any, by members of the hearing panel or the Hearing Officer.
6. Redirect and recross examination.
7. Presentation of responding party's case by direct examination.
8. Cross-examination.
9. Questions, if any, by members of the hearing panel or the Hearing Officer.
10. Redirect and recross examination.
11. Presentation of rebuttal witnesses, if any, by moving party by direct examination may be presented in documentary form. Rebuttal testimony should ordinarily be included in the party's original presentation. However, rebuttal evidence may be permitted where, in the judgment of the panel of the Commission hearing the appeal or the Hearing Officer, it is necessary to the party to rebut new material, which could not reasonably have been anticipated. The panel of the Commission hearing the appeal or the Hearing Officer will judge the necessity of rebuttal testimony on the basis of a proffer or statement by the party seeking to introduce the rebuttal.
12. Cross-examination, questions, if any, by members of the hearing panel or the Hearing Officer, redirect and recross examination of rebuttal witnesses. If rebuttal evidence is in documentary form, provision shall be made for response by opposing party.
13. Closing statement by moving party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.
14. Closing statement by responding party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.

15. The hearing record may be held open upon request of either party or upon the panel of the Commission hearing the appeal or the Hearing Officer's own motion for the receipt of additional exhibits or documentary evidence which in the opinion of the panel of the Commission hearing the appeal or the Hearing Officer are necessary for a full and complete hearing. Any opposing party shall be allowed a period of ten calendar days after such receipt to respond thereto. If the panel of the Commission hearing the appeal or the Hearing Officer finds that additional oral testimony is necessary, a hearing may be recessed for scheduling of such testimony.
16. The panel of the Commission hearing the appeal may alter the foregoing procedures in a hearing if it deems it necessary to afford the parties a full and equal opportunity to all parties for the presentation of their evidence.

D. Record of Hearing

Recorded tapes will serve as the formal record of grievance hearings. Any party to the appeal may obtain a copy upon payment of reproduction and administrative costs.

E. Posthearing Procedures

1. Reopening Hearing

A hearing may be reopened by the panel of the Commission hearing the appeal or the Hearing Officer at any time prior to final decision on the ground of newly discovered evidence or for other good cause shown and if the panel of the Commission hearing the appeal or the Hearing Officer finds that reopening the hearing is required for a full and true disclosure of facts or to assure that the parties receive a fair hearing in accordance with the relevant law and regulations. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. If a party files a petition for reopening the hearing, the opposing party shall file a response to said petition within five calendar days of service of the petition.

2. Reconsideration


The Hearing Officer or the panel of the Commission hearing the appeal, upon majority vote, may reconsider a Decision prior to the actual implementation of that decision. The panel of the Commission hearing the appeal or the Hearing Officer will only reconsider on the ground of newly discovered evidence or other good cause shown. Petitions for reconsideration shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. Petitions for reconsideration must be filed with the panel of the Commission hearing the appeal and or the Hearing Officer within five calendar days of receipt of the decision. The opposing party shall file a response to said petition within five calendar days of service of the petition.



County of Fairfax, Virginia

MEMORANDUM

DATE: August 4, 2021

TO: Catherine Spage, Director
Department of Human Resources 

FROM: Nicole Rawlings, Executive Director
Civil Service Commission

SUBJECT: Public Hearing on Proposed Revisions to the Personnel Regulations - 1, 2, 5, 7, 16 and 17

Following an advertised public hearing held on August 3, 2021, the Civil Service Commission considered revisions to Chapters 1, 2, 5, 7, 16 and 17 of the Fairfax County Personnel Regulations. Members of the Commission participating in the public hearing included, Farzin Farzad, Jason Fong, Thomas Garnett, John Harris, Vanessa R. Jordan, Herbert Kemp, Nancy Rice, Sara Simmons, John Townes, and Deborah Woolen. Commissioner Patrick Morrison did not participate.

Cathy Spage, Director, Department of Human Resources (DHR) provided an overview of the proposed changes for each chapter. Ms. Spage shared that the proposed changes update the Fairfax County Personnel Regulations consistent with recent legislative changes by the Virginia General Assembly prohibiting discrimination based on military status.

Shelley Scianna, Deputy Director, DHR and Diane Roteman, Employee Relations Division Director, DHR, accompanied Ms. Spage.

The proposed changes were presented as follows:

Chapter 1 – Authority and Scope of Fairfax County Merit System Ordinance and Personnel Regulations

The proposed changes to Chapter 1 remove the word veteran and replace it with the word military in Section 1.9-2.

Chapter 2 – Definitions

- The proposed changes to Chapter 2 add language defining military status on Page 2-7.

Civil Service Commission
12000 Government Center Parkway, Suite 258
Fairfax, Virginia 22035
Phone 703-324-2930 Fax 703-653-9431
www.fairfaxcounty.gov

Chapter 5 – Recruitment and Examination

- The proposed Changes to Chapter 5 remove the phrase veterans' status or disabled veterans' and replace with the word military in Section 5.1-1.

Chapter 7 – Certification and Appointment

- The proposed changes to Chapter 7 remove references to veterans and replace with the word military in Section 7.3-3(b); and remove the phrase "status as a veteran" and replace with military status and remove the remaining reference to veteran and replace with military status in Section 7.8-1.

Chapter 16 – Conduct and Discipline - Standards of Conduct Addendum No. 1

- The proposed changes to Chapter 16, under the Personal Behavior and Conduct heading, remove veterans' status and disabled veterans' status and replace with military status in the first paragraph of the section reading "*Employees are expected to,*"; and add military status to the list of protected classes in the first paragraph of the "Employees are prohibited from" section; and remove veterans' status or disabled veterans' status and replace with military status in the fourth paragraph of the "Employees are prohibited from" section.

Chapter 17— Grievance Procedure

- The proposed changes to Chapter 17 remove the veterans' status or disabled veterans' and replace with the word military status in Section 17.3-2(d); and correct the citation in Section 17.5-4(e) from Va. Code § 15.2-1507(a)(9) to § 15.2-1507(A)(9).

David Lyons, on behalf of the Fairfax Workers Coalition, submitted written comment supporting the proposed changes. The written comments were reviewed and considered by the Commission and are part of the hearing record. No additional public comment was provided.

The members of the Civil Service Commission participating in the public hearing voted unanimously, without further discussion, to recommend that the Board of Supervisors approve the proposed changes for Chapters 1, 2, 5, 7, 16, and 17, including the change to Chapter 7.3-3(b) as presented.

If the Commission can be of further assistance in clarifying these proposed changes, please let me know.

cc: Board of Supervisors
Commissioners, Civil Service Commission
Bryan J. Hill, County Executive
Karen Gibbons, Deputy County Attorney
Karen Sheffield, Chair, EAC
Ron Kuley, President, Local 2068
Joseph Abbate, President, Fairfax Deputy Sheriff's Union, SEIU
Brad Carruthers, President, Fraternal Order of Police, Lodge 77
Sean Corcoran, IUPA, Local 5000
Tammie Wondong, President, FCEGU, SEIU
Jon Miskell, Fairfax Workers Coalition
Brenda C. Zwack, Esq., AFSCME Local 3001
Karen Conchar, SEIU 512

Board Agenda Item
September 14, 2021

ACTION - 4

Approval of Revisions to Procedural Memorandum No. 11-01, Exempt Service

ISSUE:

Revisions to Fairfax County Procedural Memorandum No. 11-01, Exempt Service, are required to add Military Status to Section III, Definitions, as a result of HB 2161/SB 1410 which was passed by the 2021 Special Session 1 of the General Assembly, signed by the Governor and took effect July 1, 2021. In addition, Appendix 2, Charts A, B, C and D were updated where needed to reflect current Fairfax County code sections, Personnel Regulations, procedural memoranda or policies and procedures made applicable to the exempt service.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Procedural Memorandum No. 11-01, Exempt Service, as specified below.

TIMING:

Board action is requested on September 14, 2021, with the changes to Procedural Memorandum No. 11-01, Exempt Service, effective immediately.

BACKGROUND:

Procedural Memorandum No. 11-01 sets forth the policies applicable to the County's exempt service and is issued by the County Executive pursuant Fairfax County Code 3-1-2 (c):

The County Executive shall issue procedural directives, with the approval of the Board of Supervisors, for administration of the exempt service. Only such provisions of this Article and of Personnel Regulations, which specifically state that they are applicable to exempt employees, or which are made applicable through procedural directives provided herein, shall apply to the exempt service.

The 2021 Special Session 1 of the Virginia General Assembly passed HB 2161/SB 1410, which was signed by the Governor on April 11, 2021, and took

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effect July 1, 2021. HB 2161/SB 1410 explicitly prohibits discrimination in public employment based upon military status which was defined in the bills as:

(i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

As a result, the above definition is being added to Procedural Memorandum No. 11-01, Section III, Definitions. Additionally, in Section V, Policies for the Exempt Service, subsection C, Appointment of Exempt Employees, “status as a veteran” was changed to “military status.” Similarly, in subsection C, Management of Exempt Employees, “status as a veteran” was changed to “military status.”

Appendix 2 of Procedural Memorandum 11-01 contains four charts that list the Fairfax County Code sections (Chart A), Personnel Regulations (Chart B), Procedural Memoranda (Chart C), and Personnel/Payroll Administration Policies and Procedures (Chart D) that are applicable to the County’s exempt service.

Chart A has been updated to reflect correct section lettering for Fairfax County Code sections 3-1-23 (a-f) and 3-5-2.1 (b-e).

Chart B has been updated to reflect changes in numbering to Chapter 4 due to amendments to Chapter 4 approved by the Board of Supervisors on February 11, 2020, and to separate administrative leave from military leave which are both covered in Chapter 10.

Chart C has been updated to replace 06-01 with 25-30 because the Workplace Guidance Procedural Guidelines are now part of the County Security Program; 06-04 was replaced with 02-022 Risk Management Policy Statement Distracted Driving; the name of 13-03 was updated to Acknowledgements of Businesses, Products and Services by Fairfax County Government and its Employees; and 12-09 was replaced with 12-1012 Delegated Procurement Authority for Purchases Less Than \$200,000.

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Chart D has been updated by revising the section reference in 3 Injury Leave;
and updating the titles of 28 and 33 to reflect the current name of the applicable
Personnel/Payroll Administration Policies and Procedures.

FISCAL IMPACT:
None noted.

ENCLOSED DOCUMENTS:
Attachment 1: Procedural Memorandum No. 11-01, Exempt Service

STAFF:
Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:
Karen Gibbons, Deputy County Attorney

Fairfax County, Virginia	PROCEDURAL MEMORANDUM No. 11-01	
TO: DEPARTMENT HEADS		DATE: September 14, 2021
INITIATED BY: DEPARTMENT OF HUMAN RESOURCES		COUNTY EXECUTIVE APPROVAL:
SUBJECT: EXEMPT SERVICE		

Deleted: October 10, 2020

I. PURPOSE.

Procedural Memorandum No. 11-01 establishes the personnel policies and procedures governing the administration of the exempt service for the County.

II. AUTHORITY AND SCOPE.

A. This procedural memorandum is issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c).

B. This procedural memorandum supersedes Procedural Memorandum No. 11-01 dated ~~October~~
10, 2020. The Board of Supervisors and County Executive expressly reserve the right to alter or amend any or all of the provisions of this procedural memorandum at any time.

Deleted: July 1, 2020

C. Any provision of this procedural memorandum that conflicts with any current or future section of the Code of Virginia, the Merit System Ordinance, or Personnel Regulations is without effect. The ineffectiveness of any conflicting provision shall in no way affect or impair the effectiveness of all other provisions of this procedural memorandum.

III. DEFINITIONS.

A. **APPOINTING AUTHORITY** means the officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make personnel appointments. The appointing authority is generally responsible for personnel administration within a given department or personnel area. As used in this procedural memorandum, the term "appointing authority" is synonymous with the term "department head."

B. **BOARD OF SUPERVISORS** means the Fairfax County Board of Supervisors.

- C. **CLASS** means a group of positions, which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.
- D. **COMPETITIVE SERVICE** means all officers and positions in the service of the County as defined in the Merit System Ordinance.
- E. **CONSTITUTIONAL OFFICERS** mean the Commonwealth's Attorney for Fairfax County, the Sheriff for Fairfax County, and the Clerk of the Circuit Court for Fairfax County.
- F. **COUNTY** means Fairfax County, Virginia.
- G. **COUNTY EMPLOYEE BENEFITS** means the benefits provided or offered by the County to merit employees, including, but not limited to the following:
- Health, dental and vision insurance;
 - Flexible spending accounts ("FSA");
 - Group term life insurance;
 - Long-term disability insurance;
 - Retirement Plan;
 - Deferred compensation plan;
 - Paid annual and sick leave; and
 - Paid holidays.
- H. **COUNTY CODE** means the Fairfax County Code.
- I. **DEPARTMENT HEAD** means an employee appointed by the Board of Supervisors or the County Executive to oversee, direct or manage a major functional division (personnel area) of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in this procedural memorandum, the term "department head" is synonymous with the term "appointing authority."
- J. **ELECTED AND APPOINTED OFFICIALS** mean members of the Board of Supervisors, constitutional officers and the General Registrar for the County.
- K. **EXEMPT ATTACHED EMPLOYEE** means a person employed by a non-County public agency attached to the County for payroll purposes only pursuant to an agreement made in accordance with County Code §§ 3-1-1(c) and 3-1-2(b)(4).

- L. **EXEMPT BENEFITS ELIGIBLE EMPLOYEE** (non-merit benefits eligible), means an exempt employee who serves in an exempt benefits eligible position.
- M. **EXEMPT BENEFITS ELIGIBLE POSITION** (non-merit benefits eligible), means a position with scheduled work hours between 1,040 and 1,560 per calendar year.
- N. **EXEMPT EMPLOYEE** means an employee appointed to a position in the exempt service.
- O. **EXEMPT SERVICE** means positions specifically designated exempt under the Merit System Ordinance and Personnel Regulations.
- P. **EXEMPT TEMPORARY EMPLOYEE** means an exempt employee who serves in an exempt temporary position.
- Q. **EXEMPT TEMPORARY POSITION** means a position with scheduled work hours not exceeding 900 hours per calendar year.
- R. **MERIT EMPLOYEE** means an employee who serves in a merit position.
- S. **MERIT POSITION** means a position in the competitive service.
- T. **MERIT SYSTEM** means the system of personnel administration applicable to the competitive service. It is governed by the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, the County Executive, and Department of Human Resources Director.
- U. **MERIT SYSTEM ORDINANCE** means Article 1, Chapter 3, of the County Code.
- V. **MILITARY STATUS** means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.
- W. **PERSONNEL REGULATIONS** mean the Fairfax County Personnel Regulations.
- X. **SENIOR MANAGERS** mean all of the officials listed in Appendix 1 to this procedural memorandum, unless stated otherwise herein.
- Y. **EMPLOYEES OF APPOINTED AND ELECTED OFFICIALS** means all office staff of members of the Board of Supervisors, employees of constitutional officers subject to

Commented [AJ1]: Added Military Status and re-lettered remaining sections.

any agreements made in accordance with County Code §§ 3-1-1(c) and 3-1-2(b)(4), including but not limited to assistant registrars.

- Z. VETERAN** means any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

IV. CODES FOR POSITIONS IN THE EXEMPT SERVICE.

The Department of Human Resources shall assign the following Status Codes (Employee Groups) to the different categories of positions in the exempt service to facilitate processing of administrative matters relating to exempt employees:

Exempt Position Category	Status Code/Employee Group
Exempt Attached	D
Exempt Benefits Eligible	E
Exempt Temporary	G
Senior Managers	A, B
Employees of Appointed and Elected Officials	Varies

(The Department of Human Resources assigns merit employees to Status Code/Employee Group C.)

V. POLICIES FOR THE EXEMPT SERVICE.

A. Scope of Exempt Employee Rights and Benefits.

1. Rules governing merit system employees set forth in the County Code, Personnel Regulations, procedural memoranda, and other authorities are inapplicable to exempt service employees, unless one or more of the following provides otherwise:
 - a. This procedural memorandum;
 - b. An agreement made in accordance with County Code §§ 3-1-1(c) and 3-1-2(b)(4);
 - c. An employment contract;
 - d. An appointment resolution passed by the Board of Supervisors;
 - e. State law; or
 - f. The County Code.

Commented [AJ2]: Added the 2 as determined it was missing.
Format clean-up.

2. Pursuant to County Code § 3-1-1(c) and 3-1-1(e)(3), the County Code sections, provisions of the Personnel Regulations, and procedural memoranda listed in appendix 2 to this procedural memorandum are applicable to exempt employees.
3. Senior managers have the same rights and benefits as merit employees, unless otherwise provided herein or by an employment contract or appointment resolution passed by the Board of Supervisors.
4. An exempt employee temporarily filling a merit position has only the rights and benefits due an exempt employee of his or her particular category.

B. Classification of Exempt Service Positions.

1. The Department of Human Resources shall classify all positions in the exempt service in the same manner it classifies positions in the competitive service under Chapter 3 of the Personnel Regulations.
2. When an exempt service position is reclassified, the incumbent exempt employee's class and grade are changed accordingly, and the exempt employee's salary in the new grade is determined by the rules that apply to merit employees when their positions are reclassified.

C. Appointment of Exempt Employees.

1. All appointments of exempt employees shall be based on the ability, training, and experience of the appointees, which are relevant to the work they are to perform.
 - a. The determination of the fitness of an exempt appointee is the responsibility of the appointing authority, as is ensuring that the process of filling positions in the exempt service under his or her authority conforms to all applicable laws, including but not limited to those requiring equal employment opportunities.
 - b. At the request of the appointing authority and with the concurrence of the Human Resources Director, the Department of Human Resources shall advertise, accept applications for, and assist the appointing authority in the screening and selection process when filling an exempt position.
2. Discrimination against applicants for positions in the exempt service based on race, color, creed, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, **military status**, or genetic information is prohibited.
3. An appointing authority shall take into consideration or give preference to the status of an applicant for a position in the exempt service as an honorably discharged veteran of the armed forces of the United States, provided such veteran meets all of the knowledge,

Commented [AJ3]: Changed status as a veteran to military status.

skills, and eligibility requirements for the available position. Additional consideration shall be given to veterans who have a service-connected disability rating fixed by the United States Department of Veterans Affairs.

4. A retired merit employee may be hired as an exempt employee, subject to the applicable provisions of the County Code, Personnel Regulations, procedural memoranda, and Department of Human Resources policies.

D. Management of Exempt Employees.

1. An appointing authority is responsible for management of exempt employees subject to his or her authority, unless provided otherwise in this procedural memorandum.
2. Discrimination against exempt employees based on race, color, creed, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, **military status**, or genetic information is prohibited.
3. Exempt employees serve solely at the pleasure of their appointing authority. Accordingly, they have no right to participate in the grievance procedure provided by the Personnel Regulations.
4. Upon appointment, the salary for an exempt employee is determined by the appointing authority. The exempt employee's pay subsequently may be adjusted at the discretion of the appointing authority.
5. Exempt employees may be transferred from one position or class to another by their appointing authority.

Commented [A34]: Changed status as a veteran to military status.

E. Exempt Employees' Pay and Benefits.

1. An exempt benefits eligible employee is eligible for the following County employee benefits and compensation:
 - a. Health, dental and vision insurance, and flexible spending accounts;
 - b. Overtime or compensatory time, call back pay, on-call and consecutive shift pay in accordance with Chapter 4 of the Personnel Regulations, and administrative leave when serving as an election worker; and
 - c. Administrative leave, as outlined in Chapter 10, at the discretion of his or her appointing authority.

2. An exempt temporary employee is eligible for the following County compensation:
 - a. Overtime or compensatory time, call back pay, on-call and consecutive shift pay in accordance with Chapter 4 of the Personnel Regulations, administrative leave when serving as an election worker; and
 - b. Administrative leave, as outlined in Chapter 10, at the discretion of his or her appointing authority.
3. A senior manager is eligible for the same County employee benefits as merit employees, except as provided herein, or in an employment contract or appointment resolution passed by the Board of Supervisors.
 - a. A senior manager is ineligible to earn or accrue compensatory leave.
 - b. A senior manager shall accrue 26 days (208 hours) of annual leave and 13 days (104 hours) of sick leave each year, regardless of the length of his or her County service.
 - i. This annual and sick leave shall be added to the senior manager's annual and sick leave balances respectively at the beginning of each calendar year.
 - ii. A newly appointed senior manager shall receive prorated leave balances based upon the number of pay periods remaining in the calendar year of his or her appointment.
 - c. A senior manager is not required to record his or her time and attendance on an incremental basis, with the exception of leave for absences of one workday or more.
4. An employee of an elected or appointed official, is eligible for the same County benefits as merit employees, except as provided herein, or in an agreement made in accordance with County Code §§ 3-1-1-(c) and 3-1-2(b)(4) or by the employee's employment arrangement with the official who is his or her appointing authority.
 - a. The employee may receive shift differential pay, holiday leave, overtime or compensatory time, or call back pay at the discretion of the elected official.
 - b. The employee has the option of participating in the appropriate retirement system.

F. Eligibility for the Competitive Service.

1. An exempt employee only can become a member of the competitive service when appointed to a merit position as a result of the competitive selection process provided for the merit system set forth in the Personnel Regulations. This rule applies even when an exempt employee is in an exempt position converted to a merit position.
2. Exempt employees may apply for positions in the competitive service listed as promotional opportunities open only to County employees.
3. If an exempt employee competes for and is appointed to a position in the competitive service, his or her initial grade and salary in the merit position shall be determined as specified in Chapter 4 of the Personnel Regulations.
 - a. The employee's appointment date shall be the date of merit appointment.
 - b. Exempt service is not counted in computing seniority under the procedures for effecting a reduction-in-force under Chapter Nine (9) of the Personnel Regulations.

G. Holding Multiple Positions (Concurrent Employment).

1. An employee may hold up to three positions with the County concurrently, provided the following conditions are met:
 - a. A current County employee who wants to serve simultaneously in multiple positions, may do so only if he or she receives approval from his or her current supervisor(s), and complies with the outside employment requirements outlined in Chapter 4 of the Personnel Regulations.
 - b. The positions held must be of the same Fair Labor Standards Act (FLSA) eligibility status, either FLSA exempt or FLSA non-exempt.
 - c. The positions held must have like work periods – either 7-day, 14-day or 28-day.
2. Employees holding multiple exempt positions must also abide by the following limitations on the number of hours worked in a calendar year.
 - a. Employees holding multiple exempt benefits eligible positions must work a combined total of no less than 1,040 hours and no more than 1,560 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.

- b. Employees holding multiple exempt temporary positions may work a combined total of no more than 900 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.
- c. Employees holding a combination of exempt temporary and exempt benefits eligible positions must work a combined total of no less than 1,040 hours and no more than 1,560 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.

APPENDIX 1
Senior Managers

Directors of the following agencies, departments, or offices (personnel areas):

Animal Sheltering	Neighborhood and Community Services
Cable and Consumer Services	Prevent and End Homelessness
Clerk Services	Park Authority
Code Compliance	Planning and Development
Economic Initiatives	Police
Emergency Management	Independent Police Auditor
Environmental & Energy Coordination	Procurement and Material Management
Facilities Management	Public Affairs
Family Services	Public Works and Environmental Services
Finance	Public Safety Communications
Fire and Rescue	Strategy Management
Health	Tax Administration
Housing and Community Development	Transportation
Human Resources	Vehicle Services
Human Rights and Equity Programs	
Information Technology	
Internal Audit	
Juvenile and Domestic Relations District Court	
Land Development Services	
Library	
Management and Budget	

Directors of the following authorities, functions, or entities:

Economic Development Authority	Public Safety and Transportation Operations Center (General Manager)
Financial and Programs Auditor	

Executive Directors to the following boards, commissions, and organizations:

Civil Service Commission	Planning Commission
Fairfax-Falls Church Community Services Board	Reston Community Center
McLean Community Center	Retirement Boards

Additional appointed officials:

Assistant County Executive	County Executive
Chief Financial Officer	Deputy County Executive
County Attorney	Executive Assistant to the County Executive
	General Registrar

APPENDIX 2
Fairfax County Code, Personnel Regulations
And Procedural Memoranda Applicable to Exempt Service

The application of the following Fairfax County Code sections, and Fairfax County Government Personnel Regulations and Procedural Memoranda varies according to an exempt employee's status/group (attached, benefits eligible, temporary, senior manager, or employee of an elected or appointed official). Specific application is itemized in the following four charts. Eligible exempt employees are subject to the specific terms, conditions and requirements outlined in the code, regulation or procedural memoranda based on job function and classification, and FLSA status.

A. Fairfax County Code Sections Pertaining to Employment

Section(s)	Subject(s)	Exempt Status/ Employee Group
3-1-19	Protection of Legitimate Political Activity of Employees	All
3-1-21	Prohibited Practices	All
3-1-22 (b-c)	Penalties for Violation of Article and Personnel Regulations	All
3-1-23 (a-f)	Criminal History Record Check and Fingerprinting; Appointment to Sensitive Positions	All
3-1-24	Right of Employees to Contact Elected Officials	All
3-5-2.1 (b-e)	Disclosure of Financial Interest	All
3-9-1 to 3-9-4	Restrictions on Activities of Former Officers and Employees	All

Commented [AJ5]: Added f based on updated document.

Commented [AJ6]: Changed to (b-e) based on updated document.

B. Fairfax County Personnel Regulations

Provision	Subject	Exempt Status/ Employee Group
§§ 1.2-2 and 1.2-3	Scope of Fairfax County Merit System Ordinance and Personnel Regulations	All
Ch. 2	Definitions	All
§ 4.14	Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time	All (based on FLSA status and job classification; at the discretion of the appointing authority for BOS staff)
§ 4.15-4	Outside Employment and Conflict of Interest	All

Commented [AJ7]: Changed from 4.15 to 4.14 due to previous change in numbering in Personnel Regulation Chapter 4.

Commented [AJ8]: Changed from 4.16-4 to 4.15-4 due to previous change in numbering in Personnel Regulation Chapter 4.

Attachment 1

§ 5.5	Investigations and Fingerprinting	All
§ 5.6	Medical Examinations	All (based on job classification)
§ 7.7	Appointment of Family Members	All
§ 9.4-2 and 5	Lay-Offs	Benefits eligible and temporary
§ 10.5	Unauthorized Absence	All
§ 10.22	Family and Medical Leave ¹	All
§ 10.26	Compensatory Leave	Attached, Benefits Eligible, Temporary, and Employees of Elected and Appointed Officials, and for BOS staff, at the discretion of the appointing authority
§ 10.29 (except 10.29-2); 10.37	Military Leave; Administrative Leave	All
§ 10.36	Administrative Leave	All
Chapter 10	Annual leave, sick leave, extraordinary sick leave, paid family leave, leave for injury in line of duty, bereavement leave, volunteer activity leave, education leave, leave without pay, civil leave, holiday leave	Exempt employees of Elected and Appointed Officials and Senior Managers
§ 14.5	Employee Medical Records	All
Add. No. 1 to Ch. 16	Standards of Conduct	All
Add. No. 2 to Ch. 16	Code of Ethics for the Merit Service of Fairfax County, Virginia	All

Commented [AJ9]: Removed Administrative Leave and added below as separate section for clarity between these two types of leave.

Commented [AJ10]: Removed Administrative Leave from row above and made own line. Corrected from 10.37 to 10.36.

¹ Leave use options for an employee in the exempt service under FMLA are limited to such leave as is available to the employee, based on his/her current employment status.

C. Fairfax County Procedural Memoranda

Number	Subject	Exempt Status/ Employee Group
02-08	Fairfax County's Language Access Policy	All
02-09	HIPPA Compliance	All
06-01 25-30	Workplace Violence Procedural Guidelines County Security Program	All
11-01	Exempt Service	All
11-02	Financial Disclosure	All
02-10	Alternative Dispute Resolution	All
08-04	Alcoholic Beverages	All
25-27	Smoking Policy	All
08-03	Holiday Decorations	All
06-03	Travel Policies and Procedures	All
06-04 02-022	Use of Cellular Phones and Other Communication Equipment While Operating County Vehicles Risk Management Policy Statement Distracted Driving	All
06-05	Identity Theft Prevention Program Policies and Procedures	All
70-05	Information Security	All
02-04	Fraud Policy	All
12-16	Online Procurement of Office Supplies	All
10-04	Motor Pool	All
12-14	Separation of Duties	All
13-03	Endorsements or Recommendation of Products and Services by County Officials or Employees Acknowledgements of Businesses, Products and Services by Fairfax County Government and its Employees	All
12-09 12-1012	Procedures for Using Small Purchase Orders Delegated Procurement Authority for Purchases Less Than \$200,000	All
39-02	Employment Policies Relating to Pregnancy and Childbirth	All
39-03	Policy and Procedure for the Religious Accommodation Process in Employment	All
39-04	Policy and Procedure for Reasonable Accommodation Process in Employment	All
39-05	Policy and Procedure for Reasonable Accommodation Services and Devices	All
39-06	Policy and Procedure on Discrimination, Harassment, and Retaliation	All
39-07	Equal Employment Opportunity Reporting Requirements	All

Commented [AJ11]: The Workplace Violence Procedural Guidelines are now part of 25-30, County Security Program.

Commented [AJ12]: Replaced by Risk Management Policy Statement 02-022 Distracted Driving

Commented [AJ13]: Name change: "Acknowledgements of Businesses, Products and Services by Fairfax County Government and its Employees"

Commented [AJ14]: Replaced by 12-1012

D. Fairfax County Personnel/Payroll Administration Policies and Procedures

Number	Subject	Exempt Status/ Employee Group
3	Advance/Extraordinary Sick Leave	All (except Benefits Eligible and Temporary employees)
4	Underfill Assignments and Related Personnel Actions (non-public safety)	All
4A	Underfill Assignments and Related Personnel Actions (public safety)	All
8	Time and Attendance System and Controls	All
12	Medical Donor Program	All
13	Time and Attendance Reporting for All Employees Except 24-Hour Shift Fire Protection Personnel and Law Enforcement Personnel	All
14A	Time and Attendance Reporting for 24-Hour Shift Fire Protection Personnel as Defined in Personnel Regulations 2.28a	All
14B	Time and Attendance Reporting for Law Enforcement Personnel as Defined in Personnel Regulation 2.30a	All
15	Employee Identification Card	All
17	Military Leave	All
23	Injury Leave	All (with Benefits Eligible and Temporary employees subject to § 3.3.2)
28	Initial Action in Dealing with Impaired Employees Suspected of Alcohol/Drug Use	All
29	Employee Eligibility Verification	All
30	Assisting Employees with Serious Chronic Illnesses	All
31	Leave for Inclement Weather or Other Emergencies	All (subject to conditions therein)
33	Employee Clearance Record Procedures and Information for Employees Terminating from or Transferring within Fairfax County	All
35	Commercial Motor Vehicle Safety Act of 1986	All
36	Leave Transfer	All (except Benefits Eligible and Temporary employees; transferred leave for military duty)

Commented [AJ15]: Updated to reflect current PM 23.

Commented [AJ16]: Updated to reflect current title of PM 28.

Commented [AJ17]: Name of document changed. Replaced old name with new name.

		applies to merit employees only)
37	Employee Civic Activities and Responsibilities	All (rules governing leave do not apply to Benefits Eligible and Temporary employees)
41	Applicant/Employee Medical Examinations – Non-Public Safety	All
42	Procedures for Applicant Background Investigations	All (subject to conditions therein)
43A	Family and Medical Leave ^{1,2}	All
43B	Military Family and Medical Leave (MFML) ¹	All
48	Reemployed Annuitants	All
49	On-Call Compensation	Attached, Benefits Eligible, Temporary, and Employees of Elected or Appointed Officials
51	Overtime Compensation	Attached, Benefits Eligible, Temporary, and Employees of Elected or Appointed Officials
52	Foreign Language Skills Compensation	All
53	Fitness for Duty Examinations	All
56	Credit Check Requirements for Positions of Trust	All (subject to conditions therein)
62	Telework	All
63	Paid Family Leave	All

¹ Leave use options for an employee in the exempt service under FMLA are limited to such leave as is available to the employee, based on his/her current employment status.

² For purposes of FMLA administration, “key employees” include all directors of agencies, departments, and offices, as outlined in appendix 1 of this memorandum. Under some circumstances, key employees are not guaranteed reinstatement provided to other employees under the Act.

ACTION - 5

Approval of the Local Stormwater Management Grant Program Phase I

ISSUE:

On March 12, 2019, the Virginia Governor approved a bill allowing localities to create a local Stormwater Management (SWM) fund to grant moneys to a property owner for SWM or erosion prevention (Code of Virginia § 15.2-2114.01) (Attachment 1).

RECOMMENDATION:

Based on this recent state legislation, the County Executive recommends that the Fairfax County Board (Board) approve \$150,000 of the Department of Public Works and Environmental Services (DPWES) Stormwater funding in FY 2022 to support additional projects selected through the existing Northern Virginia Soil and Water Conservation District (NVSWCD) administered Conservation Assistance and Virginia Conservation Assistance Programs.

TIMING:

Board approval is requested on September 14, 2021.

BACKGROUND:

In September 2019, the Fairfax County (County) DPWES convened a work group to evaluate the feasibility of a local SWM grant program including staff from DPWES, Office of the County Attorney, Department of Management and Budget, Land Development Services, and the NVSWCD. The group identified multiple SWM areas of need that could benefit from the grant funds. For the first phase of the grant program, the group recommends using the local SWM fund legislation to support additional projects selected through the successful NVSWCD administered Conservation Assistance Program (CAP) and Virginia Conservation Assistance Program (VCAP).

CAP and VCAP provide cost-share and technical assistance for the voluntary installation of environmental best management practices (BMP), including pavement removal and/or replacement with pervious surfaces, conservation landscaping, rain gardens or bioretention facilities, bioswales, green roofs, and cisterns. CAP and VCAP align with the County's watershed management plans that suggest establishing a cost share program with property owners on BMP projects located on private land. The practices installed under CAP and VCAP help address private drainage and erosion

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issues, improve water quality, and support long-term stewardship of the County watersheds by building awareness of the importance of watershed protection. This phase of the grant program also aligns with County's Strategic Plan priority areas *Effective and Efficient Government* and *Health and Environment* and supports Resilient Fairfax.

FISCAL IMPACT:

Funding is currently available in Project SD-000031, Stream and Water Quality Improvements, Fund 40100, Stormwater Services, to support this phase of the grant program. Allocation of funds in future years for this program will be identified as a separate line item in the Stormwater budget. Funds would only apply to projects located in the County, the Town of Herndon, the Town of Vienna, and the Town of Clifton as contributories to the County's Stormwater Service District.

CREATION OF POSITIONS:

No positions will be created.

ENCLOSED DOCUMENTS:

Attachment 1: Code of Virginia § 15.2-2114.01

STAFF:

Rachel Flynn, Deputy County Executive
Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Divisions
Craig A. Carinci, Director, DPWES, Stormwater Planning Division
Jennifer L. Miller, Financial Specialist IV, DPWES, Stormwater Division

ASSIGNED COUNSEL:

Marc E. Gori, Assistant County Attorney

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 380

An Act to amend and reenact § 15.2-2114.01 of the Code of Virginia, relating to local stormwater assistance; flood mitigation and protection.

[S 1309]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2114.01 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for (i) the construction, improvement, or repair of a stormwater management facility or for; (ii) erosion and sediment control; or (iii) flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality. Grants made pursuant to clause (iii) shall, where practicable, prioritize projects that include nature-based practices.

ACTION - 6

Approval of a Joint Funding Agreement – Fairfax County Partnership with the United States Geological Survey for the Assessment of Reach- and Watershed-Scale Responses to Stream Restoration in Long Branch, Fairfax, Virginia

ISSUE:

Board of Supervisors (BOS) authorization is requested for Fairfax County (County) to enter into a one-year Joint Funding Agreement (JFA) with the United States Geological Survey (USGS) to assess reach and watershed-scale responses to the planned restoration of the Long Branch (Branch) watershed in the County. This JFA would cover the time period from this Board date of September 14, 2021, through June 30, 2022.

This agreement will support the initiation of assessment activities in the watershed. Ongoing operation and maintenance of these activities will be merged into a separate five-year agreement in FY 2023 as part of our ongoing county-wide monitoring network. This approach will improve efficiency through the reduction of administrative burdens and build upon our ongoing collaboration with the USGS.

RECOMMENDATION:

The County Executive recommends that the BOS authorize the JFA between the County and the USGS in the amount of \$194,000 to initiate this assessment effort in the Branch watershed. The breakdown of costs and a detailed explanation of the objectives and approach of this study can be found in Attachment 1. The JFA can be found in Attachment 2.

TIMING:

Board action is requested on September 14, 2021, to ensure timely implementation of all data collection elements related to the assessment of the Branch restoration effort.

BACKGROUND:

The County has committed to significant stream restoration within the Long Branch watershed. A map of the targeted area for both restoration and monitoring can be found in Attachment 3. The goals of this project are to:

- reduce nutrient and sediment loads;
- address local sediment Total Maximum Daily Loads (TMDLs) requirements; and
- contribute to the long-term sustainability of Lake Accotink.

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In order to adequately assess this extensive restoration effort, a sound monitoring approach is required to:

- inform design and implementation of restoration efforts in the Branch watershed;
- assess progress towards the objectives of the Branch stream restoration project; and
- provide relevant information to improve the effectiveness of future stormwater management and stream restoration efforts locally and beyond.

As restoration efforts in Branch are implemented, this proposal will assess watershed responses by:

- quantifying stream hydrology;
- quantifying nutrient and sediment dynamics; and
- quantifying loads and trends of major ions.

Analysis of these long-term water quality and pollutant loading trends is critical to assessing the effectiveness of best management practices (BMPs), such as stream restoration. BMPs have been employed and constructed throughout the County for the past several decades and will continue to be implemented as part of the County's ongoing stormwater management efforts to improve aquatic resources and meet various regulatory requirements. These regulatory requirements include the Municipal Separate Storm Sewer System (MS4) permit and impaired waters with assigned TMDLs.

The County has successfully partnered with the USGS on both past studies and ongoing monitoring partnerships (the Accotink Creek Fecal Coliform Source Tracking and the County-wide monitoring network, respectively) and intends to enhance this productive partnership through the expansion of the County-wide monitoring network to incorporate this new monitoring initiative.

FISCAL IMPACT:

Funding for this project will be provided on a cost-share basis with the USGS and the County. Funding is available to award this Joint Funding Agreement in Project 2G25-006-000, Stormwater Regulatory Program, Fund 40100, Stormwater Services. The USGS will be responsible for equipment repair costs as ownership responsibilities reside with them. This agreement will be followed by a separate five-year agreement in FY 2023 to support ongoing operation and maintenance as part of our ongoing County-wide monitoring network.

The County will also be providing in-kind services as follows:

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1. Laboratory services for nutrient (nitrogen and phosphorus) and ion analysis will be performed by the County's Wastewater Management Division at the Noman M. Cole, Jr. Pollution Control Plant's laboratory.
2. Stormwater planning staff will provide support for water quality sample collection and sample processing.

ENCLOSED DOCUMENTS:

Attachment 1: USGS Proposal: Assessment of Reach- and Watershed-Scale Responses to Stream Restoration in Long Branch, Fairfax, VA

Attachment 2: USGS Joint Funding Agreement

Attachment 3: Long Branch Central Watershed Management Area Map

STAFF:

Bryan Hill, County Executive

Rachel Flynn, Deputy County Executive

Christina Jackson, Chief Financial Officer

Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)

Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Divisions

ASSIGNED COUNSEL:

Marc Gori, Assistant County Attorney



Assessment of Reach- and Watershed-Scale Responses to Stream Restoration in Long Branch, Fairfax, VA

Virginia and West Virginia Water Science Center

This proposal details a multi-year plan to assess reach- and watershed-scale responses to the planned restoration of Long Branch. This multi-year plan is expected to be pursued through a series of agreements of differing duration, beginning with a 1-year agreement to support the initiation of the planned activities, followed by a 5-year agreement to support ongoing operation and maintenance, which will align with and combine this effort with the ongoing county-wide monitoring network. This approach is being taken to improve efficiency through the reduction of administrative burdens.

Long Branch, a tributary of Accotink Creek, in Fairfax County, Virginia, is subject to Total Maximum Daily Load (TMDL) requirements to reduce sediment and chloride. Additionally, this watershed is subject to the larger Chesapeake Bay sediment and nutrient TMDL. In response to these requirements, and in an effort to reduce sediment loading to Lake Accotink – which results in substantial maintenance costs – Fairfax County has developed the [Long Branch Central Watershed Management](#) project. This collaborative project of the Fairfax County Department of Public Works and Environmental Services (DPWES), the Fairfax County Park Authority, and the Northern Virginia Soil and Water Conservation District seeks to meet the Long Branch TMDL requirements, improve water quality, and generate ecological lift in Long Branch. The project objectives will be pursued through extensive stream restoration within Long Branch, through which an estimated 50%-75% of the stream length will be restored. Investments in this restoration effort are anticipated to approach \$40 million.

Sound monitoring and scientific evaluation are needed to a) inform design and implementation of restoration efforts, b) assess progress towards the objectives of the restoration project, and c) inform future stormwater management and stream restoration efforts locally and beyond. Fairfax County has contracted the Long Branch restoration design firm Biohabitats to perform some of the required and desired monitoring. This document describes additional monitoring and scientific evaluation that the project needs, and for which the U.S. Geological Survey (USGS) has world renown expertise and resources. The effort proposed herein augments the highly successful [county-wide water resources monitoring program](#) that has been cooperatively operated by USGS and DPWES for nearly 15 years.

Objectives

The intent of the proposed effort is to collect and evaluate hydrologic, geomorphic, and water-quality data to inform and assess the Long Branch Central Watershed Management project. Specifically, the objectives of this effort are to:

1. Quantify hydrologic responses to watershed-wide stream restoration, with particular focus on the role of floodplains;
2. Quantify the effects of watershed-wide stream restoration on sediment and nutrient transport, with particular focus on the role of floodplains; and
3. Quantify loads and trends of major-ions

Approach

The proposed approach builds on the existing foundation of monitoring occurring on Long Branch as part of the cooperative county-wide monitoring program operated by USGS and DPWES. Under the county-wide program, a monitoring station ([USGS ID: 01654500](#)) is operated near the terminus of Long Branch where it flows into Accotink Creek. Data collection activities at this monitoring station include a continuous record streamgage, continuous water-quality monitor (measuring water temperature, specific conductance, pH, dissolved oxygen, and turbidity), monthly and storm-event nutrient and sediment sampling, and annual benthic macroinvertebrate surveys.

Expanded Hydrologic Monitoring and Analysis

Additional hydrologic monitoring in Long Branch, including an additional streamgage, multiple water-level monitoring stations, and a precipitation gage, is required to support detailed analysis of hydrologic responses to restoration. Analyses to be pursued include baseflow separations to quantify the portions of streamflow that occur as baseflow (groundwater) or stormflow/runoff, evaluations of rainfall/runoff patterns, and evaluations of peak flow magnitudes, duration, and recurrence frequency. Some analyses, such as statistical analyses of change over time (trends) and recurrence frequency require many years of data – such analyses are dependent on the monitoring program being supported for sufficient time (typically 10+ years). Further, hydrologic data and analyses will be used to support interpretation of water quality and ecological patterns observed in other components of the proposed monitoring program.

One new streamgage will be installed and operated within the watershed at a location to be determined through consultation between USGS, DPWES, and BioHabitats. The existing streamgage (USGS station ID: 01654500), located near the outlet of the watershed, and the nested streamgage, which will be installed near the midpoint of the watershed, will be used to investigate changes in streamflow characteristics such as the frequency, duration, volume, and magnitude of stormflows expected to result from the proposed watershed management implementations. Data collected at the existing streamgage are expected to inform watershed-wide hydrologic characteristics, and changes in those characteristics; however, the additional streamgage in this proposed nested approach is expected to provide improved understanding of hydrologic characteristics and potentially earlier detection of change in hydrologic metrics resulting from restoration of the headwaters. Signals of change resulting from stream restoration may initially be difficult to detect at the existing streamgage because of the overwhelming effects of yet-to-be restored reaches. The nested gage will capture approximately half of the study watershed (3.72 mi²), which, depending on restoration plans (currently in development), is expected to drastically reduce the proportion of unrestored channel in the gaged watershed.



Figure 1. Photograph of a streamgage similar to what will be installed on Long Branch.

