

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 7, 2022**

AGENDA

9:30	Done	Presentations
9:30	Done	Matters Presented by Board Members
9:30	Done	Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

1	Approved	Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic
2	Approved	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of a Public Connector Road from the Dulles Access Road to the Scott's Crossing Road (Providence District)
3	Approved	Extension of Review Period for 2232 Application (Mount Vernon District)
4	Approved	Approval of a "Watch for Children" Sign as Part of the Residential Traffic Administration Program – Drewlaine Drive (Hunter Mill District)
5	Approved	Authorization To Advertise a Public Hearing on a Proposal to Vacate and Abandon a Portion of Loisdale Road / Route 789 (Lee District)
6	Approved	Authorization to Advertise a Public Hearing on a Proposal to Vacate a Portion of Westbranch Drive (Providence District)
7	Approved	Authorization to Advertise a Public Hearing to Consider a Temporary Uncodified Ordinance that Will Provide for up to a Two Dollar Per-Trip Emergency Taxicab Fuel Surcharge from June 29, 2022, through December 29, 2022

ACTION ITEMS

1	Approved	Approval of FY 2022 Year-End Processing
2	Approved	Approval of a Parking Reduction for Metro West – Buildings #6 and 10 (Providence District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 7, 2022**

**ACTION ITEMS
(continued)**

- | | | |
|---|-----------------|---|
| 3 | Approved | Approval of Revisions to Chapters 2, 4 and 14 of the Personnel Regulations |
| 4 | Approved | Adoption of a Resolution Approving the Issuance of Fairfax County Economic Development Authority Revenue Refunding Bonds Series 2022 for the Benefit of Congressional School, Inc. (Mason District) |
| 5 | Approved | Board Approval of the Fairfax County Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Changes |
| 6 | Approved | Approval of a Fourth Amendment to a Project Funding Agreement for County-Funded Roadway Improvements to Mulligan Road (Mount Vernon and Lee Districts) |
| 7 | Approved | Authorization to Enter Into a Memorandum of Understanding With the Dulles Area Transportation Association Related to Transportation Demand Management (Dranesville, Hunter Mill, and Sully Districts) |
| 8 | Approved | Approval of Project Agreements Between the Virginia Department of Rail and Public Transportation (DRPT) and Fairfax County for Fiscal Year (FY) 2022 Transit Capital Assistance Grant Funds |

**INFORMATION
ITEMS
Noted**

- | | | |
|---|--|---|
| 1 | | Certification of Consistency - Fairfax County Redevelopment and Housing Authority Moving to Work Plan for Fiscal Year 2023 and Fairfax County Consolidated Plan |
|---|--|---|

CLOSED SESSION

Done Closed Session

**PUBLIC
HEARINGS**

- | | | |
|------|-----------------|--|
| 3:30 | Approved | Decision Only on SEA 84-V-035-03 (Huntwood, L.L.C.) (Mount Vernon District) |
| 3:30 | Approved | Public Hearing on RZ 2021-SU-013/PCA 2003-SU-040-02 (4700 Centreville, LLC) (Sully District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 7, 2022**

**PUBLIC
HEARINGS
(continued)**

4:00	Approved	Public Hearing on a Proposal to Prohibit Through Truck Traffic on Olin Drive, Munson Hill Road and Row Street (Mason District)
4:00	Approved	Public Hearing to Amend and Readopt Fairfax County Code Sections 7-2-5 and 7-2-13 to Relocate a Polling Place and Rename Precincts in the Hunter Mill District; Relocate a Polling Place in the Mount Vernon District; Rename Polling Places in the Providence District; and Relocate a Polling Place in the Springfield District
4:00	Approved	Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-3-2 to Establish Additional Voter Satellite Offices at Richard Byrd Library and Lorton Community Center and Remove the Voter Satellite Office at Laurel Hill Golf Club



Fairfax County, Virginia

BOARD OF SUPERVISORS

AGENDA

Tuesday
June 7, 2022

9:30 a.m.

PRESENTATIONS

- PROCLAMATION — To designate June 19, 2022 as Juneteenth. Requested by Chairman McKay.
- PROCLAMATION — To designate June as Lesbian, Gay, Bisexual, Transgender, Queer or Questioning (LGBTQ+) Pride Month. Requested by Chairman McKay and Supervisors Foust, Gross, Alcorn, Palchik, Lusk, Smith, Storck and Walkinshaw.
- PROCLAMATION — To designate June as Fatherhood Awareness Month. Requested by Supervisor Alcorn.

STAFF:

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

Board Agenda Item
June 7, 2022

9:30 a.m.

Matters Presented by Board Members

Board Agenda Item
June 7, 2022

9:30 a.m.

Items Presented by the County Executive

Board Agenda Item
June 7, 2022

ADMINISTRATIVE - 1

Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic

ISSUE:

Public Hearing on amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Sections 82-1-6, 82-6-25, and 82-6-26.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on the proposed amendments to Chapter 82.

TIMING:

Authorization to advertise the proposed amendments on June 7, 2022; Board of Supervisors' public hearing scheduled for June 28, 2022, at 4:00 p.m.

BACKGROUND:

As a housekeeping measure to update Chapter 82, portions of Section 82-1-6 (Adoption of State Law), Section 82-6-25 (Flag or light at end of load), and Section 82-6-26 (Exhaust system in good working order required) have been amended to reflect changes made to the *Code of Virginia* by the 2022 General Assembly. A summary of the changes as a result of the 2022 General Assembly amendments affecting Chapter 82 are provided in Attachments 2 and 4.

FISCAL IMPACT:

None.

Board Agenda Item
June 7, 2022

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 1, In General.

Attachment 2 - Summary of 2022 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic, Article 1, In General.

Attachment 3 – Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 6, Equipment.

Attachment 4 – Summary of 2022 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic, Article 6, Equipment.

STAFF:

Thomas Arnold, Deputy County Executive

Colonel Kevin Davis, Chief of Police

Assigned Counsel:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

Article 1. – In General.

Section 82-1-6. Adoption of State Law

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2024~~ 2022, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2024~~ 2022, except where otherwise noted.

18.2-266	18.2-269	46.2-203.1
18.2-266.1	18.2-270	46.2-208
18.2-267	18.2-270.01	46.2-218
18.2-268.1	18.2-270.1	46.2-300
18.2-268.2	18.2-271	46.2-301
18.2-268.3	18.2-271.1	46.2-301.1
18.2-268.4	18.2-272	46.2-302
18.2-268.5	46.2-100	46.2-329
18.2-268.6	46.2-102	46.2-334.001
18.2-268.7	<u>46.2-104</u>	46.2-341.20:5
18.2-268.8	46.2-108	46.2-341.26:2
18.2-268.9	46.2-109	46.2-341.26:3
18.2-268.10	46.2-110	46.2-341.26:4
18.2-268.11	46.2-111	46.2-341.26:7
18.2-268.12	46.2-112	46.2-341.26:9

46.2-341.27	<u>46.2-684.2*</u>	<u>46.2-816.1</u>
46.2-341.28	46.2-704	46.2-817
46.2-345.3	46.2-711	46.2-818.1
46.2-346	46.2-715	46.2-818.2
46.2-349	46.2-716	46.2-819.4
46.2-371	46.2-724	46.2-820
46.2-373	<u>46.2-730</u>	46.2-821
46.2-376	46.2-800	46.2-822
46.2-379	46.2-801	46.2-823
46.2-380	46.2-802	46.2-824
46.2-391.01	46.2-803	46.2-825
46.2-391.2	46.2-804	46.2-826
46.2-391.3	46.2-805	46.2-827
46.2-391.4	46.2-806	46.2-828
<u>46.2-392</u>	46.2-807	46.2-828.2
46.2-393	46.2-808	46.2-829
46.2-398	46.2-808.1	46.2-830
46.2-602.3	46.2-808.2	46.2-831
46.2-612	46.2-810	46.2-832
46.2-613	46.2-811	46.2-833
46.2-616	46.2-812	46.2-833.1
46.2-617	46.2-814	46.2-834
46.2-618	46.2-816	46.2-835

46.2-836	46.2-861	46.2-880
46.2-837	46.2-861.1	46.2-882
46.2-838	46.2-862	46.2-882.1
46.2-839	46.2-863	46.2-883
46.2-841	46.2-864	46.2-884
46.2-842	46.2-865	46.2-885
46.2-842.1	46.2-865.1	46.2-886
46.2-844	46.2-866	46.2-887
46.2-845	46.2-868	46.2-888
46.2-846	46.2-868.1	46.2-889
46.2-848	46.2-869	46.2-890
46.2-849	46.2-870	46.2-891
46.2-850	46.2-871	46.2-892
46.2-851	46.2-872	46.2-893
46.2-852	46.2-873	46.2-894
46.2-853	46.2-874	46.2-895
46.2-854	46.2-876	46.2-896
46.2-855	46.2-877	46.2-897
46.2-856	46.2-878	46.2-898
46.2-857	46.2-878.1	46.2-899
46.2-858	46.2-878.2	46.2-900
46.2-859	46.2-878.3	46.2-902
46.2-860	46.2-879	46.2-903

46.2-904	46.2-929	46.2-1021
46.2-904.1	46.2-930	46.2-1022
<u>46.2-905</u>	46.2-932	46.2-1023
46.2-906	46.2-936	46.2-1024
46.2-908.1	46.2-937	46.2-1025
46.2-909	46.2-940	46.2-1026
46.2-910	46.2-942	46.2-1027
46.2-911.1	46.2-1001.1	<u>46.2-1030</u>
46.2-912	46.2-1001	46.2-1031
46.2-914	46.2-1002	46.2-1032
46.2-915	46.2-1003	46.2-1033
46.2-915.2	46.2-1004	46.2-1034
46.2-918	46.2-1010	46.2-1035
46.2-919	46.2-1011	46.2-1036
46.2-919.1	46.2-1012	46.2-1037
46.2-920	46.2-1013	46.2-1038
46.2-921	46.2-1014	46.2-1039
46.2-922	46.2-1015	46.2-1040
46.2-923	46.2-1016	46.2-1041
46.2-924	46.2-1017	46.2-1043
46.2-926	46.2-1018	46.2-1043.1
46.2-927	46.2-1019	46.2-1044
46.2-928	46.2-1020	46.2-1047

<u>46.2-1049</u>	46.2-1077.01	46.2-1116
46.2-1050	46.2-1078	46.2-1118
46.2-1052	46.2-1079	46.2-1120
46.2-1053	46.2-1080	<u>46.2-1121**</u>
46.2-1054	46.2-1081	46.2-1130
46.2-1055	46.2-1082	46.2-1137
46.2-1056	46.2-1083	46.2-1150
46.2-1057	46.2-1084	46.2-1151
46.2-1058	46.2-1088	46.2-1154
46.2-1059	46.2-1088.1	46.2-1155
46.2-1060	46.2-1088.2	46.2-1156
46.2-1061	46.2-1088.5	46.2-1157
<u>46.2-1063</u>	46.2-1088.6	46.2-1158
46.2-1064	46.2-1090	46.2-1158.01
46.2-1065	46.2-1091	46.2-1158.02
46.2-1066	46.2-1092	46.2-1158.1
46.2-1067	46.2-1093	46.2-1172
46.2-1068	46.2-1102	46.2-1173
46.2-1070	46.2-1105	46.2-1216
46.2-1071	46.2-1110	46.2-1218
46.2-1072	46.2-1111	46.2-1219.2
46.2-1076	46.2-1112	<u>46.2-1219.3</u>
46.2-1077	46.2-1115	46.2-1231

46.2-1234	46.2-1309	46.2-2910
46.2-1240	46.2-1508.2	
46.2-1242	46.2-1552	
46.2-1250	46.2-1561	

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the County. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18.2-272 of the *Code of Virginia* which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

* To become effective on July 1, 2023, per 2022 Acts of General Assembly Chapter 51.

** To become effective on July 1, 2023, per 2022 Acts of General Assembly Chapter 50.

(20-83-82; 25-84-82; 14-85-82; 16-87-82; 29-88-82; 20-89-82; 30-89-82; 18-90-82; 36-90-82; 23-91-82; 37-91-82; 37-92-82; 46-92-82; 33-93-82; 27-94-82; 17-95-82; 35-95-82; 25-96-82; 41-96-82; 18-97-82; 21-98-82; 20-99-82; 27-00-82; 25-01-82; 24-02-82; 33-02-82; 26-03-82; 25-04-82; 22-05-82; 18-06-82; 21-07-82; 45-08-82; 52-08-82; 41-09-82; 21-10-82; 22-11-82; 13-12-82; 15-12-82; 48-13-82; 27-14-82; 21-15-82; 21-16-82; 11-17-82; 21-18-82; 21-19-82; 10-20-82; 13-21-82.)

ATTACHMENT 2

SUMMARY OF 2022 GENERAL ASSEMBLY AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Be it enacted by the General Assembly of Virginia:

An Act to amend and reenact § [46.2-1049](#) of the Code of Virginia, relating to exhaust systems; excessive noise. Makes offenses related to loud exhaust systems that are not in good working order primary offenses, allowing law-enforcement officers to stop vehicles for such violations.

An Act to amend and reenact § [46.2-1030](#) of the Code of Virginia, relating to vehicles equipped with warning lights. Requires certain vehicles equipped with warning lights to display those lights when responding to traffic incidents in addition to the circumstances previously required, such as responding to emergency calls or towing disabled vehicles.

An Act to amend and reenact §§ [46.2-816.1](#) and [46.2-392](#) of the Code of Virginia, relating to careless driving; vulnerable road users. Provides that a person is guilty of a Class 1 misdemeanor if he operates a vehicle in a careless or distracted manner and causes the death or serious bodily injury of a vulnerable road user. This Act also allows a court to suspend the driver's license or restrict the driver's license of a person convicted of careless driving for up to six months.

An Act to amend and reenact § [46.2-905](#) of the Code of Virginia, relating to bicycles and certain other vehicles; riding two abreast. Prohibits persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, or motorized skateboards or scooters two abreast from impeding the normal and reasonable movement of traffic and requires such persons to move into a single-file formation as quickly as is practicable when being overtaken from the rear by a faster-moving vehicle.

An Act to amend and reenact § [46.2-104](#) of the Code of Virginia, relating to electronic vehicle titling and registration. The Act clarifies that an operator of any motor vehicle, trailer, or semitrailer being operated on the highways in the Commonwealth shall have in their possession a physical registration card.

An Act to amend and reenact § [46.2-1063](#) of the Code of Virginia, relating to front and rear bumper height limits. Provides that no passenger car, pickup or panel

truck shall be operated on a public highway if the suspension, frame, or chassis has been modified by any means so as to cause the height of the front bumper to be four or more inches greater than the height of the rear bumper.

An Act to amend and reenact § [46.2-730](#) of the Code of Virginia, relating to antique motor vehicles and antique trailers; license plates. Provides that license plate numbers for antique motor vehicles and antique trailers may be issued a number combination that is not currently registered on license plates embossed with the year matching the plate being requested and only one license plate with the same number combination has been issued for use after 1973, or 1976 if the plate requested is for a motorcycle.

An Act to amend and reenact § [46.2-1121](#) of the Code of Virginia, relating to projecting vehicle loads; flagging. Provides any commercial motor vehicle transporting a load that extends beyond the sides of the vehicle by more than four inches or beyond the rear of a vehicle by more than four feet to have the extremities of the load marked by one or more red or orange fluorescent warning flags at least 18 inches both in length and width. This Act has a delayed effective date of July 1, 2023.

An Act to enact § [46.2-684.2](#) of the Code of Virginia, relating to permanent farm use placards. Requires an owner or lessee of a vehicle claiming a farm use exemption from the registration, licensing, and decal requirements for a motor vehicle, trailer, or semi-trailer to obtain a nontransferable permanent farm use placard and to always display the farm use placard on the vehicle. This Act has a delayed effective date of July 1, 2023.

An Act to enact § [46.2-1219.3](#) of the Code of Virginia, relating to parking of vehicles in parking spaces reserved for charging plug-in electric vehicles. Prohibits a vehicle not capable of receiving an electric charge, or a plug-in electric vehicle that is not in the process of charging, from parking in a space clearly marked as reserved for charging plug-in electric vehicles.

ATTACHMENT 3

Proposed Amendments to Chapter 82, Motor Vehicles and Traffic

ARTICLE 6. - Equipment.

Section 82-6-25. - Flag or light at end of load.^[131]

[Effective until June 30, 2023]

Whenever the load on any vehicle shall extend more than four (4) feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load, a red flag not less than twelve (12) inches, both in length and width, except that between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed at the end of such load a red light, plainly visible in clear weather at least five hundred (500) feet to the sides and rear of such vehicle. (3-13-63; 1961 Code, § 16-162.)

[Effective on July 1, 2023]

(a) Whenever the load on any vehicle other than a commercial motor vehicle shall extend more than four (4) feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load, a red flag not less than ~~twelve (12)~~ inches, both in length and width, ~~except that between one-half (½) hour after sunset and one-half (½) hour before sunrise,~~

(b) Any commercial motor vehicle transporting a load that extends beyond the sides of the vehicle by more than four inches or more than four feet beyond the rear of the vehicle shall have the extremities of the load marked with a red or orange fluorescent warning flag. Any such warning flag shall be at least 18 inches, both in length and width. If the projecting load is two feet wide or less, there shall be at least one flag at the extreme rear. If the projecting load is wider than two feet, there shall be at least two warning flags at the extreme rear. Any such flag shall be located to indicate the maximum widths or any load that extends beyond the sides or rear of the commercial motor vehicle.

(c) On any vehicle subject to the provisions of subsections (a) or (b), between sunset and sunrise, there shall be displayed at the end of such load a red light, plainly visible in clear weather at least five hundred (500) feet to the sides and rear of such vehicle. (3-13-63; 1961 Code, § 16-162.)

Footnotes:

--- (131) ---

123. For similar state law, see Va. Code Ann., § 46.2-1121.

Section 82-6-26. - Exhaust system in good working order required.^[133]

- (a) No person shall drive and no owner of a motor vehicle shall permit or allow the operation of any owned vehicle upon a highway unless such motor vehicle is equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise, provided, however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment or other equipment that has been submitted to and approved by the Superintendent or meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation.
- (b) The term "exhaust system," as used in this Section, means all the parts of a motor vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.
- (c) Chambered pipes shall not be deemed to be an effective muffling device to prevent excessive or unusual noise as required in Subsection (a).
- ~~(d) No law enforcement officer shall stop a motor vehicle for a violation of this section.~~

(3-13-63; 1961 Code, § 16-163; 13-21-82.)

Footnotes:

--- (133) ---

125. For similar state law, see Va. Code Ann., § 46.2-1049

ATTACHMENT 4

SUMMARY OF AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Section [82-6-25](#) of the Traffic Code of Fairfax County, Virginia, related to a flag or light at end of a load, § [46.2-1121](#) of the Code of Virginia. Provides any commercial motor vehicle transporting a load that extends beyond the sides of the vehicle by more than four inches or beyond the rear of a vehicle by more than four feet to have the extremities of the load marked by one or more red or orange fluorescent warning flags at least 18 inches both in length and width. This amendment has a delayed effective date of July 1, 2023.

Section [82-6-26](#) of the Traffic Code of Fairfax County, Virginia, related to an exhaust system in good working order, § [46.2-1049](#) of the Code of Virginia and exhaust systems; excessive noise. This amendment updates enforcement related to the legislative change from a secondary offense to a primary offense, allowing law-enforcement officers to stop vehicles for such violations.

Board Agenda Item
June 7, 2022

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of a Public Connector Road from the Dulles Access Road to the Scott's Crossing Road (Providence District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of the Scotts Run Station North project, in Project 2G40-057-000, Tysons Grid Streets Developer Contributions in Fund 30040, Contributed Roadway Improvements.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing for July 19, 2022, commencing at 4:00 p.m.

TIMING:

Board action is requested on June 7, 2022, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

The Tysons Comprehensive Plan (2010, amended through 2017) identifies necessary improvements to respond to land development. Among those are new (grid) public streets, ramp connections to I-495 and the Dulles Toll Road, and other capacity improvements. Once acquired, the land currently owned by the Gates of Mclean Condominium Unit Owners Association will allow for future construction of an important public grid street identified in the Plan. This future grid street is also part of a future realignment of an existing ramp connection to the Dulles Toll Road. Currently, plans and analyses have been approved and completed to help further infrastructure improvements in this immediate area of Tysons. Additionally, Capital One, the now owner of the formally approved site "Scotts Run Station North" is committed to advancing construction of this planned public street, among others in the vicinity, to frontload critical transportation infrastructure as Tysons East continues to develop. Acquiring this piece of land will enable this process to move forward.

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June 7, 2022

Land rights are required on one property which has not been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Deed of Dedication.

The ownership is vested with the Gates of McLean Condominium Unit Owners Association (the Association) which is improved with 624 residential units and the Associations bylaws state that a majority vote (more than 50 percent) is needed. The Association's legal counsel has deemed that impractical and because the resolution of this acquisition is not feasible, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule.

These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project 2G40-057-000, Tysons Grid of Streets Developer Contributions, in Fund 30040, Contributed Roadway Improvements. On October 16, 2012, the Board of Supervisors approved the motion to direct staff to maintain a Tysons Transportation Funding Plan to include construction of the on-site portions of the Grid, as well as for contributions to the Tysons Road Fund to support the construction of off-site portions of the Grid (Attachment C). There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1 - Project Location Map
Attachment 2 - Listing of Affected Properties
Attachment 3 – Tysons Funding Plan

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:

F. Hayden Coddington, Assistant County Attorney



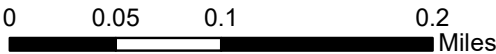
SCOTTS RUN STATION NORTH
Project 2G40-057-005

Tax Map: 029-4

Providence District

Affected Properties: 

Proposed Improvements: 



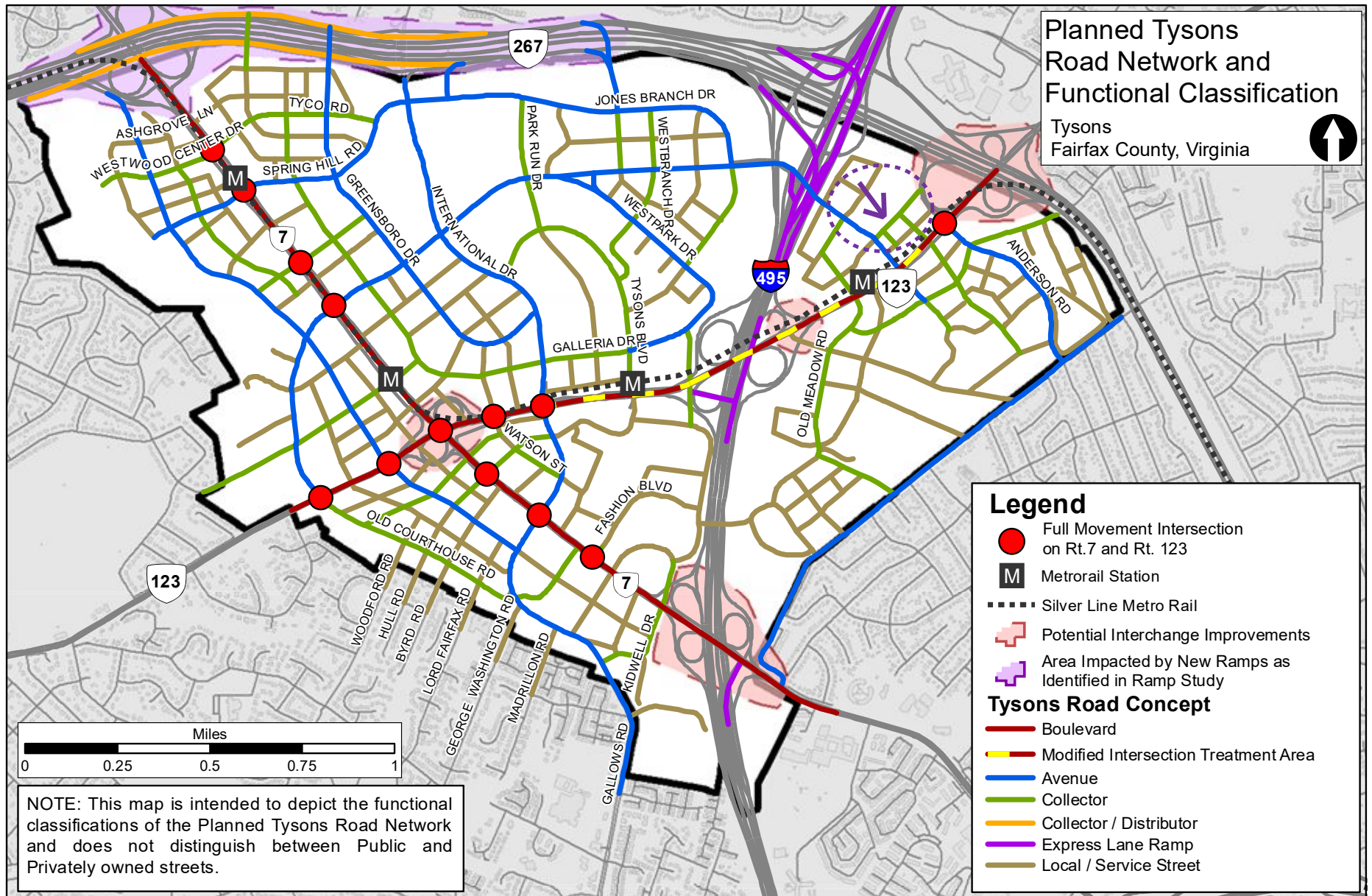
ATTACHMENT 2

LISTING OF AFFECTED PROPERTIES
Project 2G40-057-005
Scotts Run Station North
(Providence District)

PROPERTY OWNER(S)

1. Gates of McLean Condominium Unit Association 029-4-12-CONDO

Address: 1510 Spring Gate Road, McLean, VA 22102



ADMINISTRATIVE - 3

Extension of Review Period for 2232 Application (Mount Vernon District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following application: 2232-2022-MV-00001.

TIMING:

Board action is requested on June 7, 2022, and is required by June 11, 2022, to extend the review period for the application noted above before its expiration date.

BACKGROUND:

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

PROJECT DESCRIPTION:

Furnace Associates, Inc. proposes to convert the Lorton Landfill into a public park.

The review period for the following application should be extended:

2232-2022-MV-00001	Furnace Associates Inc. Overlook Ridge Park Tax Map No. 113-1 ((1)) 5A, 113-1 ((1)) 1, 113-3 ((1)) 2, 113-3 ((1)) 4, 113-1 ((1)) 7 and 113-1 ((1)) 8 10001 Furnace Rd., Lorton, VA Mount Vernon District Submitted February 11, 2022 Extended to July 14, 2022
--------------------	---

Board Agenda Item
June 7, 2022

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

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

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

Salem Bush, Planner, Facilities Planning Branch, PD, DPD

ADMINISTRATIVE - 4

Approval of a “Watch for Children” Sign as Part of the Residential Traffic Administration Program – Drewlaine Drive (Hunter Mill 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 Drewlaine Drive (Hunter Mill 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 June 7, 2022, 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 April 29, 2022, FCDOT received verification from the Hunter Mill District Supervisor’s Office confirming community support for one “Watch for Children” sign on Drewlaine Drive.

FISCAL IMPACT:

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

Board Agenda Item
June 7, 2022

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 - 5

Authorization To Advertise a Public Hearing on a Proposal to Vacate and Abandon a Portion of Loisdale Road / Route 789 (Lee District)

ISSUE:

Authorization of a public hearing on a proposal to vacate and abandon a portion of Loisdale Road / Route 789.

RECOMMENDATION:

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

TIMING:

The Board should take action on June 7, 2022, to provide sufficient time to advertise the public hearing for July 19, 2022, at 4:00 p.m.

BACKGROUND:

The applicant, Walsh Colucci Lubeley & Walsh PC, on behalf of Amazon Data Services, Inc., a Delaware limited liability company, is requesting that a portion of Loisdale Road / Route 789 be vacated under §15.2-2006 of the Virginia Code and abandoned under Virginia Code §33.2-909. As a result of the Board's approval of RZ 2021-LE-015/SE 2021-LE-010, the applicant is seeking this request to complete approved plans associated with the rezoning and special exception.

The subject portion of Loisdale Road was dedicated by Deed of Dedication, Easement, and Vacation (Deed Book 23051 Page 1508) in 2013. The applicant proposes to vacate and abandon the subject area of Loisdale Road and utilize the area in the rezoning project (RZ 2021-LE-015) as part of a new single, right-in/right-out access. The applicant will build a new right-turn lane and access on Loisdale Road and close the existing access due to the steep grade on site. It is Staff's position that the requested vacation/abandonment is appropriate because (1) no public necessity exists for the continuance of the section of the secondary highway as a public highway, and (2) the safety and welfare of the public would be served best by abandoning the section of highway.

Board Agenda Item
June 7, 2022

Traffic Circulation and Access

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

Easements

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

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter of Request
Attachment II: Notice of Intent to Abandon & Vacate
Attachment III: Order of Abandonment
Attachment IV: Ordinance of Vacation
Attachment V: Metes and Bounds Description
Attachment VI: Vacation and Abandonment Plat
Attachment VII: GDP/SE Plat Excerpt
Attachment VIII: Vicinity Map

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Jeff Hermann, Division Chief, FCDOT-Site Analysis & Transportation Planning Division
Greg Fuller, Section Chief, FCDOT-Site Analysis Section (SAS)
Michelle Guthrie, FCDOT-SAS
Jeffrey Edmondson, FCDOT-SAS

ASSIGNED COUNSEL:

Randall Greehan, Assistant County Attorney



**WALSH COLUCCI
LUBLEY & WALSH PC**

H. Mark Goetzman
Phone: 703.528.4700 x5452
Fax: 703.528.6050
mgoetzman@thelandlawyers.com

January 3, 2022

BY E-MAIL AND COURIER

Michelle Guthrie, Jeffrey Edmondson and Gavin Derleth
Fairfax County Department of Transportation
4050 Legato Rd, Ste. 400
Fairfax, VA 22033-2895

Re: Request for Proposed Vacation and Abandonment of a Portion of
Loisdale Road (Route 789), Lee District, Fairfax County, Virginia

Dear Michelle, Jeffrey and Gavin:

This letter constitutes a request and statement of justification to vacate and abandon a portion of Loisdale Road, Route 789, Fairfax County, Virginia. The portion of Loisdale Road to be vacated and abandoned is located in the Lee Magisterial District (hereinafter referred to as the "**Vacation and Abandonment Area**"). This request is made on behalf of Amazon Data Services, Inc., a Delaware limited liability company (the "Applicant").

The Vacation and Abandonment Area to be vacated and abandoned is shown on the plat entitled "Plat Showing Vacation and Abandonment of Loisdale Road and Dedication of Loisdale Road and Newington Road on Parcel One and Parcel Two of the lands of Amazon Data Services, Inc. Lee District Fairfax County, Virginia" (the "Plat") prepared by Kimley-Horn, dated December 15, 2021.

To offer some background, Vacation and Abandonment Area was dedicated for public street purposes, by virtue of that certain Deed of Dedication, Easement, and Vacation recorded in Deed Book 23051 at Page 1508, among the land records of Fairfax County, Virginia. On June 17, 2021, Applicant submitted an application on property identified among the Fairfax County tax map records as 99-2 ((1)) 7A and 8 (the "Subject Property"), which requests a rezoning from the C-3 District to the I-5 District to permit the construction of a data center pursuant to §§ 8100.2.A(1)(c), 4101.3, and 4102.6.A of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"). In conjunction with the rezoning, the Applicant also requests a special exception to allow for an increase in building height above the maximum height permitted in the I-5 District pursuant to § 5100.2.C(8) of the Zoning Ordinance. Fairfax County formally accepted both applications on July 21, 2021, and these applications are referenced as RZ 2021-LE-015 and SE 2021-LE-010, respectively.

As part of proposal for the new data center and in consultation with FCDOT and VDOT, the Applicant will construct a new single, right-in/right-out access point to connect the Subject Property to Loisdale Road. In conjunction with the proposed ingress/egress, the Applicant will build a new right-turn lane on Loisdale Road into the Subject Property and close the existing access, including removal of the existing turn lanes, due to the steep grade between the proposed building and Loisdale Road. The proposed ingress/egress will allow for large tractor-trailer trucks to safely access the site. To accommodate the

ATTORNEYS AT LAW

703 528 4700 ■ WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. ■ SUITE 1300 ■ ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 ■ WOODBRIDGE 703 680 4664

{A1015310.DOCX / 1 Justification Letter 010612 000020}

proposed access to Loisdale Road, the Applicant will dedicate 11,070 square feet of right-of-way and requests the abandonment and vacation of 3,260 square feet of existing right-of-way, as shown on the Plat.

The vacation and abandonment of the Vacation and Abandonment Area is requested pursuant to Virginia Code Sections 15.2-2006 and 33.2-909.

I request your review of this application as soon as possible. If you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

A handwritten signature in cursive script, appearing to read "H. Mark Goetzman".

H. Mark Goetzman

cc: Marnina Cherkin
Manfield Mandigora
Jay Reinke
Kyle Bollinger
Lynne Strobel
Kathryn Taylor
Mariana Cifuentes

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

(Loisdale Road – Route 789)

Lee District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on July 19, 2022, at 4:00 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, § 15.2-2006, and § 33.2-909, vacating and abandoning a 3,260 square foot portion of Loisdale Road, which is part of the plat recorded in Deed Book 23051 at Page 1508. The road portion is located along Loisdale Road adjacent to Fairfax County tax parcels 099-2-01-0007-A and 099-2-01-0008 approximately 750 feet north of the Newington Road and Loisdale Road intersection, and is described and shown on the metes and bounds schedule dated January 3, 2022, and on the plat dated April 25, 2022, each prepared by Kimley Horn, 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.

LEE DISTRICT.

ORDER OF ABANDONMENT OF
PORTION OF EXISTING LOISDALE ROAD

LEE DISTRICT,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this 19th day of July, 2022, it was duly moved and seconded that:

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

WHEREFORE, BE IT ORDERED:

That the portion of existing Loisdale Road (Route 789) comprising a total area of 3,260 square feet, located adjacent to Tax Maps 099-2-01-0007-A and 099-2-01-0008, described on the metes and bounds schedule dated January 3, 2022, and on the plat dated April 25, 2022, each prepared by Kimley Horn, attached hereto and incorporated herein, be and the same are hereby abandoned as a public road pursuant to Virginia Code §33.2-909.

This abandonment is subject to any right, privilege, permit, license, or 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 presently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

By: Jill G. Cooper
Clerk for the Board of Supervisors

§33.2-909

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

(Loisdale Road – Route 789)

Lee 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 July 19, 2022, 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 Showing Street Dedication of Loisdale Road, recorded in Deed Book 23051 at Page 1508, on which is shown Loisdale Road, comprising a total area of 3,260 square feet, located adjacent to Tax Maps 099-2-01-0007-A and 099-2-01-0008, and described and shown on the metes and bounds schedule dated January 3, 2022, and on the plat dated April 25, 2022, each prepared by Kimley Horn, and attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2006.

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 presently 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

§15.2-2006

The Legal Description of the Vacated and Abandon Portion of Loisdale Road Rt. 789 and Newington Road Rt. 877, Fairfax County, Virginia.

Date: January 3, 2022

Area A – Dedication for Public Street Purposes of Loisdale Road

BEGINNING AT A POINT BEING AT THE SOUTHWEST CORNER OF THE NOW OR FORMERLY AMAZON DATA SERVICES, INC., AS ACQUIRED IN DEED BOOK 26901 AT PAGE 0756, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA, SAID POINT ALSO BEING ON THE EASTERN LINE OF LOISDALE ROAD, ROUTE 789, WIDTH VARIES;

THENCE DEPARTING SAID POINT AND RUNNING 75.64 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 597.89 FEET AND A CHORD THAT BEARS NORTH 00°55'43" WEST 75.59 FEET TO A POINT; THENCE

NORTH 04°05'23" WEST 237.26 FEET TO A POINT; THENCE NORTH 03°56'40" WEST 116.50 FEET TO A POINT; THENCE

NORTH 03°56'40" WEST 96.36 FEET TO A POINT; THENCE NORTH 03°56'40" WEST 61.07 FEET TO A POINT; THENCE

NORTH 19°59'59" EAST 17.24 FEET TO A POINT; SOUTH 03°56'40" EAST 197.30 FEET TO A POINT; THENCE

SOUTH 20°07'31" EAST 59.57 FEET TO A POINT; THENCE SOUTH 03°36'07" EAST 106.69 FEET TO A POINT; THENCE

SOUTH 07°31'10" EAST 12.49 FEET TO A POINT; THENCE SOUTH 01°27'44" WEST 121.92 FEET TO A POINT; THENCE

SOUTH 04°19'33" WEST 32.33 FEET TO A POINT; THENCE

87.81 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 604.89 FEET AND A CHORD THAT BEARS SOUTH 00°22'43" EAST 87.74 FEET TO A POINT; THENCE

13.36 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 368.71 FEET AND A CHORD THAT BEARS NORTH 28°19'55" WEST 13.36 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 7,978 SQUARE FEET, OR 0.1831 ACRES OF LAND.

Area B – Dedication for Public Street Purposes of Newington Road

BEGINNING AT A POINT BEING AT THE SOUTHEAST CORNER OF THE NOW OR FORMERLY AMAZON DATA SERVICES, INC., AS ACQUIRED IN DEED BOOK 26901 AT PAGE 0756, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA, SAID POINT ALSO BEING ON THE NORTHERN LINE OF NEWINGTON ROAD, ROUTE 877, WIDTH VARIES;

THENCE DEPARTING SAID POINT AND RUNNING NORTH 75°56'46" WEST 2.41 FEET TO A POINT; THENCE NORTH 77°00'49" WEST 82.15 FEET TO A POINT; THENCE

NORTH 80°44'38" WEST 20.26 FEET TO A POINT; THENCE NORTH 71°14'14" WEST 18.16 FEET TO A POINT; THENCE

SOUTH 80°44'38" EAST 38.27 FEET TO A POINT; THENCE SOUTH 77°00'49" EAST 82.28 FEET TO A POINT; THENCE

SOUTH 75°56'46" EAST 2.32 FEET TO A POINT; THENCE SOUTH 11°48'27" WEST 3.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 342 SQUARE FEET, OR 0.0079 ACRES OF LAND.

Area C – Dedication for Public Street Purposes of Loisdale Road

BEGINNING AT A POINT BEING AT THE SOUTHWEST CORNER OF THE NOW OR FORMERLY SCHAEFFER INDUSTRIAL LLC, AS ACQUIRED IN DEED BOOK 18965 AT PAGE 1908, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA, SAID POINT ALSO BEING ON THE EASTERN LINE OF LOISDALE ROAD, ROUTE 789, WIDTH VARIES;

THENCE DEPARTING SAID POINT AND RUNNING SOUTH 44°19'55" EAST 7.65 FEET TO A POINT; THENCE SOUTH 21°46'16" WEST 261.21 FEET TO A POINT; THENCE

501.94 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1108.00 FEET AND A CHORD THAT BEARS SOUTH 08°47'35" WEST 497.66 FEET TO A POINT; THENCE

SOUTH 03°56'40" EAST 26.69 FEET TO A POINT; THENCE NORTH 09°51'30" WEST 18.91 FEET TO A POINT; THENCE

433.84 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1110.00 FEET AND A CHORD THAT BEARS NORTH 07°50'46" EAST 431.08 FEET TO A POINT; THENCE

NORTH 19°02'35" EAST 131.48 FEET TO A POINT; THENCE NORTH 21°46'16" EAST 185.88 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 2,705 SQUARE FEET, OR 0.0621 ACRES OF LAND.

Area D – Vacation of Public Right of Way of Loisdale Road

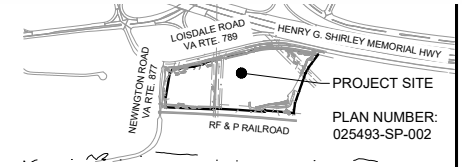
BEGINNING AT A POINT FROM 77.15 FEET NORTH 01°15'35" FROM THE SOUTHWEST CORNER OF THE NOW OR FORMERLY AMAZON DATA SERVICES, INC. AS ACQUIRED IN DEED BOOK 26901 AT PAGE 0756, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA, SAID POINT ALSO BEING ON THE EASTERN LINE OF LOISDALE ROAD, ROUTE 789, WIDTH VARIES.

THENCE DEPARTING SAID POINT AND RUNNING NORTH 03°56'40" WEST 372.97 FEET TO A POINT; THENCE SOUTH 09°51'30" EAST 101.93 FEET TO A POINT; THENCE

SOUTH 03°56'40" EAST 247.93 FEET TO A POINT; THENCE SOUTH 19°59'59" WEST 25.88 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 3,260 SQUARE FEET, OR 0.0748 ACRES OF LAND.

ATTACHMENT VI



AREA TABULATION			
AREA	TM/DB	AREA (SF)	AREA (AC)
"A"	099-2-01-0008	7,978	0.1831
"B"	099-2-01-0008	342	0.0079
TOTAL PORTION OF PARCEL 099-2-01-008 HEREBY DEDICATED FOR PUBLIC STREET PURPOSES		8,320	0.1910
"C"	099-2-01-0007A	2,705	0.0621
TOTAL PORTION OF 099-2-01-0007A HEREBY DEDICATED FOR PUBLIC STREET PURPOSES		2,705	0.0621
"D"	DB. 23051, PG. 1508	3,260	0.0748
TOTAL PORTION OF EXISTING RIGHT OF WAY HEREBY VACATED AND ABANDONED		3,260	0.0748

LEGEND

- DENOTES THE AREA WITHIN PARCELS 099-2-01-0007A AND 099-2-01-0008 AS RECORDED IN DEED BOOK 22162 AT PAGE 1826 TO BE DEDICATED TO FAIRFAX COUNTY.
 - DENOTES THE AREA AS RECORDED IN DEED BOOK 23051 AT PAGE 1508 AS SHOWN HEREON HEREBY VACATED AND ABANDONED.
- EXISTING PROPERTY LINE
 --- PROPOSED PROPERTY LINE

WETLANDS PERMITS CERTIFICATION

I HEREBY CERTIFY THAT ALL WETLANDS PERMITS REQUIRED BY LAW WILL BE OBTAINED PRIOR TO COMMENCING WITH LAND DISTURBING ACTIVITIES.

SIGNATURE
 OWNER/DEVELOPER MATTHEW DIXON NAME AUTHORIZED SIGNATORY TITLE

NOTE: PERMITS MUST BE PRESENTED TO THE COUNTY INSPECTOR PRIOR TO LAND DISTURBANCE.

NOTES:

- THE PROPERTIES SHOWN HEREON ARE LOCATED ON FAIRFAX COUNTY TAX ASSESSMENT MAP NO. 099-2-01-007A, PARCEL ONE, AND 099-2-01-0008, PARCEL TWO, THE PROPERTIES ARE CURRENTLY ZONED C-3 AND PURSUING REZONING TO I-5 AS PART OF RZ-2021-LE-015.
- THIS PLAT IS SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD. ALL PREVIOUSLY RECORDED RIGHTS-OF-WAY, EASEMENTS OR OTHER INTERESTS OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN ON THIS PLAT.
- THE PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 (VCS 83) NORTH ZONE. US SURVEY FOOT UNITS AS COMPUTED FROM A FIELD RUN BOUNDARY AND HORIZONTAL CONTROL SURVEY THAT TIES THIS BOUNDARY TO STATIC GPS OR VIRTUAL REFERENCE SYSTEM.
- THIS PLAT IS REFERENCED TO VIRGINIA STATE GRID NORTH (NAD 27) PER THE PLAT RECORDED IN DEED BOOK 22162 AT PAGE 1826.
- ALL PREVIOUSLY RECORDED R/W, EASEMENTS OR OTHER INTEREST OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN ON THIS PLAT.
- "PARCEL ONE" AND "PARCEL TWO" ARE RECORDED IN DEED BOOK 26901 AT PAGE 756.
- 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.
- AREAS "A" AND "B" (8,380 SQUARE FEET) OF TM #099-2-01-0008, PARCEL TWO AS SHOWN HEREON HEREBY DEDICATED TO FAIRFAX COUNTY.
- AREA "C" (2,705 SQUARE FEET) OF TM #099-2-01-0007A, PARCEL ONE AS SHOWN HEREON HEREBY DEDICATED TO FAIRFAX COUNTY.
- AREA "D" (3,274 SQUARE FEET) OF DEED BOOK 23051 PAGE 1508 AS SHOWN HEREON HEREBY VACATED AND ABANDONED.

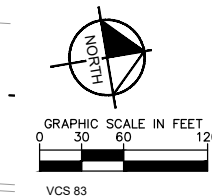
ENGINEER'S CERTIFICATE

I, KYLE BOLLINGER, A DULY LICENSED ENGINEER IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT THE PROPERTY DELINEATED IN ON THIS PLAT IS AS SHOWN ON A BOUNDARY AND TOPOGRAPHIC SURVEY OF THIS PARCEL BY GRS GROUP, LLC DATED JUNE 4, 2021 AND THAT IT IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND EXPERIENCE AND THAT THE PORTION OF PARCEL TWO SHOWN HEREON WAS DEDICATED FOR PUBLIC USE TO THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA AS RECORDED IN THE DEED BOOK 23051 AT PAGE 1508 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA. THE PROPERTIES SHOWN HEREON ARE NOW IN THE NAME OF AMAZON DATA SERVICES, INC. AS RECORDED IN DEED BOOK 22162 AT PAGE 1826 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

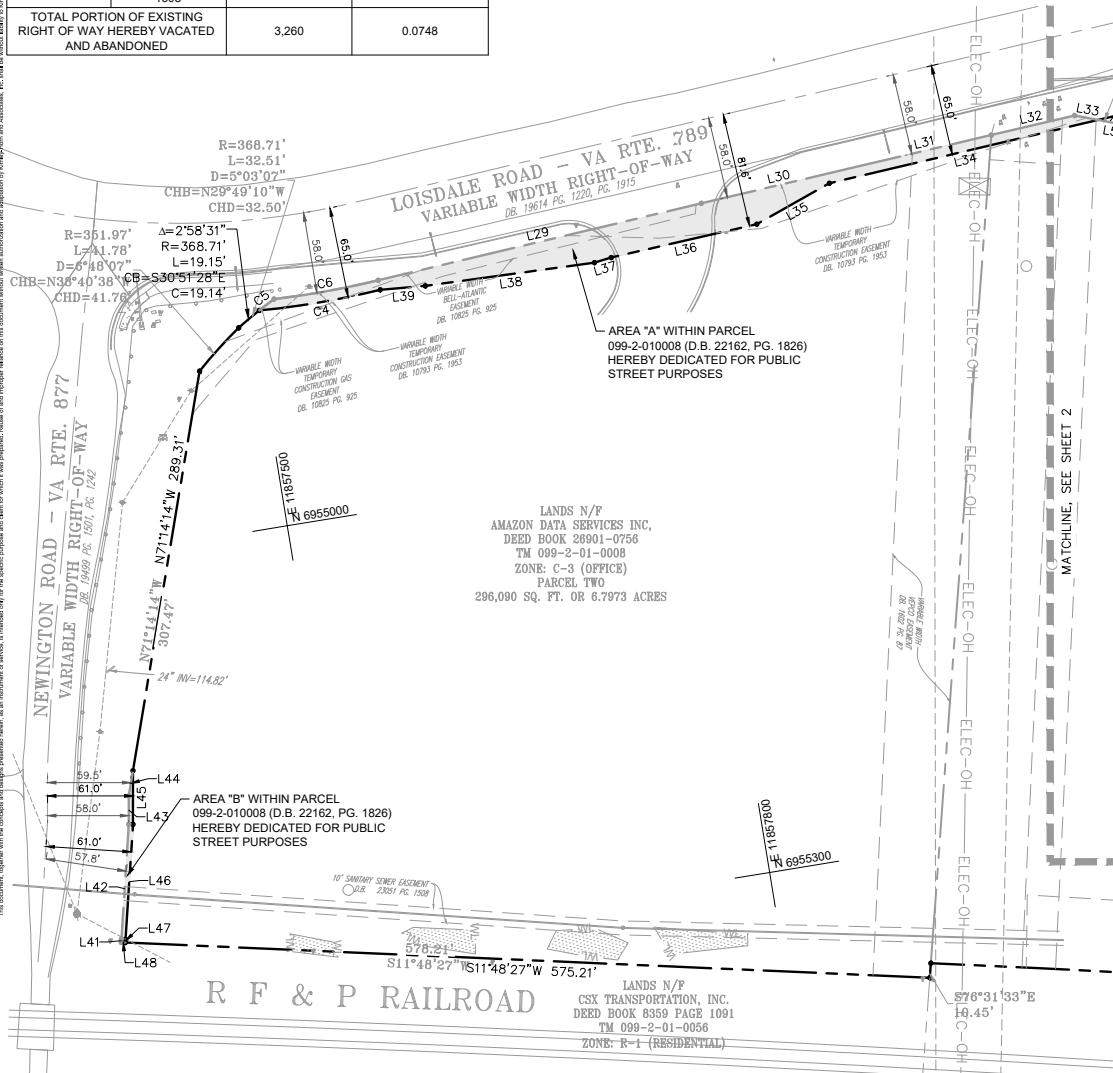
GIVEN UNDER MY HAND AND SEAL THIS 28TH DAY OF DECEMBER, 2021.

KYLE BOLLINGER, P.E.

01/25/2022
 DATE



APPROVED COUNTY OF FAIRFAX LAND DEVELOPMENT SERVICES ADDRESSING REVIEW	
DATE	SITE 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.	
DATE	Director, Site Development and Inspection Division or Agent
APPROVED FOR BOARD OF SUPERVISORS FAIRFAX COUNTY, VIRGINIA	
DATE	Director, Land Development Services or Agent
APPROVAL VOID IF PLAT IS NOT OFFERED FOR RECORD ON OR BEFORE	



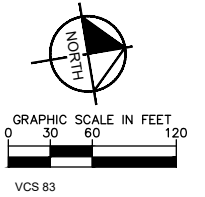
Kimley-Horn
 11400 COMMERCE PARK DR., SUITE 400, RESTON, VA 20191
 PHONE: 703-674-1300 FAX 703-674-1350
 WWW.KIMLEY-HORN.COM

RECORD PLAT SHOWING THE VACATION AND ABANDONMENT OF LOISDALE ROAD AND DEDICATION OF LOISDALE ROAD AND NEWINGTON ROAD ON PARCEL ONE AND PARCEL TWO OF THE LANDS OF AMAZON DATA SERVICES, INC.

LEE ELECTION DISTRICT
 FAIRFAX COUNTY, VIRGINIA



SCALE: AS SHOWN
 DATE: 04/25/2022
 SHEET 1 OF 2

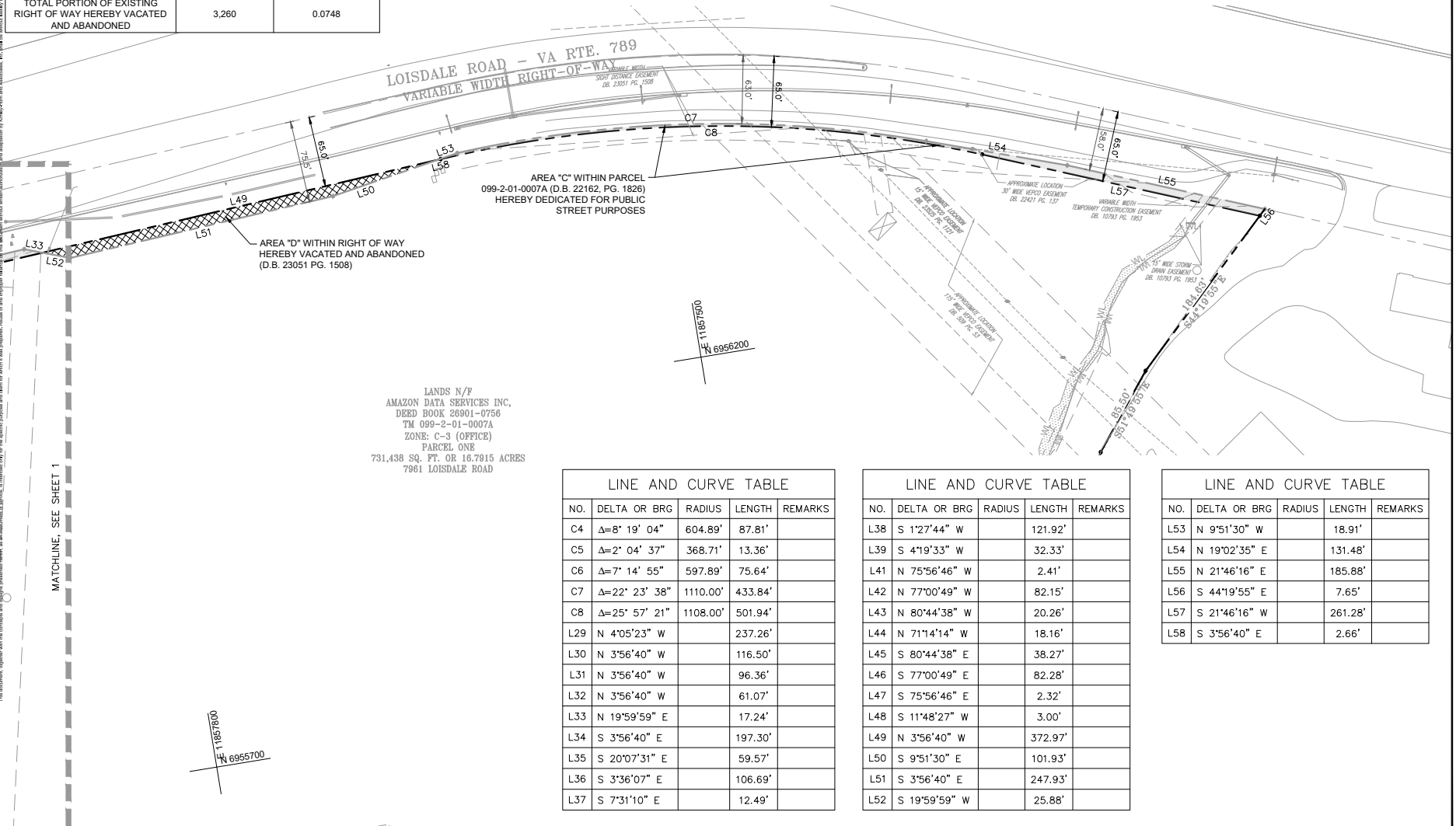
ATTACHMENT VI



AREA TABULATION			
AREA	TM/DB	AREA (SF)	AREA (AC)
"A"	099-2-01-0008	7,978	0.1831
"B"	099-2-01-0008	342	0.0079
TOTAL PORTION OF PARCEL 099-2-01-008 HEREBY DEDICATED FOR PUBLIC STREET PURPOSES		8,320	0.1910
"C"	099-2-01-0007A	2,705	0.0621
TOTAL PORTION OF 099-2-01-0007A HEREBY DEDICATED FOR PUBLIC STREET PURPOSES		2,705	0.0621
"D"	DB. 23051, PG. 1508	3,260	0.0748
TOTAL PORTION OF EXISTING RIGHT OF WAY HEREBY VACATED AND ABANDONED		3,260	0.0748

LEGEND

-  DENOTES THE AREA WITHIN PARCELS 099-2-01-0007A AND 099-2-01-0008 AS RECORDED IN DEED BOOK 22162 AT PAGE 1826 TO BE DEDICATED TO FAIRFAX COUNTY.
 -  DENOTES THE AREA AS RECORDED IN DEED BOOK 23051 AT PAGE 1508 AS SHOWN HEREON HEREBY VACATED AND ABANDONED.
- EXISTING PROPERTY LINE
 --- PROPOSED PROPERTY LINE



LINE AND CURVE TABLE

NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
C4	Δ=8° 19' 04"	604.89'	87.81'	
C5	Δ=2° 04' 37"	368.71'	13.36'	
C6	Δ=7° 14' 55"	597.89'	75.64'	
C7	Δ=22° 23' 38"	1110.00'	433.84'	
C8	Δ=25° 57' 21"	1108.00'	501.94'	
L29	N 4°05'23" W		237.26'	
L30	N 3°56'40" W		116.50'	
L31	N 3°56'40" W		96.36'	
L32	N 3°56'40" W		61.07'	
L33	N 19°59'59" E		17.24'	
L34	S 3°56'40" E		197.30'	
L35	S 20°07'31" E		59.57'	
L36	S 3°36'07" E		106.69'	
L37	S 7°31'10" E		12.49'	

LINE AND CURVE TABLE

NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
L38	S 1°27'44" W		121.92'	
L39	S 4°19'33" W		32.33'	
L41	N 75°56'46" W		2.41'	
L42	N 77°00'49" W		82.15'	
L43	N 80°44'38" W		20.26'	
L44	N 71°14'14" W		18.16'	
L45	S 80°44'38" E		38.27'	
L46	S 77°00'49" E		82.28'	
L47	S 75°56'46" E		2.32'	
L48	S 11°48'27" W		3.00'	
L49	N 3°56'40" W		372.97'	
L50	S 9°51'30" E		101.93'	
L51	S 3°56'40" E		247.93'	
L52	S 19°59'59" W		25.88'	

LINE AND CURVE TABLE

NO.	DELTA OR BRG	RADIUS	LENGTH	REMARKS
L53	N 9°51'30" W		18.91'	
L54	N 19°02'35" E		131.48'	
L55	N 21°46'16" E		185.88'	
L56	S 44°19'55" E		7.65'	
L57	S 21°46'16" W		261.28'	
L58	S 3°56'40" E		2.66'	

Kimley Horn

11400 COMMERCE PARK DR., SUITE 400, RESTON, VA 20191
 PHONE: 703-674-1300 FAX 703-674-1350
 WWW.KIMLEY-HORN.COM

RECORD PLAT SHOWING THE VACATION AND ABANDONMENT OF LOISDALE ROAD AND DEDICATION OF LOISDALE ROAD AND NEWINGTON ROAD ON PARCEL ONE AND PARCEL TWO OF THE LANDS OF AMAZON DATA SERVICES, INC.