The new streamgage will consist of a water-level sensor, datalogger and satellite telemetry unit, and a solar-charged DC power supply. This instrumentation will be housed in a

compact streamside enclosure such as that shown in Figure 1. The continuous data will be publicly served on the USGS National Water Information System web interface (NWISWeb; waterdata.usgs.gov) within 1-hour of collection. Streamflow will be measured according to published USGS methods for the operation of streamgages (Sauer and others, 2010; Turnipseed and others, 2010). Generally, this will include continuous (5-minute interval) measurements of stage (water level) coupled with periodic manual measurements of streamflow to generate a streamflow rating curve that permits computation of a continuous streamflow time series.

One new precipitation gage will be installed and operated at a location to be determined through consultation between USGS, DPWES, and BioHabitats – likely at or near a streamgage or school facility. This gage will collect 5-minute interval measurements of rainfall volume and intensity. The data collected at the precipitation gage will be critical to understanding change in watershed hydrology, both by controlling for annual climatic variability, and allowing for the calculation of additional hydrologic metrics. Specifically, precipitation data will be paired with streamflow data to perform storm hydrograph separations which facilitate event-based analyses, compute runoff ratios (the percentage of precipitation that directly flows to the stream), and calculate the lag to peak (time between peak precipitation and peak streamflow). This standalone gage will consist of a weighing type precipitation gage, datalogger and satellite telemetry unit, and a solar-charged DC power supply, with an appearance similar to the example in Figure 2. The precipitation gage will be sited and operated in accordance with USGS protocols to ensure data are of known quality. The data from this site will be served in near-realtime on NWISWeb and will be used to inform analyses of watershed hydrology.



Figure 2. Photograph of a precipitation monitoring station.

Six floodplain inundation monitoring stations will be established to assess change in the duration, frequency, and magnitude/volume of floodplain inundation. Urban stream syndrome, the degradation of stream condition due to upland development, results in stream channels that are deeply incised and disconnected from both the floodplain and water table. Stream restoration designs typically aim to reconnect the channel and floodplain to promote overbank flow during moderate to large storm events. This design facilitates reductions in peak flow and in-channel water velocity to promote nutrient and sediment attenuation, groundwater recharge, and geomorphic stability. Evaluation of floodplain inundation characteristics is key to assessing the success of restoration practices at achieving these goals.

Floodplain inundation monitoring sites will be co-located with Biohabitats' groundwater monitoring transects and equipped with standalone non-realtime water-level recorders to measure stream water level at 5-minute intervals. Data from these instruments will be manually downloaded during scheduled site visits and the sites will be operated in accordance with all applicable USGS policies. These water-level data, along with similar data from the two streamgages, will be compared with repeated surveys of channel and floodplain elevations to compute inundation frequency, duration, and magnitude metrics.

Expanded Sediment and Nutrient Monitoring and Analysis

Suspended sediment and nutrient sampling to support load estimation and other analyses will continue at the existing monitoring station near the watershed outlet. Sediment and nutrient data collection and

analyses elements will be added within the watershed to provide additional detail to support the understanding of changes in sediment and nutrient export from the watershed. The additional elements will include:

Load and Trend monitoring will be supported at the nested streamgage through the manual collection of monthly and event-targeted samples in accordance with USGS protocols (Table 1). Monthly samples will be collected to inform evaluation of spatial and temporal patterns in sediment and nutrients, and provided that monitoring continues for a minimum 10 years, long-term trends. These samples will be collected as part of the monthly sampling schedule for the existing monitoring network, which are collected jointly with a Fairfax County sampling team. Additionally, USGS will collect suspended sediment and nutrient samples from approximately 5 targeted stormflow events annually. Collection of suspended sediment and nutrient samples during elevated flows at the nested gage is critical to extending the load models developed for the existing intensive monitoring station. Suspended sediment analyses will be provided by the USGS Kentucky Sediment Laboratory and nutrient samples will be submitted to the Fairfax County lab.

Table 1. The number of samples, collecting agency, and analyzing laboratory for each data collection element

[Number of samples; letters in parenthesis indicate collecting agency: USGS(u), Fairfax County(f); color indicates analyzing laboratory: orange = USGS, green = Fairfax; grey text indicates samples collected as part of the existing county-wide water resources program]

Data Collection Element	Long Branch Gage	Nested Station	Floodplain Sites
Sediment - Monthly Samples	12(u/f)	12(u/f)	-
Sediment - Storm Targeted	~30(f)	5(u)	-
Nutrients - Monthly Samples	12(u/f)	12(u/f)	-
Nutrients - Storm Targeted	~30(f)	5(u)	-
Ions - Monthly Samples	12(u/f)	12(u/f)	-
Ions - Targeted Samples	15(u)	5(u)	-
Floodplain Deposition	20(u)	20(u)	20 x 6 sites(u)

Floodplain deposition stations will be established to quantify sediment and nutrient deposition (or erosion) rates on floodplain surfaces ($\text{g}/\text{cm}^2/\text{yr}$). These stations will utilize artificial marker horizons, or clay pads, to distinguish recently deposited materials from existing floodplain sediments. In the event that floodplains are erosive, marker pins will be co-located with each clay pad; exposure of pins will be measured to quantify floodplain erosion. These stations will be installed at the outset of monitoring and be remeasured biennially, at a minimum (Table 1). The timing of construction activities will vary among sites; therefore, a final pre-construction measurement will be made prior to the onset of construction activity in each monitored stream reach to demarcate the pre-restoration period at that location. Artificial marker horizons will be re-installed upon completion of restoration construction in the reach and measurement will continue biennially. For each sample, the depth of sediment accumulation over the clay pad will be measured in the field; laboratory analyses will include bulk density and nitrogen, phosphorus, and carbon concentrations to quantify particulate deposition (g-N , g-P , or $\text{g-C}/\text{cm}^2/\text{yr}$). Floodplain depositional stations will be co-located with the continuous streamgages and floodplain inundation stations. At each station multiple clay pads (approximately 20 per station) will be established to ensure a representative sample is collected. Sedimentation or erosional rates from each plot will be extrapolated over both space and time to estimate the mass reduction (or contribution) of sediment and nutrients (e.g pounds/yr) from floodplains. Sedimentation or erosion rates will be calculated using the equation published in Schenk and others (2013):

$$\varphi = (d \times \rho \times 1000)/t \quad (1)$$

where

φ is the deposition rate (floodplain clay pads) or erosion rate (marker pins) in grams per square meter per year ($\text{g/m}^2/\text{yr}$);

d is the depth of burial over the clay pad or pin exposure in millimeters (mm);

ρ is the bulk density of the sampled soil in grams per cubic centimeter (g/cm^3);

t is the time since installation or last measurement in years.

The annual load of floodplain deposition (or erosion) will be calculated for each of the 8 monitoring locations using the following equation:

$$\psi_f = \varphi_f \times w_f \quad (2)$$

where

ψ_f is the site-specific floodplain sedimentation rate in grams per meter per year (g/m/yr);

φ_f is the average site sedimentation rate in grams per square meter per year ($\text{g/m}^2/\text{yr}$);

w_f is the floodplain width in meters.

The average mass of floodplain sedimentation calculated from the 8 representative floodplain inundation stations will be multiplied by the stream length to calculate the total mass of sediment (as well as nitrogen, phosphorus, and carbon) removed from or input to the stream from floodplains. These data are critical to quantify change in sedimentation and nutrient deposition associated with changes in floodplain connectivity, allow calculation of annual depositional rates and volumes, and can be used to inform potential change in sediment or nutrient loads computed at the main streamgage. A watershed-wide sediment budget will be calculated which will incorporate this and multiple other study elements discussed below. The sediment budget will be computed as follows:

$$L_S = F_L + U_L + B_L \quad (3)$$

where

L_S is the in-stream load computed at the existing Long Branch monitoring station in pounds;

F_L is the floodplain load in pounds;

U_L is the upland load in pounds;

B_L is the bank load in pounds.

The upland load (U_L) will be estimated using a modified Revised Universal Soil Loss Equation approach described in USDA-ARS (2013) and Hopkins and others (2018).

Bank erosion stations will be installed at 3 of the monitored stream reaches and remeasured at least twice annually. The subset of stations selected for bank erosion monitoring will be identified based on suitability and representativeness once final selection of the additional 7 monitoring locations has been finalized (nested gage + 6 inundation stations). Structure-from-Motion (SfM), a low-cost photogrammetric method for collecting high spatial resolution, three-dimensional data for surface modeling, will be used to quantify fine resolution change in bank condition between storm events. While bank pins can be used to quantify erosion at multiple points along a transect – and some will be installed for comparison purposes as part of this effort – SfM can generate point clouds consisting of tens of thousands of individual points per square meter across a much larger vertical and horizontal transect, allowing for more accurate detection and quantification of change. For example, a study in Little Catocin Creek near Frederick, Maryland found that erosional rates computed from SfM were an order of magnitude greater than bank pin measurements due to the subjective placement of pins that can miss points of bank failure (Nibert, 2017). Measurements of change will be used to elucidate spatio-

temporal patterns and provide reach-scale estimates of sediment flux from bank erosion. Given the importance of bank erosion on sediment transport, Cashman and others (2018) reported greater than 90% of suspended sediments were derived from bank erosion in the Difficult Run watershed, accurate, fine-scale quantification of bank erosion and depositional processes are key to assessing restoration efforts. Measurements of bank erosion (B_L in equation 3) will be used in conjunction with estimates of annual sediment loads and floodplain deposition to compute a sediment budget outlined in equation 3, which is critical for assessing the efficacy of restoration efforts, achieving the stated goals of reducing sediment transport to Lake Accotink, and promoting ecological uplift throughout the watershed.

In-channel sediment mapping will be conducted to better understand sediment dynamics throughout the watershed. Characteristics and abundance of fine-grained depositional areas will be made throughout the stream channel. These measurements will include the number of deposits, average length, width and thickness of deposits, average volume of depositional areas, particle size distribution, and the total volume of stored sediment in the stream reach. The volume of in-channel sediment deposits will be used calculate the percentage mass equivalent of the annual suspended sediment load stored in-channel and will be used in conjunction with stream bank erosion, floodplain depositional measurements, and annual suspended sediment loads to inform a watershed-wide sediment budget.

Expanded Stream Salinization Monitoring and Analysis

Quantification of loads and trends in salinization-related ions will be accomplished through the addition of event-targeted sampling for major ions at the intensive monitoring station. Major ions are currently collected monthly at the main Long Branch streamgage as part of the existing county-wide monitoring program. These monthly samples are analyzed by the Fairfax County lab for a suite of major ions (e.g. calcium, magnesium, sodium, potassium, bicarbonate, chloride, and sulfate) (Table 1). In addition to the monthly samples, event-targeted samples will be collected when concentrations are expected to be elevated, primarily during winter months. These samples will be collected using the existing autosampler and a modified triggering algorithm that will rely primarily on specific conductance (SC). These samples will be analyzed by the USGS National Water Quality Laboratory (NWQL). These data (both monthly and targeted samples) will be paired with continuous measurements of water-quality parameters and streamflow to develop surrogate models for the computation of loads and yields. Once models are established at the intensive monitoring station these relations may be extended to the continuous water quality and streamflow data collected at the nested streamgage, if appropriate, to provide greater spatial understanding of salinity loading throughout the watershed. To evaluate suitability of extending these models and to investigate variability between the upper and lower reaches of the watershed, monthly ion samples will be collected at the nested monitoring station and analyzed by the Fairfax County lab. Additionally, approximately 5 event-based samples will be collected at the nested station and analyzed by the NWQL. Collectively, these data will also be used to investigate seasonal patterns, inform ecological measurements throughout the watershed, and provided monitoring continues for a minimum 10 years, analyze trends over time.

Continuous Water-Quality Monitoring

A continuous water-quality monitor will be installed and operated at the nested streamgage. The monitor will provide continuous 15-minute interval measurements of water temperature (WT), SC, dissolved oxygen (DO), pH, and turbidity, year-round. The continuous water-quality

monitor will be operated in accordance with published USGS methods (Wagner and others, 2006) and the data will be publicly served on NWISWeb in near-realtime.

The nested station will capture approximately half of the study watershed; therefore, indications of water-quality responses to headwater restoration may be observed earlier at this station than at the downstream station. Continuous measurements of basic water-quality parameters provide many additional benefits beyond the simple, yet informative, patterns those directly measured parameters. For example, stream metabolism can be modeled using the continuously collected DO and WT measurements and the streamMetabolizer software package (Appling and others, 2017; Appling and others, 2018), which uses diel cycles in stream DO concentration, WT, and stream-channel characteristics to model both gross primary production (GPP) and ecosystem respiration (ER). Changes in GPP and ER can indicate changes in how the stream ecosystem uses or processes energy stored as organic carbon and can be used to inform benthic macroinvertebrate metrics. Likewise, continuously collected WT may be used to investigate changes in stream temperature caused by canopy removal during and after restoration, change in water level due to alteration of channel geometry, and thermal peaking (rapid changes in WT) resulting from solar heated runoff from upland impervious surfaces. Water temperature is a fundamental water-quality parameter given its role in regulating chemical and biological reactions and governing the structure of aquatic communities and can therefore inform many other study elements. Continuous measurements of turbidity and streamflow can be used to investigate hysteresis patterns which can be used to suggest the source and timing of sediment and particulate nutrient inputs. Hysteresis patterns at the existing and nested monitoring stations will be compared to investigate spatial variance in these processes. Continuous measurements of specific conductance are critical to extending salinization loading models from the existing intensive monitoring station to the proposed nested station. Finally, these data could be paired with discrete measurements of sediment and nutrient concentrations to compute constituent loads by extending the surrogate regression models developed at the existing intensive monitoring station, if appropriate, or through development of new station-specific models. The nested water-quality monitor is expected to augment our understanding of the fate and transport of sediments and nutrients throughout the watershed and potentially facilitate earlier detection of change resulting from restoration of the headwaters.

Deliverables

The deliverables for the first term of the proposed program are the data products described above. Progress will be documented in quarterly progress reports and an annual presentation of study status and preliminary findings will be provided. This proposal does not include a data analysis and reporting effort within the first year. It is anticipated that the proposed effort will continue for additional terms during which analysis and reporting will be provided at additional cost.

Timeline

The anticipated timeline (fig. 3) for this proposed effort assumes the signing of a Joint Funding Agreement for the October 1, 2021 to June 30, 2022 timeframe. The first quarter of year one will be devoted to instrument acquisition, obtaining site permissions, and installing sensors. Data collection for

all study elements will begin within three months of study initiation, with a goal of data collection starting October 2021, and will continue for the duration of the agreement.

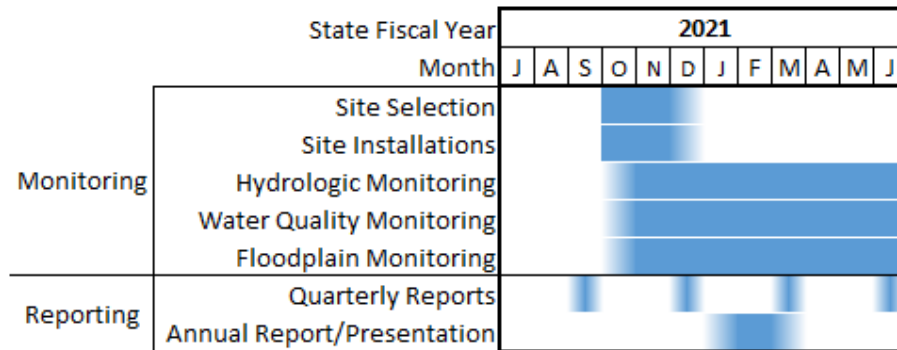


Figure 3. Anticipated timeline for proposed effort.

Funding and In-Kind Support

Accomplishment of the objectives of this effort is dependent on both in-kind and funding support from DPWES. Direct assistance from DPWES staff will be required for tasks including and related to securing permissions for site installations, coordinating monitoring efforts with BioHabitats, assistance with collection of monthly water-quality samples, and laboratory analysis of water-quality samples. Additionally, this effort has been designed to operate in conjunction with the ongoing county-wide monitoring program, and therefore has multiple dependencies on the continued operation of that program.

The funding required to initiate this effort includes start-up costs – including instrumentation and station installation – and operation and maintenance costs (O&M) in year one (Table 2). O&M costs (Table 3) in year one are pro-rated for elements that will be operated for $\frac{1}{4}$ of the first year. USGS will purchase \$103,000 worth of instrumentation for the effort in year 1 and will provide \$50,000 in Cooperative Matching Funds, for a total contribution of \$153,000 to the effort. Out-year budgets are expected to align with the O&M costs provided, with inflationary increases as needed. USGS anticipates contributing an additional \$100,000 total in Cooperative Matching Funds in a subsequent 5-year agreement, provided funds remain available.

Table 2. Study initiation costs, by County fiscal year.

	County Fiscal Year (Jul-Jun)	
	2022	
Study Startup	\$	178,000
Monitoring	\$	169,000
Total	\$	347,000
USGS Instrument Purchase	\$	103,000
USGS Cooperative Match	\$	50,000
Fairfax County	\$	194,000

Table 3. Itemized budget for proposed study elements.

Item	Annual Cost	QTY	Total
Stage-Discharge Streamgages - includes technician salary, travel, and equipment/supplies for the operation and maintenance of continuous-record streamgages in accordance with USGS protocols. Tasks include scheduled maintenance and measurement visits (approx. every 8 weeks), unscheduled visits for stormflow measurements, surveying for datum maintenance and indirect peak flow measurements, maintenance of real-time data relay, and streamflow record computation. Deliverable is continuous (5-minute interval) streamflow and water level data, and basic summary statistics, publicly available online in near real-time.	\$18,000	1	\$18,000
Continuous Water Quality Monitors - includes technician salary, travel, and equipment/supplies for the operation and maintenance of continuous-record 5-parameter water-quality monitor in accordance with USGS protocols. Tasks include scheduled maintenance and measurement visits (monthly), unscheduled visits for sensor fouling, maintenance of real-time data relay, and record computation. Deliverable is continuous (15-minute interval) temperature, dissolved oxygen, specific conductance, pH, and turbidity data, and basic summary statistics, publicly available online in near real-time. These data are required to support computation of nutrient and sediment loads in these flashy urban streams.	\$34,000	1	\$34,000
Load and Trend Sampling - includes technician salary, travel, and equipment/supplies for the manual collection of both monthly and event-targeted sediment and nutrient samples in accordance with USGS protocols, technician salary for data entry, laboratory analysis of suspended sediment samples, and hydrologist salary for laboratory data review. Annual deliverable for the monthly samples is 8 routinely scheduled samples collected jointly with a Fairfax County sampling team, and 4 storm event samples collected by a pair of USGS sampling teams. Additionally, multiple samples will be collected from up to 5 storm events and analyzed for suspended sediments and nutrients.	\$11,500	1	\$11,500
Precipitation Gage - includes technician salary, travel, and equipment/supplies for the operation and maintenance of continuous-record precipitation station in accordance with USGS protocols. Tasks include scheduled maintenance, unscheduled visits for sensor fouling, maintenance of real-time data relay, and record computation. Deliverable is continuous (15-minute interval) rainfall volume data and basic summary statistics, publicly available online in near real-time. These data are required to support computation of streamflow metrics such as runoff rates and other precipitation-streamflow relations.	\$6,000	1	\$6,000

Item	Annual Cost	QTY	Total
Floodplain Inundation Monitors - includes technician salary, travel, and equipment/supplies for the operation and maintenance of floodplain inundation stations in accordance with USGS protocols, and technician salary for data entry and records processing. Tasks include monthly site visits to download and process logged data as well as annual surveying of channel and floodplain elevations. Deliverables include continuous (15-minute interval) water level data paired with annual stream/floodplain surveys to compute the frequency, magnitude, and duration of floodplain inundation.	\$5,000	6	\$30,000
In-channel sediment deposition surveys - includes technician salary, travel, and equipment/supplies for surveys of in-channel fine-grained sediment deposits, technician salary for data entry, and project chief salary for data computation. Tasks include annual surveys of the entire Long Branch stream reach Deliverables will include quantification of the total volume and mass of available in-channel sediment deposits expressed as volume and mass per unit stream length, estimates of the total storage of sediment by mass expressed as a equivalent percentage of the total annual suspended sediment load.	\$25,000	1	\$25,000
Ion Monitoring - includes technician salary for data entry and project chief salary for coordination of sample collection, USGS lab analyses, data review, quality assurance, and subsequent analysis of data. Samples will be paired with continuously measured streamflow and basic water quality parameters to compute annual loads. The cost to collect and analyze monthly samples for major ions will be contributed in-kind by Fairfax County, whereas the event-targeted samples will be collected and analyzed by USGS. Annual deliverable is 12 monthly samples and 5 event-targeted samples at the nested gage and up to 15 event-targeted samples collected at the main Long Branch gage analyzed for a suite of major ions including, but not limited to, chloride, sodium, potassium, calcium, and magnesium.	\$12,000	1	\$12,000
Streambank geomorphology stations - includes technician salary, travel, and equipment/supplies for the operation and maintenance of streambank geomorphology monitoring stations using bank pins, structure-from-motion (SfM) photogrammetry, and project chief salary to process imagery data. Tasks include initial installation and survey of control points, with subsequent surveys repeated annually. Multiple site visits each year to collect photographic imagery and subsequent processing to generate point-clouds. Point-clouds from successive dates will be compared to measure the change in bank situation. Deliverables will include quantification of the rate and volume of bank erosion/deposition.	\$10,000	3	\$30,000

Item	Annual Cost	QTY	Total
Floodplain nutrient and sediment stations - includes technician salary, travel, and equipment/supplies for the manual collection of sediment samples and lab analyses for bulk density, carbon (C), nitrogen (N), and phosphorus (P) concentrations, as well as technician salary for data entry. Tasks will include manual collection of sediment cores from floodplain monitoring plots and collection and processing of sediment deposited on ceramic tiles. Deliverables will include rates of sedimentation (g/cm ² /yr), as well as particulate deposition of N, P, and C (g-N, g-P, or g-C/cm ² /yr) *This task will only be completed twice during the study period, pre- and post-restoration. Costs have been spread out over each year.	\$3,750	8	\$30,000
Annual Total			\$196,500

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United States Department of the Interior

U.S. GEOLOGICAL SURVEY
VA/WV Water Science Center
1730 E. Parham Rd.
Richmond, VA 23228

August 10, 2021

Mr. Shannon Curtis

Fairfax County, VA
12000 Government Center Parkway Suite 449
Fairfax, VA 22035

Dear Mr. Curtis:

Enclosed is our standard joint-funding agreement for the project to assess reach-and watershed-scale responses to the planned restoration of Long Branch, in Fairfax County, VA, during the period September 14, 2021 through June 30, 2022 in the amount of **\$194,000.00** from your agency. U.S. Geological Survey contributions for this agreement are \$53,000 for a combined total of \$247,000. Please sign and return the agreement to Paige Keaton at the pkeaton@usgs.gov.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **September 14, 2021**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact Aaron Porter by phone number (804) 261-2628 or email aporter@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed quarterly via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Paige Keaton at phone number (304) 347-5130 or email at pkeaton@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

Mark R. Bennett

Mark Bennett
Director

Enclosure
21LMJFAVA000086

**Form 9-1366
(May 2018)**

**U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations**

**Customer #: 6000000666
Agreement #: 21LMJFAVA000086
Project #: LM009RO
TIN #: 54-0787833**

Fixed Cost Agreement YES[X] NO[]

THIS AGREEMENT is entered into as of the September 14, 2021, by the U.S. GEOLOGICAL SURVEY, VAWV Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Fairfax County, VA party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$53,000 by the party of the first part during the period
September 14, 2021 to June 30, 2022
- (b) \$194,000 by the party of the second part during the period
September 14, 2021 to June 30, 2022
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs,
in the amount of: \$0

Description of the USGS regional/national program:

- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be
determined by mutual agreement and set forth in an exchange of letters between the parties.
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters
between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (<https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices>).

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000666
Agreement #: 21LMJFAVA000086
Project #: LM009RO
TIN #: 54-0787833

9. Billing for this agreement will be rendered quarterly. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

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U.S. Geological Survey
United States
Department of Interior

Fairfax County, VA

Signature
MARK BENNETT
Digitally signed by
MARK BENNETT
Date: 2021.08.10
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By MARK BENNETT Date: 08/10/2021
Name: Mark Bennett
Title: Director

Signatures
By _____ Date: _____
Name: Bryan J. Hill
Title: County Executive

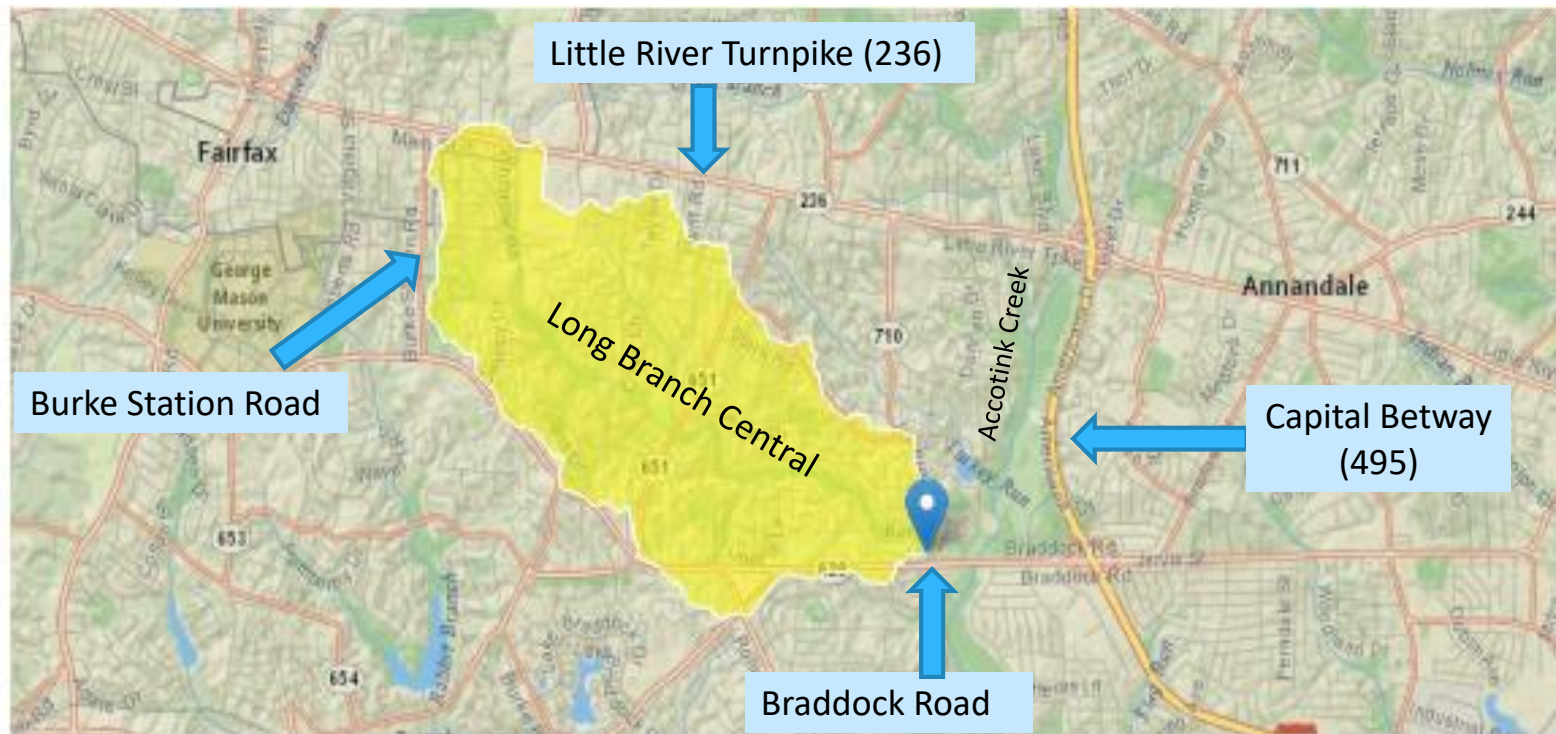
By _____ Date: _____
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By _____ Date: _____
Name:
Title:

Project Location

Long Branch Central Watershed

3.71 Square Miles - 8 Miles of Streams



ACTION - 7

Approval of a Resolution Authorizing the Department of Transportation to Apply for Funding for the Virginia Department of Rail and Public Transportation's Transit Ridership Incentive Program

ISSUE:

Board of Supervisors authorization is requested for the Department of Transportation (FCDOT) to apply for funding from the Virginia Department of Rail and Public Transportation's (DRPT) Transit Ridership Incentive Program (TRIP). Staff recommends that approximately \$3 million, including approximately \$600,000 in Local Cash Match (LCM) be requested for FY 2022.

The total required Local Cash Match is available in Fund 40000, County Transit Systems. A project endorsement resolution (Attachment 1) from the local governing body is required for grant submission. If the County is awarded funding, staff will submit another item to accept the awards and execute the Project Administration Agreements with DRPT.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize FCDOT to apply for funding in the amount of approximately \$3 million, and to adopt the project endorsement resolution (substantially in the form of Attachment 1).

TIMING:

Board of Supervisors' approval is requested on September 14, 2021, to meet DRPT's submission deadline of September 17, 2021.

BACKGROUND:

Virginia Department of Rail and Public Transportation's (DRPT) Transit Ridership Incentive Program (TRIP) is a new statewide grant program created by the passing of House Bill 1414 in the 2020 Virginia General Assembly (VGA) session. The TRIP program provides funding to transit agencies for the purpose of improving the regional connectivity of urbanized areas and increasing statewide ridership by supporting the deployment of zero and subsidized (reduced) fare pilot programs. For FY 2022, the VGA dedicated \$20 million to TRIP projects, including \$12.5 million being allocated towards zero-fare and low-fare pilot programs.

Board Agenda Item
September 14, 2021

For riders with limited incomes, the cost of transportation has a significant impact on household budgets. For many in the County, Fairfax Connector is the most effective form of transportation providing access and mobility to employment, educational institutions, medical facilities, shopping, and recreation. According to surveys completed for the County's 2020 Title VI program, low-income households represent approximately 58 percent of Fairfax Connector riders. Staff is proposing to apply for a TRIP grant to subsidize low-income rider fares by 50 percent. It is expected that this reduced fare program will aid families recovering from the economic impacts of COVID-19 and help restore Fairfax Connector ridership.

Subsequent years of state funding are not guaranteed. Future grant awards are based on increase in ridership resulting from the TRIP program, and available funding from the state which is subject to annual appropriation.

FISCAL IMPACT:

The total first year grant request through the TRIP program will be approximately \$3 million which includes a Local Cash Match (LCM) requirement of 20%. The department will apply for the same amount in grant funding for years two and three, which have an increasing LCM requirement of 40% and 70%, respectively. If years two and three are awarded, the County is required to fully fund the program in year four at approximately \$3 million. Provided the first three years of the grant program are awarded, the total cost to the County will be approximately \$7 million for all four years combined. The total required LCM will be taken from revenues available in Fund 40000, County Transit Systems.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution Endorsing DRPT's FY 2022 TRIP Grant Submission

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Dwayne Pelfrey, Chief, Transit Services Division, FCDOT

Ray Johnson, Chief, Funding Section, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, Fairfax County desires to submit an application for grant funding in the amount of \$3,132,000, including \$626,400 in Local Cash Match, through the Virginia Department of Rail and Public Transportation 's (DRPT) Transit Ridership Incentive Program (TRIP) Fiscal Year 2022; and,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses and approves the submission of FCDOT's reduced fare pilot program to DRPT's Fiscal Year 2022 TRIP Program.

Adopted this 14th day of September 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

ACTION - 8

Authorization to Sign Standard Project Agreements for Distribution of I-395/I-95 Toll Revenues to Multi-Modal Projects in the I-395/I-95 Corridor (Lee, Mount Vernon, and Springfield Districts)

ISSUE:

Board approval of a resolution authorizing the Director of the Fairfax County Department of Transportation (FCDOT) to execute the attached Standard Project Agreements (SPAs), in substantial form, between Fairfax County and Northern Virginia Transportation Commission (NVTC) and the Potomac Rappahannock Transportation Commission (PRTC) for bus service in the I-395/I-95 corridor.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1) authorizing the Director of FCDOT to sign the SPAs, substantially in the form of Attachments 2 and 3, between the County and the Commissions for distribution of \$3,882,529 in I-395/I-95 toll revenues. These funds will be allocated by NVTC and PRTC to Fairfax County for renewal of operating funds for Fairfax Connector Route 396 and enhanced bus service for Route 371.

TIMING:

Board action is requested on September 14, 2021, so that NVTC and PRTC can begin distributing the funding.

BACKGROUND:

In June 2017, the Virginia Department of Transportation (VDOT) entered into an agreement with 95 Express Lanes, LLC, for the extension of approximately eight miles of Express Lanes between Turkeycock Run (near Edsall Road) and Eads Street in Arlington. This project converted the two existing High Occupancy Vehicle (HOV) lanes to express lanes, and added a third lane, providing three reversible express lanes. As a part of the agreement, 95 Express Lanes, LLC agreed to provide the Commonwealth with a payment for transit services of \$15 million per year, escalating by 2.5 percent per year, beginning with the commencement of tolling through the life of the 70-year agreement. Now that the project is complete, vehicles with three or more people are able to use the express lanes for free, while vehicles with fewer than three people have the choice to pay a variable toll to use the express lanes or use the general purpose lanes.

Board Agenda Item
September 14, 2021

A Memorandum of Agreement among the Commonwealth Transportation Board (CTB), VDOT, the Department of Rail and Public Transportation (DRPT), and the Commissions provides a general structure for the program. Through the agreement, the Commonwealth provides \$15 million/year plus escalation to the Commissions to administer a program that funds multi-modal projects along the corridor. The agreement includes the opportunity for the Commissions to mutually agree on a joint approach for selecting projects, subject to the approval by the CTB.

In January 2019, the Commissions entered into a separate agreement (MOA) for the distribution and allocation of I-395 Annual Transit Investment Funds (ATI), which outlines the distribution and allocation of the annual transit payment. This MOA allows for the ATI funds to be administered jointly, reducing program administration costs and facilitating greater regional cooperation in the selection of projects. The MOA also established a new Commuter Choice program that serves commuters along the I-395/I-95 corridor. The first annual transit payment was made available to the Commissions at the commencement of tolling on the I-395 Express Lanes on November 17, 2019.

In November 2020, NVTC approved the I-395/I-95 Commuter Choice program project selection process and technical evaluation criteria and authorized the Executive Director to initiate the I-395/I-95 Commuter Choice Round Two (FY 2022-FY 2023) Call for Projects. Applications were due in January 2021.

On January 26, 2021, the Board of Supervisors authorized FCDOT to apply for Fiscal Years FY 2022 - FY 2023 funding to support the following projects:

- Renewal of existing funds for Fairfax Connector Route 396 — Gambrill Road and Backlick North Park-and-Ride Lots to the Pentagon: Route 396 serves the Backlick North Park-and-Ride Lot and the Pentagon and operates on 15 to 20- minute headways. The bus route reduces travel time for passengers using either the Gambrill or Backlick North Park-and-Ride Lots, provides additional capacity to serve the Backlick North Park-and-Ride Lot, and contributes to reduced congestion in the I-95/I-395 corridor by improving the quality and level of transit service provided in the corridor.
- Fairfax Connector Route 371 Enhanced Service: This new service will replace routes 371, 372 and 373 and will represent an expansion of service over the existing routes. Route 371 will connect Virginia Railway Express riders with employment destinations in Springfield including the Fort Belvoir North Area. This proposal will require the purchase of one bus and includes bicycle and pedestrian improvements that will improve first mile-last mile connections to the limited stops along the route and employment centers.

Board Agenda Item
September 14, 2021

Following the project selection process, NVTC and PRTC recommended a list of projects for funding on June 3, 2021, including both projects submitted by the County. On June 23, 2021, the CTB approved the I-395/I-95 Commuter Choice Program of projects.

Following action by the Board of Supervisors, the parties will execute the SPAs, and NVTC and PRTC can begin distributing funds to support these projects.

FISCAL IMPACT:

Once both SPAs are approved, \$3,882,529 in I-395 Commuter Choice Program revenues will be available in Fund 40000, County Transit Systems.

ENCLOSED ATTACHMENTS:

Attachment 1 - Resolution authorizing the Director of the Department of Transportation to execute the attached Standard Project Agreements between Fairfax County and the Commissions

Attachment 2 – Standard Project Agreement for I-395/I-95 Project, Annual Transit Investment Funding of Projects and Administration: Route 396

Attachment 3 – Standard Project Agreement for I-395/I-95 Project, Annual Transit Investment Funding of Projects and Administration: Route 371

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Dwayne Pelfrey, Chief, Transit Services Division, FCDOT

Michael Felschow, Planning Section Chief, Transit Services Division, FCDOT

Chris Wells, Active Transportation Program Manager, FCDOT

Nicole Wynands, Bike Program Manager, FCDOT

Noelle Dominguez, Chief, Coordination Section, FCDOT

Malcolm Watson, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Richard Dzubin, Assistant County Attorney

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, September 14, 2021, at which a quorum was present and voting, the following Resolution was adopted.

WHEREAS, on January 26, 2021, the Fairfax County Board of Supervisors approved a resolution endorsing two multi-modal transportation projects for submission to the FY 2022-2023 I-395/I-95 Commuter Choice Program funding and authorized the Director of the Department of Transportation to sign and submit the following applications:

- Renewal of existing funds for Fairfax Connector Route 396
- Fairfax Connector Route 371 Enhanced Service

WHEREAS, on June 23, 2021, the Commonwealth Transportation Board approved the I-395/I-95 Commuter Choice Program of projects, which included, the renewal of operating funds for Route 396 and funding for enhanced service on Route 371.

WHEREAS, the Northern Virginia Transportation Commission (NVTC) developed a Standard Project Agreement (SPA), in consultation with the Potomac and Rappahannock Transportation Commission, to govern the terms of the toll revenue transfers and ensure that the requirements of the I-395 Memorandum of Agreement for Distribution and Allocation of the I-395 Annual Transit Investment Funds are met.

WHEREAS, the SPA's for these projects, must be executed by the County, NVTC and PRTC before distributions of toll revenues can occur.

NOW, THEREFORE, BE IT RESOLVED, that the Director of the Department of Transportation is authorized to execute the Standard Project Agreements with the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission for the County Projects approved for FY 2022-2023 I-395/I-95 Commuter Choice Program funding.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

**Standard Project Agreement for the I-95/I-395 Project,
Annual Transit Investment Funding of Projects and Administration**

**Between the Northern Virginia Transportation Commission,
the Potomac and Rappahannock Transportation Commission, and**

Fairfax County

Commission Project Number: **059-31-22**

Commission Project Name: **Renewal of Route 396 Express Bus Service: Backlick North
Park and Ride to Pentagon**

This Standard Project Agreement for the I-95/I-395 Project, Annual Transit Investment Funding of Projects and Administration ("Agreement") is made and executed in duplicate on this____ day of _____, 20__, by and between the Northern Virginia Transportation Commission ("NVTC") on behalf of itself and the Potomac and Rappahannock Transportation Commission ("PRTC"), (collectively the "Commissions") and **Fairfax County** ("Recipient Entity").

WITNESSETH

WHEREAS, NVTC and PRTC are political subdivisions of the Commonwealth of Virginia created by the General Assembly in accordance with the Transportation District Act of 1964, §§ 33.2-1900 et seq. of the Code of Virginia, 1950, as amended, and are authorized to enter into this Agreement by the provisions of § 33.2-1915 and 1919 of the Code of Virginia, 1950, as amended;

WHEREAS, on December 20, 2017, NVTC and PRTC entered into a Memorandum of Agreement regarding the annual transit investment ("ATI") from the 395 HOT Lanes ("MOA"), with the Commonwealth Transportation Board ("CTB"), the Virginia Department of Transportation ("VDOT"), and the Virginia Department of Rail and Public Transportation ("DRPT"), as such MOA may be amended from time to time, which MOA delegated to NVTC and PRTC the authority to select and administer the implementation of multimodal transportation improvements to the roadways and associated transportation and transit facilities ("ATI-Funded Projects" as used in the MOA and, for purposes of this Agreement, "Projects") in the stretch of Interstates 95 and 395 along which 95 Express Lanes, LLC (the "Concessionaire") operates and maintains high-occupancy toll lanes ("HOT Lanes"), including Route 1, Virginia Railway Express, and other adjacent and nearby routes (the "Corridor"), which Projects are designed to attain the Improvement Goals defined in the MOA, specifically, to (1) maximize person throughput in the Corridor; and (2) implement multimodal improvements to: (i) improve mobility along the Corridor, (ii) support new,

diverse travel choices, and (iii) enhance transportation safety and travel reliability, all of which are reasonably expected to benefit the users of the Corridor toll paying users of the I-95/I-395 Project;

WHEREAS, the MOA provides for the transfer to and use by NVTC and PRTC of the ATI funds for the implementation of Projects selected by NVTC and PRTC and approved by the CTB, as well as operating costs related to Projects, and NVTC and PRTC financing and debt service payments and any allowable costs related thereto;

WHEREAS, NVTC and PRTC have entered into an Agreement for Distribution and Allocation of I-395 ATI Funds dated January 28, 2019, under which NVTC shall serve on behalf of the Commissions as the recipient and administrator of all ATI funds disbursed to them, including administration of this Agreement on behalf of the Commissions;

WHEREAS, based on information provided by Recipient Entity in response to the Commissions' call for Projects, NVTC and PRTC have determined the Project set forth and described on Appendix A to this Agreement satisfies the requirements of Section II.C.1 of the MOA, and the provisions of § 33.2-309 of the Code of Virginia, 1950, as amended, and the CTB has approved use of the ATI funds to fund such Project;

WHEREAS, the ATI funds described in Appendix B to be provided by NVTC on behalf of the Commissions have been duly authorized and directed by Recipient Entity to finance the Project, and the Recipient Entity is authorized to enter into this Agreement and has authorized execution of it on its behalf;

WHEREAS, NVTC and PRTC agree that Recipient Entity will, itself or through its contractors or agents, design, construct, acquire and/or operate the Project or perform such other specific work for the Project and Recipient Entity agrees that it will perform or have performed, such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, the parties have concurred in the Recipient Entity's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, PRTC has authorized NVTC to approve execution of Standard Project Agreements on behalf of the Commissions, providing for NVTC's distribution of ATI funds to individual Recipient Entities for Projects that have been approved by the Commissions and the CTB; and

WHEREAS, NVTC's governing body and Recipient Entity's governing body have each authorized that their respective designee(s) execute this Agreement on their respective

behalf(s) as evinced by copies of each such entity's resolution or clerk's minutes which are appended hereto as Appendix E;

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Recipient Entity shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement. Recipient Entity expressly agrees that, for non-debt financed Projects, Recipient Entity must obligate the ATI funds to the cost of the Project within two (2) fiscal years and to expend the ATI funds within five (5) fiscal years of the first day of the fiscal year for which the funds for the Project were allocated by the CTB unless an extension has been approved by the Commissions and the CTB. In the event an extension is not approved by the Commissions and the CTB, then Recipient Entity shall release or return to NVTC all unexpended funds no later than 90 days after receipt of NVTC's written request for such release or return. If the Project is cancelled at any time, for any reason, before or after work has commenced, Recipient Entity shall immediately notify the Commissions in writing of the cancellation and shall immediately cease to incur Project costs. Concurrently, and in no event later than 90 days after the date of cancellation, Recipient Entity shall refund to NVTC 100% of all funds provided by the Commissions for the Project unless otherwise approved by the Commissions, and the CTB as necessary, and set forth in an amendment to this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, capital asset acquisitions, or operations, and all allowable expenses for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the ATI funds specified on Appendix B to pay any Project cost if the MOA or any applicable provision of law does not permit such Project cost to be paid with ATI funds. For transit, bikeshare and other operations projects that generate revenues, the Recipient Entity shall deduct revenues earned

from Project operations from any requests for reimbursement of operating expenses.

5. Recognize that, if the Project, as approved, contains “multiple phases” (as such “multiple phases” are defined for the Project on Appendix A), for which NVTC will provide funding for such multiple phases (as set forth on Appendix B), NVTC may not provide ATI funds to Recipient Entity to advance the Project to the next phase until the current phase is completed. In any circumstance where Recipient Entity seeks to advance a Project to the next phase using ATI funds, Recipient Entity shall submit a written request to NVTC’s Executive Director explaining the need for NVTC’s funding of an advanced phase. NVTC’s Executive Director, in consultation with the PRTC Executive Director, will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTC’s current and projected cash flow position, and the NVTC and PRTC Executive Directors will make a recommendation to NVTC and PRTC whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Recipient Entity from providing its own funds to advance a future phase of the Project and from requesting reimbursement from NVTC for having advance funded a future phase of the Project. However, Recipient Entity further recognizes that NVTC’s reimbursement to Recipient Entity for having advance funded a Project phase will be dependent upon NVTC’s cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.
6. Acknowledge that NVTC’s Executive Director will periodically update NVTC’s cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Recipient Entity shall provide all information required by NVTC so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTC requests for payment consistent with Appendix B and the most recently approved NVTC cash flow estimates that include NVTC’s standard payment requisition(s), containing detailed summaries of actual Project costs incurred with supporting documentation as required by NVTC and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement, include a manual signature of the individual authorized to submit the request, and be submitted electronically to reimbursements@novatransit.org. If approved by NVTC, Recipient Entity can expect to receive payment within twenty (20) business days upon receipt by NVTC. Approved payments will be

made by means of electronic transfer of funds from NVTC to or for the account of Recipient Entity.

8. Promptly notify NVTC's Executive Director of any additional Project costs resulting from unanticipated circumstances which costs exceed the amount allocated by the CTB for the Project, and provide to NVTC detailed estimates of additional costs associated with those circumstances. Recipient Entity understands that it will be within the Commissions' sole discretion, subject to CTB approval, whether to seek and to provide any additional funding to the Project in such circumstances and that the Commissions will do so only in accordance with the Commissions' approved Project selection process and upon formal action and approval by NVTC and PRTC. Recipient Entity shall timely provide to NVTC a complete and accurate update to Appendix B if the Commissions and the CTB approve funding of any additional Project costs for the Project under this Paragraph.
9. Submit a final reimbursement request for Project expenses and release or return any unexpended funds to NVTC no later than 90 days after Project completion. The final reimbursement request shall be accompanied by a certification to NVTC that Recipient Entity adhered to all applicable laws and regulations and all requirements of this Agreement.
10. Should Recipient Entity be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Recipient Entity shall certify to NVTC that all such matching funds have been either authorized and/or appropriated by Recipient Entity's governing body or have been obtained through another, independent funding source.
11. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Recipient Entity and provide copies of any such financial records to NVTC, free of charge, upon request.
12. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Recipient Entity; and provide to NVTC copies of all such drawings and plans free of charge, upon request.
13. Reimburse the Commissions for all ATI funds (with interest earned at the rate earned by NVTC) that Recipient Entity misapplied or used in contravention of the MOA or any term or condition of this Agreement.

14. Name the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents, or require that all Recipient Entity's contractors name the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents as additional insureds on any insurance policy issued for the work to be performed and/or services to be provided by or on behalf of Recipient Entity for the Project, and present NVTC with satisfactory evidence thereof before any work on the Project commences or continues, so that they are protected from and against any losses actually suffered or incurred, except for losses to the extent caused by the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by Recipient Entity to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this Agreement, or any breach by Recipient Entity of its representations or warranties in this Agreement; (b) any actual or willful misconduct or negligence of Recipient Entity, its employees or agents in direct connection with the Projects; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents proprietary information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by Recipient Entity in direct connection with the Project; (d) inverse condemnation, trespass, nuisance or similar taking of or harm to real property committed or caused by Recipient Entity, its employees or agents in direct connection with the Project; or (e) any assumed liabilities. Recipient Entity will contractually require its contractors, subcontractors, vendors and other third parties working or performing services related to any Project funded by ATI funds to indemnify the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees and agents from the same losses.
15. Recipient Entity covenants and agrees it will comply with all applicable requirements of state and federal laws relating to anti-discrimination, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, and shall contractually require the same of all contractors, subcontractors, vendors, and recipients of any funding. Recipient Entity recognizes the importance of the participation of minority, women-owned and small businesses through the federal and local Disadvantaged Business Enterprise programs and will abide by such programs in implementing the Project. Recipient Entity shall comply with all applicable federal requirements, including those applicable to highways that are part of the National Highway System.

16. Give notice to NVTC that Recipient Entity may use ATI funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTC's in-house legal counsel) in connection with the work performed under this Agreement so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to the Commissions that, upon final payment to all contractors for the Project, Recipient Entity will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will either of the Commissions be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Recipient Entity.
19. Acknowledge that if the Project is being funded in whole or in part by NVTC or PRTC Bond Proceeds, comply with the applicable tax covenants as may be attached as Appendix D.
20. Acknowledge that if Recipient Entity expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Recipient Entity agrees to comply with VDOT's "Standards, Requirements and Guidance" applicable to the Project.
21. Recognize that Recipient Entity is solely responsible for obtaining all permits, permissions and regulatory approval necessary to develop, construct, operate and/or maintain the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Recipient Entity is funding the Project, in whole or in part, with federal and/or state funds, in addition to ATI funds and/or NVTC or PRTC Bond Proceeds, that Recipient Entity will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledge that neither NVTC nor PRTC will be a party or signatory to that agreement; nor will NVTC or PRTC have any obligation to comply with the requirements of that agreement.
23. Provide quarterly (January 30th, April 30th, July 30th, and October 30th) written status updates on all approved, active Projects to NVTC on all items described in the Recipient's Project application including progress toward milestones

and/or statistics including such information as ridership and/or percent completion.

24. Assist the Commissions in the preparation of the annual report to the CTB required by the MOA, by providing data in regard to the Project performance measures identified on Appendix A of this Agreement, as well as other reporting as may be requested or required by the Commissions.
25. To the greatest extent possible, include the Commuter Choice logo and recognition of Project funding source as being from the Commuter Choice Program, in a form approved by the Commissions, in all publicly-available materials, documents, websites, etc.

B. NVTC's Obligations

NVTC shall:

1. Provide to Recipient Entity the funding authorized by the Commissions for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s), and operations, and all allowable expenses, net of any revenue generated by the Project, on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in Appendix B to this Agreement or the most updated amendment thereto.
2. Assign a Program Coordinator for the Project. NVTC's Program Coordinator will be responsible for monitoring the Project on behalf of NVTC so as to ensure compliance with this Agreement and the MOA, and all NVTC's requirements and for overseeing, managing, reviewing, and processing, in consultation with NVTC's Executive Director and its Director of Finance and Administration (DFA), all payment requisitions submitted by Recipient Entity for the Project. NVTC's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTC's assigned Program Coordinator all Recipient Entity's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTC for the Project. After submission to NVTC, NVTC's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's sufficiency. NVTC's Program Coordinator will then make a recommendation to the NVTC's DFA and Executive Director whether to

authorize payment, refuse payment, or seek additional information from Recipient Entity. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) business days from receipt. If the payment requisition is deemed insufficient, within twenty (20) business days from receipt, NVTC will notify Recipient Entity in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTC have been corrected. Under no circumstances will NVTC authorize payment for any work performed by or on behalf of Recipient Entity that is not in conformity with the requirements of this Agreement or the MOA.

4. Route all Recipient Entity's supplemental requests for funding from NVTC under Paragraphs A.5 and A.8 of this Agreement to NVTC's Executive Director. NVTC's Executive Director will initially review those requests and all supporting documentation with NVTC's DFA. After such initial review and consultation with PRTC's Executive Director, NVTC's and PRTC's Executive Directors will make a recommendation to the Commissions' Joint Working Group for its independent consideration and review of whether CTB approval of, and an allocation for, supplemental funding should be sought. The Commissions' Joint Working Group will thereafter make a recommendation on any such request to NVTC and PRTC for final determination by the Commissions, and approval by the CTB.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the MOA, and other applicable law. Such compliance reviews may entail review of Recipient Entity's financial records for the Project and on-site inspections.
6. Acknowledge that if, as a result of NVTC's review of any payment requisition or of any NVTC compliance review, NVTC staff determines that Recipient Entity has misused or misapplied any ATI funds in derogation of this Agreement or in contravention of the MOA or applicable law, NVTC staff will promptly advise NVTC's Executive Director and will advise Recipient Entity's designated representative in writing. Recipient Entity will thereafter have thirty (30) days to respond in writing to NVTC's initial findings. NVTC's Executive Director will review Recipient Entity's response and consult with the PRTC Executive Director, and thereafter the Commissions' Executive Directors will make a recommendation to the Commissions' Joint Working Group which will, in turn, make a recommendation to NVTC and PRTC for a final determination. Pending final resolution of the matter, NVTC will withhold further funding of the Project. If NVTC and PRTC make a final determination

that Recipient Entity has misused or misapplied funds in contravention of this Agreement, the MOA, or other applicable law, NVTC will cease further funding for the Project and the Commissions will seek reimbursement from Recipient Entity of all funds previously remitted by NVTC (with interest earned at the rate earned by NVTC) which were misapplied or misused by Recipient Entity. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Recipient Entity to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties and, unless terminated in accordance with the express provisions hereof, shall continue until completion of the Project and final payment of ATI funds hereunder, with the exception of those provisions which, by their express terms, survive termination.
2. Recipient Entity may terminate this Agreement, for cause, in the event of a material breach by NVTC or PRTC of this Agreement. If so terminated, NVTC shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Recipient Entity to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds, or CTB's failure to allocate, or VDOT's failure to distribute to NVTC and PRTC as described in paragraph F of this Agreement shall not be considered material breaches of this Agreement by NVTC or PRTC. Before initiating any proceedings to terminate under this Paragraph, Recipient Entity shall give NVTC and PRTC sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTC and PRTC an opportunity to investigate and cure any such alleged breach.
3. NVTC may terminate this Agreement, for cause, resulting from Recipient Entity's material breach of this Agreement. If so terminated, Recipient Entity shall refund to NVTC all funds NVTC provided to Recipient Entity for the Project (including interest earned at the rate earned by NVTC). NVTC will provide Recipient Entity with sixty (60) days written notice that NVTC is exercising its rights to terminate this Agreement and the reasons for

termination. Prior to termination, Recipient Entity may request that the Commissions excuse Recipient Entity from refunding all funds NVTC provided to Recipient Entity for the Project based upon Recipient Entity's substantial completion of the Project or severable portions thereof; and the Commissions may, in their sole discretion, excuse Recipient Entity from refunding all or a portion of the funds NVTC provided to Recipient Entity for the Project. No such request to be excused from refunding will be allowed where Recipient Entity has either misused or misapplied ATI funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, Recipient Entity will release or return to NVTC all unexpended ATI funds with interest earned at the rate earned by NVTC no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTC's Executive Director, in consultation with PRTC's Executive Director, and Recipient Entity's Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTC and PRTC and to Recipient Entity's governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. Commissions' Entitlement to Refund of Value of Project Assets

Recipient Entity agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by ATI funds under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. In the event that Recipient Entity fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Recipient Entity shall refund to the Commissions, with interest at the rate earned by NVTC, the amount of the value of each of the Project Assets, whether any such Project Asset may have depreciated or appreciated throughout its respective useful life, proportionate to the amount of the cost of the Project Asset funded by the Commissions under this Agreement. If Recipient Entity refuses or fails to refund said monies, the Commissions may recover the proportionate value from Recipient Entity by pursuit of any remedies available to the Commissions, including but not limited to the Commissions withholding of

commensurate amounts from future distributions of ATI funds to Recipient Entity. In no event shall the Recipient Entity be obligated to refund the aforesaid value to both the Commissions and the Commonwealth.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all ATI funds provided by NVTC and PRTC pursuant to the MOA are subject to appropriation by the Virginia General Assembly, allocation by the CTB and distribution by VDOT. The parties further acknowledge that the Commissions' obligations under this Agreement are subject to such funds being appropriated by the General Assembly, allocated by the CTB and distributed by VDOT and DRPT to NVTC and PRTC.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTC, to the attention of its Executive Director;
2300 Wilson Blvd., Suite 230
Arlington, VA 22201

- 2) to: **Fairfax County**,
to the attention of Tom Biesiadny, Director, Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax County, VA 22033 (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Recipient Entity represents that it is not acting as a partner or agent of NVTC or PRTC; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

The provisions of this Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Commission and
Potomac and Rappahannock Transportation Commission

By: _____
Katherine A. Mattice
NVTC Executive Director

Date: _____

Fairfax County

By: _____

Date: _____

Appendix A –Project Description and Performance Measures

Project Number: 059-31-22

Project Title: Renewal of Route 396 Express Bus Service: Backlick North Park and Ride to Pentagon

Recipient Entity: Fairfax County

Annual Transit Investment Funds: \$1,386,000

Project Description

Initially funded in Round One (FY 2020-FY 2021) of Commuter Choice on the I-395/95 corridor, this project provides continued support for 12 inbound morning and 14 outbound evening express bus trips between the Backlick North Park and Ride Lot in Springfield and the transit center at the Pentagon.

Project opening year inbound AM peak period increase in person throughput that was the basis for project evaluation: 177 persons.

Performance Measures and Reporting

Performance Measures

Report average daily and morning peak-period inbound weekday ridership.

Collection Period

Report daily boardings collected over a two-week period in March or April. Chosen period should not include any holiday periods and the weekday average should be calculated from Tuesdays, Wednesdays, and Thursdays during the period.

Reporting

Report data to NVTC in a technical memorandum outlining the following:

1. Data collection methodology
2. Data collection dates
3. Results – data
4. Notes (if necessary)

Reports are due each July 30th or as otherwise identified by NVTC. Submit reports by email to Ben Owen at NVTC at benowen@novatransit.org.

APPENDIX B - PROJECT BUDGET & CASH FLOW

Project Title:	Renewal of Route 396 Express Bus Service: Backlick North Park and Ride to Pentagon	Project Number:	059-31-22
Recipient Entity:	Fairfax County	Revision Number:	
Recipient Contact:		Revision Date:	
Name	Malcolm Watson		
Email	malcolm.watson@fairfaxcounty.gov		
Phone	703-877-5631		

TABLE B-1 PROJECT BUDGET

Project Type	Total Project Budget	Funding Sources		Source of Other Funds
		Approved NVTC Toll Revenue Funds	Other Funds (if applicable)	
Study	\$ -	\$ -	\$ -	
Preliminary Engineering (PE)	\$ -	\$ -	\$ -	
Right-of-Way (ROW)	\$ -	\$ -	\$ -	
Construction (CN)	\$ -	\$ -	\$ -	
Capital Asset Acquisition	\$ -	\$ -	\$ -	
Other	\$ 25,467	\$ 25,467	\$ -	
Transit Operating Costs	\$ 1,766,926	\$ 1,360,533	\$ 406,393	
All Other Operating Costs	\$ -	\$ -	\$ -	
Total	\$ 1,792,393	\$ 1,386,000	\$ 406,393	

TABLE B-2 NVTC PROJECT FUNDS PROGRAMMED

Project Type	FY2022
Study	\$ -
Preliminary Engineering (PE)	\$ -
Right-of-Way (ROW)	\$ -
Construction (CN)	\$ -
Capital Asset Acquisition	\$ -
Other	\$ 25,467
Transit Operating Costs	\$ 1,360,533
All Other Operating Costs	\$ -
Total	\$ 1,386,000

TABLE B-3 QUARTERLY PROJECT CASH FLOW FOR NVTC TOLL REVENUE FUNDS ONLY

Quarter	FY2022	FY2023	FY2024	FY2025	FY2026
1st, September 30th	-	173,250	173,250	-	-
2nd, December 31st	-	173,250	173,250	-	-
3rd, March 31st	173,250	173,250	-	-	-
4th, June 30th	173,250	173,250	-	-	-
Total	\$ 346,500	\$ 693,000	\$ 346,500	\$ -	\$ -

**Standard Project Agreement for the I-95/I-395 Project,
Annual Transit Investment Funding of Projects and Administration**

**Between the Northern Virginia Transportation Commission,
the Potomac and Rappahannock Transportation Commission, and**

Fairfax County

Commission Project Number: **059-32-22**

Commission Project Name: **Enhanced Bus Service for Route 371: Lorton to Franconia -
Springfield Metro Station**

This Standard Project Agreement for the I-95/I-395 Project, Annual Transit Investment Funding of Projects and Administration ("Agreement") is made and executed in duplicate on this____ day of _____, 20__, by and between the Northern Virginia Transportation Commission ("NVTC") on behalf of itself and the Potomac and Rappahannock Transportation Commission ("PRTC"), (collectively the "Commissions") and **Fairfax County** ("Recipient Entity").

WITNESSETH

WHEREAS, NVTC and PRTC are political subdivisions of the Commonwealth of Virginia created by the General Assembly in accordance with the Transportation District Act of 1964, §§ 33.2-1900 et seq. of the Code of Virginia, 1950, as amended, and are authorized to enter into this Agreement by the provisions of § 33.2-1915 and 1919 of the Code of Virginia, 1950, as amended;

WHEREAS, on December 20, 2017, NVTC and PRTC entered into a Memorandum of Agreement regarding the annual transit investment ("ATI") from the 395 HOT Lanes ("MOA"), with the Commonwealth Transportation Board ("CTB"), the Virginia Department of Transportation ("VDOT"), and the Virginia Department of Rail and Public Transportation ("DRPT"), as such MOA may be amended from time to time, which MOA delegated to NVTC and PRTC the authority to select and administer the implementation of multimodal transportation improvements to the roadways and associated transportation and transit facilities ("ATI-Funded Projects" as used in the MOA and, for purposes of this Agreement, "Projects") in the stretch of Interstates 95 and 395 along which 95 Express Lanes, LLC (the "Concessionaire") operates and maintains high-occupancy toll lanes ("HOT Lanes"), including Route 1, Virginia Railway Express, and other adjacent and nearby routes (the "Corridor"), which Projects are designed to attain the Improvement Goals defined in the MOA, specifically, to (1) maximize person throughput in the Corridor; and (2) implement multimodal improvements to: (i) improve mobility along the Corridor, (ii) support new,

diverse travel choices, and (iii) enhance transportation safety and travel reliability, all of which are reasonably expected to benefit the users of the Corridor toll paying users of the I-95/I-395 Project;

WHEREAS, the MOA provides for the transfer to and use by NVTC and PRTC of the ATI funds for the implementation of Projects selected by NVTC and PRTC and approved by the CTB, as well as operating costs related to Projects, and NVTC and PRTC financing and debt service payments and any allowable costs related thereto;

WHEREAS, NVTC and PRTC have entered into an Agreement for Distribution and Allocation of I-395 ATI Funds dated January 28, 2019, under which NVTC shall serve on behalf of the Commissions as the recipient and administrator of all ATI funds disbursed to them, including administration of this Agreement on behalf of the Commissions;

WHEREAS, based on information provided by Recipient Entity in response to the Commissions' call for Projects, NVTC and PRTC have determined the Project set forth and described on Appendix A to this Agreement satisfies the requirements of Section II.C.1 of the MOA, and the provisions of § 33.2-309 of the Code of Virginia, 1950, as amended, and the CTB has approved use of the ATI funds to fund such Project;

WHEREAS, the ATI funds described in Appendix B to be provided by NVTC on behalf of the Commissions have been duly authorized and directed by Recipient Entity to finance the Project, and the Recipient Entity is authorized to enter into this Agreement and has authorized execution of it on its behalf;

WHEREAS, NVTC and PRTC agree that Recipient Entity will, itself or through its contractors or agents, design, construct, acquire and/or operate the Project or perform such other specific work for the Project and Recipient Entity agrees that it will perform or have performed, such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, the parties have concurred in the Recipient Entity's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, PRTC has authorized NVTC to approve execution of Standard Project Agreements on behalf of the Commissions, providing for NVTC's distribution of ATI funds to individual Recipient Entities for Projects that have been approved by the Commissions and the CTB; and

WHEREAS, NVTC's governing body and Recipient Entity's governing body have each authorized that their respective designee(s) execute this Agreement on their respective

behalf(s) as evinced by copies of each such entity's resolution or clerk's minutes which are appended hereto as Appendix E;

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Recipient Entity shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement. Recipient Entity expressly agrees that, for non-debt financed Projects, Recipient Entity must obligate the ATI funds to the cost of the Project within two (2) fiscal years and to expend the ATI funds within five (5) fiscal years of the first day of the fiscal year for which the funds for the Project were allocated by the CTB unless an extension has been approved by the Commissions and the CTB. In the event an extension is not approved by the Commissions and the CTB, then Recipient Entity shall release or return to NVTC all unexpended funds no later than 90 days after receipt of NVTC's written request for such release or return. If the Project is cancelled at any time, for any reason, before or after work has commenced, Recipient Entity shall immediately notify the Commissions in writing of the cancellation and shall immediately cease to incur Project costs. Concurrently, and in no event later than 90 days after the date of cancellation, Recipient Entity shall refund to NVTC 100% of all funds provided by the Commissions for the Project unless otherwise approved by the Commissions, and the CTB as necessary, and set forth in an amendment to this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, capital asset acquisitions, or operations, and all allowable expenses for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the ATI funds specified on Appendix B to pay any Project cost if the MOA or any applicable provision of law does not permit such Project cost to be paid with ATI funds. For transit, bikeshare and other operations projects that generate revenues, the Recipient Entity shall deduct revenues earned

from Project operations from any requests for reimbursement of operating expenses.

5. Recognize that, if the Project, as approved, contains “multiple phases” (as such “multiple phases” are defined for the Project on Appendix A), for which NVTC will provide funding for such multiple phases (as set forth on Appendix B), NVTC may not provide ATI funds to Recipient Entity to advance the Project to the next phase until the current phase is completed. In any circumstance where Recipient Entity seeks to advance a Project to the next phase using ATI funds, Recipient Entity shall submit a written request to NVTC’s Executive Director explaining the need for NVTC’s funding of an advanced phase. NVTC’s Executive Director, in consultation with the PRTC Executive Director, will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTC’s current and projected cash flow position, and the NVTC and PRTC Executive Directors will make a recommendation to NVTC and PRTC whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Recipient Entity from providing its own funds to advance a future phase of the Project and from requesting reimbursement from NVTC for having advance funded a future phase of the Project. However, Recipient Entity further recognizes that NVTC’s reimbursement to Recipient Entity for having advance funded a Project phase will be dependent upon NVTC’s cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.
6. Acknowledge that NVTC’s Executive Director will periodically update NVTC’s cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Recipient Entity shall provide all information required by NVTC so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTC requests for payment consistent with Appendix B and the most recently approved NVTC cash flow estimates that include NVTC’s standard payment requisition(s), containing detailed summaries of actual Project costs incurred with supporting documentation as required by NVTC and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement, include a manual signature of the individual authorized to submit the request, and be submitted electronically to reimbursements@novatransit.org. If approved by NVTC, Recipient Entity can expect to receive payment within twenty (20) business days upon receipt by NVTC. Approved payments will be

made by means of electronic transfer of funds from NVTC to or for the account of Recipient Entity.

8. Promptly notify NVTC's Executive Director of any additional Project costs resulting from unanticipated circumstances which costs exceed the amount allocated by the CTB for the Project, and provide to NVTC detailed estimates of additional costs associated with those circumstances. Recipient Entity understands that it will be within the Commissions' sole discretion, subject to CTB approval, whether to seek and to provide any additional funding to the Project in such circumstances and that the Commissions will do so only in accordance with the Commissions' approved Project selection process and upon formal action and approval by NVTC and PRTC. Recipient Entity shall timely provide to NVTC a complete and accurate update to Appendix B if the Commissions and the CTB approve funding of any additional Project costs for the Project under this Paragraph.
9. Submit a final reimbursement request for Project expenses and release or return any unexpended funds to NVTC no later than 90 days after Project completion. The final reimbursement request shall be accompanied by a certification to NVTC that Recipient Entity adhered to all applicable laws and regulations and all requirements of this Agreement.
10. Should Recipient Entity be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Recipient Entity shall certify to NVTC that all such matching funds have been either authorized and/or appropriated by Recipient Entity's governing body or have been obtained through another, independent funding source.
11. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Recipient Entity and provide copies of any such financial records to NVTC, free of charge, upon request.
12. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Recipient Entity; and provide to NVTC copies of all such drawings and plans free of charge, upon request.
13. Reimburse the Commissions for all ATI funds (with interest earned at the rate earned by NVTC) that Recipient Entity misapplied or used in contravention of the MOA or any term or condition of this Agreement.

14. Name the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents, or require that all Recipient Entity's contractors name the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents as additional insureds on any insurance policy issued for the work to be performed and/or services to be provided by or on behalf of Recipient Entity for the Project, and present NVTC with satisfactory evidence thereof before any work on the Project commences or continues, so that they are protected from and against any losses actually suffered or incurred, except for losses to the extent caused by the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by Recipient Entity to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this Agreement, or any breach by Recipient Entity of its representations or warranties in this Agreement; (b) any actual or willful misconduct or negligence of Recipient Entity, its employees or agents in direct connection with the Projects; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents proprietary information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by Recipient Entity in direct connection with the Project; (d) inverse condemnation, trespass, nuisance or similar taking of or harm to real property committed or caused by Recipient Entity, its employees or agents in direct connection with the Project; or (e) any assumed liabilities. Recipient Entity will contractually require its contractors, subcontractors, vendors and other third parties working or performing services related to any Project funded by ATI funds to indemnify the Commissions and their respective Bond Trustees, the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees and agents from the same losses.
15. Recipient Entity covenants and agrees it will comply with all applicable requirements of state and federal laws relating to anti-discrimination, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, and shall contractually require the same of all contractors, subcontractors, vendors, and recipients of any funding. Recipient Entity recognizes the importance of the participation of minority, women-owned and small businesses through the federal and local Disadvantaged Business Enterprise programs and will abide by such programs in implementing the Project. Recipient Entity shall comply with all applicable federal requirements, including those applicable to highways that are part of the National Highway System.

16. Give notice to NVTC that Recipient Entity may use ATI funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTC's in-house legal counsel) in connection with the work performed under this Agreement so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to the Commissions that, upon final payment to all contractors for the Project, Recipient Entity will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will either of the Commissions be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Recipient Entity.
19. Acknowledge that if the Project is being funded in whole or in part by NVTC or PRTC Bond Proceeds, comply with the applicable tax covenants as may be attached as Appendix D.
20. Acknowledge that if Recipient Entity expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Recipient Entity agrees to comply with VDOT's "Standards, Requirements and Guidance" applicable to the Project.
21. Recognize that Recipient Entity is solely responsible for obtaining all permits, permissions and regulatory approval necessary to develop, construct, operate and/or maintain the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Recipient Entity is funding the Project, in whole or in part, with federal and/or state funds, in addition to ATI funds and/or NVTC or PRTC Bond Proceeds, that Recipient Entity will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledge that neither NVTC nor PRTC will be a party or signatory to that agreement; nor will NVTC or PRTC have any obligation to comply with the requirements of that agreement.
23. Provide quarterly (January 30th, April 30th, July 30th, and October 30th) written status updates on all approved, active Projects to NVTC on all items described in the Recipient's Project application including progress toward milestones

and/or statistics including such information as ridership and/or percent completion.

24. Assist the Commissions in the preparation of the annual report to the CTB required by the MOA, by providing data in regard to the Project performance measures identified on Appendix A of this Agreement, as well as other reporting as may be requested or required by the Commissions.
25. To the greatest extent possible, include the Commuter Choice logo and recognition of Project funding source as being from the Commuter Choice Program, in a form approved by the Commissions, in all publicly-available materials, documents, websites, etc.

B. NVTC's Obligations

NVTC shall:

1. Provide to Recipient Entity the funding authorized by the Commissions for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s), and operations, and all allowable expenses, net of any revenue generated by the Project, on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in Appendix B to this Agreement or the most updated amendment thereto.
2. Assign a Program Coordinator for the Project. NVTC's Program Coordinator will be responsible for monitoring the Project on behalf of NVTC so as to ensure compliance with this Agreement and the MOA, and all NVTC's requirements and for overseeing, managing, reviewing, and processing, in consultation with NVTC's Executive Director and its Director of Finance and Administration (DFA), all payment requisitions submitted by Recipient Entity for the Project. NVTC's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTC's assigned Program Coordinator all Recipient Entity's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTC for the Project. After submission to NVTC, NVTC's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's sufficiency. NVTC's Program Coordinator will then make a recommendation to the NVTC's DFA and Executive Director whether to

authorize payment, refuse payment, or seek additional information from Recipient Entity. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) business days from receipt. If the payment requisition is deemed insufficient, within twenty (20) business days from receipt, NVTC will notify Recipient Entity in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTC have been corrected. Under no circumstances will NVTC authorize payment for any work performed by or on behalf of Recipient Entity that is not in conformity with the requirements of this Agreement or the MOA.

4. Route all Recipient Entity's supplemental requests for funding from NVTC under Paragraphs A.5 and A.8 of this Agreement to NVTC's Executive Director. NVTC's Executive Director will initially review those requests and all supporting documentation with NVTC's DFA. After such initial review and consultation with PRTC's Executive Director, NVTC's and PRTC's Executive Directors will make a recommendation to the Commissions' Joint Working Group for its independent consideration and review of whether CTB approval of, and an allocation for, supplemental funding should be sought. The Commissions' Joint Working Group will thereafter make a recommendation on any such request to NVTC and PRTC for final determination by the Commissions, and approval by the CTB.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the MOA, and other applicable law. Such compliance reviews may entail review of Recipient Entity's financial records for the Project and on-site inspections.
6. Acknowledge that if, as a result of NVTC's review of any payment requisition or of any NVTC compliance review, NVTC staff determines that Recipient Entity has misused or misapplied any ATI funds in derogation of this Agreement or in contravention of the MOA or applicable law, NVTC staff will promptly advise NVTC's Executive Director and will advise Recipient Entity's designated representative in writing. Recipient Entity will thereafter have thirty (30) days to respond in writing to NVTC's initial findings. NVTC's Executive Director will review Recipient Entity's response and consult with the PRTC Executive Director, and thereafter the Commissions' Executive Directors will make a recommendation to the Commissions' Joint Working Group which will, in turn, make a recommendation to NVTC and PRTC for a final determination. Pending final resolution of the matter, NVTC will withhold further funding of the Project. If NVTC and PRTC make a final determination

that Recipient Entity has misused or misapplied funds in contravention of this Agreement, the MOA, or other applicable law, NVTC will cease further funding for the Project and the Commissions will seek reimbursement from Recipient Entity of all funds previously remitted by NVTC (with interest earned at the rate earned by NVTC) which were misapplied or misused by Recipient Entity. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Recipient Entity to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties and, unless terminated in accordance with the express provisions hereof, shall continue until completion of the Project and final payment of ATI funds hereunder, with the exception of those provisions which, by their express terms, survive termination.
2. Recipient Entity may terminate this Agreement, for cause, in the event of a material breach by NVTC or PRTC of this Agreement. If so terminated, NVTC shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Recipient Entity to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds, or CTB's failure to allocate, or VDOT's failure to distribute to NVTC and PRTC as described in paragraph F of this Agreement shall not be considered material breaches of this Agreement by NVTC or PRTC. Before initiating any proceedings to terminate under this Paragraph, Recipient Entity shall give NVTC and PRTC sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTC and PRTC an opportunity to investigate and cure any such alleged breach.
3. NVTC may terminate this Agreement, for cause, resulting from Recipient Entity's material breach of this Agreement. If so terminated, Recipient Entity shall refund to NVTC all funds NVTC provided to Recipient Entity for the Project (including interest earned at the rate earned by NVTC). NVTC will provide Recipient Entity with sixty (60) days written notice that NVTC is exercising its rights to terminate this Agreement and the reasons for

termination. Prior to termination, Recipient Entity may request that the Commissions excuse Recipient Entity from refunding all funds NVTC provided to Recipient Entity for the Project based upon Recipient Entity's substantial completion of the Project or severable portions thereof; and the Commissions may, in their sole discretion, excuse Recipient Entity from refunding all or a portion of the funds NVTC provided to Recipient Entity for the Project. No such request to be excused from refunding will be allowed where Recipient Entity has either misused or misapplied ATI funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, Recipient Entity will release or return to NVTC all unexpended ATI funds with interest earned at the rate earned by NVTC no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTC's Executive Director, in consultation with PRTC's Executive Director, and Recipient Entity's Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTC and PRTC and to Recipient Entity's governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. Commissions' Entitlement to Refund of Value of Project Assets

Recipient Entity agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by ATI funds under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. In the event that Recipient Entity fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Recipient Entity shall refund to the Commissions, with interest at the rate earned by NVTC, the amount of the value of each of the Project Assets, whether any such Project Asset may have depreciated or appreciated throughout its respective useful life, proportionate to the amount of the cost of the Project Asset funded by the Commissions under this Agreement. If Recipient Entity refuses or fails to refund said monies, the Commissions may recover the proportionate value from Recipient Entity by pursuit of any remedies available to the Commissions, including but not limited to the Commissions withholding of

commensurate amounts from future distributions of ATI funds to Recipient Entity. In no event shall the Recipient Entity be obligated to refund the aforesaid value to both the Commissions and the Commonwealth.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all ATI funds provided by NVTC and PRTC pursuant to the MOA are subject to appropriation by the Virginia General Assembly, allocation by the CTB and distribution by VDOT. The parties further acknowledge that the Commissions' obligations under this Agreement are subject to such funds being appropriated by the General Assembly, allocated by the CTB and distributed by VDOT and DRPT to NVTC and PRTC.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

1) to: NVTC, to the attention of its Executive Director;
2300 Wilson Blvd., Suite 230
Arlington, VA 22201

2) to: **Fairfax County**,
to the attention of Tom Biesiadny, Director, Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax County, VA 22033 (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Recipient Entity represents that it is not acting as a partner or agent of NVTC or PRTC; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

The provisions of this Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Commission and
Potomac and Rappahannock Transportation Commission

By: _____
Katherine A. Mattice
NVTC Executive Director

Date: _____

Fairfax County

By: _____

Date: _____

Appendix A –Project Description and Performance Measures

Project Number: 059-32-22

Project Title: Enhanced Bus Service for Route 371: Lorton to Franconia - Springfield Metro Station

Recipient Entity: Fairfax County

Annual Transit Investment Funds: \$2,496,529

Project Description

This project increases travel choices and mobility options by supporting bus service every 15 minutes on weekdays on the Fairfax Connector Route 371, which operates between the Lorton Park and Ride lot and the Franconia - Springfield Metrorail Station. Support for the project also includes purchasing a bus and adding four bike share stations to the Franconia - Springfield area to improve transit access and provide multimodal options between Metrorail and retail locations.

Project opening year inbound AM peak period increase in person throughput that was the basis for project evaluation: 66 persons.

Performance Measures and Reporting

Performance Measures

Report average daily and morning peak-period inbound weekday ridership on Route 371. Report average total morning peak-period bikeshare trips to or from the Franconia-Springfield Metrorail Station.

Collection Period

Report daily boardings collected over a two-week period in March or April. Chosen period should not include any holiday periods and the weekday average should be calculated from Tuesdays, Wednesdays, and Thursdays during the period. Provide baseline Route 371/372/373 ridership data for a comparable period before the increased service took effect.

Reporting

Report data to NVTC in a technical memorandum outlining the following:

1. Data collection methodology
2. Data collection dates
3. Results – data
4. Notes (if necessary)

Reports are due each July 30th or as otherwise identified by NVTC. Submit reports by email to Ben Owen at NVTC at benowen@novatransit.org.

APPENDIX B - PROJECT BUDGET & CASH FLOW

Project Title:	Enhanced Bus Service for Route 371: Lorton to Franconia - Springfield Metro Station	Project Number:	059-32-22
Recipient Entity:	Fairfax County	Revision Number:	
Recipient Contact:		Revision Date:	
Name	Malcolm Watson		
Email	malcolm.watson@fairfaxcounty.gov		
Phone	703-877-5631		

TABLE B-1 PROJECT BUDGET

Project Type	Total Project Budget	Funding Sources		Source of Other Funds
		Approved NVTC Toll Revenue Funds	Other Funds (if applicable)	
Study	\$ -	\$ -	\$ -	
Preliminary Engineering (PE)	\$ -	\$ -	\$ -	
Right-of-Way (ROW)	\$ -	\$ -	\$ -	
Construction (CN)	\$ -	\$ -	\$ -	
Capital Asset Acquisition	\$ 752,000	\$ 752,000	\$ -	
Other	\$ 85,000	\$ 85,000	\$ -	
Transit Operating Costs	\$ 1,811,211	\$ 1,539,529	\$ 271,682	
All Other Operating Costs	\$ 120,000	\$ 120,000	\$ -	
Total	\$ 2,768,211	\$ 2,496,529	\$ 271,682	

TABLE B-2 NVTC PROJECT FUNDS PROGRAMMED

Project Type	FY2022
Study	\$ -
Preliminary Engineering (PE)	\$ -
Right-of-Way (ROW)	\$ -
Construction (CN)	\$ -
Capital Asset Acquisition	\$ 752,000
Other	\$ 85,000
Transit Operating Costs	\$ 1,539,529
All Other Operating Costs	\$ 120,000
Total	\$ 2,496,529

TABLE B-3 QUARTERLY PROJECT CASH FLOW FOR NVTC TOLL REVENUE FUNDS ONLY

Quarter	FY2022	FY2023	FY2024	FY2025	FY2026
1st, September 30th	-		594,068	217,594	2,829
2nd, December 31st	-		594,068	217,594	-
3rd, March 31st	-		217,594	217,594	-
4th, June 30th	-		217,594	217,594	-
Total	\$ -	\$ -	\$ 1,623,324	\$ 870,376	\$ 2,829

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September 14, 2021

ACTION - 9

Endorsement of Recommendations to George Mason University on the Master Plan -
Phase One Progress Report (Braddock District)

ISSUE:

Board of Supervisors' (Board) endorsement of areas of interest to guide development by George Mason University (Mason) of its master plan.

RECOMMENDATION:

The County Executive recommends that the Board endorse the attached areas of interest.

TIMING:

Board action is requested on September 14, 2021, to meet the Board's direction and allow for the areas of interest to be incorporated into the George Mason University Master Plan.

BACKGROUND:

In 2020, George Mason University (Mason) began a process to update its system wide Master Plan. The purpose of the Master Plan process is to create a decision-making framework to guide program and land use changes on the three primary campuses in Northern Virginia located in Fairfax, Prince William, and Arlington Counties.

In July 2021, Mason published its Phase One Progress Report on the master plan effort (Attachment 1). The Phase One Progress Report reflects the data collection and analysis efforts to date related to space use and future needs, academic program information, and future projections on demographics and enrollment. The Phase One report does not include specific recommendations on building placement, instead it provides preliminary recommendations for how the Fairfax Campus layout and physical development may need to change to accommodate Mason's strategic vision and enrollment goals. Phase Two of the Mason Master Plan will involve more detailed physical planning for the Fairfax Campus and substantive recommendations for future site development.

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On July 27, 2021, the Board directed staff to draft a letter from Chairman McKay for the Board's review and endorsement no later than September 14, 2021, to outline areas of interest to Fairfax County as Mason develops the Phase Two Master Plan document. The primary areas of interest identified are:

- Ensuring that Mason adequately addresses the impact of increased growth at the Fairfax Campus through sustainable means, such as a stronger focus on walking, biking, and transit use in lieu of more automobile use. Ensuring appropriate mitigation, as needed, to the supporting public infrastructure, such as the transportation systems and public utilities.
- Encouraging any new growth to occur within the Core Campus area; generally, north of Braddock Road (Rt. 620) and east of Ox Road (Rt. 123).
- Supporting the preservation of most buffer areas around the Fairfax Campus and ensuring that there are appropriate transitions to residential neighborhoods.
- Supporting placemaking around an enhanced entrance at Roanoke River Road and Braddock Road, including improved pedestrian access. These improvements would allow for greater pedestrian and cyclist access to the adjacent commercial developments by Mason students, reducing automobile traffic, and creating an inviting entrance for community members to access campus amenities.
- Encouraging Mason to incorporate environmental and sustainability practices into its new buildings, design, and transportation systems. These could include net-zero energy standards for new construction, transitioning to an electric or non-carbon vehicle fleet, and improving the waterways and riparian buffers on campus to improve the quality and reduce the quantity of water exiting the site.

County staff in the Department of Economic Initiatives, Department of Planning and Development, Department of Transportation, and the Fairfax County Park Authority will continue to engage with Mason and other stakeholders to encourage that the County's areas of interest are adequately reflected in the adopted Master Plan for the Fairfax Campus.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

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ENCLOSED DOCUMENTS:

Attachment 1 – GMU Master Plan Phase One Progress Report can be found online at:

https://app.e-builder.net/public/fileview_fileview_act.aspx?portaltype=7&o={0c33363a-acb3-4aa9-afef-0fdeef4b95d4}

Attachment 2 – Letter Transmitting Board Endorsed Comments to George Mason University on the Mason Master Plan Phase One Progress Report

STAFF:

Rachel Flynn, Deputy County Executive

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

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

Rebecca Moudry, Director, Department of Economic Initiatives (DEI)

Michael Garcia, Chief, Transportation Planning Section, FCDOT

Leanna O'Donnell, Director, Planning Division, DPD

Scott Sizer, Manager, Catalytic Development Division, DEI



JEFFREY C. MCKAY
CHAIRMAN

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
BOARD OF SUPERVISORS
FAIRFAX, VIRGINIA 22035

Suite 530
12000 GOVERNMENT CENTER PARKWAY
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE 703- 324-2321
FAX 703- 324-3955

chairman@fairfaxcounty.gov

September 14, 2021

Mr. James W. Hazel,
Rector, Board of Visitors
George Mason University
4400 University Drive, MSN 3A1
Fairfax, VA 22030

Dear Rector Hazel,

On September 14, 2021, the Fairfax County Board of Supervisors reviewed and discussed the *George Mason University Master Plan Phase One Progress Report (Progress Report)*. On behalf of the Fairfax County Board of Supervisors, I would like to commend the work that George Mason University has accomplished on the first phase of your master planning process.

Your effort has been a transparent and stakeholder driven process, and importantly, it has been inclusive and open to members of the surrounding Fairfax County community. The seven town hall meetings, two updates to the Fairfax Campus and Community Advisory Board, interactive and engaging community surveys, and multiple stakeholder meetings demonstrate Mason's commitment to working collaboratively with Fairfax County as you seek to grow and continue the success that has led Mason to be the Number 1 "Young" University in the United States. I look forward to celebrating Mason's 50th Anniversary with you next year.

The growth and success of Mason over the past 50 years has mirrored the growth and success of Fairfax County as a whole. As we both look toward our futures, there is no doubt we are linked and Fairfax County is invested in a successful and vibrant George Mason University that will complement the growth and attractiveness of Fairfax County as a place to live, work, learn, and grow.

Mason is an anchor institution to our community. As Virginia's largest public research university, Mason has led the way in impactful learning. To Fairfax County, Mason's leadership in workforce development through the education of workforce ready talent, including those in high demand industries such as cyber-security and computer sciences, are key to the region's growth. Mason is also leading in the fight against the COVID-19 virus, through its recently awarded efforts with GO Virginia to improve COVID-19 symptom monitoring and tracking to facilitate safe return to the workplace.

The *Progress Report* provides a framework for making decisions regarding land use and capital improvements across Mason's three primary campuses.

While detailed physical planning and design proposals will be the focus of Master Plan Phase Two, there are three primary areas of interest that Fairfax County and community members have raised in response to the *Progress Report*. On behalf of the Fairfax County Board of Supervisors, I provide these thoughts and comments to aid our collaborative relationship and ensure that Mason's growth continues to be in concert with Fairfax County's vision for growth in the Braddock District.

Growth at the Fairfax Campus

Fairfax County is encouraged by and supportive of the fact that the Fairfax campus will remain Mason's core campus, and that there will be capital improvement programs to renovate or replace existing buildings and potentially construct new buildings to accommodate your continued growth and success.

The *Progress Report* is designed around a planning assumption of 4,000 additional in-person students (commuters and residents) and 340,000 – 880,000 gross square feet of new academic buildings across the three campuses, not including additional residential, retail, or recreational uses.

The 675-acre Fairfax Campus has most of the development located within a central core area, north of Braddock Road (Rt. 620) and east of Ox Road (Rt. 123), that is focused within a 10-minute walking distance and is referred to as the 'Fairfax Core Campus'.

While not all the development will occur at the Fairfax Campus, it is likely that a significant amount will. Most new construction in Fairfax should be focused within the Fairfax Core Campus, with compatible transitions provided to nearby residential neighborhoods. The impacts of new development within the Fairfax Campus must also mitigate impacts to the supporting public infrastructure, including transportation and transit networks and public utilities. To that end, GMU should focus on internal circulation and continue to expand its walkable/bikeable environment to reduce automobile traffic. I remain hopeful that the Master Plan will include multi-modal elements designed to help students and staff access the Fairfax Campus without driving. The area road network has limited capacity for additional vehicular traffic.