LEE ELECTION DISTRICT
 FAIRFAX COUNTY, VIRGINIA

SCALE: AS SHOWN
 DATE: 04/25/2022
 SHEET 2 OF 2



Loisdale Rd Vacation and Abandonment

Lee District

ATTACHMENT VIII



✱ Denotes Area to be Vacated and Abandoned

Tax Map 99-2

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing on a Proposal to Vacate a Portion of Westbranch Drive (Providence District)

ISSUE:

Authorization of a public hearing on a proposal to vacate a portion of Westbranch Drive.

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 June 7, 2022, to provide sufficient time to advertise the public hearing for July 19, 2022, at 4:00 p.m.

BACKGROUND:

The applicant, McGuire Woods LLP, on behalf of Arbor Row Project, LLC, is requesting that a portion of Westbranch Drive be vacated under §15.2-2272(2) of the Virginia Code. As a result of the Board's approval of RZ 2011-PR-023, the applicant is seeking this request to complete the redevelopment plans associated with the approved rezoning. The subject area of Westbranch Drive would be incorporated into the redevelopment's building zone and private streetscape area, consistent with the approved zoning case and pending Site Plan.

The subject portion of Westbranch Drive is located along the western side of Westbranch Drive south of the intersection of Westbranch Drive and Westpark Drive. The subject portion of right-of-way is also outside of the vehicular travel lanes and does not impact the overall mileage of Westbranch Drive. Westbranch Drive was originally conveyed to the Board of Supervisors of Fairfax County by virtue of a deed and plat recorded in Deed Book 4040 at Page 333, among the land records of Fairfax County, Virginia. The property that abuts the existing right-of-way to be vacated is currently occupied by Tax Map 0294-07-0010A, to which the land would revert after the vacation. The total area to be vacated is 3,577 square feet.

Board Agenda Item
June 7, 2022

Traffic Circulation and Access

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

Easements

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

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter
Attachment II: Notice of Intent to Vacate
Attachment III: Ordinance of Vacation
Attachment IV: Metes and Bounds Description
Attachment V: Vacation Plat
Attachment VI: Vicinity Map
Attachment VII: RZ 2011-PR-023 Proffers
Attachment VIII: RZ 2011-PR-023 CDP Excerpts

STAFF:

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

ASSIGNED COUNSEL:

Randall Greehan, Assistant County Attorney

McGuireWoods LLP
 1750 Tysons Boulevard
 Suite 1800
 Tysons, VA 22102-4215
 Phone: 703.712.5000
 Fax: 703.712.5050
 www.mcguirewoods.com

Michael D. Van Atta
 Direct: 703.712.5335

McGUIREWOODS

mvanatta@mcguirewoods.com

November 19, 2021

Jeff Edmondson
 Fairfax County Department of Transportation
 4050 Legato Rd, Suite 400
 Fairfax, Virginia 22033

Re: Arbor Row Block A Right-of-Way Vacation

Dear Mr. Edmondson,

On behalf of my client, Arbor Row Project, LLC (the current owner of the Property as defined below), I request that the County review the final application for the vacation of right-of-way (ROW) associated with Westbranch Drive.

RZ 2011-PR-023 (the "Rezoning") was approved by the Board of Supervisors (BOS) on November 20, 2012 for the land area commonly known as "Arbor Row", which includes Arbor Row Block A [Tax Map Parcels 29-4 ((7)) 10A and 10B], (the "Property"). The governing proffers (Attachment 1) for the Property reference a 3,428 square foot portion of Westbranch Drive ROW (the "ROW") to be included in the rezoning application area and proposed for future abandonment and/or vacation. The governing Conceptual Development Plan specifically shows an "Area of Vacation" of approximately 3,428 square feet along the Westbranch Road frontage of the proposed redevelopment on Sheet C9.3 (Attachment 2). This Area of Vacation (the "ROW") is also shown on the governing Final Development Plan for the Property (FDP 2011-PR-023-1) on Sheet C7.1 (Attachment 3). A note is provided on Sheet C7.1 that states "Area of right of way dedication/vacation shown on this FDP are approximate. Final areas, location and quantities of street right of way dedication and or vacation are to be determined at time of final site plan". The ROW has recently been resurveyed and the new plat and legal description show the ROW vacation area as approximately 3,577 square feet (see Attachments 4 and 5).

The governing zoning approval shows a range of streetscape improvements within the existing ROW associated with Westbranch Drive. The ROW was originally dedicated to the Board of Supervisor in conjunction with the original Westpark Subdivision pursuant to DB 4040-333 (Attachment 6). The ROW to be vacated is no longer needed for public street purposes and will instead incorporate the approved redevelopment's building zone and private streetscape area, consistent with the approved zoning and pending Site Plan. This ROW vacation was reviewed during the rezoning review process by the Department of Planning and Zoning, FCDOT and VDOT. The VDOT memo has been included as Attachment 7.

Please review this application and do not hesitate to contact me if you have any questions or require additional information. Please also confirm that no public hearing is necessary for the requested vacation of ROW given that the ROW was included as a part of the rezoning subject

November 19, 2021
Page 2

area and was likewise included in the requisite notification and public hearings associated with both the approved Rezoning and the FDP.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Van Atta", written over a light gray rectangular background.

Mike Van Atta
McGuireWoods LLP

Attachments

- Attachment 1: RZ 2011-PR-023 Proffers
- Attachment 2: Sheet C9.3 from CDP
- Attachment 3: Sheet C7.1 from FDP 2011-PR-023
- Attachment 4: Vacation of ROW Plat (clean and with utility overlay)
- Attachment 5: Vacation of ROW Legal Description
- Attachment 6: DB 4040-333
- Attachment 7: RZ 2011-PR-009 – VDOT Memo
- Attachment 8: Vicinity Map

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

Westbranch Drive

Providence District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on July 19, 2022, at 4:00 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 and § 15.2-2272(2), vacating a part of the plat of Westpark Subdivision, recorded in Deed Book 4040, at Page 333, on which is shown Westbranch Drive from Westpark Drive to the southernmost corner of Lot 10A, a distance of 450 feet. The road is located adjacent to Tax Map 029-4-07-0010A and is described and shown on the metes and bounds schedule, dated November 17, 2021, and plat, dated June 10, 2014, and revised through November 17, 2021, both prepared by Bowman Consulting Group, Ltd., and 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.

PROVIDENCE DISTRICT.

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

Westbranch Drive

Providence 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 July 19, 2022, 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 Westpark Subdivision, recorded in Deed Book 4040 at Page 333, on which is shown Westbranch Drive, from Westpark Drive, to the southernmost corner of Lot 10A, a distance of 450 feet, located on Tax Map 029-4-07-0010A, and described and shown on the metes and bounds schedule and plat prepared by Bowman Consulting Group, Ltd., dated November 17, 2021, 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)



DESCRIPTION OF A VACATION OF RIGHT-OF-WAY

**ON THE RIGHT-OF-WAY OF
WESTBRANCH DRIVE**

Deed Book 4040 Page 333

Fairfax County, Virginia

BEGINNING AT A POINT lying at the intersection of Westpark Drive and Westbranch Drive, as recorded in deed book 4040 at page 333, said point also lying on the northern property line of Lot 10A, Westpark Subdivision, as recorded in deed book 25814 at page 1213; thence running through the existing right-of-way of Westbranch Drive following seven (7) courses and distances

1. **8.60 feet**, along the length of an arc curving to the left having a radius of **5.50 feet**, a central angle of **89°33'56"**, and a chord bearing of **S 03°58'03" E**, and a chord length of **7.75 feet** to a point; thence
2. **S 40°48'56" W**, a distance of **8.35 feet** to a point; thence
3. **S 49°11'04" E**, a distance of **6.59 feet** to a point; thence
4. **S 40°48'56" W** a distance of **372.15 feet** to a point; thence
5. **N 49°11'04" W**, a distance of **9.50 feet** to a point; thence
6. **N 40°48'56" E**, a distance of **375.00 feet** to a point; thence
7. **11.39 feet**, along the length of an arc curving to the left having a radius of **25.00 feet**, a central angle of **26°06'14"**, and a chord bearing of **N 27°45'49" E**, and a chord length of **11.29 feet** to the **POINT OF BEGINNING**.

Containing an area of **3,577 Square Feet** or **0.08211 Acres** of land.

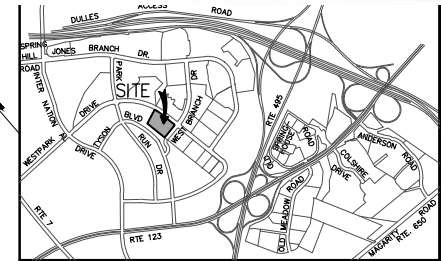
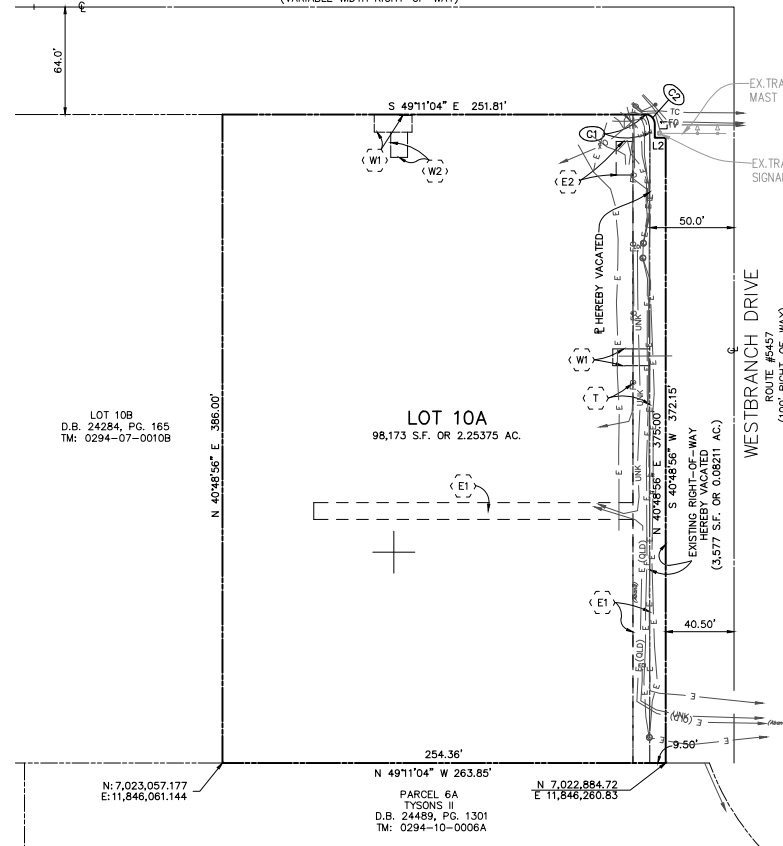
NOTES:

1. THE PROPERTY AS SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY TAX ASSESSMENT MAP NO. 0294-07-0010A AND IS ZONED PTC (PLANNED TYSONS CORNER).
2. THE PROPERTY IS NOW IN THE NAME OF ARBOR ROW PROJECT, LLC. AS RECORDED IN DEED BOOK 25814 AT PAGE 1213 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.
3. THE PROPERTY AS SHOWN HEREON IS SUBJECT TO ALL COVENANTS AND RESTRICTIONS OF RECORD AND THOSE RECORDED HEREWITH.
4. BOUNDARY AND NORTH MERIDIAN INFORMATION AS SHOWN HEREON IS BASED ON EXISTING LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND A FIELD SURVEY PERFORMED BY THIS FIRM IN APRIL, 2010. THE HORIZONTAL AS REFERENCED HEREON WAS ESTABLISHED BY STATIC GPS CONTROL METHODS. THE HORIZONTAL DATUM IS REFERENCED TO NAD83 (CORS) EPOCH DATE 2002.00. THE NGS CORS STATIONS USED TO ESTABLISH (INITIALIZE) THE HORIZONTAL DATUM: CORS LOY4 DH3146; LOYB DH7980; LWX1 DH4144 AND USNO A17403. THE HORIZONTAL COORDINATE SYSTEM SHOWN HEREON IS REFERENCED TO VIRGINIA COORDINATE SYSTEM OF 1983 (VCS 83) NORTH ZONE. THE COMBINE SCALE FACTOR IS 0.99994926683 FOR GRID TO GROUND CONVERSION. THE BASE POINT (GPS1) FOR THE PROJECT IS IDENTIFIED WITH COORDINATES OF N: 7023038.5053, E: 11846249.5432 AND THESE COORDINATES ARE THE SAME FOR BOTH GRID AND GROUND.
5. THE PROPERTY SHOWN HEREON LIE IN ZONE "X" (UNSHADED) (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON F.E.M.A. FLOOD INSURANCE RATE MAP FOR FAIRFAX COUNTY, VIRGINIA, FEMA MAP NO. 51059C0165E, EFFECTIVE DATE SEPTEMBER 17, 2010.
6. THIS PLAN COMPLIES FULLY WITH THE AMENDED CHESAPEAKE BAY PRESERVATION ORDINANCE, AS ADOPTED BY THE BOARD OF SUPERVISORS JULY 11, 2003, EFFECTIVE NOVEMBER 18, 2003.
7. ALL PREVIOUSLY RECORDED RIGHTS-OF-WAY, EASEMENTS OR OTHER INTEREST OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN ON THIS PLAN.
8. ANY FUTURE EASEMENT OR AUTHORIZATION FOR ELECTRIC, CABLE, TELEPHONE OR GAS SERVICES TO BE FURNISHED TO THE PROPERTY SHOWN ON THIS PLAN/PLAT SHALL COMPLY WITH THE PROVISIONS OF VA. CODE 15.2-2241(6).

AREA TABULATION

LOT 10-A	98,173 S.F. OR 2.25375 AC.
PLUS STREET VACATION OF WESTBRANCH DRIVE	3,577 S.F. OR 0.08211 AC.
TOTAL AREA	101,750 S.F. OR 2.33586 AC.

WESTPARK DRIVE
ROUTE #5061
(VARIABLE WIDTH RIGHT-OF-WAY)



VICINITY MAP
SCALE: 1" = 2000'

EASEMENT LEGEND

- (E1) EX. 10' VERPOO EASEMENT
D.B. 4498, PG. 249
(TO BE QUITCLAIMED IN ITS ENTIRETY BY SEPARATE INSTRUMENT)
- (E2) EX. UNDERGROUND EASEMENT
D.B. 7280, PG. 1748
(TO BE QUITCLAIMED IN ITS ENTIRETY BY SEPARATE INSTRUMENT)
- (T) EX. C&P EASEMENT
D.B. 4164, PG. 587
(TO BE QUITCLAIMED IN ITS ENTIRETY BY SEPARATE INSTRUMENT)
- (W1) EX. FAIRFAX COUNTY WATER EASEMENT
D.B. 4077, PG. 125
(TO BE QUITCLAIMED IN ITS ENTIRETY BY SEPARATE INSTRUMENT)
- (W2) EX. FAIRFAX COUNTY WATER EASEMENT
D.B. 4453, PG. 748
(TO BE QUITCLAIMED IN ITS ENTIRETY BY SEPARATE INSTRUMENT)

UTILITY LINETYPE LEGEND

- E — UNDERGROUND ELECTRIC
- TV — CABLE TV
- FO — FIBER OPTIC
- T — TELEPHONE
- W — WATER
- TC — TRAFFIC CONTROL
- TWFO — TV FIBER OPTIC
- UNK — UNKNOWN UTILITY

PLAT SHOWING
VACATION OF PORTION OF WEST BRANCH DRIVE
ADJACENT TO
LOT 10A
WESTPARK SUBDIVISION
DEED BOOK 25814 PAGE 1213
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 50'

DATE: NOVEMBER 19, 2021

REVISION		Bowman CONSULTING	
NO.	DESCRIPTION		
1		Bowman Consulting Group, Ltd. 14020 Thunderbolt Place, Suite 300 Chantilly, Virginia 20151	
2			
3		Phone (703) 484-1000 Fax (703) 484-0720 www.bowmanconsulting.com	
4			
DWG:		BY: CD	CHK: MK
BCG PROJECT NO: 7403-26-002		TASK:	QC:
COUNTY REF NO:		SHEET 1 OF 1	

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE	TANGENT
C1	25.00'	11.39'	N 27°45'49" E	11.29'	26°06'14"	5.80'
C2	5.50'	8.60'	S 03°58'03" E	7.75'	89°33'56"	5.46'

LINE TABLE

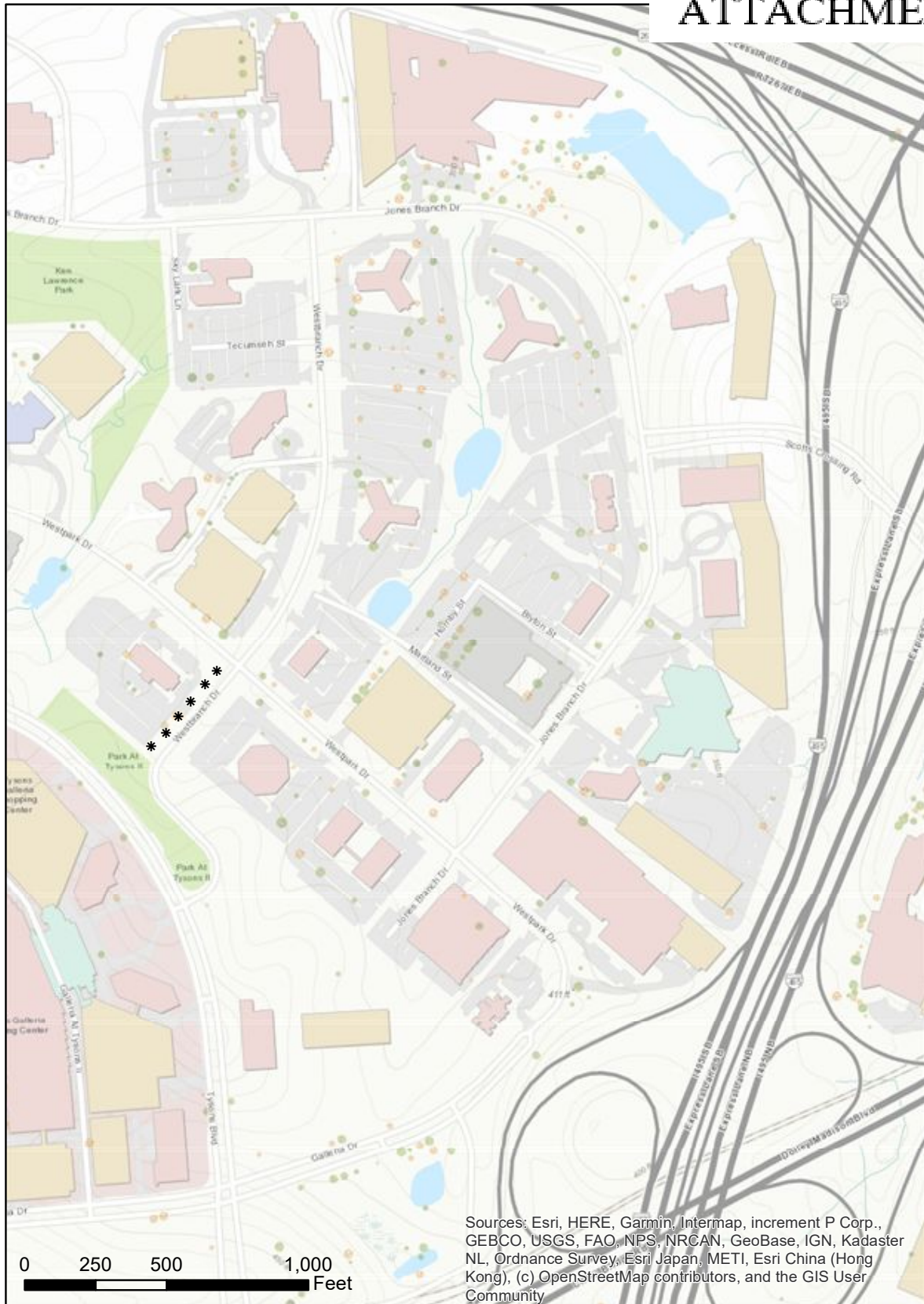
LINE	BEARING	DISTANCE
L1	S 40°48'56" W	8.35'
L2	S 49°11'04" E	6.59'



Westbranch Drive Vacation

Providence District

ATTACHMENT VI



Tax Map 29-4

✱ Denotes Area to be Vacated

**ARBOR ROW
RZ 2011-PR-023**

PROFFER STATEMENT

September 14, 2011

February 24, 2012

May 25, 2012

July 23, 2012

August 31, 2012

September 10, 2012

October 10, 2012

October 16, 2012

October 26, 2012

Rezoning Application RZ 2011-PR-023 (the "Rezoning") has been filed by and on behalf of (i) CITYLINE PARTNERS LLC, as applicant, (ii) FRANKLIN 7903 WESTPARK LLC, GRAYSON 7913 WESTPARK LLC, CAMPBELL-SCOTT WESTPARK LLC, ESSEX 7929 WESTPARK LLC and FREDERICK 8003 WESTPARK LLC, as owners of land identified as Fairfax County Tax Map Parcels 29-4-((7))-1, -2, -3, -9 and -10 (collectively the "Cityline Property"), (iii) AMT-THE ASSOCIATION FOR MANUFACTURING TECHNOLOGY, as owner of land identified as Fairfax County Tax Map Parcel 29-4-((7))-5A (the "AMT Property"), and (iv) the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA (the "Board"), as owner of an approximately 3,428 square foot portion of the Westbranch Drive right-of-way proposed for future abandonment and/or vacation. Such right-of-way, together with the Cityline Property and the AMT Property, are referred to collectively as the "Subject Property." The Rezoning seeks to rezone the Subject Property from the C-3 (proffered), SC and HC Districts to the PTC-Planned Tysons Corner Urban ("PTC"), SC and HC Districts.

Pursuant to Sect. 15.2-2303(A) of the Code of Virginia (1950), as amended, and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978), as amended, the applicant and the property owners on behalf of themselves and their respective successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually as the "Applicant"), hereby proffer that redevelopment of the Subject Property shall be in accordance with the following conditions (the "Proffers") if, and only if, the Rezoning, as proposed by the Applicant, is granted by the Board. If the Rezoning is granted by the Board, these Proffers shall replace and supersede any and all existing proffered conditions applicable to the Subject Property. In the event the Rezoning is denied by the Board, these Proffers shall immediately be null and void and the previous proffered conditions shall remain in full force and effect.

GENERAL

1. **Substantial Conformance.** Subject to the Proffers and the provisions of Sect. 6-500, Sect. 16-400 and Sect. 18-204 of the Zoning Ordinance of Fairfax County, as amended (the "Zoning Ordinance"), the Subject Property shall be developed in substantial conformance with the proffered elements of the Arbor Row Conceptual Development Plan ("CDP") dated April 26,

RZ 2011-PR-023

October 26, 2012

Page 39

including pedestrian enhancements, as may be required by VDOT and in accordance with the Phasing Sheets, shall be completed prior to opening Jones Branch Drive Extended to traffic.

68. Potential Future Right-Of-Way Vacation Areas. In the event any public street right-of-way that abuts the Subject Property is vacated and/or abandoned subsequent to approval of this Rezoning, such right-of-way area will become zoned to the PTC District pursuant to Sect. 2-203 of the Zoning Ordinance and such right-of-way area may be used, without requiring a PCA, CDPA or FDPA, for utilities and to accommodate sidewalks and streetscape elements consistent with the street sections shown on the CDP and/or with the Tysons Urban Design Guidelines.

69. Pedestrian Enhancements. Any and all crosswalks shown on the CDP and FDPs crossing public streets are conceptual only and subject to VDOT review and approval at site plan.

70. Supplemental Traffic Analyses. At the time of site plan submission for each Block subsequent to approval of this Rezoning, supplemental operational traffic analyses of the points of access to the subject Block shall be provided if required by VDOT. For purposes of this Proffer, such analyses shall only be required if the Block generates more than an additional 100 peak hour directional trips (either inbound or outbound). Such supplemental operational analyses also shall be limited to an assessment of those driveways and/or turn lanes serving the particular Block.

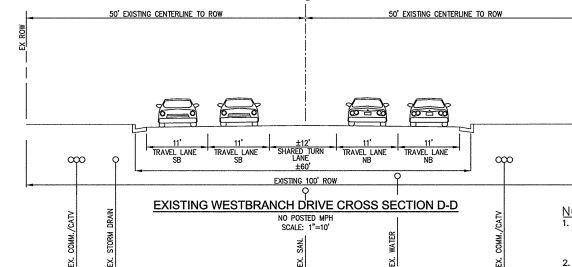
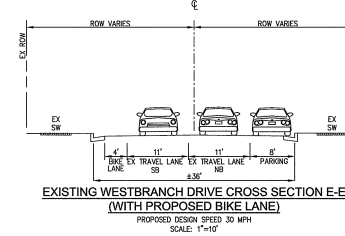
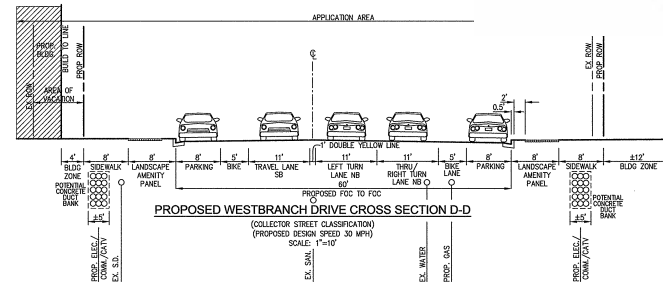
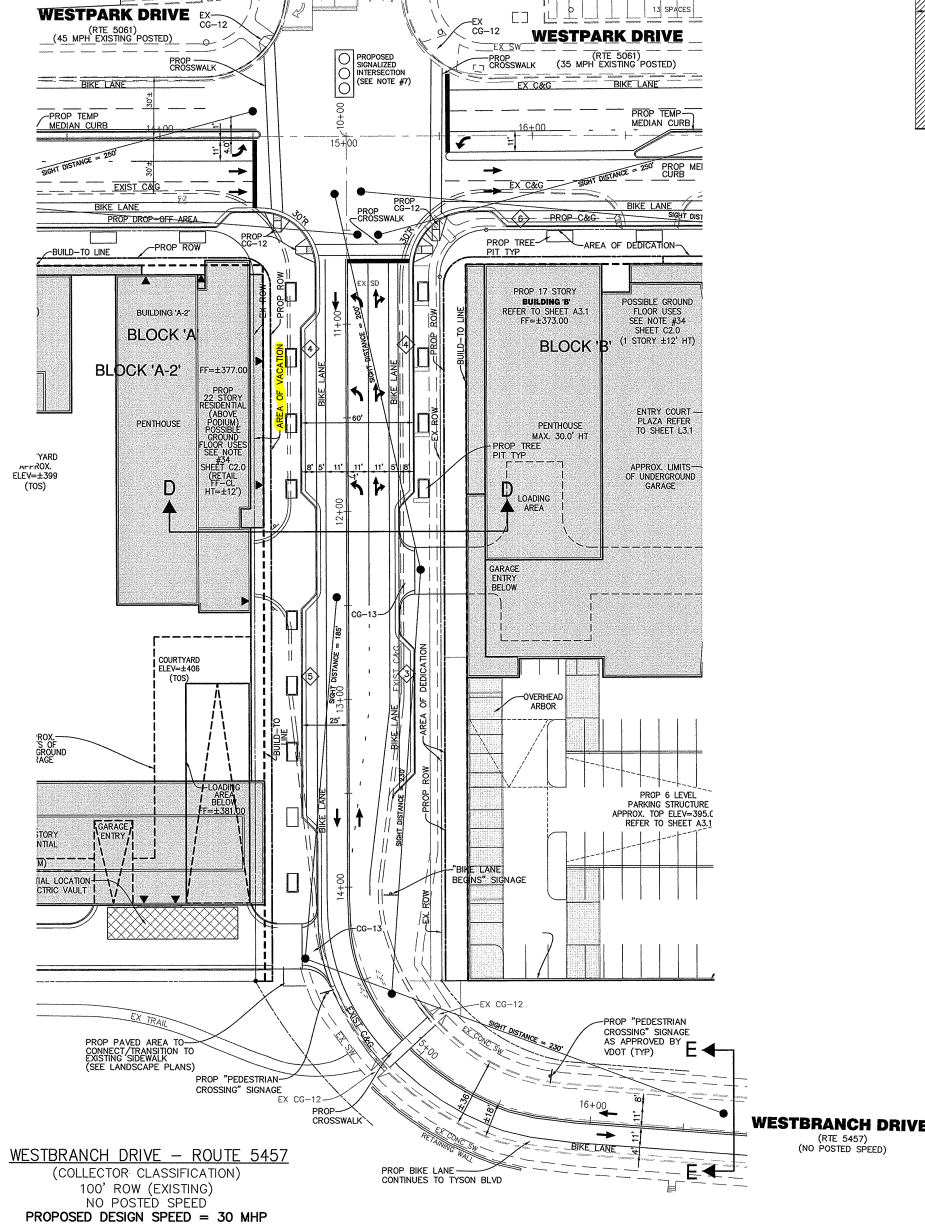
71. Notification Letter. At the time of filing of the first site plan for each of Block A through F, a notification letter shall be sent to the Director of FCDOT. The purpose of this letter is to facilitate coordination with DPWES to ensure site plans are consistent with the Transportation Design Standards.

72. Tysons Road Fund Contributions. At the time of issuance of the first RUP or Non-RUP for each new building on the Subject Property, a contribution shall be made to the Tysons Road Fund in the amount of \$6.44 per square foot of non-residential GFA or \$1,000 per residential unit for which the RUP or Non-RUP is requested. Credits shall be allowed against such contributions for the costs of the qualifying off-site intersection improvements provided pursuant to these Proffers. These payments may be made earlier than required pursuant to this Paragraph.

73. Board-Initiated Service District for Table 7 Improvements. The Applicant will support the creation of a Tysons-wide service district by the Board, on its own initiative, for the sole purpose of providing funds to Fairfax County for the private sector's share of the costs of the Table 7 transportation improvements to serve the Tysons Corner Urban Center.

74. Additional Tysons Road Fund Contributions for Table 7 Improvements. The Applicant shall contribute to the Tysons Road Fund the sum of \$5.63 per square foot for all new non-residential GFA on each respective Block, and \$1,000.00 for each residential unit constructed on the Subject Property. The contribution associated with each building shall be

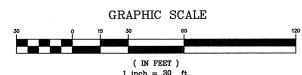
ATTACHMENT VIII



- NOTES:**
1. FINAL ROAD, CURB, CROSSWALK AND MEDIAN ALIGNMENT (INCLUDING CURB CUT, TURN LANES, MEDIAN BREAKS, PARKING, ETC.) IS SUBJECT TO CHANGE WITH FINAL DEVELOPMENT PLAN AND FINAL ENGINEERING SITE PLAN AND VDOT APPROVAL.
 2. REFER TO SHEET L4.1 FOR STREETSCAPE DESIGN ELEMENTS.
 3. AREA OF RIGHT OF WAY DEDICATION/VACATION SHOWN ON THIS CDP ARE APPROXIMATE. FINAL AREAS, LOCATION AND QUANTITIES OF STREET RIGHT OF WAY DEDICATION AND OR VACATION ARE TO BE DETERMINED AT TIME OF FINAL SITE PLAN.
 4. SIGHT DISTANCE DIMENSION IS BASED ON PROPOSED DESIGN SPEED LIMITS AS OUTLINED IN THE VDOT TRANSPORTATION DESIGN STANDARDS FOR TYSON CORNER (TABLE 12). SEE PLAN VIEW FOR PROPOSED POSTED SPEED LIMITS.
 5. EXISTING UTILITIES REPRESENTED HERE ARE APPROXIMATE IN LOCATION AND DESCRIPTION FOR REFERENCE ONLY OF EXISTING CONDITIONS.
 6. ON-STREET PARKING SHOWN FOR INFORMATION ONLY. SPACES SHALL NOT BE STRIPED OR METEDED.
 7. SIGNAL CONTROL APPARATUS MAY REQUIRE EASEMENTS FROM ADJACENT PROPERTY OWNERS IF INSTALLATION OCCURS OUTSIDE OF VDOT ROW.
 8. PROPOSED DRIVEWAY/ENTRANCE SHALL CONFORM TO THE TYSON I.D.S. AND ARE NOT SUBJECT TO THE P.F.M.

LEGEND:

—> EXISTING LANE DIRECTION
->- PROPOSED LANE DIRECTION



WESTBRANCH DRIVE APPROXIMATE AREA OF R.O.W. VACATION:
BLOCK 'A' FRONTAGE = ±3,428s.f.
WESTBRANCH DRIVE APPROXIMATE AREA OF R.O.W. DEDICATION:
BLOCK 'B' FRONTAGE = ±872s.f.

Bow
Bowman Consulting
14201 Tyndale Pk
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Phone: (703) 464-1404
www.bowmanconsulting.com

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101 North Union St., #200
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Phone: (703) 464-1404
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Cityline PARTNERS
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Cityline Partners
1000 Commonwealth Blvd
Arlington, VA 22202
Phone: (703) 464-1404
www.citylinepartners.com

Professional Engineer
Matthew J. Davidson
No. 000858
10/15/12
Professional Engineer
Matthew J. Davidson

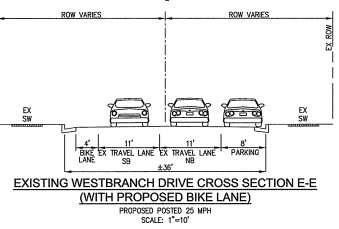
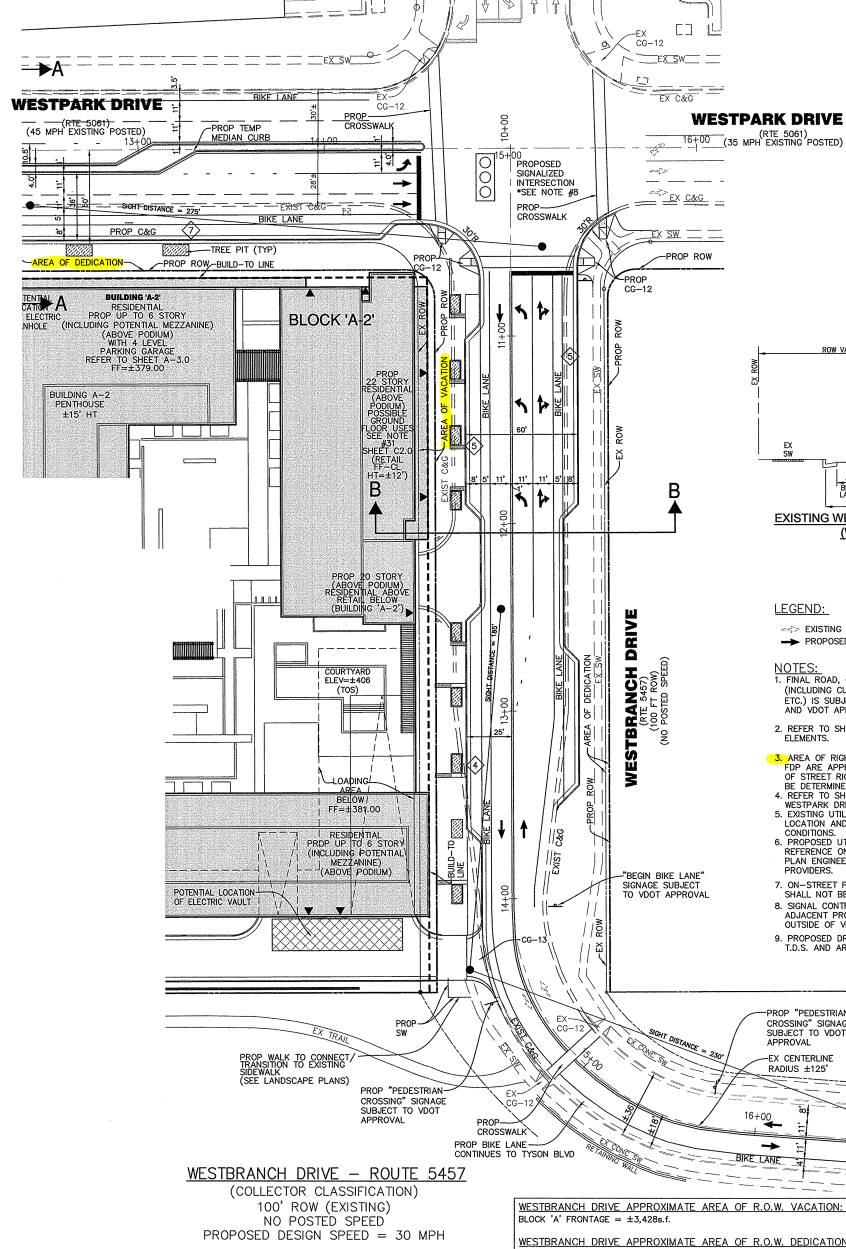
ROADWAY STRIPING AND MARKING PLAN
(SHEET 4 OF 6)
ARBOR ROW
CONCEPTUAL DEVELOPMENT PLAN 2011-PR-023
PROVIDENCE DISTRICT - FAIRFAX COUNTY, VIRGINIA

PLAN STATUS

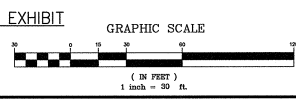
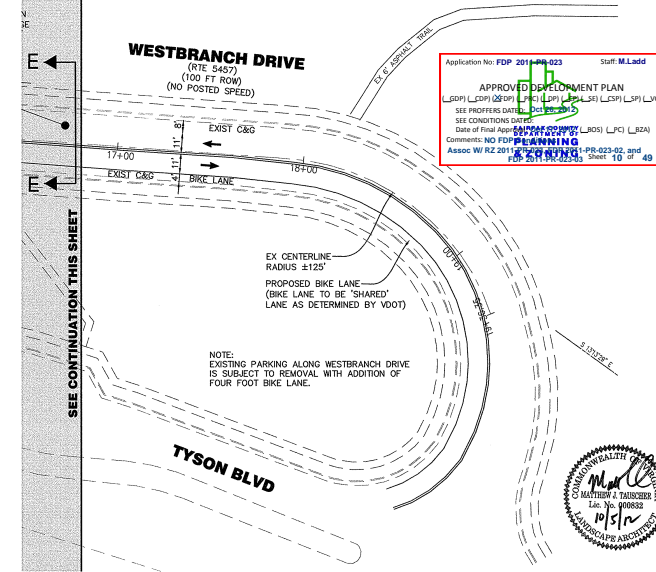
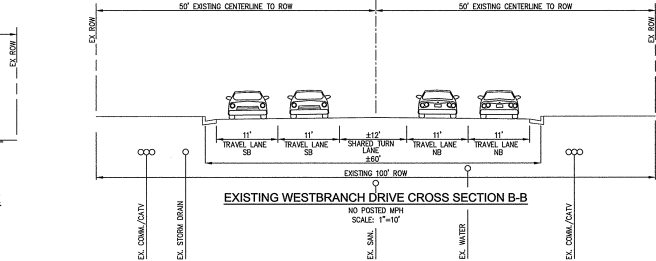
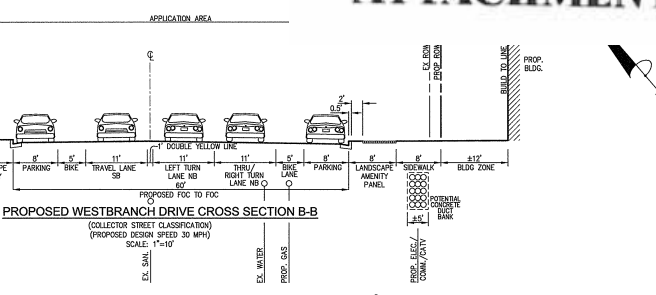
02/22/11	PER COUNTY COMMENTS
02/27/11	PER COUNTY COMMENTS
02/24/12	PER COUNTY COMMENTS
04/20/12	REVISE NOW TABS
05/25/12	PER COUNTY COMMENTS
07/23/12	PER COUNTY COMMENTS
08/29/12	PER COUNTY COMMENTS
09/05/12	PER COUNTY COMMENTS

DATE: APRIL 26, 2011
FILE No. 7408-07-001
SHEET **C9.3**

ATTACHMENT VIII



- LEGEND:**
- EXISTING LANE DIRECTION
 - PROPOSED LANE DIRECTION
- NOTES:**
1. FINAL ROAD, CURB, CROSSLANE AND MEDIAN ALIGNMENT (INCLUDING CURB CUT, TURN LANES, MEDIAN BREAKS, PARKING, ETC.) IS SUBJECT TO CHANGE WITH FINAL ENGINEERING SITE PLAN AND VDOT APPROVAL.
 2. REFER TO SHEET L1.01-L1.02 FOR STREETSCAPE DESIGN ELEMENTS.
 3. AREA OF RIGHT OF WAY DEDICATION/VACATION SHOWN ON THIS FIP ARE APPROXIMATE. FINAL AREAS, LOCATION AND QUANTITIES OF STREET RIGHT OF WAY DEDICATION AND OR VACATION ARE TO BE DETERMINED AT TIME OF FINAL SITE PLAN.
 4. REFER TO SHEET L1.01 FOR ILLUSTRATION OF NORTH SIDE WESTPARK DRIVE ULTIMATE ROAD DESIGN.
 5. EXISTING UTILITIES REPRESENTED HERE ARE APPROXIMATE IN LOCATION AND DESCRIPTION FOR REFERENCE ONLY OF EXISTING CONDITIONS.
 6. PROPOSED UTILITY LOCATIONS SHOWN ARE FOR GENERAL REFERENCE ONLY AND SUBJECT TO CHANGE WITH FINAL SITE PLAN ENGINEERING DESIGN AND COORDINATION WITH UTILITY PROVIDERS.
 7. ON-STREET PARKING SHOWN FOR INFORMATION ONLY. SPACES SHALL NOT BE STRIPPED OR METEDED.
 8. SIGNAL CONTROL APPARATUS MAY REQUIRE EASEMENTS FROM ADJACENT PROPERTY OWNERS IF INSTALLATION OCCURS OUTSIDE OF VDOT ROW.
 9. PROPOSED DRIVEWAY/ENTRANCE SHALL CONFORM TO THE TYSON T.O.S. AND ARE NOT SUBJECT TO THE P.F.M.



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Home Properties
2020 Boone Boulevard
Arlington, VA 22206
Phone: (703) 307-7888

Cityline Partners
Arlington, VA
Cityline Partners Capital Partners

WESTBRANCH DRIVE ROADWAY STRIPING AND CROSS SECTIONS ARBOR ROW - BLOCK 'A'
FINAL DEVELOPMENT PLAN 2011-PR-023-1
PROVIDENCE DISTRICT - FAIRFAX COUNTY, VIRGINIA

PLAN STATUS

DATE	DESCRIPTION
04/20/12	REVISE ROW TABS
06/25/12	PER COUNTY COMMENTS
07/23/12	PER COUNTY COMMENTS
09/29/12	PER COUNTY COMMENTS
10/05/12	PER COUNTY COMMENTS

DATE 12/01/2011
SCALE HAS SHOWN
JOB No. 7403-09-003
DATE 12/01/2011
FILE No. 7403-09-003
SHEET C7.1

Board Agenda Item
June 7, 2022

ADMINISTRATIVE - 7

Authorization to Advertise a Public Hearing to Consider a Temporary Uncodified Ordinance that Will Provide for up to a Two Dollar Per-Trip Emergency Taxicab Fuel Surcharge from June 29, 2022, through December 29, 2022

ISSUE:

On April 12, 2022, the Board of Supervisors adopted an emergency uncodified ordinance to provide for a per-trip taxicab fuel surcharge of up to one dollar. This current surcharge is effective through June 11, 2022. At this time, staff recommends that the Board of Supervisors authorize advertisement of a public hearing to consider a temporary uncodified ordinance providing for an emergency taxicab fuel surcharge of up to two dollars per-trip, effective June 29 through December 29, 2022.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing on June 28, 2022, at 4:00 p.m. to consider a temporary uncodified ordinance providing for an emergency taxicab fuel surcharge of up to two dollars per-trip effective June 29, 2022, through December 29, 2022 (Attachment 1).

TIMING:

Board action is requested on June 7, 2022, to advertise the public hearing before the Board of Supervisors on June 28, 2022, at 4:00 p.m.

BACKGROUND:

In response to a request for emergency taxicab rate relief submitted on March 17, 2022, by Old Dominion Transportation Group, Inc. (ODTG), the Board adopted an emergency uncodified ordinance providing for a per-trip taxicab fuel surcharge of one dollar (\$1.00) pursuant to Fairfax County Code Section 84.1-6-2 (Attachment 2). This surcharge is effective through June 11, 2022. At the time of Board action on April 12, 2022, the American Automobile Association (AAA) Daily Report for the Washington, DC (VA Only) retail price for regular gasoline averaged \$4.06. Previously for this area, gasoline prices had peaked on March 11, 2022, at \$4.34 per gallon. However, on May 9, 2022, this area broke that record and the AAA Daily Report average retail price in Fairfax County as of May 18 is \$4.734 per gallon. The current emergency taxicab fuel surcharge of \$1.00 only covers an increase in fuel cost up to \$4.30 per gallon.

Board Agenda Item
June 7, 2022

As gasoline prices increase, drivers absorb greater costs. With retail gas prices in Fairfax County now averaging \$4.734 per gallon, taxicab drivers incur additional monthly expenses of \$295, or \$3,544 per year. These levels of non-reimbursed expense continue to pose an economic hardship to the taxicab drivers in Fairfax County.

Staff has analyzed the need for an emergency taxicab fuel surcharge and for the reasons set forth in the attached staff report recommends extending the emergency surcharge beyond the previously approved date of June 11 and increasing to a two dollar (\$2.00) per-trip emergency taxicab fuel surcharge (Attachment 3). This surcharge of \$2.00 per-trip will continue to provide relief to current taxicab drivers who are suffering economic hardships resulting from high gasoline prices.

The proposed six-month emergency taxicab fuel surcharge will expire on December 29, 2022, unless rescinded sooner. Staff will continue to monitor gasoline prices during the next several months and may seek continued relief if prices remain high. Similarly, staff may recommend that the proposed emergency surcharge be rescinded prior to December 29, 2022, if prices fall significantly.

At their meeting on May 17, 2022, the Consumer Protection Commission (CPC) voted unanimously to authorize an advertisement of a public hearing to be held at their meeting on June 21, 2022, to consider a temporary uncodified ordinance that will provide for up to a \$2.00 per-trip emergency taxicab fuel surcharge from June 29, 2022, through December 29, 2022. Action taken by the CPC on June 21, will be included in staff's report to the Board on June 28, 2022.

Several surrounding jurisdictions have also reviewed similar requests for emergency taxicab fuel surcharges in response to sustained high gasoline prices and are continuing to monitor the impact on drivers that operate in their jurisdictions. Prince William County approved a \$1.00 surcharge, effective March 15, for 60 days. Washington, DC approved a \$1.00 surcharge, effective March 16, 2022, that will stay in place for 120 days unless rescinded sooner. The City of Alexandria approved a \$1.00 surcharge on March 31, for one year. Arlington County approved a \$1.00 surcharge, effective May 14, for six months.

The County and Fairfax County Public Schools (FCPS) have several contracts with taxicab companies for special needs transportation. Payments under these contracts are in accordance with the current rates set forth in County Code Section 84.1-6-3. While both organizations will experience an operational impact from the temporary emergency fuel surcharge, the retention of taxicab drivers is vital in maintaining transportation for students with disabilities and special needs to and from school and

Board Agenda Item
June 7, 2022

transportation options for eligible older adults, persons with disabilities, and those with limited income.

FISCAL IMPACT:

Based on a six-month emergency taxicab fuel surcharge, the Department of Neighborhood and Community Services (DNCS) estimates an operational impact of \$1,608 based on 134 taxicab trips per month in their TOPS – Transportation, Options, Programs & Services program. TOPS connects riders with a variety of transportation modes and options, enabling them to travel affordably, safely, and independently. While the program participants are responsible for the full cost of the transportation fare, the TOPS program provides subsidized transportation funds for eligible residents of Fairfax County, the City of Fairfax, and the City of Falls Church.

FCPS estimates an operational impact of \$15,000 based on current monthly usage and indicates they can absorb the increased costs within their FY 2022 and FY 2023 budget appropriations.

EQUITY IMPACT:

This action supports a multi-modal transportation system that supports the economic growth, health, congestion mitigation, and prosperity goals of Fairfax County and provides accessible mobility solutions that are based on the principles associated with sustainability, diversity, and community health, a One Fairfax Policy Area of Focus.

The on-demand availability of safe and reliable taxicab services supports the *County's Strategic Outcome Area: Mobility and Transportation* and is important to the public well-being, especially for those consumers unable to use public transportation and who rely on taxicab service for their basic transportation needs. In Fairfax County, 4.4 percent of the 398,653 households have no vehicle available.¹ In 2020, taxicabs provided service to over 327,000 passengers including 2,769 wheelchair accessible trips.

The retention of taxicab drivers is also vital in maintaining transportation for approximately 90 students with disabilities and special needs to and from school. Taxicab drivers also provide transportation services through the TOPS – Transportation Options, Programs & Services program which provides subsidized transportation funds for eligible participants who live in Fairfax County, the City of Fairfax, and the City of Falls Church. This program serves approximately 1,400 eligible residents and supports the *County's Strategic Outcome Area: Empowerment and Supporting Residents Facing Vulnerability* by using the existing taxicab framework to cross-collaborate with County

¹ United States Census Bureau: [Census - Table Results](#)

Board Agenda Item
June 7, 2022

and School efforts to provide residents with transportation services, enabling them to travel affordably, safely, and independently.

The \$2.00 per-trip emergency taxicab fuel surcharge will continue to provide relief to the taxicab drivers who are suffering an economic hardship from increased fuel costs. This increase may also help retain current drivers and recruit new drivers, supporting the *County's Strategic Outcome Area: Economic Opportunity*.

ENCLOSED DOCUMENTS:

Attachment 1 – Temporary Uncodified Ordinance
Attachment 2 – Fairfax County Code Section 84.1-6-2
Attachment 3 – Staff Report on Emergency Rate Relief

STAFF:

Ellicia Seard-McCormick, Deputy County Executive
Rebecca L. Makely, Acting Director, Department of Cable and Consumer Services

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney

**AN UNCODIFIED ORDINANCE TO PROVIDE EMERGENCY TAXICAB RATE
RELIEF**

AN UNCODIFIED ORDINANCE to impose an emergency fuel surcharge of up to two dollars per trip, in addition to the existing rates and charges for transportation and other services rendered to passengers in the County by taxicabs, from June 29, 2022, through December 29, 2022.

Draft of May 17, 2022

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

1. That the following uncodified ordinance is hereby adopted:

A. Authority for Emergency Rate Relief

1. Fairfax County Code Section 84.1-6-2(g) permits requests for emergency rate relief if dire financial needs exist as a result of circumstances beyond the taxicab industry's control. A petition for emergency rate relief was submitted to the County by a certificate holder operating within the County. Dire financial needs exist due to the rapid increase in gasoline prices that could not have been predicted and thus are not addressed by the current taxicab rates and charges set forth in County Code Section 84.1-6-3.
2. Virginia Code § 46.2-2062 authorizes the governing body of any county to regulate by ordinance the rates and charges for taxicab service in such county.

B. Taxicab Fuel Surcharge

1. In addition to the rates, fares and surcharges otherwise described in Fairfax County Code Section 84.1-6-3, there may be imposed an emergency fuel surcharge of up to two dollars (\$2.00) per trip.
2. No such emergency fuel surcharge shall be imposed after December 29, 2022, unless the Board of Supervisors readopts this ordinance.

- 2. That this ordinance will take effect on June 29, 2022, and extend through December 29, 2022, unless sooner rescinded by the Board.**

GIVEN under my hand this ____ day of June, 2022.

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

Section 84.1-6-2. Changes to rules, regulations, rates, fares, and charges; procedures.