Relationship to Adjacent Land Uses

The Fairfax Core Campus is buffered from most adjacent land uses to the south and west. These buffers include mature trees and setbacks from the major roads and surface parking lots. Any new development and density should respect the scale and character of the surrounding community, with density, intensity, and building heights tapering outward from the Fairfax Core Campus.

These buffer areas should also include appropriate areas of transition and engagement between the Campus and the County. These areas could be thoughtfully developed with recreational spaces, gathering areas, and well designed 'entrances' to help orient students and community members to the areas of shared use.

Enhancing the existing entrance at Roanoke River Road and Braddock Road to be a more prominent and inviting gateway to the Fairfax Campus is encouraged. Development in this area

should include a vibrant mix of uses that draws people toward it. This is currently a major signalized pedestrian intersection that allows for Mason students to take advantage of the University Mall retail shopping center without having to use cars. The opportunity exists to transform this entrance into a well-designed gateway to the campus that is designed to include placemaking and wayfinding elements as well as enhanced pedestrian connectivity.

Any signage should be consistent with the Fairfax County Sign Ordinance to ensure that signage and monuments are in harmony with, and acceptable to, the surrounding community.

Enhanced Environmental Elements

The Fairfax Campus sits on 675-acres and has over 100 existing buildings, with a significant amount of the site remaining in open space. The opportunity exists to enhance these ecological corridors and natural habitats. The Master Plan provides Mason with the opportunity to focus on the waterways and riparian buffers to retain more water on site, improve the quality and reduce the quantity of water exiting the site, as well as the opportunity to create new walking paths to serve as an amenity to students and adjacent residential neighbors.

I am proud that Fairfax County is a leader in committing to become carbon neutral by 2040. This policy has set specific targets to decrease the energy use of county facilities by 50% by 2040, seek net-zero energy standards for new buildings and major renovations, and commit to the transition to an electric or other non-carbon vehicle fleet. I would encourage Mason to pursue these same goals as you renovate and transform your campus.

Thank you in advance for your continued collaboration with the Fairfax Campus and Community Advisory Board, Fairfax County Board of Supervisors, and broader Fairfax County community. Should you have any questions or need additional information on the comments provided above, please contact Scott Sizer with the Fairfax County Department of Economic Initiatives.

I appreciate this opportunity to participate and comment on Mason's Master Plan. I look forward to working together as Mason enters its next 50 years of growth and prosperity.

Sincerely,

Jeffery C. McKay, Chairman,
Fairfax County Board of Supervisors

cc: Fairfax County Board of Supervisors
Dr. Gregory Washington, President, George Mason University (GMU)
Bryan J. Hill, County Executive, Fairfax County
Carol Dillon Kissal, Senior Vice President for Administration and Finance, GMU
Rachel Flynn, Deputy County Executive for Community Development, Fairfax County
Paul Liberty, Vice President, Government and Community Relations, GMU
Barbara Byron, Director, Department of Planning and Development, Fairfax County
Tobi Walsh, Assistant Vice President, Capital Strategy and Planning, GMU
Scott Sizer, Department of Economic Initiatives, Fairfax County

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ACTION - 10

Approval of a Resolution Endorsing Projects Being Submitted for FY 2027 and FY 2028 Virginia Department of Transportation Revenue Sharing Program Funds (Braddock, Springfield, and Providence Districts)

ISSUE:

Board approval of a resolution endorsing two transportation projects, Fairfax County Parkway Widening and Lincoln Street (Attachment 1), is requested, so that the Fairfax County Department of Transportation (FCDOT) can apply for Virginia Department of Transportation (VDOT) FY 2027 and FY 2028 Revenue Sharing Program Funds.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the resolution, substantially in the form of Attachment 1, endorsing two Fairfax County transportation projects for submission to the FY2027 and FY 2028 Revenue Sharing program.

TIMING:

Board approval is requested on September 14, 2021, to meet the submission deadline of October 1, 2021.

BACKGROUND:

The Revenue Sharing program is administered by VDOT, in cooperation with the participating localities, under the authority of Section 33.2-357 of the *Code of Virginia* and the Commonwealth Transportation Board (CTB) Revenue Sharing Program Policy. Through the biennial application cycle, an annual allocation of funds for this program is designated by the Commonwealth Transportation Board.

The Revenue Sharing Program provides additional funding for use by a county, city, or town to construct, reconstruct, improve or maintain the highway systems within such county, city, or town, and for eligible rural additions in certain counties of the Commonwealth. Funds provided by localities are matched, dollar for dollar, with state Revenue Sharing funds, with statutory limitations on the amount of state funds authorized per locality.

These local funds may be equally matched, up to \$10,000,000 per project, by Revenue

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Sharing funds. CTB policy caps the annual allocations to localities at \$5,000,000 per year. Therefore, if awarded, these funds result in a net increase of state funds available for transportation projects in the County. Revenue Sharing funds may also be combined with other funds currently programmed for projects contained in VDOT's Six Year Improvement Plan.

The two projects for which the Department of Transportation recommends seeking Revenue Sharing Program Funds are: 1) Fairfax County Parkway Widening (Nomes Court to Route 29); and 2) Lincoln Street (New Connection). The Code of Virginia specifies that the CTB first give priority to projects that have previously received funds through this program. As both these projects have previously been approved for Revenue Sharing, they are best suited to compete for the limited amount of revenues that will be available for the FY 2027-2028 program.

- The Fairfax County Parkway (Nomes Court to Route 29) project will widen this segment of the Fairfax County Parkway from four to six lanes. The purpose of the project is to relieve congestion and improve safety by increasing capacity along the Fairfax County Parkway. In addition, the project will improve or provide pedestrian and bicycle amenities along the widening segment. The total cost estimate for the project is approximately \$108,200,000.
- The Lincoln Street project will provide a connection between Old Meadow Road and Magarity Road in Tysons, just north of Westgate Elementary School, to facilitate placemaking, expand the grid of streets, and accommodate residents and the growing workforce within the Tysons East area. The project will include bicycle and pedestrian facilities. The total cost estimate for the project is approximately \$39,961,000.

Both projects were submitted for Revenue Sharing during the last round of funding applications and received partial funding. The requests below would allow the projects to receive up to the maximum amount of the total amount allowed to be requested through the program. Both projects are also listed in the County's updated Transportation Priorities Plan, which was approved by the Board on December 3, 2019.

Rank	Project	Revenue Sharing Request (up to)
1	Fairfax County Parkway Widening (Nomes Court to Route 29)	\$5,057,000
2	Lincoln Street (New Connection)	\$6,846,000

Staff recommends submitting both projects for Revenue Sharing consideration by October 1, 2021.

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FISCAL IMPACT:

There is no anticipated fiscal impact on the General Fund for these projects. Should the projects be funded, funding for the local match for both projects listed above will be provided by Fund 40010, County and Regional Transportation. FCDOT will continue to pursue additional grant awards to support the remaining funding needed for these projects until they are fully funded.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of Endorsement of Projects Being Submitted for FY2027-FY2028 Revenue Sharing Program

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Todd Minnix, Chief, Transportation Design Division, FCDOT
Ray Johnson, Chief Funding Section, FCDOT
Noelle Dominguez, Chief Coordination Section, FCDOT
Brent Riddle, Transportation Planner, Coordination and Funding Division, FCDOT
Malcolm Watson, Transportation Planner, Coordination and Funding Division, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, Fairfax County desires to submit applications for allocation of funds totaling \$10,000,000, including the required dollar for dollar Local Cash Match (LCM), through the Virginia Department of Transportation's (VDOT) Fiscal Year 2027-2028, Revenue Sharing Program; and,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses and approves submissions by the County's Department of Transportation to VDOT's Fiscal Year 2027-2028 Revenue Sharing Program, for the following projects with requested amounts not to exceed:

- Fairfax County Parkway Widening (Nomes Court to Route 29): \$10,114,000 request with \$5,057,000 as LCM.
- Lincoln Street (New Road Connection): \$13,692,000 request with \$6,846,000 as LCM.

Adopted this 14th day of September 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

ACTION - 11

Approval of a Resolution Endorsing Projects Being Submitted to the Northern Virginia Transportation Authority for Fiscal Year 2022 to Fiscal Year 2027 Regional Funding

ISSUE:

Board approval of a resolution (Attachment 1) authorizing the Fairfax County Department of Transportation (FCDOT) to apply to the Northern Virginia Transportation Authority (NVTA) for FY 2022 to FY2027 regional transportation funding, and supporting other projects submitted by other jurisdictions and agencies that benefit Fairfax County. Projects submitted by Fairfax County are either included in the Transportation Priorities Plan (TPP) adopted by the Board of Supervisors on December 3, 2019, or have been otherwise previously approved by the Board.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (1) approve a resolution (Attachment 1) endorsing Fairfax County's, and other localities, project submissions for NVTA's regional funding program; and (2) authorize the Department of Transportation to submit the related applications.

TIMING:

Board of Supervisors' approval is requested on September 14, 2021, to meet the NVTA submission deadline of October 1, 2021. NVTA is expected to approve projects for its regional transportation funding in July 2022.

BACKGROUND:

At its meeting on June 19, 2021, NVTA approved the Call for Regional Transportation Projects for the FY 2022–2027 Six Year Program (SYP) Update. The majority of this funding will be provided in the last two years of the program (FY 2026 and FY 2027), as the last SYP provided funding through FY 2025. Funding for these capital projects is provided by NVTA's 70 percent share of regional revenues that NVTA retains. Project applications are due to NVTA on October 1, 2021, with any supporting resolutions due by December 3, 2021.

All projects considered for regional revenues are subject to a regional evaluation process that uses multiple inputs, including:

- Eligibility - Projects must be included in TransAction, NVTA's long-range transportation plan (may be a subset) and must be wholly or substantially located

in Northern Virginia.

- Quantitative Analyses
 - Congestion Reduction Relative to Cost (CRRC) - The Code of Virginia requires the Authority to give priority to projects expected to provide the greatest congestion relief relative to cost;
 - TransAction Ratings. Project level ratings based on technical analyses from the current TransAction (adopted in October 2017). These ratings have previously been referred to as HB599 project ratings. The FY2022-2027 SYP Update will continue the process with NVTa having full autonomy over these project ratings, as allowed by the Code of Virginia; and
 - Long Term Benefit (LTB) - The Code of Virginia provides that each locality's total long-term benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority. NVTa will continue to consider Long Term Benefit as a factor and NVTa staff will apply the Principles approved by the Authority in December 2014. This analysis will complement, but not replace, 'geographic balance' that has been used as a qualitative consideration in previous funding programs;
- Qualitative Considerations - Takes into account factors that cannot easily be considered in a formula, such as geographic and modal balance; leveraging of other funding sources, project readiness, and past performance.
- Public Comment - An NVTa Public Hearing/Open House will be held, with a period for public comment and possible Town Hall meetings, etc.

Projects recommended for NVTa consideration for the FY 2022-2027 SYP are included in Attachment 2. The total amount of NVTa regional funding expected to be available during this time is currently unknown. However, the amount allocated during the last SYP update was approximately \$540 million. Fairfax County's total request for FY 2022-2027 funding from NVTa is approximately \$620 million. While staff will be submitting these applications through this program, they will continue to actively seek additional funding through other sources.

County staff recommends the following projects for submission to NVTa for regional funding consideration in an amount not to exceed the "Proposed Funding Request". While each project is scored and ranked based on several criteria, NVTa has also requested that each applicant prioritize their requests. Staff's suggested priority is indicated to the right of each project.

Table 1 – List of Proposed Projects for NVTa Regional Funding

Project Title/TransAction ID	Current Cost Estimate In \$ Millions	Proposed Funding Request In \$ Millions (up to)	Priority
Richmond Highway Widening (Mt Vernon Memorial Highway to Sherwood Hall Lane) /214	415.0	80.0	1
Richmond Highway Bus Rapid Transit (BRT, Huntington Metrorail Station to Fort Belvoir) / 39	730.0	100.0	2
Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass) / 7	235.0	75.0	3
Frontier Drive Extension / 84	180.0	150.0	4
Fairfax County Parkway Widening (Nomes Court to Route 123) / 57	108.2	108.2	5
Seven Corners Ring Road (Phase 1A/Segment 1A) / 18	94.8	94.8	6
Fairfax Connector Buses for Tysons to Franconia Service / 331	10.0	10.0	7
TOTAL MAXIMUM REQUEST		618.0	

Other projects of local interest requesting Fairfax County endorsement for submission that could benefit Fairfax County include:

- City of Fairfax –
 - John Mason Trail – Construction of an approximately one-mile off-road trail, which would create a shortcut around the Pickett Road and Main Street intersection, connecting neighborhoods to Daniels Run Trail and other key destinations.

This project has also been included in the resolution for Board endorsement.

FISCAL IMPACT:

Requests for regional funding are shown by project in the table above. There is no local cash match associated with any of these revenues, and no impact to the General Fund. If the County is awarded funding, staff will submit items to execute Standard Project Agreements with NVTa.

Board Agenda Item
September 14, 2021

CREATION OF POSITIONS:

No positions will be created through this action.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of Endorsement of Projects Being Submitted for Regional Funding through the Northern Virginia Transportation Authority

Attachment 2 – List of Projects with Brief Descriptions

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Ray Johnson, Section Chief, Coordination and Funding Division, FCDOT

Noelle Dominguez, Section Chief, Coordination and Funding Division, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby approves the submission to the Northern Virginia Transportation Authority (NVTA) requests for regional funding for FY 2022 – FY 2027 for the following projects in amounts not to exceed:

- Richmond Highway Widening (Mount Vernon Memorial Highway to Sherwood Hall Lane) - \$80,000,000: TransAction ID 214 (Route 1 Widening: Route 235 North to Route 235 South)
- Richmond Highway Bus Rapid Transit (Huntington Metrorail Station to Fort Belvoir) - \$100,000,000: TransAction ID 39 (Route 1 BRT)
- Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass) - \$75,000,000: TransAction ID 7 (Soapstone Drive Extension)
- Frontier Drive Extension - \$150,000,000: TransAction ID 84 (Frontier Drive Extension and Intersection Improvements)
- Fairfax County Parkway Widening (Nomes Court to Route 123) - \$108,200,000: TransAction ID 57 (Fairfax County Parkway Widening: Ox Road (Route 123) to Lee Highway (Route 29))
- Seven Corners Ring Road (Phase 1A/Segment 1A) - \$94,800,000: TransAction ID 18 (Seven Corners Ring Road Improvements)
- Fairfax Connector Buses for Tysons to Franconia Service - \$10,000,000: TransAction ID 331 (Tysons Express Bus)

BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby supports the efforts of the City of Fairfax in submitting an application to the NVTA for FY 2022 – FY 2027 regional funding for the following project located near Fairfax County:

- City of Fairfax – John Mason Trail

Adopted this 14th day of September 2021, Fairfax, Virginia.

ATTEST _____

Jill G. Cooper
Clerk for the Board of
Supervisors

**List of Recommended Projects for Northern Virginia Transportation Authority
(NVTa) 70% Regional Consideration (FY2022-2027)**

Project	Project Description	Current Cost Estimate in Millions	Requested Funding in Millions (up to)
Richmond Highway Widening (Mt Vernon Memorial Highway to Sherwood Hall Lane)	The Richmond Highway widening project is approximately 3 miles in length and is located between Mt. Vernon Memorial Highway (south) and Sherwood Hall Lane. This project will provide a six lane facility complementing the widened Richmond Highway segment from Telegraph Road to Mt. Vernon Memorial Highway. This project includes both pedestrian and bicycle facilities and provisions to facilitate future bus rapid transit.	\$415.0	\$80.0
Richmond Highway Bus Rapid Transit (BRT, Huntington Metrorail Station to Fort Belvoir)	The BRT project includes median running BRT from the Huntington Metrorail Station to Fort Belvoir. The project will include: buses, new transit stations, facilities for bicycle, pedestrian and vehicle travel modes.	\$730.0	\$100.0
Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass)	The Soapstone Drive Extension is a new roadway, approximately one-half mile long between Sunrise Valley Drive and Sunset Hills Road, in Reston. The project is located west of the Wiehle-Reston East Metrorail Station and would include a new (bridge) crossing the Dulles Toll Road, the Dulles International Airport Access Highway, and the Metrorail Silver Line. The new roadway extension will include pedestrian and bicycle accommodations.	\$235.0	\$75.0

Frontier Drive Extension	The Frontier Drive Extension will extend Frontier Drive from its terminus south of the Franconia-Springfield Parkway to Loisdale Road, including improved access to the Franconia-Springfield Metrorail Station and braided ramps to and from the Franconia-Springfield Parkway. This project will provide on-street parking along Frontier Drive as well as pedestrian and bicycle accommodations. The project will serve the Transportation Security Administration Headquarters (TSA).	\$180.0	\$150.0
Fairfax County Parkway Widening (Nomes Court to Route 123)	The project provides for the widening of Fairfax County Parkway (Route 286) from Nomes Court to Route 123 from four lanes (divided) to six lanes (divided). This improvement will provide or upgrade pedestrian and bicycle amenities.	\$108.2	\$108.2
Seven Corners Ring Road (Phase 1A/Segment 1A)	The Board of Supervisors adopted an updated Comprehensive Plan for the Seven Corners area that includes a concept for a reconfigured Seven Corners Interchange. This project will design and construct the first phase of the new Interchange. This phase consists of a new road connecting Route 7, on the western side of the existing Seven Corners Interchange, with a bridge over Route 50, around the Interchange to Sleepy Hollow Road, back to Route 7 on the eastern side of the Interchange.	\$94.8	\$94.8
Fairfax Connector Buses for Tysons to Franconia Service	This project will provide for the procurement of eight transit buses for the Route 400X Limited Stop peak hour bus service between Tysons, Dunn Loring, and Franconia-Springfield. Envisioned to operate at a peak frequency of 20 minutes, this limited stop express route will provide fast connections to these communities, serving the Gallows Road/I-495 Corridor, one of the most productive bus corridors in the Fairfax Connector system.	\$10.0	\$10.0

Board Agenda Item
September 14, 2021

CONSIDERATION - 1

Approval of the Amendments to the Bylaws for the Fairfax County Consumer Protection Commission (CPC)

ISSUE:

Consideration of the proposed amendments to the bylaws for the Fairfax County Consumer Protection Commission.

TIMING:

Board consideration is requested on September 14, 2021.

BACKGROUND:

The Fairfax County Consumer Protection Commission (CPC) was established by the Board of Supervisors in 1964 and has all powers and performs all duties specified in Fairfax County Code § 10-3-2, *Powers and duties of the Commission*. The bylaws were last amended in September 2015. The current proposed amendments are primarily housekeeping changes to ensure compliance with the County's model bylaw template for board and commission bylaws. County guidelines require the Board of Supervisors to approve bylaws of Boards, Authorities and Commissions and subsequent amendments.

The amended bylaws were approved by the Fairfax County Consumer Protection Commission at its March 16, 2021, meeting.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Fairfax County Consumer Protection Commission Bylaws-Strikethrough
Attachment 2 - Fairfax County Consumer Protection Commission Bylaws-Clean

STAFF:

Michael S. Liberman, Director, Department of Cable and Consumer Services (DCCS)
Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney

FAIRFAX COUNTY CONSUMER PROTECTION COMMISSION BYLAWS

ARTICLE I. NAME

The name of this organization is the Fairfax County Consumer Protection Commission, hereinafter referred to as “~~Commission~~” “Commission.”

ARTICLE II. PURPOSE

The Commission has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”) pursuant to Virginia law ~~for the purpose of advising the Board and to provide periodic reports concerning legislation and consumer issues, consider appeals of license and permit actions of the Department of Cable and Consumer Services, and make recommendations on the number and allocation of Certificates of Public Convenience and Necessity for taxicab operators, and shall have all powers and perform all duties specified in~~ Fairfax County Code § 10-3-2, Powers and duties of the Commission.

These bylaws replace and supersede the Commission bylaws adopted on September 22, 2015 and are effective as of September 14, 2021.

~~ARTICLE III. OFFICERS~~ MEMBERSHIP AND TERM OF OFFICE

~~1. Commission Officers. Commission Officers include Chairman, Vice Chairman, and Secretary.~~

- ~~a. Election of Officers. Officers shall be elected annually, at the last regular Commission meeting of the calendar year or the first regular meeting thereafter from a slate of candidates recommended by the Nominating Committee.~~
- ~~b. Duties of Officers. The duties of the Chairman are to preside over meetings of the Commission, set the meeting agenda, call special meetings when required, cancel or reschedule meetings when necessary or appropriate, establish ad hoc study committees and appoint chairmen of such Committees, and appoint a Nominating Committee for the annual election of officers. The duties of the Vice Chairman are to fulfill the duties of the Chair in the absence of the Chairman. The duties of the Secretary are to preside over the meetings in the absence of the Chairman and Vice Chairman, and to record main motions and amendments for inclusion in the minutes of the meetings.~~

Appointments. Membership and appointments to the Commission shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV. MEETINGS— OFFICERS AND THEIR DUTIES

~~1.— Quorum. A quorum for all purposes shall consist of a majority of the total number of Commissioners currently appointed and the vote of a majority of the quorum shall be necessary for any action taken. All votes of members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.~~

~~2.— Robert's Rules. Except as otherwise provided by Virginia law or by where the procedures may differ from them, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 *et seq.*, as amended ("VFOIA"), no meetings shall be conducted through telephonic, video, electronic, or other communication means where the members are not physically assembled to discuss or transact public business.~~

~~3.— Notification of Absence. If a Commissioner cannot be present at a meeting, the Commissioner must notify staff at the earliest opportunity. If a quorum will not be present due to reported absences, staff will inform the Chairman so a determination may be made whether to hold a meeting. The absence of a Commissioner from three consecutive meetings shall be reported by staff to the Clerk to the Board of Supervisors.~~

~~4.— Meeting Time and Location. Regular meetings shall generally be held monthly. The Chairman or Acting Chairman may cancel a meeting under exceptional circumstances. Staff will promptly communicate such decisions to each Commissioner and notify the Office of Public Affairs. All meetings shall be conducted in accordance with VFOIA, and except for closed sessions, all meetings shall be open to the public. All meetings shall be preceded by a notice stating the date, time, and location of its meetings. Except for emergency meetings, notice of a meeting shall be given at least three working days prior to the meeting. Notice, reasonable under the circumstances of emergency meetings, shall be given contemporaneously with the notice provided to members.~~

~~5.— Special Meetings. Special meetings may be called by the Chairman, if necessary to conduct essential Commission business at times other than regular meetings. Notice to the public, reasonable under the circumstances of special meetings, shall be given contemporaneously with the notice provided to members. Staff will notify Commissioners of such meetings in a timely manner. The agenda of special meetings will include the nature and purpose of the meeting.~~

~~6. — Commission Matters. Time is set aside on the meeting agenda for Commissioners to (a) request that matters be placed on the agenda for the next meeting, (b) raise urgent matters requiring immediate attention by the Commission and/or staff, and (c) comment on significant consumer issues affecting County residents. Commissioners should limit comments or requests to three minutes, which time may be extended by the Chairman.~~

Elections. The Commission shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year. Two months prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Commission. At the election meeting, the officers shall be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Commission and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Commission members and to request assistance from the County staff supporting the Commission.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Commission shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V. COMMITTEES—MEETINGS

~~Committees of the Commission. When appropriate, the Chairman may establish *ad hoc* committees to which the Chairman may refer matters of concern. Such committees shall have a chairman appointed by the Chairman of the Commission. All meetings of any such committees shall comply with the notice and other requirements of VFOIA. The committee chairman will also serve as the committee liaison to staff. Interim or final reports of the Committee shall be in writing.~~

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum,

if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Commission may hold public hearings and report its findings to the Board of Supervisors on Commission issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Commission members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Commission shall meet monthly or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Commission's members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Commission shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Commission members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Commission members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Commission members shall be made available for public inspection at the same time such documents are furnished to the Commission members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Commission proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Commission, and advice provided in closed session by legal counsel to the Commission, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Commission to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Commission's legal counsel.

ARTICLE VI. COMPLIANCE WITH LAW AND COUNTY POLICY- ATTENDANCE AND PARTICIPATION

The Commission and its members shall comply with all Virginia laws, including, but not limited to, the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 *et seq.*, as amended, VFOIA, and all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions.
Any Commission member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Commission without good cause acceptable to a majority of the other Commission members may be subject to removal from the Commission.

ARTICLE VII. AMENDMENT OF BYLAWS – REMOVAL

These Bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any Commission member(s) may be recommended to the Board of Supervisors for removal from the Commission for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Commission members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Commission shall prepare an annual written report that describes the actions of the Commission and plans for future actions and activities. This report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Commission shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 et seq., as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

~~Revised June 15, 2015~~

BYLAWS OF THE CONSUMER PROTECTION COMMISSION

ARTICLE I – NAME

The name of this organization is the Consumer Protection Commission, hereinafter referred to as the “Commission.”

ARTICLE II – PURPOSE

The Commission has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia law and shall have all powers and perform all duties specified in Fairfax County Code § 10-3-2, *Powers and duties of the Commission*.

These bylaws replace and supersede the Commission bylaws adopted on September 22, 2015 and are effective as of September 14, 2021.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and appointments to the Commission shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Commission shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year. Two months prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Commission. At the election meeting, the officers shall be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Commission and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Commission members and to request assistance from the County staff supporting the Commission.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the

BYLAWS OF THE CONSUMER PROTECTION COMMISSION

Effective as of September 14, 2021

Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Commission shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Commission may hold public hearings and report its findings to the Board of Supervisors on Commission issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Commission members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Commission shall meet monthly or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Commission's members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Commission shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Commission members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Commission members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

BYLAWS OF THE CONSUMER PROTECTION COMMISSION

Effective as of September 14, 2021

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Commission members shall be made available for public inspection at the same time such documents are furnished to the Commission members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Commission proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Commission, and advice provided in closed session by legal counsel to the Commission, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Commission to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Commission's legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Commission member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Commission without good cause acceptable to a majority of the other Commission members may be subject to removal from the Commission.

ARTICLE VII - REMOVAL

Any Commission member(s) may be recommended to the Board of Supervisors for removal from the Commission for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Commission members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

BYLAWS OF THE CONSUMER PROTECTION COMMISSION

Effective as of September 14, 2021

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Commission shall prepare an annual written report that describes the actions of the Commission and plans for future actions and activities. This report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Commission shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

Board Agenda Item
September 14, 2021

CONSIDERATION - 2

Approval of the Amendments to the Bylaws for the Fairfax County Tenant-Landlord Commission (TLC)

ISSUE:

Consideration of the proposed amendments to the bylaws for the Fairfax County Tenant-Landlord Commission.

TIMING:

Board consideration is requested on September 14, 2021.

BACKGROUND:

The Fairfax County Tenant-Landlord Commission (TLC) was established by the Board of Supervisors in 1971 and carries out the duties described in Fairfax County Code § 12-2-2, *Duties of the Commission*. The bylaws were last amended in September 2015. The current proposed amendments are primarily housekeeping changes to ensure compliance with the County model bylaw template for board and commission bylaws. County guidelines require the Board of Supervisors to approve bylaws of Boards, Authorities and Commissions and subsequent amendments.

The amended bylaws were approved by the Fairfax County Tenant-Landlord Commission at its April 8, 2021, meeting.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Fairfax County Tenant-Landlord Commission Bylaws-Strikethrough
Attachment 2 - Fairfax County Tenant-Landlord Commission Bylaws-Clean

STAFF:

Michael S. Liberman, Director, Department of Cable and Consumer Services (DCCS)
Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney

FAIRFAX COUNTY TENANT-LANDLORD COMMISSION BY-LAWS

ARTICLE I – NAME

The name of this organization is the Fairfax County Tenant-Landlord Commission, hereinafter referred to as the “Commission.”

ARTICLE II – PURPOSE

The Commission has been established by the Board of Supervisors of Fairfax County, Virginia, (“Board of Supervisors”) pursuant to Virginia law ~~for the purpose of giving objective and fair assistance to the County's tenants and landlords. The Commission provides information to educate the public concerning the rights and responsibilities of tenants and landlords, recommends changes in the tenant-landlord law at all levels of government, represents County interests concerning tenant-landlord matters before legislative and other public and private bodies, and makes tenants and landlords aware of the conciliation and mediation services available through the Fairfax County Consumer Affairs Branch of the Department of Cable and Consumer Services, which receives tenant-landlord complaints.~~ and shall carry out its duties as described in Fairfax County Code § 12-2-2, *Duties of the Commission*.

These bylaws replace and supersede the Commission bylaws adopted on September 22, 2015 and are effective as of September 14, 2021.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and Appointments to the Commission shall be determined made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors. The Commission shall consist be composed of ten (10) members commissioners, three (3) of whom shall represent commissioners representing tenants (hereinafter called “tenant members”), three (3) of whom shall represent commissioners representing landlords (hereinafter called “landlord members”), and four (4) of whom shall represent commissioners representing the community at large, community at large (hereinafter called “public members,” one (1) of whom shall be a condominium unit owner). All members shall be residents of Fairfax County, Virginia. Regular appointments to the Commission shall be for terms of three years. In the event a commissioner cannot serve or resigns from office, the County staff coordinator shall advise the Clerk to the Board of the vacancy in writing. In the event a commissioner completes his or her term of office, remains qualified to serve as a commissioner, and the Board has not appointed a successor commissioner, then that person may continue to serve as a member until such time as the commissioner is reappointed or a successor commissioner is appointed. Members of the Commission shall be appointed by the Board of Supervisors for terms of three (3) years each. The terms shall be staggered with no more than (3) terms to commence in any (1) year.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Commission shall be served by four officers: Chairperson, Vice Chairperson-Landlord, Vice Chairperson-Tenant, and Secretary. The Chairperson shall be elected from the public members in accordance with the voting provisions of Article V by the Commission members every two years and such election shall be scheduled at the first meeting of a calendar year. The Vice Chairperson-Landlord shall be elected from the landlord members and the Vice Chairperson-Tenant shall be elected from the tenant members in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year. The Secretary shall be elected from any member in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year.

~~The officers shall be elected by the commissioners, and the officers shall consist of the Chairman, two Vice Chairmen, and a Secretary. Every two years, the Chairman shall be elected. The Vice Chairmen and Secretary shall be elected annually and such election shall be scheduled at the first meeting of each calendar year. The Chairman shall be elected from the citizen commissioners of the Commission. The Tenant Vice-Chairman shall be elected from the tenant commissioners and the Landlord Vice-Chairman shall be elected from the landlord commissioners. Any commissioner is eligible to serve as Secretary. Two months prior to the election meeting, a slate of candidates shall be nominated from the floor. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Tenant-Landlord Commission. At the election meeting, the officers shall be elected from among the willing nominees in accordance with the voting provisions of Article V.~~

Chairman. Chairperson. ~~The Chairman~~ Chairperson presides over meetings of the Commission and is eligible to vote at all times. ~~The Chairman~~ Chairperson has the authority to delegate appropriate functions to ~~commissioner(s)~~ Commission members and to request staff assistance from the ~~County staff supporting the Commission~~ Chief of the Consumer Affairs Branch.

~~Vice-Chairman~~ Vice-Chairperson. In the absence of the ~~Chairman~~ Chairperson at a meeting, ~~a Vice-Chairman~~ the Vice-Chairperson shall perform the duties and exercise the powers of the ~~Chairman~~ Chairperson. The Vice-Chairperson-Tenant ~~Vice-Chairman~~ and Vice-Chairperson-Landlord ~~Vice-Chairman~~ shall alternate in performing the absent ~~Chairman's~~ Chairperson's duties. In the event that neither the ~~Chairman~~ Chairperson nor the ~~Vice-Chairmen~~ Vice-Chairperson ~~is~~ are available, the ~~citizen commissioner~~ member present with the longest tenure on the Commission shall act as ~~Chairman~~ Chairperson.

Secretary. The secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be conducted in accordance with the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 *et seq.*, as amended (“VFOIA”), ~~and except for closed sessions, all meetings shall be open to the public.~~ Pursuant to Virginia Code § 2.2-3701, “meeting” or “meetings” means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Commission may hold public hearings and report its findings to the Board of Supervisors on tenant-landlord issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by a notice stating the date, time, and location of ~~its~~ each meetings. Notice of a meeting shall be given at least three working days prior to the meeting. Notice, ~~reasonable under the circumstances~~ of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to ~~commissioners~~ Commission members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Commission shall meet ~~no fewer than six times each year,~~ at the call of the ~~Chairman~~ Chairperson, ~~and at other times upon the call of any five commissioners with at least a five day notice given to all commissioners~~ or four (4) members of the Commission after notice to all members, or upon request of the Board of Supervisors. Meetings shall be held at a time agreed to by a majority of the Commission members, and at a place arranged by the staff of the ~~Consumer Affairs Branch~~ supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Commission shall constitute a quorum, ~~and the vote of a majority of the quorum shall be necessary for any action taken.~~ In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of ~~commissioners~~ Commission members present and voting. Upon the request of any Commissioner, the vote of each Commissioner on any issue shall be ~~made a matter of~~ recorded in the minutes. ~~There shall be no proxies.~~ All votes of ~~commissioners~~ Commission members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct. Except as otherwise provided by Virginia law or by these bylaws, all meetings shall be conducted in accordance with *Robert’s Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic,

or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access. ~~At~~ For any meeting, at least one copy of the agenda, ~~all agenda packets,~~ and, unless exempt under the VFOIA, all materials furnished to ~~commissioners~~ Commission members shall be made available for public inspection at the same time such documents are furnished to the ~~commissioners~~ Commission members. Pursuant to the VFOIA, ~~Any~~ any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Commission proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. ~~County staff shall keep minutes of its meetings, and those minutes~~ Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. ~~The Consumer Affairs Branch supporting County department~~ shall provide staff support and maintain records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Commission, and advice provided in closed session by legal counsel to the Commission, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Commission to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Commission's legal counsel.

ARTICLE VI – ATTENDANCE AND PARTICIPATION

Any commissioner who misses three consecutive meetings or more than half of scheduled meetings within a 12-month period, or who fails to participate in the work of the Commission without good cause acceptable to a majority of the other Commission members may be subject to removal from the Commission.

ARTICLE VII – REMOVAL

Any commissioner(s) may be recommended to the Board for removal from the Commission for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the commissioners Commission members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.

ARTICLE VIII – COMMITTEES

Standing. ~~The Chairman~~ Chairperson may appoint ~~appoints~~ standing committees and a ~~chairman~~ Chairperson for each ~~committee~~ with the consent of ~~a the~~ a majority of the Commission members present and voting.

Special. The ~~Chairman~~ Chairperson may appoint special committees and ~~the chairman a~~ Chairperson for each with the approval consent of a majority of the Commission members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent that is practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the ~~Chairman~~ Chairperson or at the request of two ~~commissioners~~ members, with notice to all ~~commissioners~~ members.

~~ARTICLE IX – ARBITRATION~~

~~The Commission shall provide arbitration services. All Commissioners are expected to participate in the provision of these services, and shall serve on arbitration panels at the call of the Chairman. Each such panel shall be composed of one representative from the tenant commissioners, one representative from the landlord commissioners and one representative from the citizen commissioners. The Chairman of each such panel shall be the citizen member. All panel members shall follow the Rules of Procedure as set forth in the Tenant Landlord Arbitration pamphlet.~~

ARTICLE IX – ANNUAL REPORT

The Commission ~~may~~ shall prepare an annual written report that describes the actions ~~and~~ activities of the Commission and plans for future actions and activities. ~~If requested, t~~ This report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE XI – COMPLIANCE WITH LAW AND COUNTY POLICY

The Commission shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions.

In case of a conflict between a provision of these ~~Bylaws~~ bylaws and any applicable ordinance or law, ~~including, but not limited to Article 2 of Chapter 12 of the Code of the County of Fairfax, Virginia, as amended,~~ the provisions of the applicable ordinance or law, as the case may be, shall be controlling. ~~These bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.~~

ARTICLE XII - AMENDMENT OF BYLAWS

These Bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to ~~the Bylaws~~ bylaws shall become effective upon approval by the Board of Supervisors.

~~Revised June 18, 2015~~

BYLAWS OF THE TENANT-LANDLORD COMMISSION

ARTICLE I – NAME

The name of this organization is the Tenant-Landlord Commission, hereinafter referred to as the “Commission.”

ARTICLE II – PURPOSE

The Commission has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia law and shall carry out its duties as described in Fairfax County Code § 12-2-2, *Duties of the Commission*.

These bylaws replace and supersede the Commission bylaws adopted on September 22, 2015 and are effective as of September 14, 2021.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and appointments to the Commission shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors. The Commission shall be composed of ten (10) members, three (3) of whom shall represent tenants (hereinafter called “tenant members”), three (3) of whom shall represent landlords (hereinafter called “landlord members”), and four (4) of whom shall represent the community at large (hereinafter called “public members,” one (1) of whom shall be a condominium unit owner). All members shall be residents of Fairfax County, Virginia. Members of the Commission shall be appointed by the Board of Supervisors for terms of three (3) years each. The terms shall be staggered with no more than (3) terms to commence in any (1) year.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Commission shall be served by four officers: Chairperson, Vice Chairperson-Landlord, Vice Chairperson-Tenant, and Secretary. The Chairperson shall be elected from the public members in accordance with the voting provisions of Article V by the Commission members every two years and such election shall be scheduled at the first meeting of a calendar year. The Vice Chairperson-Landlord shall be elected from the landlord members and the Vice Chairperson-Tenant shall be elected from the tenant members in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year. The Secretary shall be elected from any

BYLAWS OF THE TENANT-LANDLORD COMMISSION

Effective as of September 14, 2021

member in accordance with the voting provisions of Article V by the Commission members annually and such election shall be scheduled at the first meeting of each calendar year. Two months prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Commission. At the election meeting, the officers shall be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Commission and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Commission members and to request assistance from the County staff supporting the Commission.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. The Vice Chairperson-Tenant and Vice Chairperson-Landlord shall alternate in performing the absent Chairperson's duties. In the event that neither the Chairperson nor the Vice-Chairpersons are available, the member present with the longest tenure on the Commission shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of the meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Commission may hold public hearings and report its findings to the Board of Supervisors on Commission issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Commission members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center

BYLAWS OF THE TENANT-LANDLORD COMMISSION

Effective as of September 14, 2021

and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Commission shall meet at the call of the Chairperson, or four (4) members of the Commission after notice to all members, or upon request of the Board of Supervisors. Meetings shall be held at a time agreed to by a majority of the Commission's members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Commission shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Commission members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Commission members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Commission members shall be made available for public inspection at the same time such documents are furnished to the Commission members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Commission proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Commission, and advice provided in closed session by legal counsel to the Commission, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Commission to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Commission's legal counsel.

BYLAWS OF THE TENANT-LANDLORD COMMISSION

Effective as of September 14, 2021

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Commission member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Commission without good cause acceptable to a majority of the other Commission members may be subject to removal from the Commission.

ARTICLE VII - REMOVAL

Any Commission member(s) may be recommended to the Board of Supervisors for removal from the Commission for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Commission members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Commission as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Commission members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Commission shall prepare an annual written report that describes the actions of the Commission and plans for future actions and activities. This report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Commission shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Commission by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

Board Agenda Item
September 14, 2021

CONSIDERATION - 3

Approval of the Bylaws for the Fairfax County Trespass Towing Advisory Board (TTAB)

ISSUE:

Consideration of the proposed bylaws for the Fairfax County Trespass Towing Advisory Board.

TIMING:

Board consideration is requested on September 14, 2021.

BACKGROUND:

The Fairfax County Trespass Towing Advisory Board (TTAB) was established by the Board of Supervisors in 2006 for the purpose of carrying out the duties described in Fairfax County Code § 82-5-32.1 *Trespass Towing Advisory Board*. The proposed bylaws are in compliance with the County model bylaw template for board and commission bylaws. County guidelines require the Board of Supervisors to approve bylaws of Boards, Authorities and Commissions and subsequent amendments.

The bylaws were approved by the Fairfax County Trespass Towing Advisory Board at its March 24, 2021, meeting.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Fairfax County Trespass Towing Advisory Board Bylaws

STAFF:

Michael S. Liberman, Director, Department of Cable and Consumer Services (DCCS)
Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney

BYLAWS FOR THE TRESPASS TOWING ADVISORY BOARD

ARTICLE I – NAME

The name of this organization is the Trespass Towing Advisory Board, hereinafter referred to as the “Board.”

ARTICLE II – PURPOSE

The Board has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia law for the purpose of the duties described in Fairfax County Code § 82-5-32.1 *Trespass Towing Advisory Board*.

These bylaws are effective as of September 14, 2021.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and appointments to the Board shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Board shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson shall rotate annually between a representative of a local law-enforcement agency, a representative of a tow operator, and one member of the general public. The officers shall be elected in accordance with the voting provisions of Article V by the Board members annually and such election shall be scheduled at the first meeting of each calendar year. Two months prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Board. At the election meeting, the Chairperson shall be elected from among the willing nominees in accordance with the voting provisions of Article V. At the election meeting the officers shall be elected from the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Board and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Board members and to request assistance from the County staff supporting the Board.

BYLAWS FOR THE TRESPASS TOWING ADVISORY BOARD

Effective as of September 14, 2021

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Board shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The Board may hold public hearings and report its findings to the Board of Supervisors on Board issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Board members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Board shall meet monthly or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Board's members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. One law-enforcement member, one towing member, and one public member shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Board members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Board members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

BYLAWS FOR THE TRESPASS TOWING ADVISORY BOARD

Effective as of September 14, 2021

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Board members shall be made available for public inspection at the same time such documents are furnished to the Board members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Board proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Board, and advice provided in closed session by legal counsel to the Board, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Board to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Board's legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Board member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the Board without good cause acceptable to a majority of the other Board members may be subject to removal from the Board.

ARTICLE VII - REMOVAL

Any Board member(s) may be recommended to the Board of Supervisors for removal from the Board for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Board members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Board as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Board members present and voting.

BYLAWS FOR THE TRESPASS TOWING ADVISORY BOARD

Effective as of September 14, 2021

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Board members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Board shall prepare an annual written report that describes the actions of the Board and plans for future actions and activities. This report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Board shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Board by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors.

Board Agenda Item
September 14, 2021

INFORMATION - 1

County Holiday Schedule – Calendar Year 2022

A proposed calendar year 2022 Holiday Schedule for Fairfax County Government has been prepared. County employees are authorized 12 ½ holidays in each calendar year (13 ½ every fourth year when (Inauguration Day) falls on a business day, Monday through Friday). The New Year's Day holiday will be observed on December 31, 2021, giving County employees 11 ½ holidays in 2022.

The proposed holiday schedule for 2022 lists the Federal Government holidays as well as those of the Fairfax County Public Schools. State employees, the Sheriff's Office and the Courts observe the Commonwealth of Virginia designated holidays.

Unless otherwise directed by the Board of Supervisors, the enclosed will be adopted as the holiday schedule for calendar year 2022.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Holiday Schedule – 2022

STAFF:

Bryan J. Hill, County Executive
Catherine M. Spage, Director, Department of Human Resources

NOTE: There are 12 ½ authorized county holidays with the observation of Juneteenth and Election Day.

Proposed Holiday Schedule – Calendar Year 2022

HOLIDAY	OBSERVED DAY - DATE	FAIRFAX COUNTY GOVERNMENT	FAIRFAX COUNTY PUBLIC SCHOOLS *	COMMONWEALTH OF VIRGINIA	FEDERAL GOVERNMENT
New Year's Day**	Friday Dec 31, 2021	X	X	X	X
Martin Luther King, Jr.'s Day	Monday Jan 17	X	X	X	X
George Washington's Day/Presidents' Day	Monday Feb 21	X	X	X	X
Memorial Day	Monday May 30	X	X	X	X
Juneteenth	Monday June 20	X	X	X	X
Independence Day	Monday July 4	X	X	X	X
Labor Day	Monday Sept 5	X	X	X	X
Columbus Day	Monday Oct 10	Regular workday	Regular workday	X	X
Election Day	Tuesday Nov 8	X	Regular workday	X	Regular workday
Veterans Day	Friday Nov 11	X	Regular workday	X	X
Additional Time Off	Wednesday Nov 23	Regular workday	Regular workday	4.0 hours additional time off	Regular workday
Thanksgiving Day	Thursday Nov 24	X	X	X	X
Day After Thanksgiving	Friday Nov 25	X	X	X	Regular workday
Christmas Eve	Friday Dec 23	X (half day)	X	8.0 hours additional time off	Regular workday
Christmas Day	Monday Dec 26	X	X	X	X
Total Holidays		11.5	10	13.5	10

*The actual dates of some holidays may change to accommodate the student calendar.

**New Year's Day holiday will be observed in calendar year 2021.

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. *CoreSite Real Estate 12100 Sunrise Valley Drive L.L.C. v. County of Fairfax, Virginia*, Case No. CL-2020-0003780 (Fx. Co. Cir. Ct.) (Hunter Mill District)
 - 2. *Laboratory Corporation of America v. County of Fairfax, Virginia*, Case Nos. CL-2018-0018274; CL-2019-0006739 (Fx. Co. Cir. Ct.)
 - 3. *Cisco Systems, Inc. v. Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2021-0010265 (Fx. Co. Cir. Ct.)
 - 4. *Clyde A. Miller and Carol A. Hawn v. Board of Supervisors of Fairfax County*, Case No. CL-2021-0006071 (Fx. Co. Cir. Ct.) (Countywide)
 - 5. *Capital Investment Advisors, Inc. v. Fairfax County Human Rights Commission, Fairfax Office of Human Rights and Equity Programs, and Fairfax County Board of Supervisors*, Case No. CL-2021-0001752 (Fx. Co. Cir. Ct.)
 - 6. *Board of Supervisors of Fairfax County, Virginia ex rel. Fairfax County Human Rights Commission v. Quantum Real Estate Management, LLC et. al.*, CL-2020-0014364 (Fx. Co. Cir. Ct.) (Mason District)
 - 7. *Samira Koussa v. Edwin C. Roessler Jr. and John Doe Officers*, Case No. CL-2020-0010604 (Fx. Co. Cir. Ct.)
 - 8. *County of Fairfax, Virginia, ex rel. Joseph A. Glean v. Fairfax County Board of Supervisors*, Case No. CL-2021-0004227 (Fx. Co. Cir. Ct.)
 - 9. *Vijaipart Parthiban Ekkadu Pattu, by GEICO, subrogee v. Enoch Green*, Case No. GV21-004748 (Fx. Co. Gen. Dist. Ct.)
 - 10. *Christina Medrano, by GEICO Advantage Ins. Co., subrogee v. Thaddeus Joseph Kolwicz and Fairfax County Police Department*; Case No. GV21-011095 (Fx. Co. Gen. Dist. Ct.)

11. *Hiba Aziz, Building Official v. Jong Hun An*, Case No. GV21-008082 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
12. *Jay Riat, Building Official for Fairfax County, Virginia v. Charles V. Duran*, Case No. GV21-009782 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
13. *Jay Riat, Building Official for Fairfax County, Virginia v. Huu D. Tran and Nhanh T. Le*, Case No. GV21-010214 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
14. *Jay Riat, Building Official for Fairfax County, Virginia v. Thomas Burch*, Case No. GV21-013462 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
15. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Mishal H. Al-Thani*, Case No. CL-2018-0001769 (Fx. Co. Cir. Ct.) (Dranesville District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Abu Kamara*, Case No. CL-2021-0011020 (Fx. Co. Cir. Ct.) (Dranesville District)
17. *Elizabeth Perry, Property Maintenance Code Official v. The Barbara B. Fierce Trust*, Case No. GV 20-00881 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
18. *Hiba Aziz, Building Official for Fairfax County, Virginia v. David E. Levanson, Trustee Under the David E. Levanson Trust Dated June 3, 2009*, Case No. GV21-009756; *Hiba Aziz, Building Official for Fairfax County, Virginia v. Caitlin B. Levanson, Trustee Under the Caitlin B. Levanson Trust Dated June 3, 2009*, Case No. GV21-009761, *Hiba Aziz, Building Official for Fairfax County, Virginia v. Federal Home, LLC*, Case No. GV21-009762 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
19. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Kurt Adam Janssen*, Case No. GV21-011174 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
20. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Porcier-Miller LLC*, Case No. GV21-011175 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Vinson Hall, LLC*, Case No. GV21-012919 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
22. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Bruce A. Blackerby*, Case No. CL-2020-0005195 (Fx. Co. Cir. Ct.) (Hunter Mill District)
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ronald Charles Hall*, Case No. CL-2020-0020427 (Fx. Co. Cir. Ct.) (Hunter Mill District)

24. *Leslie Johnson, Fairfax County Zoning Administrator v. Salena Azaad*, Case No. CL- 2021-7584 (Fx. Co. Cir. Ct.) (Hunter Mill District)
25. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Ben Thomas*, Case No. CL-2020-0008874 (Fx. Co. Cir. Ct.) (Hunter Mill District)
26. *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)
27. *Jay Riat, Building Official for Fairfax County, Virginia v. Lejlifer Sinani and Brunilda Bajraktari*, Case No. GV21-010613 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
28. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Purple Sage Cluster Association*, Case No. GV21-013716 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
29. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Keun Hoon Lee and Yong Ja Lee*, Case No. CL-2019-0000700 (Fx. Co. Cir. Ct.) (Lee District)
30. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia and Leslie B. Johnson, Fairfax County Zoning Administrator v. Alwadi, LLC*, Case No. CL-2019-0017284 (Fx. Co. Cir. Ct.) (Lee District)
31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Fernando A. Ovalle*, Case No. CL-2018-0015808 (Fx. Co. Cir. Ct.) (Lee District)
32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Gabriel Marcelo Gamarra*, Case No. CL-2021-0006025 (Fx. Co. Cir. Ct.) (Lee District)
33. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sysmall I. Warfield*, Case No. CL-2021-0011520 (Fx. Co. Cir. Ct.) (Lee District)
34. *Hiba Aziz, Building Official v. Quang K. On*, Case No. GV21-008079 (Fx. Co. Gen. Dist. Ct.) (Lee District)
35. *Jay Riat, Building Official for Fairfax County, Virginia v. NV Flagging, Inc., f/k/a NV Flagging, LLC*, Case No. GV21-010612 (Fx. Co. Gen. Dist. Ct.) (Lee District)
36. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Yohannes Paulos, Mimi T. Paulos, and Mackeda Y. Paulos*, Case No. GV21-11176 (Fx. Co. Gen. Dist. Ct.) (Lee District)

37. *Elizabeth Perry, Virginia Maintenance Code Official v. Margaret Ayano Lane*, Case No. GV20-10185 (Fx. Co. Gen. Dist. Ct.) (Lee District)
38. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Glenn E. Cannon and Gloria J. Cannon*, Case No. GV21-11839 (Fx. Co. Gen. Dist. Ct.) (Lee District)
39. *Jay Riat, Building Official for Fairfax County, Virginia v. Helen M. Teklay*, Case No. GV21-11840 (Fx. Co. Gen. Dist. Ct.) (Lee District)
40. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Shimeles Legese, Ayda Mengistu, and Tsige Mengistu*, Case No. GV21-013406 (Fx. Co. Gen. Dist. Ct.) (Lee District)
41. *Jay Riat, Building Official for Fairfax County, Virginia v. Anna Sara Lutz*, Case No. GV21-013461 (Fx. Co. Gen. Dist. Ct.) (Lee District)
42. *Jay Riat, Building Official for Fairfax County, Virginia v. Joan C. Wertheimer*, Case No. GV21-013767 (Fx. Co. Gen. Dist. Ct.) (Lee District)
43. *Leslie B. Johnson, Fairfax County Zoning Administrator v. George M. Yaworsky and Zenia M. Yaworsky*, Case No. CL-2018-0014854 (Fx. Co. Cir. Ct.) (Mason District)
44. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Olympia Centre, LLC*, Case No. CL-2021-0001485 (Fx. Co. Cir. Ct.) (Mason District)
45. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Andrew Francis Zaccardi*, Case No. CL-2021-0010002 (Fx. Co. Cir. Ct.) (Mason District)
46. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Alma Yanira Benavides, William Alexi Bonilla, and Miguel A. Benavides*, Case No. CL-2021-0010339 (Fx. Co. Cir. Ct.) (Mason District)
47. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Phu Bui*, Case No. CL-2021-0010543 (Fx. Co. Cir. Ct.) (Mason District)
48. *Jay Riat, Building Official for Fairfax County, Virginia v. Salvador Gutarra Juarez and Aurora Mariela Gutarra*, Case No. GV21-013402 (Fx. Co. Gen. Dist. Ct.) (Mason District)
49. *Jay Riat, Building Official for Fairfax County, Virginia v. Jian Liu*, Case No. GV21-004457 (Fx. Co. Gen. Dist. Ct.) (Mason District)
50. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Khin W. Myint*, Case No. GV21-006750 (Fx. Co. Gen. Dist. Ct.) (Mason District)

51. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Majeed Sanori and Farah Sanori*, Case No. GV21-006749 (Fx. Co. Gen. Dist. Ct.) (Mason District)
52. *Jay Riat, Building Official for Fairfax County, Virginia v. Marcelino Victor Aria*, Case No. GV21-011666 (Fx. Co. Gen. Dist. Ct.) (Mason District)
53. *Jay Riat, Building Official for Fairfax County, Virginia v. Richard F. Peredo*, Case No. GV21-011667 (Fx. Co. Gen. Dist. Ct.) (Mason District)
54. *Hiba Aziz, Building Official v. Hummer Property and Investment, Inc.*, Case No. GV21-11837 (Fx. Co. Gen. Dist. Ct.) (Mason District)
55. *Jay Riat, Building Code Official for Fairfax County, Virginia v. Scott S. James*, Case No. GV21-012048 and *Jay Riat, Building Code Official for Fairfax County, Virginia v. Julia S. James*, Case No. GV21-012047 (Fx. Co. Gen. Dist. Ct.) (Mason District)
56. *Jay Riat, Building Code Official for Fairfax County, Virginia v. Charbel C. Markhoul and Rita A. Douaihy*, Case No. GV21-005232 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
57. *Hiba Aziz, Building Official v. Sean and Helen Vermillion*, Case No. GV21-0006747 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon)
58. *Jay Riat, Building Official for Fairfax County, Virginia v. Kevork Kazanjian and Elizabeth Kazanjian, Trustees of the Kevork Kazanjian Living Trust and the Elizabeth Kazanjian Living Trust*, Case No. GV21-013162 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
59. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Georgette Saad*, Case No. CL-2021-0011212 (Fx. Co. Cir. Ct.) (Mount Vernon District)
60. *Jay Riat, Building Official for Fairfax County, Virginia v. BDC Gunston, LLC*, Case No. GV21-012956 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
61. *Jay Riat, Building Official for Fairfax County, Virginia v. Fullerton Lot Two Associates*, Case No. GV21-013713 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
62. *Jay Riat, Building Official for Fairfax County, Virginia v. Home Properties Mount Vernon, LLC*, Case No. GV21-013711 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
63. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Thomas E. Carmel and Deborah M. Carmel*, Case No. GV21-010614 (Fx. Co. Gen. Dist. Ct.) (Providence District)

64. *Jay Riat, Building Code Official for Fairfax County, Virginia v. Kubrat, LLC*, Case No. GV21-012050 (Fx. Co. Gen. Dist. Ct.) (Providence District)
65. *Jay Riat, Building Official for Fairfax County, Virginia v. Kendall Erickson, Tenant*, Case No. GV21-013101 (Fx. Co. Gen. Dist. Ct.) (Providence District)
66. *Jay Riat, Building Official for Fairfax County, Virginia v. Green Lady Masonry and Remodeling, LLC*, Case No. GV21-013102 (Fx. Co. Gen. Dist. Ct.) (Providence District)
67. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Tysons West Assemblage, LLC, and Kenneth Stewart, d/b/a Tysons Playground*, Case No. CL-2020-0012472 (Fx. Co. Cir. Ct.) (Providence District)
68. *Jay Riat, Building Official for Fairfax County, Virginia v. Shazma Aftab*, Case No. GV21-013769 (Fx. Co. Gen. Dist. Ct.) (Providence District)
69. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Agatha V. Williams*, Case No. GV21-004456 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
70. *Hiba Aziz, Building Official for Fairfax County, Virginia v. William A. Taylor and Elisa Taylor*, Case No. GV21-10212 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
71. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Asrat Betew Lulu*, Case No. CL-2021-0011872 (Fx. Co. Cir. Ct.) (Sully District)
72. *Hiba Aziz, Building Official v. Mario Amaro*, Case No. GV21-008077 (Fx. Co. Gen. Dist. Ct.) (Sully District)
73. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Prem K. Mishra and Nimish Mishra*, Case No. GV21-6751 (Fx. Co. Gen. Dist. Ct.) (Sully District)
74. *Board of Supervisors of Fairfax County v. RE/MAX Allegiance*, Case No. GV21-7841 (Fx. Co. Gen. Dist. Ct.) (Providence District)

Board Agenda Item
September 14, 2021

3:30 p.m.

Public Hearing on SEA 2009-SU-002 (New Cingular Wireless PCS, LLC (D/B/A AT&T Mobility), Trustees of the Centreville United Methodist Church, and Centreville Day School) to Amend SE 2009-SU-002, Previously Approved for a Place of Worship with a Child Care Center, to Add a Telecommunication Facility (Stealth Bell Tower) and Associated Changes to Site Design and Development Conditions, Located on Approximately 9.46 Acres of Land Zoned R-1, PDH-12 and WS (Sully District)

This property is located at 6400 Old Centreville Rd., Centreville, 20121. Tax Maps 65-1 ((1)) 14A, 14A1 and 65-1 ((5)) J1.

PLANNING COMMISSION RECOMMENDATION:

On June 30, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Strandlie were absent from the meeting) to recommend to the Board of Supervisors approval of SEA 2009-SU-002, subject to the proposed development conditions dated June 15, 2021, and a modification of the transitional screening requirements pursuant to Sect. 13-303 of the Zoning Ordinance in favor of the existing and proposed landscaping as conditioned.

In related actions, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Strandlie were absent from the meeting) to approve FDPA 81-S-058-08-01, subject to the proposed development conditions dated June 15, 2021, and further, to find that the facility proposed under 2232-Y20-6 satisfies the criteria of location, character, and extent, as specified in Sect. 15.2-2232 of the *Code of Virginia*, and therefore, is substantially in accord with the provisions of the Comprehensive Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<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
September 14, 2021

3:30 p.m.

Public Hearing on SE 2021-MA-002 (Fairfax County Water Authority) to Permit a Light Public Utility Use (Water Pumping Facility), Located on Approximately 23,208 Square Feet of Land Zoned R-3, SC, and HC (Mason District)

This property is located at 2959 Sleepy Hollow Rd., Falls Church, 22044. Tax Map 51-3 ((14)) 1A.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of SE 2021-MA-002, subject to the proposed development conditions dated June 29, 2021;
- Modification of the transitional screening requirement and a waiver of the barrier requirement along the southern property boundary in favor of preserving the existing vegetation as shown on the SE Plat;
- Modification of the transitional screening and barrier requirements along the southwestern portion of the property in favor of a seven-foot-tall brick/pier fence with supplemental plantings as shown on the SE Plat;
- Modification of the transitional screening requirement and a waiver of the barrier requirement along Sleepy Hollow Road in favor of a combination of architectural and landscaping techniques as shown on the SE Plat; and
- Modification of the five-foot-wide sidewalk requirement along Sleepy Hollow Road in favor of an eight-foot-wide concrete sidewalk as conditioned.

In a related action, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to find the water pumping station proposed under 2232-M20-8, satisfies the criteria of location, character, and extent, as specified in Sect. 15.2-2232 of the *Code of Virginia*, as amended, and therefore, is substantially in accord with the Comprehensive Plan.

Board Agenda Item
September 14, 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
September 14, 2021

3:30 p.m.

Public Hearing on RZ 2021-MV-004 (Marie J. and Paul L. Charles) to Rezone from R-2 to R-3 to Permit Residential with a Density of 2.86 Dwelling Units per Acre and Waiver of Lot Width Requirements, Located on Approximately 30,722 Square Feet of Land (Mount Vernon District)

This property is located on the E. side of Lukens Ln. and N. side of Old Mill Rd. Tax Map 110-1 ((1)) 37B.

PLANNING COMMISSION RECOMMENDATION:

On July 28, 2021, the Planning Commission voted 11-0-1 (Commissioner Sargeant abstained from the vote) to recommend to the Board of Supervisors approval of RZ 2021-MV-004, subject to the execution of proffered conditions consistent with those dated July 26, 2021, and a waiver of lot width requirements in favor of that shown on the General Development Plan.

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)
Sharon Williams, Planner, DPD

Board Agenda Item
September 14, 2021

3:30 p.m.

Public Hearing on RZ 2020-BR-001 (Christopher Land, LLC) to Rezone from R-1 to PDH-3 to Permit Residential Development with an Overall Density of 2.71 Dwelling Units per Acre and Approval of the Conceptual Development Plan, Located on Approximately 4.43 Acres of Land (Braddock District)

This property is located at the N. terminus of Banting Dr. and W. terminus of Caprino Ct. approx. 400 ft. W. of Braddock Rd. Tax Map 69-1 ((1)) 31A and 31B.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend to the Board of Supervisors approval of RZ 2020-BR-001, subject to the execution of proffered conditions consistent with those dated July 9, 2021, and a modification of Sect. 10-104.3.B of the Zoning Ordinance to permit a 6-foot tall fence in the front yard of Lot 31A during Phase 1.

In a related action, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to approve FDP 2020-BR-001, subject to the Final Development Plan conditions dated July 12, 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)
Sunny Yang, Planner, DPD

Board Agenda Item
September 14, 2021

3:30 p.m.

Public Hearing on PCA 2006-SU-025-05/CDPA 2006-SU-025-03 (Toll Mid-Atlantic LP Company, Inc. and JLB Realty LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2006-SU-025, to Permit a Multifamily Residential Development at 0.54 Floor Area Ratio, Inclusive of Bonus Density, and Associated Modifications to Proffers and Site Design, Located on Approximately 21.7 Acres of Land Zoned PDC and WS (Sully District)

This property is located on the E. side of Sully Rd., N. side of Westfields Blvd. and W. side of Newbrook Dr. Tax Map 44-1 ((1)) 6C and 6H3.

PLANNING COMMISSION RECOMMENDATION:

On July 28, 2021, the Planning Commission voted 11-0-1 (Chairman Murphy abstained from the vote) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 2006-SU-025-05 and CDPA 2006-SU-025-03, subject to the execution of proffered conditions consistent with those dated July 27, 2021, with amendment to the conditions related to stormwater management;
- Modification to permit the GFA of dwellings as a secondary use to exceed 50% of the GFA of the principal use in the development;
- Modification to permit driveway parking in front of garage access for triplex multi-family buildings (i.e. tandem parking);
- Modification to allow a parapet wall, cornice or similar projection to exceed the established height limit by more than three feet as shown on the CDPA/FDPA;
- Waiver of loading space requirement for Triplexes in favor of the proposed garage parking shown on the CDPA/FDPA;
- Waiver of loading space requirement for five loading spaces for the multifamily building, to allow one indoor loading space in the garage; and
- Modification of interior parking lot landscaping on roof top of the of the multifamily building in favor of what is shown on the CDPA/FDPA.

**To Be Deferred to
10/19/21 at 3:30 p.m.**

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In a related action, the Planning Commission voted 11-0-1 (Chairman Murphy abstained from the vote) to approve FDPA 2006-SU-025-05, subject to the proposed development conditions dated June 29, 2021, as contained in Appendix 2 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)

Emma Estes, Planner, DPD

4:00 p.m.

Decision Only 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.

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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 an effective date of 12:01 a.m. on the day following adoption.

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., decision deferred to July 27, 2021, decision further deferred to September 14, 2021.

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 association with a proposed development, to impose or accept any condition it deems necessary to ensure

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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

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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

~~(5)~~ (e) Any change to non-structural site elements, such as vehicular access, yard requirements, or utility easements that may affect the historic character of the district.

(2) ARB review and approval is required of any application for a proposed subdivision—including any subdivision plat, plan, or construction plan—of any parcel or parcels within a Historic Overlay District whose district-specific regulations require such ARB approval.

(a) Any ARB approval must include a determination that the proposed subdivision would be compatible with the historic nature of the district, including with its landmarks, buildings, or structures.

(b) In addition, the ARB's review also includes consideration of the standards in subsection 3101.6.B(1) above.

19. Wellington at River Farm Historic Overlay District

C. Additional Standards

(1) Any application for a proposed subdivision—including a subdivision plat, subdivision plan or construction plan—requires review and approval by the ARB, in accordance with subsection 3101.6.B(2).

~~(4)~~ (2) Any use approved must utilize the existing historic resources on the property and demonstrate that the use, including any proposed new improvements or additions, will be in harmony with the district-specific purpose of the Wellington at River Farm HOD.

~~(2)~~ (3) Any new improvement and addition—including structure, sign, fence, street furniture, outdoor graphic, and public and private utilities—must be in conformance with adopted Design Guidelines for the Wellington at River Farm ~~HOD~~ **Historic Overlay District** and must be designed in a manner that will protect and preserve the existing historic resources, viewshed, archaeological resources, and historical character of the area.

(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.

INSTRUCTION: Revise subsection 8103.4.C to add a new subsection (3) and renumber remaining subsections accordingly, as shown below.

Article 8 – Administration, Procedures, and Enforcement

8103. Review and Decision-Making Bodies

4. Architectural Review Board

B. Powers and Duties

The ARB has the following powers and duties:

- (1)** In a Historic Overlay District, to hear and decide applications for building permits and sign permits.
- (2)** To review and make recommendations on all applications for rezoning, special exception, special permit, and variance, and any site plan, subdivision plat, grading plan, and sports illumination plan in Historic Overlay Districts.
- (3)** To hear and decide applications for any proposed subdivision—including any subdivision plan, plat, or construction plan—of any parcel or parcels within a Historic Overlay District whose district-specific regulations require such ARB approval.
- (4)** To propose, as deemed appropriate, the establishment of additional Historic Overlay Districts and revisions to existing Historic Overlay Districts.
- (5)** To assist and advise the Board, the Planning Commission, and other County departments and agencies in matters involving historically, architecturally, culturally, or archaeologically significant sites and buildings such as appropriate land usage, parking 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

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4:00 p.m.

Public Hearing on Proposed Plan Amendment 2020-030, 8708 Silverbrook Road, East of the Intersection of Silverbrook Road and Southrun Road (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2020-030 considers amending the Comprehensive Plan recommendation for 1.9-acre Tax Map Parcel 98-3 ((1)) 3, in the Pohick Planning District, Burke Lake (P7) Community Planning Sector, Mount Vernon District. The property is currently planned for residential use at 2-3 dwelling-units-per-acre (du/ac). The amendment considers adding a site-specific option that supports residential use at 4-5 du/ac, subject to conditions related to integration with the neighboring development (Newington Commons) and other considerations.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend that the Board of Supervisors (Board) adopt the staff recommendation for Plan Amendment 2020-030, as appears on pages 10 and 11 of the Staff Report dated June 30, 2021, with one minor change to the tree buffering condition. The recommendation would add a site-specific option for the subject property that supports residential use up to 5 du/ac for development of townhomes in a similar configuration to that of surrounding development, with access from Southrun Road, and subject to conditions requiring development to meet higher targets for post-development tree canopy, open space and landscaped screening along Silverbrook Road.

RECOMMENDATION:

The County Executive recommends that the Board adopt the Planning Commission recommendation.

TIMING:

Planning Commission's Public Hearing – July 14, 2021
Board of Supervisors' Public Hearing – September 14, 2021

BACKGROUND:

On September 29, 2020, the Board authorized the consideration of a Comprehensive Plan amendment for the subject area. The parcel's problematic access location on

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Silverbrook Road has constrained its ability to develop under the current plan recommendation for residential use at 2-3 du/ac in the past. The property owner has worked with the neighboring Newington Commons Homeowners Association (HOA) to obtain an access easement across HOA property to Southrun Road, in order to develop townhomes in a similar manner as the adjacent Newington Commons development. The Board directed staff to evaluate a Comprehensive Plan amendment that considers residential use at 4-5 du/ac with consideration for elements that would integrate the new development into Newington Commons. An associated rezoning application ([RZ 2020-MV-017](#), "Villas at Newington Chase"), which proposes the development of eight single-family attached homes on the property at a density of 4.2 du/ac, is being reviewed concurrently with this Plan amendment.

The proposed revisions to the Comprehensive Plan include an option for residential development up to 5 du/ac, consisting of clustered townhome development with a minimum of at least 30 percent of 10-year post-development tree canopy and at least 50 percent open space on the site. These recommendations, along with conditions about access and buffering would ensure development that is consistent with the established development pattern of neighboring properties, rather than conventional development of single-family detached homes that is less compatible with the established character of the area. Exceeding the base Plan expectations by satisfying higher targets for the provision of open space, tree canopy, and buffering would provide the necessary justification for an increase in planned density above the base Plan density for the area.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

The Planning Commission verbatim excerpt, dated July 14, 2021, is available online at: <https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim071421pa2020-00030-8708silverbrookroad.pdf>

The Staff Report for PA 2020-00030, dated June 30, 2021 has been previously furnished and is available online at: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/Assets/documents/CompPlanAmend/8708silverbrookrd/PA-2020-00030-Staff-Report.pdf>

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STAFF:

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

Leanna H. O'Donnell, Director, Planning Division (PD), DPD

Meghan Van Dam, Branch Chief, Policy & Plan Development Branch (PPDB), PD, DPD

Michael Lynskey, Planner II, PPDB, PD, DPD

4:00 p.m.

Public Hearing on Proposed Amendments to Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes Enacted During the 2021 Session of the General Assembly to Change Status as a Veteran to Military Status as a Protected Class, Adding a Definition of Military Status to Art. 11.1-3-2 (the Fairfax County Fair Housing Act), Adding the Accessible Parking Language from HB 1971 to Art. 11.1-3-4-2, and Deleting Extraneous Language from Art. 11.1-3-18

ISSUE:

Board of Supervisors approval of amendments to Chapter 11.1 of the County Code to change status as a veteran to military status as a protected class, add a definition of military status to Art. 11.1-3-2, add accessible parking language from HB 1971 to Art. 11.1-3-4-2, and delete extraneous language from Art. 11.1-3-18. The proposed amendments are required as a result of amendments to state Anti-Discrimination and Fair Housing Statutes and HB 1971 which were passed by the 2021 session of the General Assembly, signed by the Governor, and become effective July 1, 2021. The proposed amendments will be effective retroactive to July 1, 2021.

RECOMMENDATION:

The County Executive recommends that the Board adopt the proposed amendments to Chapter 11.1 of the County Code provided as Attachment 1.

TIMING:

Board action is requested on September 14, 2021, at 4:00 p.m. so that Chapter 11.1 of the County Code can become effective, as amended.

BACKGROUND:

The 2021 session of the Virginia General Assembly amended state anti-discrimination and fair housing statutes changing “status as a veteran” to “military status” as a protected class. It defined “military status” to mean status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided within 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

The General Assembly also amended the state fair housing statute to add language making clear that requests for accessible parking are to be treated as requests for a reasonable accommodation.

The proposed amendments to Chapter 11.1 of the County Code would incorporate these amendments into the County Code to make them consistent with the state statutes. The proposed amendments would also delete extraneous language from the title of County Code § 11.1-3-18.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENT:
Attachment 1 – Proposed Amendments to Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes.

STAFF:
Kenneth Saunders, Director, Office of Human Rights and Equity Programs

ASSIGNED COUNSEL:
Ben Jacewicz, Assistant County Attorney
Ryan Wolf, Assistant County Attorney

**CODE OF FAIRFAX COUNTY, VIRGINIA
CHAPTER 11**

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Article 1. In General.

Section 11.1-1-1. Purpose.

This Chapter codifies the Fairfax County Human Rights Ordinance and the Fairfax County Fair Housing Act. As such, it reflects the following decision the Board of Supervisors to:

(a) Continue to enforce and amend the County Fair Housing Act in effect on January 1, 1991, as authorized by Virginia Code § 36.1-96.21, rather than merge the County's rules and regulations on housing discrimination into the Human Rights Ordinance; and

(b) Designate the Fairfax County Human Rights Commission as responsible for furthering compliance with the Human Rights Ordinance and the Fair Housing Act, as authorized by Virginia Code §§ 15.2-823, 15.2-853, 15.2-965, and 36.1-96.21.

Section 11.1-1-2. Definitions.

The following definitions shall apply to this Chapter:

(a) *Case file* shall mean the OHREP file on a complaint, including but not limited to, the complaint, any answer filed by the respondent, and information gathered during any investigation of the complaint.

(b) *Commission* shall mean the Human Rights Commission, as established herein.

(c) *County Attorney* shall mean the County Attorney for Fairfax County.

(d) *Director* shall mean the Director of OHREP, or the Director's designated representative.

(e) *OHREP* shall mean the Fairfax County Office of Human Rights and Equity Programs.

Section 11.1-1-3. Human Rights Commission established.

The Board of Supervisors establishes the Fairfax County Human Rights Commission.

Section 11.1-1-4. Membership; compensation; terms of office; chairperson and vice chairperson; bylaws.

(a) The Commission shall consist of twelve (12) members who shall be residents of the County and broadly representative of the County's population.

(b) The members of the Commission shall be appointed by the Board of Supervisors and shall be entitled to receive such compensation as the Board of Supervisors shall direct.

(c) Of the members of the Commission first appointed, four (4) shall be appointed for terms of three (3) years, four (4) shall be appointed for terms of two (2) years, and three (3) shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of three (3) years each. Any vacancy shall be filled by the Board of Supervisors for the unexpired portion of the term.

(d) The Commission shall establish bylaws, and make any subsequent amendments to such bylaws, in accordance with County policies and procedures.

Section 11.1-1-5. Legal counsel.

The County Attorney shall act as legal counsel to the Commission and shall authorize retention of outside legal counsel for the Commission where deemed appropriate for a particular complaint.

Section 11.1.1-6. Office of Human Rights and Equity Programs.

(a) OHREP shall have the following functions:

- (1) To provide administrative support for the Commission's activities;
- (2) To make studies to effectuate the purposes and policies of this Article and to make the results thereof available to the public;
- (3) To accept public grants or private gifts, bequests, or other payments, as appropriate under the law; and
- (4) To furnish technical assistance, upon request, to persons subject to this Article to further compliance with this Article or a recommendation made thereunder.

OHREP also may perform any other function as provided by this Chapter.

(b) The Board of Supervisors shall appoint the Director of OHREP upon the recommendation of the County Executive. The Director shall serve full time and be responsible for overseeing the day-to-day operations of OHREP.

Section 11.1-1-7. Right to representation.

A complainant and respondent each are entitled to be represented by counsel or by an authorized representative in any matter before the Commission.

Section 11.1-1-8. Effective date.

This Chapter shall take effect retroactive to July 1, 2020, and shall apply to all matters pending before the Commission on that date and to all matters arising before the Commission thereafter.

Article 2. Human Rights Ordinance.

Section 11.1-2-1. Authorization; short title.

(a) Under the authority of Virginia Code §§ 15.2-853 and 15.2-965, the Board of Supervisors enacts this Article prohibiting discrimination in employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, military status, ~~as a veteran~~, age, marital status, sexual orientation, gender identity, or disability.¹

(b) This Article shall be known and cited as the Fairfax County Human Rights Ordinance.

Section 11.1-2-2. Definitions.

The following definitions shall apply to this Article:

(a) *Complainant* shall mean a person who claims to have been injured by an unlawful discriminatory practice.

(b) *Complaint* shall mean a written statement by a person, a member of the Commission, or the Commission alleging an act of discrimination prohibited by this Article.

(c) *Conciliation* shall mean the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director.

(d) *Party* shall mean a complainant or respondent.

(e) *Person* shall mean one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts or unincorporated organizations.

(f) *Respondent* shall mean a person against whom a complaint of violation of this Article is filed.

Section 11.1-2-3. Declaration of policy.

It is the policy of the County to:

¹ As explained in Article 1 of this Chapter, Virginia Code 15.2-853 also authorizes the Board of Supervisors to prohibit unlawful discrimination in housing and real estate transactions. Under the authority of Virginia Code § 36-96.21, the Board has enacted a separate Fair Housing Act to prohibit such discrimination, which appears as Article 3.

- Safeguard all individuals within the County from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability in places of public accommodation, including educational institutions, and with respect to credit;
- Safeguard all individuals within the County from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability;
- Preserve the public safety, health, and general welfare;
- Further the interests, rights, and privileges of individuals within the County; and
- Protect citizens of the County against unfounded charges of unlawful discrimination.

Section 11.1-2-4. Construction.

(a) The provisions of this Article shall be construed liberally for the accomplishment of its policies.

(b) Nothing in this Article shall be deemed to repeal, supersede or expand upon any of the provisions of any other state or federal law relating to discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability.

(c) Nothing in this Article shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

(d) Nothing in this Article shall be construed to affect any government program, law or activity differentiating between persons on the basis of age over the age of eighteen (18) years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the County for the general health, safety and welfare of the population at large.

Section 11.1-2-5. Unlawful discrimination.

(a) With the exception of matters relating to housing and residential real estate, conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions,

including lactation, age, disability, military status, ~~as a veteran~~, or national origin shall be an "unlawful discriminatory practice" for purposes of this Article.

(b) It shall be a violation of this Article for any person to engage in an unlawful discriminatory practice.

Section 11.1-2-6. Commission jurisdiction.

(a) The Commission shall exercise jurisdiction to enforce this Article within the geographical boundaries of the County, including the Towns of Clifton, Herndon and Vienna, except for complaints of unlawful discrimination made against governmental entities, and the officers, employees and agents of such entities.

(b) If the Commission determines that a complaint is not within the Commission's jurisdiction, but possibly within the jurisdiction of one of the agencies with which the Commission has an interagency agreement, the complaint shall be sent to the appropriate agency within fifteen (15) working days of the determination. The complainant shall be notified of this action and a reason provided. Once the complaint has been forwarded and the complainant notified, the Commission shall close the case file. In the event the complaint is not under the jurisdiction of the agency to which it was referred, or if additional evidence is submitted, the case file will be reopened. The Commission delegates to the Director authority to make the determination and provide the notice required under this Subsection.

Section 11.1-2-7 Commission powers and duties.

Under this Article, the Commission shall promote policies to ensure that all persons in the County be afforded equal opportunity, serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding unlawful discriminatory practices occurring within the County, and with the approval of the County Attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any County ordinance prohibiting discrimination.

Section 11.1-2-8. Service.

Service by the Commission with respect to matters covered by this Article shall be either in person or by mail to the last-known address of the recipient appearing in OHREP's records. The complainant, respondent, counsel of record and any authorized representative shall be responsible for providing the Commission with prompt notice of any change in address.

Section 11.1-2-9. Filing of complaint.

(a) Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the Commission. The

Commission or a member of the Commission may in a like manner file such a complaint.

(b) In the event that a complaint is filed on behalf of a person claiming to be aggrieved, the Director shall verify the complaint with the person on whose behalf the complaint is made.

(c) Where a person is entitled to file a complaint with the Commission, OHREP shall render assistance in the filing of a complaint.

(d) A complaint may be filed in person at or by mail to OHREP's office located at the Fairfax County Government Center, 12000 Government Center Parkway, Suite 318, Fairfax, Virginia 22035 during normal County business hours, by fax to 703-324-3570, or by email to EPDEmailComplaints@fairfaxcounty.gov. Telephone calls may be made to 703-324-2953, TTY 711, in order to receive information on how and where to file a complaint. Complaints shall not be accepted over the telephone.

(e) All complaints shall be dated and time-stamped upon receipt.

(f) The Commission may reveal the identity of complainants to federal, state, or local agencies that have agreed to keep such information confidential, or when required to do so by law.

Section 11.1-2-10. Form and contents of complaint.

(a) A complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discriminatory practice. To ensure compliance with this requirement, it should contain the following information:

(1) The full name, address and telephone number of the person making the complaint;

(2) The full name, addresses and telephone number of the respondent; and

(3) A clear concise statement of the facts, including pertinent dates, constituting the alleged unlawful discriminatory practice.

(b) Notwithstanding the provisions of Subsection (a) of this Section, a complaint shall be considered filed when OHREP receives a written statement that identifies the parties and describes generally the actions or practices complained of.

(c) A complaint may be reasonably and fairly amended by the filing party at any time prior to a hearing. Except for purposes of notifying the respondent as specified in Subsection (d) of this Section, amended complaints shall be considered as having been made as of the original filing date.

(d) When an amendment is filed, OHREP shall forward a copy of the amendment to the respondent within five (5) working days of the amendment. The respondent shall within ten (10) working days after receiving the amendment file an answer to the amendment.

Section 11.1-2-11. Dismissal of complaint.

(a) The Commission shall dismiss a complaint for lack of jurisdiction.

(b) The Commission shall dismiss a complaint when the complainant fails to cure defects in its allegations or make required amendments within the time prescribed by OHREP.

(c) When the Commission determines that the complaint (1) is not timely or (2) fails to state a claim under this Article, it shall dismiss the complaint.

(d) Written notice of any dismissal pursuant to this Section shall be issued to the complainant and the respondent.

(e) The Commission delegates authority to the Director to dismiss complaints under this Section.

Section 11.1-2-12. Withdrawal of complaint.

(a) A complaint may only be withdrawn by the complainant and only with the consent of the Commission. The Commission hereby delegates authority to the Director to consent to a request to withdraw a complaint, where withdrawal of the complaint will not defeat the purposes of the statute or regulation alleged to have been violated.

(b) The Commission may withdraw any complaint filed by a member of the Commission whose term of office has expired or otherwise ended when it determines that the purposes of this Article are no longer served by processing the complaint.

(c) A complaint filed under this Article may not be withdrawn after a determination of reasonable cause has been made.

Section 11.1-2-13. Service and notice of complaint.

(a) Upon perfection of a complaint, the Commission shall timely serve the complaint on the respondent and provide all parties with written notice informing them of the complainant's rights, including the right to commence a civil action, and the dates within which the complainant may exercise such rights. The notice also shall notify the complainant that the complaint shall be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the appropriate general district or circuit court. Finally, the notice also

shall advise the parties of the need for them to preserve all documents relevant to the complaint until final disposition of the complaint.

(b) The Commission delegates to the Director authority to serve the complaint and notice provided under this Section.

Section 11.1-2-14. Mediation.

(a) The complainant and respondent may agree voluntarily to submit the complaint to mediation without waiving any rights that are otherwise available to each party pursuant to this Article and without incurring any obligation to accept the result of the mediation process.

(b) Nothing occurring in mediation shall be disclosed by the Commission or OHREP. Nor shall it be admissible in evidence in any subsequent proceeding unless the complainant and the respondent agree in writing that such disclosure be made.

Section 11.1-2-15. Investigation.

(a) Unless the complaint on its face is subject to dismissal under Section 11-1-2-11, the Commission shall conduct an investigation sufficient to determine whether there is reasonable cause to believe the unlawful discriminatory practice alleged in the complaint has occurred or is occurring.

(b) The Commission delegates the authority to investigate the complaint to OHREP. As part of each investigation, OHREP:

(1) Shall accept a statement of position or evidence submitted by the complainant, the person making the complaint on behalf of the complainant, or the respondent;

(2) May require the complainant to provide a statement which includes: (i) a statement of each specific harm that the complainant has suffered and the date on which each harm occurred; (ii) for each harm, a statement specifying the act, policy or practice which is alleged to be unlawful; and (iii) for each act, policy, or practice alleged to have harmed the complainant, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory; and

(3) May submit a request for information to the respondent that, in addition to specific questions, may request a response to the allegations contained in the complaint.

(c) OHREP's authority to investigate a complaint is not limited to the procedures outlined in Subsection (b) of this Section.

Section 11.1-2-16. Subpoena power.

- (a) The Commission has no power itself to issue subpoenas under this Article.
- (b) Whenever OHREP has a reasonable cause to believe that any person has engaged in, or is engaging in, any violation of this Article, and, after making a good faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether such violation has occurred, is unable to obtain such data, information, or attendance, it may request the County Attorney to petition the General District Court for Fairfax County for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and such court may, upon good cause shown, cause the subpoena to be issued.
- (c) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued by the Commission or OHREP.
- (d) Any witness subpoena issued under this Section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.
- (e) Any person failing to comply with a subpoena issued under this Section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

Section 11.1-2-17. Investigative report.

- (a) Upon completion of the investigation, the Commission shall issue a written investigative report determining whether or not there is reasonable cause to believe a violation of this Article has occurred, and the facts supporting such determination. The report shall be a confidential document subject to review by the Director, authorized OHREP staff members, and the parties.
- (b) The Commission delegates authority to the Director to prepare and issue written investigative reports.

Section 11.1-2-18. No cause determination.

- (a) If the investigative report concludes that there is no reasonable cause to believe the alleged unlawful discrimination has been committed, the complaint shall be dismissed.
- (b) The Commission delegates authority to the Director to issue no cause letters of determination and dismiss complaints pursuant to this Section.

(c) If the complainant disagrees with the no cause determination, the complainant may seek reconsideration by the Director or file an appeal with the Commission within ten (10) working days of receipt of the determination.

(d) Reconsideration shall only be granted when the complainant presents newly discovered evidence. After considering any such evidence, the Director shall (1) reaffirm the determination of no cause and dismiss the complaint, or (2) make a determination of reasonable cause.

(e) The Director shall provide a written notice to the complainant of the decision made on the request for reconsideration. In the event the Director reaffirms the no cause determination, this notice shall advise the complainant that the determination shall become final, unless within ten (10) business days of the letter's receipt, the complainant files an appeal with the Commission.

(1) The Commission shall only overturn the Director's no cause determination if it decides that (i) a factual finding underlying the determination is clearly erroneous, or (ii) the determination rests upon an incorrect legal conclusion.

(2) If the Commission affirms the Director's determination, it shall dismiss the complaint. When the Commission overturns the determination, it shall either: (i) vacate the determination and direct the Director to continue the investigation; or (ii) reverse and determine that there is reasonable cause to believe that a violation of this Article has occurred or is occurring.

Section 11.1-2-19. Reasonable cause determination.

(a) If the investigative report concludes that there is reasonable cause to believe the alleged unlawful discriminatory practice has been committed, the complainant and respondent shall be notified of such determination.

(b) A determination finding reasonable cause shall be based on, and limited to, evidence obtained by during the investigation and does not reflect any judgment of the merits of the allegations not addressed in the determination.

(c) The Commission delegates to the Director, upon completion of the investigation, to make a reasonable cause determination, issue a cause letter of determination and serve a copy of the letter upon the parties.

Section 11.1-2-20. Conciliation.

(a) When a reasonable cause determination has been made, the Commission shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as conference, conciliation, negotiation, and persuasion.

(b) The Commission delegates to the Director the authority to enter into informal conciliation efforts, and to negotiate conciliation agreements.

(c) If the conciliation is successful, and agreed to by the vote of the Commission, the complaint shall be considered resolved, and the case file shall be closed. The terms of any settlement agreement resulting from the conciliation shall be reduced to writing and signed by the complainant, respondent, and the Commission. A copy of the agreement signed by parties and the Chair of the Commission or the Chair's designee shall be sent to the complainant and the respondent.

(d) When the Commission agrees in any negotiated settlement not to process the complaint further, the Commission's agreement shall be in consideration for the promises made by the other parties to the agreement. Such agreement shall not affect the processing of any other complaint, including, but not limited to, a complaint with allegations which are like or related to the individual allegations settled.

(e) When the Director determines that further endeavor to settle a complaint by conference, conciliation, negotiation, and persuasion is unworkable and should be bypassed, the Director shall so notify the complainant and the respondent in writing. Within 10 working days of receipt of this notice, the complainant may request referral of the complaint to the Commission for determination of whether to hold a public hearing. If the complainant makes no such request, the Commission shall close the case file.

Section 11.1-2-21. Determination whether to hold a public hearing.

The Commission shall determine whether to hold a public hearing on a complaint based upon the totality of circumstances, including how best to further the policies and purposes underlying this Article. If the Commission determines not to hold a public hearing, it shall close the case file.

Section 11.1-2-22. Confidentiality.

(a) No member of the Commission or member of OHREP shall make public, prior to a public hearing, as provided herein, investigative notes and other correspondence and information furnished to the Commission or OHREP in confidence with respect to an investigation, mediation, or conciliation process involving an alleged unlawful discriminatory practice under this Article; however, nothing in this Section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

(b) This Section does not apply to such disclosures to representatives of federal, state or local agencies as may be appropriate or necessary to carrying out the Commission's functions under this Article; provided, that the Commission may refuse to make disclosures to any such agency which does not maintain confidentiality of such endeavors in accordance with this Section or in any

circumstances where the disclosures will not serve the purposes of effective enforcement of the law or regulation alleged to have been violated.

Section 11.1-2-23. Hearing before Commission.