- (a) Changes in any rule, regulation, rate, fare, charge, and or practice thereto, for taxicab services rendered by certificate holders, may be approved by the Board after notice and hearing held by the Commission or upon recommendation of the Director.
- (b) On an annual basis the Board may consider changes in rates, fares or charges, upon petition by a certificate holder or a driver association. Any petition filed by a certificate holder or driver association for changes in rates, fares or charges must be filed simultaneously with the Clerk to the Board and the Director by June 30. A copy of such requests must be sent by the Director to the Commission, certificate holders, and any driver association within seven calendar days of submission to the Clerk to the Board.
- (c) Any petition for a change in rates, fares or charges will contain the following:
 - (1) The rates, fares or charges which are proposed for approval; and
 - (2) A sample billing analysis which will show the cost to riders for trips ranging from one mile to 20 miles in one-mile increments, using existing rates and proposed rates, including for each increment, the percent change.
- (d) Rate change petitions will be analyzed by the Director, using information submitted under Section 84.1-5-2 and other relevant data. The Director will use the following standard in consideration of whether the request is justified: the change in the Fairfax County Taxicab Industry Price Index since the last adoption of rates (plus or minus two percent). The Fairfax County Taxicab Industry Price Index is in the following form:

Fairfax County Taxicab Industry Price Index

Taxicab Cost Element	BLS Index	Weight
Salaries, Wages, and Profits	CPI-U (All Items)	0.62
Vehicle Purchase	New Vehicles	0.14
Fuel	Motor Fuel	0.11
Insurance and Other	Private Transportation Services	0.08
Maintenance, Parts, and Equipment	Motor Vehicle Maintenance and Repairs	0.05
TOTAL COMPOSITE INDEX		1.00

- (e) The Commission will review all recommendations or petitions for rate changes, along with the report of the Director, and the Commission will hold a hearing to consider evidence related to such recommendations or petitions for changes in rates, fares and charges, or any rule, regulation, or practice thereto, as soon as analysis and scheduling permit. After holding a public hearing and after such further investigation as the Commission may deem advisable, the Director will convey the recommendations of the Commission and the Director concerning the appropriate taxicab rates to the Board for consideration.
- (f) Except for emergency rate relief, certificate holders will provide notice to the public of proposed changes in fares, rates, or charges, by means of a sign posted in a conspicuous place in each of their vehicles operated as taxicabs in Fairfax County. Such notice will be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and will contain substantially the following legend:

Notice of Proposed Rate Change
(Insert the Name of the Certificate Holder)

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

The proposed taxicab rate change will be considered by the Consumer Protection Commission at a public hearing on (insert date, time, and location). Any interested person may appear before the Commission 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 703-222-8435.

Notices with respect to the request for a rate change will be posted at least 15 calendar days prior to the Consumer Protection Commission public hearing and the Board of Supervisor's public hearing and will remain posted until the change in rates is denied or becomes effective.

- (g) Emergency rate relief requests will be considered in as timely a manner as possible, under the same procedures and criteria as set forth herein, except that emergency rate relief petitioners must demonstrate that dire financial needs as a result of circumstances beyond their control necessitate an increase prior to the next annual filing period. The filing date requirement found in 84.1-6-2(b) does not apply to an emergency rate relief request. A rate review according to Section 84.1-6-2, Subsections (a) through (f) will supersede any rate change granted on an emergency basis.

(4-00-84.1; 56-08-84.1; 39-16-84.1.)

STAFF REPORT ON EMERGENCY RATE RELIEF**SUMMARY:**

In response to a request for emergency taxicab rate relief submitted on March 17, 2022, by Old Dominion Transportation Group, Inc. (ODTG), the Board adopted an emergency uncoded ordinance providing for a per-trip taxicab fuel surcharge of up to one dollar (\$1.00). This surcharge is effective through June 11, 2022. At the time of Board action on April 12, 2022, the American Automobile Association (AAA) Daily Report for the Washington, DC (VA Only) retail price for regular gasoline averaged \$4.06. Previously for this area, gasoline prices had peaked on March 11, 2022, at \$4.34 per gallon. On May 9, 2022, this area broke that record and the AAA Daily Report average retail price in Fairfax County as of May 18 is \$4.734 per gallon. The current emergency taxicab fuel surcharge of \$1.00 only covers an increase in fuel cost up to \$4.30 per gallon.

As a result of this analysis, staff recommends extending the emergency taxicab fuel surcharge beyond the previously approved date of June 11 and increasing to a two dollar (\$2.00) per-trip taxicab fuel surcharge to offset the additional financial burden presently being absorbed by the taxicab drivers in Fairfax County. The taxicab companies have confirmed that 100 percent of the surcharge will go directly to the taxicab drivers.

PREVIOUS BOARD ACTIONS TO ADJUST TAXICAB FARES:

On April 12, 2022, the Board of Supervisors adopted an emergency uncoded ordinance to provide for a per-trip taxicab fuel surcharge of \$1.00. This current surcharge is effective through June 11, 2022.

Prior to April 2022, the last time the Board approved an emergency taxicab fuel surcharge was in August 2008, which imposed an additional \$1.00 surcharge on top of an earlier \$1.00 surcharge, bringing the total surcharge to \$2.00. This surcharge was in effect until October 14, 2008.

Permanent taxicab fares were last increased in November 2014, when the cost of regular unleaded gasoline in the Metropolitan Washington area was \$3.66 per gallon.

TAXICAB INDUSTRY IN FAIRFAX COUNTY:

Two operators, managing four taxicab companies, hold certificates in Fairfax County and operate 150 taxicabs.

Company	Taxicab Certificates
Fairfax Yellow Cab ¹	90
Springfield Yellow ¹	30
Fairfax Red Top ¹	10
White Top Cab	20
Total	150

¹ Owned and operated by Old Dominion Transportation Group, Inc.

Current taxicab rates are based on a gasoline cost of \$3.66 per gallon from July 2014. Since the last permanent rate increase in 2014, the taxicab industry has experienced significant changes. The chart below demonstrates several impacts over the last eight years as reported by the taxicab companies' most recent reports filed in 2021.

	2013	2020¹	Change
Taxicab Certificates	654	150	-77.1%
Taxicab Drivers	820	200	-75.6%
Trips	2,292,232	274,736	-88.0%
Passengers	2,732,894	327,032	-88.0%
Revenue	\$40,821,451	\$5,529,465	-86.5%

¹ As last reported by the companies in 2021.

The taxicab industry in Fairfax County is staffed by taxicab drivers who are independent contractors associated with one of the two certificate holders; the drivers are not company employees. Taxicab drivers either lease their cabs from the taxicab companies or own their own cabs and pay "stand dues" to a company. Lease fees/car payments and fuel represent most of the operating expenses for most drivers.

As independent operators, individual driver income is highly variable depending upon factors including the number of hours and days a driver chooses to work, the number of calls received by dispatch, a driver's awareness of market opportunities and ability to cultivate repeat customers, and economic growth and development within the County.

The industry is currently reporting that taxicab drivers work 5.7 days a week and 25 days a month and average 6.8 trips per day with a trip length of approximately eight miles.

GASOLINE COSTS AND TRENDS: NATIONAL AND REGIONAL PERSPECTIVE:

As shown in Table 1, the AAA's Daily Report the Washington, DC (VA Only) retail price for regular gasoline averaged \$4.575 as of May 18, 2022, \$1.549 higher than prices a year ago. Table 1 now also includes the average retail price in Fairfax County as of May 18 which is \$4.734 per gallon.

Factors identified by U.S. Energy Information Administration (EIA) in their *Short-Term Energy Outlook*¹ dated May 10, 2022, as major factors driving energy supply uncertainty include how sanctions affect Russia's oil production, the production decisions of OPEC+, and the rate at which U.S. oil and natural gas producers increase drilling.

IMPACT OF ADDITIONAL GAS COSTS ON DRIVERS:

According to company data, taxicab drivers in this area typically use approximately 11 gallons of gasoline per day. Other than lease fees, gasoline is the only operating expense most drivers face. As gasoline prices increase, drivers must absorb greater costs. Using the July 2014 (last permanent rate increase) gasoline price of \$3.66 per gallon as a baseline, compared to the currently retail price in Fairfax County of \$4.734 per gallon, taxicab drivers will incur additional monthly expenses of \$295, or \$3,544 per year. These levels of non-reimbursed expense continue to pose an economic hardship to the taxicab drivers in Fairfax County.

SURCHARGE AMOUNT REQUIRED TO OFFSET THE INCREASED COSTS OF GASOLINE:

Table 2 displays actual per-gallon gasoline prices, and the corresponding surcharge that allows drivers to recoup their added costs of gasoline. A \$2.00 per-trip surcharge would offset up to \$4.93 per gallon.

SURROUNDING JURISDICTIONS:

Several surrounding jurisdictions have also reviewed similar requests for emergency taxicab fuel surcharges in response to sustained high gasoline prices and are continuing to monitor the impact on drivers that operate in their jurisdictions. Results of that survey are summarized in Table 3.

IMPACT OF A FUEL SURCHARGE ON THE COST OF A TRIP:

Table 4 contains sample billings when a per-trip fuel surcharge of \$1.50 and \$2.00 are added to trips ranging from one mile to 20 miles. For an eight-mile trip, which company data indicates is the current average trip duration, a \$2.00 surcharge would increase the average fare from \$20.78 to \$22.78, or 9.6 percent.

While the percentage increase on any of the potential emergency taxicab fuel surcharge amounts are proportionately much higher for short trip fares, the enactment of an emergency taxicab fuel surcharge will provide an incentive for taxicab drivers to seek short trips, and thus to provide better service to the community.

DURATION OF SURCHARGE:

During 2005 and 2008, the Board approved a series of temporary surcharges that

¹ EIA, *Short Term Energy Outlook* (5/10/22), available at [Short-Term Energy Outlook - U.S. Energy Information Administration \(EIA\)](#)

typically lasted about six months. In this case, the proposed six-month emergency taxicab fuel surcharge will expire on December 29, 2022, unless rescinded sooner. Staff will continue to monitor gasoline prices during the next several months and may seek continued relief if prices remain high.

Similarly, staff may recommend that the proposed emergency surcharge be rescinded prior to December 29, 2022, if prices fall significantly.

FINDINGS:

It is staff's opinion that this economic impact satisfies the requirement of Section 84.1-6-2(g) of "dire financial need" that it is "as a result of circumstances beyond [the taxi drivers'] control."

A temporary per-trip fuel surcharge of \$2.00 is intended to offset drivers' increased operating expenses attributable to increased gasoline prices. As noted, area gasoline prices averaged \$4.575 per gallon on May 18, with the average retail price in Fairfax County at \$4.734 per gallon which is \$1.074 per gallon more than the \$3.66 per gallon average gasoline price in 2014 when taxicab rates were last permanently increased.

The on-demand availability of safe and reliable taxicab services is important to the public well-being, especially for those consumers unable to use public transportation and who rely on taxicab service for their basic transportation needs. The \$2.00 per-trip emergency taxicab fuel surcharge will provide continued relief to the taxicab drivers who are suffering an economic hardship from increased fuel costs. This increase may also help retain current drivers and aid in the effort to add new taxicab drivers, to the public's benefit.

RECOMMENDATIONS:

1. Staff recommends that the Board of Supervisors approve a \$2.00 per-trip taxicab fuel surcharge.
2. The \$2.00 per-trip fuel surcharge is designed to (a) cover the added costs of gasoline at pricing levels of approximately \$4.734 per gallon, thereby temporarily compensating drivers for increased gasoline costs; and (b) provide a sufficient incentive to retain and recruit drivers operating in Fairfax County, to the public's benefit.
3. The emergency taxicab fuel surcharge would expire on December 29, 2022, unless rescinded sooner by the Board of Supervisors.

ATTACHMENTS:

Table 1: AAA Local Gasoline Price Trends

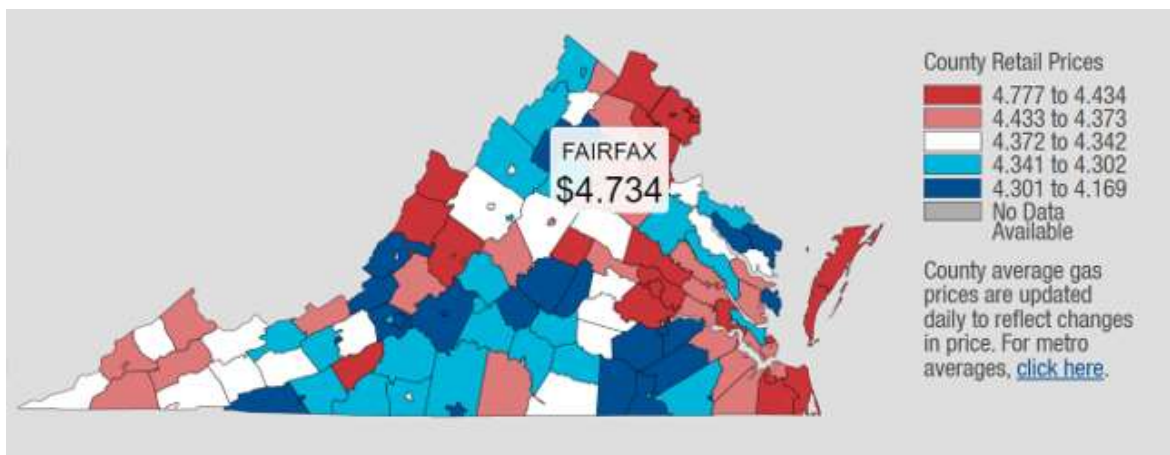
Table 2: Surcharge Amount Required to Offset Increased Fuel Cost

Table 3: Comparison of Taxicab Rates in Local Jurisdictions

Table 4: Sample Billing Analysis – May 2022

Table 1: Local Gasoline Price Trends¹

Washington, DC, (VA Only)				
	Regular	Mid	Premium	Diesel
Current Avg.	\$4.575	\$4.981	\$5.301	\$5.678
Yesterday Avg.	\$4.501	\$4.921	\$5.236	\$5.664
Week Ago Avg.	\$4.387	\$4.826	\$5.118	\$5.594
Month Ago Avg.	\$4.064	\$4.516	\$4.808	\$5.045
Year Ago Avg.	\$3.026	\$3.431	\$3.728	\$3.095
HIGHEST RECORDED AVERAGE PRICE				
	Price		Date	
Regular Unleaded	\$4.575		5/18/22	



Source: [American Automobile Association](#)

¹ As of May 18, 2022

Table 2: Surcharge Amount Required to Offset Increased Fuel Cost

	Washington DC Metro Region (VA Only)					Fairfax		
Gasoline Prices Per Gallon¹	\$4.061 4/12/22	\$4.089 4/26/22	\$4.234 5/5/22	\$4.390 5/12/22	\$4.575 5/18/22	\$4.734 5/18/22	\$4.77 Estimate	\$4.93 Estimate
Average cost of gas July 2014	\$3.66	\$3.66	\$3.66	\$3.66	\$3.66	\$3.66	\$3.66	\$3.66
Per gallon difference	\$0.401	\$0.429	\$0.574	\$0.730	\$0.915	\$1.074	\$1.11	\$1.27
Average gallons used per day	11	11	11	11	11	11	11	11
Additional daily cost of gas	\$4.41	\$4.72	\$6.31	\$8.03	\$10.07	\$11.81	\$12.25	\$13.97
Average number of daily trips ²	7	7	7	7	7	7	7	7
Surcharge required to offset increased fuel cost	\$0.63	\$0.67	\$0.90	\$1.15	\$1.44	\$1.69	\$1.75	\$2.00

¹ Source: [American Automobile Association](#)

² Source: Company data provided March 21, 2022.

Note: Weekly costs reflect 5.7 working days, monthly costs reflect 25 working days.

Table 3: Comparison of Taxicab Rates in Local Jurisdictions

Jurisdiction	Initial Charge	Mileage Charge	First Mile Charge	Fuel Surcharge	Average Trip Charge
Fairfax County	\$3.50	\$0.36 per 1/6 mile	\$5.66	\$0.00	\$20.78
Fairfax County Proposal	\$3.50	\$0.36 per 1/6 mile	\$5.66	\$2.00	\$22.78
Arlington County	\$3.50	\$0.36 per 1/6 mile	\$5.66	\$1.00 approved May 14, 2022, effective June 1, 2022 for six months	\$21.78
City of Alexandria	\$3.00	\$0.36 per 1/6 mile	\$5.16	\$1.00 approved on 3/31/22 for one year	\$21.28
Prince William County	\$3.00	\$0.20 per 1/10 mile	\$5.00	\$1.00 approved 3/15/22 for 60 days	\$20.00
Montgomery County, MD	\$4.00	\$0.50 per 1/4 mile	\$6.00	No request by industry	\$20.00
Washington, DC	\$3.50	\$0.36 per 1/6 mile	\$5.66	\$1.00 approved 3/16/22 for 120 days	\$21.78
Uber	N/A	N/A	N/A	\$0.45-\$0.55 approved 3/16/22 for 60 days	N/A
Lyft	N/A	N/A	N/A	\$0.55 approved 3/21/22 for 60 days	N/A

Note: Average trip length is approximately eight (8) miles as provided by company data on March 21, 2022.

Table 4: Sample Billing Analysis: May 2022

Proposed Fuel Surcharge of \$1.50				
Mileage	Current	Surcharge	Proposed	Increase
1	\$5.66	\$1.50	\$7.16	26.5%
2	\$7.82	\$1.50	\$8.32	19.2%
3	\$9.98	\$1.50	\$11.48	15.0%
4	\$12.14	\$1.50	\$13.64	12.4%
5	\$14.30	\$1.50	\$15.80	10.5%
6	\$16.46	\$1.50	\$17.96	9.1%
7	\$18.62	\$1.50	\$20.12	8.0%
8	\$20.78	\$1.50	\$22.28	7.2%
9	\$22.94	\$1.50	\$24.44	6.5%
10	\$25.10	\$1.50	\$26.60	6.0%
11	\$27.26	\$1.50	\$28.76	5.5%
12	\$29.42	\$1.50	\$30.92	5.1%
13	\$31.58	\$1.50	\$33.08	4.7%
14	\$33.74	\$1.50	\$35.24	4.4%
15	\$35.90	\$1.50	\$37.40	4.2%
16	\$38.06	\$1.50	\$39.56	3.9%
17	\$40.22	\$1.50	\$41.72	3.7%
18	\$42.38	\$1.50	\$43.88	3.5%
19	\$44.54	\$1.50	\$46.04	3.4%
20	\$46.70	\$1.50	\$48.20	3.2%

Proposed Fuel Surcharge of \$2.00				
Mileage	Current	Surcharge	Proposed	Increase
1	\$5.66	\$2.00	\$7.66	35.3%
2	\$7.82	\$2.00	\$9.82	25.6%
3	\$9.98	\$2.00	\$11.98	20.0%
4	\$12.14	\$2.00	\$14.14	16.5%
5	\$14.30	\$2.00	\$16.30	14.0%
6	\$16.46	\$2.00	\$18.46	12.2%
7	\$18.62	\$2.00	\$20.62	10.7%
8	\$20.78	\$2.00	\$22.78	9.6%
9	\$22.94	\$2.00	\$24.94	8.7%
10	\$25.10	\$2.00	\$27.10	8.0%
11	\$27.26	\$2.00	\$29.26	7.3%
12	\$29.42	\$2.00	\$31.42	6.8%
13	\$31.58	\$2.00	\$33.58	6.3%
14	\$33.74	\$2.00	\$35.74	5.9%
15	\$35.90	\$2.00	\$37.90	5.6%
16	\$38.06	\$2.00	\$40.06	5.3%
17	\$40.22	\$2.00	\$42.22	5.0%
18	\$42.38	\$2.00	\$44.38	4.7%
19	\$44.54	\$2.00	\$46.54	4.5%
20	\$46.70	\$2.00	\$48.70	4.3%

Note: Average trip length is approximately eight (8) miles as provided by company data on March 21, 2022.

"Current trip cost" includes base-rate charges only.

Board Agenda Item
June 7, 2022

ACTION - 1

Approval of FY 2022 Year-End Processing

ISSUE:

Board approval to allow staff to process payment vouchers for items previously approved and appropriated in FY 2022.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to process payment vouchers for items previously approved and appropriated in FY 2022 for the interim period from July 1 until the Board approves the *FY 2022 Carryover Review*, which is scheduled for action on October 11, 2022.

TIMING:

Board approval is required on June 7, 2022, since the *FY 2022 Carryover Review* is not scheduled for Board action until October 11, 2022.

BACKGROUND:

The *FY 2022 Carryover Review* is scheduled for final action on October 11, 2022, following a public hearing. In the interim, Board approval is requested to allow staff to process payment vouchers for items previously approved and appropriated in FY 2022 such as capital construction projects and grant-funded programs for the period of July 1 to October 11, 2022, or until final action is taken on the *FY 2022 Carryover Review*. Similar action has been taken in prior years as part of the year-end closeout.

FISCAL IMPACT:

This item relates to funding for previously appropriated items approved in FY 2022 and carried forward to FY 2023 for payment.

ENCLOSED DOCUMENTS:

None.

STAFF:

Christina Jackson, Chief Financial Officer

Philip Hagen, Deputy Director, Department of Management and Budget

ACTION - 2

Approval of a Parking Reduction for Metro West – Buildings #6 and 10 (Providence District)

ISSUE:

Board of Supervisors (Board) approval of an average 24.0 percent reduction (215 fewer spaces) of the proffered multi-family residential parking rates and a reduction of the proffered non-residential parking rates to the current Fairfax County Zoning Ordinance (Zoning Ordinance) parking rates for Metro West – Buildings #6 and 10, Tax Map 48-2 ((24)) B1 and 48-2 ((T24)) B1 (Property).

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction for Metro West – Buildings #6 and 10 pursuant to Paragraph 6.B(1)(a) of Section 6100 of the Zoning Ordinance based on the site's proximity to mass transit as demonstrated in the parking study #8342-PKS-001, subject to the conditions in Attachment I.

TIMING:

Board action is requested on June 7, 2022.

BACKGROUND:

The Property, zoned PRM, is subject to proffers and conditions associated with RZ 2003-PR-022, approved on March 27, 2006. Proffer #13 of the rezoning anticipates the applicant's pursuit of a parking reduction request for this development. The rezoning allows the construction of three multi-family residential buildings (#6, 7, and 10) with ground floor retail and two office buildings (#8 and 9) with ground floor retail. The Property is located in the Vienna Transit Station Area (TSA) on the south side of Saintsbury Drive directly across the street from the entrance to the Vienna/Fairfax-GMU Metro Station. This request is for multi-family residential buildings #6 and 10 only. The two buildings are located within 0.17 miles of the station.

The code required parking for Metro West is based on the parking rates shown on the proffered Conceptual/Final Development Plan (CDP/FDP). These parking rates reflect the Zoning Ordinance requirements in effect at the time of rezoning approval in 2006. Current Zoning Ordinance requirements include lowered minimum parking rates for uses in TSAs and revised parking rates for eating establishments and other food-

Board Agenda Item
June 7, 2022

oriented uses, now defined as restaurants. Because the proffered development plan did not include an allowance for future changes to the Zoning Ordinance parking requirements, the Property is subject to the 2006 Zoning Ordinance parking rates shown on the proffered plan.

The applicant is requesting a reduction of the required multi-family residential parking rates to 1.1 spaces per unit for units with 0-1 bedrooms and 1.4 spaces per unit for units with 2 bedrooms. No reduction of the parking rate for units with 3 or more bedrooms, 1.6 spaces per unit, is requested. A maximum of 628 units may be constructed under the proffered development plan for buildings #6 and #10 (314 units per building). The proffered development plan does not specify a unit mix. Based on the currently proposed maximum of 560 units and the unit mix provided with the parking reduction request, the average parking ratio will be 1.22 spaces per unit. This equates to a 24.0 percent reduction in required residential parking based on the 2006 parking rate of 1.6 spaces per unit for all unit types. The required number of residential spaces is 896. The applicant proposes a minimum of 681 spaces to serve the residential uses based on a maximum of 560 units and the proposed unit mix. The final number of units, with a maximum of 560 units, and unit mix is subject to change at the time of site plan approval and each building may have a different unit mix. The number of spaces provided with the site plan will be based on the final number of units, unit mix, and the parking rates approved by the Board with the reduction. The applicant is proposing to park all non-residential uses at current Zoning Ordinance rates which is technically a reduction from the proffered 2006 Zoning Ordinance rates. Parking will be provided within the core of the buildings or underground with a limited number of spaces along the internal street network. The on-street spaces will primarily serve the non-residential uses.

A comparison of the code-required parking and the proposed parking at full buildout for the multi-family residential uses is provided in Table 1. Because the parking reduction is based on the 2006 code-required rates that were in the proffered plan, the size of the reduction is somewhat larger than it would otherwise be. A comparison of the current TSA parking rates, the 2006 code-required parking rates (the proffered rates), and the proposed parking rates is provided in Table 2.

Table 1. Comparison of Code Required and Proposed Parking for Proposed Multi-family Residential Uses Buildings #6 and 10

Unit Type	No. of Units	Code Required Parking Rate (proffered)	Required Minimum Number of Spaces (proffered)	Proposed Parking Rate	Proposed Minimum Number of Spaces	Proposed Reduction
0-1 bedroom	364	1.6 spaces/unit	582.4	1.1 space/unit	400.4	31.3%
2 bedroom	168	1.6 spaces/unit	268.8	1.4 spaces/unit	235.2	12.5%
3+ bedroom	28	1.6 spaces/unit	44.8	1.6 spaces/unit	44.8	0.0%
Totals	560	1.6 spaces/unit	896	1.22 spaces/unit	681	24.0%

Table 2. Comparison of Current TSA Parking Rates, 2006 Code-required Parking Rates, and Proposed Parking Rates

Unit Type	Current TSA Parking Rate	2006 Code Required Parking Rate (proffered)	Proposed Parking Rate	Proposed Reduction (TSA)	Proposed Reduction (proffered)
0-1 bedroom	1.3 spaces/unit	1.6 spaces/unit	1.1 space/unit	15.4%	31.3%
2 bedroom	1.5 spaces/unit	1.6 spaces/unit	1.4 spaces/unit	6.7%	12.5%
3+ bedroom	1.6 spaces/unit	1.6 spaces/unit	1.6 spaces/unit	0.0%	0.0%

This request can be supported due to the site's location within 0.17 miles of the Vienna/Fairfax-GMU Metro Station. The expectation is that residents adjacent to public transportation will require less parking. While residents may not give up vehicle ownership entirely, they are more likely to own less vehicles than residents in lower-density areas not well served by transit, thereby reducing parking demand. Additionally, the requested reduction is within the range of prior approved reductions for other properties approximately a quarter mile from a metro station (see Table 3). With respect to the reduction in rates for non-residential uses, it is adequately justified by the fact that the applicant is only asking to be able to park at current Zoning Ordinance rates.

Table 3. Comparison of Current Metro West Reduction Request with Prior Reductions

	Metro West Buildings 6 & 10	2722 Merrilee Drive	Midline	Reston Gateway
Parking Reduction #	8342-PKS -001	3300-PKS-004	3729-PKS-007	5468-PKS-004
Date Approved	current request	1/26/21	12/4/18	7/30/18
Distance to Metro Platform	0.12 - 0.17 miles	0.28 - 0.31 miles	0.20 - 0.28 miles	0.17 - 0.25 miles
Number of 0-1 bedroom units	364 (65.0 %)	194 (81.2%)	340 (61.8%)	1,307 (65%)
Number of 2 bedroom units	168 (30.0%)	45 (18.8 %)	201 (36.5%)	603 (30%)
Number of 3+ bedroom units	28 (5.0%)	0 (0.0%)	9 (1.6%)	100 (5.0%)
Total Units	560	239	550	2,010
Spaces per bedroom	0.87	0.93	0.80	0.86
Spaces per unit	1.22	1.10	1.12	1.20

This recommendation reflects a coordinated review by the Department of Planning and Development, Office of the County Attorney and Land Development Services (LDS).

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FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Parking reduction conditions dated June 7, 2022
Attachment II – Parking reduction request (8342-PKS-001) from Wells and Associates
dated June 28, 2021, revised through January 18, 2022

STAFF:
Rachel Flynn, Deputy County Executive
William D. Hicks, P.E., Director, LDS

ASSIGNED COUNSEL:
Patrick V. Foltz, Assistant County Attorney

PARKING REDUCTION CONDITIONS
Metro West Buildings #6 & 10
June 7, 2022

1. These conditions apply to the current owner, their successors and assigns (hereinafter “owner”) of the parcel identified on 2022 Tax Map 48-2 ((24)) B1 and 48-2 ((T24)) B1.
2. Off-street parking for each use in buildings #6 and 10, as identified on the approved development plan, designated below must be provided at the following minimum parking rates:
 - A. Residential multi-family up to a maximum of 600 units with an approximate unit mix of 65% 0-1 bedroom units, 30% 2 bedroom units, and 5% 3+ bedroom units:
 - 0-1 bedroom units: 1.1 spaces/unit
 - 2 bedroom units: 1.4 spaces/unit
 - 3+ bedroom units: 1.6 spaces/unit
 - B. Non-residential – rates required by the Zoning Ordinance in effect at the time the use is established.
3. Parking for any uses not listed in Condition 2 must be provided at no less than the minimum rates required by the Zoning Ordinance.
4. Off-street parking for the uses in each building will be provided in that building’s garage or on adjoining streets consistent with the approved development plan and associated rezoning application.
5. Parking Management Plan (PMP). The owner must develop and implement a PMP, for each building, to ensure that the parking reduction approved by the Board of Supervisors continues to adequately serve the uses in Conditions #2 and #3 above and that the specific requirements of Proffers #13.c.(ii), and #13.d are met. The PMP for each building must be approved by the Parking Program Manager in the Department of Land Development Services (LDS) prior to issuance of the first occupancy permit for that building. The PMP may be revised as necessary, consistent with the requirements below, without requiring reapproval by the Parking Program Manager. A copy of the PMP must be kept on-site with the building manager(s) or other responsible individual(s) identified in the PMP. The PMP must include, but need not be limited to, the following strategies and facilities.
 - A. Resident, visitor, and non-residential parking must be in separate areas to properly segregate parking for each use.
 - B. Signs identifying resident, visitor, and non-residential parking areas must be provided.

PARKING REDUCTION CONDITIONS
Metro West Buildings #6 & 10
June 7, 2022

- C. A sign at the entrance to the garage directing traffic to the resident, visitor, and non-residential parking areas must be provided.
 - D. Signs identifying designated short-term on-street parking spaces for delivery and drop-off must be provided.
 - E. Resident parking must be controlled by permit. The PMP must outline the permit program.
 - F. The PMP must include a site plan showing the locations of the designated parking areas.
 - G. The PMP must include provisions for enforcement (e.g., towing) in the event of violation.
 - H. If the building(s) is developed as or converted to condominiums, the condominium owners' association documents must provide that residents may not park in visitor spaces and must provide for enforcement action by the condominium owners' association in the event of violation.
 - I. Residential parking spaces, not assigned to a specific residential unit, that are adjacent to the required visitor parking spaces may be used for additional visitor parking until such time as they are needed to meet the demand from residential unit owners/renters. To facilitate the use of these residential parking spaces as visitor spaces, the spaces shall be managed as follows:
 - The residential parking spaces adjacent to the required visitor parking should not be assigned to a specific residential unit until all other available spaces have been assigned.
 - The residential spaces used as visitor spaces will be marked as visitor spaces until such time as they are converted back to residential spaces. Such visitor spaces may be converted back to residential spaces at any time.
 - Initially, a minimum of ten (10) residential spaces per building will be utilized as visitor spaces. Usage of the visitor spaces will be periodically assessed to determine if additional visitor spaces are needed. If they are needed, additional residential spaces will be converted to visitor spaces contingent on availability.
6. Parking Space Utilization Study. No earlier than eighteen (18) months and no later than twenty-four (24) months after the issuance of the first occupancy permit for the first new building on the Property, the owner must submit a parking space utilization study for both buildings to the Director of Land Development Services (Director). The Director may approve an extension of this time period if the

PARKING REDUCTION CONDITIONS
Metro West Buildings #6 & 10
June 7, 2022

buildings are less than 90 percent occupied during the time period when the study is required to be conducted.

7. If the site is developed in substantial conformance with the approved development plan and associated rezoning application RZ 2003-PR-022, then this parking reduction will remain in effect.
8. The conditions of approval of this parking reduction must be incorporated into any site plan or site plan revision submitted to the Director for approval.
9. The owner must submit a parking space utilization study for review and approval by the Director promptly upon request by the Zoning Administrator or the Director at any time in the future. Following review of that study, or if a study is not submitted within 90 days after its request, the Director may require alternative measures to satisfy the on-site parking needs of the property. Such measures may include, but are not limited to, compliance with the full parking requirements specified in the Zoning Ordinance.
10. All parking utilization studies prepared in response to a request by the Zoning Administrator or the Director must be based on applicable requirements of The Code of the County of Fairfax, Virginia and the Zoning Ordinance in effect at the time of the study's submission.
11. All parking provided must comply with the applicable requirements of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act and the Virginia Uniform Statewide Building Code.
12. These conditions of approval are binding on the owner and must be recorded in the Fairfax County Land Records in a form acceptable to the County Attorney. If these conditions have not been recorded and an extension has not been approved by the Director, approval of this parking reduction request will expire without notice six months from its approval date.

WELLS + ASSOCIATES

MEMORANDUM

Attachment II



11220 Assett Loop
Suite 202,
Manassas, VA 20109
703-365-9262
WellsandAssociates.com

TO: John Friedman
Site Code Research and Development (SCRD)

FROM: Kevin R. Fellin, P.E.

SUBJECT: Parking Reduction Request

RE: **8342-PKS-001-2.1** / RZ 2003-PR-022 Metro West – Buildings #6 and 10;
Tax Map: 48-2 ((T24)) B1 and 48-2 ((24)) B1

DATE: June 28, 2021 as revised through January 18, 2022

Purpose: The purpose of this memorandum is to submit an updated parking reduction request to Fairfax County's Parking Program Manager for a project located within the designated Vienna Transit Station Area (TSA) of Fairfax County, Virginia. The parking reduction request is submitted in support of an upcoming site plan submission(s). This update from the previous parking reduction request is based on a recent meeting with the Providence District Supervisor's office that resulted in a revision to the proposed parking ratios and reduction of the overall dwelling units (DUs). A comparison between the original versus updated request is provided at the end of this request as also shown on Tables 5 and 6.

Pre-Submission Meeting: A pre-submission document and meeting request was submitted to the Fairfax County's Parking Program Manager on Monday, May 17, 2021 via email. A formal pre-submission meeting was held with Fairfax County staff on Wednesday, May 26, 2021.

Post-Submission Meeting: A post-submission meeting occurred on Wednesday, September 15, 2021 that included County staff, the Applicant, and Wells+Associates. Revisions to the subject parking reduction request were discussed to include additional information and clarify that the parking reduction is applied from the parking ratios established in the approved CDP/FDP. On October 29, 2021, direction was provided to modify the parking reduction request from Building #6, 7, and 10 to only Buildings #6 and 10 that are under site plan review.

Professional Engineers Seal



WELLS + ASSOCIATES

MEMORANDUM

Applicant: V Metro W LLC, V Metro LLC, Metro W LLC

**Filed Concurrently
with Application #:** 8342-SP-016

**Parking Reduction
Request:**

Background. Metro West was approved by the Board of Supervisors on March 27, 2006 when the zoning ordinance parking ratios documented in the proffered Conceptual/Final Development Plan (CDP/FDP) reflected County-wide minimum parking ratios that pre-dated the current reduced Zoning Ordinance minimum parking ratios for uses within a TSA. Since the approval of Metro West in 2006, the land area surrounding the Vienna Metrorail Station that includes Metro West has been designated as a TSA. Subsequent Zoning Ordinance amendments have reduced the County-wide minimum parking ratios for uses within TSAs and redefined eating establishments and other food-oriented uses as Restaurants for which parking is calculated based on square footage (GFA) and not tables seats, counter seats, and employees.

According to Metro West Proffer 13.a., the minimum parking ratios shown on Metro West's CDP/FDP currently supersede the underlying TSA parking ratios outlined in the Zoning Ordinance. Proffer 13.b allows the Applicant(s) to request a parking reduction from the parking ratios shown on the CDP/FDP without requiring a PCA or FDPA.

The subject parking reduction request seeks to reduce the minimum residential parking requirement from the established 1.6 spaces per DU as shown on the CDP/FDP for Buildings #6 and 10. In addition, this parking reduction request also seeks a non-residential parking reduction to establish that all the non-residential uses within Buildings #6 and 10 shall be parked based on the strict application of the current Zoning Ordinance parking requirements for non-residential uses in a TSA. A non-residential parking reduction beyond the established TSA parking provisions is not requested.

Request for the Board of Supervisors. The following outlines the requested parking reductions.

Residential Parking Reduction. Up to a maximum of 560 DUs will be collectively located in Metro West Buildings #6 and 10. As summarized in Table 1 below, the subject parking reduction request seeks to reduce the CDP/FDP multi-family minimum parking ratio to reduced parking ratios based on bedroom unit type.

MEMORANDUM

Table 1

Multi-Family	Current Site Requirement	Proposed Requirement	Parking Reduction Request
	Min	Min	Min
0-1 Bedroom	1.6	1.1	-0.5 (-31.3%)
2 Bedroom	1.6	1.4	-0.2 (-12.5%)
3+ Bedroom	1.6	1.6	---

- (1) Residential parking ratios are per dwelling unit.
 (2) The proposed parking ratios are loaded rates that include 0.05 spaces per unit for visitor parking (or 28 spaces for 560 DUs), all required ADA accessible parking spaces, van pool spaces, and any other applicable spaces associated with the operation of the residential building(s).

For informational purposes only, Table 2 below compares the effective proposed parking ratio reductions to the current minimum Zoning Ordinance parking requirements for multi-family DUs within a TSA:

Table 2

Minimum Required Spaces for Transit Station Areas Multi-Family	TSA Requirement	Proposed Requirement	Parking Reduction Request
	Min	Min	Min
0-1 Bedroom	1.3	1.1	-0.2 (-15.4%)
2 Bedroom	1.5	1.4	-0.1 (-6.7%)
3+ Bedroom	1.6	1.6	---

Non-Residential Parking Reduction. The parking reduction request also seeks a non-residential parking reduction from the parking ratios shown on the approved CDP/FDP in order to establish that any non-residential uses within Buildings #6 and 10 shall be parked based on the strict application of the current Zoning Ordinance's parking requirements for applicable non-residential uses in a TSA. [see below, Article 6 Section 6100.4.C. (Table 6100.3) of the Zoning Ordinance]

Source: Fairfax County Zoning Ordinance (Article 6, Section 6100.4.C.)

TABLE 6100.3: Transit Station Area Minimum Required Off-Street Vehicle Parking Spaces	
Use	Minimum Parking Requirement
Dwelling, Multifamily and Stacked Townhouse	0 or 1 bedroom: 1.3 spaces per unit 2 bedrooms: 1.5 spaces per unit 3 or more bedrooms: 1.6 spaces per unit
Office	0 to 0.25 miles from a metro station entrance along an accessible route: 2 spaces per 1,000 square feet of gross floor area More than 0.25 miles from a metro station entrance along an accessible route: 2.3 spaces per 1,000 square feet gross floor area
All other commercial uses, except restaurants	80 percent of the parking rate established in Table 6100.1
All other uses	As established in Table 6100.1

WELLS + ASSOCIATES

MEMORANDUM

Site Location: Future Metro West Buildings #6 and 10 that are subject to a parking reduction are located at the most northern portion of Metro West and generally located just beyond 1/8 mile from the Vienna/Fairfax-GMU metrorail station. This site is also positioned on the south side of Interstate 66 and immediately south of Saintsbury Drive in the Providence Magisterial District. **See Attachment 1**

Vienna Transit

Station Area Map: As depicted in the Comprehensive Plan, the subject site falls within the “Vienna Transit Station Area”. **See Attachment 2**

Tax Map #: Tax Map: 48-2 ((T24)) B1 and 48-2 ((24)) B1

Parcel Size: The overall tax map site area that includes Buildings #6 and 10 is approximately ±9.76 Acres.

Residential Unit

Breakdown: For planning purposes, the overall residential unit breakdown for Buildings #6 and 10 buildings subject to this parking reduction request is summarized below:

±560 Multi-Family Dwelling Units (DU)

- ±364 DU (0-1 Bedroom, 65%)
- ±168 DU (2 Bedrooms, 30%)
- ±28 DU (3+ Bedrooms, 5%)

The unit mix presented above is preliminary and subject to change.

Site Layout: **See Attachment 3**

Proposed Uses

Subject to

Parking Reduction: Multi-Family 0-1 and 2-bedroom DUs (Only) and Non-Residential Uses

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MEMORANDUM

Background: The overall Metro West development was approved by the Fairfax County Board of Supervisors on March 27, 2006 subject to proffers dated March 21, 2006. As a result of the Board's actions, a mixed-use, transit-oriented development was designated for approximately 56.03 acres to include a maximum of 300,000 square feet (SF) office, 135,000 SF of retail, 29,700 SF of public use space, and approximately 2,248 residential DUs comprised of both single family-attached and multi-family DUs. The 56.03-acre Metro West development was rezoned to three (3) categories: 23.25 acres in the PRM (Planned Residential Mix-Use) District, 17.10 acres in the PDH-16 (Planned Development Housing-16 DUs per acre) District, and 15.68 acres in the PDH-12 (Planned Development Housing- 12 DUs per acre) District.

Approved Proffers: See Attachment 4

Zoning District: The area serving Metro West Buildings #6 and 10 are zoned Planned Residential Mixed Use (PRM) District.

Existing Parking Reductions: There are no existing parking reductions in place for any of the existing or approved/unbuilt uses associated with Metro West.

Parking Reduction Request Basis: Article 6 - Section 6100.6.B. of the County's Zoning Ordinance states:

"Transit-Related Parking Reduction

- (1) The Board may reduce the number of required off-street parking spaces, subject to appropriate conditions, when the proposed development is within:*
- a. Reasonable walking distance to a mass transit station that either exists or is programmed for completion within the same time frame as the completion of the subject development;*
 - b. An area designated in the Comprehensive Plan as a Transit Station Area;"*

MEMORANDUM

Residential Parking

Requirement Analysis: Table 3A: Current Metro West Parking Requirement via CDP/FDP Parking Tab (1) (2) (3)

Uses	Amount	Units	Current Parking Ratio Requirements	TSA Code Required Spaces
			Min	Min
MF 0-1 Bedroom	±364	DU	1.6	582.4
MF 2 Bedroom	±168	DU	1.6	268.8
MF 3+ Bedroom	±28	DU	1.6	44.8
Total Current Metro West Code Required Spaces				896
Effective Overall Parking Ratio by DU				±1.60 spaces/DU
Effective Overall Parking Ratio by Bedroom				±1.14 spaces/Bed

Table 3B: For Comparison Purposes: Current TSA Code Parking Requirement (1) (2) (3)

Uses	Amount	Units	Current Parking Ratio Requirements	TSA Code Required Spaces
			Min	Min
MF 0-1 Bedroom	±364	DU	1.3	473.2
MF 2 Bedroom	±168	DU	1.5	252.0
MF 3+ Bedroom	±28	DU	1.6	44.8
Total TSA Code Required Spaces				770
Effective Overall Parking Ratio by DU				±1.375 spaces/DU
Effective Overall Parking Ratio by Bedroom				±0.982 spaces/Bed

Table 3C: Proposed Parking Requirement (1) (2) (3)

Uses	Amount	Units	Proposed Parking Ratio Requirements	Proposed Required Spaces
			Min	Min
MF 0-1 Bedroom	±390	DU	1.1	400.4
MF 2 Bedroom	±180	DU	1.4	235.2
MF 3+ Bedroom	±30	DU	1.6	44.8
Total Proposed Requirement Spaces				681
Difference (Proposed minus Current Metro West Requirement)				(215) or -24.0%
Difference (Proposed minus TSA Requirement)				(89) or -11.6%
Effective Overall Parking Ratio by DU				±1.216 spaces/DU
Effective Overall Parking Ratio by Bedroom				±0.87 spaces/Bed

- (1) Residential parking ratios are per dwelling unit.
- (2) The Metro West parking ratios are loaded rates that include 0.05 spaces per unit for visitor parking (or 28 spaces for 560 DUs), all required ADA accessible parking spaces, van pool spaces, and any other applicable spaces associated with the operation of the residential building(s).
- (3) The unit mix presented in the table above is preliminary and subject to change.

MEMORANDUM

Parking Supply: The residential parking supply that includes ADA parking, van pool spaces, and any other applicable spaces associated with the operation of the residential building(s) will be equal to or greater than the proposed minimum required spaces. Visitor parking per the Board of Supervisor accepted proffers for Metro West (Proffer 13.C.ii) shall be provided as follows:

“A minimum of 0.05 parking spaces per multi-family unit (of the total provided) shall be labeled as visitor parking and located in areas convenient to the respective multi-family buildings (i.e. on street parking or within areas of parking garages that are accessible and not assigned). Such spaces shall be available for general parking and shall not be assigned or allocated for use by individual dwelling units. In addition, homeowners/ condominium owners' association documents shall provide that residents shall not park in visitor spaces and shall provide for enforcement action by the HOA/COA in the event of violation.”

The non-residential uses within the residential building that would be generally located on the ground floor would be parked to code through a parking supply of spaces primarily located on the private streets that directly serve Buildings #6 and 10.

This parking reduction request will not alter any of the proffered TDM requirements. As an example, consistent with Proffer 7.b.(xii), a designated residential van pool space(s) will be provided within the overall Metro West development to support the strategies to minimize vehicle trips.

Additionally, consistent with Proffer 13.d., at least two on-street parking spaces proximate to each building will be made available for short-term (15 minutes or less) delivery and drop-off use for car pools, van pools, shared car services, delivery services and the like.

Other Factors: The following is list of other supporting factors that include a comparison to other approved parking reductions, National Parking Data, proffers, and other information.

1. In coordination with County staff, the subject residential parking reduction request was compared to other recently approved multi-family residential parking reductions in Fairfax County that are located proximate to Metrorail. As shown on **Table 4**, the subject Metro West residential parking reduction request is consistent and would park more spaces per DU to what was previously approved. This is particularly relevant when considering that the subject Metro West residential buildings are significantly closer to Metrorail than the other sites.

Table 4
Parking Reduction Comparison
Fairfax County, Virginia

	Metro West - Buildings #6 and 10		Golf Course Overlook		2722 Merrilee Drive		Midline		Reston Gateway	
PKS #	8342-PKS -001-2.1		7112-PKS-002		3000-PKS-004-1		3729-PKS-007		5468-PKS-004-1	
Date Approved	Pending		October 19, 2021		January 26, 2021		December 4, 2018		July 30, 2018	
Total Units	560 DU (Max)		300 DU (Max)		239 DU (Max)		550 DU (Max)		2,010 DU (Max)	
MF Unit Mix (±)	(%)	(±DU)	(%)	(±DU)	(%)	(±DU)	(%)	(±DU)	(%)	(±DU)
0-1 BR	65.0%	364	71.7%	215	81.2%	194	61.8%	340	65.0%	1307
2 BR	30.0%	168	28.3%	85	18.8%	45	36.5%	201	30.0%	603
3+ BR	5.0%	28	0.0%	0	0.0%	0	1.6%	9	5.0%	100
MF Parking Ratio										
0-1 BR (TSA = 1.3 sp/DU)	1.10		1.09		1.10		1.00		1.10	
2 BR (TSA = 1.5 sp/DU)	1.40		1.25		1.10		1.30		1.35	
3+ BR (TSA = 1.6 sp/DU)	1.60		1.60		1.60		1.60		1.60	
Overall	n/a		n/a		n/a		n/a		n/a	
Effective Spaces/BR	0.87		0.88		0.93		0.80		0.86	
Effective Spaces/DU	1.22		1.14		1.10		1.12		1.20	
Nearby Metrorail Station	Existing Station Vienna		Existing Station Wiehle-Reston East		Existing Station Dunn Loring		Existing Station Wiehle-Reston East		Future Station Reston Town Center	
Straightline Distance to/from Metrorail Platform	±660 ft to ±875 ft ±0.125 mi to ±0.17 mi		±1,730 ft to ±1,980 ft ±0.33 mi to ±0.38 mi		±1,450 ft to ±1,650 ft ±0.28 mi to ±0.31 mi		±1,040 ft to ±1,500 ft ±0.20 mi to ±0.28 mi		±900 ft to ±1,300 ft ±0.17 mi to ±0.25 mi	
Non-Residential Parking Reduction	TSA Rates Proposed		NO, Parked at TSA Rates		NO, Parked at TSA Rates		YES		YES	

MEMORANDUM

2. **Vienna/Fairfax-GMU Metrorail Station.** The location of the site is generally just outside 1/8-mile from the Vienna/Fairfax-GMU Metro Station which is served by approximately 27 bus lines operated by Fairfax Connector, WMATA metrobus, CUE bus systems, and Bestbus.
3. **National Parking Data.** The Institute of Transportation Engineers (ITE) Parking Generation Manual, 5th Edition was published in 2019 to provide additional information to assist analysts to forecast parking demands. ITE provides multi-family parking ratio information based on building type (e.g. low, mid, or high). A mid-rise multi-family building is defined to be between 3 and 10 floors of residence and most reflective of what is being proposed. ITE provides parking demand ratios for specific land uses that were developed through numerous nationwide data collection efforts. As such, ITE published parking demand data for mid-rise multi-family residential projects within ½ mile of rail transit. ITE reports that the 85th percentile parking demand for mid-rise multi-family residential within ½ mile of rail transit to be 0.86 spaces per bedroom. In comparison to the subject request and given that Metro West would provide a minimum of approximately 0.87 spaces per bedroom and is immediately outside 1/8 mile from metrorail, the proposed parking reduction would adequately serve the site.
4. **Proffer 13.b. - Parking.** “The Applicant shall not request a parking reduction for the single-family attached units. Notwithstanding Proffer 13.a. above, the Applicant reserves the right to request a parking reduction or shared parking agreement pursuant to Article 11 (*current Article 6*) of the Zoning Ordinance for a multi-family (except two-over-two multi-family units) and/or non-residential use. Any modification of the required parking as approved by such parking reduction or agreement may be accommodated without requiring a PCA or FDPA provided that the layout of the parking remains in substantial conformance with that depicted on the CDP/FDP. The Applicant shall not request a parking reduction for the single-family attached units.”
5. **Proffer 13.d. – Parking, Drop-off Areas.** “At the time of site plan submission for each of Buildings 6, 7, 8, 9, 10, 16, 17 and 18, the Applicant shall designate at least two on-street parking spaces proximate to such building to be made available for short-term (15 minutes or less) delivery and drop-off use for car pools, van pools, shared car services, delivery services and the like. Conceptual locations for such spaces are shown on the CDP/FDP, and such locations may be modified at the time of final site plan subject to approval by FCDOT. Similarly, the Applicant shall so designate at least two such spaces for such use in connection with each of the following groups of buildings: (i) Buildings 11, 12 and 13; (ii) Buildings 14 and 15; (iii) Buildings 2, 3, 4 and 5; and (iv) Buildings 19 and 20.”

MEMORANDUM

6. **Transportation Demand Management (TDM)**. Metro West is subject to a robust TDM proffer (Proffer 7) that has a goals to reduce peak hour vehicle trips and support non-auto modes of transportation.
7. **Proffer 7.b.(xii) – Transportation Demand Management (TDM)/TDM Strategic Plan**. “Establishment of a parking management plan to be coordinated with FCDOT to promote strategies to minimize vehicle trips. Such plan shall provide for, among other things, the “un-bundling” of parking spaces from unit sales/leases, dedicated space for residential vanpools, unbundling of leasing and pricing for office space and parking spaces, preferential parking (rates and locations) for carpools and vanpools;”

Original versus

Updated Request:

Table 5 and 6 provides a comparison between the original versus updated residential parking reduction request, respectively. The key highlights are summarized below:

- The total dwelling units subject to the parking reduction request decreased from **600 DUs to 560 DUs (or 40 fewer DUs)**.
- The percent of 0-1 bedroom (BR) units **remained the same at 65.0%**
- The percent of 2 BR units **remained the same at 30.0%**
- The percent of 3+ BR units **remained the same at 5.0%**
- The proposed parking ratio for 0-1 BR units **increased from 1.0 space/DU to 1.1 spaces/DU (or 0.1 more spaces/DU)**
- The proposed parking ratio for 2 BR units **increased from 1.25 spaces/DU to 1.4 spaces/DU (or 0.15 more spaces/DU)**
- The requested percent parking reduction for the residential uses **decreased from 30.9% to 24.0% (or 6.9% less)**
- In comparison to the TSA minimum parking ratios, the requested percent parking reduction for the residential uses **decreased from 19.6% to 11.6% (or 8.0% less)**
- Due to the increase in the proposed parking ratio for 0-1 BR and 2 BR units, the effective recommended parking ratio changed as follows:
 - **increased from 1.11 spaces/DU to 1.22 spaces/DU (or 0.11 more spaces/DU)**
 - **increased from 0.79 spaces/bed to 0.87 spaces/bed (or 0.08 more spaces/bed)**

Table 5
Metro West - Buildings #6 and #10
Original - Parking Reduction Summary (1) (2)

Use	Amount	Units	Minimum Code Requirement Parking Ratio	Spaces	Minimum Proposed Requirement Parking Ratio	Spaces	Diff. Spaces	% Diff. %
RESIDENTIAL								
0-1 Bedrooms (65.0%)	390	DU	1.6 spaces per 0-1 BR DU	624.0	1.0 spaces per 0-1 BR DU	390.0	(234.0)	37.5%
2 Bedrooms (30.0%)	180	DU	1.6 spaces per 2 BR DU	288.0	1.25 spaces per 2 BR DU	225.0	(63.0)	21.9%
3 Bedrooms (5.0%)	30	DU	1.6 spaces per 3+ BR DU	48.0	1.6 spaces per 3+ BR DU	48.0	0.0	0.0%
Total Non-Residential	600	DU	1.60 spaces per DU 1.14 spaces per Bed	960.0	1.11 0.79 spaces per Bed	663	(297.0)	30.9%

Note(s):

(1) Minimum Code parking requirements are based on strict application of the minimum parking ratios set forth by Article 6 of the Fairfax County's Zoning Ordinance.

(2) DU = Dwelling Unit, BR = Bedroom, Diff. = Difference (Proposed minus Code)

Table 6
Metro West - Buildings #6 and #10
Updated - Parking Reduction Summary (1) (2)

Use	Amount	Units	Minimum Code Requirement Parking Ratio	Spaces	Minimum Proposed Requirement Parking Ratio	Spaces	Diff. Spaces	% Diff. %
RESIDENTIAL								
0-1 Bedrooms (65.0%)	364	DU	1.6 spaces per 0-1 BR DU	582.4	1.1 spaces per 0-1 BR DU	400.4	(182.0)	31.3%
2 Bedrooms (30.0%)	168	DU	1.6 spaces per 2 BR DU	268.8	1.4 spaces per 2 BR DU	235.2	(33.6)	12.5%
3 Bedrooms (5.0%)	28	DU	1.6 spaces per 3+ BR DU	44.8	1.6 spaces per 3+ BR DU	44.8	0.0	0.0%
Total Non-Residential	560	DU	1.60 spaces per DU 1.14 spaces per Bed	896.0	1.22 0.87 spaces per Bed	681	(215.6)	24.0%

Note(s):

(1) Minimum Code parking requirements are based on strict application of the minimum parking ratios set forth by Article 6 of the Fairfax County's Zoning Ordinance.

(2) DU = Dwelling Unit, GFA = Square Feet of Gross Floor Area, SF = Square Feet, BR = Bedroom, Diff. = Difference (Proposed minus Code)

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MEMORANDUM

Impact to the Adjacent Area:

Article 6 - Section 6100.6.B.(3) of the County's Zoning Ordinance states:

"A reduction may be approved when the applicant has demonstrated that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from its proximity to a mass transit station, transportation facility, or bus service, and the reduction will not adversely affect the site or the adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods."

Given the parking reduction is located immediately adjacent to the Vienna/Fairfax-GMU Metrorail Station, the subject is an ideal location for a parking reduction. The adjacent portions of Metro West are parked to code providing excess parking opportunities when considering their overall proximity to mass transit and the underutilized parking in WMATA's southwest garage. Further, the subject parking reduction is limited to only to the site's 1-Bedroom and 2-Bedroom unit types and seeks to bring the non-residential uses in line with current TSA requirements.

Please see the contact information below if you have any questions or might require any additional materials.

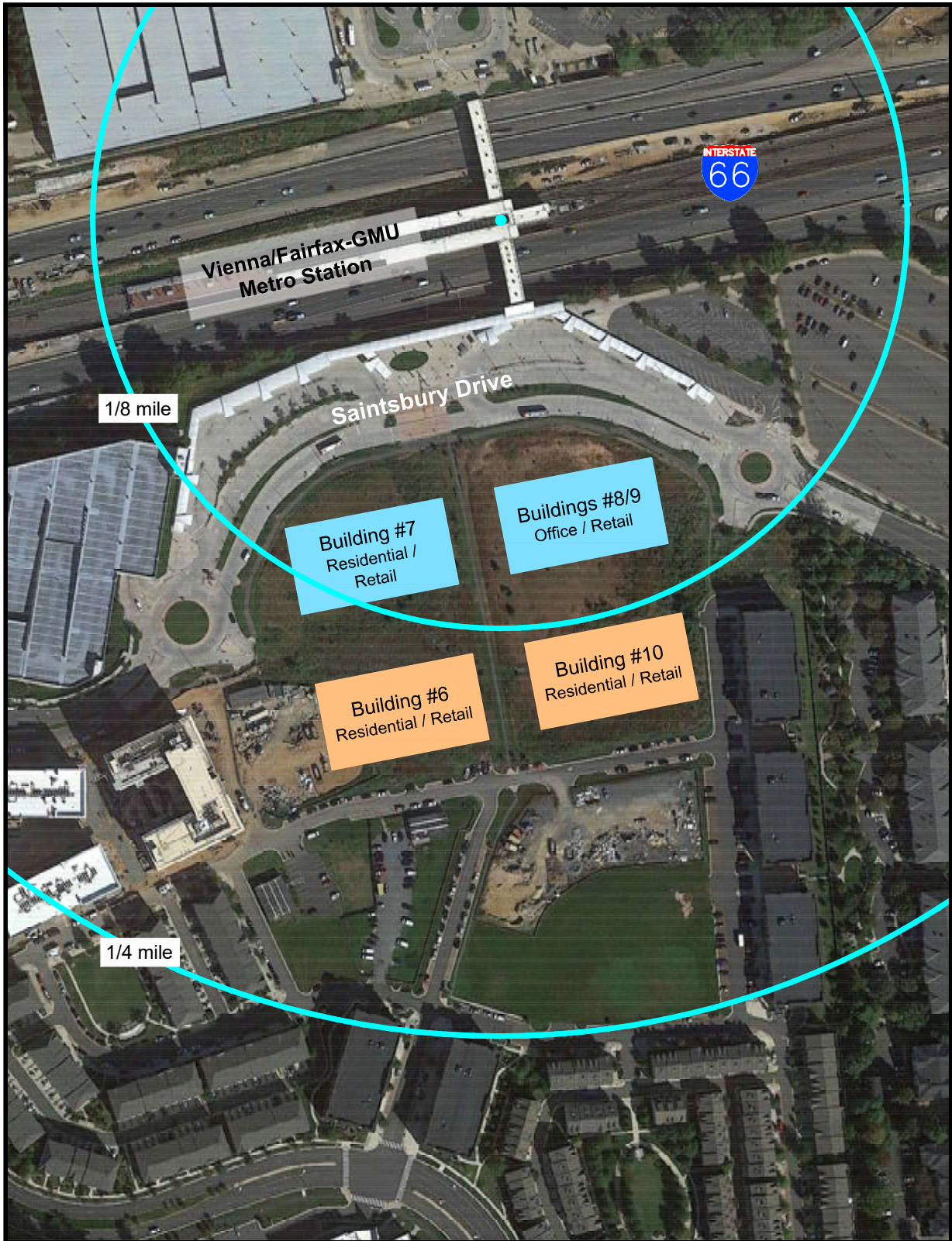
Contact

Information:

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Attachment 1

Site Location
and Distance From Metrorail

- Subject to Parking Reduction Request
- Not Subject to Parking Reduction Request



NORTH

Metro West - Building 6 and 10
Fairfax County, Virginia



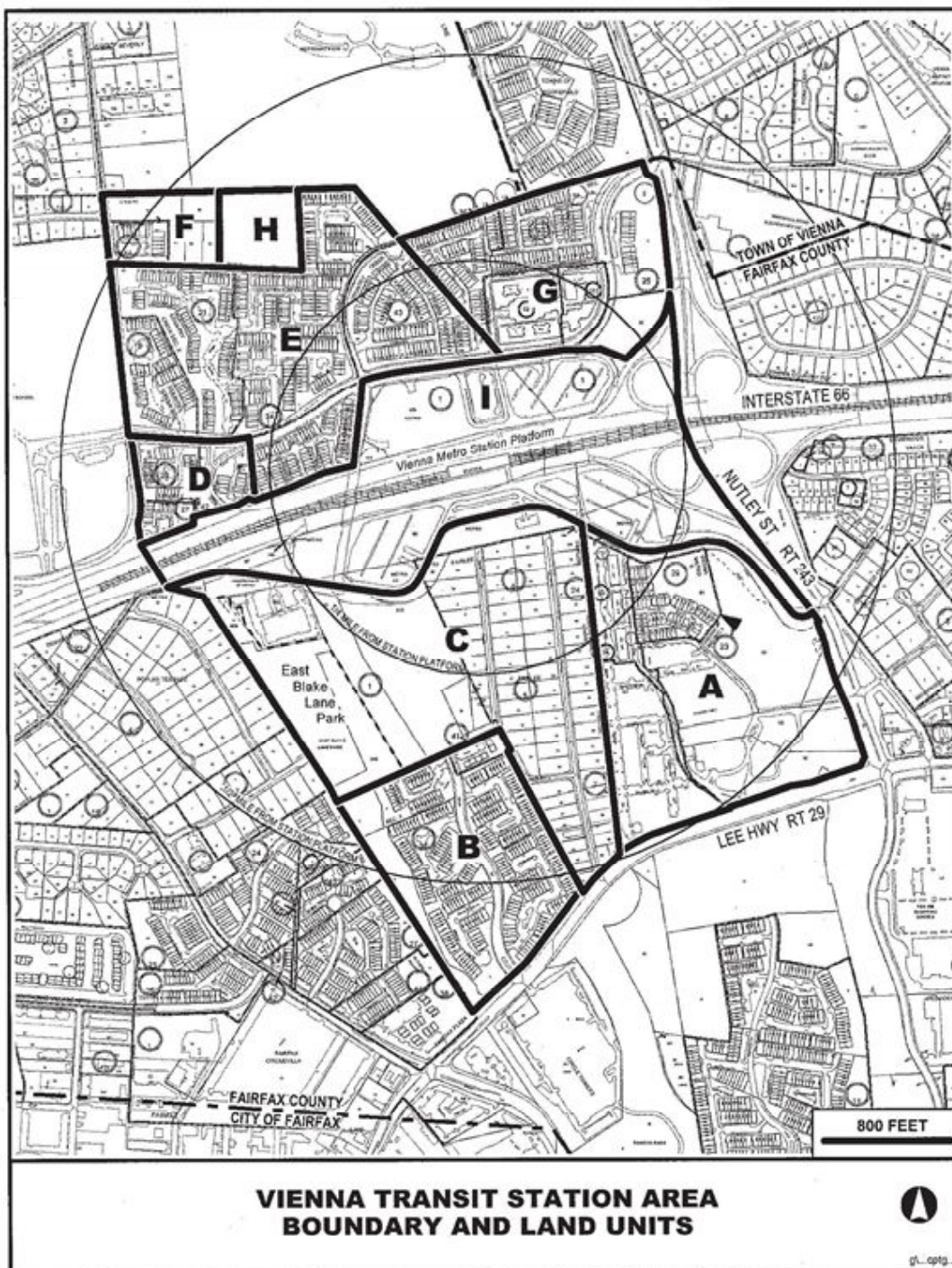
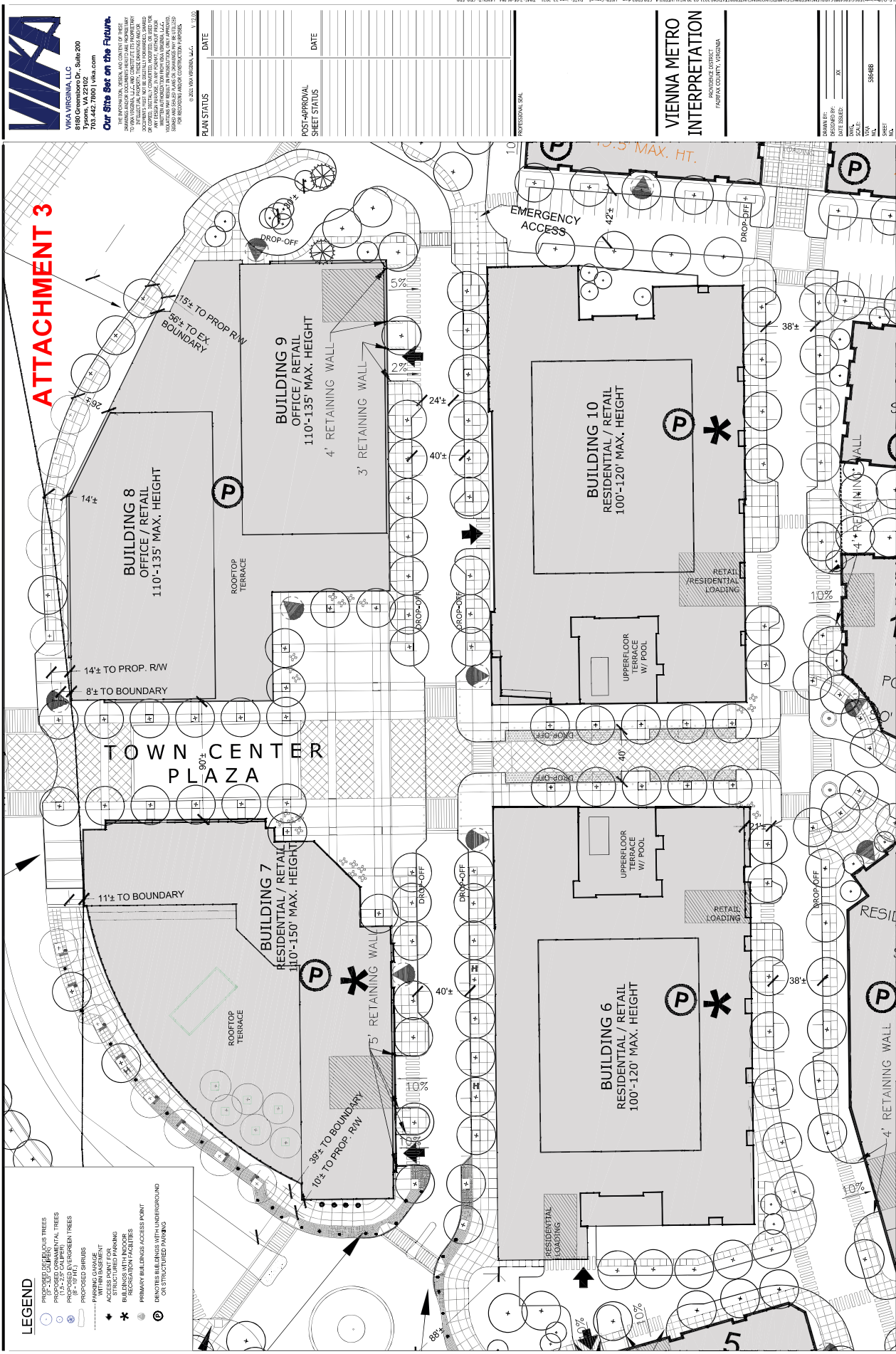


FIGURE 8



METRO WEST PROFFERS
PULTE HOME CORPORATION
RZ 2003-PR-022
MARCH 21, 2006

Pursuant to Section 15.2-2303 (A), Code of Virginia, 1950, as amended, PULTE HOME CORPORATION (the "Applicant") for the owners, themselves, their successors and assigns in RZ 2003-PR-022 (the "Application"), filed for property identified as Fairfax County Tax Maps 48-1((1)) 90B (formerly 48-1((1)) 90 pt., 91B pt., 48-1((6)) 7A, 8B pt., 48-2((24)) 38A pt.), 91, 91A; 48-1 ((6)) 5, 6, 7B, 8A, 9-13, 33-37; 48-2 ((24)) 38B, 39-42; 48-3 ((1)) 55; 48-3 ((5)) 1A, 1B, 2-4, 14-22; 48-4 ((7)) 23-32, 43-54, 56-60, 61A, 62-69, and existing Fairlee Drive (Rt. 1040), to be vacated/abandoned, and Maple Drive (Rt. 1041), to be vacated/abandoned (the "Application Property") hereby agrees to the following proffers, provided that the Board of Supervisors approves the Application rezoning the Application Property from the R-1 District to the PRM District, the PDH-16 District and the PDH-12 District as requested in the Application. In the event the Application is approved by the Board of Supervisors, any previous proffers applicable to the Application Property or portions thereof, shall be deemed null and void and shall have no further force or effect.

1. Development Plan

- a. General. Development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP"), prepared by Dewberry & Davis LLC, and dated March 24, 2003, as revised through March 7, 2006. Notwithstanding that the CDP/FDP is presented on 53 sheets, it shall be understood that the Conceptual Development Plan ("CDP") shall be only those elements of the plans that depict points of access, the amount and location of open space, peripheral setbacks, limits of clearing and grading, building heights, the total number, type, uses and general location of buildings, roads and stormwater management (the "CDP Elements"). The Applicant reserves the right to request a Final Development Plan Amendment ("FDPA") for elements other than the CDP Elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with Section 16-402 of the Zoning Ordinance if such an amendment is in accordance with the approved CDP and these proffers, as determined by the Zoning Administrator.
- b. Right of Way Vacation. Notwithstanding the submission for processing of any applications, plans or plats in furtherance of the development of the

Application Property, the Applicant acknowledges that no such application, plan or plat shall be approved by Fairfax County until or unless the vacation of right-of-way of existing Maple Drive (Rt. 1041) and Fairlee Drive (Rt. 1040) as proposed as part of the Application Property is approved by the County and is final. In the event that such vacation of Fairlee Drive and Maple Drive is not approved by the County, or in the event that the County's approval is overturned by a court of competent jurisdiction, any development of the Application Property shall require a PCA and the Applicant acknowledges that such amendment may result in a loss of density/intensity.

- c. Minor Modifications. Pursuant to Paragraph 4 of Section 16-403 and Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications to the Final Development Plan ("FDP") and these proffers may be permitted as determined by the Zoning Administrator.

2. Zoning

- a. As shown on the CDP/FDP, the Application Property is zoned to three (3) zoning districts as follows:
 - (i) Core Area. A total of approximately 23.2 acres of land comprising the northeastern portion of the Application Property is zoned to the PRM District. Such portion of the Application Property is referenced herein as the "Core Area".
 - (ii) Non-Core West Area. A total of approximately 17.1 acres of land comprising the northwestern portion of the Application Property is zoned to the PDH-16 District. Such portion of the Application Property is referenced herein as the "Non-Core West Area."
 - (iii) Non-Core South Area. A total of approximately 15.7 acres of land comprising the southern portion of the Application Property is zoned to the PDH-12 District. Such portion of the Application Property is referenced herein as the "Non-Core South Area".

3. Maximum Density

- a. Maximum Dwelling Units on Application Property. The maximum total number of residential dwelling units that may be constructed on the Application Property in its entirety shall be 2,248. Such total shall include all affordable dwelling units, all bonus dwelling units attributable to affordable dwelling units, all age-restricted dwelling units, all independent living units, any "live-work" units and any "apartment hotel" units (as provided in Proffer 15 below). The Applicant reserves the right to

construct a lesser number of dwelling units than the maximum allowed provided that the buildings and site remain in substantial conformance with that shown on the CDP/FDP as determined by the Zoning Administrator. Multiple family dwelling units (exclusive of two-over-two multiple family dwelling units) will generally range in size from 1,000 to 2,000 square feet of GFA per dwelling unit. No more than one (1) of the multiple family dwelling unit buildings (exclusive of the two-over-two multiple family dwelling unit buildings) shall be constructed with an average dwelling unit size that exceeds 2,500 square feet of gross floor area per dwelling unit.

- b. Core Area. The maximum floor area ratio ("FAR") permitted within the Core Area shall be 2.25. Based on this maximum FAR, the maximum gross floor area ("GFA") that may be constructed within the Core Area shall be 2,833,469 square feet, exclusive of cellar space. Such maximum GFA shall include all affordable dwelling units and any density bonus attributable thereto. For purposes of calculating the maximum allowable GFA in the Core Area, density credit is taken for land dedicated by the Applicant for Saintsbury Drive as part of this Application, 0.95 acres of land previously dedicated for public purposes, approximately 4.71 acres of land located in the Non-Core West Area to be dedicated for public purposes as provided herein, and any other allowable density credit as provided by Paragraph 4 of Section 2-308 of the Zoning Ordinance. The Applicant reserves the right to construct a lesser amount of GFA within the Core Area provided that the number of buildings, height and site layout remain in substantial conformance with that shown on the CDP/FDP as determined by the Zoning Administrator.
- c. Non-Core West Area. The maximum residential density permitted within the Non-Core West Area shall be sixteen (16) dwelling units per acre, exclusive of affordable dwelling units and any density bonus attributable thereto, and exclusive of up to 230 independent living units to be located in Buildings 2, 3 and 4. The CDP/FDP depicts a total of 388 dwelling units in the Non-Core West Area. A total of approximately 3.59 acres of land located in the Non-Core West Area shall be entitled to apply the multiplier for independent living units (Zoning Ordinance Section 9-306(6)) to support a maximum of 230 independent living units within such area (i.e. $3.59 \text{ acres} \times 16 \text{ du/ac} \times 4 = 230$). For purposes of calculating the maximum allowable density in the Non-Core West Area, density credit is taken for approximately 3.19 acres of land located in the Non-Core West Area to be dedicated for public purposes (e.g. Vaden Drive Extended) as provided herein and any other allowable density credit as provided by Paragraph 4 of Section 2-308 of the Zoning Ordinance except the 4.71 acres of land for which density credit is taken in the Core Area as provided in Proffer 3.b. above. The Applicant reserves the right to construct a

lesser number of dwelling units within the Non-Core West Area provided that the number of buildings, height and site layout remain in substantial conformance with that shown on the CDP/FDP as determined by the Zoning Administrator.

- d. Non-Core South Area. The maximum density permitted within the Non-Core South Area shall be twelve (12) dwelling units per acre, exclusive of affordable dwelling units and any density bonus attributable thereto. The CDP/FDP depicts a total of 218 dwelling units in the Non-Core South Area. For purposes of calculating the maximum allowable density in the Non-Core South Area, density credit is taken for approximately 1.87 acres of land located in the Non-Core South Area to be dedicated for public purposes (e.g. Vaden Drive Extended) as provided herein and any other allowable density credit as provided by Paragraph 4 of Section 2-308 of the Zoning Ordinance. The Applicant reserves the right to construct a lesser number of dwelling units within the Non-Core South Area provided that the building heights and site layout remain in substantial conformance with that shown on the CDP/FDP as determined by the Zoning Administrator.
- e. Allocation of Dwelling Units and GFA. The anticipated allocation of dwelling units and GFA among the various buildings to be constructed on the Application Property is represented on the CDP/FDP. The Applicant reserves the right to reallocate dwelling units and/or GFA among the buildings depicted on the CDP/FDP without requiring a proffered condition amendment ("PCA") or FDPA so long as (1) the total maximum of 2,248 dwelling units is not exceeded; (2) the minimum and maximum building heights as set forth in Proffer 4 and as shown on the CDP/FDP are not, respectively, reduced or exceeded; (3) the footprint and configuration of individual buildings remains in substantial conformance to that shown on the CDP/FDP; and (4) the maximum density limitations within the various zoning districts of the Application Property as provided in Proffer 3.b. – 3.d. above, are not exceeded, as determined by the Zoning Administrator.
- f. Build-out in Phases. Build-out of the Application Property may proceed in phases within or across each of the respective zoning districts. The FAR, GFA and/or number of dwelling units per acre constructed within a respective phase of the project may exceed the maximum density limitations set forth in Proffer 3.b – 3.d. so long as such maximum density limitations are not exceeded over the entirety of the respective zoning districts and/or over the entirety of the Application Property at any time.
- g. Density Credit. Density credit shall be reserved for the Application Property as provided by Paragraph 4 of Section 2-308 of the Zoning

Ordinance for all dedications described herein and/or as shown on the CDP/FDP or as may reasonably be required by Fairfax County, VDOT or others at the time of site plan approvals.

4. Building Height.

- a. General. The Applicant shall construct buildings within the range of heights as shown on the CDP/FDP. Building height shall be measured as defined by the Zoning Ordinance and shall be exclusive of those structures that are excluded from the maximum height regulations as specifically set forth in Section 2-506 of the Zoning Ordinance, including, for example, penthouses and other rooftop structures used for common amenity space for residents of those buildings, such as rooftop pool facilities (except for Buildings 7, 8 and 9, which shall not have rooftop pool facilities on the uppermost roof levels), exercise rooms, meeting/party rooms and the like. Penthouses shall be regulated as provided in Section 2-506 of the Zoning Ordinance. In addition, penthouses and other rooftop structures on Buildings 7, 8 and 9 shall not exceed a height of seventeen (17) feet from the roof level of the top floor of the building to the top of the penthouse/rooftop structure roof. Penthouses and other rooftop structures on other buildings may be constructed to a height of twenty (20) feet from the roof level of the top floor of the building to the top of the penthouse/rooftop structure roof; provided, however, that any such building that does not have an elevator stop on the roof level shall be limited to a penthouse/rooftop structure height of seventeen (17) feet from the roof level of the top floor of the building to the top of the penthouse/rooftop structure roof. All building penthouses and other rooftop structures shall be architecturally integrated in the design of their respective buildings.
- b. Buildings 7, 8 and 9. Buildings 7, 8 and 9 as shown on the CDP/FDP shall be constructed to a maximum height of 135 feet except that the one building (among Buildings 7, 8 or 9) that is designed and constructed to include the grocery store (as described in Proffer 5) may be constructed to a maximum height of 150 feet provided that any building height greater than 135 feet in that building is needed to accommodate the grocery store use and/or parking associated with it, as determined by the Director, Zoning Evaluation Division.
- c. Buildings 5, 6 and 10. Buildings 6 and 10 shall be constructed to a maximum height of 120 feet. Building 5 shall be constructed to a maximum height of 100 feet, provided that if the ground floor of Building 5 is designed and constructed to accommodate a minimum of 3,000 square feet of Type 1 and/or Type 2 Non-Residential use (as defined in Proffer

5.c.(iii) below), then Building 5 may be constructed to a maximum height of 120 feet.

- d. Buildings 16, 17 and 18. Buildings 16, 17 and 18 shall be constructed to a maximum height of 105 feet. In addition, Building 18 shall taper down in height by at least one story as shown on the CDP/FDP in the portion of such building proximate to the southern boundary of the Core Area.
- e. Buildings 14 and 15. Buildings 14 and 15 shall be constructed to a height between approximately 75 feet and a maximum of 90 feet.
- f. Buildings 11, 12, 13, 19 and 20. Buildings 11, 12, 13, 19 and 20 shall be constructed to a height between approximately 35 feet and a maximum of 50 feet.
- g. Buildings 2, 3 and 4. Buildings 2, 3 and 4 shall be constructed to a height between approximately 55 feet and a maximum of 75 feet.
- h. Building 1. Building 1 shall be constructed to a maximum height of 35 feet.
- i. Single-Family Attached and "Two over Two" Multi-family. The single-family attached dwelling units shall be constructed to a height no greater than 40 feet, and the "two over two" multi-family dwelling units shall be constructed to a height no greater than 50 feet.

5. Uses

- a. Core Area (PRM) Principal Uses.
 - (i) Multiple family dwellings.
 - (ii) Public Uses.
- b. Timing of High-Rise Construction.
 - (i) At a minimum, the Applicant shall have completed six (6) levels of columns and beams for the first of Buildings 6, 7, 8, 9, 10, 16, 17 or 18 prior to the issuance of a RUP for the 501st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.
 - (ii) At a minimum, the Applicant shall have completed construction of the first of Buildings 6, 7, 8, 9, 10, 16, 17 or 18 prior to the issuance of a RUP for the 1,001st residential unit constructed on the

Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.

- (iii) At a minimum, the Applicant shall have completed six (6) levels of columns and beams for the second of Buildings 6, 7, 8, 9, 10, 16, 17 or 18 prior to the issuance of a RUP for the 1,001st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.
- (iv) At a minimum, the Applicant shall have completed construction of the second of Buildings 6, 7, 8, 9, 10, 16, 17 or 18 no later than 18 months after the issuance of the RUP for the 1,001st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.
- (v) At a minimum, the Applicant shall have completed all levels of columns and beams for the first of the office Buildings 8 or 9 prior to the issuance of a RUP for the 1,101st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5. In order to meet this requirement, it is anticipated that construction of such office building would commence approximately 18 months before the issuance of the RUP for the 1,101st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.
- (vi) At a minimum, the Applicant shall have completed construction of the first of such office Buildings 8 or 9 no later than 18 months after the issuance of the RUP for the 1,101st residential unit constructed on the Application Property, exclusive of RUPs issued for the independent living/age restricted units located in Buildings 2, 3, 4 and 5.

Upon demonstration that diligent efforts have been made to meet the timing requirements of this Proffer 5.b., the timing of such buildings may be delayed for good cause shown as determined by the Director, Zoning Evaluation Division. For purposes of this Proffer 5.b. "good cause" shall include, but not be limited to, unforeseen delays relating to permitting and/or construction that could not have been reasonably foreseen despite the due diligence of the Applicant, its contractors and/or its subcontractors.

c. Core Area (PRM) Secondary Uses.

- (i) Hotel as provided in Proffer 15 below.
- (ii) Affordable dwelling units (see Proffer 24 below).
- (iii) Non-Residential, Non-Office Uses within the Core Area (PRM).

(a) Allowable Ground Floor Uses. The ground floors of Buildings 6, 7, 8, 9, 10, 16, 17 and 18 (collectively consisting of approximately 190,000 square feet of GFA exclusive of lobbies, corridors, loading, parking entrances, service corridors, etc.) shall be occupied by residential, office and/or non-residential, non-office uses as provided in this Proffer 5.c.(iii). In addition, space located within the second floors of Buildings 6, 7, 8, 9 and/or 10 may be utilized to accommodate two-story Type 1 or Type 2 Non-Residential Uses (as defined below) that also occupy ground floor space in such building. In addition, the ground floor of Building 5 may be occupied by Type 1 and/or Type 2 Non-Residential Uses as described below.

(b) Design/Construction. Of the 190,000 square feet of GFA referenced in Proffer 5.c.(iii)(a) above, a total of at least 135,000 square feet of GFA within the ground floors of buildings 6, 7, 8, 9, 10, 16, 17 and 18 shall be designed and constructed with ground floors having a floor to floor height of a minimum of 13 feet to accommodate Type 1 and/or Type 2 Non-Residential uses as defined in Proffer 5.c.(iii)(c) below.

Of the total 135,000 square feet of GFA referenced above, a total of at least 100,000 square feet of GFA shall be so located among the ground floors of Buildings 6, 7, 8, 9 and 10, and a total of at least 35,000 square feet of GFA shall be so located among the ground floor(s) of Buildings 16, 17 and/or 18. Such spaces shall be designated on the respective site plans for the buildings in which such spaces will be located, and such spaces shall be constructed concurrent with construction of the respective buildings.

(c) Use/Occupancy. Within the minimum total of 135,000 square feet of GFA constructed as referenced in Proffer 5.c.(iii)(b) above, at a minimum, ground floor spaces within

those buildings shall be occupied with non-residential, non-office uses as follows:

- (A) Type 1 Non-Residential Uses. A minimum total of 30,000 square feet of GFA of the following uses (the "Type 1 Non-Residential Uses") shall be located among the ground floors of buildings 6, 7, 8, 9 and 10:
1. Retail Sales Establishments;
 2. Eating Establishments;
 3. Grocery Store (as defined below);
 4. Bank Teller Machines, unmanned;
 5. Business Service and Supply Service;
 6. Fast-food Restaurants;
 7. Commercial Health Clubs (up to 3,000 square feet of GFA, with any additional GFA counted as Type 2 Non-Residential Use);
 8. Financial Institutions;
 9. Personal Service Establishments;
 10. Quick Service Food Stores; and
 11. TDM Commuter Store/Bike Station (up to 400 square feet of GFA, with any additional GFA counted as Type 2 Non-Residential Use).

Each of the five (5) buildings shall have a minimum of 3,000 square feet of GFA so occupied. As part of this Type 1 Non-Residential Use commitment, the Applicant shall lease a minimum of 15,000 square feet of GFA in the ground floor of Building 7, 8 or 9 to a grocery store user. Such grocery store shall not be a convenience retail or quick service food store use. At a minimum, such grocery store shall offer for sale a variety of foodstuffs and household supplies. Such grocery store is intended to be neighborhood serving and not a large-format destination supermarket. It is anticipated that the grocery store will occupy approximately 15,000 – 30,000 square feet of ground floor area, exclusive of mezzanine space. Required parking to support the grocery store use shall be provided in whichever building the grocery store use is located. In addition, the Applicant shall undertake a targeted marketing effort to secure a pharmacy use as part of this Type 1 Non-Residential Use commitment, either in connection with the grocery

store use or independently. The occupancy of such spaces with Type 1 Non-Residential Uses shall not be a condition to issuance of RUPs and/or Non-RUPs for other uses in the respective buildings or elsewhere within the Application Property.

- (B) Type 2 Non-Residential Uses. In addition to the provisions of Proffer 5.c.(iii)(c)(A) above, a minimum total of 25,000 square feet of GFA of the following uses (the "Type 2 Non-Residential Uses") shall be located among the ground floors of buildings 6, 7, 8, 9 and/or 10, and a minimum total of 25,000 square feet of GFA of Type 2 Non-Residential Uses shall be located among the ground floors of buildings 16, 17 and/or 18:

1. Type 1 Non-Residential Uses;
2. Child-Care Centers and Nursery Schools;
3. Colleges, Universities (in Building 8 and/or 9 only);
4. Cultural Centers, Museums and similar facilities;
5. Repair Service Establishments;
6. Private Schools of Special Education;
7. "Live/Work" units that include a combination of a private dwelling unit with professional office, retail or other non-residential use, with only the non-residential areas of such units counting as Type 2 Non-Residential space;
8. Professional Offices;
9. Commercial Recreation Uses; and
10. Other institutional, cultural, recreational, governmental and/or pedestrian-oriented service uses.

A minimum of 3,000 square feet of GFA shall be so occupied within each of the eight (8) buildings. The occupancy of such spaces with Type 2 Non-Residential Uses shall not be a condition to issuance of RUPs and/or Non-RUPs for other uses in the respective buildings or elsewhere within the Application Property.

- (d) Additional Non-Residential, Non-Office Use. In addition to the minimum occupancy requirements set forth in Proffer 5.c.(iii)(c) above, the Applicant shall use best commercial efforts to lease at least the remaining 55,000 square feet of GFA (of the minimum 135,000 square feet of GFA constructed pursuant to Proffer 5.c.(iii)(b)) to Type 1 or Type 2 Non-Residential Users (the "Additional Retail Space") within the ground floors of Buildings 6, 7, 8, 9, 10, 16, 17 and/or 18. The occupancy of such Additional Retail Spaces with such a use shall not be a condition to issuance of RUPs and/or Non-RUPs for other uses in the respective buildings or elsewhere within the Application Property.

In the event that the Applicant is unsuccessful in leasing the Additional Retail Space for such use over a period of at least twenty-four (24) months preceding the date that is six (6) months prior to the expected issuance of the first RUP or Non-RUP for each building(s) in which Additional Retail Space would be located, as determined by the Applicant's construction schedule, then the Applicant shall demonstrate its marketing effort to the Department of Planning and Zoning, and thereafter the Applicant may occupy such spaces with multi-family residential uses (or office use in the case of Building 8 or 9) and/or uses ancillary thereto, and the Additional Retail Space may be converted between such allowable uses as the market demands, as determined by the Applicant and without requiring a PCA, CDPA and/or FDPA. The Applicant shall provide written notice in the UOA, COA and/or HOA documents, as applicable, as well as to initial purchasers/lessees of such ground floor space, describing the provisions of this proffer. Any dwelling units located within the Additional Retail Space shall be counted toward the maximum allowable number of dwelling units (2,248) as set forth in Proffer 3.a.

- (e) As part of the Type 1 Non-Residential Use commitment, the Applicant shall lease a minimum of 750 square feet of GFA in the ground floor of the first of Buildings 6, 7, 8, 9, 10, 16, 17 or 18 to be constructed to a quick service food store user. Such space shall be so occupied prior to issuance of RUPs or Non-RUPs for residential units or office space located above the sixth floor of the respective building. Such use may be relocated from time to time among such buildings

and shall be provided at least until such time as the grocery store is occupied.

- (iv) Office. Office uses shall be located in Buildings 8 and 9 (in either location of those buildings as shown on the CDP/FDP) and shall total a minimum of 125,000 square feet and a maximum of 300,000 square feet of GFA.
- (v) Child Care. At a minimum, at least one child care center with an outdoor play area shall be designed and constructed within Building 16, 17 or 18. The maximum daily enrollment within such center shall be 100. The maximum hours of operation for the center shall be 5:00 am to 9:00 pm, weekdays.
- (vi) Business Center. The Applicant shall provide space for and fit out a business center for use by project residents in the ground floor of one of buildings 14, 15, 16, 17 or 18. Such business center shall consist of a minimum of 600 square feet of gross floor area and shall include at a minimum a meeting room/area for 6-8 people; an area for at least 3 permanent computer stations; an area with access to at least 2 lap-top hook up stations (both such areas shall be hard wired for secure internet access); a facsimile machine; a copy machine; private space for telephone calls; and a washroom.
- (vii) Accessory Uses and Home Occupations as permitted by Article 10 of the Zoning Ordinance.
- (viii) Seasonal skating and public cultural/event/ recreation facilities in the "Town Center" plaza area as shown on the CDP/FDP.
- (ix) Commercial off street parking (not including any temporary parking provided to facilitate improvements to the Vienna-Fairfax-GMU Metro Station), on an interim basis (i.e. until start of construction of the primary use approved for such site) on a maximum of two of the building sites of Buildings 6, 7, 8/9 and 10, or on a permanent basis within parking garages, as determined by the Applicant. In no event shall such use of any such site delay the start of construction of the primary use approved for such site. Commercial off-street parking lots, if any, shall be improved pursuant to Zoning Ordinance and Public Facilities Manual standards and shall be in substantial conformance with that shown on the CDP/FDP. The Applicant reserves the right to remove any such commercial off-street parking use at any time upon 30 days written notice to FCDOT. The Applicant shall not charge less for

commuter parking in any such lots than the prevailing rate for commuter parking at the WMATA garage(s) at the Vienna Metro Station. Such pricing restriction shall not apply to other potential users (such as retail patrons) of such parking facilities, if any. The construction and use of such parking facilities, if any, may occur prior to substantial completion of Vaden Drive Extended.

- (x) Age-Restricted Housing. Notwithstanding that the CDP/FDP shows 138 dwelling units in Building 5, Building 5 may contain up to a total of 170 age-restricted units; provided, however, that the total maximum number of units permitted on the Application Property shall not exceed 2,248 (See Proffer 3.a.). All such units shall be restricted to primary owners/tenants who are a minimum of fifty-five (55) years of age. Of the total age-restricted units provided, including the independent living units provided in Buildings 2, 3 and 4, a minimum of ten (10) of such units shall be designed and constructed as fully handicapped accessible units, and the Applicant shall otherwise cooperate with residents to facilitate their installation of accessibility improvements.
- (xi) Telecommunications Equipment as provided in Proffer 23 below.
- (xii) Transportation Facilities, to include among other things parking, bus bays and/or other Metro related facilities on a temporary basis to facilitate the construction of improvements to the Vienna-Fairfax-GMU Metro Station as provided in Proffer 6.a.(xii) below.

d. Non-Core West (PDH-16) Principal Uses.

- (i) Multiple family dwellings.
- (ii) Affordable Dwelling Units (see Proffer 24 below).
- (iii) Public Uses located in Building 1 consisting of approximately 29,700 square feet of GFA as provided in Proffer 25.

e. Non-Core West (PDH-16) Secondary Uses.

- (i) Accessory uses, accessory service uses and home occupations as permitted by Article 10 of the Zoning Ordinance.
- (ii) Independent Living Facilities. Buildings 2, 3 and 4 collectively shall contain up to a total of 230 independent living units. All such units shall be restricted to primary owners/tenants who are a minimum of fifty-five (55) years of age. Of the total age-restricted/independent

living units provided, including those provided in Building 5, a minimum of ten (10) of such units shall be designed and constructed as fully handicapped accessible units, and the Applicant shall otherwise cooperate with residents to facilitate their installation of accessibility improvements. Prior to the issuance of the first RUP for the Independent Living Facilities units, the Applicant shall establish a prescription pick up program to be operated by the manager of the Independent Living Facilities project for the benefit of its residents and the residents of the age-restricted units in Building 5.

- (iii) Neighborhood-serving commercial uses, including retail sales establishments, quick-service food stores, eating establishments, and personal service establishments.

f. Non-Core South (PDH-12) Principal Uses.

- (i) Single Family Attached Dwellings.
- (ii) Affordable Dwelling Units (see Proffer 24).

g. Non-Core South (PDH-12) Secondary Uses.

- (i) Accessory uses, accessory service uses and home occupations as permitted by Article 10 of the Zoning Ordinance.

For purposes of Zoning Ordinance Section 6-105 and 6-405, all secondary uses referenced specifically in this Proffer 5 shall be deemed to be “specifically designated on the FDP” such that approval of a separate special exception shall not be required to implement such use. Other principal and secondary uses permitted in the PRM, PDH-16 and/or PDH-12 Zoning Districts that are not specifically listed in this Proffer 5 may be permitted with the approval of a FDPA and/or a special exception or special permit, as required. A PCA shall not be required as long as the proposal remains in substantial conformance with the CDP.

6. Transportation.

- a. Rezoning Analysis/Proffered Improvements. The Applicant has conducted a comprehensive traffic impact analysis prepared by Wells & Associates, LLC, dated August 19, 2005, (the “Rezoning Transportation Analysis”) that addresses roads and intersections within and around the Application Property, the pedestrian circulation system and rail transit system capacity. Pursuant to such analysis, the Applicant shall implement/construct the following measures to mitigate the impacts of the development of the Application Property on the transportation system:

- (i) Dedication. The Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way for public street purposes, for the purpose of extending Vaden Drive through the Application Property as further described below. Such right of way shall be of variable width, and shall be located within the Application Property in the area as generally shown on the CDP/FDP for Vaden Drive Extended. Such right of way dedication shall also include the area shown on the CDP/FDP that provides interparcel access to connect the property located west of the Application Property (2005 Tax Map reference: 48-3((1)) 95B and 95C) to Vaden Drive Extended. The exact location and amount of the right-of-way to be dedicated shall be determined based on the final engineering design of Vaden Drive Extended (as further described below) as determined by the Fairfax County Department of Public Works and Environmental Services ("DPWES"), the Fairfax County Department of Transportation ("FCDOT"), and the Virginia Department of Transportation ("VDOT"). Dedication of such right-of-way shall be made prior to site plan approval for the first phase of residential and/or non-residential development on the Application Property or upon request from Fairfax County, whichever occurs first. This proposed dedication shall be deemed to satisfy the right-of-way requirements of Table 1 of the Comprehensive Plan.
- (ii) Vaden Drive Extended. Subject to VDOT and DPWES approval, the Applicant shall construct a four-lane median divided public road measuring approximately 66 feet from face-of-curb to face-of-curb (exclusive of turn lanes as shown on the CDP/FDP and/or as may be required by VDOT) within the Application Property in the area as generally shown on the CDP/FDP, connecting Lee Highway (Route 29) with Saintsbury Drive and within the area to be dedicated pursuant to Proffer 6.a.(i) above ("Vaden Drive Extended"). Vaden Drive Extended shall be constructed at a 30 mile per hour design speed (or lesser, such as 25 mph, if approved by VDOT) with 11-foot travel lanes and a 16 foot wide landscaped median as shown on the CDP/FDP and as approved by DPWES and VDOT. Vaden Drive Extended shall include turn lanes and improvements at its Lee Highway and Saintsbury Drive intersections as generally shown on the CDP/FDP and subject to VDOT, FCDOT and DPWES approval. The Applicant shall also construct an interparcel access to connect the property located west of the Application Property (2005 Tax Map reference: 48-3((1)) 95B and 95C) to Vaden Drive Extended as shown on the CDP/FDP. Vaden Drive Extended shall be substantially completed

prior to the issuance of the first Residential Use Permit ("RUP") or Non-Residential Use Permit ("Non-RUP") for residential or non-residential uses on the Application Property; provided, however, that this proffer shall not require the substantial completion of Vaden Drive Extended prior to issuance of a Non-RUP for temporary transportation facilities and/or parking uses, if any, to be located within the building sites of buildings 6, 7, 8, 9 and/or 10. For purposes of this Proffer, "substantially completed" shall mean open and available for use by the public but not necessarily accepted by VDOT for maintenance purposes. The Applicant shall maintain Vaden Drive Extended from Saintsbury Drive south to Lee Highway until VDOT accepts it into the State system for maintenance. Final bond release for the development shall not occur until Vaden Drive Extended is accepted into the State system.

- (iii) Bus Shelter. Concurrent with construction of Vaden Drive Extended, the Applicant shall install a bus shelter exclusive of any bus turn out lane along Vaden Drive Extended in a location to be determined by the Washington Metropolitan Area Transit Authority ("WMATA") and/or FCDOT. The Applicant shall work with WMATA and FCDOT to develop the design of the bus shelter. The Applicant shall maintain the trash receptacles located at the bus shelter, as well as the bus shelter, and such maintenance obligations shall be contained in the Umbrella Owners Association documents as described in Proffer 18 below.
- (iv) Truck Restrictions on Vaden Drive Extended. At the time of public improvement/site plan submission for Vaden Drive Extended, the Applicant shall make a written request of, and thereafter diligently pursue with VDOT a restriction to prohibit the use of Vaden Drive Extended by through trucks exceeding 5 tons of net weight.
- (v) Saintsbury Drive – I-66 Ramp Connection. The Applicant shall design and engineer the connection from Saintsbury Drive eastbound onto the I-66 eastbound ramp as generally shown on the CDP/FDP concurrent with design of the Saintsbury Drive improvements as described in Proffer 6.a.(xii) below. If FCDOT obtains all Federal Highway Administration ("FHWA") permits and approvals necessary to construct such connection prior to substantial completion of such Saintsbury Drive improvements (as defined in Proffer 6.a.(xii)), then the Applicant shall construct such connection. If FCDOT does not obtain such permits and approvals prior to such time, then the Applicant shall contribute \$150,000 to

DPWES to allow for the construction of such connection. The amount of such contribution shall be adjusted annually for inflation as reported by the Marshall and Swift Building Cost Index from the date of approval of this Application

- (vi) Eastbound I-66 Ramp Widening. Subject to approval by WMATA, DPWES, FCDOT and VDOT, the Applicant shall design, engineer and construct improvements as shown on the CDP/FDP to widen the eastbound I-66 ramp at the point it exits onto Nutley Street southbound and Saintsbury Drive westbound. Such work shall be constructed concurrent with the reconstruction of Saintsbury Drive as described in Proffer 6.a.(xii) below and shall be "substantially complete" (as defined in Proffer 6.a.(ii) above) concurrent with the Saintsbury Drive improvements. In no event shall the Applicant be required to obtain FHWA approval for such widening improvements. In the event it is determined that FHWA approval is required, then the Applicant shall design and engineer such improvements as generally shown on the CDP/FDP concurrent with design of the Saintsbury Drive improvements and afford FCDOT the opportunity to obtain all FHWA permits and approvals necessary to construct such improvements. If FCDOT obtains all such permits and approvals prior to substantial completion of such Saintsbury Drive improvements (as defined in Proffer 6.a.(xii)), then the Applicant shall construct such improvements. If FCDOT does not obtain such permits and approvals by such time, then instead of constructing such improvements, the Applicant shall make a contribution to DPWES in the amount of such improvements as determined by the Fairfax County Bond Schedule prior to final bond release for the project.
- (vii) Lee Highway/Nutley Street Improvements. Subject to DPWES, FCDOT and VDOT approval, the Applicant shall: (A) stripe eastbound Lee Highway to provide for dual left turn lanes onto northbound Nutley Street concurrent with construction of Vaden Drive Extended; (B) concurrent with such striping and the construction of Vaden Drive Extended, the Applicant shall implement traffic signal modifications (design, equip and install) as necessary at such intersection to accommodate protected only dual left turn lanes as may be warranted and approved by VDOT; and (C) concurrent with construction of Vaden Drive Extended the Applicant shall install pedestrian countdown signals as approved by VDOT crossing Nutley Street north and south of Lee Highway and crossing Lee Highway east and west of Nutley Street.

- (viii) Private Roads. With the exception of Vaden Drive Extended, and the improvements to Saintsbury Drive (as described in Proffer 6.a.(xii) below), the street network as depicted on the CDP/FDP shall be private streets owned by the Applicant and, subsequently, the Umbrella Owners Association ("UOA") (as provided in Proffer 18 below).
 - (a) The private streets shall be constructed with materials and depth of pavement consistent with public street standards, in conformance with the Public Facilities Manual ("PFM") as determined by DPWES.
 - (b) As provided in Part 7 of Article 2 of the Zoning Ordinance, and as detailed more fully in Proffer 18 below, maintenance, repair and replacement of the private streets shall be the obligation of the Applicant and its successor UOA .
 - (c) The Applicant shall establish a reserve fund within the UOA to provide for the maintenance of the private streets and shall contribute the amount necessary to maintain the streets for a minimum of 10 years, as determined by DPWES and pursuant to Section 2-703 (1) (D) of the Zoning Ordinance.
 - (d) Prior to site plan approval for each respective phase of the project, the Applicant shall grant ingress and egress easements for public access and for public emergency and maintenance vehicles over the private streets constructed in that respective phase of development/construction.
- (ix) WMATA Study. Prior to approval of the site plan/public improvement plan for Vaden Drive Extended the Applicant shall reimburse Fairfax County's actual documented cost (up to \$100,000) of a Near-Term Improvement Analysis and Plan for Vienna Station undertaken by WMATA.
- (x) Traffic Signals. Concurrent with the submission of a public improvement plan/site plan for Vaden Drive Extended, the Applicant shall submit to VDOT warrant studies based on full build out of the Application Property for traffic and pedestrian signals at the following intersections: Vaden Drive Extended/Main Street, Vaden Drive Extended/Lee Highway, Vaden Drive Extended/Saintsbury Drive, and Main Street/Saintsbury Drive. All such signals shall include pedestrian countdown signals at all crossings

except those where no sidewalk/trail is located on the receiving end. The Applicant shall design, equip, and construct all of those signals that are warranted at such time(s) as VDOT determines them to be warranted based on the warrant studies. If, based on the warrant studies, VDOT determines that any of the signals will not be warranted until a time subsequent to final bond release for the Application Property, then the Applicant shall provide an escrow for the cost of such signals prior to final bond release in lieu of construction in an amount as determined by FCDOT. The Applicant shall be entitled to be reimbursed for (or in the event of an escrow, credited for) any contribution by others for a signal to be located at the intersection of Vaden Drive Extended/Saintsbury Drive associated with SE 2002-PR-016 after the Applicant installs the signal or, as applicable, at the time of escrow.

- (xi) Signal Timing Modifications. Within 180 days after the opening of Vaden Drive Extended for public use, the Applicant shall conduct, and submit to VDOT, a corridor evaluation of existing signal timings along Nutley Street from the I-66 ramps to Lee Highway (4 signals) and along Lee Highway from Nutley Street to Blake Lane (4 signals), to determine appropriate signal timing modifications along such corridors. Such signal timing plans shall be subject to review and approval by VDOT and shall provide for sufficient pedestrian crossing times in accordance with established standards as determined by VDOT. The Applicant shall make such signal timing modifications as may be approved by VDOT based on the findings of the evaluation.
- (xii) Saintsbury Drive and Metro Station. Subject to approval by WMATA, VDOT, FCDOT and DPWES, and subject to approval by the Board of Supervisors of Special Exception Amendment Application SEA 82-P-032-5 (collectively the "Metro Station Approvals"), the Applicant shall construct improvements to Saintsbury Drive and the Vienna-Fairfax-GMU Metro Station (the "Metro Station") as shown on the CDP/FDP. Such section of Saintsbury Drive shall be designed to VDOT standards at a 30 mile per hour design speed (or lesser if approved by VDOT) with modifications as may be approved by VDOT and DPWES. The Applicant shall "substantially complete" (as defined in Proffer 6.a.(ii) above) the Saintsbury Drive and Metro Station improvements prior to the issuance of the 600th RUP for the Application Property (exclusive of RUPs issued for dwelling units constructed within the first of Buildings 6, 7 or 10 to be constructed); provided, however, that upon demonstration that

diligent efforts have been made to construct such improvements, the timing of the improvements may be delayed for good cause shown as determined by the Director, Zoning Evaluation Division. For purposes of this Proffer 6.a.(xii) "good cause" shall include, but not be limited to, unforeseen delays relating to permitting and/or construction that could not have been reasonably foreseen despite the due diligence of the Applicant, its contractors and/or its subcontractors. The Applicant shall replace 77 existing on-street commuter parking spaces to locations along the reconstructed Saintsbury Drive as generally shown on the CDP/FDP and extending eastward toward the intersection of Nutley Street, or elsewhere if such spaces cannot be accommodated on Saintsbury Drive. The Applicant shall coordinate with WMATA on a phasing plan for the Metro Station and Saintsbury Drive improvements as set forth above that minimizes the interruption of service to and from the Metro Station during construction. The Metro Station improvements (i.e., bus bays, kiss-n-ride, pedestrian improvements, bus canopy and parking lot access improvements) shall be completed in accordance with WMATA construction guidelines and schedules.

- (xiii) Circle Woods Drive Terminus. The Applicant shall construct a permanent terminus to Circle Woods Drive as may be approved by VDOT and DPWES and subject to the dedication of any necessary right of way and the granting of construction and other necessary easements by the Circle Woods Home Owners Association and/or the Circle Woods Condominium Association, as applicable, to be provided at no cost to the Applicant (except typical administrative fees and costs associated with preparation, approval and recordation of deeds, plans and plats). The Applicant shall diligently pursue all necessary off-site dedications and easements and provide documentation to DPWES in the event such dedications and easements are not provided. If the Applicant does not receive a response to its requests for dedications and easements within sixty (60) days of making them, then such requests shall be deemed to have been rejected, and the Applicant shall be relieved of any further obligation pursuant to this Proffer 6.a.(xiii). In the event that all such dedications and easements from the Circle Woods communities have been provided as required by this Proffer 6.a.(xiii), then the Applicant shall complete such work prior to bond release for Vaden Drive Extended; provided, however, that upon demonstration that diligent efforts have been made to construct such improvements, the timing of the

improvements may be delayed for good cause shown as determined by the Director, Zoning Evaluation Division.

- (xiv) Off-Site Right-of-Way/Easements. In the event the Applicant is unable to obtain the necessary right-of-way or easements required to construct the improvements described in Proffer 6.a.(i) – 6.a.(xii), the Applicant shall proceed as follows:

The Applicant shall request the County to acquire the right-of-way or easements by means of its condemnation powers, at the Applicant's expense. It is understood that the Applicant's request will not be considered until it has forwarded, in writing, to the appropriate County agency accompanied by: (1) plans and profiles showing the necessary right-of-way or easements to be acquired, including all associated details of the proposed transportation improvements to be located on said property; (2) an independent appraisal of the value of the right-of-way or easements to be acquired and of all damages and benefits to the residue of the affected property; (3) a sixty (60) year title search certificate of the right-of-way or easements to be acquired; and (4) a Letter of Credit in an amount equal to the appraised value of the right-of-way or easements to be acquired and of all damages to the residue, which letter of Credit can be drawn upon by the County.

It is also understood that in the event the property owner of the right-of-way or easements to be acquired is awarded more than the appraised value of same and of the damages to the residue in a condemnation suit, the amount of the award in excess of the Letter of Credit amount shall be paid to the County by the Applicant within fifteen (15) days of said award. It is further understood that all other costs incurred by the County in acquiring the right-of-way shall be paid to the County by the Applicant on demand.

It is expressly understood that in the event the County does not acquire the aforesaid right-of-way or easements by means of its condemnation powers, the Applicant is relieved of its responsibility to construct the off-site portion of the aforesaid improvements specifically affected by the unavailability of the right-of-way or easements. It is further understood that in the event the Applicant is required to implement the provisions of this proffer in order to obtain necessary right-of-way or easements, then the timing requirements of these proffers as they relate to the improvements that necessitate such right-of-way or easements shall be automatically hereby adjusted to reflect the delays incurred by such

proceedings, but in any event such improvements shall be completed prior to final bond release for the project.

- b. Subsequent Analyses. Concurrent with the trip generation analysis prepared pursuant to Proffer 7 following issuance of the 1,500th RUP for the Application Property, and again concurrent with the trip generation analysis prepared pursuant to Proffer 7 upon “stabilization” (as defined in Proffer 7), the Applicant shall conduct follow up traffic impact analyses to reevaluate the intersections studied in the Rezoning Transportation Analysis (as defined in Proffer 6.a. above) and make recommendations, as necessary, for signal timing modifications to improve traffic flow through such intersections. The Applicant shall submit such analyses to FCDOT and VDOT, and the Applicant shall implement any such signal timing modifications as VDOT may approve. In addition, these subsequent analyses shall include a review of and, if necessary, update to the assumptions and expectations contained in the Rezoning Transportation Analysis concerning the availability of existing and planned rail car capacity at the Vienna Transit Station to serve additional ridership generated by the residential component of the development at build out.

7. Transportation Demand Management (TDM).

This Proffer 7 sets forth the programmatic elements of a transportation demand management plan (the “TDM Plan”) that shall be implemented by the Applicant, and subsequently the Umbrella Owners Association (“UOA”) as defined in Proffer 18 below, to encourage the use of transit (Metrorail and bus), other high occupant vehicle commuting modes, walking, biking and teleworking in order to reduce automobile trips generated by the uses constructed on the Application Property. The TDM Plan shall be provided to complement the numerous physical attributes of the proposed development that provide for transportation systems management and are referenced elsewhere in these proffers.

The TDM Plan shall include the following components:

- a. Trip Reduction Objectives.
 - (i) General. The purpose of the TDM Plan shall be to reduce vehicle trips generated by the uses constructed on the Application Property through the use of mass transit, ride-sharing, and/or other strategies.
 - (ii) Stabilization. Specifically, upon “stabilization” of the Application Property (as defined in Proffer 7.a.(v) below) and thereafter, the

objective of the TDM Plan shall be to reduce vehicle trips generated by the on-site residential uses during the weekday peak hour by 47% and to reduce vehicle trips generated by the on-site office uses in Buildings 8 and 9 (as shown on the CDP/FDP) during the weekday peak hour by 25%.

- (iii) During Construction. In addition, during construction of the Application Property the objective of the TDM Plan shall be to reduce weekday peak hour trips generated by on-site residential uses and on-site office uses in Buildings 8 and 9 (as shown on the CDP/FDP) by percentages as set forth below:

- 1 – 750 dwelling units: 25% reduction;
- 751 – 1500 dwelling units: 30% reduction;
- Office GFA constructed in Buildings 8 and/or 9 prior to “stabilization”: 20% reduction;

Notwithstanding these interim trip reduction objectives that are applicable during construction, in the event that the project includes fewer than 2,248 dwelling units and/or less than 300,000 square feet of office GFA in Buildings 8 and/or 9 upon stabilization, the trip reduction objectives upon stabilization shall nevertheless be 47% and 25% respectively.