(a) The Commission may hear appeals made following a no cause determination made under this Article; provided, however, that a member of the Commission who has filed the complaint at issue or otherwise has a personal interest in the matter giving rise to the complaint shall be disqualified from hearing the appeal.

(b) After hearing all of the evidence and arguments, the Commission shall vote to dismiss the complaint due to insufficient evidence of a violation of this Article or to find reasonable cause based upon evidence sufficient to establish a violation of this Article.

(c) Once the hearing has concluded, all administrative appeals and hearings shall have been exhausted, and the Commission shall close the case file.

Section 11.1-2-24. Hearing procedures.

(a) This Section applies to all hearings held before the Commission, including any panel of its members, under this Article.

(b) The Commission shall notify the parties of the time, date, and location of a hearing no later than twenty (20) working days prior to the date of the hearing. This notice also shall identify the issues to be considered at the hearing and, when applicable, specify the deadlines by which parties must submit motions, file exhibits, designate witnesses, and raise evidentiary objections. Motions to continue a hearing or extend a deadline shall be in writing with a copy to the opposing party and submitted to the Commission. The Commission may grant any such motion only where good cause is shown.

(c) All hearings shall be open to the public.

(d) Both the complainant and the respondent shall appear and be heard in person.

(e) All testimony shall be given under oath or affirmation.

(f) The order of presentation of evidence shall be established by the Commission with the burden of proof being placed on the complainant. The burden of proof shall be a preponderance of the evidence.

(g) The Commission shall rule on all motions, evidentiary issues, and procedural matters. It shall not be bound by statutory rules of evidence or technical rules of procedure

(h) Irrelevant, immaterial, and unduly repetitious evidence shall, at the discretion of the Commission, be excluded. The rules of privilege shall be given effect.

(i) Documents and witness testimony not provided during the prior investigation shall not be admitted as evidence at the hearing, except for good cause shown or upon agreement of the parties.

(j) A party's exhibit and witness list for a hearing must be distributed to the Commission and the other party no later than five (5) working days prior to the hearing. Non-compliance with this rule shall result in the exclusion of the document or witness testimony left off the list, unless the Commission determines that good cause exists to allow it.

(k) At the start of the hearing, the Commission shall order the exclusion of witnesses so they cannot hear the testimony of other witnesses. This rule does not authorize excluding parties, or a person authorized to be present.

(l) Commission members may ask questions of the parties and witnesses.

(m) Before the hearing concludes, the parties shall be given an opportunity to present oral argument of their cases.

(n) After the parties have completed their presentations, the Commission's members shall cast their votes. After all members have voted, the Chair shall announce the Commission's decision and conclude the hearing.

Section 11.1-2-25. Remedies.

(a) If the respondent fails to adhere to any provision contained in any conciliation agreement or adequately to remedy a violation of this Article giving rise to a reasonable cause determination, the Commission, with the approval of the County Attorney, may seek through appropriate enforcement authorities the prevention of or relief from the violation.

(b) Upon finding a violation of this Article, the Commission may notify the County Purchasing Agent or any County agency providing financial support to the respondent of the violation.

(c) The Commission has no authority to award damages or grant injunctive relief under this Article.

(d) Nothing in this Article creates, nor shall it be construed to create, an independent or private cause of action to enforce its provisions.

Section 11.1-2-26. No waiver of other legal rights.

(a) Any person who is aggrieved by an unlawful discriminatory practice may bring an appropriate action in a court of competent jurisdiction, as provided for by any other applicable law.

(b) Nothing in this Chapter shall prevent any person from exercising any right or seeking any remedy to which the person might otherwise be entitled; nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other agency, except as is otherwise provided by applicable Virginia or federal law.

Section 11.1-2-27. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

ARTICLE 3. Fair Housing Act.

Section 11.1-3-1. Declaration of policy.

- (a) This Article shall be known and referred to as the Fairfax County Fair Housing Act.
- (b) It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a~~ ~~veteran~~, source of funds, or disability, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the County may be protected and ensured. This law shall be deemed an exercise of the police power of the County of Fairfax for the protection of the people of the County.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-2. Definitions.

For the purposes of this Article, unless the context requires a different meaning ~~clearly indicates otherwise~~:

Aggrieved person means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

Assistance animal means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

Complainant means a person, including the Human Rights Commission, who files a complaint under Section 11.1-3-10.

Conciliation means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal

negotiations involving the aggrieved person, the respondent, their respective authorized representatives, and the Human Rights Commission.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

Disability means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.

Discriminatory housing practices means an act that is unlawful [under] Sections 11.1-3-4, 11.1-3-5, 11.1-3-6, or 11.1-3-7. Dwelling means any building, structure, or portion thereof, which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Elderliness means an individual who has attained his or her fifty-fifth birthday.

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this Section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

Family includes a single individual, whether male or female.

Lending institution includes any bank, savings institution, credit union, insurance company, or mortgage lender.

Major life activities include any of the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Military status means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual

shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

Person means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Physical or mental impairment includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or physiological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance, and alcoholism.

Prevailing Party has the same meaning as such term has in Section 1988 of Title 42 of the United States Code.

Respondent means any person or other entity alleged to have violated the provisions of this Article, as stated in a complaint filed under the provisions of this Chapter and any other person joined pursuant to the provisions of Section 11.1-3-10.

Restrictive covenant means any specification in any instrument affecting title to real property which purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, **military** status, ~~as a veteran~~, or disability.

Source of funds means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

To rent means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-3. Exemptions.

- (a) Except as provided in Section 11.1-3-4(a)(3) and Section 11.1-3-7(a)-(c), this Article shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this Article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this Article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.
- (b) Except for Section 11.1-3-4(a)(3), this Article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (c) Nothing in this Article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability. Nor shall anything in this Article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such

lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this Article be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, religious, or correctional institution, from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

- (d) Nothing in this Article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.
- (e) It shall not be unlawful under this Article for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.
- (f) A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this Article shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.
- (g) Nothing in this Article limits the applicability of any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. Nothing in this Article prohibits the rental application or similar document from requiring information concerning the number, ages, sex, and familial relationship of the applicants and the dwelling's intended occupants.
- (h) Nothing in this Article shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged

discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a 10 percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

- (i) It shall be unlawful under this Article for an owner or owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-4. Unlawful discriminatory housing practices.

- (a) It shall be an unlawful discriminatory housing practice for any person:
 - (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, marital status, sexual orientation, gender identity, or military status ~~as a veteran~~;
 - (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, marital status, sexual orientation, gender identity, or military status ~~as a veteran~~;
 - (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this Chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship including churches, synagogues, temples, or mosques in any such notice,

statement or advertisement shall not be prima facie evidence of an illegal preference;

- (4) To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (5) To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability;
- (6) To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
- (7) To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability;
- (8) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (iii) any person associated with the buyer or renter; or
- (9) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made

available; or (iii) any person associated with that buyer or renter.

- (b) For the purposes of this Section, discrimination includes: (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:
- (1) The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;
 - (2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - (3) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.
- (c) Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of Section 11.1-3-4(b)(3).
- (d) Nothing in this Chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and

constructed in a manner that affords disabled persons greater access than is required by this Chapter.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-4-1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.

- (a) A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the County.
- (b) If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.
- (c) A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.
- (d) Subject to subsection (b), a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

- (e) For purposes of this Section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in Virginia Code § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

Section 11.1-3-4-2. Reasonable accommodations; interactive process.

- (a) When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.
- (b) When a person receives a request for accessible parking to accommodate a disability, the person receiving the request shall treat such request as a request for reasonable accommodation as provided by this chapter.
- (c) When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good-faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative

burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

- (d) A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

Section 11.1-3-5. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

- (a) It shall be unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability. It shall not be unlawful; however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.
- (b) As used in this Section, the term "residential real estate-related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling, or (ii) secured by residential real estate; or
- (2) The selling, brokering, insuring or appraising of residential real property. However, nothing in this Article shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-6. Interference with enjoyment of rights of others under this Article.

It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on the account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Article.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-7. Certain restrictive covenants void; instruments containing such covenants.

- (a) Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this County.
- (b) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.
- (c) No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest

described in subsection (a). Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500.00, plus reasonable attorney fees and costs incurred.

- (d) A family care home, foster home, or group home in which individuals with physical disabilities, mental illness, intellectual disabilities, or developmental disabilities reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single-family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single-family or to residential use or structure.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-8. Familial status protection not applicable to housing for older persons.

- (a) Nothing in this Article regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this Section, "housing for older persons" means housing: (i) provided under any federal, state, or local program that is lawfully determined to be specifically designed and operated to assist elderly persons, as defined in the federal, state or local program; or (ii) intended for, and solely occupied by, persons 62 years of age or older; or (iii) intended for, and solely occupied by at least one person 55 years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under subdivision (iii) of this Section:
 - (1) That at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older per unit; and
 - (2) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (b) Housing shall not fail to meet the requirements for housing for older persons by reason of:
 - (1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subdivisions (ii) and (iii) of subsection (a) of this Section, provided that new occupants of such housing meet the age requirements of those subdivisions; or

- (2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of subdivisions (ii) and (iii) of subsection (a) of this Section.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-9. Powers of the Human Rights Commission.

The Human Rights Commission has the power for the purposes of this Article to initiate and receive complaints, conduct investigations of any violation of this Article, attempt resolution of complaints by conference and conciliation, and, upon failure of such efforts, issue a charge, and refer it to the County Attorney for action. When conducting an investigation of a complaint filed under Article 3 of this Chapter the Commission or its designated subordinates shall have the power to issue and serve a subpoena as provided for by Section 11.1-3-11(b).

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-10. Procedures for receipt or initiation of complaint under Article 3 of this Chapter; notice to parties; filing of answer.

- (a) A complaint under this Article shall be filed with the Commission in writing within one year after the alleged discriminatory housing practice occurred or terminated.
- (b) Any person not named in such a complaint and who is identified as a respondent in the course of the investigation may be joined as an additional or substitute respondent upon written notice to such person by the Director explaining the basis for the Director's belief that such person is properly joined as a respondent
- (c) Any respondent may file an answer to such a complaint not later than ten business days after receipt of the notice described in Section 11.1-3-10(d) below. Complaints and answers must be made in writing, under oath or affirmation, and in such form as the Director requires. Complaints and answers may be reasonably and fairly amended at any time.
- (d) Upon the filing of a complaint under this Article 3 or initiation of such a complaint by the Director or its designee, the Commission shall provide written notice to the parties as follows:
 - (1) To the aggrieved person acknowledging the filing and advising such person of the time limits and choice of forums under this Article; and
 - (2) To the respondent, not later than ten business days after such filing or the identification of an additional respondent under subsection (b), identifying the alleged discriminatory housing

practice and advising such respondent of the procedural rights and obligations of respondents under this Article with a copy of the original complaint and copies of any supporting documentation referenced in the complaint.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-11. Procedures for investigation.

- (a) The Director shall commence proceedings with respect to a complaint filed under this Article within 30 days after receipt of the complaint, and shall complete the investigation within 100 days thereof unless it is impracticable to do so. If the Director is unable to complete the investigation within 100 days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.
- (b) When conducting an investigation of a complaint filed under this Article, the Director shall have the right to interview any person who may have any information which may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons may be interviewed under oath. The Director or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth of Virginia. In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court for the County of Fairfax. The Circuit Court of Fairfax County will be requested to give these cases priority on the court docket.
- (c) At the end of each investigation under this Section, the Director shall prepare a final investigative report which may contain:
 - (1) The names and dates of contacts with witnesses;
 - (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
 - (3) A summary description of other pertinent records;
 - (4) A summary of witness statements; and
 - (5) Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

- (d) The Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-12. Reasonable cause determination and effect.

The Commission shall, within 100 days after the filing of a complaint under this Article, determine, based on the facts and after consultation with the Office of the County Attorney, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is

impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within 100 days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-13. No reasonable cause determination and effect.

If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint notifying the parties within 30 days of such determination. The Commission shall make public disclosure of each dismissal.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-14. Conciliation.

During the period beginning with the filing of such complaint under this Article and ending with the filing of a charge or a dismissal by the Director, the Director shall, to the extent feasible, engage in conciliation with respect to such complaint.

- (1) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent, the complainant, and the Commission, and shall be subject to approval by the Commission.

- (2) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
- (3) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this Chapter.
- (4) Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may refer the matter to the County Attorney with a recommendation that a civil action be filed under Section 11.1-3-18 for the enforcement of such agreement.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-15. Issuance of a charge.

Upon failure to resolve a complaint under this Article by conciliation and after consultation with the Office of the County Attorney, the Commission shall issue a charge on behalf of the Commission and the aggrieved person or persons and shall immediately refer the charge to the County Attorney, who shall proceed with the charge as directed by Section 11.1-3-17.

- (1) Such charge:
 - (A) Shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;
 - (B) Shall be based on the final investigative report; and
 - (C) Need not be limited to the acts or grounds alleged in the complaint filed under Section 11.1-3-10.
- (2) Not later than ten business days after the Commission issues a charge under this Section, the Director shall cause a copy thereof to be served on each respondent named in such charge and on each aggrieved person on whose behalf the complaint was filed.

The Commission may not issue a charge under this Section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-16. Prompt judicial action.

If the Director concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial action is necessary to carry out the purposes of this Chapter, the Director may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief. Upon receipt of such authorization, the County Attorney shall promptly commence and maintain such action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Virginia Rules of Civil Procedure. The commencement of a civil action under this Section shall not affect the initiation or continuation of administrative proceedings by the Commission under Section 11.1-3-9.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-17. Civil action by County Attorney upon referral of charge by the Human Rights Commission.

- (a) Not later than 30 days after a charge is referred by the Commission to the County Attorney under Section 11.1-3-15, the County Attorney, at County expense, shall commence and maintain a civil action seeking relief on behalf of the Commission and the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.
- (b) Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection (a) may intervene as of right.
- (c) In a civil action under this Section, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Section 11.1-3-19. Any relief so granted that would accrue to an aggrieved person under Section 11.1-3-19 shall also accrue to the aggrieved person in a civil action under this Section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this Section.
- (d) In any court proceeding arising under this Section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-18. Civil action by County Attorney; ~~matters involving the legality of any local zoning or other land use ordinance;~~ pattern or practice cases; or referral of conciliation agreement for enforcement.

- (a) Whenever the County Attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this Article, or that any group of persons has been denied any of the rights granted by this Article and such denial raises an issue of general public importance, the County Attorney may commence a civil action in the appropriate circuit court for appropriate relief.
- (b) In the event of a breach of a conciliation agreement by a respondent, the Commission may authorize a civil action by the County Attorney. The County Attorney may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of 90 days after the referral of such alleged breach.
- (c) The County Attorney, on behalf of the Commission, or other party at whose request a subpoena is issued, under this Article, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.
- (d) In a civil action under subsections (a) and (b), the court may:
 - (1) Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this Article as is necessary to assure the full enjoyment of the rights granted by this Article.
 - (2) Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000.00 for a first violation; and (ii) in an amount not exceeding \$100,000.00 for any subsequent violation. The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.
- (e) Upon timely application, any person may intervene in a civil action commenced by the County Attorney under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief

to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Section 11.1-3-19.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-19. Civil action; enforcement by private parties.

- (a) An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.
- (b) An aggrieved person may commence a civil action under Section 11.1-3-19(a) no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge or not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this Section whether or not a complaint has been filed under Section 11.1-3-10 and without regard to the status of any such complaint. If the Commission or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this Section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (c) In a civil action under subsection (a), if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorney's fees and costs, and subject to subsection (d), may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.
- (d) Relief granted under subsection (c) shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving bona fide purchasers, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Commission or civil action under this Article.

- (e) Upon timely application, the County Attorney may intervene in such civil action, if the County Attorney certifies that the case is of general public importance. Upon intervention, the County Attorney may obtain such relief as would be available to the private party under subsection (c).

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-20. Witness fees.

Witnesses summoned by a subpoena under this Chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Commission.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-21. Promulgating regulations.

The Commission shall perform all acts necessary and proper to carry out the provisions of this Article and may promulgate and amend necessary regulations.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-22. Application of Article.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-23. Construction of law.

Nothing in this Article shall abridge the federal Fair Housing Act of 1968, (42 U.S.C. § 3601 et seq.), as amended, or the Virginia Fair Housing Act (Va. Code Ann. § 36-96.1 et seq.) (Michie 1996) as amended.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-24. Time Limitations.

- (a) A complaint filed under the provisions of this Article shall be dismissed by the Director if the complainant knew or should have known that the alleged violation of this Article ceased more than one year prior to the date of filing of the complaint.

- (b) If the Commission is unable to make a final disposition within 100 days after receipt of the complaint, the parties shall be notified in writing of the reasons for not doing so.

(33-10-11.)

Board Agenda Item
September 14, 2021

4:30 p.m.

Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21

ISSUE:

Public hearing to amend Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 of the Code of the County of Fairfax. The proposed amendments are required as a result of HB 2161/SB 1410 which was passed by the 2021 Special Session 1 of the General Assembly, signed by the Governor and took effect July 1, 2021. The proposed amendments will be effective retroactive to July 1, 2021.

RECOMMENDATION:

The County Executive recommends that the Board hold the Public Hearing of the proposed County Code amendments.

TIMING:

On July 27, 2021, the Board authorized advertisement of a Public Hearing to consider the proposed amendment to Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 of the Code of the County of Fairfax to take place on September 14, 2021, at 4:30 p.m.

BACKGROUND:

The 2021 Special Session 1 of the Virginia General Assembly passed HB 2161/SB 1410, which was signed by the Governor on March 31, 2021, and took effect July 1, 2021. HB 2161/SB 1410 explicitly prohibits discrimination in public employment based upon military status which was defined in the bills as:

- (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101,
- (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

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As a result, Fairfax County Code 3-1-1, Definitions, and Fairfax County Code 3-1-21, Prohibited Practices, require amendment.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed amendments to Fairfax County Code § 3-1-1, Definitions and Fairfax County Code § 3-1-21, Prohibited Practices

STAFF:
Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:
Karen Gibbons, Deputy County Attorney

Section 3-1-1. Purposes of Article; definitions.

- (a) *Purposes.* The purposes of this Article are:
- (1) To place personnel administration on a merit basis in order to attract and retain for public service in the County Government employees with integrity and superior ability;
 - (2) To strengthen the effectiveness of the County Government through the improvement of personnel administration;
 - (3) To provide for a County merit system under which recruitment, appointment, and advancement of covered employees will be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, ~~status as a veteran, military status,~~ political affiliation, disability, or genetic information, and which will be administered in conformity with the Merit Principles set forth by the U.S. Office of Personnel Management (5 CFR 900) under authority of the Intergovernmental Personnel Act of 1970, as amended;
 - (4) To provide for an exempt service which will be limited to positions so designated in accordance with this Article or by Personnel Regulations.
- (b) *Authority.* The authority for this article is contained in *Va. Code Ann.* § 15.2-1506, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" *Va. Code Ann.* § 15.2-807, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform;" and *Va. Code Ann.* § 15.2-1500.1 which explicitly prohibits discrimination in employment on the "basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran."¹
- (c) *Applicability.*
- (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann.* § 15.2-807.²
 - (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered

Commented [AJ1]: Removed status as a veteran. Added military status

¹As to appointment, tenure, suspension or removal and compensation of officers and employees, see *Va. Code Ann.*, § 15.2-807, 15.2-808 and 15.2-809.

²Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

under this Article in the same manner as if those employees were in the administrative service of the County.³³

- (d) *Severability.* Should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.
- (e) *Definitions.*
 - (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission, and having the effect of ordinance.
 - (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.
 - (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
 - (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
 - (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
 - (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
 - (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
 - (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
 - (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel

³³Public agencies authorized to execute such agreements include (but are not limited to) the offices of Constitutional Officers and individual members of the Board of Supervisors, the School Board, the Library Board, the Park Authority, the Housing Authority, the Fairfax/Falls Church Community Services Board, the Economic Development Authority, the Water Authority, the Industrial Authority, similar agencies established by the Board of Supervisors in the future, community centers and other service agencies established in small districts under authority of the Board of Supervisors, and State agencies located in and serving the County where such agreements are consistent with State law and regulations. Employees whose conditions of employment are to be administered pursuant to such agreements may be either merit system or exempt employees, as defined in this Article, whichever is specified in the applicable agreement.

Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.

- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure.
- (12) **Military Status.** Means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50. (7-87-3; 32-8-3; 26-98-3; 35-05-3; 32-11-3; 40-19-3; 14-20-3.)

Commented [AJ2]: Added all of (12) Military Status

Section 3-1-21. Prohibited practices.

- (a) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, reduction, removal or appointment held or made under the provisions of this Article or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Personnel Regulations adopted pursuant to this Article.
- (b) No person shall, either directly or indirectly, pay, render or give any money, service or other valuable thing to any person for, on account of or in connection with any test, appointment, promotion, reduction or removal in which he or she is concerned.
- (c) No officer or employee of the County shall knowingly defeat, deceive or obstruct any person in his or her right to examination, eligibility certification or appointment under this Article or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the competitive service.
- (d) No officer or employee of the County shall discriminate against any employee or applicant for employment with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement on the basis of race, color, sex, creed, religion, national origin, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, ~~status as a veteran~~, **military status**, age, disability, or genetic information.
- (e) No officer or employee of the County shall retaliate against any employee with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement because the employee has used or has participated in the County's grievance procedure, has complied with any law of the United States, or of the Commonwealth, or has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors, the County Executive, or other governmental authority. (7-87-3; 26-98-3; 35-05-3; 32-11-3; 14-20-3.)

Commented [AJ3]: Removed status as a veteran. Added military status

Board Agenda Item
September 14, 2021

4:30 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Sleepy Hollow Road Walkway - Columbia Pike to Route 7 (Mason District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project 2G40-088-028, Sleepy Hollow Road Walkway from Columbia Pike to Route 7, Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On July 27, 2021, the Board authorized advertisement of a public hearing to be held on September 14, 2021, at 4:30 p.m.

BACKGROUND:

This project consists of constructing 4,789 linear feet (LF) of concrete sidewalk which will provide a continuous pedestrian walkway along Sleepy Hollow Road, between Columbia Pike and Leesburg Pike. In addition to walkway improvements, this project will upgrade CG-12 curb ramps, install new curb and gutter, address drainage concerns within the project limits, and install a retaining wall.

Land rights for these improvements are required on 47 properties, 35 of which have been acquired by the Land Acquisition Division (LAD). The construction of the project requires the acquisition of street dedication, storm drainage easements, and grading agreement and temporary construction easements.

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

Board Agenda Item
September 14, 2021

be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project 2G40-088-000, County Six Year Plan (CSYP) Bike and Pedestrian Program, Fund 40010, County and Regional Transportation Projects. This project is included in the FY 2022 – FY 2026 Adopted Capital Improvement Program (with future Fiscal Years to 2031) and is included in the Board's Transportation Priorities Plan (TPP) adopted on January 28, 2014, and as amended on December 3, 2019. No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachments A through C – Project Location Maps

Attachment D – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 12A).

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation

Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)

Carey F. Needham, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Pelto, Assistant County Attorney




**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 1 OF 3)
Project 2G40-088-028**

Tax Map: 051-3

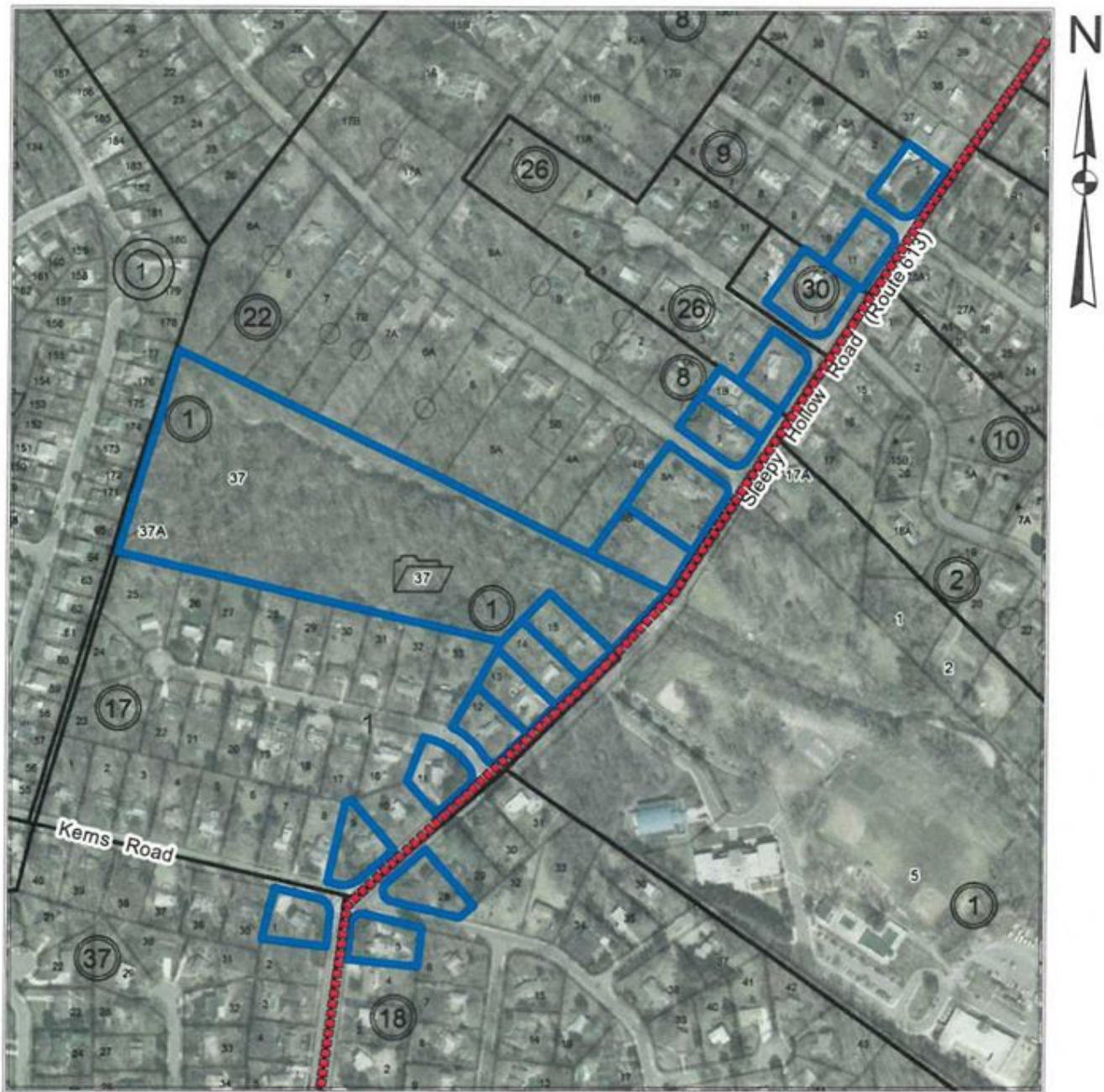
Mason District

Affected Properties: 

Proposed Improvements: 

0 0.05 0.1 0.2
Miles






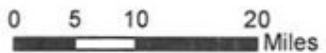
**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 2 OF 3)
Project 2G40-088-028**

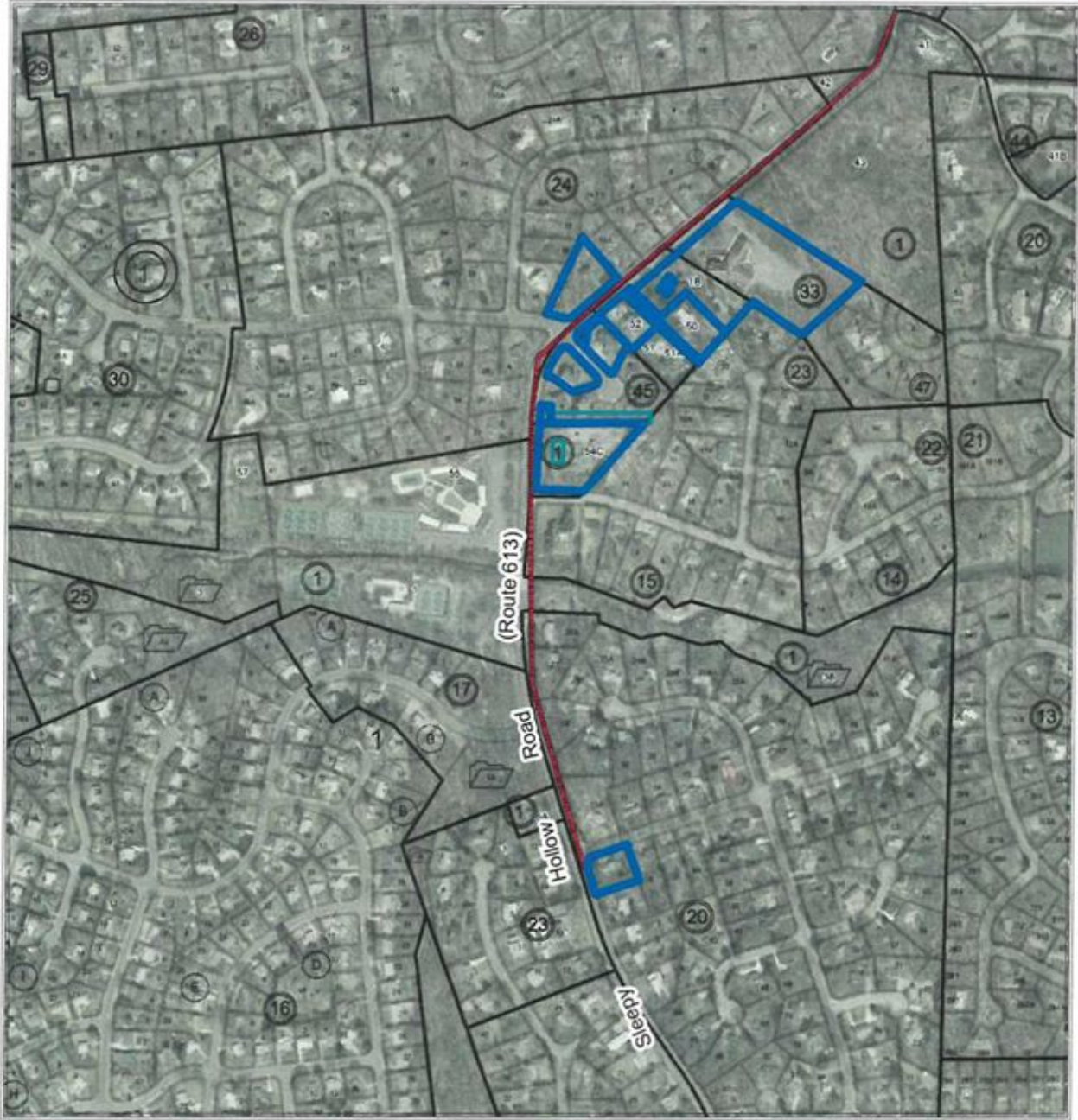
Tax Map: 051-3 - 060-2

Mason District

Affected Properties: 

Proposed Improvements: 





**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 3 OF 3)
Project 2G40-088-028**

Tax Map: 060-2 - 060-4

Mason District

Affected Properties: 

Proposed Improvements: 

0 5 10 20
Miles



RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project 2G40-088-028, Sleepy Hollow Road Walkway

- Columbia Pike to Route 7 had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than October 29, 2021.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 12A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of constructing 4,789 linear feet (LF) of concrete sidewalk which will provide a continuous pedestrian walkway along Sleepy Hollow Road, between Columbia Pike and Leesburg Pike. In addition to walkway improvements, this project will upgrade CG-12 curb ramps, install new curb & gutter, address drainage concerns within the project limits, and install a

retaining wall as shown and described in the plans of Project 2G40-088-028, Sleepy Hollow Road Walkway - Columbia Pike to Route 7 on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the Code of Virginia and does hereby authorize and direct the Director, Land Acquisition Division, on or after October 15, 2021, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project 2G40-088-028 – Sleepy Hollow Road Walkway –
Columbia Pike to Route 7 (Mason District)

	<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER</u>
1.	Sleepy Hollow Mews Homeowners Association Address: Common area at Sleepy Hollow Road and Valley Brook Drive	60-2-45-A
2.	John A. Rapsis Address: 3232 Sleepy Hollow Road, Falls Church, VA 22042	060-2-17-0012
3.	Seven Oaks II Homeowners Association, Inc. Address: Common Area along southbound Sleepy Hollow Road	051-3-31-02-B
4.	Gregory M. Giammittorio and Dawnee H. Tate Address: 3443 Sleepy Hollow Road, Falls Church, VA 22042	060-2-01-0050
5.	XBT, LLC Address: 3401 Malbrook Drive, Falls Church, VA 22042	060-2-01-0041
6.	Angel Alejandro Uria and Maria Magdalena Uria Address: 3400 Malbrook Drive, Falls Church, VA 22042	060-2-43-0001
7.	Christopher J. Farrell Address: 3132 Sleepy Hollow Road, Falls Church, VA 22042	051-3-08-0001B

LISTING OF AFFECTED PROPERTIES
Project 2G40-088-028 – Sleepy Hollow Road Walkway –
Columbia Pike to Route 7 (Mason District)
(Continued)

- | | | |
|-----|---|----------------|
| 8. | Joel Torres-Otamendi and Elizabeth S. Bringas | 051-3-09-0001 |
| | Address:
3117 Sleepy Hollow Road, Falls Church, VA 22042 | |
| 9. | Greater Washington Home LLC | 051-3-07-0041 |
| | Address:
3104 Sleepy Hollow Road, Falls Church, VA 22042 | |
| 10. | Viet Q. Nguyen and Thao P. Tran | 051-3-07-0042 |
| | Address:
3102 Sleepy Hollow Road, Falls Church, VA 22042 | |
| 11. | John P. Clayborne and Danielle Bernard Clayborne | 051-3-07-0040 |
| | Address:
3106 Sleepy Hollow Road, Falls Church, VA 22042 | |
| 12. | The Congressional School of Virginia | 061-1-01-0005B |
| | Address:
3229 Sleepy Hollow Road, Falls Church, VA 22042 | |

A Copy – Teste:

Jill G. Cooper
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 060-2-45-A

Street Address: Common area at intersection of Sleepy Hollow Road
and Valley Brook Drive

OWNER(S): Sleepy Hollow Mews Homeowners Association

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 217 sq. ft.

VALUE

Estimated value of interests and damages:

ONE HUNDRED DOLLARS (\$100.00)

ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Number: 060-2-17-0012

Street Address: 3232 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): John A. Rapsis

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement –196 sq. ft.

VALUE

Estimated value of interests and damages:

TWO HUNDRED SEVENTY DOLLARS (\$270.00)

VA 3231
SLOPE NORTH
VES 81 NORTH ZONE

N 6,994,958.55
E 11,860,553.95
(PROJECT
COORDINATES)

SLEEPY HOLLOW ROAD - RT. 60
(WIDTH Varies)

APPROPRIATE LOCATION
EX. SLOPE MAINTENANCE EASEMENT
D.B. 1788, PG. 486

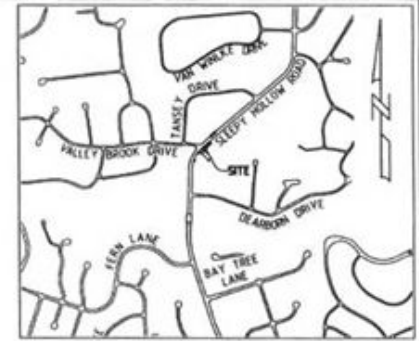
NUP SITE 95.70'

EX. TRAIL EASEMENT
D.B. 1405, PG. 247

GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT

OUTLOT A
SLEEPY HOLLOW MEWS
D.B. 13405, PG. 247
TAX MAP 60-2 ((45)) A

LOT 1
SLEEPY HOLLOW MEWS
D.B. 13405, PG. 247
TAX MAP 60-2 ((45)) 1



VICINITY MAP
SCALE: 1" = 1000'

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	25.00'	45.71'	93°18'16"	26.43'	38.36'	N82°31'06"E
C2	25.00'	16.67'	36°44'19"	8.32'	15.79'	S30°48'34"W
C3	25.00'	6.55'	15°07'08"	3.30'	6.54'	N04°53'18"E
C4	112.86'	35.87'	18°10'41"	18.00'	35.66'	S40°28'51"W

Notes:

This plat was prepared without the benefit of a title report; therefore not all encumbrances to the property are necessarily shown hereon.

The land shown on this plat is now held as noted in the title block hereon and recorded among the land records of Fairfax County; all easements and dedications for public street purposes are within the bounds of the original tract, as described and recorded therein.

The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 60-2 ((45)) A.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 217 SQ. FT.



PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
OUTLOT "A" - SLEEPY HOLLOW MEWS
D.B. 13405, PG. 247
PROPERTY BEING IN THE NAME OF
**SLEEPY HOLLOW MEWS
HOMEOWNERS ASSOCIATION
AND/OR UNKNOWN OWNERS**

MASON DISTRICT D.B. 13405, PG. 247 FAIRFAX COUNTY, VIRGINIA



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 7/21/21 SCALE: 1"=5' SHEET 1 OF 1

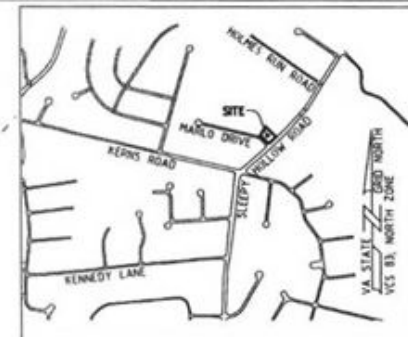


LOT 12
SECTION 2
MARLO HEIGHTS
D.B. 1135, PG. 514
TAX MAP 60-2 (1170) 12

LOT 13
SECTION 2
MARLO HEIGHTS
D.B. 1135, PG. 514
TAX MAP 60-2 (1170) 13

N 6,998,791.32
E 11,862,421.87
PROJECT
COORDINATES

GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT



VICINITY MAP
SCALE: 1" = 1000'

SLEEPY HOLLOW ROAD - RT. 613
WIDTH VARIATION

LINE TABLE		
NO.	BEARING	LENGTH
L1	N41°05'18"E	9.02'
L2	N71°57'16"W	4.33'
L3	N09°12'57"E	5.52'
L4	N43°03'07"E	12.52'
L5	S81°02'18"E	6.67'
L6	N44°04'31"E	8.08'
L7	N43°15'42"E	10.85'
L8	S44°25'55"E	0.98'

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	834.18'	77.10'	09°11'59"	38.41'	77.13'	S44°10'05"W
C2	25.80'	79.37'	90°00'00"	25.80'	75.36'	N88°03'55"W
C3	200.00'	78.01'	20°03'28"	35.37'	69.66'	N51°28'39"W
C4	834.18'	49.89'	07°25'25"	24.95'	49.88'	N45°16'53"E

N 6,998,721.24
E 11,862,305.40
PROJECT
COORDINATES

EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

196 SQ. FT.



Notes:

This plat was prepared without the benefit of a title report; therefore not all encumbrances to the property are necessarily shown hereon.

The land shown on this plat is now held as noted in the title block hereon and recorded among the land records of Fairfax County; all easements and dedications for public street purposes are within the bounds of the original tract, as described and recorded therein.

The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 60-2 (1170) 12.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 12 - SECTION 2 - MARLO HEIGHTS
D.B. 1135, PG. 514
PROPERTY BEING IN THE NAME OF
JOHN A. RAPSIS
D.B. 15686, PG. 1944



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2040-088-028

DRAWN BY: MRP DATE: 10/16/20 SCALE: 1" = 10' SHEET 1 OF 1

ATTACHMENT 3

AFFECTED PROPERTY

Tax Map Number: 051-3-31-02-B

Street Address: Common area along southbound Sleepy Hollow Road

OWNER(S): Seven Oaks II Homeowners Association, Inc.

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 217 sq. ft.

Dedication for Public Street Purposes – 1,599 sq. ft.

Storm Drainage Easement – 38 sq. ft.

VALUE

Estimated value of interests and damages:

FIVE THOUSAND FOUR HUNDRED AND SEVENTY DOLLARS (\$5,470.00)

ATTACHMENT 4

AFFECTED PROPERTY

Tax Map Number: 060-2-01-0050

Street Address: 3443 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): Gregory M. Giammittorio and Dawnee H. Tate

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 316 sq. ft.

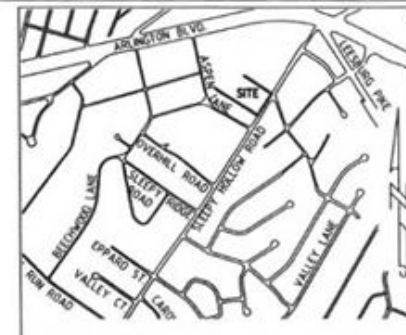
VALUE

Estimated value of interests and damages:

ONE HUNDRED DOLLARS (\$270.00)

Attachment 3A

LOT 26
SECTION FOUR
SLEEPY HOLLOW
D.B. 2-14, PG. 490
TAX MAP 51-2 DRG 28



NO.	BEARING	LENGTH
L1	N57°32'31"W	13.73
L2	S32°47'29"W	12.68
L3	S57°12'31"E	11.64
L4	S37°47'29"W	7.87
L5	N57°32'31"E	5.49
L6	N57°32'31"E	5.00
L7	S32°47'29"W	1.06
L8	N57°32'31"W	2.86
L9	S57°12'31"E	2.86
L10	S32°47'29"W	1.85
L11	N57°38'15"W	7.91



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DRAWN BY: MRP	DATE: 3/16/21	SCALE: 1"=25'	SHEET 1 OF 1
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14-3-2011
VCS 83; NORTH ZONE

SLEEPY HOLLOW ROAD - RT. 613
(WIDTH VARIES)

N 6.995.135.01
E 11.860.740.04
PROJECT
(COORDINATES)

N 49°31'37"E 10.04'
N 72°28'38"W 4.46'

N 49°31'37"E 21.10'
N 72°28'38"W 11.10'

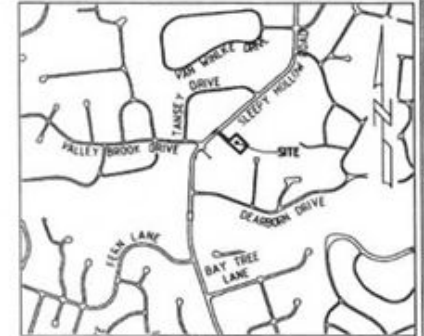
N 6.995.111.41
E 11.860.725.93
PROJECT
(COORDINATES)

EX. INDEX-EXPRESS EASEMENT
D.B. 1947, 01

N 49°31'37"E 387.51'
N 72°28'38"W 387.51'
SEVILLE HOMES, LLC
D.B. 1947, PG. 718
TAX MAP 60-2 (11) 51A

THE MARK J. MIDDUSKI TRUST
D.B. 33844, PG. 675
TAX MAP 60-3 (11) 52

TRUSTEES OF THE
SLEEPY HOLLOW
UNITED METHODIST CHURCH
D.B. 9322, PG. 840
TAX MAP 60-2 (123) 01



VICINITY MAP
SCALE: 1" = 1000'

Notes:

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The land shown on this plat is now held as noted in the title block hereon and recorded among the land records of Fairfax County; all easements and dedications for public street purposes are within the bounds of the original tract, as described and recorded therein.

The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 60-2 (11) 50.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 316 SQ. FT.



PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH PROPERTY BEING IN THE NAME OF
**GREGORY M. GIAMMITTORIO AND
DANNEE H. TATE**
D.B. 11967, PG. 1725



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 10/12/20 SCALE: 1"=5' SHEET 1 OF 1

ATTACHMENT 5

AFFECTED PROPERTY

Tax Map Number: 060-2-01-0041

Street Address: 3401 Malbrook Drive, Falls Church, VA 22042

OWNER(S): XBT, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 105 sq. ft.

VALUE

Estimated value of interests and damages:

ONE HUNDRED DOLLARS (\$100.00)

ATTACHMENT 6

AFFECTED PROPERTY

Tax Map Number: 060-2-43-0001

Street Address: 3400 Malbrook Drive, Falls Church, VA 22042

OWNER(S): Angel Alejandro Uria and Maria Magdalena Uria

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Dedication for Public Street Purposes – 69 sq. ft.

Grading Agreement and Temporary Construction Easement – 74 sq. ft.