- (iv) Baseline. The baseline number of vehicle trips from which such reductions shall be measured shall be determined at the times of the trip generation analyses required pursuant to Proffer 7.g.(ii)(b) below based on the actual number and type of residential units constructed on the Application Property and the actual amount and type of office GFA constructed within Buildings 8 and 9 using the trip generation rates/equations applicable to such uses as set forth in the Institute of Transportation Engineers, Trip Generation, 7th Edition, or those rates for single family attached dwelling units as applied by FCDOT in 2005, as applicable. For purposes of this Proffer 7 independent living units and age-restricted units shall be considered typical multiple family dwelling units without distinction for age-restrictions. In the event, however, that the project includes fewer than 2,248 dwelling units and/or less than 300,000 square feet of office GFA in Buildings 8 and 9 upon stabilization, then the baseline trip generation numbers applicable upon stabilization shall be calculated as if 2,248 dwelling units and 300,000 square feet of office GFA had actually been constructed as reflected on the CDP/FDP. An illustrative example of how the “baseline” would be determined is depicted on Exhibit A-1 attached hereto.

- (v) Stabilization Defined. For purposes of this Proffer 7, “stabilization” of the Application Property shall be deemed to occur upon the later of one-year following issuance of the last initial RUP for a dwelling unit to be constructed on the Application Property or one-year following issuance of the last initial Non-RUP for floor area representing 80% of full occupancy of the second of the two office buildings to be constructed on the Application Property.
 - (vi) Peak-hour Defined. For purposes of this Proffer 7, the relevant weekday “peak hour” shall be that 60-minute period during which the highest volume of mainline trips occurs between, respectively, 6:00 and 9:00 AM and 4:00 to 7:00 PM, as determined by mechanical traffic counts conducted at two select locations along Lee Highway between Blake Lane and Nutley Street and at two select locations along Nutley Street between Lee Highway and Saintsbury Drive and as approved in consultation with FCDOT. To determine the peak hour, such counts shall be collected beginning on a Monday at 2400 hours and continuing to the following Thursday at 2400 hours at a time of year that reflects typical travel demand conditions (e.g. September to May, not during a holiday week or when public schools are not in session). The relevant peak hour shall be defined in conjunction with each of the trip generation analyses required pursuant to this proffer. The methodology for determining the peak hour may be modified subject to approval of FCDOT, but without requiring a PCA, in order to respond to technological and/or other improvements in trip counting.
- b. TDM Strategic Plan. In order to meet the objectives set forth in Proffer 7.a. above, the Applicant shall implement the TDM Strategic Plan prepared by Strategic Transportation Initiatives, Inc., dated December 16, 2005 and attached hereto as Exhibit B. It is the intent of this proffer that the TDM Strategic Plan adapt over time to respond to the ever-changing transportation related circumstances of the site, the surrounding community and the region (including, for example, the westward extension of the Orange line), as well as to technological and/or other improvements all with the objective of meeting the objectives set forth in Proffer 7.a. above. As such, the TDM Strategic Plan may be amended from time to time, subject to approval of FCDOT, but without requiring a PCA; provided, however, that the TDM Strategic Plan shall include provisions for the following:
- (i) A targeted marketing program for residential sales/leases that encourages and attracts TDM oriented people such as one or no

car individuals/families to the project as well as a targeted marketing program for office tenants;

- (ii) Integration of transportation information and education materials into residential sales/rental kits;
- (iii) “Personalized transportation advising” integrated into new unit walk-throughs, including appropriate training of sales/leasing agents;
- (iv) Distribution of fare media or other incentives one time, to all initial residents of driving age, as well as on select occasions as an incentive;
- (v) Marketing and incentive programs that encourage off-peak vehicle travel;
- (vi) Marketing programs that encourage office tenant employees to live on the Application Property;
- (vii) Encouraging office employers to offer employee benefit options including parking cash out, pre-tax/payroll subsidy for transit and vanpool fares, flex-time and alternative work schedule programs and live-near-work incentives;
- (viii) Vanpool and carpool formation programs, including ridematching services, and coordination with established guaranteed ride home programs;
- (ix) Safe routes to schools program(s);
- (x) Car sharing program(s) subject to agreement with third-party vendor(s) (such as ZipCar/FlexCar);
- (xi) A site-specific project website (that includes targeted information on a building by building basis) and that includes multimodal transportation information, real-time travel and transit data, the possibility of online transit pass sales or value loading and connections to supporting links;
- (xii) Establishment of a parking management plan to be coordinated with FCDOT to promote strategies to minimize vehicle trips. Such plan shall provide for, among other things, the “un-bundling” of parking spaces from unit sales/leases, dedicated space for residential vanpools, unbundling of leasing and pricing for office

- space and parking spaces, preferential parking (rates and locations) for carpools and vanpools;
- (xiii) Establishment of TDM network of designated TDM contacts from the UOA, property managers and FCDOT through which to coordinate the implementation of the TDM Plan;
 - (xiv) Establishment of a phasing strategy coordinated with FCDOT as provided herein for implementation to address which strategies are implemented at what time; and,
 - (xv) Establishment of an on-site TDM office/commuter store prior to issuance of the first RUP or Non-RUP (exclusive of Non-RUPs issued for temporary transportation facilities and/or parking uses, if any, to be located within the building sites of Buildings 6, 7, 8, 9 and/or 10). Such TDM office/commuter store shall consist of a minimum of 400 square feet of GFA and shall be provided rent-free to the TDM program. Such use may be provided in a temporary structure during construction and relocated from time to time within the development.
 - (xvi) Establishment of a plan to be implemented throughout construction of the Application Property to provide for interim TDM measures that are specifically tailored to address the interim trip reduction objectives and the characteristics of the site throughout construction in terms of type and number of uses constructed.
- c. Transportation Coordinator. Within 90 days of the approval of this Application, the Applicant shall designate a transportation management professional to be the Transportation Coordinator ("TC") for the project, whose duties shall be to further develop, implement and monitor the various components of the TDM Plan. The TC shall oversee all elements of the TDM Plan and act as the liaison between the Applicant and FCDOT. The TC may be employed either directly by the Applicant/UOA or through a property management company contracted by the Applicant/UOA. The Applicant shall provide written notice to FCDOT of the designated TC, along with a demonstration of his/her qualifications, within 10 days of such designation and, thereafter, within 10 days of any change in such designation. Following the initial designation of the TC, the Applicant/UOA shall continuously employ, or cause to be employed, a TC for the Application Property.
- d. TDM Budget. Within 180 days of approval of this Application the Applicant, through the TC, shall establish an initial budget sufficient to

implement the TDM Strategic Plan for the forthcoming year (the "TDM Budget"). The TDM Budget shall include a contingency (the "TDM Budget Contingency") equivalent to a minimum of 10% of the amount of the TDM Budget. The Applicant shall provide written documentation demonstrating the establishment of the TDM Budget to FCDOT within 10 days of its establishment. In conjunction with annual monitoring of TDM strategies as provided in Proffer 7.g.(i) below, the TC shall re-establish the TDM Budget for the forthcoming year.

- e. TDM Account. Within 90 days of approval of this Application, the Applicant shall establish and fund an account (the "TDM Account") in the initial amount of \$200,000. The purpose of the TDM Account shall be to fund the TDM Budget, including the TDM Budget Contingency. The TDM Account shall be established in an interest bearing account with a fully insured and licensed financial institution. The Applicant shall provide written documentation demonstrating the establishment of the TDM Account to FCDOT within 10 days of its establishment. Funds in the TDM Account shall be utilized by the TC each year to implement the TDM Strategic Plan in accordance with the TDM Budget. As provided in Proffer 7.g.(i) below, the TC shall provide an annual audit of the TDM Account to FCDOT, and such audit shall include demonstration that the applicable strategies of the TDM Strategic Plan were implemented and sufficiently funded that year.

Any funds remaining in the TDM Account at the end of any given year shall be transferred to the TDM Remedy Fund (as described in Proffer 7.j.(i) below) until such time as the TDM Remedy Fund has achieved a balance of \$500,000. Upon such time as the TDM Remedy Fund achieves a balance of \$500,000, any funds remaining in the TDM Account at the end of any given year shall remain in the TDM Account to be utilized for the forthcoming year. In the event that the TDM Remedy Fund is drawn upon (as provided in Proffer 7.j.(i) below) then the process for replenishing the TDM Remedy Fund as outlined above shall be repeated until the TDM Remedy Fund again achieves a balance of \$500,000.

The TDM Account shall be replenished annually following the establishment of each year's TDM Budget, and any transfer of funds to the TDM Remedy Fund as provided above, by the Applicant and/or UOA as applicable, in order to maintain a starting balance of at least \$200,000, which amount shall be adjusted annually for inflation as reported by the Marshall & Swift Building Cost Index, or such greater amount as the forthcoming year's TDM Budget may require. An illustrative example demonstrating a possible cash flow scenario of funds through the TDM Account and incorporating the other financial obligations as provided in

this Proffer 7 is depicted on Exhibit A-6 attached hereto. The TDM Account shall be managed by the Applicant until such time as the Applicant Control Period (as defined in Proffer 7.i. below) has expired. Following such time management of the TDM Account will become the responsibility of the UOA. A line item for the TDM Account shall be included in the UOA budget upon the establishment of the UOA. The association documents that establish and control the UOA shall provide that the TDM Account shall not be eliminated as a line item in the UOA budget and that funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies. The TDM Account shall be funded solely by the Applicant (or successor developer) until such time as pro-rata assessments of residents and commercial owners are implemented as provided in the UOA documents. Prior to the end of the Applicant Control Period, the Applicant shall establish a dedicated source of funding for at least a portion of the TDM Account from a source other than residential dwelling unit assessments, such as parking meter revenue and/or other parking revenue.

- f. TDM Incentives. At the time of approval of the first site plan for residential use the Applicant shall make a one time contribution of \$300,000 to the TDM Account to fund a transit incentive program for initial purchasers/lessees. Such program shall be prepared by the Applicant, through the TC and in coordination with FCDOT and shall include consideration for fare media distribution and value loading, financing incentives, and alternative incentives (such as grocery delivery) tailored to residents that are not likely to make use of alternative commute option benefits.
- g. Monitoring and Reporting.
 - (i) TDM Strategies. At a minimum, the TC shall report annually to FCDOT on the TDM Plan beginning on or about the date that is one (1) year following approval of this Application. Until such time as any residential and/or non-residential space is occupied, such report shall include a description of that year's TDM strategic efforts, including, as applicable, sample marketing materials, as well as that year's TDM Budget and TDM Account expenditures and the TDM Budget for the forthcoming year. Thereafter, the report shall include those items and, in addition, the TC shall conduct an annual survey (approximately 60 days prior to the date of the annual report) to evaluate the effectiveness of the TDM strategies in place at that time and to evaluate whether potential changes to the TDM Strategic Plan are needed at that time. If such surveys reveal that changes to the TDM Strategic Plan are

needed, the Applicant shall coordinate such changes with FCDOT and thereafter implement them. The TC shall coordinate draft survey materials and the methodology for validating survey results with FCDOT prior to each year's survey. The TC shall submit as part of the annual report an analysis of the surveys to FCDOT. Such analysis shall include at a minimum:

- (a) A description of the TDM measures in effect for the survey period and a description of how such measures have been implemented;
 - (b) The results of the surveys taken during the survey period;
 - (c) The number of residents, employees and/or others participating in the TDM programs;
 - (d) An evaluation of the effectiveness of the TDM program elements in place and, if necessary, proposed modifications;
 - (e) An audit of the TDM Account established pursuant to Proffer 7.e. above; and
 - (f) A description of the uses constructed and occupied on the Application Property at the time the survey was conducted.
- (ii) Trip Generation.
- (a) As part of the regular monitoring of the TDM programs, the Applicant shall also measure actual trip generation from the site at select intervals as provided below to evaluate the success in meeting the trip reduction objectives as set forth in Proffer 7.a. Specifically, the Applicant shall conduct a trip generation analysis to monitor peak hour trips generated by the residential and office uses constructed on the Application Property at the following times: First, following occupancy of the 750th dwelling unit; Second, following occupancy of the 1500th dwelling unit; Third, following stabilization (as defined in Proffer 7.a.(v) above); Fourth, one year following stabilization; and Fifth, two (2) years following stabilization. Following the fifth such trip generation analysis, if the trip reduction objectives set forth in Proffer 7.a. are not being met, then the Applicant (or successor developer, but not successor UOA) shall conduct additional trip generation analyses as provided in this Proffer 7 until such time as two

consecutive post stabilization trip generation analyses reveal that the trip reduction objectives are being met.

- (b) Such trip generation analyses shall include vehicle counts, which counts may include counts of vehicles entering and exiting driveways to buildings within the development, as well as intersection turning movement counts at those street connections to/from the community and/or other similar quantitative measures as coordinated with and approved by FCDOT. Counts shall be conducted so that only trips generated by the office and, separately, residential uses on the Application Property shall be counted. Trips not generated by the office and residential uses on the Application Property, such as cut-through trips, metro trips not generated by the Application Property, and retail trips not generated by the Application Property, shall not be counted. Peak hour counts shall be conducted over 3 days over a maximum two week period at a time of the year that reflects typical travel demand conditions (e.g., September to May, not during holiday weeks or when public schools are not in session). The average number of AM and PM peak hour trips shall be computed by summing the number of applicable trips entering and exiting the site (at all driveways) on each of the three days counts are taken and dividing that sum by three. Values will be provided for each building included in the project and a sum of vehicle trips generated by the residential and office uses in the project will be calculated. At least 30 days prior to conducting each such analysis, the Applicant shall convene a meeting with FCDOT to finalize the calculation of the respective "baseline" (as defined in Proffer 7.a.(iv) above) and to finalize the methods for such analyses all as based on the provisions contained herein. Within 60 days of completion of each such analysis, the Applicant shall compile the results and provide a written report to FCDOT.
- h. Evaluation and Adjustment. The results of the trip generation analyses referenced in Proffer 7.g.(ii) above shall be compared to the trip reduction objectives set forth in Proffer 7.a. to determine whether those trip reduction objectives have been met. In the event such objectives have been met as determined by the trip generation analyses, the Applicant shall proceed to implement the TDM Plan. In the event such objectives have not been met, then the Applicant shall convene a meeting with FCDOT to review the TDM strategies then in place and to develop modifications to the TDM

Strategic Plan to address the extent of the shortfall, which modifications may include the requirement to conduct additional trip generation analyses no sooner than six (6) months following the previous such analysis. Within 30 days following such meeting, the Applicant shall submit an updated TDM Strategic Plan and TDM Budget to FCDOT for its review and approval. If the Applicant does not receive a response from FCDOT within 45 days of submission, then the Applicant's updated TDM Strategic Plan and TDM Budget shall be deemed approved. Following approval of the updated TDM Strategic Plan and TDM Budget the Applicant shall (1) increase the TDM Account if necessary (including drawing from the TDM Remedy Fund if necessary) in order to cover any additional costs to implement the updated TDM Budget; and (2) implement the provisions of the updated TDM Strategic Plan.

- i. Subsequent Monitoring and Reporting. The Applicant (or successor developer, but not the successor UOA) shall remain obligated under this proffer until such time as two consecutive post stabilization trip generations analyses (i.e. not including the trip generation analysis conducted at "stabilization") reveal that the trip reduction objectives are being met (the "Applicant Control Period"). At the end of the Applicant Control Period, the Applicant shall contribute to the TDM Remedy Fund (as described in Proffer 7.j.(i) below) if and to the extent necessary for the TDM Remedy Fund to have a \$500,000 balance, as adjusted for inflation as provided in Proffer 7(j)(i) below. Upon such contribution, if any is required, the Applicant shall bear no further obligation under this Proffer 7.

If the trip generation analysis conducted two (2) years following stabilization reveals that the trip reduction objectives are not being met, then the Applicant shall convene a meeting with FCDOT to review the TDM strategies then in place and to develop modifications to the TDM Strategic Plan to address the extent of the shortfall. Within 30 days following such meeting, the Applicant shall submit an updated TDM Strategic Plan and TDM Budget to FCDOT for its review and approval. If the Applicant does not receive a response from FCDOT within 45 days of submission, then the Applicant's updated TDM Strategic Plan and TDM Budget shall be deemed approved. Following approval of the updated TDM Strategic Plan and TDM Budget the Applicant shall (1) increase the TDM Account if necessary (including drawing from the TDM Remedy Fund if necessary) in order to cover any additional costs to implement the updated TDM Strategic Plan; (2) implement the provisions of the updated TDM Strategic Plan; and (3) conduct another trip generation analysis (pursuant to the methodology set forth in Proffer 7.g.(ii)(b)) no sooner than six (6) months later to determine whether the trip reduction objectives are then being met. In the event such subsequent analysis reveals that the

trip reduction objectives are still not being met, then the Applicant shall repeat the process above (additional adjustments to programmatic elements, additional funding and additional monitoring) until such objectives have been met for two (2) consecutive years.

Following such time as the trip reduction objectives are determined to have been met for two consecutive post stabilization trip generation analyses, the Applicant (or successor developer) shall bear no further obligation under this Proffer 7. At such time, the UOA shall be responsible for the TDM Plan and shall conduct additional trip generation analyses at two (2) year intervals to determine whether the trip reduction objectives are continuing to be met. Upon such time as two consecutive analyses conducted at two (2) year intervals demonstrate that the trip reduction objectives have been met, the UOA shall be required to conduct subsequent trip generation analyses at five (5) year intervals. Meanwhile, the UOA shall remain obligated to continue to report annually to FCDOT on the TDM Strategies as provided in Proffer 7.g.(i). In the event that such annual reports demonstrate through trend analysis that a change in commuting patterns has occurred that is significant enough to reasonably call in to question whether the post stabilization trip reduction objectives are continuing to be met, as determined by FCDOT, then FCDOT may require the UOA to conduct additional trip generation analyses (pursuant to the methodology set forth in Proffer 7.g.(ii)(b)) on a more frequent basis to determine whether in fact such objectives are being met. If any of the UOA's required trip generation analyses demonstrate that the trip reduction objectives are not being met, then the UOA shall convene a meeting with FCDOT to review the TDM strategies then in place and to develop modifications to the TDM Strategic Plan to address the extent of the shortfall. Within 30 days following such meeting, the UOA shall submit an updated TDM Strategic Plan and Budget to FCDOT for its review and approval. If the Applicant does not receive a response from FCDOT within 45 days of submission, then the UOA's updated TDM Strategic Plan and TDM Budget shall be deemed approved. Following approval of the updated TDM Strategic Plan and TDM Budget the UOA shall (1) increase the TDM Account if necessary (including drawing from the TDM Remedy Fund if necessary) in order to cover any additional costs to implement the updated TDM Strategic Plan; (2) implement the provisions of the updated TDM Strategic Plan; and (3) conduct another trip generation analysis (pursuant to the methodology set forth in Proffer 7.g.(ii)(b)) no sooner than 6 months following the previous such analysis to determine whether the trip reduction objectives are then being met. In the event such subsequent analysis reveals that the trip reduction objectives are still not being met, then the UOA shall repeat the process above

(additional adjustments to programmatic elements, additional funding and additional monitoring) until such objectives have been met for two (2) consecutive years, whereupon the UOA shall then proceed to conduct trip generation analyses at two (2) and then five (5) year intervals as described above.

j. TDM Remedy Fund and TDM Penalty Fund

- (i) TDM Remedy Fund. Concurrent with the establishment of the TDM Account, the Applicant shall establish a separate account referred to herein as the "TDM Remedy Fund". The TDM Remedy Fund shall be funded pursuant the provisions of Proffer 7.e. Prior to issuance of the 750th RUP for the Application Property, the Applicant shall contribute to the TDM Remedy Fund if and to the extent necessary for the TDM Remedy Fund to achieve a \$200,000 balance at that time, which amount shall be adjusted annually for inflation as reported by the Marshall & Swift Building Cost Index from the date of approval of this Application up to a maximum of \$300,000. The purpose of the TDM Remedy Fund shall be to supplement the TDM Account in support of additional TDM strategies that may be determined to be necessary following any of the trip generation analyses for which insufficient funding is not immediately available via the then existing TDM Account. The TDM Remedy Fund shall be replenished as provided in Proffer 7.e. At the end of the Applicant Control Period, the Applicant (or successor developer, but not the successor UOA) shall contribute to the TDM Remedy Fund if and to the extent necessary for the TDM Remedy Fund to have a \$500,000 balance at that time, which amount shall be adjusted annually for inflation as reported by the Marshall & Swift Building Cost Index from the date of approval of this Application up to a maximum of \$650,000. Upon such contribution, if any is required, the Applicant (or successor developer, but not the successor UOA) shall bear no further obligation under this Proffer 7.
- (ii) TDM Penalty Fund. Prior to issuance of the 1,500th RUP for the Application Property, the Applicant (or successor developer, but not the successor UOA) shall establish a one-time corporate guarantee for the benefit of Fairfax County in the amount of \$2,000,000 (the "Corporate Guarantee"), which Corporate Guarantee shall be used, if applicable, to establish a TDM Penalty Fund. If the results of any trip generation analysis conducted following occupancy of the 1,500th dwelling unit and during the Applicant Control Period reveal that the trip reduction objectives of

Proffer 7.a. are not being met, then the provisions of Proffer 7.h. shall apply and, in addition, the Corporate Guarantee shall be drawn upon to fund the TDM Penalty Fund in an amount determined as follows:

- Following the trip reduction analysis conducted upon occupancy of the 1,500th dwelling unit:
 - Residential:
 - If the 30% “during construction” trip reduction objective is met or exceeded, then no penalty is owed;
 - If trip reduction is equal to or greater than 28% but is less than 30%, then \$2,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee;
 - If trip reduction is greater than or equal to 25% but less than 28%, then \$3,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee;
 - If trip reduction is less than 25% then \$130,000 is paid to the TDM Penalty Fund from the Corporate Guarantee.
 - Office :
 - If the 20% “during construction” trip reduction objective is met or exceeded, then no penalty is owed;
 - If trip reduction is greater than or equal to 18% but is less than 20%, then \$2,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee;
 - If trip reduction is greater than or equal to 15% but is less than 18%, then \$3,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee;
 - If trip reduction is less than 15%, then \$70,000 is paid to the TDM Penalty Fund from the Corporate Guarantee.

- Following trip generation analyses conducted upon “stabilization” and subsequently:
 - Residential:
 - If the 47% residential trip reduction objective is met or exceeded, then no penalty is owed. In such event, \$480,000 of the Corporate Guarantee shall be released/returned to the Applicant;
 - If residential trip reduction is greater than or equal to 45% but is less than 47%, then \$2,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee, and the balance in the Corporate Guarantee shall be carried forward;
 - If residential trip reduction is greater than or equal to 42% but less than 45%, then \$3,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee, and the balance in the Corporate Guarantee shall be carried forward;
 - If residential trip reduction is less than 42%, then \$480,000 is paid to the TDM Penalty Fund from the Corporate Guarantee.
 - Office:
 - If the 25% office trip reduction objective is met or exceeded, then no penalty is owed. In such event, \$120,000 of the Corporate Guarantee shall be released/returned to the Applicant;
 - If office trip reduction is greater than or equal to 23% but is less than 25%, then \$2,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee, and the balance in the Corporate Guarantee shall be carried forward;
 - If office trip reduction is greater than or equal to 20% but less than 23%, then \$3,000 per trip for each trip by which the trip reduction objective is not met is paid to the TDM Penalty Fund from the Corporate Guarantee, and the balance in the Corporate Guarantee shall be carried forward;

- If office trip reduction is less than 20%, then \$120,000 is paid to the TDM Penalty Fund from the Corporate Guarantee.

Illustrative examples demonstrating possible scenarios of the application of the TDM Penalty Fund provisions are depicted on Exhibits A-2, A-3, A-4 and A-5 attached hereto. Funds drawn from the Corporate Guarantee and paid to the TDM Penalty Fund are to be utilized by Fairfax County for transit or transportation related improvements in the vicinity of the Application Property. There is no requirement to replenish the Corporate Guarantee and/or the TDM Penalty Fund at any time. Any amount remaining in the Corporate Guarantee upon the end of the Applicant Control Period shall be released/returned to the Applicant.

- k. Notice to Owners. All residents, tenants, and employers of the Metro West community shall be advised of the TDM Plan. UOA/COA/HOA members will be informed of their funding obligations pursuant to the requirements of this Proffer prior to purchase of units, and the requirements of the TDM Plan, including the annual contribution to the TDM Plan (as provided herein), shall be included in all initial purchase documents and within the HOA, COA and UOA documents.
- l. Enforcement. If the TC fails to timely submit a report to FCDOT as required by this Proffer, Fairfax County may thereafter issue the TC a notice stating that the TC has violated the terms of this Proffer and providing the TC sixty (60) days within which to cure such violation. If after such sixty (60) day period the TC has not submitted the delinquent report, then the Applicant/UOA as applicable shall (1) be subject to a penalty of \$600 per day until such time as the report is submitted to FCDOT payable to Fairfax County to be used for transit or transportation related improvements in the vicinity of the Application Property; and (2) permanently transfer ownership and control of the TDM Remedy Fund to Fairfax County to be used by Fairfax County to supplement the operation of the TDM Plan at the Application Property.

8. Pedestrian Improvements.

- a. Vaden Drive Extended Trail. Subject to DPWES approval, the Applicant shall construct an eight-foot wide asphalt trail along the western side of Vaden Drive Extended as shown on the CDP/FDP. Such trail shall be constructed concurrent with the construction of Vaden Drive Extended and shall be available for public use prior to the issuance of the first RUP or

Non-RUP for residential and/or non-residential use on the Application Property except temporary transportation facilities and/or commercial off-street parking uses, if any, to be located within the building sites of buildings 6, 7, 8, 9 and/or 10. The Applicant and its successor UOA (as defined below) shall maintain such trail.

- b. City of Fairfax Connector Trail. To facilitate interim pedestrian access through the Application Property to the Metro Station, prior to temporarily closing pedestrian access through the Application Property to allow for clearing, grading, and earth moving activities on site, the Applicant shall realign the portion of the City of Fairfax Connector Trail that currently crosses the Application Property to either the final location and configuration of such trail as shown on the CDP/FDP or to a temporary location on-site along the western boundary of the Application Property. In either event, the Applicant will ensure that there is an alternative pedestrian route to the Metro Station open, either on site or within East Blake Lane Park, at all times, including during such trail realignment work. If a temporary location is provided, then such temporary trail shall be constructed as an asphalt path a minimum of 8 feet in width. Concurrent with construction of Vaden Drive Extended, the Applicant shall construct a permanent realignment of the City of Fairfax Connector Trail on the Application Property in a location that will tie in with the Vaden Drive Extended Trail as shown on the CDP/FDP. Thereafter the Applicant shall if applicable remove/realign the temporary trail and restore that area of the site to a vegetated condition as shown on the CDP/FDP. The Applicant shall maintain such portion of the realigned City of Fairfax Connector Trail that extends over the Application Property until such time as the Public Site is dedicated pursuant to Proffer 25, upon which time FCPA will maintain the trail. Also, concurrent with construction of Vaden Drive Extended the Applicant shall, subject to approval by the Fairfax County Park Authority ("FCPA"), reconstruct the City of Fairfax Connector Trail within East Blake Lane Park as shown on the CDP/FDP and provide trees along both sides of such portion of the reconstructed trail.
- c. Pedestrian Access to Metro During Build Out. Public access through the Application Property will be restricted during the initial site work on the Application Property, throughout the construction of Vaden Drive Extended and otherwise as may be required for public safety. At least 15 days prior to the Applicant closing the current public access through the Application Property to the Metro Station site (such access presently occurs over Fairlee and Maple Drives which are proposed to be vacated/abandoned), the Applicant shall provide written notice of the closing to the Providence District Supervisor's office. Also prior to the Applicant closing current public access through the Application Property, the Applicant shall provide

temporary signage along the Lee Highway and Saintsbury Drive frontages of the Application Property to provide notice of the pending closure of public access through the Application Property and to direct pedestrians to the City of Fairfax Connector Trail. In addition, concurrent with construction of Vaden Drive Extended, the Applicant shall construct a temporary pedestrian route generally along the route of the "Main Street/Town Center Plaza" as shown on the CDP/FDP to connect Vaden Drive Extended to the Metro Access Road. Such temporary pedestrian route shall be located in an area that is a minimum 10 feet wide and which shall include a minimum 5 foot wide concrete and/or asphalt surface with the balance of the area planted with grass, shrubs and trees if practical as determined by the timing of build out and construction constraints as approved by Zoning Evaluation Division. Such temporary pedestrian improvements shall be available for public use upon the opening of Vaden Drive Extended to public use. Such temporary pedestrian improvements may be relocated from time to time within that general location to allow for development and construction to occur adjacent thereto.

- d. Pedestrian connection to Blake Tree Manor. Subject to the granting of necessary easements by FCPA in accordance with established FCPA practices and fee schedules, and further subject to the granting of necessary easements/permissions from the Blake Tree Manor owners association to be provided at no cost to the Applicant (except typical administrative fees and costs associated with preparation, approval and recordation of deeds, plans and plats), the Applicant shall construct pedestrian improvements through East Blake Lane Park and into the Blake Tree Manor Subdivision to connect the Blake Tree Manor Subdivision to the City of Fairfax Connector Trail. Such improvement is identified as "Proposed Sidewalk X" on Sheet 36 of the CDP/FDP. Such improvement shall include one bridge crossing of Hatmark Branch in a location and of a design as shown on the CDP/FDP as approved by DPWES and FCPA. Such bridge shall be an eight (8) foot wide standardized steel truss pre-fabricated bridge with pressure treated timber decking and appropriate hand rails. Such improvement shall also include a five foot wide asphalt path leading east from the bridge crossing to connect into the City of Fairfax Connector Trail. Such improvement shall also include a five foot wide asphalt path (without stairs) leading west from the bridge crossing, through East Blake Lane Park to the boundary of the Blake Tree Manor Subdivision. In addition, the Applicant shall extend such path into the Blake Tree Manor Subdivision and construct stairs to connect such path into the existing pedestrian network in Blake Tree Manor. In addition the Applicant shall construct the improvements within Blake Tree Manor subdivision shown as "Proposed Sidewalks Y" on sheet 36 of the CDP/FDP. The Applicant shall complete such work prior to the issuance

of the 400th RUP for the Application Property (exclusive of RUPs issued for dwelling units constructed within the first of Buildings 6, 7 or 10 to be constructed); provided, however, that upon demonstration that diligent efforts have been made to construct such improvements, the timing of the improvements may be delayed for good cause shown as determined by the Director, Zoning Evaluation Division. For purposes of this Proffer 8.d. "good cause" shall include, but not be limited to, unforeseen delays relating to permitting and/or construction that could not have been reasonably foreseen despite the due diligence of the Applicant, its contractors and/or subcontractors. The Applicant shall diligently pursue all necessary off-site easements/approvals and provide documentation to DPWES in the event such easements/approvals are not provided. If the Applicant does not receive a response to such requests of the Blake Tree Manor owners association within sixty (60) days of making them, then such requests shall be deemed to have been rejected and the Applicant shall be relieved of any further obligation to provided improvements within Blake Tree Manor pursuant to this proffer. In such event, however, the Applicant shall nevertheless remain obligated to construct the improvements referenced in this Proffer 8.d within East Blake Lane Park, subject to FCPA approvals and easements as referenced herein.

- e. Pedestrian Connection to Circle Woods and Hunters Branch. Subject to approval of necessary licenses and/or easements to be provided at no cost to the Applicant (except typical administrative fees and costs associated with preparation, approval and recordation of deeds, plans and plats), the Applicant shall provide for pedestrian access to and from the Circle Woods and Hunters Branch communities as provided herein. The Applicant shall provide openings (approximately 5 feet wide) in the barrier fences to be constructed adjacent to the Circle Woods communities to allow direct pedestrian access from those communities to the pedestrian system on the Application Property in locations as generally shown on the CDP/FDP. There shall be no gates in the fence openings that are located between the Application Property and the Circle Woods communities. The Applicant shall construct a gated opening (approximately 5 feet wide) in the barrier fence to be constructed adjacent to the Hunters Branch Condominium Association property, and such gate shall be provided with an electronic card reader for use by Hunters Branch Condominium owners. Such gate may be removed upon the agreement of the Hunters Branch Condominium Association without requiring a PCA. In addition, the Applicant shall provide an opening (approximately 5 feet wide) in the barrier fence adjacent to the Hunters Branch communities south of the existing security fence located on the Hunters Branch Condominium Association property in a location as generally shown on the CDP/FDP. There shall be no gate in such opening. The Applicant shall construct the

sidewalk improvements within the Hunters Branch community shown as "Proposed Sidewalks Y and Z" on sheet 36 of the CDP/FDP concurrent with the construction of the fence. The Applicant shall construct a 5' wide asphalt path within the Circle Woods community in the general area of "Proposed Sidewalk Y" as shown on sheet 36 of the CDP/FDP (notwithstanding that the CDP/FDP calls for a 4' concrete path in such location) concurrent with construction of the fence. Such path shall intersect the existing sidewalk within Circle Woods south of the wooden bridge crossing of the drainage swale and meander eastward to the fence opening in order to avoid conflicts with trees, to the maximum extent possible, and with utilities. In no event shall the Applicant be required to remove or relocate trees or utilities in order to make any such offsite sidewalk connections. Such improvements shall be subject to approval by DPWES. The Applicant shall seek all necessary off-site easements/approvals prior to submission of a site plan for the respective phase of development/construction on the Application Property adjacent to such connections and shall diligently pursue necessary off-site easements/approvals and provide documentation to DPWES in the event such easements/approvals are not provided. If the Applicant does not receive a response to such requests within sixty (60) days of making them, then such requests shall be deemed to have been rejected and the Applicant shall be relieved of any further obligation to make offsite improvements pursuant to this proffer.

- f. Internal Sidewalks. The Applicant shall construct a comprehensive sidewalk system throughout the Application Property as generally shown on the CDP/FDP. Such sidewalk system shall be constructed concurrent with the phasing of development of the Application Property. Such sidewalk system shall include sidewalk connections extending to the property line adjacent to the neighboring Circle Woods and Hunters Branch communities as shown on the CDP/FDP to allow the pedestrian openings referenced in Proffer 8.e. above to tie in to the onsite sidewalk network. All onsite sidewalks shall be maintained by the UOA as set forth in Proffer 18 below. Sidewalk improvements within existing or proposed VDOT right-of-way shall be as approved by VDOT. Prior to site plan approval for each respective phase of development the Applicant shall grant public access easements over the private sidewalks located within such phase.
- g. Crosswalks. Concurrent with construction of Vaden Drive Extended, the Applicant shall install crosswalks across Vaden Drive Extended, including a raised crosswalk (or speed table) at the Main Street/Vaden Drive Extended intersection, in locations as generally shown on the CDP/FDP and as may be approved by DPWES and/or VDOT. Concurrent with each

respective phase of development/construction of the Application Property, the Applicant shall install painted and/or paver crosswalks within the internal private street network on the Application Property as generally shown on the CDP/FDP and as subject to approval by DPWES. Subject to DPWES approval, the Applicant shall provide for illumination at all intersections through the use of ornamental lighting and, at the Vaden Drive Extended/Main Street and Main Street/Saintsbury Drive intersections, through the use of embedded ground level pedestrian lighting as shown on the CDP/FDP.

- h. Lee Highway Sidewalk. Concurrent with construction of Vaden Drive Extended, the Applicant shall construct an 8-foot wide asphalt path (notwithstanding that the CDP/FDP shows a 5 foot concrete sidewalk) across the Application Property's Lee Highway frontage that transitions to connect to the existing 4-foot sidewalk to the east and west.

9. Open Space and Landscaping.

- a. As depicted on the CDP/FDP the entirety of the Application Property shall provide a minimum of 37% overall open space calculated over the area of the Application Property less the area to be dedicated for public streets. Buildings and paved areas within parking lots do not count as open space. Such open space shall be allocated among each of the respective zoning districts as shown on the CDP/FDP such that the minimum open space requirements of each of the respective zoning districts is provided, as shown on the CDP/FDP. Development/implementation of the open space areas and improvements may occur in phases, concurrent with the phasing of development/construction of the Application Property. As such, the total area of open space provided at any given phase of development shall not be required to be equivalent to the 37% overall open space specified herein; provided, however, that the open space provided at any given phase of development shall satisfy the minimum amount required by the respective zoning district(s) in which such phase is located.
- b. Site plans (and subsequent revisions as may be applicable and relevant to landscaping) submitted for the respective phases of development shall include a landscape plan showing the open space improvements, streetscape and landscaping appurtenant to that respective phase of development as generally shown on the CDP/FDP. Specifically, the plaza area located between buildings 6 and 10 as shown on the CDP/FDP shall be constructed concurrent with the second of buildings 6 or 10 to be constructed and shall be completed prior to the issuance of the first RUP for such building. The plaza/boulevard area located between buildings 7 and 8 as shown on the CDP/FDP shall be constructed concurrent with the

first of buildings 7 or 8 to be constructed and shall be completed prior to the issuance of the first RUP or Non-RUP for such building.

- c. Native trees that are conducive to air quality enhancement shall be used within the streetscape and open space areas as determined appropriate by Urban Forest Management.
- d. Landscaping shown on the CDP/FDP may be modified, if in substantial conformance with that shown on the CDP/FDP and as approved by the Zoning Administrator and Urban Forest Management, to allow for final engineering considerations such as final utility locations, low impact development facilities, sight distance requirements and the like. The Applicant shall coordinate the location of any utilities within open space areas to allow sufficient planting depth for trees and other landscaping as shown on the CDP/FDP. As a priority, where reasonably feasible the Applicant shall install water, sanitary sewer and storm sewer utility lines within the street network to avoid conflicts with open space areas and streetscape elements shown on the CDP/FDP. In addition, the Applicant shall coordinate with private utility companies (gas, power, telephone, cable etc.) to co-locate utilities where reasonably feasible.
- e. As shown on the CDP/FDP, landscaping within the buffer between Buildings 11, 12, and 13 and the shared property line with the Hunter's Branch Condominium Association ("HBCA") Property shall include a combination of evergreen (including American Holly, Spruce, Cypress, Fir, and Pine) and hardwood trees, all at least 10 feet in height at the time of planting, and hardwoods a minimum of 2" – 2 ½" caliper at the time of planting, arranged to provide a visual buffer between the Application Property and the HBCA property. The Applicant shall coordinate the plan for landscaping such areas with HBCA as provided in Proffer 12 below.
- f. The Applicant shall grant public pedestrian access easements over the open space areas identified on the CDP/FDP as Detail Areas #3, #4, #11, #12, #13, #14 and #15 with the following limitations: (1) swimming pools and associated areas located within Detail Area #11 shall not be open for access to the general public; and (2) such right of public access within Detail Areas #3, #4, #11, #12, #13 and #15 shall be subject to the right of the Applicant and the successor UOA and/or HOA/COAs as applicable to establish reasonable rules and regulations pertaining to hours of public access, maintenance, repairs and the like; provided, however, that hours for such public access shall be at a minimum 8 a.m. to the earlier of dusk or 9 p.m. on weekdays and 10 a.m. to the earlier of dusk or 9 p.m. on weekends and holidays. Public access shall be open at all times to Detail Area #14 subject to necessary maintenance and repairs.

10. Recreation Facilities.

- a. Bicycle racks. The Applicant shall provide secure bicycle storage in locations convenient to the office, multi-family residential and retail uses on the following basis, at a minimum:
- (i) One bicycle parking space for every 7,500 square feet or portion thereof of office GFA and one additional bicycle space for every 20,000 square feet, or portion thereof, of office GFA in each of Buildings 8 and 9. In addition, one shower per gender shall be installed for every 50,000 square feet of office GFA, up to a maximum of three showers per gender in each of Buildings 8 and 9;
 - (ii) One bicycle parking space for every five (5) multi-family residential units (exclusive of two-over-two multi-family units), or portion thereof, and one additional bicycle space for every 50 multi-family residential units (exclusive of two-over-two multi-family units), or portion thereof;
 - (iii) Two (2) retail bicycle parking spaces for every 10,000 square feet or portion thereof of the minimum 135,000 square feet of Type 1 and Type 2 Non-Residential GFA initially constructed as provided in Proffer 5.c.(iii).
 - (iv) Bicycle parking facilities for multi-family and office users as required herein shall be located within a structure. Retail bicycle parking spaces shall be installed at exterior locations that are visible from the retail uses and do not block sidewalks.
- b. The Applicant shall comply with Paragraph 2 of Section 6-409 of the Zoning Ordinance regarding developed recreational facilities for the residential uses. The Applicant proffers that the minimum expenditure for the recreational facilities shall be \$955.00 per residential dwelling unit exclusive of affordable dwelling units. The Applicant agrees that the \$955.00 attributed to each unit shall be utilized toward only those developed recreational facilities to which the residents of such unit shall have access as provided in Proffer 10.d. below. The Applicant shall receive credit against the Zoning Ordinance minimum expenditure requirement for the cost of recreational facilities to include, but not to be limited to the cost of improvements for swimming pools (indoor and outdoor), sundecks, outdoor seating areas, pedestrian trails (except those shown on the Comprehensive Plan), plazas, skating rink and other outdoor recreation facilities, indoor recreational facilities, such as weight training

equipment, fitness, billiard rooms, card and game rooms, and indoor multi-purpose courts. The "fitness station" shown in Detail Area # 6 shall be as approved by FCPA. In addition, subject to approval by FCPA, the Applicant shall provide for a fitness "loop" that begins in Detail Area # 6 and utilizes both the Vaden Drive Extended Trail (See Proffer 8.a.) and the City of Fairfax Connector Trail. The fitness loop shall include an additional fitness station to the one shown in Detail Area # 6 and directional signage including mile markers subject to approval by FCPA.

- c. Recreational facilities shall be developed/constructed in phases concurrent with the phasing of development of the Application Property and subject to the requirements of Section 16-404 of the Zoning Ordinance.
- d. The Applicant reserves the right to restrict access to the various recreational facilities developed on the Application Property to the residents/owners within specific phases of the project and/or within the specific buildings, subject to the public access requirements as set forth in Proffer 9.f. above. At a minimum all residents of single-family attached dwelling units, multi-family two-over-two units, and units within Buildings 11, 12, 13, 14, 15, 16, 17, 19 and 20 shall have the right to use the developed recreational facilities within Buildings 14, 15, 16, 17 and Detail Area #11 as depicted on the CDP/FDP; residents within Buildings 2, 3, 4, and 5 shall have the right to use to the developed recreational facilities within those Buildings and Detail Area #5 as depicted on the CDP/FDP; residents within Buildings 6, 7, 10 and 18 shall have the right to use the developed recreational facilities within their respective buildings. Each of Buildings 6, 7, 10 and 18 shall include a minimum 1,250 square feet of space for residents of those Buildings to hold HOA or other community meetings.
- e. The Applicant shall make a one-time contribution of \$750,000 to the Fairfax County Board of Supervisors to install synthetic turf athletic fields and/or other field improvements. The field(s) to be improved, and the scope of the improvements, shall be determined by the Providence District Supervisor in consultation with the Providence District Athletic Fields Task Force. Such contribution shall be made within 30 days of final, unappealable approval of this Application.

11. Circle Woods Buffer

- a. Concurrent with construction of Vaden Drive Extended, the Applicant shall construct improvements in the buffer area between the peripheral, north/south property line shared with the Circle Woods communities and Vaden Drive Extended as shown on the CDP/FDP. As shown on the

CDP/FDP such buffer shall consist of undisturbed vegetation and a landscaped area and shall be improved with the Vaden Drive Extended Trail and a seven (7) foot high, tongue and groove fence with eight (8) foot high brick piers located approximately 20 feet on center with no gaps or openings other than to allow for, as necessary, utility connections, drainage, and a pedestrian connection as provided in Proffer 8.e. Such barrier fence shall be located on the Application Property adjacent to the shared property line and shall also extend on the Application Property adjacent to the shared east/west property line shared with the Circle Woods communities to the extent shown on the CDP/FDP. Such fence shall be maintained by the Applicant/UOA. Subject to all necessary approvals from the Circle Woods communities, the Applicant shall remove the existing fence located within the Circle Woods communities that runs parallel to the peripheral property lines shared with the Application Property. If the Applicant does not receive a response to such requests for approvals within sixty (60) days of making them, then such requests shall be deemed to have been rejected and the Applicant shall be relieved of any further obligation to remove the existing fence. At least 15 days prior to submission of a landscape plan for such buffer area, the Applicant shall schedule a meeting inviting representatives of the Circle Woods Communities to attend and comment on the landscape plan and provide suggestions concerning plant types and locations, and the Applicant shall take any such comments and suggestions into consideration prior to submission such landscape plan.

12. Hunters Branch Condominium Buffer.

- a. Prior to issuance of the first RUP or Non-RUP for the Application Property (except temporary transportation facilities and/or commercial off-street parking uses, if any), the Applicant shall regrade the western portion of the Hunters Branch Condominium Association ("HBCA") property in order to tie the Application Property in to the HBCA property as shown on the CDP/FDP, subject to necessary approvals from Fairfax County and easements to be provided at no cost to the Applicant (except for the preparation and recordation of the deed and plat, the cost of which the Applicant shall bear). The Applicant shall diligently pursue all necessary off-site easements/approvals and provide documentation to DPWES in the event such easements/approvals are not provided. If the Applicant does not receive a response to such requests within sixty (60) days of making them, then such requests shall be deemed to have been rejected, and the Applicant shall be relieved of any further obligation pursuant to this proffer. Following such grading activities, the Applicant shall construct a six-foot high wooden fence with brick piers approximately 20-feet on center along such shared property line. Such fence shall not include any gaps or

openings other than to allow for, as necessary, utility connections and drainage and pedestrian connection(s) (see Proffer 8.e.) as shown on the CDP/FDP and as approved by DPWES. The Applicant and its successor UOA and/or HOA/COA (as defined below) shall be responsible for maintaining such fence.

- b. Prior to issuance of the first RUP or Non-RUP for the Application Property (except temporary transportation facilities and/or commercial off-street parking uses, if any), the Applicant shall re-landscape the portion of the HBCA property that is disturbed as a result of the grading activities referenced in Proffer 12.a. above as shown on the CDP/FDP. In connection with such re-landscaping, the Applicant shall install an outdoor, below grade, electronically controlled sprinkler system on the HBCA property to serve the HBCA landscaping located between the common property line and the HBCA parking area. In connection with such re-landscaping activities, the Applicant shall remove the existing wooden fence located approximately 15 feet from the shared property line within the HBCA property. The obligation of the Applicant to remove such fence shall be subject to necessary approvals by Fairfax County and HBCA. The Applicant will take responsibility for and in coordination with HBCA diligently pursue necessary approvals, if any, to allow for removal of the fence. In addition, the Applicant will make reasonable efforts to reduce the width of the existing sanitary sewer easement which runs along the western boundary of the HBCA property to allow greater area for supplemental planting, subject to the cooperation of the HBCA with respect to the vacation of the existing sanitary sewer easement and the rededication of a new sanitary sewer easement. As an alternative to such re-landscaping and the installation of an outdoor sprinkler system on the HBCA property, the Applicant, by mutual agreement with the HBCA, may pay the HBCA, prior to issuance of the initial RUP or Non-RUP for the Application Property, the reasonable cost of those anticipated improvements in a lump sum contribution in order to allow the HBCA to contract for the work on its own. Notwithstanding the introductory phrase of this Proffer 12.b. it shall be understood that the Applicant shall not be required to have completed the removal of the existing fence or the adjustment to the existing sanitary sewer easement as a condition precedent to issuance of the first RUP or Non-RUP for the project; but that such activities shall be completed, if so approved, prior to the issuance of the final RUP for the last of Buildings 11, 12 and 13. In any event the Applicant shall diligently pursue approvals to remove the fence and adjust the sanitary sewer easement as provided herein and shall demonstrate such efforts to DPWES if requested.

- c. Prior to the grading activities over the common property line as discussed in Proffer 12.a. above, the Applicant shall undertake a tree survey and condition analysis of all trees greater than six (6) inches in caliper located on the HBCA property within the area anticipated to be re-graded, and extending ten (10) feet beyond such area, and in connection with representatives from HBCA, the Applicant shall evaluate opportunities where it will be reasonably practical to modify the grading plan to save certain trees and/or to transplant certain trees from the area to be re-graded to other locations on the HBCA property. If it is determined by the Applicant and HBCA that it is reasonably practical to so modify the grading plan and/or to transplant certain trees, then the Applicant shall so modify the grading plan and/or transplant such trees prior to commencing the grading activities referenced above.
- d. Regent's Park. As shown on the sheet 19 of the CDP/FDP, a minimum ten (10) foot buffer area/utility easement will be provided within common area (not on individual lots) adjacent to the eastern boundary of the Application Property in the area behind and adjacent to the single family attached dwelling unit lots. In addition, such single family attached dwelling units in such area shall have a minimum 15 foot rear yard as shown on the CDP/FDP. A privacy fence shall be constructed along the rear yard line of the single family attached dwelling units in such area. Subject to approval of necessary easements/permissions from the adjacent owner to the east and any necessary approvals from Fairfax County, the Applicant shall replace the existing fence located off site to the east of the Application Property in the area behind the single family attached dwelling units with a new decorative fence and supplemental landscaping. The Applicant shall diligently pursue all necessary off-site easements/approvals and provide documentation to DPWES in the event such easements/approvals are not provided. If the Applicant does not receive a response to such requests within sixty (60) days of making them, then such requests shall be deemed to have been rejected and the Applicant shall be relieved of any further obligation pursuant to this proffer.

13. Parking

- a. Parking spaces shall be provided in accordance with the parking ratios as shown on Sheet 3 of the CDP/FDP for each respective phase of development/construction of the Application Property. The Applicant reserves the right to utilize on-street parking on the private streets in the development to meet the parking requirements so long as such spaces are striped and meet the dimension requirements of the PFM. The Applicant reserves the right to utilize surface parking spaces in one zoning district on the Application Property to meet parking requirements in another zoning

district on the Application Property. The number of parking spaces represented on the CDP/FDP is based on preliminary estimates of the proposed mix of uses, unit count and unit type. The final number of parking spaces shall be determined at the time of each site plan approval. The Applicant reserves the right to provide parking in excess of the minimum requirements as shown on the CDP/FDP; provided, however, that parking for the multi-family residential and office uses shall not exceed a ratio that is 10% higher than the minimum requirements for such uses as shown on the CDP/FDP, unless the Applicant demonstrates to the satisfaction of DPWES and the Providence District Supervisor that additional parking is necessary to meet anticipated demand for office uses. Such maximum parking ratios, however, shall not include any parking spaces allocated to support TDM programs such as car sharing, car/van pool and fleet vehicles, shuttle buses/vans and the like. During build-out of the single-family attached dwelling unit phases, the Applicant reserves the right to provide interim surface parking as visitor spaces or as second spaces for 16 foot wide townhouses (in accordance with Zoning Ordinance requirements for dimensions, striping, landscaping, etc.) on portions of the Application Property to be developed in a subsequent phase(s) to the extent necessary to meet, but not exceed, the parking requirements for the single family attached phase(s) of construction. The Applicant reserves the right to provide parking for multi-family units in parking structures connected to other, adjacent multi-family buildings so long as the minimum total parking supply is met at all times and so long as the number of above grade parking levels does not increase beyond those depicted on the CDP/FDP. The Applicant reserves the right to construct structured parking associated with Building groups 2-5; 6-10; 11-13; and 14-17 in phases, with portions of such parking constructed in advance of the building for which such parking will ultimately be provided, such that the limitations on the maximum number of parking spaces as set forth in this proffer may be exceeded on an interim basis during construction. The Applicant reserves the right to relocate above grade parking shown on the CDP/FDP for Buildings 6, 7, 8, 9 and/or 10 to a subsurface location beneath those buildings; provided, however, that the building height and footprint, outdoor rooftop amenities and ground floor configuration of such building(s) remain in substantial conformance with those as shown on the CDP/FDP.

- b. Notwithstanding Proffer 13.a. above, the Applicant reserves the right to request a parking reduction or shared parking agreement pursuant to Article 11 of the Zoning Ordinance for a multi-family (except two-over-two multi-family units) and/or non-residential use. Any modification of the required parking as approved by such parking reduction or agreement may be accommodated without requiring a PCA or FDPA provided that the layout of the parking remains in substantial conformance with that depicted

on the CDP/FDP. The Applicant shall not request a parking reduction for the single-family attached units.

c. Visitor Parking.

- (i) A minimum of 0.3 parking spaces per single family attached unit (of the total 2.3 parking spaces required per single family attached unit) shall be located in common areas (i.e. street parking and/or surface lots) on the respective phases of the Application Property. Such spaces shall be available for general parking and shall not be assigned or allocated for use by individual dwelling units. In addition, homeowners/condominium owners' association documents shall provide that residents shall not park in visitor spaces and shall provide for enforcement action by the HOA/COA in the event of violation.
- (ii) A minimum of 0.05 parking spaces per multi-family unit (of the total provided) shall be labeled as visitor parking and located in areas convenient to the respective multi-family buildings (i.e. on street parking or within areas of parking garages that are accessible and not assigned). Such spaces shall be available for general parking and shall not be assigned or allocated for use by individual dwelling units. In addition, homeowners/condominium owners' association documents shall provide that residents shall not park in visitor spaces and shall provide for enforcement action by the HOA/COA in the event of violation.

d. Drop-off Areas. At the time of site plan submission for each of Buildings 6, 7, 8, 9, 10, 16, 17 and 18, the Applicant shall designate at least two on-street parking spaces proximate to such building to be made available for short-term (15 minutes or less) delivery and drop-off use for car pools, van pools, shared car services, delivery services and the like. Conceptual locations for such spaces are shown on the CDP/FDP, and such locations may be modified at the time of final site plan subject to approval by FCDOT. Similarly, the Applicant shall so designate at least two such spaces for such use in connection with each of the following groups of buildings: (i) Buildings 11, 12 and 13; (ii) Buildings 14 and 15; (iii) Buildings 2, 3, 4 and 5; and (iv) Buildings 19 and 20.

e. Single Family Attached Dwellings/Garage Conversion.

- (i) Any conversion or use of garages for the single family attached dwellings that will preclude the parking of vehicles within the garage is prohibited.

- (ii) A covenant setting forth this restriction shall be disclosed in the UOA and HOA/COA documents and recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the UOA and the Board of Supervisors.
 - (iii) Prospective purchasers shall be advised in writing of this use restriction prior to entering a contract of sale and in the HOA documents.
- f. Commercial Off-Street Parking. Subject to the terms of its special exception approval (which is scheduled to expire on November 19, 2006), the existing surface parking lot located on parts of Tax Map Parcels 48-1((1)) 91 and 91A shall remain open and in operation to provide parking for Metro riders, subject to WMATA's continuing operation of such lot, until such time as the Applicant provides 60-day written notice to Fairfax County DOT and the Providence District Supervisor of the start of such development activities on the Application Property (i.e. clearing and rough grading) that shall necessitate the closure of such parking lot. If requested by Fairfax DOT, the Applicant shall cooperate with Fairfax DOT to reduce the number of parking spaces available for use on such lot gradually over time until such time as the Applicant provides notice as provided herein.