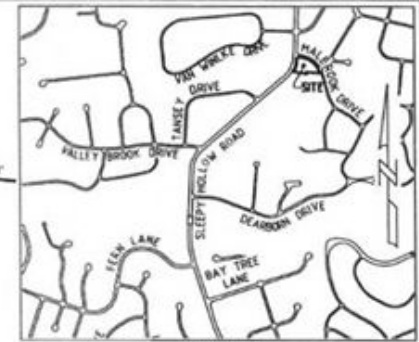
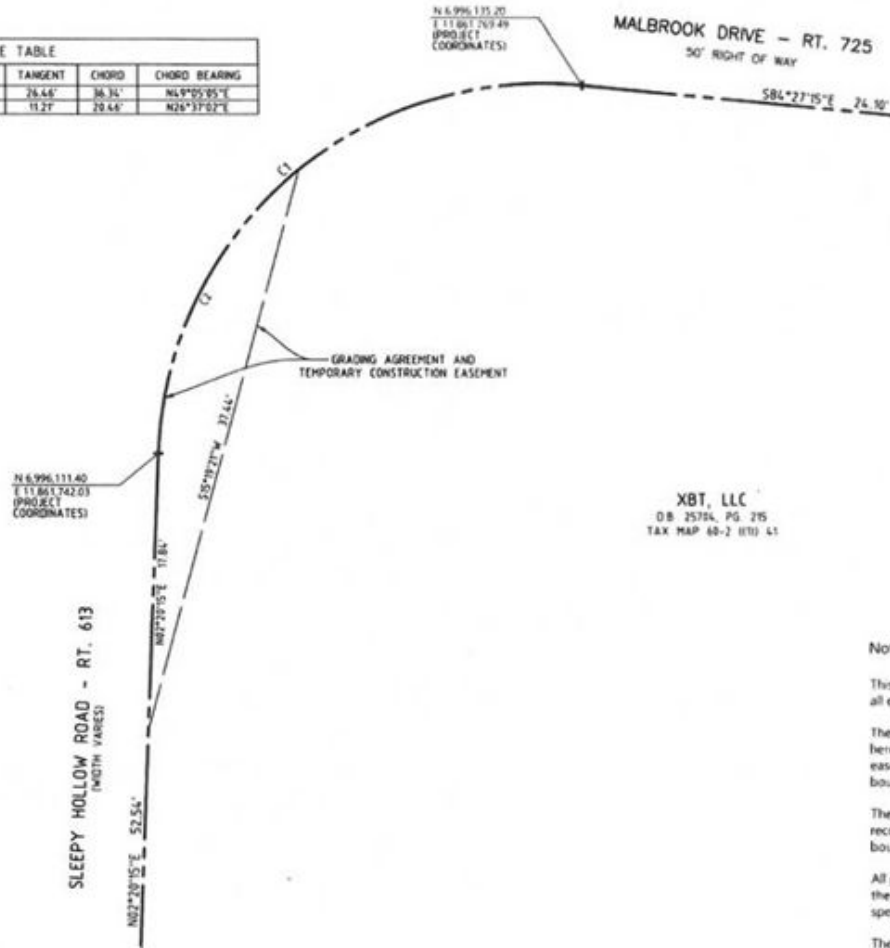
VALUE

Estimated value of interests and damages:

SEVEN HUNDRED AND TWENTY DOLLARS (\$720.00)

VA STATE ZONE
VCS 81, NORTH

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	25.00'	43.69'	93°15'20"	26.44'	36.32'	N4°05'05"E
C2	25.00'	21.08'	48°11'13"	11.27'	20.44'	N26°37'02"E



VICINITY MAP
SCALE: 1" = 1000'

XBT, LLC
D.B. 25704, PG. 215
TAX MAP 60-2 (17) 41

Notes:

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The property delineated on this plat is located on Tax Assessment Map 60-2 (17) 41.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

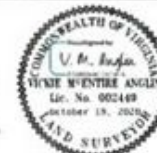
EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 105 SQ. FT.



PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH PROPERTY BEING IN THE NAME OF
XBT, LLC
D.B. 25704, PG. 215



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

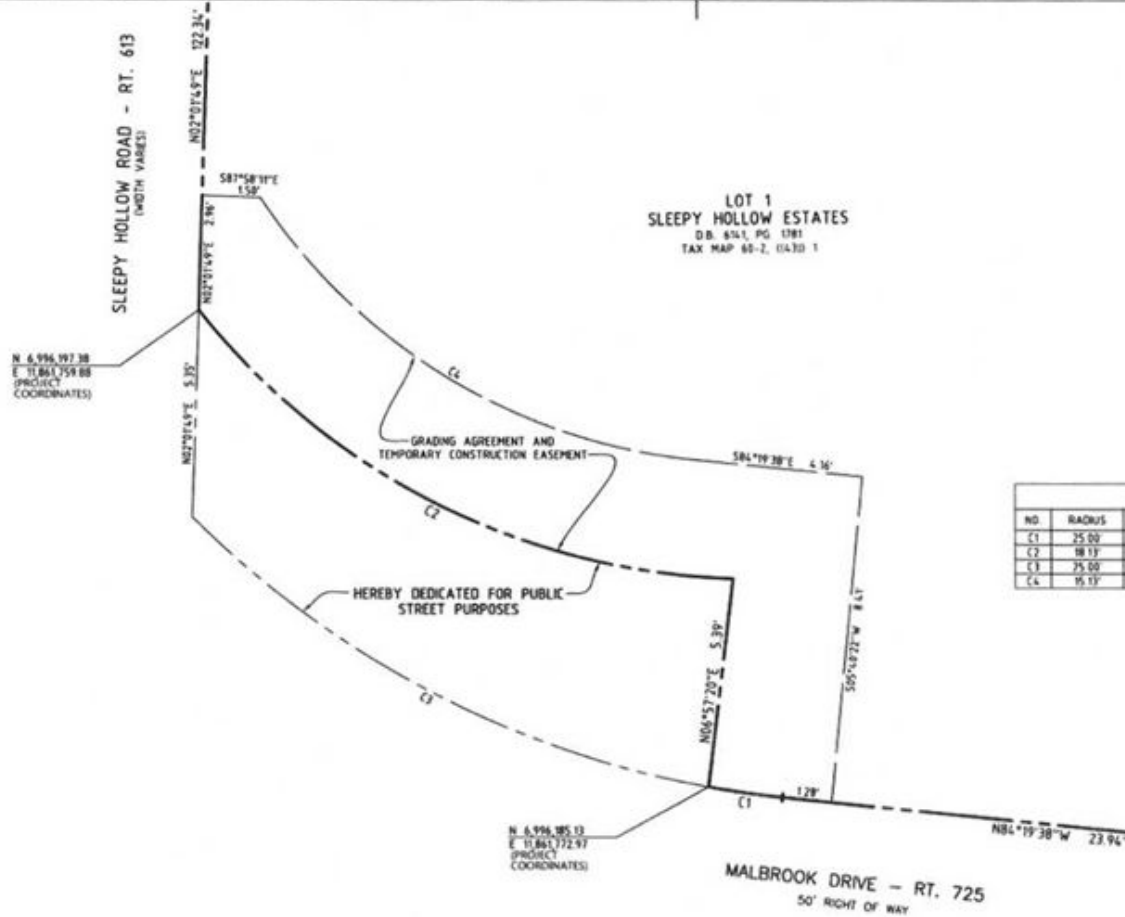
MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA

DRAWN BY: MRP DATE: 10/12/20 SCALE: 1"=5' SHEET 1 OF 1

Attachment 6A

VA STATE ZONE NORTH
NAD 83, NORTH ZONE



VICINITY MAP
SCALE: 1" = 1000'

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	25.00	1.97	54°22'59"	8.96'	1.97'	N82°08'09"W
C2	18.13	15.88	56°10'36"	8.49'	15.38'	N63°19'26"W
C3	25.00	15.20	36°49'53"	7.86'	14.97'	N67°31'43"W
C4	15.13	13.67	57°44'53"	7.34'	13.21'	S59°12'52"E

Notes:

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The property delineated on this plat is located on Tax Assessment Map 60-2 (143) 1.

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DEDICATION AND EASEMENT AREAS
DEDICATION FOR PUBLIC STREET PURPOSES
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

69 SQ. FT.
74 SQ. FT.



PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH

LOT 1 - SLEEPY HOLLOW ESTATES

D.B. 6141, PG. 1781
PROPERTY BEING IN THE NAME OF

ANGEL ALEJANDRO URIA AND MARIA MAGDALENA URIA

MASON DISTRICT

D.B. 25520, PG. 1963

FAIRFAX COUNTY, VIRGINIA



COUNTY OF FAIRFAX VIRGINIA

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 11/06/20 SCALE: 1"=2" SHEET 1 OF 1

ATTACHMENT 7

AFFECTED PROPERTY

Tax Map Number: 051-3-08-0001B

Street Address: 3132 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): Christopher J. Farrell

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 681 sq. ft.

VALUE

Estimated value of interests and damages:

TWO THOUSAND SEVEN HUNDRED AND TEN DOLLARS (\$2,710.00)

ATTACHMENT 8

AFFECTED PROPERTY

Tax Map Number: 051-3-09-0001

Street Address: 3117 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): Joel Torres-Otamendi and Elizabeth S. Bringas

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 1,115 sq. ft.

VALUE

Estimated value of interests and damages:

ONE THOUSAND FOUR HUNDRED AND SIXTY DOLLARS (\$1,460.00)

VA STATE PLAT
DSD NORTH
VCS 83, NORTH ZONE

LINE TABLE		
NO.	BEARING	LENGTH
L1	N32°24'37"E	4.92'
L2	N33°08'16"E	4.97'
L3	N33°11'12"E	9.94'
L4	N18°27'44"W	9.98'

CHRISTOPHER J. FARRELL
O.B. 20952, PG. 1774
TAX MAP 51-3 (88) 1B

LOT 1
CHATEAU
O.B. 18756, PG. 89
TAX MAP 51-3 (282) 1



VICINITY MAP
SCALE: 1" = 1000'

Notes:

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The property delineated on this plat is located on Tax Assessment Map 51-3 (88) 1B.

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EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

681 SQ. FT.



PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH PROPERTY BEING IN THE NAME OF
CHRISTOPHER J. FARRELL
O.B. 20952, PG. 1774



COUNTY OF FAIRFAX
VIRGINIA

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA

DRAWN BY: MRP DATE: 10/13/20 SCALE: 1" = 10' SHEET 1 OF 1

Attachment 8A

EPPARD STREET - RT. 1848
(50' RIGHT OF WAY)

NS4°58'45"W
105.37'
VA STATE ZONE
NAD 83, NORTH ZONE

N 7,000,210.73
E 11,861,469.25
(PROJECT
COORDINATES)

LOT 1
EPPARD'S ADDITION TO
SLEEPY HOLLOW
D.B. 748, PG. 136
TAX MAP 51-3 (199) 1

N34°25'09"E 164.71'

GRADING AGREEMENT AND TEMPORARY
CONSTRUCTION EASEMENT

S34°56'46"W 149.97'

SLEEPY HOLLOW ROAD - RT. 613
(WIDTH VARIES)

APPROXIMATE LOCATION OF
EX SLOPE MAINTENANCE EASEMENT
D.B. 2864, PG. 372

N 7,000,333.65
E 11,863,555.15
(PROJECT
COORDINATES)

LINE TABLE		
NO.	BEARING	LENGTH
L1	N63°59'46"E	7.50'
L2	N63°49'43"E	4.85'
L3	N38°09'44"W	3.56'
L4	N33°28'22"E	1.89'

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	25.00'	39.30'	98°04'29"	25.03'	35.38'	S79°59'01"W
C2	25.00'	23.11'	52°58'09"	12.46'	22.30'	S61°25'51"W

EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

1,115 SQ. FT.



Notes:

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The property delineated on this plat is located on Tax Assessment Map 51-3 (199) 1.

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VICINITY MAP
SCALE: 1" = 1000'

LOT 37
SECTION THREE
SLEEPY HOLLOW
D.B. LIBER Y-13, PG. 359
TAX MAP 51-1 (179) 37

PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 1 - EPPARD'S ADDITION TO SLEEPY HOLLOW
D.B. 748, PG. 136
PROPERTY BEING IN THE NAME OF
JOEL TORRES-OTAMENDI AND ELIZABETH S. BRINGAS
D.B. 24110, PG. 1133



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA

DRAWN BY: MRP DATE: 10/16/20 SCALE: 1" = 10' SHEET 1 OF 1

ATTACHMENT 9

AFFECTED PROPERTY

Tax Map Number: 051-3-07-0041

Street Address: 3104 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): Greater Washington Home LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 894 sq. ft.

VALUE

Estimated value of interests and damages:

ONE THOUSAND FOUR HUNDRED AND SEVENTY DOLLARS (\$1,470.00)

ATTACHMENT 10

AFFECTED PROPERTY

Tax Map Number: 051-3-07-0042

Street Address: 3102 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): Viet Q. Nguyen and Thao P. Tran

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 968 sq. ft.

VALUE

Estimated value of interests and damages:

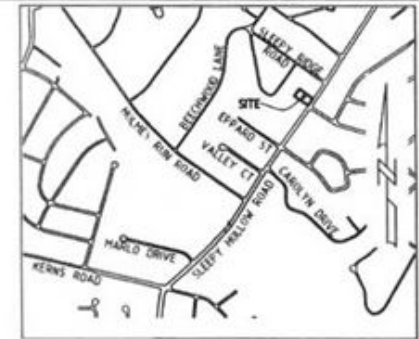
ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00)



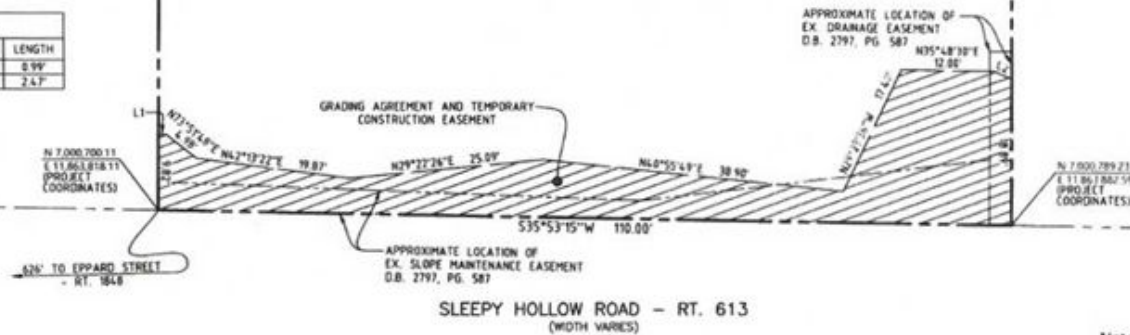
LOT 40
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 40

LOT 41
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 41

LINE TABLE		
NO.	BEARING	LENGTH
L1	N35°48'30"E	8.99'
L2	N58°07'24"E	2.47'



LOT 42
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 42



Notes:

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The property delineated on this plat is located on Tax Assessment Map 51-3 (17) 41.

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EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

894.50 SQ. FT.



PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 41 - SECTION THREE - SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
PROPERTY BEING IN THE NAME OF
GREATER WASHINGTON HOME LLC
D.B. 25028, PG. 1058

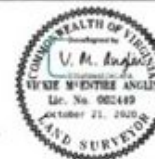
MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA



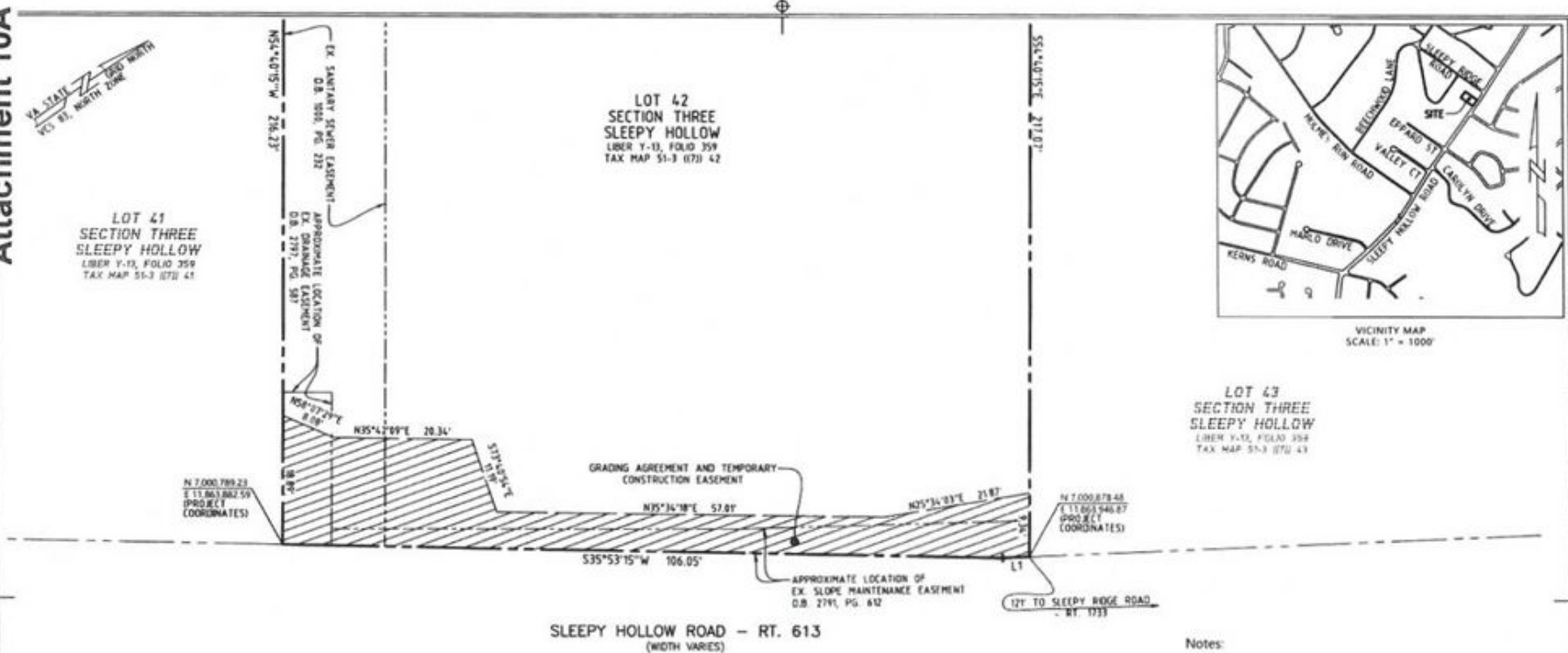
**COUNTY OF FAIRFAX
VIRGINIA**

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY MRP DATE: 10/16/20 SCALE: 1"=10' SHEET 1 OF 1



Notes:

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The property delineated on this plat is located on Tax Assessment Map 51-3 (77) 42.

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PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 42 - SECTION THREE - SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
PROPERTY BEING IN THE NAME OF
VIET Q. NGUYEN AND THAO P. TRAN
D.B. 18403, PG. 1692

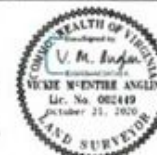
MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA



**COUNTY OF FAIRFAX
VIRGINIA**

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 10/16/20 SCALE: 1"=10' SHEET 1 OF 1

ATTACHMENT 11

AFFECTED PROPERTY

Tax Map Number: 051-3-07-0040

Street Address: 3106 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): John P. Clayborne

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 689 sq. ft.

VALUE

Estimated value of interests and damages:

EIGHT HUNDRED AND FORTY DOLLARS (\$840.00)

ATTACHMENT 12

AFFECTED PROPERTY

Tax Map Number: 060-1-01-0005B

Street Address: 3229 Sleepy Hollow Road, Falls Church, VA 22042

OWNER(S): The Congressional School of Virginia

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Dedication for Public Street Purposes- 34 sq. ft.

Grading Agreement and Temporary Construction Easement – 736 sq. ft.

VALUE

Estimated value of interests and damages:

FIVE HUNDRED DOLLARS (\$500.00)

VA STATE ZONE NORTH
VCS 81 NORTH ZONE

LOT 39
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 39

LINE TABLE		
NO.	BEARING	LENGTH
11	S81°33'02"E	1.89

N 7,000,608.56
E 11,861,251.86
(PROJECT
COORDINATES)

51-3 TO EPPARD STREET
- WT. 184.8

51-3 TO EPPARD STREET
- WT. 184.8

LOT 40
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 40

GRADING AGREEMENT AND TEMPORARY
CONSTRUCTION EASEMENT

SLEEPY HOLLOW ROAD - RT. 613
(WIDTH VARIES)

APPROXIMATE LOCATION OF
EX. SLOPE MAINTENANCE EASEMENT
D.B. 2797, PG. 587



VICINITY MAP
SCALE: 1" = 1000'

LOT 41
SECTION THREE
SLEEPY HOLLOW
LIBER Y-13, FOLIO 359
TAX MAP 51-3 (17) 41

N 7,000,700.11
E 11,861,818.11
(PROJECT
COORDINATES)

Notes:

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51-3 (17) 40.

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689 SQ. FT.

PLAT SHOWING
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH

LOT 40 - SECTION THREE - SLEEPY HOLLOW

LIBER Y-13, FOLIO 359

PROPERTY BEING IN THE NAME OF
**JOHN PATRICK CLAYBORNE AND
DANIELLE BERNARD CLAYBORNE**
1/2 UNDIVIDED INTEREST

D.B. 19842, PG. 3

AND

JOHN P. CLAYBORNE
1/2 UNDIVIDED INTEREST

D.B. 26290, PG. 1256

FAIRFAX COUNTY, VIRGINIA

MASON DISTRICT



**COUNTY OF FAIRFAX
VIRGINIA**

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 12/3/20 SCALE: 1" = 10' SHEET 1 OF 1

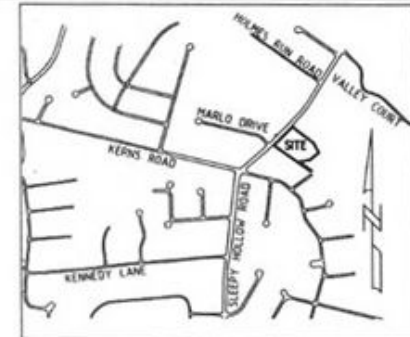
VA STATE PLAT NORTH
VCS 81 NORTH ZONE

LINE TABLE		
NO.	BEARING	LENGTH
L1	S45°38'14"E	1.84'
L2	N65°18'34"W	3.04'

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	36.87'	10.07'	15°48'02"	5.97'	10.04'	N79°32'29"E
C2	33.87'	43.31'	73°21'24"	25.20'	48.62'	S68°28'35"W

N 6,998,509.71
E 11,862,454.23
PROJ. BLK
COORDINATES

PARCEL "A"
SUBDIVISION OF THE PROPERTY OF
WILLIAM W. DEVERS
D.B. 9789, PG. 1860
TAX MAP 61-1 (17) 5



VICINITY MAP
SCALE: 1" = 1000'

SLEEPY HOLLOW ROAD - RT. 613
(NOT TO SCALE)

HEREBY DEDICATED FOR
PUBLIC STREET PURPOSES

N 6,998,667.13
E 11,862,592.09
PROJ. BLK
COORDINATES

GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT

PARCEL "B"
SUBDIVISION OF THE PROPERTY OF
WILLIAM W. DEVERS
D.B. 9789, PG. 1860
TAX MAP 61-1 (17) 5B

DEDICATION AND EASEMENT AREAS
DEDICATION FOR PUBLIC STREET PURPOSES
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

34 SQ. FT.
736 SQ. FT.



Notes:

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The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 61-1 (17) 5B.

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PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
**PARCEL "B"-SUBDIVISION OF THE PROPERTY OF
WILLIAM W. DEVERS**
D.B. 9789, PG. 1860
PROPERTY BEING IN THE NAME OF
THE CONGRESSIONAL SCHOOLS OF VIRGINIA, INC.
D.B. 9789, PG. 1860



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLEEPY HOLLOW ROAD WALKWAY
PROJECT NUMBER 2G40-088-028

DRAWN BY: MRP DATE: 10/16/20 SCALE: 1"=5' SHEET 1 OF 1

MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA

Board Agenda Item
September 14, 2021

4:30 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for Construction of Slipline Replacement #3 (Celadon Lane) (Mason District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Slipline Replacement #3 (Celadon Lane) (Mason District) in Project WW-000028, Gravity Sewers, Fund 69300, Sewer Construction Improvements.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On July 27, 2021, the Board authorized advertisement of a public hearing to be held on September 14, 2021, at 4:30 p.m.

BACKGROUND:

This project, which is located primarily along Celadon Lane, involves the replacement of approximately 1,700 linear feet of defective 6-inch sanitary sewer pipes.

Land rights for these improvements are required on twenty-seven properties, thirteen of which have been acquired by the Land Acquisition Division. The construction of this project requires the acquisition of the sanitary sewer easements and grading agreement and temporary construction easements.

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

Board Agenda Item
September 14, 2021

FISCAL IMPACT:

Funding is available in Project WW-000028, Gravity Sewers, Fund 69300, Sewer Construction Improvements. This project is included in the FY 2022 – FY 2026 Adopted Capital Improvement Program (With Future Fiscal Years to 2031). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

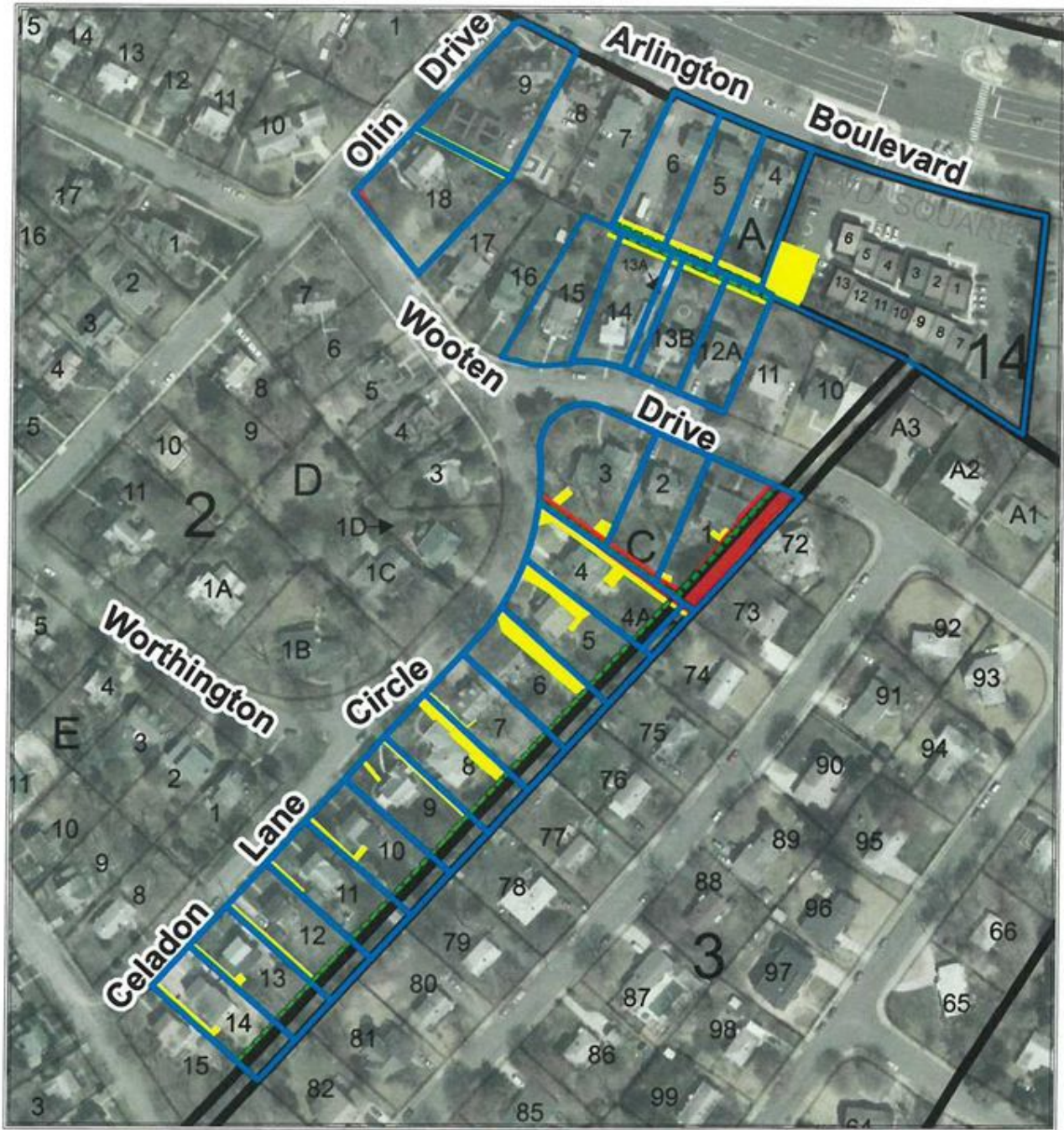
Attachments A through C – Project Location Maps
Attachment D – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 13A).

STAFF:

Rachel Flynn, Deputy County Executive
Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Carey F. Needham, Deputy Director, DPWES, Capital Facilities
Magdi Imbabi, Director, Wastewater Design & Construction Division, DPWES

ASSIGNED COUNSEL:

Pamela K. Peltó, Assistant County Attorney



Slipline Replacement #3 (Celadon Lane)
Mason District

Tax Map#: 051-4

Project: WW-000028-002C

Affected Properties:

Existing Sanitary Easements

Prop. Sanitary Improvements:

**Temp. Construction Easement
& Grading Agreement:**



0 0.0175 0.035 0.07
Miles





Slipline Replacement #3 (Celadon Lane)

Mason District

Tax Map#: 051-4

Project: WW-000028-002C

Affected Properties:

Existing Sanitary Easements

Prop. Sanitary Improvements:

Temp. Construction Easement
& Grading Agreement:



0 0.01 0.02 0.04
Miles





Slipline Replacement #3 (Celadon Lane)

Mason District

Tax Map#: 051-4

Project: WW-000028-002C

Affected Properties:

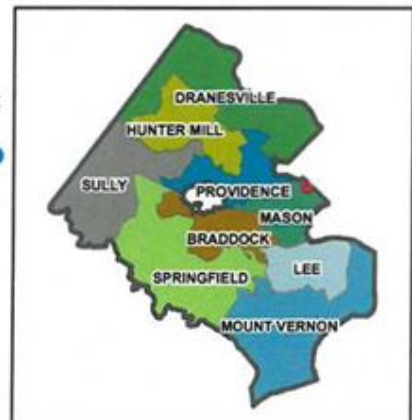
Existing Sanitary Easements

Prop. Sanitary Improvements:

Temp. Construction Easement
& Grading Agreement:



0 0.01 0.02 0.04 Miles



ATTACHMENT D

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project WW-000028, Gravity Sewers, Slipline Replacement #3 (Celadon Lane) had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than October 29, 2021.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 13A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of replacement of approximately 1,700 linear feet of defective 6-inch sanitary sewer pipes as shown and described in the plans of Project WW-000028, Gravity Sewers, Slipline Replacement #3 (Celadon Lane) on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449,

Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the Code of Virginia and does hereby authorize and direct the Director, Land Acquisition Division, on or after October 15, 2021, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire infeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project WW-000028-002-C
Slipline Replacement #3 (Celadon Lane)
(Mason District)

<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER(S)</u>
1. Christopher Bassler, Kayleen Gloor Address: 3105 Worthington Circle, Falls Church, VA 22044	051-04-02-C-0005
2. John Francis Battaglia Address: Parcel Adj. to Lt 4, Blk C, Sec. 3, Lee Boulevard Heights	051-4-02-C-0004-A
3. Boulevard Square Condominium c/o Barbara Turner, Community Manager Address: 6051 - 6059 Arlington Boulevard, Falls Church, VA 22044	051-4-14-CONDO
4. Rebecca L. Bowman, Vivek Shankar Address: 3045 Olin Drive, Falls Church, VA 22044	051-04-02-A-0018
5. Douglas Ralph Dawson Address: 3121 Celadon Lane, Falls Church, VA 22044	051-4-02-C-0013
6. Gillian M. Dollard, Timothy James Dollard Address: 3107 Worthington Circle, Falls Church, VA 22044	051-04-02-C-0006
7. Eric Arthur Hanson, Joyce L. Hanson Address: 3103 Worthington Circle, Falls Church, VA 22044	051-04-02-C-0004

LISTING OF AFFECTED PROPERTIES
Project WW-000028-002-C
Slipline Replacement #3 (Celadon Lane)
(Mason District)
(Continued)

8. HRE, LLC 051-04-02-A-0004
Address:
6063 Arlington Boulevard, Falls Church, VA 22044
9. Alison E. Lawrence 051-04-02-A-0012-A
Address:
6058 Wooten Drive, Falls Church, VA 22044
10. Heirs and Assigns of Albert Lloyd and Julia M. Lloyd No TM# associated with this parcel
Address:
Vacant strip of land adjacent to TM# 051-4-02-C-0004-A
11. Deirdre O'Hara, 051-04-02-C-0003
Hilary O'Hara,
Charles P. O'Hara,
Dorothy A. O'Hara
Address:
3101 Worthington Circle, Falls Church, VA 22044
12. Adrienne Rose-Marie Raynor, 051-04-02-C-0011
Austin Raynor
Address:
3117 Celadon Lane, Falls Church, VA 22044

LISTING OF AFFECTED PROPERTIES
Project WW-000028-002-C
Slipline Replacement #3 (Celadon Lane)
(Mason District)
(Continued)

13. Homan Solemaninejad, 051-04-02-A-0005
AVIN, LLC

Address:
6065 Arlington Boulevard, Falls Church, VA 22044

14. Homan Solemaninejad, 051-04-02-A-0006
AVIN, LLC

Address:
6067 Arlington Boulevard, Falls Church, VA 22044

A Copy – Teste:

Jill G. Cooper
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 051-04-02-C-0005

Street Address: 3105 Worthington Circle, Falls Church, VA 22044

OWNER(S): Christopher Bassler,
Kayleen Gloor

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement –1,187 sq. ft.

VALUE

Estimated value of interests and damages:

TWO THOUSAND EIGHT HUNDRED DOLLARS (\$2,800.00)

ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Number: 051-4-02-C-0004-A

Street Address: Parcel Adj. to Lt 4, Blk C, Sec. 3, Lee Boulevard Heights

OWNER(S): John Francis Battaglia

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 19 sq. ft.
Sanitary Sewer Easement – 85 sq. ft.

VALUE

Estimated value of interests and damages:

ONE HUNDRED DOLLARS (\$100.00)

VA STATE ZONE
VCS 81, NORTH ZONE

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	228.95'	62.22'	75°34'27"	31.30'	62.03'	N28°34'21"E
C2	228.95'	18.62'	04°39'42"	9.32'	18.62'	N23°03'55"E

LINE TABLE		
NO.	BEARING	LENGTH
L1	S51°49'28"E	33.85'
L2	S43°25'29"W	28.66'
L3	N44°34'31"W	10.51'
L4	N43°25'29"E	18.11'
L5	N65°57'04"W	31.96'

ATTACHMENT 1A

WORTHINGTON CIRCLE - RT. 1738
(50' WIDE)

N 7,000,883.00
E 11,869,399.78
(PROJECT COORDINATES)

N 7,000,828.34
E 11,869,370.04
(PROJECT COORDINATES)

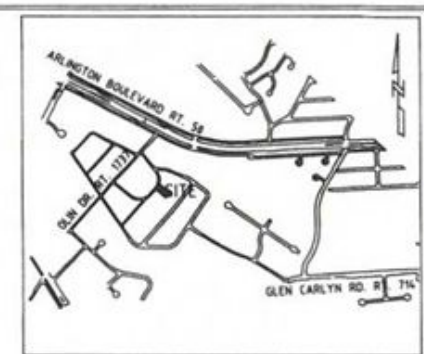
LOT 7
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
TAX MAP 51-4 (I2) (C) 7

LOT 6
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
TAX MAP 51-4 (I2) (C) 6

LOT 4
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
TAX MAP 51-4 (I2) (C) 4

LOT 5
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
TAX MAP 51-4 (I2) (C) 5

PARCEL OF LAND
BETWEEN &
MAX WOODNER &
LEE BOULEVARD HEIGHTS
D.B. 841, PG. 385



VICINITY MAP
SCALE: 1" = 1000'

Notes:
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EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 1,187 SQ. FT.



PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH
LOT 5-BLOCK C-SECTION THREE-LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
BEING IN THE NAME OF
CHRISTOPHER BASSLER AND KAYLEEN GLOOR
D.B. 24278, PG. 746



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)

PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 6/24/2020 SCALE: 1"=25' SHEET 1 OF 1

VA STATE ZONING NORTH
VCS 83, NORTH LINE

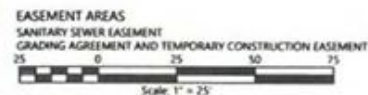
ATTACHMENT 2A

LINE TABLE		
NO.	BEARING	LENGTH
1.1	S54°23'58"E	9.57
1.2	N57°04'08"W	8.87
1.3	S43°04'08"W	9.99
1.4	N57°04'08"W	9.49
1.5	N43°33'02"E	8.95
1.6	S43°04'08"W	2.07
1.7	N57°04'08"W	9.38
1.8	N43°33'02"E	2.07

WORTHINGTON CIRCLE - RT. 1738
(50' WIDE)

N 7,000,951.49
E 11,869,414.26
(PROJECT
COORDINATES)

N 7,000,861.00
E 11,869,399.78
(PROJECT
COORDINATES)



LOT 3
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 7-11, FOLIO 259
TAX MAP 51-4 (IC) 3

LOT 2
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 7-11, FOLIO 259
TAX MAP 51-4 (IC) 2

LOT 1
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 7-11, FOLIO 259
TAX MAP 51-4 (IC) 1

LOT 4
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 8-12, FOLIO 583
TAX MAP 51-4 (IC) 4

LOT 5
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 8-12, FOLIO 583
TAX MAP 51-4 (IC) 5

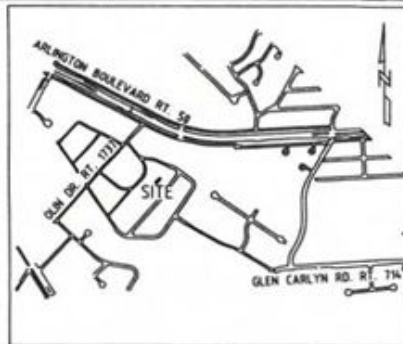
LOT 6
BLOCK C
LEE BOULEVARD HEIGHTS
LIBER 8-12, FOLIO 583
TAX MAP 51-4 (IC) 6

JOHN FRANCIS BATTAGLIA
D.B. 7327, PG. 63
TAX MAP 51-4 (IC) 4A

WOOTEN DRIVE
RT. 1740
(50' WIDE)

REMAINDER LOT D
PARCEL OF LAND
BETWEEN &
MAX WOODNER &
LEE BOULEVARD HEIGHTS
D.B. 841, PG. 385

SANITARY SEWER
EASEMENT
GRADING AGREEMENT
AND TEMPORARY
CONSTRUCTION EASEMENT
LIBER 7-11, FOLIO 259
TAX MAP 51-4 (IC) 1



Notes:
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PLAT SHOWING SANITARY SEWER EASEMENT AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH PROPERTY
BEING IN THE NAME OF
JOHN FRANCIS BATTAGLIA
D.B. 7327, PG. 63



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 5/5/2020 SCALE: 1"=25' SHEET 1 OF 1

ATTACHMENT 3

AFFECTED PROPERTY

Tax Map Number: 051-4-14-CONDO
Street Address: 6051 - 6059 Arlington Boulevard, Falls Church, VA
22044
OWNER(S): Boulevard Square Condominium

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 5,826 sq. ft.

VALUE

Estimated value of interests and damages:

THIRTY-SEVEN THOUSAND EIGHT HUNDRED DOLLARS (\$37,800.00)

ATTACHMENT 4

AFFECTED PROPERTY

Tax Map Number: 051-04-02-A-0018
Street Address: 3045 Olin Drive, Falls Church, VA 22044

OWNER(S): Rebecca L. Bowman,
Vivek Shankar

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Sanitary Sewer Easement – 588 sq. ft.
Grading Agreement and Temporary Construction Easement – 1,257 sq. ft.

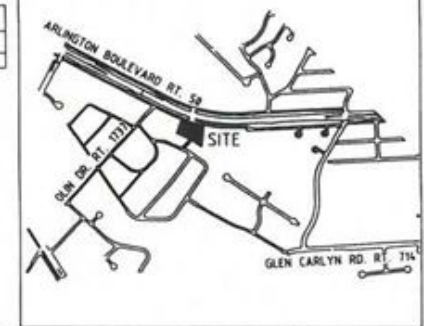
VALUE

Estimated value of interests and damages:

TWELVE THOUSAND SIX HUNDRED DOLLARS (\$12,600.00)



LINE TABLE		
NO.	BEARING	LENGTH
L1	N23°40'12"E	7.27'
L2	N66°19'48"W	9.09'



VICINITY MAP
SCALE: 1" = 1000'

BOULEVARD SQUARE
CONDOMINIUM
D.B. 5599, PG. 30
TAX MAP 51-4 (1143) CONDO

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
**BOULEVARD SQUARE
CONDOMINIUM**
D.B. 5599, PG. 30

FAIRFAX COUNTY, VIRGINIA



**COUNTY OF FAIRFAX
VIRGINIA**

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN	DATE: 05/04/2020	SCALE: 1"=25'	SHEET 1 OF 1
---------------	------------------	---------------	--------------

VA-TAX-1
VCS 81 NORTH ZONE

LINE TABLE		
NO.	BEARING	LENGTH
L1	N62°33'51"E	14.57
L2	S42°19'51"W	6.89
L3	N62°33'51"E	10.52

ATTACHMENT 4A

OLIN DRIVE - RT. 1737
(50' WIDE)

WOOTEN DRIVE - RT. 1740
(50' WIDE)

LOT 9
BLOCK A
SECTION 1
LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
TAX MAP 51-4 (12) (A) 9

LOT 8
BLOCK A
SECTION 1
LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
TAX MAP 51-4 (12) (A) 8

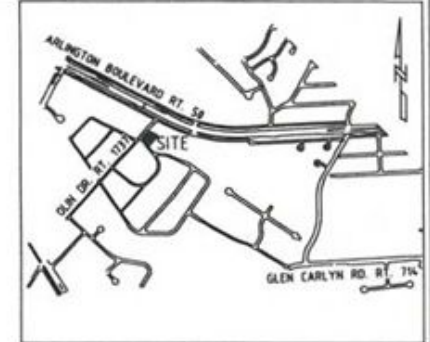
LOT 18
BLOCK A
SECTION 1
LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
TAX MAP 51-4 (12) (A) 18

LOT 17
BLOCK A
SECTION 1
LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
TAX MAP 51-4 (12) (A) 17

EASEMENT AREAS
SANITARY SEWER EASEMENT
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

588 SQ. FT.
1,257 SQ. FT.

Scale: 1" = 25'



VICINITY MAP
SCALE: 1" = 1000'

Notes:

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All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 51-4 (12) (A) 18.

This plat was prepared with care and diligence for accuracy and legality, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

PLAT SHOWING SANITARY SEWER EASEMENT AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH
LOT 18-BLOCK A-SECTION 1-LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
BEING IN THE NAME OF
REBECCA L. BOWMAN AND VIVEK SHANKAR
D.B. 24573, PG. 146B

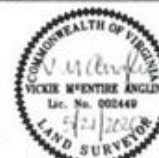
MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA



COUNTY OF FAIRFAX VIRGINIA

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 5/5/2020 SCALE: 1"=25' SHEET 1 OF 1

ATTACHMENT 5

AFFECTED PROPERTY

Tax Map Number: 051-4-02-C-0013

Street Address: 3121 Celadon Lane, Falls Church, VA 22044

OWNER(S): Douglas Ralph Dawson

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 755 sq. ft.

VALUE

Estimated value of interests and damages:

TWO THOUSAND THREE HUNDRED FIFTY DOLLARS (\$2,350.00)

ATTACHMENT 6

AFFECTED PROPERTY

Tax Map Number: 051-04-02-C-0006

Street Address: 3107 Worthington Circle, Falls Church, VA 22044

OWNER(S): Gillian M. Dollard,
Timothy James Dollard

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 2,787 sq. ft.