14. Stormwater Management

- a. The Applicant shall provide for stormwater detention ("SWM") and Best Management Practices ("BMP") in a system of underground detention vaults and low impact development ("LID") facilities as described in detail on the CDP/FDP, and as may be approved by DPWES. The Applicant shall meet the requirements for "adequate outfall" pursuant to the "Detention Method" as set forth in Section 6-0203.4C of the PFM or as otherwise may be approved by DPWES; provided, however that for purposes of meeting SWM/BMP and/or "adequate outfall" requirements, there shall be no increase in the limits of clearing and grading in East Blake Lane Park from that shown on the CDP/FDP. If it is determined that "adequate outfall" cannot be provided within the proffered limits of clearing and grading, a PCA shall be required.
- b. In addition to providing SWM detention for the entirety of the Application Property, as shown on the CDP/FDP the Applicant shall provide SWM detention (but not BMP) for approximately 11.8 acres of land owned by WMATA located adjacent to the north of the Application Property, which drains on to the northwest drainage area on the Application Property as well as for approximately 1.32 acres of land owned by WMATA located

adjacent to the north of the Application Property, which drains on to the northeast drainage area on the Application Property, and for which no SWM detention currently exists for either area.

- c. In addition, the northeast drainage area of the Application Property shall provide for a peak flow rate reduction in the 100-year 24-hour design storm event that is equal to or less than the peak flow rate from the site in its existing (before re-development) condition
- d. Maintenance. The Applicant shall enter into a private Stormwater Maintenance Agreement(s) with Fairfax County for all of the SWM/BMP/LID facilities prior to site plan approval for the respective phase of development that implements such facilities. Stormwater Maintenance Agreement(s) for underground vaults shall be subject to the Waiver #8625-WPFM-001-1 Conditions as approved by the Board of Supervisors. The Applicant, and subsequently the Umbrella Owners Association (UOA) as defined in Proffer 18, shall maintain all SWM/BMP/LID facilities pursuant to such Stormwater Maintenance Agreement(s).
- e. Monitoring. In order to measure the effectiveness of the LID facilities, the Applicant shall monitor certain of the SWM/BMP/LID facilities pursuant to Flow Monitoring Program attached hereto as Exhibit C. The specifications of the Flow Monitoring Program may be amended from time to time subject to approval by DPWES and without requiring a PCA; provided, however, that the following parameters are maintained:
 - (A) Monitoring shall occur in the northwest drainage area of the site at three locations as specified in the Flow Monitoring Program;
 - (B) Monitoring shall begin following stabilization of the areas draining to the monitoring sites. For purposes of this Proffer 14, stabilization shall be deemed to occur one year following issuance of the first unit RUP for the last building to be constructed in the area that drains to the monitoring sites; and
 - (C) At a minimum, monitoring shall continue for three years from the date of stabilization and data from such monitoring shall be collected annually and compiled in a report to DPWES
 - (D) The monitoring obligations of this proffer shall remain the obligation of the Applicant (or its successor

developer) and shall not be passed on to the UOA or any HOA or COA as defined in Proffer 18 below, and final project bond release shall not occur until after the final monitoring report is submitted to DPWES.

15. Noise Attenuation

- a. Miller, Beam and Paganelli, Inc. has prepared a Noise Impact Analysis dated December 14, 2005, which evaluates noise impacts associated with I-66 on the Application Property. Based on the findings of such Analysis, the Applicant proffers the following:
 - (i) The Applicant shall submit a refined acoustical analysis prior to the submission of site plans for Buildings 5, 6, 7 and/or 10 in order to determine areas of potential impact from I-66 highway noise. Such analysis shall consider the actual height, if any, of a noise attenuation wall/barrier that may be provided as set forth in Proffer 15.a.(ii) below. Such refined acoustical analysis may also provide potential, alternative interior noise attenuation measures to those set forth in Proffer 15.a.(iv) and 15.a.(v) below. Such analysis shall be submitted to and approved by DPZ and shall be based on the methodology contained in the Miller, Beam and Paganelli analysis. Any changes to Buildings 5, 6, 7 and/or 10 premised on the conclusions of such a refined acoustical analysis shall be in substantial conformance with the CDP/FDP and these proffers as determined by the Zoning Administrator
 - (ii) No space in any building that shall be occupied as a residential unit shall be located in an area impacted by noise from I-66 at a level of 75 dBA Ldn or greater at floor level. In order to attenuate highway noise the Applicant may construct a noise attenuation wall/barrier designed as part of the bus shelter/canopy to be located on the Vienna-Fairfax-GMU Metro Station site concurrent with construction of the Metro Station improvements referenced in Proffer 6.a.(xii), subject to WMATA approval. The maximum height of such barrier shall be 30 feet. In the event that the refined acoustical analysis referenced in Proffer 15.a.(i) above demonstrates that portions of any building would be located in an area impacted by noise from I-66 at a level of 75 dBA Ldn or greater at floor level, then the Applicant shall either (1) adjust the use of the impacted portions of such building such that no space in such building that shall be occupied as a residential unit shall be located in an area impacted by noise from I-66 at a level of 75 dBA

Ldn or greater at floor level [For example, space within such impact area may be used for uses ancillary to the primary multiple family residential use of that building (i.e. common recreation space, meeting rooms, storage, etc.) or, as a secondary preference such space may be occupied by "apartment hotel" units with a maximum lease term of 30 days]; or (2) step back the top floors of such building such that no space in such building that shall be occupied as a residential unit shall be located in an area impacted by noise from I-66 at a level of 75 dBA Ldn or greater at floor level. In such event, the Applicant shall demonstrate its selection to DPZ. In the event the Applicant proposes to occupy space within an impact area of 75 dBA Ldn or greater with "apartment hotel" units, the Applicant shall demonstrate as part of the refined acoustical analysis, as approved by DPZ, the measures that will be taken so that the interior noise levels within such units will be mitigated to a noise level of no more than 45 dBA Ldn.

- (iii) In the event that the Fairfax County Policy Plan is amended to eliminate the prohibition on residential use in areas impacted by highway noise at a level exceeding 75 dBA Ldn, the prohibitions of this proffer to residential uses within such areas shall no longer be applicable.
- (iv) In order to reduce interior noise to a level of no more than 45 dBA Ldn, for residential units that are demonstrated by a refined acoustical analysis to be impacted by highway noise from I-66 having levels projected to be greater than 70 dBA Ldn (but not more than 75 dBA Ldn), these units shall be constructed with the following acoustical measures:
 - Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.
 - Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 70 dBA or above.
 - If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 45.
 - All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.
- (v) In order to reduce interior noise to a level of no more than 45 dBA Ldn for residential units that are demonstrated by a refined acoustical analysis to be impacted by highway noise from I-66

having levels projected to be between 65 and 70 dBA Ldn, these units shall be constructed with the following acoustical measures:

- Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39.
- Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above.
- If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39.
- All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

(vi) In order to reduce exterior noise to a level that is no more than 65 dBA Ldn for the active recreation areas of the elevated plaza associated with Building # 7, such plaza shall be shielded from noise impacts from I-66 by the construction of a parapet wall extending upward a minimum of three (3) feet and a maximum of seven (7) feet from the plaza's floor level on the building's northern façade.

(vii) Building plans for each of Buildings 5, 6, 7 and 10 shall depict the final noise contours and all locations on the respective buildings/units, if any, that are subject to noise mitigation as provided herein.

b. Polysonics, Inc. has prepared a Traffic Noise Analysis dated September 29, 2005 which evaluates noise impacts associated with Vaden Drive Extended and Route 29 on the Application Property. Based on the findings of that report, the Applicant shall provide the following noise attenuation measures:

(i) In order to reduce interior noise to a level of no more than 45 dBA Ldn for the single family attached units that are demonstrated by a refined acoustical analysis to be impacted by roadway noise from Route 29 having levels projected to be between 65 and 70 dBA Ldn, these units shall be constructed with the following acoustical measures:

- Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39.

- Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above.
 - If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39.
 - All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.
- (ii) In order to reduce exterior noise to a level that is no more than 65 dBA Ldn for the outdoor recreation area that is projected to be impacted by roadway noise from Route 29, the Applicant shall construct a noise attenuation wall as a design feature of the community in a location as shown on the CDP/FDP. Such wall shall be a maximum height of six (6) feet and shall be located on a berm of approximately 2-3 feet as determined by final grading.
- (iii) The Applicant shall submit a refined acoustical analysis prior to the submission of a site plan that includes the noise impacted residential units and/or recreation area in order to provide alternative noise attenuation measures to those set forth in Proffer 15.b.(i) and 15.b.(ii). Such analysis shall be submitted to and approved by DPZ and shall be based on the methodology contained in the Polysonics analysis.
- (iv) Building and site plans for each unit that is subject to noise mitigation as provided herein shall depict the final noise contours.

16. Tree Preservation Plan

- a. The Applicant shall submit a tree preservation plan as part of the public improvement plan/site plan submission(s) for Vaden Drive Extended and for the Public Building and Public Site (as described in Proffer 25 below). The tree preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of Urban Forest Management ("UFM"). The Applicant shall provide a copy of the Tree Preservation Plan to FCPA for review and comment, upon submission of such plan to DPWES. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 6 inches in diameter and greater, located on the Application Property or within East Blake Lane Park, that are located up to 25 feet to either side of the limits of

clearing and grading shown on the CDP/FDP for the areas adjacent to East Blake Lane Park, the area adjacent to the "tree save" area within the Public Site and the area adjacent to the eastern boundary of the Circle Woods communities. At a minimum, the tree preservation plan shall provide for the preservation of those areas shown for tree preservation on the CDP/FDP. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- b. All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance in tree preservation areas, including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of UFM. The use of equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaw, wheel barrows, rake and shovels. Any work that requires the use of equipment, such as skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.
- c. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading in the areas of tree preservation marked with a continuous line of flagging prior to the walk-through meeting with the UFM to be held prior to any clearing and grading. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk such limits of clearing and grading with an UFM representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented; provided, however, that no adjustment shall be required that would affect the location and/or design of Vaden Drive Extended, including a requirement for additional retaining walls in excess of two feet in height. Trees within the preservation areas that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain

saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions. The Applicant shall notify the Providence District Supervisor ten (10) days in advance of the tree preservation walk through meeting. The Applicant shall notify FCPA, the presidents of the Circle Woods and Hunters Branch community/owners associations, and the owner of Regents Park by United States Mail no later than five (5) days in advance of the walk-through meeting and invite such representatives to the meeting to discuss the limits of clearing and grading.

- d. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these proffered conditions and for the installation of fences, utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install fences, utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by UFM. A replanting plan shall be developed and implemented, subject to approval by UFM for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities
- e. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the phase I & II erosion and sediment control sheets, as may be modified by Proffer 16.f. below. All tree protection fencing shall be installed after the tree preservation walk-through meeting described in Proffer 16.c. above but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and UFM, and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, the UFM, DPWES and the Providence District Supervisor shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices

have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM. The Applicant shall notify FCPA, the presidents of the Circle Woods and Hunters Branch community/owners associations, and the owner of Regents Park by United States Mail no later than five (5) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas and invite such representatives to a meeting with the Providence District Supervisor to inspect the site to ensure that all tree protection devices have been correctly installed.

- f. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the respective public improvement/site plan submission. The details for these treatments shall be reviewed and approved by UFM, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following: (1) root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches; (2) root pruning shall take place prior to any clearing and grading; (3) root pruning shall be conducted with the supervision of a certified arborist; and (4) a UFM representative shall be informed when all root pruning and tree protection fence installation is complete.
- g. During any clearing or tree/vegetation removal in the areas adjacent to the tree preservation areas, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor on-site all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described in Par. c. above.
- h. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 6 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective public improvement/site plan(s). The

replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM.

- i. At the time of the respective public improvement/site plan approvals, the Applicant shall both post a cash bond and a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with Proffer 16. h. above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to 50% of the replacement value of the Bonded Trees. The cash bond shall consist of 33% of the amount of the letter of credit. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFM due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFM. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond for Vaden Drive Extended any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.
- j. Planting Strips. Subject to approval by DPWES, the Applicant shall install street trees in planting strips/tree wells as shown on the CDP/FDP. In instances where such planting strips/tree wells contain less than 8 feet of surface width and the Applicant proposes to count such trees to meet tree cover requirements, the Applicant shall install structural soil in the planting areas as shown on the CDP/FDP and as approved by Urban Forest Management in order to promote the survivability of street trees and in order to allow such trees to be counted to meet tree cover requirements. The Applicant shall provide Urban Forest Management written confirmation from a certified arborist demonstrating and verifying the installation of structural soil in such locations and documenting that the structural soil was produced by a licensed company. In addition, prior to the first installation of structural soil the Applicant shall notify Urban Forest Management at least 72 hours in advance of the first installation of structural soil to afford Urban Forest Management representatives an opportunity to inspect the installation.

- k. Native Plant Transplantation. The intent of this Proffer 16.k. is to facilitate an opportunity to rescue native plant species from areas of the Application Property to be cleared (but not from tree preservation areas) before the initiation of land disturbing activities. Except for the conditions identified below, the implementation of this proffer will in no way interfere with the land development process after approval of this Application. To that end, the Applicant shall work cooperatively with the Providence District Supervisor's office and Fairfax County Urban Forest Management to coordinate an opportunity for the removal and transplantation of native plant species located outside tree save areas on the Application Property. In order to facilitate the rescue and transplantation of native plants prior to the initiation of land disturbing activities the Applicant will mark the general area of the tree save areas within 30 days after approval of this Application and will notify the Providence District Supervisor's office and provide reasonable opportunity for Urban Forestry Management and/or third parties under their direction to access the Application Property and remove vegetation that is not proposed to be saved. Such right of access shall be subject to the party seeking access maintaining reasonable insurance and providing indemnification to the Applicant and the landowners against all risk of loss, damage, injury or death resulting from such access and/or the transporting of vegetation from the Application Property. The Applicant will notify the Providence District Supervisor's office again at the time of second site plan submission for the first site plan/public improvement plan submitted for the Application Property. The marking of the tree save areas and provision of notice as required herein shall fully satisfy the Applicant's obligations under this proffer.

17. Signage

- a. Signage for the Application Property shall be provided pursuant to Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan as may be approved by the Planning Commission. In either event, a coordinated signage system, including potential retail awning signage, for all residential and non-residential uses shall be provided to establish the community's identity. Signs shall use a consistent pallet of color, lighting, and font. Building mounted signage shall be compatible in terms of height, color, illumination and letter sizing. No pole signs shall be permitted. If lighted, signage shall be internally lighted or lighting shall be directed downward. No signs shall be placed within any recorded site distance easements located as determined by DPWES and/or VDOT.
- b. No temporary signs (including "popsicle, paper or cardboard signs") which are prohibited by Article 12 of the Zoning Ordinance, and those signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of 36.2 of the

Code of Virginia, shall be placed on or off-site by the Applicant, or at the Applicant's direction, to assist in the sale or rental of homes or commercial space on the Application Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing in the sale of residential units on the Application Property to adhere to this Proffer.

18. Homeowners' Associations

- a. Umbrella Owners' Association. Prior to the issuance of the first Non-RUP or RUP for any phase of the development/construction of the Application Property except temporary transportation facilities and/or parking uses, if any, the Applicant shall establish an Umbrella Owners' Association ("UOA") in accordance with Virginia Law.
- b. Homeowner and Condominium Owners' Associations. Prior to the issuance of the first RUP for any residential phase of the development/construction of the Application Property, the Applicant shall cause either a homeowners' association and/or a condominium owners' association ("HOA/COA") to be formed for that phase in accordance with Virginia law.
- c. Membership in UOA. At a minimum, each HOA/COA and the owner(s) of the office building(s) shall be member(s) of the UOA.
- d. HOA/COA Maintenance Obligations. Each HOA/COA shall have specific land areas of the Application Property within its boundaries, and each shall assume all maintenance and other obligations required by these proffers for common space and common infrastructure within those boundaries except for those maintenance obligations to be assumed by the UOA pursuant to Proffer 18.e. below. Maintenance obligations of the HOA/COAs for the various phases of the Application Property may be shared by agreement among the HOA/COAs.
- e. UOA Maintenance Obligations. The Applicant and subsequent UOA shall have maintenance responsibilities that shall include, but not necessarily be limited to the following:
 - (i) Maintenance of private streets, all sidewalks, plazas, open-space, stormwater management facilities, recreational facilities and other common areas within the Application Property including standard cleaning and lawn/landscaping maintenance and removal of snow from streets and all sidewalks (including VDOT sidewalks) with the Application Property. The UOA shall incorporate into its lawn

maintenance contracts a prohibition against mowing with gas-powered equipment on Code Red days.

- (ii) Repair of surfaces and site furnishings.
 - (iii) Replacement of dead, dying, or diseased trees and landscaping within the Application Property with the same size and similar species as originally approved on the landscape plan.
 - (iv) The respective UOA and HOA/COA documents shall specify the maintenance obligation as set forth herein. Purchasers shall be advised in writing prior to entering into a contract of sale, and in the UOA documents and the HOA/COA documents that the HOA/COA shall be responsible for the maintenance obligations as set forth herein.
- f. UOA TDM Obligations. All residents, tenants, and employers of the Metro West community shall be advised of the TDM Plan (See Proffer 7). UOA/COA/HOA members will be informed of their funding obligations pursuant to the requirements of Proffer 7 prior to purchase of units, and the requirement for the annual contribution to the TDM Plan (as provided in Proffer 7) shall be included in all initial purchase documents and within the HOA, COA and UOA documents.

19. Energy Conservation

- a. All dwelling units constructed on the Application Property shall meet the thermal standards of the CABO model energy program for energy efficient homes over its equivalent, as determined by DPWES for either electric or gas energy homes as applicable.
- b. The Applicant shall incorporate sustainable design elements in the final design of the uppermost rooftop areas (i.e. not elevated plaza areas, if any) on buildings 5, 6, 7, 8, 9, 10, 16, 17 and 18; provided, however, if the final design of any of such buildings includes roof top pools and/or other amenities on a rooftop area, then the requirements of this proffer 19.b. shall not apply to that roof. Rooftop design for applicable roof areas will meet the standard set forth in Credit 7.2 of the U.S. Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System Version 2.1. Specifically for applicable roof areas, a minimum of 75% of the roof surface, excluding areas covered by equipment or roof accessories, will be covered by an Energy Star compliant high reflectivity roof product with an emissivity of at least 0.9 when tested in accordance with ASTM 408. The Applicant shall provide

confirmation to DPWES that a LEED Accredited Professional has reviewed the building plans and specifications for compliance with this requirement prior to or concurrent with building permit application.

20. Smart Building

- a. Office buildings shall contain high capacity, high bandwidth communication lines. Building management shall encourage individual employers/tenants to provide employees with access to their networks via such lines.
- b. The Applicant shall pre-wire all residential units with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines. All high-rise residential buildings (over 10 stories) shall have access to wireless high-speed communication systems.

21. Architectural Design

- a. The architectural design of the multi-family and office buildings shall be in substantial conformance with the general character of the elevations shown on the CDP/FDP. Minor modifications may be made with the final architectural designs as approved by the Zoning Administrator. As shown on the CDP/FDP, exterior materials shall consist primarily of brick, glass, pre-cast concrete, metal panels, cement fiber-board and cast stone. Exterior insulation finishing system(s) ("EIFS") shall not be used as a primary building material, but EIFS may be used to clad penthouses and for architectural details and fenestration. In addition, EIFS may be used as a building material on upper levels of multifamily buildings (i.e. upper two floors for buildings fewer than 10 stories, and upper three floors for buildings 10 stories or greater); provided, however, that the use of EIFS as a building material on such upper levels shall not exceed 50% of the finished façade of such upper levels.
- b. Single-family attached dwelling unit architecture shall be in general character with the elevations shown on the CDP/FDP. Minor modifications concerning architectural details such as fenestrations, copings and archways may be made with the final architectural designs. Any side or rear elevations that face Vaden Drive Extended or Lee Highway shall be treated as a front in terms of architectural details and building materials. As shown on the CDP/FDP, decks or other additions shall extend no more than six (6) feet from the back of the rear-loaded single family attached dwelling units and no more than ten (10) feet from the back of the front-loaded single family attached dwelling units (resulting in a minimum five foot rear yard for such front-loaded units into which decks or other

additions may not encroach). The respective HOA documents shall specify these restrictions on the allowable extent of decks.

- c. Bay windows, balconies, awnings, store fronts and other architectural details may be provided for multi-family and office buildings provided that such features extend no more than 8 feet beyond the building footprints as depicted on the CDP/FDP and so long as the streetscape features and dimensions as shown on the CDP/FDP are maintained. The respective UOA/COA/HOA documents shall specify these restrictions on allowable projections.
- d. As shown on Sheet 12 of the CDP/FDP, an architectural surface treatment that is consistent with the theme of the associated building architecture shall be used on all exposed parking garage structures and garage walls. For example, a mix of stone aggregate, special forming or scoring, a special mix of textures or polymer painted materials, brick, landscape screening materials, pre-cast concrete, architectural embellishment, and/or other treatments that are compatible with and complement the building architectural material shall be provided as approved by DPWES.
- e. An architectural surface treatment shall be used on the face of any retaining walls except those associated with garage ramps. The surface treatment shall be either predominantly or a combination of a mix of stone aggregate, special forming, or scoring, special mix of textures or polymer paint materials, bricks, screening materials, pre-cast concrete, architectural embellishments and/or other treatments that are compatible with and complement the building architecture and materials as approved by DPWES. Except for any retaining wall that is required in connection with construction of Vaden Drive Extended, retaining walls shall be limited to a height of 5 feet, beyond which they shall be tiered and landscaped. Retaining walls for Vaden Drive Extended shall be provided as shown on Sheet 14 of the CDP/FDP.
- f. In addition to the accessibility improvements required by Proffer 5.c.(x), 5.e.(ii) and 24, the Applicant shall cooperate with residents to facilitate their installation of accessibility improvements in any unit type.

22. Lighting

- a. Outdoor lighting on the Application Property shall be provided in accordance with the outdoor lighting standards contained in Part 9 of Article 14 of the Zoning Ordinance. Lighting fixtures in above-grade garage structures shall be inset into the deck ceilings. Coordinated street level lighting shall be provided throughout the development.

23. Telecommunications Equipment

- a. Telecommunications equipment may be placed on the proposed residential and non-residential buildings' rooftops. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be screened and/or setback sufficiently from the perimeter of the roof and penthouse such that they are not visible from the surrounding streets at street level. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas.
- b. License for Public Use Antennas. The Applicant shall provide a no-cost, ten-year license agreement to Fairfax County for the County's installation, maintenance and operation (at the County's cost) of up to six (6) whip antennae or twelve (12) directional antennae and a maximum of 200 square feet of roof surface for an equipment cabinet (or commensurate space within a mechanical penthouse) to be located on one of Buildings 6, 7, 8, 9 or 10. The specific location for the antennas shall be coordinated with the building owner. The license agreement shall require compliance with all the performance standards set forth in Proffer 23.a. above, such as screening, and stipulate that the antennae are for public use only (police, fire, rescue, homeland security) and that the County shall be responsible for any damages to the building resulting from its actions pursuant to the license agreement. The license agreement shall be renewable for five, five-year periods at the written request of the County at no cost to the County.

24. Affordable Dwelling Units

- a. The Applicant shall comply with the Affordable Dwelling Unit (ADU) requirements of Section 2-801 of the Zoning Ordinance in effect as of the date of approval of this Application unless modified by the ADU Advisory Board; however, irrespective of those provisions, the ADUs generated by the application of Section 2-801 of the Zoning Ordinance shall be provided for a minimum term of 30 years, and the Applicant shall not seek to modify such minimum term through the ADU Advisory Board. The ADUs generated by the application of Section 2-801 of the Zoning Ordinance shall be dispersed at the Applicant's discretion throughout the various product types in the development, but ADUs shall not necessarily be located in each building. In addition to such number of ADUs required pursuant to the application of Section 2-801, the Applicant shall also provide an additional 61 ADUs in the project representing a replacement of the 61 units in the old Fairlee subdivision (the "Replacement ADUs"). The

Replacement ADUs shall be administered pursuant to Section 2-801 of the Zoning Ordinance in effect as of the date of approval of this Application unless modified by the ADU Advisory Board; however, irrespective of those provisions, the Replacement ADUs shall be provided for a minimum term of 30 years, and the Applicant shall not seek to modify such minimum term through the ADU Advisory Board. The Applicant reserves the right to disperse the Replacement ADUs among buildings 11, 12, 13, 14, 15, 16, 17, 18, 19 and/or 20. Of the total ADUs provided, a minimum of ten (10) of the ADUs shall be designed and constructed as fully handicapped accessible units.

25. Fairfax County Park Authority/Public Facilities

a. Public Building/Public Site.

- (i) Design, Budget and Construction Bid. The Applicant shall design the public site shown on the CDP/FDP (the "Public Site") consisting of approximately 4.75 acres (including the area of interparcel access as described in Proffer 6.a.(i)) located generally west of Vaden Drive Extended and north of the Circle Woods communities, including the public use building as shown on the CDP/FDP (the "Public Building"), and the public use building site as shown on the CDP/FDP (the "Public Building Site"). Specifically, the Public Building shall contain approximately 29,700 square feet of gross floor area (except to the extent the scope of the Public Building is modified as provided in this Proffer 25) and shall include a gymnasium (minimum approximately 9,000 gross square feet). In addition the Public Building may contain, among other things, space for office, meeting room, police satellite office, exercise room, game room, arts/crafts room, computer room, multipurpose meeting room, kitchen, restroom, locker and storage space, as generally shown on the CDP/FDP. In addition, the Public Building shall incorporate a vegetative cover of permanent plantings (sedum) atop approximately 1½" - 2" soil over portions of the roof of the building. The parking for the Public Building shall be as shown on the CDP/FDP.

The Applicant shall design the Public Building and Public Building Site pursuant to the Fairfax County Guidelines for Architects and Engineers prepared by DPWES and dated November 2002 (the "Guidelines"), as amended, and such that the Public Building and Public Building Site are designed to be consistent with the quality of other reasonably comparable County facilities of similar use. All

design documents are subject to County review and approval at each design phase as provided herein.

For purposes of this Proffer 25, the "Total Construction Cost" of the Public Building and Public Building Site shall include hard construction costs of the Public Building and Public Building Site, the vegetative roof and the surrounding landscape and hardscape on the Public Building Site; design; special consultant services; permitting; construction administration services; quality control inspections; required Special Inspections Program inspections; independent cost estimating; utility connections and/or relocations and new services on the Public Building Site; and all other costs related thereto. For purposes of this Proffer 25, "Total Construction Cost" of the Public Building and Public Building Site shall not include clearing and grading; earthwork; costs to bring utilities to the Public Building Site; costs associated with site related LID facilities (i.e. other than the vegetative roof); landscaping and asphalt paving outside the Public Building Site; and costs for easement preparation and recordation, all of which costs the Applicant shall bear. The Applicant shall bear all costs for SWM/BMP for the Public Building and Public Building Site and such SWM/BMP shall be provided as part of the SWM/BMP provided for the Application Property as set forth in Proffer # 14 above, provided the County shall pay its pro rata maintenance and replacement costs for the SWM/BMP facilities to which water from the Public Building and Public Building Site drain. The Applicant's obligation for the Total Construction Cost of the Public Building and Public Building Site shall not exceed \$6,000,000, which amount shall be adjusted annually for inflation as reported by the Marshall & Swift Building Cost Index from the date of approval of this Application to the date that a Non-RUP is issued for the Public Building. No more than \$475,000, adjusted for inflation as provided above, shall be credited against the Applicant's \$6,000,000 cost cap for architectural, MEP, structural and civil engineering design fees and expenses. The Total Construction Cost for the Public Building may, at the County's discretion and within the Applicant's \$6,000,000 cost cap, include fixtures, furnishings and equipment to the Public Building.

The Applicant shall coordinate the preparation of the design of and budget for the Public Building and Public Building Site with DPWES and other County agencies with DPWES as the point of contact which will be responsible for coordinating with other County agencies. The Applicant shall submit design and budget

documents to DPWES for County review and approval consistent with the Guidelines and the provisions of this proffer at the following points: Final Space Programming, Schematic Design (15%); Design Development (35%); 50% Construction Documents; and 100% Construction Documents. The Applicant shall address and as applicable incorporate all County review comments at each design phase, and shall provide a statement of probable construction cost prepared by a mutually agreed upon independent, professional construction cost estimator at each design phase. Prior to the submission of the Schematic Design drawings, the Applicant shall convene a meeting with DPWES to set a commercially reasonable schedule and process for review and comment on the submission sets of drawings and budget. The Applicant shall respond to all County plan review comments in writing, and as applicable shall incorporate all such comments in the next design phase plan submission. Following County approval of the Design Development drawings, no further design changes shall be made to the Public Building and/or Public Building Site except as may be required to adjust the scope of the Public Building and/or Public Building Site as provided herein. In the event of any disagreement between the Applicant and DPWES as to whether the design of and/or budget for the Public Building and/or Public Building Site is proceeding consistent with the Guidelines and/or the provisions of this proffer, such issue shall be addressed by proffer interpretation request to the Zoning Administrator.

The Applicant shall submit the Schematic Design documents and detailed construction cost budget for the Public Building and Public Site to DPWES prior to or concurrent with the submission of a site plan/public improvement plan for Vaden Drive Extended. Once the 100% Construction Documents and budget for the Public Building and Public Building Site have been approved by DPWES, the Applicant shall then obtain a minimum of three (3) construction bids for the approved design of the Public Building and Public Building Site to ensure that the Total Construction Cost is bid within the Applicant's \$6,000,000 cost cap. Following receipt of the construction bids, the Applicant shall meet with the County to review the construction bids and thereafter provide the County the opportunity to verify the construction bids through an independent source. If the estimated Total Construction Cost exceeds \$6,000,000 at any design phase, or if the Applicant cannot obtain a construction bid for the approved design within the Applicant's \$6,000,000 cost cap, then the County shall have the option, at the

County's discretion, to either (1) adjust the scope of the project so that it can be bid within the \$6,000,000 cost cap, which adjustment in scope shall not require a PCA; (2) allocate additional funding as needed to fully fund the Total Construction Cost for the Public Building and Public Building Site; or (3) in lieu of any further design and/or construction requirement for the Public Building and Public Building Site, require the Applicant to contribute to the County \$6,000,000 less all permissible documented costs incurred by the Applicant up to such time in furtherance of the design and construction of the Public Building and Public Building Site. In the event that option three (3) is selected, then the Applicant shall contribute the amount due to the County and thereafter the Applicant shall bear no further obligation under this Proffer 25, except that the Applicant shall remain obligated to dedicate the Public Site as provided herein.

Once the Applicant has an acceptable construction bid in place as provided herein the Applicant shall be responsible for a construction contingency equal to the lesser of 10% of the amount of the construction bid or \$600,000, to cover, to the extent of the contingency, change orders related only to design document ambiguities, errors, omissions or unforeseen construction condition(s) that could not have been reasonably foreseen through the due diligence of the contractor or subcontractors. In no event shall this construction contingency be allocated to augment the approved design and/or budget of the Public Building and/or the Public Building Site.

- (ii) Permitting and Construction. Following receipt of a construction bid within the \$6,000,000 cost cap (or such higher amount as may result from the County allocating additional funds), the Applicant shall diligently proceed to obtain site plan and building permit approvals for the Public Building and Public Building Site. Following approval of necessary permits for the Public Building and Public Building Site, and following completion of site development work necessary to begin construction on the Public Site, including rough grading of at least the western portion of the Application Property tying in to East Blake Lane Park, which site work the Applicant shall diligently proceed to complete, the Applicant shall diligently proceed to construct the Public Building and Public Building Site as approved.

- (iii) Dedication. Following issuance of the Non-RUP for the Public Building, the Applicant shall dedicate and convey in fee simple the Public Building, the Public Building Site and the balance of the Public Site for public purposes. The Public Building, the Public Building Site and the Public Site shall be dedicated “as is, where is”, and concurrent with such dedication, the Applicant shall also assign to Fairfax County all of the Applicant’s warranty rights under construction contracts and engineering and design contracts for the Public Building, Public Building Site and Public Site to which the Applicant is a party; provided, however, that Fairfax County, concurrently therewith, agrees to release the Applicant from all liability for any of the work done related to the Public Building, the Public Building Site and the Public Site. Such dedication shall occur prior to issuance of the 400th RUP for the Application Property (exclusive of RUPs issued for dwelling units constructed within the first of Buildings 6, 7 or 10 to be constructed); provided, however, that upon demonstration that diligent efforts have been made to construct such improvements, the timing of the improvements may be delayed for good cause shown as determined by the Director, Zoning Evaluation Division. For purposes of this Proffer 25 “good cause” shall include, but not be limited to, unforeseen delays relating to permitting or construction that could not have been reasonably foreseen despite the due diligence of the Applicant, its contractors and/or its subcontractors.
- (iv) The Public Building, the Public Building Site and its parking shall be dedicated to the Board of Supervisors in fee simple. The balance of the Public Site shall be dedicated in fee simple to the Fairfax County Park Authority. Such dedications shall be subject to the following:
 - (a) A portion of the Public Site consisting of approximately 1.17 acres of land identified on the CDP/FDP as “tree save” shall be dedicated subject to a conservation easement to preserve the area in its natural state; provided, however, that the removal of dead, dying and diseased trees and the installation of field-located picnic tables, trash receptacles, and natural surface trails that result in no land disturbance or loss of trees shall be permitted within such area as approved by DPWES.
 - (b) The Applicant shall be entitled to tree cover credit for such dedicated “tree save” area within the Public Site as shown

on the CDP/FDP, and the Applicant shall be entitled to utilize open space within the Public Site in meeting the open space requirements for the development.

- (c) The Applicant shall be entitled to reserve easements as necessary over the Public Site, exclusive of the area to be included in the conservation easement as provided above, to provide the following:
 - (A) Storm drainage to allow conveyance of stormwater from the Application Property through the Public Site and into a channel on the FCPA property in an area as generally shown on the CDP/FDP;
 - (B) The construction, installation, monitoring, maintenance, repair and/or replacement of storm sewer outfall pipe within the area of storm drainage easement referenced above;
 - (C) The construction, installation, monitoring, maintenance, repair and/or replacement of retaining walls and slope to support Vaden Drive Extended in an area as generally shown on the CDP/FDP;
 - (D) Realign and reconstruct a portion of the City of Fairfax Connector Trail in an area as generally shown on the CDP/FDP;
 - (E) Clear and re-grade portions of the Public Site in areas as generally shown on the CDP/FDP to provide for storm drainage and retaining walls as referenced above;
 - (F) Interparcel access to allow the access road from the independent living facility west of the Application Property to connect to Vaden Drive Extended unless FCDOT and/or VDOT has requested such area to be dedicated with Vaden Drive Extended (see Proffer 6.a.(ii));
 - (G) Public Access/Trail Easements for Vaden Drive Extended Trail (maintenance by Applicant) and City of Fairfax Connector Trail (maintenance by FCPA);

- (H) The construction, installation, monitoring, maintenance, repair and/or replacement of project signage and project entry feature and landscaping in the northern portion of the Public Site as shown on the CDP/FDP.
- (I) Other easements and permissions as may be reasonably required to accomplish these objectives and to allow for development of the Application Property, including utility easements, sight distance easements and the like.

26. ADDITIONAL PUBLIC FACILITIES

- a. Prior to site plan/public improvement plan approval for Vaden Drive Extended, the Applicant shall contribute \$5,000.00 to each of the Merrifield Fire Department, the Vienna Volunteer Fire Department and the Dunn Loring Fire Department for equipment and/or improvements to facilities.
- b. Prior to site plan/public improvement plan approval for Vaden Drive Extended, the Applicant shall contribute \$10,000 to the Oakton Community Library.
- c. Prior to site plan/public improvement plan approval for Vaden Drive Extended, the Applicant shall contribute \$10,000 to the Nottaway Nights program.
- d. Prior to site plan/public improvement plan approval for Vaden Drive Extended, the Applicant shall contribute \$10,000 to the Fairfax County Tree Fund.
- e. Prior to site plan/public improvement plan approval for Vaden Drive Extended, the Applicant shall contribute \$10,000 to the Board of Supervisors for use in the preparation of a County bicycle map.
- f. The Applicant shall contribute \$25,000 to the Board of Supervisors for use at the new Oakton Park on Hunter Mill Road. Such contribution shall be made within 30 days of final, unappealable approval of this Application.

27. SCHOOL CONTRIBUTION

- a. At the time of the first building permit the Applicant shall contribute the sum of \$1,770,000 to the DPWES for transfer to the Fairfax County School

Board to be utilized for capital improvements contained in the adopted Capital Improvement Program for public schools to which children living on the Application Property will attend. If approved by the Board of Supervisors or its authorized agent in coordination with the Fairfax County Public School Board, prior to the time such contribution is made, the Applicant may make an in-kind contribution for capital improvements to the Fairfax County School Board equal to, or greater in value than, the cash contribution, as determined by the Board of Supervisors or its agent.

28. Construction

- a. Outdoor construction hours for the initial construction shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday, 9:00 a.m. to 7:00 p.m. Saturdays and federal holidays, and 10:00 a.m. to 6:00 p.m. on Sundays; provided however that there shall be no outdoor construction on Thanksgiving Day, Christmas Day, New Years Day, Easter and July 4th. The Applicant shall inform all contractors and subcontractors in writing of such construction hours, and signs designating such construction hours shall be provided in both English and Spanish and posted at all construction entrances to the site.
- b. Erosion and sediment control measures shall be installed prior to the start of any construction or earth-moving activity as reviewed and approved by DPWES. Following initial site development work, the Applicant shall stabilize areas of the Application Property that are not under construction or being utilized for interim parking as provided herein by removing dirt piles and debris and planting grass. No disturbed area shall be left unprotected for more than seven (7) days, except for those portions of the site in which earth-moving activities are planned to occur imminently beyond that period
- c. The Applicant shall identify a person who will serve as a liaison to the community throughout the duration of construction. The name and telephone number of this individual shall be provided in writing to the Providence District Supervisor's office and the presidents of the adjacent home owner associations prior to the first site plan approval for the Application Property. Any changes in the name and/or telephone number of such liaison shall be provided in writing to the Providence District Supervisor's office.
- d. Before approval of the first site plan for the Application Property, the Applicant shall hold a meeting to advise the community of the start of construction, to identify the community liaison, to identify alternative pedestrian connections during construction and address other questions

and comments. Such meeting shall be coordinated with the Providence District Supervisor's office.

- e. Throughout construction of the project, the Applicant shall maintain a website for the project that provides updates as to construction activities and timing and provides an opportunity for members of the community to communicate with representatives of the Applicant on an ongoing basis. Such website shall be in operation prior to approval of the first site plan for the Application Property.
- f. The Applicant shall deliver copies of public improvement plans, site plans, landscape plans and tree preservation plans to the Providence District Supervisor and Planning Commissioner for review and comment upon submission of such plans to DPWES.
- g. The Applicant shall prepare a construction congestion management plan that identifies anticipated construction entrances, construction staging areas, construction vehicle routes and a plan to coordinate with FCDOT and/or VDOT concerning construction material deliveries, lane closures, and/or other construction related activities that may adversely impact the surrounding road network. Such plan shall be submitted for review and comment to the Providence District Supervisor and Planning Commissioner, FCDOT and DPWES upon submission of the initial site plan that proposes such work for the Application Property.

29. Partial PCA/FDPA.

- a. Any of the respective buildings of the development may be the subject of a partial and separate PCA and/or FDPA without joinder and/or consent of the other buildings as determined by the Zoning Administrator pursuant to Paragraph 6 of Section 18-204 of the Zoning Ordinance. Previously approved proffered conditions applicable to buildings that are not the subject of such a PCA or FDPA shall otherwise remain in full force and effect.

30. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and its successors and assigns.

31. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed shall be deemed an original document and all when taken together shall constitute but one and the same instrument.

[Signature Pages to Follow]

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PULTE HOME CORPORATION

Applicant

Title Owner: Tax Map 48-1 ((1)) 90B; 48-1 ((6)) 5, 6, 7B, 8A, 9, 10, 11, 12, 13, 33, 34, 35, 36, 37; 48-2 ((24)) 38B, 39, 40, 41, 42; 48-3 ((5)) 1A, 1B, 2, 3, 4, 14, 15, 16, 17, 18, 19, 20, 21, 22; 48-3((1)) 55; 48-4 ((7)) 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 60, 61A, 62, 63, 64, 65, 66, 67, 68, 69 and underlying fee to Fairlee and Maple Drives

Contract Purchaser: 48-1 ((1)) 91, 91A

By: _____

Name: _____

Title: _____

VIENNA METRO LLC

Contract Purchaser: Tax Map 48-1 ((6)) pt. 5, pt. 6, pt. 7B, 8A, 9, 10, 11, pt. 12, pt. 34, 35, 36, 37; 48-2 ((24)) pt. 38B, pt. 39, pt. 40, pt. 41

By: CLARK REALTY CAPITAL, L.L.C., a
Delaware limited liability company, Manager

By: _____
Douglas R. Sandor, Manager

By: _____
CEI Realty, Inc., Manager

By: _____
Lawrence C. Nussdorf
President

RZ 2003-PR-022
Page 77

HEIRS OF PAUL LEE SWEENEY
Title Owner: Tax Map 48-1 ((1)) 91

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

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SLC LC
Title Owner: Tax Map 48-1 ((1)) 91A

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

ACTION – 3

Approval of Revisions to Chapters 2, 4 and 14 of the Personnel Regulations

ISSUE:

Revisions to the Fairfax County Personnel Regulations are proposed to provide administrative direction and policy clarification.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Chapters 2, 4 and 14 of the Personnel Regulations, as specified below.

TIMING:

Board action is requested on June 7, 2022, with the revisions effective immediately.

BACKGROUND:

Revisions to Chapter 2 of the Personnel Regulations, Definitions, are as a result of removing the reference to “public safety employees” in the Longevity Pay Increment definition. This definition applies to all employees eligible for the Longevity Pay Increment.

Revisions to Chapter 4 of the Personnel Regulations are required to extend the date to temporarily increase the number of hours of compensatory time that were previously approved to be carried over at the end of 2020 and 2021 due to the pandemic to the end of 2022. Pre-pandemic, employees could only carry forward 240 hours of compensatory time from one calendar year to the next and compensatory time in excess of 240 hours was forfeited at the end of the calendar year. In April 2020, the County Executive communicated through Countywide email to all County employees that for the years ending in 2020 and 2021, County employees eligible to earn compensatory time but unable to use it due to the pandemic would be allowed to carry over up to 480 hours, and the Board approved an amendment to the Personnel Regulation Section 4.14-4(b) on November 17, 2020, allowing eligible employees to carry over 480 hours of compensatory time between December 31, 2020, and

Board Agenda Item
June 7, 2022

December 31, 2021. This proposed revision would allow eligible employees to carry over 480 hours through December 31, 2022.

Further revisions in Chapter 4 are to clarify longevity increases are subject to available funding and to add a public safety third longevity increase for 25 years of service (Section 4.5, Longevity Pay Increments); delete Section 4.12, Allowances Granted Uniformed Fire Employees, to align with current practice, which also necessitates the renumbering of the remaining sections in Chapter 4; and clarify two instances where overtime is earned in Section 4.14, Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time, which has been renumbered as Section 4.13.

Revisions to Chapter 14, Section 4.14-4(b), of the Personnel Regulations are to remove the words “photographs” and “physically” thus allowing for other records retention methods in the future.

Following an advertised public hearing held on May 12, 2022, 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.

The following content highlights proposed changes, by chapter:

Chapter 2 – Definitions (Attachment 1)

Removed reference to public safety employees in Longevity Pay Increment definition.

Chapter 4 – Pay Plan, Hours of Work and Overtime (Attachment 2)

Clarified longevity increases are subject to available funding and added public safety third longevity increase for 25 years of service, removed entire Master Fire Technician section, replaced year 2021 with 2022 as date employees may carry over compensatory time over 240 hours, and clarified two instances where overtime is earned for employees.

Chapter 14 – Reports and Records (Attachment 3)

Removed the words photographs and physically thus allowing for other records retention methods in the future.

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 May 12, 2022, no one provided public comment, and the Commission's comments are included as Attachment 4.

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June 7, 2022

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Revisions to Chapter 2 of the Personnel Regulations
Attachment 2: Proposed Revisions to Chapter 4 of the Personnel Regulations
Attachment 3: Proposed Revisions to Chapter 14 of the Personnel Regulations
Attachment 4: Civil Service Commissioner Memorandum

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney
Kimberly P. Baucom, Senior Assistant County Attorney

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) County of Fairfax, Virginia-Personnel Regulations

June 7, 2022

Deleted: July 1, 2021

Attachment 1

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 County of Fairfax, Virginia-Personnel Regulations

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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.

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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.

Commented [AJ1]: Removed reference to "public safety employees" from definition of longevity pay increment.

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.

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 time 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

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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 County of Fairfax, Virginia-Personnel Regulations

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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.

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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 criminal 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.

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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 4

Pay Plan, Hours of Work and Overtime

4.1 Pay Ranges

- 1 In preparing the pay plan, consideration shall be given to the duties and responsibilities of the various types of positions, the prevailing rates paid for comparable services in public and private employment and to experience in recruiting for such positions. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class. Pay ranges assigned to classes consisting of public safety employees shall include such intermediate rates or steps as deemed necessary.
- 2 The rate of pay set forth in the plan shall include total pay in every form, except that it shall not include allowance for actual and necessary travel expense authorized and included as incident to employment. If subsistence, quarters or other maintenance is furnished to an employee, the reasonable value thereof shall be deducted from the rate of pay set forth in the plan. Exceptions to this provision must be approved by the Board of Supervisors.
- 3 When, in the opinion of the department head or deputy, following these rules results in an inequity, the Human Resources Director may authorize a salary adjustment if he /she concurs in the opinion of the department head or deputy.
- 4 Except as provided in these rules, performance pay increase dates shall not be affected by the adoption of the new pay plan.
- 5 Employee pay increases, to include performance pay increases and/or longevity increases, as provided in this chapter are subject to conditions outlined in the appropriate section of the regulations and are subject to available funding.

4.2 Starting Rate of Pay

- 1 The minimum rate of pay for a class shall normally be paid upon appointment.
- 2 Original appointment not to exceed the midpoint rate may be made if any of the following conditions exist:
 - a. The qualifications of the applicant significantly exceed the requirements for the class.

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- b. Difficulty of recruitment requires payment of a higher rate.
- 3 Original appointment above the midpoint rate requires the approval of the Human Resources Director.
- 4 A former employee being reinstated, as defined in Chapter 2, will be appointed at a rate of pay equal to or greater than the rate he/she was receiving at the time of his/her separation, adjusted to reflect any cost of living or market pay adjustments pay to that pay grade since his/her separation.

4.3 Performance Pay Increase

- 1 Performance pay increases may be granted to those employees who meet the requirements specified for such increases. Employees considered not qualified for a performance pay increase shall be handled in accordance with the provisions of Chapter 12.
- 2 Eligibility

A non-public safety employee receiving less than the maximum scheduled rate for his/her grade may be granted a percentage salary increase not to exceed the amount authorized by the Board of Supervisors. A performance pay increase for a public safety employee advances him/her to the next step in the grade. Eligibility for performance pay increases is subject to available funding and the following:

- a. His/her work has met or exceeded the performance requirements established by his/her department head or designee to qualify for a pay increase. Public safety employees' performance must exceed the minimum performance standards to qualify for a performance pay increase. Effective August 1, 1990 employees who enlist, or are inducted into military service, or who are members of a reserve component of the armed forces of the United States who are ordered to active duty and return to County employment; upon their release from active duty and whose service is other than dishonorable shall be deemed to have satisfied this requirement for the period they are on active duty. The total length of active military service may not exceed five years.
- b. A performance review period is 12 months.

Notwithstanding the merit review periods listed above, effective July 13, 1991, the beginning of the first full pay period in FY 1992, all employees who have merit increment dates shall have their merit increment date extended by one year.

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Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1991, which falls on July 13, 1991, would have a new increment date of the first day of payroll number 15 in 1992. An employee who had a merit increment date of the first day of payroll number 15 in 1992, which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994.

Notwithstanding the merit review periods listed above, effective July 11, 1992, the beginning of the first full pay period in FY 1993, all employees who have merit increment dates shall have their merit increment date extended by one year. Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1992 which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993 which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994 which falls on July 9, 1994. An employee who had a merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994, would have a new merit increment date of the first day of payroll number 15 in 1995, which falls on July 8, 1995.

- 3 Each employee shall have a performance pay increase date established when he/she is initially appointed to a merit position.
 - a. For uniformed public service employees, that date corresponds to the beginning of the pay period in which he/she is appointed or promoted
 - b. Performance pay increase date for other employees corresponds with the first full pay period of the fiscal year. Partial pay periods do not count towards the performance pay increase date and initial probationary employees must be hired prior to April 1 to be eligible to receive performance increases in the given year.
- 4 Creditable service in the completion of performance review periods includes:
 - a. Continuous employment in the competitive service not including overtime.
 - b. Period of involuntary separation initiated by the department head followed by reinstatement after appeal by the Civil Service Commission under the grievance procedure, for which the Commission determines that the employee is entitled to back pay.

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- c. Honorable service with the armed forces by employees who enlist or are inducted into military service or who are members of a reserve component of the United States who are ordered to active duty and who return to County employment upon their release from active duty. The total length of active military service, which can be credited, may not exceed five years.

4.4 Outstanding Performance Award

- 1 An employee who has completed their initial probationary period and performs the duties and responsibilities of his/her position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding performance award.
- 2 An outstanding performance award may be recommended by a department head or designee. Such outstanding performance award recommendation shall be in writing, shall state the reason for such recommendation and shall be submitted through the Deputy County Executive to the Human Resources Director, as appropriate, for implementation.
- 3 Outstanding performance awards may be granted in any dollar amount not to exceed \$1,000 the amount authorized by the Board of Supervisors.

4.5 Longevity Pay Increments

Subject to available funding, public safety employees shall receive a longevity increment increase after 15 years of service and reaching top step in grade (step 9). A second longevity increase shall be awarded after 20 years of service and reaching top step in grade (step 9). **A third longevity increase shall be awarded after 25 years of service and reaching top step in grade (step 9).**

Subject to available funding, non-public safety employees may be eligible to receive longevity increases, in lieu of performance increases, after 20 and 25 years of service. These increases are awarded to employees who attain the required length of service before July 1 of the year funded.

Commented [A11]: Clarifying language regarding funding. Also added 25 year longevity increase for public safety employees.

4.6 Within-Grade Adjustment

When in the opinion of the County Executive, it is in the best interest of the County to do so, he/she may authorize a salary adjustment to encourage retention of highly qualified County employees and address pay inequities not to exceed the maximum rate of pay assigned to the employee's class.

4.7 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Except Public Safety Employees

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If an employee other than a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, the appointee shall receive a salary increase equal to 10% for one and two-grade promotions and 15% for promotions of three or more grades not to exceed the maximum rate of pay assigned to the new job class or the minimum rate of pay for the new job class whichever is greater.
- 2 With the exception of disciplinary demotions or demotions during a promotional probationary period, when an employee is demoted, he/she shall be placed at the same salary in the new pay grade. If the employee's salary is greater than the maximum salary of the new pay grade, he/she shall be placed at the maximum salary for the new pay grade.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater.
- 3 When an employee is demoted for disciplinary reasons, he or she shall be placed at the salary in the new grade that is 5% less than his/her current salary not to exceed the maximum salary for the pay grade.
- 4 When an employee is demoted during a promotional probationary period, the employee's former rate of pay shall be reinstated in the new lower pay grade, not to exceed the maximum salary for the pay grade.
- 5 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.
- 6 Upon upward reclassification of a position, the incumbent shall receive a pay increase equal to 5% of the midpoint of the salary range for the new, higher pay job class or move to the minimum of the new range, whichever is greater not to exceed the maximum rate of pay for the new pay grade.
- 7 Upon review of a job class to determine if a regrade is warranted, the incumbents in the job class may be entitled to a pay adjustment regardless of whether the job class is regraded or not. The determination of pay increase eligibility and the amount of such pay increase will be made in accordance with procedures approved by the County Executive and the Board of Supervisors. In no case shall the employee's salary be less than the minimum or greater than the maximum for the new pay range.

4.8 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Public Safety Employees

If a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, except as noted elsewhere in this chapter, the appointee shall receive the greater amount of the minimum rate for the class of the new position or an amount in excess of one normal within grade increase in the pay grade of the class of the position held prior to promotion. Such increase shall not be less than 5% and if the promotion is three grades or more, the employee shall be placed in the new grade at a step closest to their identified years of service threshold. The appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.
- 2 When an employee is demoted, he/she shall be placed in the pay step in the new pay grade, which represents the closest dollar amount that is less than the former pay. An employee may be placed in a longevity step under this provision only if the employee meets the length of service requirement for that step. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

- 3 When an employee is demoted to his or her former job class during a promotional probationary period, the employee's former grade and step shall be reinstated. When an employee is demoted to a job class other than that in which he/she was serving at the time of promotion, he/she shall be placed at the step in the lower grade that is closest to, but not less than the employee was making prior to promotion. If the employee's pre-promotion performance pay increase (PPI) date falls between the date of promotion and the date of the subsequent demotion, the promotion date will be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.
- 4 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.
- 5 Upon upward reclassification/reallocation of a position, the incumbent shall receive the greater amount of either the minimum rate for the new grade or the next higher dollar rate in the new pay grade as compared to the dollar rate in the lower grade except in the following instances:

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- a. Employees who have served one year or more in a two-year review period and who upon reclassification/reallocation, move to a step with a one year review period, shall receive an additional step upon reclassification/ reallocation to the new grade. The employee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of the reclassification/reallocation using the performance review period for the new step.
- b. Except as noted above, the performance pay increase date shall not change unless the reclassification/reallocation moves the employee to a step with a shorter review period. In such cases, the year of the performance pay increase date is reduced if the time between the effective date of the reclassification/reallocation action and the employee's performance pay increase date is more than one year.

4.9 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Police Officers, Deputy Sheriffs and Animal Protection Police Officers

- 1 A Police Officer I promoted to Police Officer II, a Deputy Sheriff I promoted to Deputy Sheriff II, or an Animal Protection Police Officer shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 2 A Police Officer II or Deputy Sheriff II who is receiving a proficiency pay adjustment and is promoted to Police Sergeant or Deputy Sheriff Sergeant respectively, shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 3 In all other cases, the normal rules affecting promotion, demotion, reallocation of positions, and transfer for public safety employees shall apply.

4.10 Allowances Granted Police Officers

- 1 Police Officers required to wear civilian clothes while on duty shall be granted a clothing allowance while such assignment lasts.

4.11 Allowances Granted Deputy Sheriffs

- 1 A Deputy Sheriff II who has a minimum of five (5) years of service as a sworn Deputy Sheriff with Fairfax County and who is certified by the Sheriff or designee as

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demonstrating exemplary expertise in an authorized Deputy Sheriff position, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Deputy Sheriff".

- a. A Deputy Sheriff who is eligible for a proficiency pay adjustment shall be reassigned to pay grade C-19 and shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- b. The number of Deputy Sheriff II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Deputy Sheriff II positions.

4.12 ~~Allowances Granted Uniformed Fire Employees~~

~~1. A Fire Technician who has a minimum of five (5) years of service as a uniformed Fire employee with Fairfax County, and who is certified by the Chief of Fire and Rescue or designee as demonstrating exemplary expertise in an authorized Fire Technician specialty, may be eligible to receive a fire proficiency pay adjustment and assume the work title of "Master Firefighter."~~

~~a. A Fire Technician who is eligible for a fire proficiency pay adjustment shall be reassigned to pay grade F-20 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.~~

~~b. The number of Fire Technicians receiving a fire proficiency pay adjustment shall at no time be greater than one third of the total number of authorized and established Fire Technician positions.~~

4.123 Hours of Work

- 1 The regular work period for all full-time County employees, excluding law enforcement and fire protection personnel, shall be 40 hours worked or on paid leave (excluding meal periods) within a seven consecutive calendar day period beginning and ending as defined in Chapter 2. The schedule of hours for the workweek shall be determined by the department head or designee.
- 2 The regular work period for fire protection personnel shall be 28 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 28-day work period may vary depending on shift schedules and department needs.

Commented [AJ2]: The Master Fire Technician is being phased out by mutual agreement with Fire and Rescue Department (effective 10/12/19). Employees who were designated with Master proficiency when the changes became effective, and those promoted from the last eligible (which expired in January 2021) are considered grandfathered. Note that only these employees may be allowed take voluntary demotion to the Master Fire Technician.

Commented [AJ3]: Renumber due to elimination of 4.12 above.

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- 3 The regular work period for law enforcement personnel shall be 14 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 14-day work period may vary depending on shift schedules and department needs.
- 4 The County Executive may authorize the inclusion of the meal period as actual work for shift positions.
- 5 All employees in the Merit System shall be entitled to a 15-minute rest period for each four hours of assigned work, during a duty day, as scheduled by the department head or designee. Whenever possible, the rest period shall be scheduled at the middle of each such four-hour period of work.
- 6 Shift Differential Premium Pay shall be authorized for all merit employees who are scheduled to work on fixed and/or rotating shifts that start at or after 1:00 P.M. wherein the hours scheduled on a shift after 4:00 P.M. are greater than the hours scheduled prior to 4:00 P.M., excluding employees who work flex-time schedules. If an employee whose regular shift schedule qualifies him/her for shift differential premium pay, reports to work prior to the start of their regular shift hours, he/she remains eligible for shift differential premium pay for all hours worked after 1:00 P.M. regardless of the time he/she actually begins working on that day. The hours worked before the beginning of the regular shift schedule are not eligible for shift differential.
- 7 The Evening Shift shall encompass all shift schedules, which begin between the hours of 1:00 P.M. and 7:59 P.M. The premium pay rate established for the Evening Shift shall apply for all regularly scheduled hours actually worked between 1:00 P.M. and 7:59 P.M.
- 8 The Night Shift shall encompass all shift schedules, which begin at 8:00 P.M. and thereafter. The premium pay rate established for the Night Shift shall apply for all regularly scheduled hours actually worked between 8:00 P.M. and 6:59 A.M.
- 9 Employees assigned to 24-Hour Shift Schedules shall be paid Shift Differential Premium Pay for all regularly scheduled hours actually worked between the hours of 4:00 P.M. and 7:00 A.M. and in accordance with established payroll procedures.
- 10 Employees are paid and earn leave based on data recorded in official time and attendance records. An "online" timesheet is used to document time worked and leave taken. There are two types of time and attendance reporting:
 - a. Employees required to use positive time reporting must record all absences and hours worked each pay period.

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- b. Employees required to use negative time reporting only record exceptions to their scheduled work hours. If no exceptions are entered, the employee is paid a biweekly amount based on their scheduled hours.

4.134 Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time

Commented [A34]: Renumber due to elimination of 4.12 above.

-1 Overtime.

FLSA overtime shall include all hours worked or on paid leave by an FLSA eligible employee (other than law enforcement and fire protection personnel) in excess of 40 hours in a work week.

Overtime for FLSA eligible law enforcement personnel (excluding sworn Police Officers, Animal Protection Police Officers, and Deputy Sheriffs scheduled to work a 40-hour week) shall include all hours worked or on paid leave in excess of 86 hours in a 14-day work period. Overtime for FLSA eligible law enforcement personnel in the Police Department and Deputy Sheriffs scheduled to work a 40-hour week shall include all hours worked or on paid leave in excess of 80 hours in a 14-day work period. Overtime for FLSA eligible fire protection personnel shall include all hours worked or on paid leave in excess of 212 hours in a 28-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. Overtime shall be kept to a minimum and shall be used to relieve occasional excessive workloads or emergencies, and not to provide for constant recurring requirements. Overtime may be mandated when related to the health, welfare or safety of either the public or employees. Except in emergency situations, all overtime worked by an employee shall be approved by the employee's supervisor or designee, verbally or in writing prior to the overtime being worked. Employees shall not work in excess of authorized scheduled hours without express approval of the supervisor.

-2 Eligibility.

Employees shall earn compensatory time or be paid for overtime hours actually worked in accordance with the following provisions:

- a. FLSA eligible employees excluding law enforcement and fire protection personnel as defined in Chapter 2:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 40 hours during the designated seven consecutive day work period. If requested by the employee and approved by the department head or designee,

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compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the time actually worked is less than forty hours in a seven day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- b. Straight pay eligible employees shall, at the discretion of the department head or designee, earn straight compensatory time or be compensated at their hourly rate of pay for all time worked in excess of their scheduled work hours.
- c. Compensatory time eligible employees shall earn straight compensatory time for time worked in excess of their scheduled work hours.
- d. FLSA eligible fire protection personnel:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 212 hours during the 28 consecutive day work period. If requested by the employee and approved by department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. **(With the exception of employees assigned to a 24-hour shift position that works an 8-hour shift and an employee assigned to an 8-hour shift position that works a 24-hour shift. These assignments shall always constitute paid overtime for the employee.)** If the employee's compensatory leave balance is 336 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
 - (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 212 hours in a 28 day work period. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at the hourly rate of pay must be awarded.

All other Fire and Rescue Department employees shall be treated as described in 2a, b, or c above.

Commented [A35]: Addition to clarify.

Commented [A36]: Clarified due to renumbering.

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e. FLSA eligible law enforcement personnel:

- (1) shall be compensated at one and one-half times their regular rate of pay for all hours worked or on paid leave in excess of 86 hours (80 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) during the 14 consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 86 hours (80 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) in a 14 day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- (3) shall be compensated at one and one-half times their hourly rate of pay for actual court time worked when such court time falls on the employee's scheduled day off or begins more than two hours prior to the employee's scheduled shift, regardless of the number of hours worked in a given work period.

above. All other public safety employees shall be treated as described in 2a, b, or c

Commented [A37]: Clarified due to renumbering.

-3 Holiday/Emergency Administrative Leave.

Pro-rata adjustments shall be made for the holiday usage rate for shift schedules other than 40 hours per week to ensure compliance with the provisions of Chapter 10.

- a. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day on which a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.
- b. When an employee is required to work due to an emergency, staff shortage or hours worked that are a part of the regular work week on a holiday (actual or observed), the employee shall be compensated for the hours actually worked at

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the employee's hourly rate of pay or in accordance with the rules governing overtime, if applicable.

To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

In addition, employees shall receive holiday compensation as follows:

- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday. If the employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
- (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.
- (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

c. When a holiday falls on an employee's scheduled day off, the employee shall be compensated as follows:

- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay. If an employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
- (2) Straight pay eligible employees shall at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay.

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- (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding eight hours (4 hours for a half-day holiday).
- d. When a holiday falls on an employee's scheduled workday and the employee does not work, the employee shall receive holiday pay at the employee's hourly rate of pay. Full-time merit employees (other than Fire and Rescue Department employees on the 24-hour shift schedule) who are scheduled to work more than 8 hours due to departmental operational needs (this does not include employees who elect to work a compressed work week or flex schedule), shall be granted holiday time off with pay up to the regularly scheduled hours for a full holiday (or one-half of the regularly scheduled hours for a half holiday).
- e. In the event of extreme inclement weather or other emergency, wherein the general County government is closed by the County Executive and all employees are granted Emergency Administrative Leave, those employees required to perform emergency services shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime. In addition, the employee shall be compensated as follows:
 - (1) FLSA eligible employees shall at the employee's discretion, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive. If the employee's compensatory leave balance is 240 hours (336 hours for fire protection personnel) or greater, the employee must be paid for these hours.
 - (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.
 - (3) Compensatory time eligible employees shall be granted compensatory time for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

-4 Compensatory Time.

Compensatory time shall be earned and credited to an employee's records on the basis of actual hours worked in excess of the employee's scheduled hours. FLSA eligible

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employees who earn compensatory time for FLSA overtime hours worked (as defined in 2 a(1), d(1), and e(1) **above** shall accrue 1 1/2 hours of compensatory time for each overtime hour worked.

Commented [A38]: Clarified due to renumbering.

All other compensatory time shall be accrued on an hour for hour basis. Compensatory time off for overtime worked shall be granted upon request of the employee, when approved by the department head or designee.

- a. In the event that an employee is granted compensatory time off in excess of the employee's accrued balance, the excess shall be charged against the employee's annual leave balance.
- b. Compensatory time not to exceed 240 hours may be carried forward from one calendar year to the next calendar year with the exception that between December 31, 2020, and December 31, ~~2021-2022~~, employees shall be eligible to carry forward up to 480 hours.
- c. County employees shall be awarded a terminal leave payment for any accrued compensatory time not to exceed a maximum of 240 hours (336 hours for fire protection personnel). This will be paid at the employee's current hourly rate of pay at the time of termination with the exception that FLSA eligible employees will be paid at the current regular rate or at the average regular rate for the last 3 years, whichever is greater.
- d. Notwithstanding the provisions of this section or any other provision of these personnel regulations or of the procedural directives governing the exempt service, effective July 1, 1998, senior managers shall not be eligible to earn or accrue compensatory leave. For purposes of this section, "senior managers" are noted in a procedural memorandum issued by the Human Resources Director.

Commented [A39]: Removed 2021 and changed to 2022 as extending date employees may carry over compensatory time over 240 hours.

Senior managers shall be credited with the amount of unused compensatory leave accrued as of July 1, 1998. Subject to the provisions of these regulations and any other applicable procedural directive, they may take such compensatory leave after July 1, 1998 until such leave balances are exhausted. Senior managers may carry over no more than 240 hours of previously accrued and unused compensatory leave into the 1999 calendar year. Upon separation, senior managers shall be granted a terminal leave payment for any such accrued and unused compensatory leave paid at the senior manager's current rate of pay, on an hourly basis, at the time of separation not to exceed a maximum of 240 hours.

-5 Call-Back Time.

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Call-back time refers to situations wherein an employee is off duty and is called to return to work after departing from the workplace. It does not apply to those incidents where an employee is at work or has not departed from the work site and the work period is extended.

Employees called back to work shall be credited with a minimum of four hours overtime in each separate instance, excluding travel time, regardless of the hours actually worked.

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for call-back hours. **(With the exception of employees assigned to a 24-hour shift position that works an 8-hour shift and an employee assigned to an 8-hour shift position that works a 24-hour shift. These assignments shall always constitute paid overtime for the employee.)** If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.
- (b) Straight pay eligible employees shall, at department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all call-back time.
- (c) Compensatory time eligible employees on all pay scales shall earn straight compensatory time for all call-back time.

Commented [AJ10]: Addition to clarify.

-6 Consecutive Shift Time.

Consecutive Shift time refers to situations wherein an employee has completed a full eight or more hour shift and is required to remain on duty a second consecutive shift to perform essential services during an emergency situation or to meet minimum State certification standards in the Department of Public Works and Environmental Services.

Employees required to perform 2nd consecutive shifts shall be compensated as follows:

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for consecutive shift hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.
- (b) Straight pay eligible employees shall, at the department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all consecutive shift time.

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- (c) Compensatory time eligible employees shall earn straight compensatory time for all consecutive shift time.

4.145 *Outside Employment; Violation of State Law on Conflict of Interests*

- 1 Employees in the competitive service shall not engage in any employment, activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their County employment.
- 2 No employee in the competitive service shall hold any other position in any other governmental jurisdiction or in private employment, when such other position may have the effect of reducing the efficiency of such employee in the competitive service.
- 3 Employees in the competitive service who desire to accept outside employment in addition to their regular County positions shall inform their respective department head or designee of the nature and extent of such outside employment. The department head or designee shall thereupon determine whether or not the holding of such employment conflicts with the duties and responsibilities of said employee to the County.
- 4 Violation of the County's rules on outside employment or the Virginia State and Local Government Conflict of Interests Act or any successor statute thereto may be grounds for dismissal.

Commented [AJ11]: Renumber due to elimination of 4.12 above.

4.156 *Application of Pay Policies to Deferred Retirement Option Plan (DROP) Participants*

Notwithstanding any provision of this chapter to the contrary, employees who are participating in the Deferred Retirement Option Plan (DROP) are considered as merit employees and the pay provisions included in this chapter continue to apply during their DROP participation.

Commented [AJ12]: Renumber due to elimination of 4.12 above.

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CHAPTER 14

Reports and Records

14.1 Reports to the Department of Human Resources

- 1 Department heads or designees shall notify the Department of Human Resources of all proposed appointments to, status changes in, and separations from the classified service at such time, in such form, and with such supporting or pertinent information as these rules prescribe or as the County Executive shall deem necessary.
- 2 Department heads or designees shall notify the Department of Human Resources of all changes in the duties and responsibilities of a position when the change is of such a nature that the position should properly be reallocated to another class.
- 3 Department heads or designees having jurisdiction over positions in the exempt service shall report to the Department of Human Resources the names of appointees, their titles and the dates of their appointments.

14.2 Records and Tabulations

The Human Resources Director shall maintain such other personnel records as he/she may consider desirable, or as the County Executive shall direct, and shall make available to the Board of County Supervisors, the County Executive, the Civil Service Commission, department heads and other persons having a proper interest therein, tabulations and analyses of such personnel data as he/she has available.

14.3 Public Inspection

The records of the Department of Human Resources shall, with the exception of records specified in these rules, and such other records as may be specified by the County Executive, be public records and be open to public inspection during regular office hours at such times and following such procedures as may be prescribed by the Human Resources Director.

14.4 Reports to County Executive, Civil Service Commission and Employees Advisory Council

The Human Resources Director shall submit a written report to the County Executive annually. Copies of such reports shall be sent to the Civil Service Commission and the Employees' Advisory Council. Copies of such other reports on administrative matters as are sent to the Board of Supervisors by the Department of Human Resources shall also be sent to the Employees Advisory Council.

14.5 Employee Medical Records

- 1 The term “employee medical records,” as used in this section, means any documents or other materials ~~(e.g., photographs)~~ relating to or including any medical information concerning job applicants and/or employees that federal or state law, or County policy, requires the County as an employer to keep confidential. Subjects that employee medical records cover include, but are not limited to, employment entrance medical examinations or inquiries (including medical histories) made after a conditional offer of employment, employee fitness-for-duty examinations or inquiries, and voluntary medical examinations and inquiries (including voluntary medical histories) that are part of an employee health program available to employees at the work site. This section applies to employee medical records relating to current and former employees and job applicants. Job applicants include employees applying for other positions in the County service.
- 2 Employee medical records shall be maintained in secured files ~~physically~~ separate from personnel files. In those instances in which a document or other material designated for a personnel file includes any medical information that federal or state law, or current County policy, requires the county as an employer to keep confidential, this medical information shall be removed from the document or other material before placing it in the personnel file.
- 3 Employee medical records shall be retained in accordance with federal and/or state record retention rules or guidelines. Once the longest applicable retention period has expired, the records shall be disposed-of in a confidential and secure manner, unless they are potentially relevant to an ongoing or a reasonably anticipated legal proceeding, in which case the records shall be retained until the proceeding ends or is time-barred.
- 4 Employee medical records shall be kept confidential, unless disclosure of the records is required or authorized by law, or by a court or other person or entity empowered to compel such disclosure.
- 5 Access to employee medical records shall be limited to authorized County staff on a need-to-know basis.
- 6 No employee shall read any employee medical records that he or she is not authorized to review.
- 7 Any transmission of employee medical records shall be done using a means that reasonably avoids disclosure of the records to persons not authorized to have access to those records (i.e., unauthorized persons).

Commented [AJ1]: Removed with the purpose of not specifying methods thus allowing for other records retention methods in the future.

Commented [AJ2]: Removed with the purpose of not specifying methods thus allowing for other records retention methods in the future.

Attachment 3

- 8 No employee shall discuss information found in another individual's employee medical records with unauthorized persons. Any discussion of any employee medical records shall take place in a location where unauthorized persons should not be able to overhear the discussion.
- 9 Any employee who violates any part of this section shall be subject to appropriate disciplinary action.
- 10 This section does not abrogate any duty of the County under federal or state law, or County policy, to keep medical records confidential. To the extent that such a duty provides for greater confidentiality protection than the confidentiality protection provided by this section, it shall control.




County of Fairfax, Virginia

MEMORANDUM

DATE: May 12, 2022

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 - 2, 4, and 14

Following an advertised public hearing held on May 12, 2022, the Civil Service Commission considered proposed revisions to Chapters 2, 4, and 14 of the Fairfax County Personnel Regulations. Members of the Commission participating in the public hearing included Farzin Farzad, Jason Fong, Thomas Garnett, John Harris, Janice Hill, 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.

Shelley Scianna, Deputy Director of DHR and Khamla Kawahara, Senior Employee Relations Analyst with DHR, accompanied Ms. Spage.

Ms. Spage presented the following proposed changes:

Chapter 2 - Definitions

The proposed changes remove the reference to public safety employees in the Longevity definition. Page 2-7.

Chapter 4 - Pay Plan, Hours of Work and Overtime**Section 4.5 - Longevity Pay Increments**

The proposed changes add language to Section 4.5, clarifying that longevity pay increases for both public safety and non-public safety employees are subject to available funding. The proposed changes also add a third longevity increase for 25 years of service for public safety employees.

Section 4.12 – 1a and 1b - Allowances Granted Uniformed Fire Employees

The proposed changes remove Section 4.12. The Master Fire Technician designation is being phased (effective as of October 12, 2019). Employees designated with Master proficiency when the changes became effective, and those promoted from the last eligible list (which expired in January 2021) are grandfathered. Only these employees may be allowed to take a voluntary demotion to Master Fire Technician.

Section 4.14 – 2d (1) - Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time -Eligibility

The proposed changes add the following wording to Section 4.14-2d (1):
With the exception of employees assigned to a 24-hour shift position that works an 8-hour shift and an employee assigned to an 8-hour shift position that works a 24-hour shift. These assignments shall always constitute overtime for the employee.

Section 4.14 - 4b – Compensatory Time

The proposed changes extend the date employees may carry over more than 240 hours of compensatory time from 2021 to 2022 in Section 4.14-4b.

Section 4.14 – 5(a) - Call Back Time

The proposed changes add the following wording:
With the exception of employees assigned to a 24-hour shift position that works an 8-hour shift and an employee assigned to an 8-hour shift position that works a 24-hour shift. These assignments shall always constitute overtime for the employee.

Proposed changes also include renumbering of the Chapter due to other proposed section changes.

Chapter 14 – Reports and Records

Section 14.5-1 - Employee Medical Records

The proposed change removes the reference to photographs.

Section 14.5-2 - Employee Medical Records

The proposed change removes the word “physically” to allow for other records retention methods.

No one provided public comment.

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 2, 4, and 14 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
June 7, 2022

ACTION - 4

Adoption of a Resolution Approving the Issuance of Fairfax County Economic Development Authority Revenue Refunding Bonds Series 2022 for the Benefit of Congressional School, Inc. (Mason District)

ISSUE:

Approval of the issuance of revenue refunding bonds by the Fairfax County Economic Development Authority (EDA) up to \$10,500,000 for the benefit of Congressional School, Inc.

RECOMMENDATION:

The County Executive recommends that the Board approve issuance of the Fairfax County EDA revenue refunding bonds and adopt the attached resolution.

TIMING:

Board action is requested on June 7, 2022.

BACKGROUND:

The Fairfax County EDA has received a request from Congressional School, located at 3229 Sleepy Hollow Road, Falls Church, Virginia, to issue up to \$10,500,000 of revenue refunding bonds. Funding will provide for the following: (i) to refund the Fairfax County Economic Development Authority Revenue Bonds Series 2018, which were issued in the initial amount of \$11,000,000 to finance certain capital projects at Congressional School including improvements to existing structures, roofs, and heating and air conditioning systems, (ii) to refinance debt originally incurred to acquire the campus and finance certain capital improvements, including the construction of the gymnasium and (iii) funding costs of issuance of the Series 2022 Bonds. A public hearing was held on May 9, 2022, by the Fairfax County EDA, and was then followed by approval of the bond resolution from the EDA board on the same date.

FISCAL IMPACT:

The Fiscal Impact Statement is reflected as Attachment 4. This action does not constitute a debt obligation of the County or the Board and therefore there is no impact on the County's financial statements. The Bonds will be entirely supported by the revenues of Congressional School.

Board Agenda Item
June 7, 2022

ENCLOSED DOCUMENTS:

Attachment 1: Resolution of the Board of Supervisors

Attachment 2: Resolution of the Fairfax County Economic Development Authority

Attachment 3: Certificate of Public Hearing with Supporting Documents

Attachment 4: Fiscal Impact Statement

STAFF:

Christina Jackson, Chief Financial Officer

Joseph LaHait, Debt Manager, Department of Management and Budget

Michael Graff, Bond Counsel to Fairfax County Economic Development Authority

Attachment 1: Resolution of the Board of Supervisors

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia,

on Tuesday, June 7, 2022, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Fairfax County Economic Development Authority (the “Authority”) has considered the application of Congressional School, Inc. (the “Borrower”), a nonprofit corporation which is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (“Code”), requesting the issuance of the Authority’s revenue refunding bonds, at one time or from time to time in one or more series in the aggregate principal amount not to exceed \$10,500,000 (the “Bonds”), to finance all or a portion of the costs of: (a) refunding the Authority’s outstanding Fairfax County Economic Development Authority Revenue Bonds (Congressional School Project) Series 2018 (the “2018 Bonds”) which were issued in the initial amount of \$11,000,000 for the purpose of (i) financing certain capital improvements at the Borrower’s educational facilities located at 3229 Sleepy Hollow Road, Falls Church, Virginia (the “Campus”), including improvements to existing structures, expansion of buildings, roofs and heating and air conditioning system improvements (which improvements may include a possible expansion of the Borrower’s Early Childhood Learning Center), (ii) refinancing certain debt of the Borrower originally incurred to acquire the Campus and to finance certain capital improvements to the Campus, including construction of a gymnasium, and (iii) paying certain costs of issuance of the 2018 Bonds; and (b) funding certain costs of the issuance of the Bonds (collectively, the “Project”), and has held a public hearing on May 9, 2022 in connection therewith;

WHEREAS, Section 147(f) of the Code provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity refunding bonds is located must approve the issuance of such refunding bonds;

WHEREAS, the Authority issues its revenue refunding bonds on behalf of the County of Fairfax, Virginia (the “County”); the Project concerns certain facilities and improvements located and to be located in the County; and the Board of Supervisors of the County of Fairfax, Virginia (the “Board”) constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and

WHEREAS, a copy of the Authority’s resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF FAIRFAX, VIRGINIA:

1. The Board approves the issuance of the Bonds by the Authority and the financing of the Project for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

2. The approval of the issuance of the Bonds and the financing of the Project does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the financed or refinanced facilities or the Borrower.

3. The issuance of the Bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof will be pledged to the payment of the Bonds. Neither the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor.

4. This resolution shall take effect immediately upon its adoption.

Adopted by the Board of Supervisors of the County of Fairfax, Virginia this 7th day of June, 2022.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors
County of Fairfax, Virginia

[SEAL]

Attachment 2: Resolution of the Fairfax County Economic Development Authority

**RESOLUTION OF THE
FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY
AUTHORIZING THE ISSUANCE OF UP TO \$10,500,000 OF ITS
REVENUE REFUNDING BONDS FOR THE BENEFIT OF CONGRESSIONAL
SCHOOL, INC.**

WHEREAS, the Fairfax County Economic Development Authority, a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Acts of Assembly, 1964, Ch. 643, pg. 975, as amended ("Act"), to issue its revenue refunding bonds for, among other purposes, the financing and refinancing of facilities for use by organizations (other than organizations organized and operated exclusively for religious purposes) that are described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"), and are exempt from federal income taxation pursuant to Section 501(a) of the Code;

WHEREAS, the Authority has received a request from Congressional School, Inc. (the "Borrower"), an organization which is not organized exclusively for religious purposes and is described in Section 501(c)(3) of the Code, requesting that the Authority issue its revenue refunding bonds, at one time or from time to time in one or more series in the aggregate principal amount not to exceed \$10,500,000 (the "Bonds"), to finance all or a portion of the costs of: (a) refunding the Authority's outstanding Fairfax County Economic Development Authority Revenue Bonds (Congressional School Project) Series 2018 (the "2018 Bonds") which were issued in the initial amount of \$11,000,000 for the purpose of (i) financing certain capital improvements at the Borrower's educational facilities located at 3229 Sleepy Hollow Road, Falls Church, Virginia (the "Campus"), including improvements to existing structures, expansion of buildings, roofs and heating and air conditioning system improvements (which improvements may include a possible expansion of the Borrower's Early Childhood Learning Center), (ii) refinancing certain debt of the Borrower originally incurred to acquire the Campus and to finance certain capital improvements to the Campus, including construction of a gymnasium, and (iii) paying certain costs of issuance of the 2018 Bonds; and (b) funding certain costs of the issuance of the Bonds (collectively, the "Project");

WHEREAS, such assistance will induce the Borrower to remain in the Commonwealth of Virginia (the "Commonwealth"), and particularly in the County of Fairfax, Virginia (the "County"), and will benefit the inhabitants of the County and the Commonwealth, either through the increase of their commerce or through the promotion of their safety, health, welfare, convenience or prosperity;

WHEREAS, the Project has been described to the Authority and a public hearing has been held as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and Section 15.2-4906 of the Act;

WHEREAS, the Borrower has represented that the estimated cost of the Project and all expenses of issue will require an issue of the Bonds in the aggregate principal amount not to exceed \$10,500,000;

WHEREAS, (a) no Commissioner of the Authority is an officer or employee of the County, (b) each Commissioner has, before entering upon his or her duties during his or her

present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended, and (c) at the time of their appointments and at all times thereafter, including the date hereof, all of the Commissioners of the Authority have satisfied the residency requirements of the Act;

WHEREAS, no Commissioner of the Authority has any personal interest or business interest in the Borrower or the proposed Bonds or has otherwise engaged in conduct prohibited under the State and Local Government Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended in connection with this resolution or any other official action of the Authority in connection therewith; and

WHEREAS, the foregoing arrangements will be reflected in a Bond Purchase and Loan Agreement to be dated as of June 1, 2022 (or the first day of the month of its execution and delivery) (the "Agreement") among the Authority, the Borrower and John Marshall Bank (the "Purchaser"), including forms of the Bonds and the promissory note (the "Note") attached thereto (the Agreement and the Note to be hereinafter referred to as the "Basic Documents"), such Basic Documents to be prepared or reviewed by the Authority's counsel.

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY:

1. It is hereby found and determined that the Project will be in the public interest and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth, the County and their citizens.

2. To induce the Borrower to undertake the Project, the Authority hereby agrees to assist the Borrower in financing the Project by undertaking the issuance of its Bonds in an amount not to exceed \$10,500,000 upon terms and conditions set forth herein and in the Basic Documents. The Bonds may be issued in one or more series at one time or from time to time.

3. It having been represented to the Authority that it is necessary to proceed immediately with the Project, the Authority agrees that the Borrower may proceed with the Project, enter into contracts for land, construction, materials and equipment for the Project, and take such other steps as it may deem appropriate in connection therewith, provided, however, that nothing in this resolution shall be deemed to authorize the Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Project. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

4. At the request of the Borrower, the Authority approves McGuireWoods LLP, Tysons, Virginia, as bond counsel in connection with the issuance of the proposed Bonds and approves the sale of the Bonds to the Purchaser.

5. All fees, costs and expenses in connection with the Project, including the fees and expenses of bond counsel and Authority counsel, shall be paid by the Borrower or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason such Bonds are

not issued, it is understood that all such expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor.

6. The issuance of the Bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County of Fairfax, Virginia, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof will be pledged to the payment of such Bonds.

7. In adopting this resolution the Authority intends to take "official action" toward the issuance of the Bonds and to evidence its "official intent" to reimburse from the proceeds of the Bonds any expenditures paid by the Borrower to finance the Project before the issuance of the Bonds, all within the meaning of regulations issued by the Internal Revenue Service pursuant to Sections 103 and 141 through 150 and related sections of the Code.

8. The issuance of the Bonds to finance the Project is hereby authorized and approved. The Bonds shall be in substantially the form attached as an exhibit to the Agreement.

9. The Bonds and the Basic Documents are approved in substantially the forms prepared or reviewed by the Authority's counsel, with such changes, insertions or omissions (including, without limitation, changes of the dates thereof) and do not adversely affect the interests of the Authority as may be approved by the Chairman or the Vice Chairman of the Authority, whose approval will be evidenced conclusively by the execution and delivery of the Bonds. The Bonds shall be issued on such terms as set forth in the Agreement; provided, however, that the aggregate principal amount of the Bonds shall not exceed \$10,500,000, the final maturity of the Bonds shall be no later than thirty-five (35) years following the date of issuance of the Bonds, and the Bonds shall bear interest at a rate per annum not to exceed the maximum rate permitted under the laws of the Commonwealth of Virginia.

10. The execution, delivery and performance by the Authority of the Basic Documents to which it is a party authorized. The execution of the Bonds, its delivery against payment therefor, and the amount of such payment to be disbursed in accordance with the terms of the Agreement, are hereby authorized.

11. The Chairman and the Vice Chairman of the Authority or either of them is authorized to execute and deliver on behalf of the Authority the Bonds and the Basic Documents to which the Authority is a party, and the Secretary or any Assistant Secretary of the Authority is authorized to affix the seal of the Authority to the Bonds and, if required, the Basic Documents and to attest such seal. The signatures of the Chairman or Vice Chairman and the Secretary or any Assistant Secretary and the seal of the Authority may be by facsimile. Each officer of the Authority is authorized to execute and deliver on behalf of the Authority such instruments, documents or certificates (including, without limitation, Internal Revenue Service Form 8038 and certificates or instruments with respect to tax compliance and no arbitrage), and to do and perform such things and acts, as he or she deems necessary or appropriate to carry out the transactions authorized by this resolution or contemplated by the Bonds, the Basic Documents or such instruments, documents or certificates, and all of the foregoing, previously done or performed by such officers of the Authority, are in all respects hereby approved, ratified and confirmed.

12. The Authority hereby designates its Chairman and its Vice Chairman, either of whom may act alone, as its authorized officer or representative for the purposes set forth in the Basic Documents.

13. The Authority determines that the issuance of the Bonds in accordance with the terms of the Basic Documents and all action of the Authority contemplated by them will be in furtherance of the purposes for which the Authority was organized.

14. The approval of the issuance of the Bonds does not constitute an endorsement to the Purchaser or any other purchaser of the Bonds of either the Bonds or the creditworthiness of the Project or the Borrower.

15. The Authority recommends that the Board of Supervisors of the County (the "Board of Supervisors"), approve the issuance of the proposed Bonds.

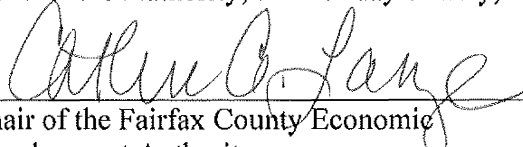
16. No bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Board of Supervisors.

17. This resolution shall take effect immediately upon its adoption.

CERTIFICATE

The undersigned Chair of the Fairfax County Economic Development Authority (the "Authority") certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Commissioners of the Authority present and voting at a meeting duly called and held on May 9, 2022, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on this date.

WITNESS the following signature and seal of the Authority, this 9th day of May, 2022.



Chair of the Fairfax County Economic
Development Authority

[SEAL]

Attachment 3: Certificate of Public Hearing with Supporting Documents

Ad # 12382804 Name MCGUIREWOODS LLP Attn: Jessica Randolph
Class 820 PO# Authorized by

Size 120 Lines

T0004

Account 2010296494

PROOF OF PUBLICATION

District of Columbia, ss., Personally appeared before me, a Notary Public in and for the said District, Jasmine Deflanders well known to me to be ACCOUNTING SPECIALIST of The Washington Post, a daily newspaper published in the City of Washington, District of Columbia, and making oath in due form of law that an advertisement containing the language annexed hereto was published in said newspaper on the dates mentioned in the certificate herein.

I Hereby Certify that the attached advertisement was published in The Washington Post, a daily newspaper, upon the following date(s) at a cost of \$2,881.20 and was circulated in the Washington metropolitan area.

Published 2 time(s). Date(s): 27 of April 2022
03 of May 2022

Account 2010296494

Witness my hand and official seal this 3rd day of May 20 22
Bonnie Majdak
My commission expires 09.30.26



NOTICE OF PUBLIC HEARING ON PROPOSED REVENUE REFUNDING BOND FINANCING BY FAIRFAX COUNTY ECONOMIC

DEVELOPMENT AUTHORITY Notice is hereby given that the Fairfax County Economic Development Authority

(the "Authority") will hold a public hearing on the request of Congressional School, Inc. (the "Applicant"), an organization that is not organized exclusively for religious purposes and is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose address is 3229 Sleepy Hollow Road, Falls Church, Virginia 22042 (County of Fairfax), for issuance by the Authority of up to \$10,500,000 of its revenue refunding bonds, at one time or from time to time in

one or more series, to finance all or a portion of the costs of: (a) refunding the Authority's outstanding Fairfax County Economic Development Authority Revenue Bonds (Congressional School Project) Series 2018 (the "2018 Bonds") which were issued in the initial amount of \$11,000,000 for

the purpose of (i) financing certain capital improvements at the Applicant's educational facilities

located at 3229 Sleepy Hollow Road, Falls Church, Virginia (the "Campus"), including improvements to

existing structures, expansion of buildings, roofs and heating and air conditioning system improvements (which improvements may include a possible expansion of the Applicant's Early Childhood

Learning Center), (ii) refinancing certain debt of the Applicant originally incurred to acquire the

Campus and to finance certain capital improvements to the Campus, including construction of a gymnasium, and (iii) paying certain costs of issuance of the 2018 Bonds; and (b) funding certain costs of the issuance of the proposed revenue refunding bonds. The issuance of revenue refunding

bonds as requested by the Applicant will not constitute a debt or pledge of the faith and credit of

the Commonwealth of Virginia or the County of Fairfax, Virginia, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including

the County of Fairfax, Virginia, will be pledged to the payment of such bonds. The public hearing, which may be continued or adjourned, will be held virtually at 6:00 p.m. on May 9, 2022, before the Authority. Due to the ongoing COVID-19 Pandemic, the Authority's meeting, including the public hearing, will be conducted as an electronic meeting to assure continuity of governmental operations.

Any person interested in the issuance of the bonds or the location or nature of the proposed project may participate in the hearing and present his or her views by using the dial-in number and conference code set forth below: DIAL-IN NUMBER: 844-855-4444 CONFERENCE CODE: 6269145

Additionally, Zoom information for members of the public to access and participate in the hearing will be available on the Authority's website prior to the meeting. A copy of the Applicant's application is on file and is open for inspection at the office of the Authority's counsel, Michael W. Graff Jr., McGuireWoods LLP, 1750 Tysons Boulevard, Suite 1800, Tysons, VA 22102-4215 during normal business hours. FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Summary of Statements

Representatives of Congressional School, Inc. and McGuireWoods LLP appeared before the Authority to explain the proposed plan of financing. No one appeared in opposition to the proposed bond issue.

Attachment 4: Fiscal Impact Statement



FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Industrial Revenue Refunding Bonds

Fiscal Impact Statement

Borrower: Congressional School, Inc.

Facility: Independent co-ed day school located at 3229 Sleepy Hollow Rd, Falls Church, VA 22042 (Fairfax County)

Date: May 9, 2022

- | | | |
|----|--|--------------|
| 1. | Maximum amount of financing sought: | \$10,500,000 |
| 2. | Estimated taxable value of the facility's real property to be constructed in the municipality: | \$0 |
| 3. | Estimated real property tax per year using present tax rates: | \$0 |
| 4. | Estimated personal property tax per year using present tax rates: | \$0 |
| 5. | Estimated merchants' capital tax per year using present tax rates: | \$0 |
| 6. | Estimated dollar value per year of:* | |
| | a. goods that will be purchased locally within the locality | \$30,000 |
| | b. goods that will be purchased from non-Virginia companies within the locality | \$34,000 |
| | c. services that will be purchased from Virginia companies within the locality | \$1,000,772 |
| | d. services that will be purchased from non-Virginia companies within the locality | \$65,000 |
| 7. | Estimated number of regular employees on year-round basis: | 98 |
| 8. | Average annual salary per employee: | \$67,505 |

Authority Chairman

Name of Authority

Fairfax County Economic Development Authority

*See attached Appendix.

8300 Boone Boulevard | Suite 450 | Vienna, Virginia 22182-2633 USA

t: 703.790.0600 | f: 703.893.1269 | e: info@fceda.org

www.FairfaxCountyEDA.org

Offices worldwide: San Francisco | Bangalore | Frankfurt | London | Seoul | Tel Aviv

Appendix - Fiscal Impact Statement

In Fiscal Years 2020 and 2021, Congressional School purchased approximately \$977K and \$1.03 million, respectively, in goods and services from businesses located in Fairfax County (The fiscal year runs from September 1st until August 31st). Fairfax County businesses with which Congressional School exceeded \$1,000 in trade are listed for FY2020 and FY2021, respectively.

FY2020

Vendor Name	Business Description	Locality	Amount
A Design Group, LLC	Construction/Remodeling/Design	Vienna	9,995.55
ADI Construction of Virginia, LLC	Construction/Remodeling/Design	Springfield	129,908.61
Artistic Concepts Group, Inc.	Supplies	Chantilly	8,679.50
Bull Run Officials	Services Purchased	Manassas	6,384.72
Capital Athletic Conference	Annual Dues	McLean	1,500.00
Charlson Bredehoft Cohen & Brown, P.C.	Services Purchased	Reston	47,896.53
Clare and Don's Beach Shack	Special Events	Falls Church	2,334.28
Computerware, Inc.	Tech Supplies	Vienna	82,347.00
CroppMetcalfe	HVAC Repairs/Maintenance	Fairfax	133,024.95
Diversified Educational Systems, Inc.	Supplies - Laser Printer	Middleburg	16,958.00
EM Millwork Inc.	Construction/Remodeling/Design	Springfield	8,000.00
Fairfax Food Service & Caterers	Food Service	Newington	300,026.29
Falls Church News Press	Marketing/Advertisement	Falls Church	1,200.00
FitKids (Fitness Kids LLC)	Education/Recreational Activities	Centreville	12,085.00
Foxes Music Company	Services Purchased	Falls Church	1,140.00
Geller Environmental Labs, Inc.	Services Purchased	Fairfax Station	13,190.00
GTZ Consultants	Services Purchased	Annandale	11,486.72
HBP, Inc.	Supplies	Falls Church	27,372.05
Home Depot	Repairs/Maintenance	Falls Church	11,633.83
Hurst Engineers	Construction/Remodeling/Design	Falls Church	10,210.00
Joy of Dance, LLC	Education/Recreational Activities	Burke	2,550.00
Astro Jump of Metropolitan DC	Education/Recreational Activities	Newington	2,152.00
Lake Barcroft Association	Marketing/Advertisement	Falls Church	1,540.00
Lederer's Sound	Services Purchased	Falls Church	13,286.00
Life Safety Solutions Integrators	Services Purchased	Manassas	13,918.07
MAT Plus More	Educational Programs	Fairfax Station	1,395.00
Metro Windows & Glass Repair LLC	Repairs/Maintenance	Falls Church	3,335.00

Miss Cathy's Children's Productions	Education/Recreational Activities	Fairfax Station	1,050.00
Northern Virginia Magazine	Marketing/Advertisement	Chantilly	8,660.00
Nova Fencing Club	Education/Recreational Activities	Fairfax	2,700.00
Owens and Associates Construction, Inc.	Construction/Remodeling/Design	Fairfax	60,000.00
Pentagon Cleaning LLC.	Services Purchased	Springfield	1,200.00
Rene Camacho	Education/Recreational Activities	Falls Church	1,900.00
Samaha Associates	Construction/Remodeling/Design	Fairfax	10,473.12
Sfizi Cafe	Special Events	Falls Church	1,000.00
United Fence Inc.	Services Purchased	Centreville	7,015.80
Urban Alarm	Services Purchased	Falls Church	20,891.84
Total FY2020:			988,439.86

FY2021

Vendor Name	Business Description	Locality	Amount
A Design Group, LLC	Construction/Remodeling/Design	Vienna	13,049.83
C2Auctions, LLC	Services Purchased	Falls Church	6,000.00
Charlson Bredehoft Cohen & Brown, P.C.	Services Purchased	Reston	1,287.00
Computerware, Inc.	Tech Supplies	Vienna	46,152.55
CroppMetcalfe	HVAC Repairs/Maintenance	Fairfax	13,051.07
Custom Stone Scaping, LLC	Services Purchased	Falls Church	30,000.00
Dewberry Engineers Inc.	Construction/Remodeling/Design	Fairfax	9,800.00
DJ Commercial Contractors LLC	Services Purchased	Springfield	42,478.12
EM Millwork Inc.	Construction/Remodeling/Design	Springfield	7,700.00
Fairfax Food Service & Caterers	Food Service	Newington	575,926.20
FitKids (Fitness Kids LLC)	Education/Recreational Activities	Centreville	10,231.02
Silbar Security of Northern VA	Services Purchased	Lorton	4,187.00
HBP, Inc.	Supplies	Falls Church	11,413.00
Home Depot	Repairs/Maintenance	Falls Church	11,233.98
Astro Jump of Metropolitan DC	Education/Recreational Activities	Newington	9,762.00
Lake Barcroft Association	Marketing/Advertisement	Falls Church	2,190.00
Mark Spicer DBA Capitol Snow	Education/Recreational Activities	Springfield	1,116.25
McKendry Homes	Construction/Remodeling/Design	Falls Church	3,100.00
Northern Virginia Black Chamber of Commerce	Sponsorship	Tysons Corner	2,500.00
Northern Virginia Magazine	Marketing/Advertisement	Chantilly	12,740.00
Owens and Associates Construction, Inc.	Construction/Remodeling/Design	Fairfax	184,690.34
Rees Broome, PC	Construction/Remodeling/Design	Tysons Corner	22,822.50
Roto-Rooter Services Company	Repairs/Maintenance	Springfield	3,000.00

Tavis Laws DBA Laws Elite, LLC	Education/Recreational Activities	McLean	7,965.00
Tracy R. Krauss	Consultant	Annandale	4,000.00
YSL Hapmudo Studios, LLC	Education/Recreational Activities	Annandale	5,610.00
		Total FY2021:	1,042,005.86

Board Action Item
June 7, 2022

ACTION - 5

Board Approval of the Fairfax County Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Changes

ISSUE:

Board approval of Title VI Fare Equity Analyses for proposed fare changes for Fairfax Connector services.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve FCDOT's Fare Equity Analysis for the proposed FY 2023 Fairfax Connector fare changes (Attachment 1 – Title VI Fare Equity Analysis for Fare Changes) which showed no Disparate Impact or Disproportionate Burden.

TIMING:

Board approval is requested on June 7, 2022, to allow for implementation of the new fare changes by on July 1, 2022, the beginning of FY 2023.

BACKGROUND:

The Washington Metropolitan Area Transit Authority (WMATA) implemented several temporary fare changes in September 2021 and recently proposed that these changes become permanent in FY 2023. One of the fare changes raised the discount for Bus to/from Rail Transfers from \$0.50 to \$2.00. Fairfax Connector participates as a regional partner with WMATA in the use of the SmarTrip pre-paid fare card. Fairfax County proposes to match the WMATA fare changes for FY 2023 in keeping with the Board's past policy of matching regional fare changes and the County's commitment to equity, exemplified by the belief that bus riders should pay the same fare for the same type of bus service without regard to the agency operating the service.

Recipients of federal transportation financial assistance (e.g., states, local governments, transit providers) are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and United States Department of Transportation (USDOT) regulations. Recipients must maintain a valid Title VI Plan that demonstrates how the recipient is complying with Title VI requirements, including prohibiting discrimination on the basis of race, color, or national origin, in the provision of public transportation services. As part of a Title VI Plan, recipients must also develop a Major Service Change, Disparate Impact, and

Board Action Item
June 7, 2022

Disproportionate Burden (DIDB) policy. The County's Major Service Change and DIDB policy was adopted independently on September 8, 2020, and subsequently included in the County's Title VI Plan which was approved by the Board of Supervisors on September 29, 2020.

According to the County's Title VI Plan, a Title VI Equity Analysis must be performed and approved by the Board any time a fare change is proposed. This analysis determines if either a Disparate Impact or Disproportionate Burden on Title VI communities will occur as a result of the proposed fare changes. The County's Title VI Plan stipulates that a Disparate Impact occurs when the difference between minority riders and non-minority riders affected by a proposed service change or fare change is 10 percent or greater. A Disproportionate Burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed service change or fare change is 10 percent or greater. If either one of these occurs, then the County must take steps to mitigate potential impacts.

Title VI Fare Equity Analysis

FCDOT staff performed a Title VI Fare Equity analysis based on adoption of WMATA's proposed \$2.00 transfer discount. The analysis indicated that this proposed fare change will not result in a Disparate Impact for minority riders or a Disproportionate Burden for low-income households, because it reduces costs for all riders systemwide. Attachment 1 (Title VI Fare Equity Analysis) includes the full analysis that supports these findings.

Public Involvement

To inform the public of the proposed fare changes and receive feedback from passengers in advance of implementation, staff hosted a public meeting on April 20, 2022, and conducted an online survey. As part of this public involvement process, staff received 28 public comments, all in favor of the proposed fare reduction.

FISCAL IMPACT:

There is no fiscal impact related to the completion of a Title VI Fare Equity Analysis. No General Fund or other resources are required.

ENCLOSED DOCUMENTS:

Attachment I – Title VI Fare Equity Analysis

Board Action Item
June 7, 2022

STAFF:

Rachel Flynn, Deputy County Executive

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

Dwayne Pelfrey, Chief, Transit Services Division, FCDOT

Michael Felschow, Chief, Planning Section, Transit Services Division, FCDOT

Hejun Kang, Transportation Planner IV, Transit Services Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Brent Riddle, Transportation Planner IV, Coordination and Funding Division, FCDOT

Title VI Fare Equity Analysis –

Proposed FY 2023 Fairfax Connector Fare Changes

Summary of Fare Equity Analysis Results

The Fairfax Connector fare changes proposed for implementation in FY 2023 were reviewed as mandated by the Federal Transit Administration (FTA) in *Circular C-4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients* (hereafter *Circular*). The fare equity analysis requirement applies to all fare changes regardless of the amount of increase or decrease. The proposed fare changes will not result in a disparate impact for minority riders or a disproportionate burden for low-income households. Given this finding, no further examination of alternatives is required by the FTA *Circular*.

Relevant Fairfax County Title VI Program Elements

When a transit agency proposes a fare change or a major service change, the FTA *Circular* requires the agency to conduct an equity analysis to determine whether the fare change or service change will result in a disparate impact for minority riders or a disproportionate burden for low-income households. In conducting this equity analysis, Fairfax Connector used the Fairfax Connector Passenger Origin/Destination Survey (May 2019) and operational data to determine which populations will be affected by the proposed fare changes.

A Title VI equity analysis may require the evaluation of as many as four items depending on the route's nature, proposed change, and served environment. The policies listed in this section are contained in Fairfax County's Title VI Program, as approved by the Board of Supervisors in 2020.

A major service change is defined as either an increase or decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.

An adverse effect occurs when the proposed service incorporates any of the following modifications:

- Service is eliminated
- Frequency is modified by at least 20 percent and 10 minutes
- Span of service is modified by at least 10 percent and two hours
- New service is implemented

A disparate impact occurs when the difference between minority riders and non-minority riders affected by a proposed service change or fare change is 10 percent or greater.

A disproportionate burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed service change or fare change is 10 percent or greater.

If a transit provider chooses not to alter a proposed service change despite the potential disparate impact on minority populations or if the transit provider finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service change, the transit provider may implement the service change *only* if:

- “the transit provider has a substantial legitimate justification for the proposed service change”; **and**
- “the transit provider can show that there are no alternatives that would have a less disparate impact on minority riders but would still accomplish the transit provider’s legitimate program goals.” (FTA *Circular*, page IV-16; emphasis in original)

Fare Equity Analysis

Description of Proposed Fare Changes

The Washington Metropolitan Area Transit Authority (WMATA) implemented temporary fare changes in September 2021 and recently proposed permanent adoption of those fare changes in FY 2023. Fairfax Connector participates as a regional partner with WMATA in the use of the SmarTrip fare card. Fairfax County chose to adopt the WMATA fare changes for FY 2023 in keeping with the Board of Supervisor’s policy of matching regional fare changes and the County’s commitment to equity, exemplified by the belief that bus riders should pay the same fare for the same type of bus service without regard to the agency operating the service. The proposed Fairfax Connector fare changes, which are consistent with the WMATA bus fare changes, are described in Table 1.

Table 1: Major Proposed Fare Changes

Bus to/from Rail Transfers	Increase discount from \$0.50 to \$2.00
7-day Regional Bus Pass	Reduce cost from \$15.00 to \$12.00
7-day Regional Senior/Disabled Bus Pass	Reduce cost from \$7.50 to \$6.00

Utilization of Survey Data for Fare Equity Analysis

The FTA *Circular* requires that a transit operator use rider survey data that is no more than five years old to ascertain the percentage of users of each fare level and fare medium who are members of Title VI protected groups. FCDOT used data from the Fairfax Connector Passenger Origin/Destination Survey, collected March – May 2019. The survey consisted of questions regarding fare paid, household income, race and Latino origin, English proficiency, trip origin/destination, frequency of use, availability of travel alternatives, opinion of service, and other topics.

In Fairfax County’s Title VI Program, minority riders are defined as persons who are not within the non-Hispanic/Latino white population. Fairfax County’s Department of Housing and Community Development defines low-income households as households where the total income is less than 50 percent of the Metropolitan Statistical Area (MSA) median household income, adjusted for family size. In keeping with that definition, FCDOT used the Federal Housing and Urban Development (HUD) Fair Market Rents (FMR) income limits to determine the median household income for the Washington –

Arlington – Alexandria FMR metropolitan area, which includes Fairfax County. For 2020, the median household income for the area was \$126,000; therefore, 50 percent of that income is \$63,000. Based on the 2019 survey, 66 percent of Fairfax Connector riders have a household income of \$60,000 or less and are considered low-income.

To assess the impacts of the proposed fare changes described in Table 1, the fare equity analysis focused on the survey respondents who use the 7-day bus pass and/or the SmarTrip to make a bus to/from rail transfer. Note that the 7-day regional senior/disabled bus pass category was combined into the 7-day regional bus pass category, since the 7-day regional senior/disabled bus pass was not listed as a separate fare media in the 2019 survey. Table 2 shows the total number of estimated respondents using each fare category based on the survey.

Table 2: Proposed Fare Changes and Estimated Monthly Ridership¹

Fare Category / Change			Estimated Monthly Usage		
Fare Media	Bus to/from Rail Transfer	Proposed Fare Change	Minority	Low-Income	Overall
Cash		No change	84,763	63,930	108,836
Regular Fare SmarTrip	No	No change	316,431	216,916	464,221
Regular Fare SmarTrip	Yes	Increase transfer discount from \$0.50 to \$2.00	119,169	60,190	221,339
Senior/Disabled SmarTrip	No	No change	9,387	6,242	18,258
Senior/Disabled SmarTrip	Yes	Increase transfer discount from \$0.50 to \$2.00	3,307	277	6,515
Senior/Disabled Cash		No change	337	1,001	1,054
7-day Regional Bus Pass		Reduce cost from \$15.00 to \$12.00	1,831	1,523	2,996
MARC/VRE Transit Link Card		No change	365	365	1,714
Student Pass/Card (free)		No change	5,056	3,268	6,966
Metro Access		No change	701	701	1,161
DASH Pass		No change	2,057	2,010	3,000
Other		No change	6,922	826	9,064
Don't know/refused			627	551	22,149
Total			550,953	357,799	867,273

¹ Fare media categories highlighted in bold are the types that the fare equity analysis was conducted for.

After extracting the number of respondents per fare category, the percentage of each demographic group was calculated, as shown in Table 3. Table 3 also shows the differences between minority, low-income riders, and overall riders and whether the proposed fare changes will result in a disparate impact (DI) or disproportionate burden (DB).

Table 3: Percentage of Ridership by Fare Category (proposed to change) and Demographic Group

Fare Category	Percentage of Estimated Monthly Riders				Difference			
	Bus to/from Rail Transfer	Minority	Low-Income	Overall	Minority vs. Overall	Low-Income vs. Overall	Fare Change DI	Fare Change DB
Regular Fare SmarTrip	Yes	21.6%	16.8%	25.5%	-3.9%	-8.7%	No	No
Senior/Disabled SmarTrip	Yes	0.6%	0.1%	0.8%	-0.2%	-0.7%	No	No
7-day Regional Bus Pass		0.3%	0.4%	0.3%	0.0%	0.1%	No	No

Evaluation of Survey Data for Disparate Impact

As prescribed in Fairfax County's Title VI threshold policy, a disparate impact occurs when the difference between minority riders and all riders affected by a proposed fare change is 10 percent or greater. For regular fare SmarTrip passengers who are reported to transfer between bus and rail, the utilization by minority riders is 3.9% below the total riders in this fare category. For senior/disabled SmarTrip passengers who are reported to transfer between bus and rail, the utilization by minority riders is 0.2% below the total riders in this fare category. For the 7-day regional bus pass, the utilization by minority riders is the same as the total riders in this fare category. Therefore, the proposed fare changes will not result in a disparate impact.

Evaluation of Survey Data for Disproportionate Burden

As prescribed in Fairfax County's Title VI threshold policy, a disproportionate burden occurs when the difference between low-income riders and all riders affected by a proposed fare change is 10 percent or greater. For regular fare SmarTrip passengers who are reported to transfer between bus and rail, the utilization by low-income riders is 8.7% below the total riders in this fare category. For senior/disabled fare SmarTrip passengers who are reported to transfer between bus and rail, the utilization by low-income riders is 0.7% below the total riders in this fare category. For the 7-day regional bus pass, the utilization by low-income riders is 0.1% above the total riders in this fare category. Therefore, the proposed fare changes will not result in a disproportionate burden.

Findings

The proposed Fairfax Connector fare changes do not result in a disparate impact finding for minority riders or a disproportionate burden finding for low-income riders. Therefore, no further examination of alternatives is required.

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ACTION - 6

Approval of a Fourth Amendment to a Project Funding Agreement for County-Funded Roadway Improvements to Mulligan Road (Mount Vernon and Lee Districts)

ISSUE:

Board of Supervisors approval of, and authorization for, the Director of the Fairfax County Department of Transportation (FCDOT) to execute a Fourth Amendment to an existing agreement between Fairfax County, the Virginia Department of Transportation (VDOT), and the U.S. Department of Transportation, Eastern Federal Lands Highway Division (EFLHD). This amendment modifies the financial plan to reduce the County contributions from \$15,908,018.78 to \$14,425,401.06 and close the agreement.

RECOMMENDATION:

The County Executive recommends that the Board approve the fourth amendment to the existing agreement, substantially in the form of Attachment 1, and approve a resolution, substantially in the form of Attachment 2, authorizing the Director of Fairfax County Department of Transportation to execute the Fourth Amendment to Federal Highway Administration Agreement (FHWA) Number DTFH71-08-X-50021 (Attachment 1).

TIMING:

The Board should act on this item on June 7, 2022, so this agreement can be closed out.

BACKGROUND:

The FHWA Agreement for the implementation of the Mulligan Road (Jeff Todd Way) Project was approved by the Board of Supervisors and executed by all parties on June 30, 2008. The First Amendment was approved by the Board of Supervisors and executed on November 2, 2010, to create a unified project agreement incorporating both the Mulligan Road project and the Telegraph Road widening project. The Second Amendment was approved by the Board on July 18, 2017, to extend the period of performance of the project and to extend the effective period of the FHWA Agreement to/through September 30, 2018. The Third Amendment was approved by the Board on

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November 29, 2018, to extend the period of performance of the project and to extend the effective period of the Agreement to/through September 30, 2020.