VALUE

Estimated value of interests and damages:

SIX THOUSAND SIX HUNDRED DOLLARS (\$6,600.00)

CELADON LANE - RT. 1751
(50' WIDE)

N 7,000,444.7
E 11,865,018.5
PROJECT
COORDINATE

N 7,000,444.79
E 11,869,018.99
PROJECT
COORDINATES)

N 7,000,492.62
E 11,869,063.00
(PROJECT
COORDINATES)

LOT 13
BLOCK C
SECTION THREE HEIGHT 5
LEE BOULEVARD
LIBER 9-12 P. 10 563
TAX MAP 51-4 (22) (C) 13

LOT 13
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LWER B-12, FOLD 542
TAX MAP 51-4 (127) (C) T

EX. SANITARY SEWER EASEMENT
D.B. 434, PG. 41
167.31'

LOT 14
BLOCK C
SECTION THREE HEIGHTS
LEE BOULEVARD
LIBER 8-12 FOLD 862
TAX MAP 51.4 (C2) (C) 14

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

LOT 15
BLOCK C
SECTION THREE HEIGHTS
LEE BOULEVARD
LIBER 8-12 FOLIO 983
TAX MAP 51.4 (12) (C) 18

PARCEL OF LAND
BETWEEN &
MAX WOODNER &
LEE BOULEVARD HEIGHTS
D.B. 941, PG. 395

BROOK DRIVE - RT. 1740
(50' WIDE)

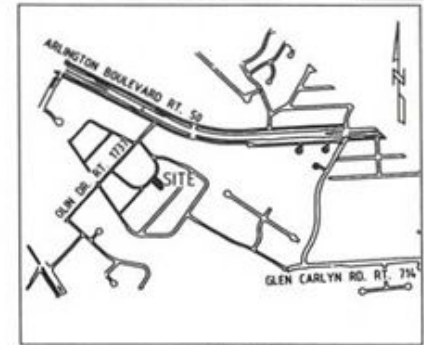
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



DRAWN BY: BLN	DATE: 5/5/2020	SCALE: 1"=25'	SHEET 1 OF 1
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ATTACHMENT 6A

CURVE TABLE						
NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
(1)	228.90'	25.00'	66°52'27"	12.51'	24.99'	N39°29'18"E
(2)	228.90'	14.18'	0°31'30"	7.04'	14.18'	N38°06'05"E



VICINITY MAP
SCALE: 1" = 1000'

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DRAWN BY: BLN	DATE: 10/7/2020	SCALE: 1"=25'	SHEET 1 OF 1
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ATTACHMENT 7

AFFECTED PROPERTY

Tax Map Number: 051-04-02-C-0004

Street Address: 3103 Worthington Circle, Falls Church, VA 22044

OWNER(S): Eric Arthur Hanson,
Joyce L. Hanson

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Sanitary Sewer Easement – 276 sq. ft.

Grading Agreement and Temporary Construction Easement – 986 sq. ft.

VALUE

Estimated value of interests and damages:

FIVE THOUSAND DOLLARS (\$5,000.00)

ATTACHMENT 8

AFFECTED PROPERTY

Tax Map Number: 051-04-02-A-0004

Street Address: 6063 Arlington Blvd., Falls Church, VA 22044

OWNER(S): HRE, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement - 609 sq. ft.

VALUE

Estimated value of interests and damages:

TWO THOUSAND NINE HUNDRED FORTY DOLLARS (\$2,940.00)

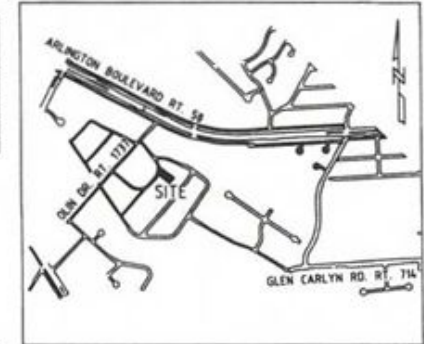
VA STATE ZONE NORTH
VCS 83, NORTH ZONE

ATTACHMENT 7A

WORTHINGTON CIRCLE - RT. 1738
(50' WIDE)

WOOTEN DRIVE - RT. 1740
(50' WIDE)

NO.	BEARING	LENGTH
L1	S42°17'00"W	2.87'
L2	S38°21'38"W	26.61'
L3	N51°38'42"W	17.01'
L4	N38°21'38"E	26.28'
L5	S42°19'34"E	17.64'
L6	S42°17'00"W	3.73'



VICINITY MAP
SCALE: 1" = 1000'

NO.	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	228.90'	79.80'	17°31'18"	35.28'	69.73'	N17°58'25"E
C2	228.90'	76.47'	08°36'43"	18.22'	26.47'	N04°27'00"E
C3	229.00'	5.89'	01°28'15"	2.94'	5.89'	N03°52'44"E

Notes:

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The property delineated on this plat is located on Tax Assessment Map 51-4 (22) (C) 4.

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EASEMENT AREAS
SANITARY SEWER EASEMENT 276 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 986 SQ. FT.



PLAT SHOWING SANITARY SEWER EASEMENT AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 4-BLOCK C-SECTION THREE-LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 562
BEING IN THE NAME OF
ERIC ARTHUR HANSON AND JOYCE L. HANSON
D.B. 4072, PG. 39



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



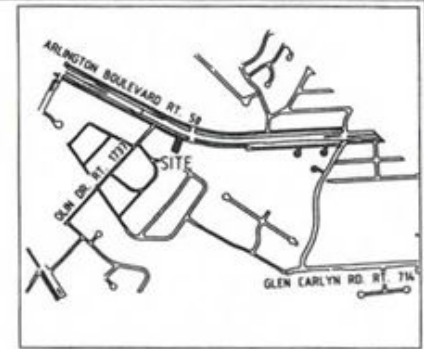
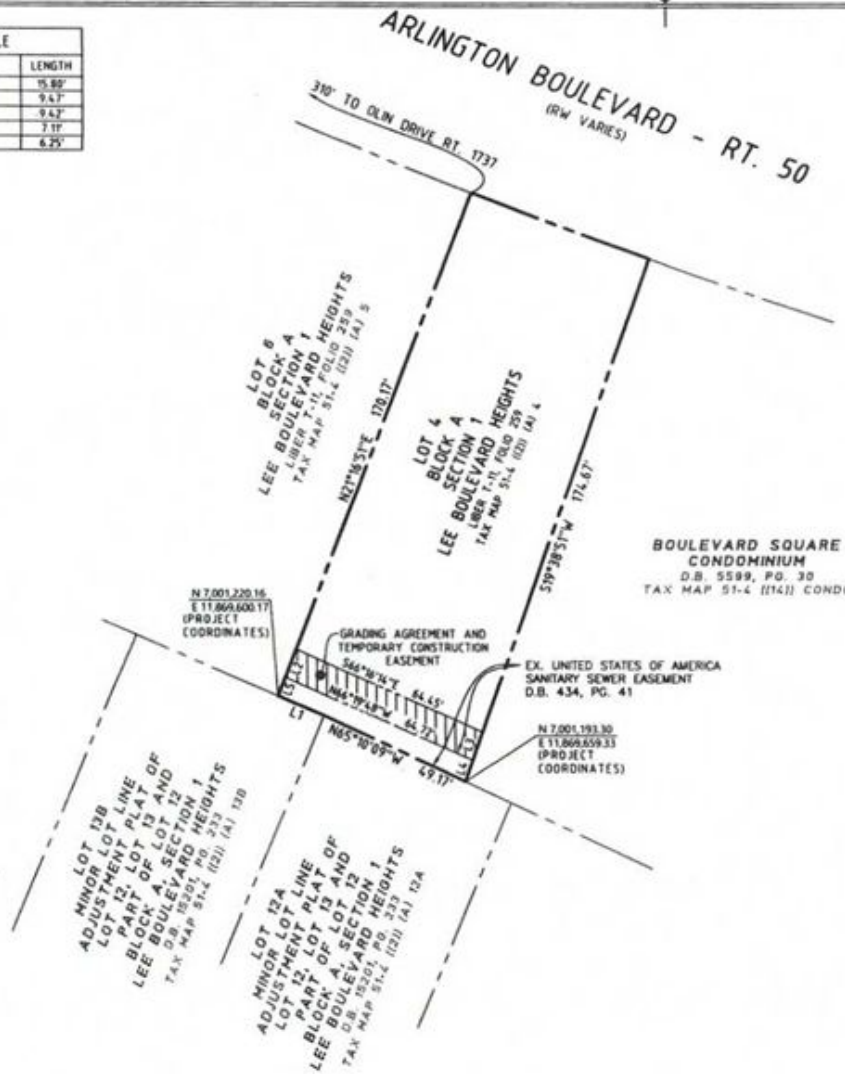
SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 6/29/2020 SCALE: 1"=25' SHEET 1 OF 1

VA STATE ZONE NORTH
VCS 83; NORTH ZONE

LINE TABLE		
NO.	BEARING	LENGTH
1.1	N84°51'01"W	15.89
1.2	N21°16'51"E	9.47
1.3	S59°38'51"W	9.47
1.4	S59°38'51"W	7.17
1.5	N21°16'51"E	6.25

ATTACHMENT 8A



Notes:
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PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 4-BLOCK A-SECTION 1-LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
BEING IN THE NAME OF
HRE, LLC
D.B. 22068, PG. 279



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PIKE, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA

DRAWN BY: BLN DATE: 5/5/2020 SCALE: 1"=25' SHEET 1 OF 1

ATTACHMENT 9

AFFECTED PROPERTY

Tax Map Number: 051-04-02-A-0012-A

Street Address: 6058 Wooten Drive, Falls Church, VA 22044

OWNER(S): Alison E. Lawrence

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 334 sq. ft.

VALUE

Estimated value of interests and damages:

ONE THOUSAND ONE HUNDRED TEN DOLLARS (\$1,110.00)

ATTACHMENT 10

AFFECTED PROPERTY

Tax Map Number: No TM# associated with this parcel

Street Address: Vacant strip of land adjacent to TM# 051-4-02-C-0004-A

OWNER(S): Heirs and Assigns of Albert Lloyd
and Julia M. Lloyd

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Sanitary Sewer Easement – 40 sq. ft.

Grading Agreement and Temporary Construction Easement – 9 sq. ft.

VALUE

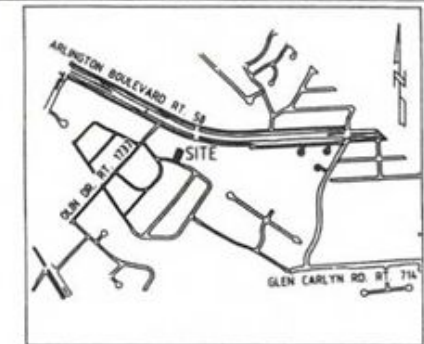
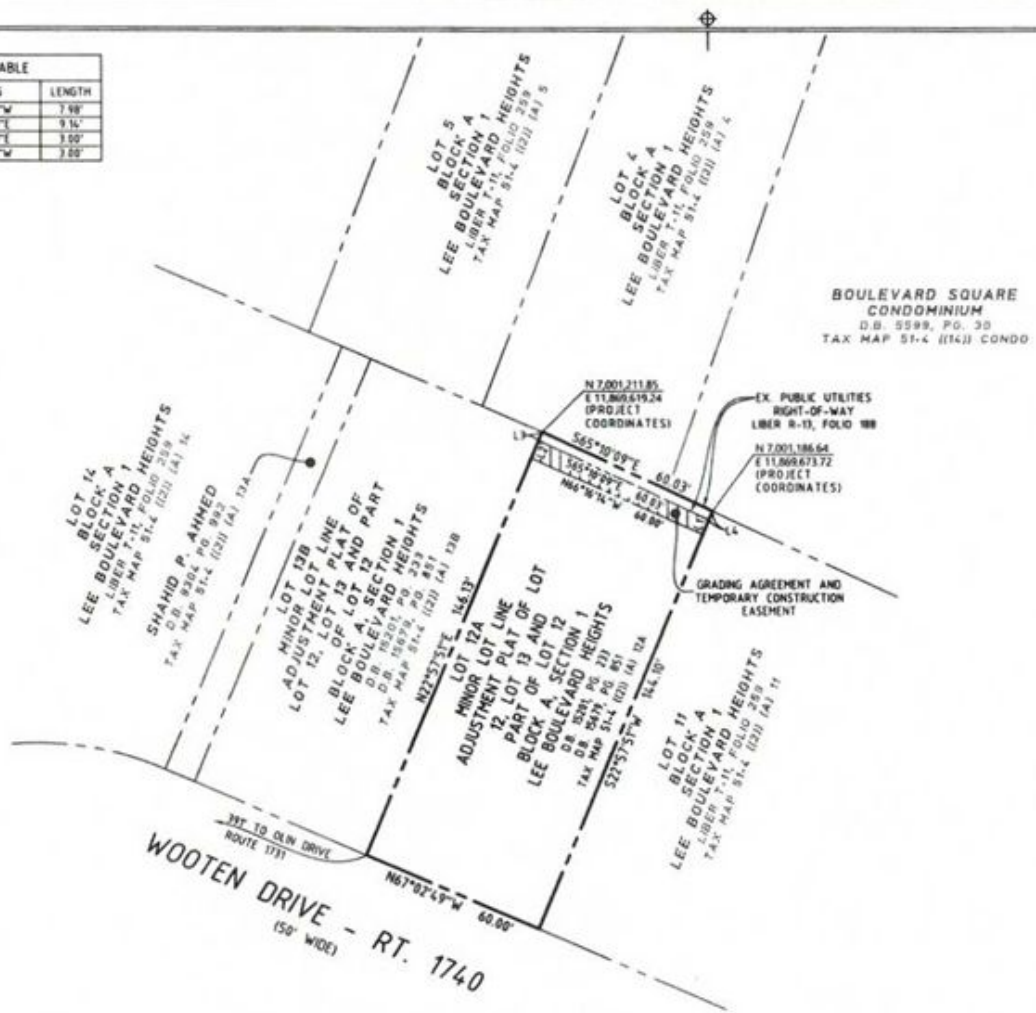
Estimated value of interests and damages:

ONE HUNDRED DOLLARS (\$100.00)

VA STATE ZONE NORTH
NAD 83, NORTH ZONE

LINE TABLE		
NO	BEARING	LENGTH
L1	S22°57'57"W	7.98'
L2	N02°57'57"E	9.14'
L3	N02°57'57"E	1.00'
L4	S22°57'57"W	7.00'

ATTACHMENT 9A



Notes:
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The property delineated on this plat is located on Tax Assessment Map 51-4 (2) (A) 12A.

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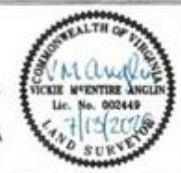
EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
334 SQ. FT.



PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH
**LOT 12A-MINOR LOT LINE ADJUSTMENT PLAT OF LOT 12,
LOT 13 AND PART OF LOT 12-BLOCK A-SECTION 1-
LEE BOULEVARD HEIGHTS**
D.B. 15201, PG. 233
D.B. 15679, PG. 851
BEING IN THE NAME OF
ALISON E. LAWRENCE
D.B. 22684, PG. 1560
FAIRFAX COUNTY, VIRGINIA



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-00028-002C

DRAWN BY: BLN DATE: 6/29/2020 SCALE: 1"=25' SHEET 1 OF 1

VA STATE ZONE NORTH
VCS 83, NORTH ZONE

ATTACHMENT 10A

LINE TABLE		
NO.	BEARING	LENGTH
L1	S54°23'58"E	4.37
L2	N56°49'38"W	5.13
L3	S47°24'38"W	9.29
L4	N52°58'08"W	4.47
L5	N63°54'08"E	9.99
L6	S47°24'28"W	2.87
L7	N52°58'08"W	4.47
L8	N63°54'08"E	2.87

WORTHINGTON CIRCLE - RT. 1738
(50' WIDE)

N 7,000,951.49
E 11,869,414.26
(PROJECT
COORDINATES)

N 7,000,861.00
E 11,869,399.78
(PROJECT
COORDINATES)

EASEMENT AREAS
SANITARY SEWER EASEMENT
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

40 SQ. FT.
9 SQ. FT.

Scale: 1" = 25'

WOOTEN DRIVE
RT. 1740
(50' WIDE)

LOT 3
BLOCK C
SECTION 1
LEE BOULEVARD HEIGHTS
TAX MAP 51-4 (IC) 3

LOT 2
BLOCK C
SECTION 1
LEE BOULEVARD HEIGHTS
TAX MAP 51-4 (IC) 2

LOT 1
BLOCK C
SECTION 1
LEE BOULEVARD HEIGHTS
TAX MAP 51-4 (IC) 1

LOT 4
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 582
TAX MAP 51-4 (IC) 4

LOT 5
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 583
TAX MAP 51-4 (IC) 5

LOT 6
BLOCK C
SECTION THREE
LEE BOULEVARD HEIGHTS
LIBER B-12, FOLIO 583
TAX MAP 51-4 (IC) 6

JOHN FRANCIS BATTAGLIA
TAX MAP 51-4 (IC) 4A

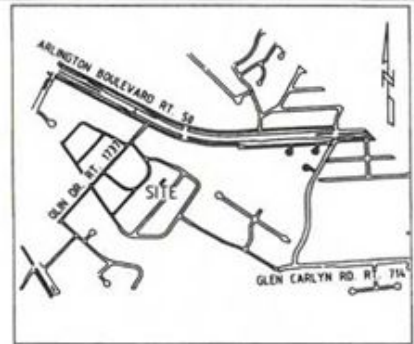
HERS AND ASSIGNS OF
ALBERT LLOYD AND JULIA M. LLOYD
TAX MAP 51-4 (IC) 4

PARCEL OF LAND
BETWEEN &
LEE BOULEVARD HEIGHTS
D.B. 941, PG. 395

LOT 74
SECTION THREE
MUNSON HILL
D.B. 1480, PG. 512
TAX MAP 51-4 (IC) 74

LOT 73
SECTION THREE
MUNSON HILL
D.B. 1480, PG. 512
TAX MAP 51-4 (IC) 73

SEE DETAIL



VICINITY MAP
SCALE: 1" = 1000'

Notes:
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PLAT SHOWING SANITARY SEWER EASEMENT AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH PROPERTY
BEING IN THE NAME OF

**HEIRS AND ASSIGNS OF
ALBERT LLOYD AND JULIA M. LLOYD**

D.B. 941, PG. 395



**COUNTY OF FAIRFAX
VIRGINIA**

DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 6/29/2020 SCALE: 1"=25' SHEET 1 OF 1

ATTACHMENT 11

AFFECTED PROPERTY

Tax Map Number: 051-04-02-C-0003

Street Address: 3101 Worthington Circle, Falls Church, VA 22044

OWNER(S): Deirdre O'Hara,
Hilary O'Hara,
Charles P. O'Hara,
Dorothy A. O'Hara

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Sanitary Sewer Easement – 1,112 sq. ft.

Grading Agreement and Temporary Construction Easement – 535 sq. ft.

VALUE

Estimated value of interests and damages:

SEVENTEEN THOUSAND DOLLARS (\$17,000.00)

ATTACHMENT 12

AFFECTED PROPERTY

Tax Map Number: 051-04-02-C-0011

Street Address: 3117 Celadon Lane, Falls Church, VA 22044

OWNER(S): Adrienne Rose-Marie Raynor,
Austin Raynor

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 982 sq. ft.

VALUE

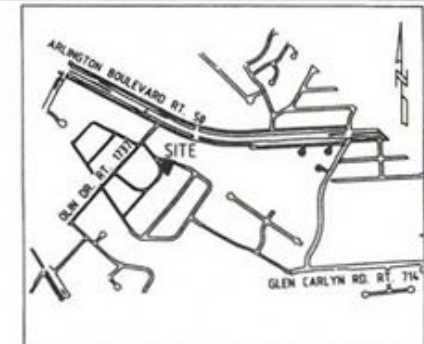
Estimated value of interests and damages:

THREE THOUSAND TWO HUNDRED TEN DOLLARS (\$3,210.00)

VA STATE ZONE
NCS 83, NORTH ZONE

CURVE TABLE						
NO	RADIUS	LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	273.00'	67.35'	12°40'36"	23.66'	47.83'	N02°48'05"W
C2	54.00'	112.55'	119°25'06"	92.44'	93.26'	N49°37'00"E
C3	273.00'	16.37'	06°24'15"	8.79'	16.37'	N08°22'40"E

LINE TABLE		
NO	BEARING	LENGTH
L1	S52°58'08"E	12.63'
L2	N44°10'48"E	22.44'
L3	S63°38'49"E	15.16'
L4	S44°10'48"W	26.33'
L5	N61°58'08"W	16.16'
L6	S23°29'55"W	11.20'
L7	N63°58'08"W	20.43'
L8	N33°01'42"E	10.00'
L9	S52°58'08"E	10.00'
L10	S23°29'55"W	10.29'



VICINITY MAP
SCALE: 1" = 1000'

ATTACHMENT 11A

WORTHINGTON CIRCLE - RT. 1738
(50' WIDE)

WOOTEN DRIVE - RT. 1740
(50' WIDE)



Notes:
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EASEMENT AREAS
SANITARY SEWER EASEMENT 1,112 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT AREA "A" 341 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT AREA "B" 192 SQ. FT.
TOTAL GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 535 SQ. FT.



PLAT SHOWING SANITARY SEWER EASEMENT AND GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH LOT 3-BLOCK C-SECTION 1-LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
BEING IN THE NAME OF
DEIRDRE O'HARA (i INTEREST), HILARY O'HARA (i INTEREST), CHARLES P. O'HARA (i INTEREST), DOROTHY A. O'HARA (i INTEREST)
D.B. 7928, PG. 186
FAIRFAX COUNTY, VIRGINIA



COUNTY OF FAIRFAX VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



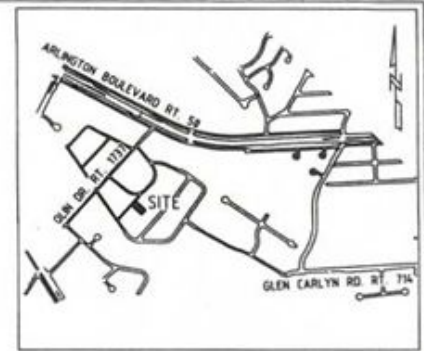
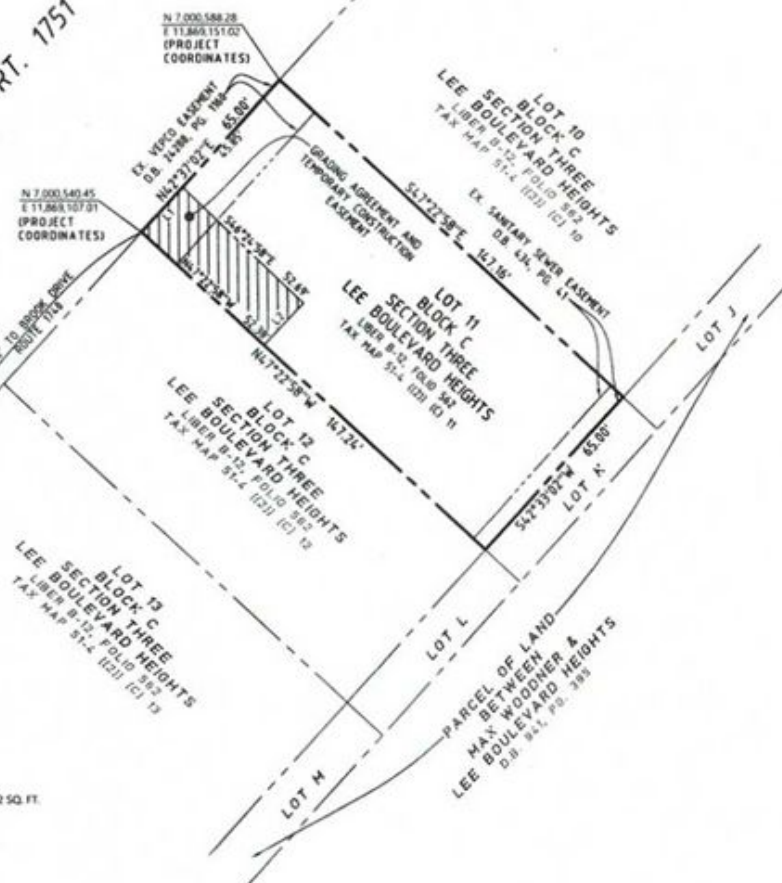
SUPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C
DRAWN BY: BLN DATE: 6/24/2020 SCALE: 1"=25' SHEET 1 OF 1

VA STATE ZONE
VCS 83, NORTH ZONE

LINE TABLE		
NO.	BEARING	LENGTH
L1	N42°37'02"E	19.15'
L2	S43°35'02"W	18.26'

ATTACHMENT 12A

CELADON LANE - RT. 1751
(50' WIDE)



VICINITY MAP
SCALE: 1" = 1000'

Notes:
This plat was prepared without the benefit of a title report; therefore not all encumbrances to the property are necessarily shown hereon.

The land shown on this plat is now held as noted in the title block hereon and recorded among the land records of Fairfax County; all easements and dedications for public street purposes are within the bounds of the original tract, as described and recorded therein.

The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 51-4 (22) (C) 11.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

EASEMENT AREA
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 982 SQ. FT.



PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH
LOT 11-BLOCK C-SECTION THREE-LEE BOULEVARD HEIGHTS
LIBER 8-12, FOLIO 562
BEING IN THE NAME OF
ADRIENNE ROSE-MARIE RAYNOR AND AUSTIN RAYNOR
D.B. 26178 PG. 2087



COUNTY OF FAIRFAX VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 6/25/2020 SCALE: 1"=25' SHEET 1 OF 1

AFFECTED PROPERTY

Tax Map Numbers: 051-04-02-A-0005
051-04-02-A-0006

Street Address: 6065 & 6067 Arlington Boulevard, Falls Church, VA
22044

OWNER(S): Homan Solemaninejad,
AVIN, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 1,188 sq. ft.

VALUE

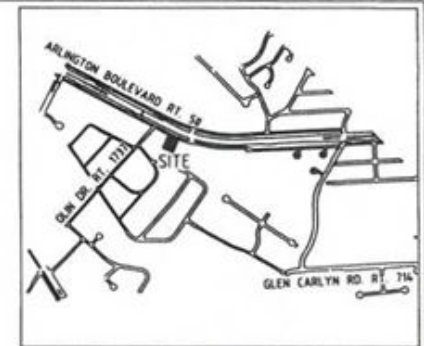
Estimated value of interests and damages:

THREE THOUSAND SEVEN HUNDRED DOLLARS (\$3,700.00)

VA STATE ROAD NORTH
VCS RD. NORTH ZONE

ATTACHMENT 13A

NO	BEARING	LENGTH
1.1	N24°00'51"E	9.47
1.2	S21°16'51"W	9.47
1.3	S21°22'51"W	9.53
1.4	N65°33'31"W	13.54
1.5	N24°00'51"E	7.57
1.6	N21°16'51"E	6.25
1.7	S21°22'51"W	6.89



VICINITY MAP
SCALE: 1" = 1000'

Notes:
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The information shown on this plat was compiled from existing land records and does not represent the results of an actual field run boundary survey.

All previously recorded Rights-of-Way, easements, or other interests of the County shall remain in full force and effect unless otherwise specifically shown hereon.

The property delineated on this plat is located on Tax Assessment Map 51-4 (12) (A) 5 & 6.

This plat was prepared with care and diligence for accuracy and legibility, and complies with all relevant Virginia Administrative Code. Often, legibility has degraded upon retrieval from the Circuit Court's Court Public Access Network (CPAN). If you have difficulty deciphering this plat, please contact the County Surveyor directly for a copy of the signed document, if it is still on hand.

EASEMENT AREAS
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT LOT 5 573 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT LOT 6 635 SQ. FT.
TOTAL GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 1,188 SQ. FT.



PLAT SHOWING GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH
LOTS 5 & 6-BLOCK A-SECTION 1-LEE BOULEVARD HEIGHTS
LIBER T-11, FOLIO 259
BEING IN THE NAME OF
HOMAN SOLEMANINEJAD
D.B. 23678, PG. 652

MASON DISTRICT

FAIRFAX COUNTY, VIRGINIA



**COUNTY OF FAIRFAX
VIRGINIA**
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA



SLIPLINE REPLACEMENT #3 (CELADON LANE)
PROJECT NUMBER WW-000028-002C

DRAWN BY: BLN DATE: 5/5/2020 SCALE: 1"=25' SHEET 1 OF 1

Board Agenda Item
September 14, 2021

4:30 p.m.

Public Hearing on a Proposal to Prohibit Through Truck Traffic on Hampton Road
(Springfield District)

ISSUE:

Public hearing for the purpose of endorsing the following road to be included in the Residential Traffic Administration Program (RTAP) for a through truck traffic restriction:

- Hampton Road between Ox Road (Route 123) and Henderson Road

RECOMMENDATION:

The County Executive recommends that the Board approve the attached resolution (Attachment I) endorsing this road to be included in the RTAP for a through truck traffic restriction, following the aforementioned public hearing.

TIMING:

On July 13, 2021, the Board authorized advertisement of a public hearing scheduled for September 14, 2021, at 4:30 p.m.

BACKGROUND:

On May 11, 2021, the Springfield District Supervisor's Office requested that staff work with the Virginia Department of Transportation (VDOT) to implement a through truck traffic restriction on Hampton Road between Ox Road (Route 123) and Henderson Road. The request stemmed from safety concerns of residents in the area related to increased truck traffic utilizing this segment of the road as a shortcut. A possible alternate route, Ox Road (Route 123) directly to Henderson Road (Attachment II), has been identified.

Section 46.2-809 of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on these roads (Attachment I) has been prepared for adoption and transmittal to VDOT which will conduct the formal engineering study of the through truck restriction request.

FISCAL IMPACT:

None.

Board Agenda Item
September 14, 2021

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Henderson Road

Attachment II: Area Map of Proposed Through Truck Traffic Restriction

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, FCDOT

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
THROUGH TRUCK TRAFFIC RESTRICTION
HAMPTON ROAD
SPRINGFIELD DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents who live along Hampton Road, between Ox Road (Route 123) and Henderson Road, have expressed concerns regarding the negative impacts associated with through truck traffic on this road; and

WHEREAS, a reasonable alternate route has been identified for Hampton Road starting at Hampton Road and Ox Road (Route 123), traveling along Ox Road to the intersection of Ox Road and Henderson Road, and then continuing on Henderson Road to end at the intersection of Henderson Road and Hampton Road; and

WHEREAS, it is the intent of the Fairfax County Board of Supervisors to ensure that the proposed through truck restriction be enforced by the Fairfax County Police Department; and

WHEREAS, a public hearing was held pursuant to Section 46.2-809 of the *Code of Virginia*;

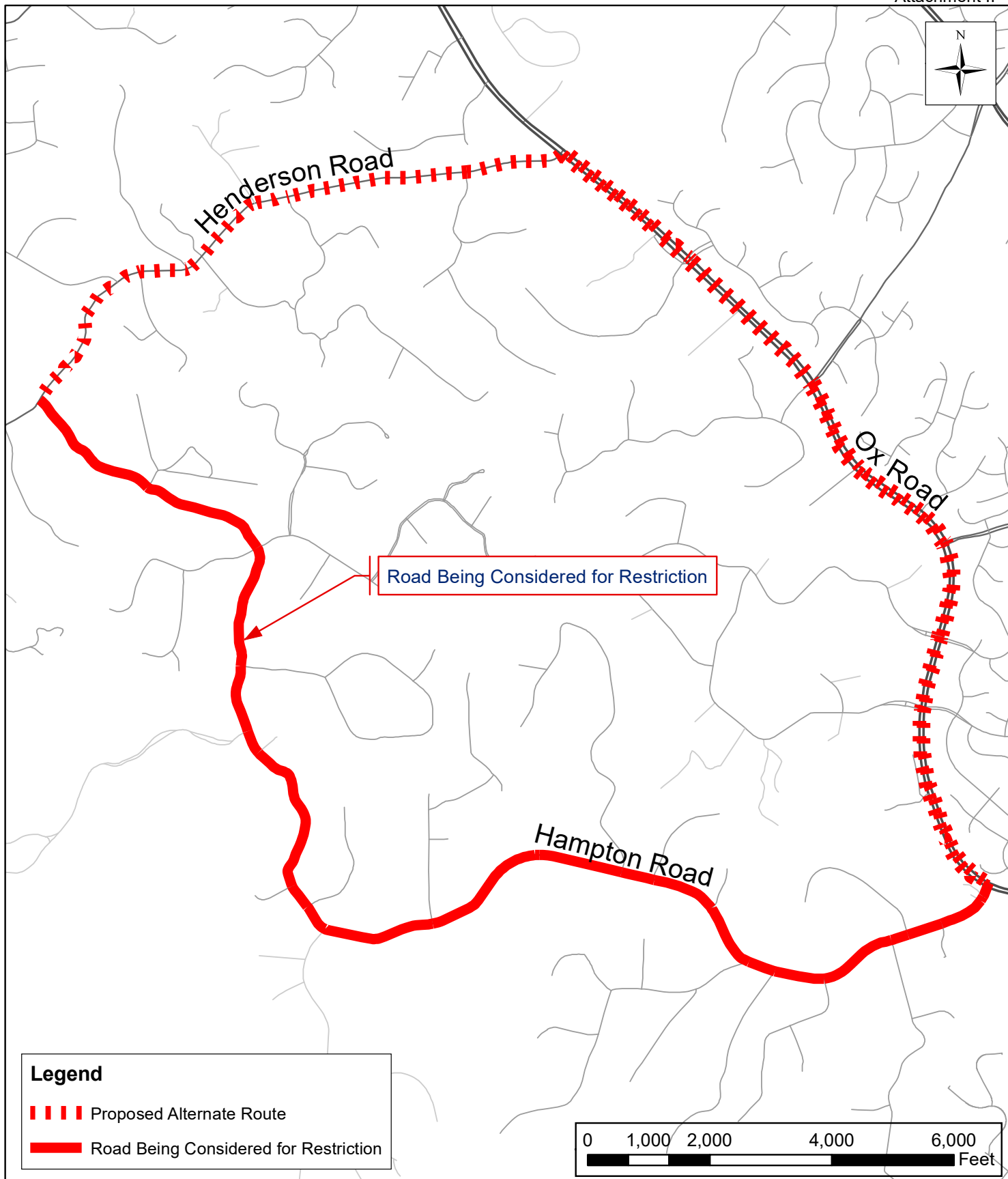
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Hampton Road, between Ox Road (Route 123) and Henderson Road, as part of the County's Residential Traffic Administration Program (RTAP).

FURTHER BE IT RESOLVED, that the Commonwealth Transportation Board is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 14th day of September, 2021.

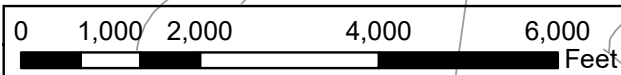
A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Legend

- - - - Proposed Alternate Route
- Road Being Considered for Restriction



Tax Map: 87-3, 87-4, 88-3, 96-1,
96-2, 96-3, 96-4, 97-1,
97-3, 105-1, 105-2, 106-1

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Through Truck Restriction Map
Hampton Road
Springfield District**

June 2021



Board Agenda Item
September 14, 2021

4:30 p.m.

Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia – Chapter 4 (Taxation and Finance) to Add a New Article 30 to Establish a Disposable Plastic Bag Tax

ISSUE:

Public hearing to consider an amendment to The Code of the County of Fairfax, Chapter 4 to add a new Article 30 relating to a disposable plastic bag tax.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed addition to Chapter 4 of the Code of the County of Fairfax to establish Article 30 relating to a disposable plastic bag tax.

TIMING:

On July 27, 2021, the Board authorized advertisement of a public hearing to consider adoption of an ordinance to establish a tax on disposable plastic bags. Board action is requested on September 14, 2021, to adopt the ordinance. If adopted, the ordinance would take effect on January 1, 2022.

BACKGROUND:

Chapter 1023 of the 2020 Session of the Virginia Acts of Assembly, provided as Attachment 1, amended Virginia Code Title 58.1, Taxation, Chapter 17, *Miscellaneous Taxes*, by adding Article 12, Disposable Plastic Bag Tax, set forth at Va. Code §§ 58.1-1745 through 58.1-1748. Va. Code § 58.1-1745 authorizes Fairfax County to adopt an ordinance imposing a \$0.05 tax on disposable plastic bags provided to consumers by grocery stores, convenience stores and drugstores, with some exemptions.

Va. Code § 58.1-1747 establishes a retailer discount that allows retailers to retain two cents (\$0.02) from the tax collected on each disposable plastic bag through December 31, 2022. This discount drops to one cent (\$0.01) beginning January 1, 2023.

Va. Code § 58.1-1748 directs the state Tax Commissioner to collect, administer, and enforce the disposable plastic bag tax in essentially the same manner that the retail sales and use tax is collected, administered, and enforced. This statute also directs the Tax Commissioner to develop guidelines and make them publicly available. Draft

Board Agenda Item
September 14, 2021

guidelines were released in June 2021. Among other things, the draft guidelines stipulate that covered retailers are required to collect the tax on disposable plastic bags provided to customers for in-store purchases, to-go purchases, delivery purchases, and curbside pick-up purchases. The draft guidelines also confirm larger retailers that contain a grocery store, a convenience store, or a drug store are subject to the tax.

Va. Code § 58.1-1745 requires the County to provide a certified copy of its ordinance to the Tax Commissioner at least three months before the ordinance's effective date. The law also requires that the disposable plastic bag tax becomes effective on the first day of any calendar quarter. Given these provisions, should the ordinance be adopted following the September 14, 2021 public hearing, the County's disposable plastic bag tax would become effective on January 1, 2022.

Revenues from the plastic bag tax program are to be appropriated for environmental clean-up, providing education programs designed to reduce environmental waste, mitigation of pollution and litter, and the provision of reusable bags to recipients of certain federal food support programs (i.e., Supplemental Nutrition Assistance Program and Special Supplemental Nutrition Program for Women, Infants, and Children).

The Office of Environmental and Energy Coordination (OEEC) established a [webpage](#) regarding the disposable plastic bag tax that includes [Frequently Asked Questions](#), the [proposed ordinance](#), and a link to the Clerk Services webpage for those interested in testifying at the September 14 public hearing. OEEC also established a dedicated email address (fairfaxplasticbagtax@fairfaxcounty.gov), which was shared on the County webpage and with targeted stakeholders. OEEC submitted the comments it received to Clerk Services in advance of the September 14, 2021 public hearing. In addition, OEEC reached out directly to approximately 40 organizations, including retail associations, local chambers of commerce and environmental organizations about the proposed ordinance and the September 14 public hearing. Should the ordinance be adopted, staff will continue to conduct outreach and stakeholder engagement about the disposable plastic bag tax into 2022.

FISCAL IMPACT:

At this time, the administration can be absorbed without additional funding. Pursuant to Va. Code § 58.1-1748, the revenues from the disposable plastic bag tax, after reimbursement of direct costs incurred by the Department of Taxation in administering, enforcing, and collecting this tax, shall be distributed by the Comptroller to Fairfax County as soon as practicable after the end of each month for which the tax is remitted. The revenues from the tax will be dependent on the number of retailers that are subject

Board Agenda Item
September 14, 2021

to the tax and the number of disposable plastic bags these retailers provide to consumers.

ENCLOSED DOCUMENTS:

Attachment 1: 2020 Acts of the Virginia General Assembly, Chapter 1023

Attachment 2: Proposed Ordinance to amend Chapter 4 of the Fairfax County Code

STAFF:

Christina C. Jackson, Chief Financial Officer

Rachel O'Dwyer Flynn, Deputy County Executive

Jaydeep "Jay" Doshi, Director, Department of Tax Administration (DTA)

Kambiz Agazi, Director, Office of Environmental and Energy Coordination (OEEC)

Susan Hafeli, Deputy Director, OEEC

Young Tarry, Assistant Director, Business License and Personal Property Division, DTA

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1023

An Act to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-1745 through 58.1-1748, relating to a local disposable plastic bag tax.

[S 11]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-1745 through 58.1-1748, as follows:

Article 12.

Disposable Plastic Bag Tax.

§ 58.1-1745. Disposable plastic bag tax.

A. Any county or city may, by duly adopted ordinance, impose a tax in the amount of five cents (\$0.05) for each disposable plastic bag provided, whether or not provided free of charge, to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores.

B. Any tax imposed under this section shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property. All revenue accruing to the county or city from a tax imposed under the provisions of this article shall be appropriated for the purposes of environmental cleanup, providing education programs designed to reduce environmental waste, mitigating pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits.

C. Each local ordinance imposing the tax shall provide for the tax to become effective on the first day of any calendar quarter; however, in no event shall any tax imposed pursuant to this article become effective before January 1, 2021. The county or city shall, at least three months prior to the date the tax is to become effective, provide a certified copy of such ordinance to the Tax Commissioner.

§ 58.1-1746. Exemptions.

Any tax imposed pursuant to the provisions of this article shall not apply to the following:

1. Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse and that are at least four mils thick;
2. Plastic bags that are solely used to wrap, contain, or package ice cream, meat, fish, poultry, produce, unwrapped bulk food items, or perishable food items in order to avoid damage or contamination;
3. Plastic bags used to carry dry cleaning or prescription drugs; and
4. Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

§ 58.1-1747. Retailer discount.

A. Beginning January 1, 2021, and ending January 1, 2023, every retailer that collects a tax imposed by a county or city under this article shall be allowed to retain two cents (\$0.02) from the tax collected on each disposable plastic bag.

B. Beginning January 1, 2023, every retailer that collects a tax imposed by a county or city under this article shall be allowed to retain one cent (\$0.01) from the tax collected on each disposable plastic bag.

C. Any retailer that retains a discount pursuant to this section shall account for it in the form of a deduction when submitting its tax return and paying the amount due in a timely manner.

§ 58.1-1748. Administration.

The Tax Commissioner shall collect, administer, and enforce this tax in the same manner that he collects, administers, and enforces the retail sales and use tax under Chapter 6 (§ 58.1-600 et seq.), *mutatis mutandis*. However, the dealer discount provided under § 58.1-622 shall not be allowed and the revenues from the tax authorized under this section, after reimbursement of direct costs incurred by the Department in administering, enforcing, and collecting this tax, shall be distributed by the Comptroller to the respective county or city imposing the tax as soon as practicable after the end of each month for which the tax is remitted. The Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**AN ORDINANCE AMENDING
CHAPTER 4 OF THE FAIRFAX COUNTY CODE, RELATING TO A DISPOSABLE
PLASTIC BAG TAX**

Draft of July 19, 2021

AN ORDINANCE to amend the Fairfax County Code by amending Chapter 4 by adding a new Article 30 relating to a disposable plastic bag tax.

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

1. That Article 30 of Chapter 4 of the Fairfax County code is adopted as follows:

CHAPTER 4 – Taxation and Finance.

Article 30. – Disposable Plastic Bag Tax.

Section 4-30-1. – Levy; tax rate.

Pursuant to Va. Code § 58.1-1745, as amended, Fairfax County imposes a tax in the amount of five cents (\$0.05) for each disposable plastic bag provided to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores. This tax shall be collected whether or not such disposable plastic bag is provided free of charge to the consumer.

Section 4-30-2. – Administration, collection, enforcement and appropriation.

(a) The tax on disposable plastic bags imposed pursuant to this Article shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property. The state Tax Commissioner shall then collect, administer and enforce this tax from the retailer in accordance with Virginia law and shall distribute the tax revenue to the County in accordance with Virginia law, including any guidelines adopted by the state Tax Commissioner in accordance with Va. Code § 58.1-1748, as amended.

(b) All revenue that accrues to the County from the tax imposed by this Article shall be appropriated by the Board in accordance with Va. Code § 58.1-1745, as amended.

Section 4-30-3. – Retailer discount.

(a) Until January 1, 2023, every retailer that collects the tax imposed under this Article shall be allowed to retain two cents (\$0.02) from the tax collected on each disposable plastic bag.

(b) Beginning on January 1, 2023, every retailer that collects the tax imposed under this Article shall be allowed to retain one cent (\$0.01) from the tax collected on each disposable plastic bag.

(c) Any retailer that retains a discount pursuant to this Section shall account for it in the form of a deduction when submitting its tax return and paying the amount due in a timely manner.

Section 4-30-4. Exemptions.

The tax imposed under this Article shall not apply to the following:

(a) Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse and that are at least four mils thick;

(b) Plastic bags that are solely used to wrap, contain, or package ice cream, meat, fish, poultry, produce, unwrapped bulk food items, or perishable food items in order to avoid damage or contamination;

(c) Plastic bags used to carry dry cleaning or prescription drugs; and

(d) Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

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

3. That the provisions of this ordinance shall take effect on January 1, 2022.

GIVEN under my hand this _____ day of _____, 2021

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
September 14, 2021

4:30 p.m.

Public Comment on Issues of Concern