The project involved construction of a new connector road between Richmond Highway (U.S. Route 1) and Telegraph Road (VA Route 611) through Fort Belvoir, as well as the widening of Telegraph Road from Beulah Street to Leaf Road. The County assisted the EFLHD with financing for the construction of two of the four lanes between Mulligan Road between Telegraph Road and Route 1. The Agreement went into effect in June 2008. The construction phase has been completed. The Fourth Amendment (Attachment 1) will modify the Financial Plan to reduce the County contributions from \$15,908,018.78 to \$14,425,401.06 and close the Agreement.

FISCAL IMPACT:

This proposed amendment will reduce total County contribution to the project by \$1,482,617.72. The local contribution had previously been funded using commercial and industrial property tax revenues in Fund 40010 – County and Regional Transportation Projects. Staff anticipates the reimbursement from EFLHD will be redeposited into this fund and reflected in the budget at the next available budget cycle. This funding will be used to offset cost increases on other projects in Transportation Priorities Plan approved by the Board on December 3, 2019. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1 – Fourth Amendment to FHWA Agreement DTFH71-08-X-50021
Attachment 2 – Resolution

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT
Ray Johnson, Chief, Funding Section, CFD, FCDOT
Smitha L. Chellappa, Senior Transportation Planner, CFD, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

FOURTH AMENDMENT TO AGREEMENT FOR PROJECT ADMINISTRATION AND FUNDING
FAIRFAX COUNTY
Project VA-A-AD 48(1)
County-funded Roadway Improvements to Mulligan Road

THIS FOURTH AMENDMENT (hereinafter referred to as the "Amendment") is made this ____ day of _____, 2022, by and between the Board of Supervisors of Fairfax County, Virginia, hereinafter referred to as the COUNTY, the Virginia Department of Transportation, hereinafter referred to as VDOT, and the United States Department of Transportation, Federal Highway Administration, Eastern Federal Lands Highway Division (EFLHD); and

WHEREAS, the COUNTY, VDOT and the EFLHD previously entered into an agreement on June 30, 2008, (FHWA Agreement Number DTFH71-08-X-50021) to jointly participate in the environmental planning, design, and construction of Project VA-A-AD 48(1) an alternative corridor to replace roads closed to public traffic, Beulah Street (State Route 613) and Woodlawn Road (State Route 618), within Fort Belvoir, in Fairfax County, Virginia, hereinafter referred to as the PROJECT; and

WHEREAS, FHWA Agreement Number DTFH71-08-X-50021 was amended in November 2010, to, among other things, incorporate a financial plan to fund the PROJECT; and

WHEREAS, FHWA Agreement Number DTFH71-08-X-50021 was further amended on July 18, 2017, to extend the period of performance of the PROJECT and to extend the effective period of the Agreement to/through September 30, 2018; and

WHEREAS, FHWA Agreement Number DTFH71-08-X-50021 was also amended on November 29, 2018, to extend the period of performance of the PROJECT and to extend the effective period of the Agreement to/through September 30, 2020; and

WHEREAS, COUNTY, VDOT and the EFLHD now seek to modify the Financial Plan to reduce the County contributions from \$15,908,018.78 to \$14,425,401.06 and close the agreement. All unexpended funds will be returned to the County.

IN WITNESS WHEREOF, each party hereto has caused this Agreement Amendment to be executed in triplicate in its name and on behalf of its duly authorized officer as of the day, month, and year first herein written.

BOARD OF SUPERVISORS
OF FAIRFAX COUNTY, VIRGINIA

BY: _____
Tom Biesiadny, Director, Department of Transportation

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

BY: _____
Stephen C. Brich, P.E., Commissioner of Highways

UNITED STATES DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION – EASTERN FEDERAL
LANDS HIGHWAY DIVISION

BY: _____
Kurt A. Dowden, Chief of Business Operations

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, June 7, 2022, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of the Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Fourth Amendment to the existing Project Funding Agreement with the Virginia Department of Transportation (VDOT) and the U.S. Department of Transportation, Eastern Federal Lands Highway Division for the implementation of the Mulligan Road (Jeff Todd Way) Widening Project to be administered by VDOT.

Adopted this 7th day of June 2022, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

ACTION - 7

Authorization to Enter Into a Memorandum of Understanding With the Dulles Area Transportation Association Related to Transportation Demand Management (Dranesville, Hunter Mill, and Sully Districts)

ISSUE:

Authorization for the Director of the Fairfax County Department of Transportation to sign a Memorandum of Understanding with Dulles Area Transportation Association related to the provision of Transportation Demand Management (TDM) services.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Director of the Department of Transportation to enter into a Memorandum of Understanding (MOU) with the Dulles Area Transportation Association formalizing roles in implementing TDM strategies.

BACKGROUND:

The Dulles Area Transportation Association (DATA) is a Transportation Management Association (TMA) that works with landowners, tenants and developers within its service area (which includes portions of Reston, Herndon and Chantilly) to implement TDM strategies, including encouraging more efficient use of transportation infrastructure, especially streets and highways; enhancing mobility; and providing alternatives to the use of single occupant vehicles (SOVs).

The purpose of this MOU is to confirm and acknowledge the respective roles, functions, and procedures of DATA and Fairfax County with respect to the implementation and execution of TDM strategies including the formulation and administration of Transportation Demand Management Plans within DATA's service area. The MOU is included as Attachment I. DATA will carry out its mission by implementing networking, information sharing, advocacy, commuter outreach, employer engagement, and behavior modification toward the goal of reducing the number of SOV trips. The County (FCDOT) will provide routine technical assistance, collaboration, and input to DATA; notify DATA of newly approved developments with TDM proffers in the DATA service area; and provide reports on compliance with TDM proffers in the DATA service area.

FISCAL IMPACT:

None.

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ENCLOSED DOCUMENTS:

Attachment I: Memorandum of Understanding between the Dulles Area Transportation Association and The County of Fairfax, Virginia

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Jeff Hermann, Division Chief, FCDOT-Site Analysis & Transportation Planning Division
Greg Fuller, Section Chief, FCDOT-Site Analysis Section (SAS)
Marc Dreyfuss, FCDOT-SAS
Brittany Nixon, FCDOT-SAS
Sam Chanesman, FCDOT-SAS
Walter Daniel, FCDOT-SAS

ASSIGNED COUNSEL:

David Stoner, Deputy County Attorney

MEMORANDUM OF UNDERSTANDING

Between the
Dulles Area Transportation Association
and
The County of Fairfax, Virginia
For

Mutual assistance in the implementation of Transportation Demand Management (TDM) strategies and Transportation Demand Management Plans (TDMPs) in the designated service area of the Dulles Area Transportation Association within Fairfax County

May --, 2022

PART I INTRODUCTION

This Memorandum of Understanding (hereinafter, “MOU”) is entered into this ____ day of _____ 2022, by the County of Fairfax, Virginia (hereinafter, “the County”), and the Dulles Area Transportation Association (hereinafter, “DATA”).

PART II BACKGROUND

Since the establishment of DATA in 1989, DATA has provided a practical way to implement Transportation Demand Management (TDM) strategies proffered by developers for activities within DATA’s Transportation Management Association (TMA) service area. DATA fulfills multiple roles in collaborating with the County, developers, landowners, and residents within that part of its service area located within Fairfax County as geographically described in the attached Exhibit ___ (“the Service Area”) on a myriad of topics, including encouraging more efficient use of transportation infrastructure, especially streets and highways; enhancing mobility; and providing alternatives to the use of single occupant vehicles (SOVs).

PART III OVERVIEW OF THE MEMORANDUM OF UNDERSTANDING

The purpose of this MOU is to confirm and acknowledge the respective roles, functions, and procedures of the parties with respect to the implementation and execution of TDM strategies including the formulation and administration of Transportation Demand Management Plans (TDMPs) within the Service Area.

DATA offers to act as a TMA within the Service Area for development that has adopted a TDMP. DATA will carry out this mission by implementing networking, information sharing, advocacy, commuter outreach, employer engagement, and behavior modification programs toward the goal of achieving a reduction in the number of SOV trips.

To the extent possible, DATA will communicate its willingness and capacity to serve as a TMA pursuant to this MOU to property owners, developers, or community associations responsible for the implementation and execution of a TDMP for developments within the Service Area.

The County confirms that DATA is a TMA able to assist in the implementation and execution of a TDMP for any development within the Service Area, with a mission to reduce the number of SOV trips in the Service Area.

Fairfax County Department of Transportation (FCDOT) is a department and agency of the County whose role with DATA is to coordinate with DATA on activities supporting the County’s implementation of TDM-related proffers in the Service Area. In addition, FCDOT will coordinate with DATA to avoid conflicting employer outreach efforts within the Service Area and to coordinate efforts to update and maintain the Commuter Connections ACT Database used

regionally for tracking employer outreach efforts. The County, through the development review process, will also encourage landowners/developers within the Service Area to meet SOV trip reduction goals, including by becoming a member of a TMA such as DATA.

FCDOT, through its participation on DATA's Board of Directors, will provide routine technical assistance, collaboration, and input to DATA.

FCDOT will notify DATA of any newly approved proffers requiring the implementation and execution of a TDMP for developments within the Service Area and by providing DATA copies of all Annual TDM reports submitted by landowners, developers, or community associations responsible for the implementation of a TDMP for a development within the Service Area who are currently obligated to file annual TDM Reports to the County.

The parties each acknowledge and agree that this MOU does not create any legally enforceable rights or obligations on the part of either of them. Nothing in this MOU, express or implied, may be deemed to create an employment or contractor relationship between DATA and the County, to authorize DATA to act as agent for the County, or to authorize DATA to conduct any of its duties in the name of the County. Moreover, nothing in this MOU, express or implied, may be construed to create a third-party beneficiary of any right created by this MOU or by operation of law.

This MOU will be effective when signed by both parties and will continue in effect until modified or terminated by mutual consent of the parties, or this MOU may be terminated by either party by giving sixty (60) days' notice in writing to the other party.

Signature Blocks

Chairman

Dulles Area Transportation Association

County of Fairfax

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ACTION - 8

Approval of Project Agreements Between the Virginia Department of Rail and Public Transportation (DRPT) and Fairfax County for Fiscal Year (FY) 2022 Transit Capital Assistance Grant Funds

ISSUE:

Approval for the Director of the Department of Transportation to sign four Project Agreements with DRPT to enable the County's receipt of FY 2022 transit capital assistance grant funds.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Director of the Department of Transportation to sign four Project Agreements between DRPT and Fairfax County, in substantial form as those attached, for FY 2022 transit capital assistance grant funds (Attachments 1 through 4).

TIMING:

The Board of Supervisors should act on this item on June 7, 2022, so that DRPT can release FY 2022 transit capital funds to Fairfax County.

BACKGROUND:

On June 23, 2021, the Commonwealth Transportation Board (CTB) adopted the Six-Year Improvement Program (Program) for FY 2022-2027. Due to funding limitations at the time, the projects noted below were not included in the Program. Since that time, additional funding has become available, and the CTB approved funding for attachments 1-4 on December 8, 2021, and added them to the FY 2022-2027 Program.

Fairfax County and DRPT entered into a revised Master Agreement for the Use of Commonwealth Transportation Funds on August 19, 2020. This agreement forms the basis for allocating numerous transportation project grant funds to Fairfax County, including transit capital and operating assistance for the Fairfax Connector. The Master Agreement governs the allocation of funds for all the projects listed below.

DRPT Capital and Operating Assistance Project Agreements - Total Grant Funds:
\$3,000,006

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- For more than 30 years, the Commonwealth has disbursed state transit assistance to the Northern Virginia jurisdictions through the Northern Virginia Transportation Commission (NVTC). Pursuant to the Code of Virginia, NVTC uses a Subsidy Allocation Model (SAM) to distribute regional transit funding among the jurisdictions. Funds from the following agreements will be distributed.
 - Attachment 1 – 73122-52 – Upgrade Fare Collection Equipment.
Total Grant Funds: \$1,500,000, including a \$480,000 local share.
 - Attachment 2 – 73122-53 - Rehabilitate and Renovate Bus Stops.
Total Grant Funds: \$1,200,000, including a \$384,000 local share.
 - Attachment 3 – 73122-54 - Purchase 14 Support Vehicles.
Total Grant Funds: \$300,006, including a \$96,002 local share.

I-495 Next Program: I-495 Express Lanes Northern Extension Project (“495 NEXT” or “Project”) is a 2.5-mile extension of the 495 Express Lanes north from the current terminus near the I-495 and Dulles Access Road interchange to the vicinity of American Legion Bridge. Two new Express Lanes will run in each direction to address congestion, safety, travel reliability, and provide additional travel choices. On June 23, 2021, the CTB adopted an Interstate Operations and Enhancement Program (IOEP) Policy to improve safety, reliability, and travel flow along interstate highway corridors in the Commonwealth. On September 15, 2021, the CTB allocated \$5,200,000 for the I-495 Next Program for the purchase of eight commuter buses for the project.

- Attachment 4 – 72522-61 – Purchase Eight Commuter Buses for Expansion Services in the Interstate 495 Corridor Between Tysons, Virginia and Bethesda, Maryland

Fiscal Impact:

The four attached agreement documents provide the County with a total of \$8,200,006, comprised of \$7,240,004 in state funds and a local share amount of \$960,002. These agreements provide support for approved Fairfax County transit capital projects. Capital funding from the Commonwealth is provided on a reimbursement basis after the purchase and/or project is complete. The revenues and expenditures associated with the agreements will be reflected in Fund 40000, County Transit Systems. Funding associated with the DRPT Capital and Operating Assistance Agreements (Attachments 1, 2, and 3) are included in the FY 2023 Adopted Budget Plan. Adjustments associated with the I-495 Next Program (Attachment 4) will be included as part of the *FY 2022 Carryover Review*. There is no additional General Fund impact.

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ENCLOSED DOCUMENTS:

Attachment 1 – 73122-52 - Upgrade Fare Collection Equipment
Attachment 2 – 73122-53 - Rehabilitate and Renovate Bus Stops
Attachment 3 – 73122-54 - Purchase 14 Support Vehicles
Attachment 4 – 72522-61 - Purchase Eight Commuter Buses for Expansion Services in the Interstate 495 Corridor Between Tysons, Virginia and Bethesda, Maryland

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Noelle Dominguez, Chief, Coordination Section, FCDOT
Malcolm Watson, Transportation Planner, FCDOT

Assigned Counsel:

Richard Dzubin, Assistant County Attorney

**Project Agreement for Use of
Commonwealth Transportation Funds
Fiscal Year 2022
Six Year Improvement Program Approved Project
Project Number 73122-52**

This Project Agreement by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of Capital Assistance Program funding for upgrading the fare collection equipment (the “Project”), and is made and entered into on the date this document is signed by the last signing party.

WHEREAS, on February 1, 2021, the Grantee submitted an Application for the Project; and

WHEREAS, Section 33.2-214 (B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1st of each year a Six-Year Improvement Program (Program) of anticipated projects and programs and that the Program shall be based on the most recent official revenue forecasts and a debt management policy; and

WHEREAS, after due consideration the Board adopted a Final Fiscal Years 2022-2027 Program on June 23, 2021, but due to funding limitations at the time, the Project was not included in the Fiscal Years 2022-2027 Program adopted by the Board on June 23, 2021; and

WHEREAS, since that time additional funding has now become available, the Department has approved funding for the Project, and on December 8, 2021, the CTB allocated funding for the Project and added it to the Fiscal Years 2022-2027 Program; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of the Parties, the manner of performing the necessary work, the method and time of payment, and other terms and conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET

1. Under the terms of this Project Agreement, the Grantee shall:
 - a. Upgrade fare collection equipment.
2. The Department agrees to provide funding as detailed below:
 - a. State grant funding in the amount of \$1,020,000 for the Project approved in the Fiscal Year 2022 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Project Agreement.
3. The Project Agreement may be amended only upon written agreement of the Parties prior to the Project Expiration Date identified in Appendix 1.

4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly and allocation by the CTB.

ARTICLE 2. INCORPORATION OF MASTER AGREEMENT FOR USE OF COMMONWEALTH TRANSPORTATION FUNDS

The Master Agreement for Use of Commonwealth Transportation Funds agreed and executed by the Parties dated August 19, 2020 (“Master Agreement”), is hereby incorporated by reference, as if set out in full herein. Terms not defined in this Project Agreement are defined in the Master Agreement.

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by its duly authorized officers.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: _____
Director

Date Signed: _____

By: _____

Title: _____

Date Signed: _____

Appendix 1

Grantee: Fairfax County

Project: Upgrade Fare Collection Equipment

Capital Assistance Program Project Agreement

Project Number: 73122-52

Project Start Date: July 1, 2021

Project Expiration Date: September 30, 2023

Fund Code		Item Amount
477	Grant Amount (State share of Project cost - 68%)	\$1,020,000
1400	Local expense (share of Project cost - 32%)	\$ 480,000
	Total Project Expense	\$1,500,000

In no event shall this grant exceed \$1,020,000.

**Project Agreement for Use of
Commonwealth Transportation Funds
Fiscal Year 2022
Six Year Improvement Program Approved Project
Project Number 73122-53**

This Project Agreement by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of Capital Assistance Program funding for rehabilitating and renovating bus stops (the “Project”), and is made and entered into on the date this document is signed by the last signing party.

WHEREAS, on February 1, 2021, the Grantee submitted an Application for the Project; and

WHEREAS, Section 33.2-214 (B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1st of each year a Six-Year Improvement Program (Program) of anticipated projects and programs and that the Program shall be based on the most recent official revenue forecasts and a debt management policy; and

WHEREAS, after due consideration the Board adopted a Final Fiscal Years 2022-2027 Program on June 23, 2021, but due to funding limitations at the time, the Project was not included in the Fiscal Years 2022-2027 Program adopted by the Board on June 23, 2021; and

WHEREAS, since that time additional funding has now become available, the Department has approved funding for the Project, and on December 8, 2021, the CTB allocated funding for the Project and added it to the Fiscal Years 2022-2027 Program; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of the Parties, the manner of performing the necessary work, the method and time of payment, and other terms and conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET

1. Under the terms of this Project Agreement, the Grantee shall:
 - a. Rehabilitate and renovate bus stops.
2. The Department agrees to provide funding as detailed below:
 - a. State grant funding in the amount of \$816,000 for the Project approved in the Fiscal Year 2022 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Project Agreement.
3. The Project Agreement may be amended only upon written agreement of the Parties prior to the Project Expiration Date identified in Appendix 1.

4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly and allocation by the CTB.

ARTICLE 2. INCORPORATION OF MASTER AGREEMENT FOR USE OF COMMONWEALTH TRANSPORTATION FUNDS

The Master Agreement for Use of Commonwealth Transportation Funds agreed and executed by the Parties dated August 19, 2020 (“Master Agreement”), is hereby incorporated by reference, as if set out in full herein. Terms not defined in this Project Agreement are defined in the Master Agreement.

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by its duly authorized officers.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: _____
Director

Date Signed: _____

By: _____

Title: _____

Date Signed: _____

Appendix 1

Grantee: Fairfax County

Project: Rehabilitate and Renovate Bus Stops

Capital Assistance Program Project Agreement

Project Number: 73122-53

Project Start Date: July 1, 2021

Project Expiration Date: June 30, 2023

Fund Code		Item Amount
477	Grant Amount (State share of Project cost - 68%)	\$ 816,000
1400	Local expense (share of Project cost - 32%)	\$ 384,000
	Total Project Expense	\$1,200,000

In no event shall this grant exceed \$816,000.

**Project Agreement for Use of
Commonwealth Transportation Funds
Fiscal Year 2022
Six Year Improvement Program Approved Project
Project Number 73122-54**

This Project Agreement by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of Capital Assistance Program funding for the purchase of 14 support vehicles (the “Project”), and is made and entered into on the date this document is signed by the last signing party.

WHEREAS, on February 1, 2021, the Grantee submitted an Application for the Project; and

WHEREAS, Section 33.2-214 (B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1st of each year a Six-Year Improvement Program (Program) of anticipated projects and programs and that the Program shall be based on the most recent official revenue forecasts and a debt management policy; and

WHEREAS, after due consideration the Board adopted a Final Fiscal Years 2022-2027 Program on June 23, 2021, but due to funding limitations at the time, the Project was not included in the Fiscal Years 2022-2027 Program adopted by the Board on June 23, 2021; and

WHEREAS, since that time additional funding has now become available, the Department has approved funding for the Project, and on December 8, 2021, the CTB allocated funding for the Project and added it to the Fiscal Years 2022-2027 Program; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of the Parties, the manner of performing the necessary work, the method and time of payment, and other terms and conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET

1. Under the terms of this Project Agreement, the Grantee shall:
 - a. Purchase 14 support vehicles.
2. The Department agrees to provide funding as detailed below:
 - a. State grant funding in the amount of \$204,004 for the Project approved in the Fiscal Year 2022 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Project Agreement.
3. The Project Agreement may be amended only upon written agreement of the Parties prior to the Project Expiration Date identified in Appendix 1.

4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly and allocation by the CTB.

ARTICLE 2. INCORPORATION OF MASTER AGREEMENT FOR USE OF COMMONWEALTH TRANSPORTATION FUNDS

The Master Agreement for Use of Commonwealth Transportation Funds agreed and executed by the Parties dated August 19, 2020 (“Master Agreement”), is hereby incorporated by reference, as if set out in full herein. Terms not defined in this Project Agreement are defined in the Master Agreement.

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by its duly authorized officers.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: _____
Director

Date Signed: _____

By: _____

Title: _____

Date Signed: _____

Appendix 1

Grantee: Fairfax County

Project: Purchase 14 Support Vehicles

Capital Assistance Program Project Agreement

Project Number: 73122-54

Project Start Date: July 1, 2021

Project Expiration Date: June 30, 2023

Fund Code		Item Amount
477	Grant Amount (State share of Project cost - 68%)	\$204,004
1400	Local expense (share of Project cost - 32%)	\$ 96,002
	Total Project Expense	\$300,006

In no event shall this grant exceed \$204,004.

**Project Agreement for the Use of
Commonwealth Transportation Funds
Fiscal Year 2022
Six Year Improvement Program Approved Project
Project Number 72522-61**

This Project Agreement (“Agreement”) by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (each a “Party” and collectively, the “Parties”) is for the provision of funding for the purchase of eight commuter buses for expansion services in the Interstate 495 corridor between Tysons, Virginia and Bethesda, Maryland (“Project”), and is made and entered into on the date this document is signed by the last signing party.

WHEREAS, pursuant to §33.2-372 of the *Code of Virginia*, the Commonwealth Transportation Board (“CTB”) is required to establish the Interstate Operations and Enhancement Program (IOEP) to improve the safety, reliability, and travel flow along interstate highway corridors in the Commonwealth; and

WHEREAS, on June 23, 2021, the CTB adopted an IOEP Policy; and

WHEREAS, on September 15, 2021, the CTB allocated and approved funding for the Project, and added the Project to the Six-Year Improvement Program for Fiscal Years 2022-2027; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of the Parties, the manner of performing the necessary Work, the method and time of payment, and to set out additional conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET

1. Under the terms of this Project Agreement, the Grantee shall:
 - a. Purchase eight commuter buses for expansion services in the Interstate 495 corridor between Tysons, Virginia and Bethesda, Maryland.
2. The Department agrees to provide funding as detailed below:
 - a. State grant funding in the amount of \$5,200,000 for the Project approved in the Fiscal Year 2022 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Project Agreement.

3. The Project Agreement may be amended only upon written agreement of the Parties prior to the Project Expiration Date identified in Appendix 1.
4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly and allocation by the CTB.

ARTICLE 2. INCORPORATION OF MASTER AGREEMENT FOR USE OF COMMONWEALTH TRANSPORTATION FUNDS

The Master Agreement for Use of Commonwealth Transportation Funds agreed and executed by the Parties dated August 19, 2020 (“Master Agreement”), is hereby incorporated by reference, as if set out in full herein. Terms not defined in this Project Agreement are defined in the Master Agreement.

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by its duly authorized officers.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: _____
Director

Date Signed: _____

By: _____

Title: _____

Date Signed: _____

Appendix 1

Grantee: Fairfax County

**Project: Purchase Eight Commuter Buses for Expansion Services in the Interstate 495
Corridor Between Tysons, Virginia and Bethesda, Maryland**

Capital Assistance Project Agreement

UPC 120823

Project Number: 72522-61

Project Start Date: January 1, 2022

Project Expiration Date: June 30, 2024

Fund Code		Item Amount
472	Grant Amount (State share of Project cost - 100%)	\$5,200,000
	Total Project Expense	\$5,200,000

In no event shall this grant exceed \$5,200,000.

Board Agenda Item
June 7, 2022

INFORMATION - 1

Certification of Consistency - Fairfax County Redevelopment and Housing Authority
Moving to Work Plan for Fiscal Year 2023 and Fairfax County Consolidated Plan

On June 16, 2022, the Fairfax County Redevelopment and Housing Authority (FCRHA) is expected to give final approval for the submission of its Moving to Work (MTW) Plan for Fiscal Year 2023 to the U.S. Department of Housing and Urban Development (HUD). The submission is due to HUD by June 30, 2022, and will include a certification that the Moving to Work Plan is consistent with the Fairfax County Consolidated Plan.

The Moving to Work Plan articulates the FCRHA's mission to serve the housing needs of low-income and very low-income households in its federal rental assistance programs (Housing Choice Voucher and Rental Assistance Demonstration Project-Based Voucher) and the FCRHA's strategy for addressing those needs. The plan is presented in a HUD-mandated format and has had extensive review by the FCRHA and the public. The FCRHA made the plan available for public comment from May 2, 2022, through June 2, 2022 and held the required public hearing on May 19, 2022. The plan was initially due to HUD in April 2022; however, HUD provided an extension through June 30, 2022 due to the COVID-19 pandemic. The draft Moving to Work Plan for Fiscal Year 2023, as released by the FCRHA, is available at www.fairfaxcounty.gov/housing/initiatives/moving-to-work.

Unless directed otherwise by the Board, the County Executive will sign the Certification of Consistency with the Consolidated Plan and provide it to the FCRHA for inclusion in the Moving to Work Plan for Fiscal Year 2023 to be submitted to HUD.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Certification of Consistency with the Consolidated Plan
Attachment 2: Draft Moving to Work Plan for Fiscal Year 2023

Board Agenda Item
June 7, 2022

STAFF:

Christopher Leonard, Deputy County Executive

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

Amy Ginger, Deputy Director, Operations, HCD

Vincent Rogers, Director, Policy and Compliance, HCD

ASSIGNED COUNSEL:

Ryan Wolf, Assistant County Attorney

**Certification of Consistency
with the Consolidated Plan****U.S. Department of Housing
and Urban Development****Attachment 1**

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan. (Type or clearly print the following information:)

ApplicantName: Fairfax County Redevelopment and Housing Authority

ProjectName: Moving to Work

Location of the Project: Fairfax County, Virginia

Name of the Federal
Program to which the
applicant is applying: Moving to Work

Name of
Certifying Jurisdiction: Fairfax County, Virginia

Certifying Official
of the Jurisdiction
Name: Bryan J. Hill

Title: County Executive

Signature: _____

Date: _____



FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY



FY 2023 MOVING TO WORK PLAN

To Be Submitted June 30, 2022

The Vision

It is the vision of the Fairfax County Redevelopment and Housing Authority (FCRHA) that affordable housing programs provide more than a roof overhead. Affordable housing – particularly the Fairfax County Rental and Housing Choice Voucher Programs – can be the gateway to a better life and self- sufficiency.

FCRHA Commissioners

C. Melissa McKenna, Chair
Lenore Stanton, Vice Chair
Staci Alexander
Broderick Dunn
Kenneth Feng
Richard J. Kennedy
Elisabeth Lardner
Roderick Maribojoc
Nicholas McCoy
Kristen Robinson
Rod Solomon

Fairfax County Department of Housing and Community Development - Key Staff

Thomas Fleetwood, Director
Amy Ginger, Deputy Director, Operations
Tom Barnett, Deputy Director, Office to Prevent and End Homelessness
Seema Ajrawat
Mark Buenavista
Marta Cruz
Carol Erhard
Peggy Gregory
Margaret Johnson
Vincent Rogers

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I. Introduction

Moving to Work (MTW) is a demonstration program that offers Public Housing Authorities (PHAs) the opportunity to design and test innovative, locally designed housing and self-sufficiency strategies by allowing exemptions from existing Public Housing and tenant-based Housing Choice Voucher rules. The program also permits PHAs to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source, as approved by the U.S. Department of Housing and Urban Development (HUD). The purposes of the Moving to Work program are to give PHAs and HUD the flexibility to design and test various approaches for providing and administering housing assistance that accomplish three primary goals:

1. Reduce cost and achieve greater **cost effectiveness** in federal expenditures;
2. Incentivize employment to help families increase their levels of **self-sufficiency**; and
3. Increase **housing choices** for low-income families.

Moving Along the Housing Continuum

In 2013, the Fairfax County Redevelopment and Housing Authority (FCRHA) was designated as a Moving to Work agency. The FCRHA provides a continuum of affordable housing options, ranging from rental vouchers to moderately priced rental units, as well as affordable programs for homeownership. Each household fits somewhere along this continuum and it is the goal of the FCRHA to help individuals find the right fit based on income and need. The four steps in the housing continuum provide a range of housing types and subsidy levels, each tied to the attainment of self-sufficiency skills. Households are offered opportunities to progress to the next step based on their level of individual self-sufficiency as well as the availability of housing resources.

Step One – Rental Subsidy and Services Program. The Rental Subsidy and Services Program (RSSP) is a rental assistance program that includes supportive services. The goal of RSSP is for households to graduate to market rate housing. The program offers medium to long-term subsidies with case management and is geared towards supporting households earning 50 percent of Area Median Income and below. RSSP is a locally funded rental assistance program that is subject to annual appropriations by the Fairfax County Board of Supervisors.

Step Two – Project-Based or Tenant-Based Housing Choice Voucher. The federal Housing Choice Voucher Programs serve extremely and very low-income households (earning 50 percent of AMI and below) that need assistance in attaining an intermediate self-sufficiency skill set. Participants are referred to services designed to provide individual job skill development, address transportation needs, and ensure ongoing participation in health care services.

Step Three – Fairfax County Rental Program. The local Fairfax County Rental Program (FCRP) serves low- and moderate-income households (earning 80 percent of AMI and below) working toward an independent skill set, who can maintain stable employment, and are pursuing financial education such as retirement planning and homebuyer training.

Step Four – Homeownership or Unsubsidized Housing. The FCRHA's First-Time Homebuyers Program offers affordably priced new and resale townhomes and condominiums to first-time homebuyers who meet income and other qualifications. Individuals and families who are considered self-sufficient are referred to the program.

The FCRHA is using the flexibility that comes with the Moving to Work designation to:

- Further solidify a **housing continuum** that seamlessly couples the county's local housing program and

federal housing programs and moves participants toward the greatest level of self-sufficiency they can attain.

- Expand **community partnerships** with nonprofit organizations to provide self-sufficiency services ranging from “ready-to-rent” training, job readiness, homebuyer education and more.
- Reduce the regulatory burden both on staff and customers, to allow a greater focus on **people – not paperwork**. Moving to Work policies such as less-frequent re-certifications and inspections permits FCRHA staff to concentrate on facilitating access to self-sufficiency services and opportunities, such as job training and higher education.
- **Align housing resources with community needs**, consistent with the county’s yearly-adopted “Housing Blueprint.”

Overview of the FCRHA’S Short-Term MTW Goals and Objectives

The Fiscal Year (FY) 2023 Moving to Work Plan furthers the on-going work of the FCRHA and includes one new activity. The Plan supports the efforts of the FCRHA to preserve and develop affordable housing and provide greater opportunities for individuals and families through housing mobility options and self-sufficiency tools. The FCRHA will continue to monitor several important policies designed to decrease the cost of assistance to families in the Housing Choice Voucher (HCV) program and will also continue to monitor the impacts of the COVID-19 pandemic on participants.

The following is a list of the activities included in the FY 2023 Plan—those that have been proposed, implemented, not yet implemented, on hold, and closed out.

PROPOSED	
2023-1	Implementation of Payment Standards at Effective Date
IMPLEMENTED	
2014-1	Reduce Frequency of Reexaminations
2014-2	Eliminate Mandatory Earned Income Disregard Calculation
2014-3	Streamline Inspections for Housing Choice Voucher Units
2014-5	Institute a Minimum Rent
2014-6	Design and Initiate a Rent Control Study
2014-9	Increase the Family Share of Rent from 30 Percent to 35 Percent of Family Income in the Housing Choice Voucher and Rental Assistance Demonstration Project-Based Voucher Program
2016-2	Modify Project-Based Voucher Choice Mobility Criteria
2017-1	Modify the Family Self-Sufficiency Program
2017-3	Authorization to Establish a Local Moving to Work Project-Based Voucher Program
2018A-1	Modify the Calculation of the Family Share of Rent
2018A-3	Increase Initial Maximum Tenant Rent Burden to 45 Percent
2019-1	Establish Fairfax County Payment Standards
2021-1	Affordable Housing Acquisition and Development
2021-2	Rental Assistance Demonstration Project-Based Voucher Program Admissions Policy
NOT YET IMPLEMENTED	
2016-1	Use Moving to Work Funds for Local, Non-Traditional Housing Program
ON HOLD	
2018A-2	Establish Shared Housing Program for Rental Assistance Demonstration Project-Based Voucher Program
CLOSED	
2014-4	Streamline Inspections for Public Housing Residents
2014-7	Convert Scattered-Site Public Housing Units to Project-Based Section 8 Assistance
2014-8	Allow Implementation of Reduced Payment Standards at Next Annual Reexamination
2015-1	Eliminate Flat Rents in the Public Housing Program
2017-2	Establish a Gateway to Housing Choice Voucher Program from the Tenant-Based Rental Assistance Program

Highlights of the FCRHA's short-term goals for FY 2023 include:

1. **Implement Sub-Market Payment Standards:** In FY 2019, the FCRHA was granted authority to develop local payment standards. This activity is being implemented in two phases: 1) decouple from the use of HUD's Small Area Fair Market Rents and develop a new local countywide payment standard (implemented in March 2019); and 2) implement local sub-market payment standards. Due to the COVID-19 pandemic and ensuing local economic fluctuations, the FCRHA paused the implementation of the sub-market payment standards (Phase 2). The FCRHA plans to implement this phase in FY 2023, assuming the stability of the rental housing market.
2. **Update MTW Strategies with Input from Participants:** In FY 2022, the FCRHA conducted outreach to households to develop a greater understanding of how MTW authority could be used to strengthen outcomes. Findings from this outreach will be used to further understand some of the successes and challenges facing MTW households and to develop ways in which MTW can be used to address identified policy challenges. In addition, in FY 2022 a new MTW Resident Advisory Committee was launched. This group will continue discussions in FY 2023 regarding how MTW can best meet the needs of the community moving forward.
3. **Monitor the Impact of the COVID-19 Pandemic on Households and the Housing Market:** The FCRHA will continue to monitor both the health and economic impacts of the COVID-19 pandemic on participants and the rental housing market in general. This is particularly important in relation to MTW Activities that are designed to promote self-sufficiency and residential mobility. The FCRHA will also continue to closely monitor the number of households who are rent-burdened due to the COVID-19 pandemic.

Overview of the FCRHA'S Long-Term MTW Goals

Moving to Work provides the opportunity to utilize block grant flexibility to meet an important goal of the FCRHA—to *preserve, expand, and facilitate new affordable housing opportunities in Fairfax County*. According to the Virginia Center for Housing Research, the total affordable housing gap in Fairfax County for low-income renters (i.e., incomes at or below 80% of the Area Median Income (AMI)) is approximately 37,535 units. In addition to this affordable housing gap, there is a projected need for 15,000 net new affordable homes for households earning up to 60% AMI. To that end, a long-term Moving to Work goal of the FCRHA is to realize savings through its federal programs—both through efficiencies in the programs, as well as ultimately moving families to self-sufficiency—and to utilize these savings for the creation and preservation of affordable housing. This will continue to be a long-term goal of the FCRHA.

II. General Operating Information

A. Housing Stock Information

I. Planned New Public Housing Units

New public housing units that the MTW PHA anticipates will be added during the Plan Year.

Asset Management Project (AMP) Name and Number	Bedroom Size						Total Units	Population Type*	# of Uniform Federal Accessibility Standards (UFAS) Units	
	0/1	2	3	4	5	6+			Fully Accessible	Adaptable
N/A	0	0	0	0	0	0	0	N/A	0	0

I. Planned Public Housing Units to be Removed

Public housing units that the MTW PHA anticipates will be removed during the Plan Year.*

AMP Name and Number	# of Units to be Removed	Explanation for Removal
N/A	0	N/A

**Robinson Square, a RAD-PBV property, was demolished in FY 2022 as part of the FCRHA's One University redevelopment project. 46 RAD-PBV units are offline and residents have been issued tenant-based vouchers, relocation assistance, and an option to return when the project is completed and prepared for occupancy. The 46 units that will be offline will be project-based upon completion as replacement for the original units in the completed redevelopment.*

III. Planned New Project-Based Vouchers

Tenant-based vouchers that the MTW PHA anticipates project-basing for the first time during the Plan Year. These include only those in which at least an Agreement to enter into a Housing Assistance Payment (AHAP) will be in place by the end of the Plan Year. Indicate whether the unit is included in the Rental Assistance Demonstration (RAD).

Property Name	# of Vouchers to be Project-Based	RAD?	Description of Project
Autumn Willow	8	No	Development of senior independent living units
Dominion Square	40	No	Development of multifamily housing
Somos	46	No	Development of multifamily housing
Braddock Senior	7	No	Development of senior housing

IV. Existing Project-Based Vouchers

Tenant-based vouchers that the MTW PHA is currently project-basing in the Plan Year. These include only those in which at least an AHAP is already in place at the beginning of the Plan Year. Indicate whether the unit is included in RAD.

Property Name	# of Project-Based Vouchers	Planned Status at End of Plan Year*	RAD?	Description of Project
Arden (The)	8	Leased	No	Multifamily
Arrowbrook	8	Leased	No	Multifamily
Briarcliff	26	Leased	No	Multifamily

Chesterbrook Senior Residences	44	Leased	No	Senior housing
Community Havens, Inc	5	Leased	No	Group housing
Coppermine	57	Leased	No	Multifamily
Fallstead at Lewinsville Center	22	Leased	No	Senior housing
Herndon Harbor House	3	Leased	No	Senior
Hollybrooke III	12	Leased	No	Multifamily
Lewinsville Retirement Residences	18	Leased	No	Senior housing
Lincolnia Senior Apartments	26	Leased	No	Senior housing
Lindsay Hill	8	Leased	No	Senior housing
Madison Ridge	24	Leased	No	Multifamily
Morris Glen	12	Leased	No	Senior housing
New Lake Anne	122	Leased	No	Housing for seniors and individuals with a disability
North Hill	68	Leased	No	Senior and multifamily
Oakwood	8	Committed	No	Senior housing
One University	25	Committed	No	Senior housing
Scattered Sites	112	Leased	No	Scattered sites
Stonegate	6	Leased	No	Multifamily
Westglade	6	Leased	No	Multifamily
Wexford Manor	5	Leased	No	Multifamily
TOTAL	625			

*Select "Planned Status at the End of Plan Year" from: Committed, Leased/Issued

V. Planned Other Changes to MTW Housing Stock Anticipated During the Plan Year

Examples of the types of other changes can include (but are not limited to): units held off-line due to relocation or substantial rehabilitation, local, non-traditional units to be acquired/developed, etc.

Planned Other Changes to MTW Housing Stock Anticipated in the Plan Year
N/A

VI. General Description of All Planned Capital Expenditures During the Plan Year

Narrative general description of all planned capital expenditures of MTW funds during the Plan Year.

General Description of All Planned Capital Expenditures During the Plan Year
MTW funds will not be used for capital expenditures in FY 2023.

B. Leasing Information

I. Planned Number of Households Served

Snapshot and unit month information on the number of households the MTW PHA plans to serve at the end of the Plan Year.

Planned Number of Households Served Through:	Planned Number of Unit Months Occupied/Leased*	Planned Number of Households to be Served**
MTW Public Housing Units Leased	N/A	N/A
MTW Housing Choice Vouchers (HCV) Utilized (<i>does not include RAD</i>)	44,376	3,698
Local, Non-Traditional: Tenant-Based^	0	0
Local, Non-Traditional: Property-Based^	0	0
Local, Non-Traditional: Homeownership^	0	0
Planned Total Households Served	44,376	3,698

NOTE: The above data does not include RAD-PBV households.

* "Planned Number of Unit Months Occupied/Leased" is the total number of months the MTW PHA plans to have leased/occupied in each category throughout the full Plan Year.

***"Planned Number of Households to be Served" is calculated by dividing the "Planned Number of Unit Months Occupied/Leased" by the number of months in the Plan Year.

^In instances when a local, non-traditional program provides a certain subsidy level but does not specify a number of units/households to be served, the MTW PHA should estimate the number of households to be served.

Local, Non-Traditional Category	MTW Activity Name/Number	Planned Number of Unit Months Occupied/Leased*	Planned Number of Households to be Served*
Tenant-Based	N/A	N/A	N/A
Property-Based	N/A	N/A	N/A
Homeownership	N/A	N/A	N/A

* The sum of the figures provided should match the totals provided for each local, non-traditional categories in the previous table. Figures should be given by individual activity. Multiple entries may be made for each category if applicable.

II. Discussion of Any Anticipated Issues/Possible Solutions Related to Leasing

Discussions of any anticipated issues and solutions in the MTW housing programs listed.

Housing Program	Description of Anticipated Leasing Issues and Possible Solutions
MTW Public Housing	N/A
MTW Housing Choice Voucher	N/A
Local, Non-Traditional	N/A

C. Waiting List Information

I. Waiting List Information Anticipated

Snapshot information of waiting list data as anticipated at the beginning of the Plan Year. The “Description” column should detail the structure of the waiting list and the population(s) served.

Waiting List Name	Description	# of Households on Waiting List	Waiting List Open, Partially Open or Closed	Plans to Open the Waiting List During the Plan Year
Housing Choice Voucher—Tenant Based	Housing Choice Voucher Program	1,837	Closed	No
RAD--PBV	RAD Project-Based Voucher Program	2,758	Closed	No

Please describe any duplication of applicants across waiting lists: Applicants can apply to multiple rental assistance programs and often appear on multiple lists.

II. Planned Changes to Waiting List in the Plan Year

Please describe any anticipated changes to the organizational structure or policies of the waiting list(s), including any opening or closing of a waiting list, during the Plan Year.

Waiting List Name	Description of Planned Changes to Waiting List
RAD-PBV Waitlist	N/A
PBV Waitlist	N/A

III. Proposed MTW Activities: HUD Approval Requested

2023-1 Implementation of Payment Standards at Effective Date

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Description of Activity

The FCRHA is requesting the option to apply new payment standards at any time after the effective date of the new amount when the payment standard increases. Applying new, increased payment standards after the effective date, in lieu of at a household's first regular reexamination after or on the effective date of a payment standard, will help to reduce the number of households who are rent burdened. This flexibility is important due to high market rents in Fairfax County and because most HCV households are on at least a two-year reexamination schedule. Importantly, many non work-able households are on a five-year reexamination schedule, which could further delay the application of any new increased payment standards. If authorized, the FCRHA will apply this activity as needed if data indicate that households are becoming increasingly rent burdened.

This activity will promote self-sufficiency among households. The FCRHA anticipates utilizing the option to apply new payment standards increases after it is approved by HUD.

Cost Implications

This activity may result in higher future HAP expenditures. However, the FCRHA is committed to this activity in order to help reduce the number of rent burdened households, particularly those who are non work-able. This activity and the financial implications, if implemented, will be monitored closely to ensure it remains fiscally prudent.

Need/Justification for MTW Flexibility

The FCRHA requests HUD authorization to implement this activity under the following sections of its MTW Agreement:

- Attachment C, Section D.2 Rent Policies and Term Limits

Because applying payment standards at any time after their effective date is currently not allowed by HUD, MTW flexibility is required to allow the FCRHA to implement this change.

SS#2: INCREASE IN HOUSEHOLD SAVINGS				
Unit of Measurement	Baseline	Benchmark	Outcome	Benchmark Achieved?
<i>Average amount of savings/escrow of households affected by this policy in dollars (increase).</i>	This baseline will be set using FY 2022 data indicating the average amount of household assets for HCV households. As this activity is anticipated to only indirectly affect savings levels, the number of households who are rent burdened will also be measured.	A reduction in the # of households that are rent burdened after implementation of this activity; an increase in the average asset level of households	TBD	TBD

IV.A. Approved MTW Activities: Implemented

The following Moving to Work activities are currently implemented. A summary and status update on these activities follows:

ACTIVITY	
2014-1	Reduce Frequency of Reexaminations
2014-2	Eliminate Mandatory Earned Income Disregard Calculation
2014-3	Streamline Inspections for Housing Choice Voucher and Rental Assistance Demonstration Program-based Voucher Units
2014-5	Institute a Minimum Rent
2014-6	Design and Initiate a Rent Control Study
2014-9	Increase the Family Share of Rent from 30 Percent to 35 Percent of Family Income in the Housing Choice Voucher and Rental Demonstration Program Project-Based Voucher Programs
2016-2	Modify Project-Based Voucher Choice Mobility Criteria
2017-1	Modify the Family Self-Sufficiency Program
2017-3	Authorization to Establish a Local Moving to Work Project-Based Voucher Program
2018A-1	Modify the Calculation of the Family Share of Rent
2018A-3	Increase Initial Maximum Tenant Rent Burden to 45 Percent
2019-1	Establish Fairfax County Payment Standards
2021-1	Affordable Housing Acquisition and Development
2021-2	Rental Assistance Demonstration Project-Based Voucher Program Admissions Policy

2014-1 Reduction in Frequency of Reexaminations

Cost Effectiveness

Self Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Implemented: FY 2014 and FY 2018
- Amended: FY 2020

Description of Activity/Update

The objectives of this activity are to provide a work incentive and to lessen the administrative burden on staff and families by reducing the frequency of income reexaminations. This activity allows for the following:

- Reexaminations are conducted every two years for work-able households. Families that claim to have zero income continue to meet with FCRHA staff regularly.
- Reexaminations for non work-able households are conducted every five years. If, during the five-year period, a household's portion of rent and utilities increases to a level greater than 42% of their adjusted gross annual income, the most current payment standards will be applied prior to the five-year recertification. This will help to ensure non work-able households do not become rent burdened during the five-year period due to increases in rent at the request of a landlord. Any change in family composition must be reported in writing to the FCRHA within ten (10) business days. The FCRHA will conduct interim reexaminations to account for any changes in household composition that occur between scheduled reexaminations.
- Interim increases (i.e., increases in income between annual reexaminations) are disregarded until the next scheduled reexamination.
- Interim decreases (i.e., a reported decrease in income) are limited to one during a calendar year and no interim decreases during the first six months after initial occupancy.

The reduction in the frequency of reexaminations provides an incentive to work as families are not immediately subject to a rent increase when their income increases because of new employment or a job promotion. The impact of five-year reexaminations will be closely monitored due to the lingering economic impacts of the COVID-19 pandemic on participants. This activity will continue to be implemented in FY 2023.

Application of Activity

This activity applies to the following vouchers:

Voucher Type	Activity 2014-1 Applicability	Voucher Type	Activity 2014-1 Applicability
MTW Vouchers	YES	Homeownership Vouchers	NO
Project-Based Vouchers	NO	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	NO	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	NO	Emergency Housing Vouchers	YES
Tenant Protection Vouchers–Culpepper Gardens	NO		
Tenant Protection Vouchers - Lake Anne	YES		
Tenant Protection Vouchers	NO		
Enhanced Voucher	YES		

Definition of Work-Able and Non Work-Able

The following definitions apply to this activity:

- *Non Work-Able*: For a household to be considered non work-able, (1) the head of household (as well as the co-head of household, if applicable) must be elderly or disabled and not have any earned income; and (2) all other household members 18 years or older must be elderly or disabled without earned income, or enrolled in full-time school or job training program.
- *Work-Able*: Any household with a member who is 18 years or older where the member is not elderly or disabled with no earned income or not enrolled in full-time school or job training program.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to this activity.

2014-2 Eliminate Mandatory Earned Income Disregard Calculation

Cost Effectiveness

Self Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Implemented: FY 2014

Description of Activity/Update

As part of the HUD-mandated EID calculation, any family in the Public Housing program, and any family in the HCV program that included a member(s) with disabilities, was eligible for EID when an unemployed or under-employed family member obtained a job or increased their wages. The resulting income increase was fully excluded for 12 months and 50 percent excluded for an additional 12 months. In FY 2011, only 52 families in the FCRHA's Public Housing and HCV programs benefited from the EID calculation.

In the FY 2014 Moving to Work Plan, the FCRHA eliminated the HUD-mandated EID calculation and began notifying affected families. To allow families to prepare for any potential changes in rent, families that received notification within three months of their reexaminations were phased out at their second annual reexamination. The FCRHA eliminated all use of the EID calculation in FY 2015.

In FY 2022, the FCRHA was awarded Emergency Housing Vouchers (EHVs), where the EID calculation is in effect. The implementation of Activity 2014-2 ensures that the EID calculation is eliminated for all MTW households, but not to households in the EHV program.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2014-2 Applicability	Voucher Type	Activity 2014-2 Applicability
MTW Vouchers	YES	Homeownership Vouchers	YES
Project-Based Vouchers	YES	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	YES	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	YES	Emergency Housing Vouchers	No
Tenant Protection Vouchers– Culpepper Gardens	YES		
Tenant Protection Vouchers - Lake Anne	YES		
Tenant Protection Vouchers	YES		
Enhanced Voucher	YES		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes regarding this activity.

2014-3 Streamlined Inspections for Housing Choice Voucher and Rental Assistance Demonstration Project-Based Voucher Units

Cost Effectiveness

Self Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Implemented: FY 2014
- Amended: FY 2020 and FY 2021

Description of Activity/Update

This activity reduces costs associated with conducting inspections, encourages owners to maintain their units, and incentivizes families to employ good housekeeping practices. The following applies:

- HCV units are inspected on a triennial basis.
- RAD-PBV units are inspected biennially by property. Approximately 50 percent of RAD-PBV properties are inspected in one calendar year (all units in those properties) and the other 50 percent are inspected in the next calendar year (all units in those properties).

Tenants, owners, or a third-party continue to have the option to request Special Inspections at any time, and any complaints received by the FCRHA from a tenant, owner or third-party may revert a unit back to an annual inspection cycle. Additionally, all units are subject to Quality Control Inspections and the FCRHA specifically focuses those inspections on households less likely to report unsafe or unsanitary conditions. Inspection staff follow HQS protocol including using HUD Form 52580 for all inspections. This activity will continue to be implemented in FY 2023.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2014-3 Applicability	Voucher Type	Activity 2014-3 Applicability
MTW Vouchers	YES	Homeownership Vouchers	NO
Project-Based Vouchers	NO	Family Unification Protection Vouchers - Pre 2008	NO
RAD2 – Creekside Vouchers	YES	1-Year Mainstream Vouchers - Pre 2008	NO
RAD1	YES	Emergency Housing Vouchers	YES
Tenant Protection Vouchers– Culpepper Gardens	NO		
Tenant Protection Vouchers - Lake Anne	NO		
Tenant Protection Vouchers	NO		
Enhanced Voucher	NO		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to this activity.

2014-5 Institute a New Minimum Rent

Cost Effectiveness

Self Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Reproposed: FY 2016
- Implemented: FY 2018
- Amended: FY 2018

Description of Activity/Update

To encourage families to seek employment and stay employed, the FCRHA has set a minimum rent to \$220 per month for work-able families. This rent is based on one family member working 20 hours per week for four weeks during the month earning the minimum wage of \$7.25. The minimum rent of \$220/month is currently implemented in both the RAD-PBV and the HCV programs, affecting only work-able households. Households can pay a minimum rent of \$50 if they are determined to have little or no income.

This activity is fully implemented. This activity will continue to be closely monitored in FY 2023 due to the lingering economic impacts of the COVID-19 pandemic on households.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2014-5 Applicability	Voucher Type	Activity 2014-5 Applicability
MTW Vouchers	YES	Homeownership Vouchers	NO
Project-Based Vouchers	NO	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	NO	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	YES	Emergency Housing Vouchers	NO
Tenant Protection Vouchers– Culpepper Gardens	NO		
Tenant Protection Vouchers - Lake Anne	NO		
Tenant Protection Vouchers	YES		
Enhanced Voucher	YES		

Definition of Work-Able and Non Work-Able

The following definitions apply to this activity:

- **Non Work-Able:** For a household to be considered non work-able, (1) the head of household (as well as the co-head of household, if applicable) must be elderly or disabled and not have any earned income; and (2) all other household members 18 years or older must be elderly or disabled without earned income, or enrolled in full-time school or job training program.
- **Work-Able:** Any household with a member who is 18 years or older where the member is not elderly or disabled with no earned income or not enrolled in full-time school or job training program.

Annual Reevaluation of Rent Reform Initiative

Outcomes were measured and reviewed annually using identified metrics. The rent reform controlled study will end in FY 2022.

Hardship Case Criteria

Households eligible for the minimum rent are subject to the FCRHA's Hardship Policy. Based on previous years, it is anticipated that fewer than 20 households will request a hardship exemption. However, the economic impacts of the COVID-19 pandemic may increase the number of hardship requests in FY 2023; the FCRHA will continue to monitor and review these requests.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2014-6 Design and Initiate a Rent Reform Controlled Study

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Reproposed: FY 2016
- Implemented: FY 2018
- Amended: FY 2018

Description of Activity/Update

The Rent Reform Controlled Study, a HUD requirement for the FCRHA's designation as a MTW agency, is an alternate rent strategy for incentivizing families to increase their income and savings through a simplified approach to calculating a family's adjusted income. Key elements of the study include:

- Continuing to exclude income directly related to achieving self-sufficiency, such as income from training programs and student financial assistance.
- Utilizing a "work stabilization" deduction to replace existing deductions. The work stabilization deduction is 20 percent of a family's gross earned income.
- Alternating income reexaminations every two years so families can take advantage of income increases without a resulting rent increase.
- Providing incentives for families that meet self-sufficiency goals.
- Implementing a minimum rent of \$220/month to further encourage families to work. This activity is discussed under Moving to Work Activity 2014-5 Institute a New Minimum Rent.

The FCRHA anticipates rent reform activities will result in:

- an increase in average household income.
- an increase in average household savings.
- fewer households on TANF.
- a reduction in the average unit subsidy of households in the pilot group.

The FCRHA began a pilot of the rent reform controlled study in 2015, including applying the minimum rent activity and identifying an initial pilot group of participants at three public housing properties. Unfortunately, a technical roadblock occurred in updating the Yardi system at this same time, resulting in a delay in the implementation of the pilot. While the contract negotiations were occurring with Yardi, the three public housing sites were converted to Rental Assistance Demonstration – Project-Based Voucher units (RAD-PBV). The combination of the RAD-PBV conversion and delay in the Yardi upgrade resulted in a pause on the full implementation of this activity. In FY 2020, this activity was fully implemented including a new contract with Virginia Tech to evaluate the rent reform controlled study. Households are assigned to both "control" and "study" groups and meet with the Rent Reform Housing Service Specialist for recertifications. The study will conclude by the end of FY 2022.

Primary data collection on the pilot is from FCRHA database records. At the conclusion of the study, a report will be released that will describe self-sufficiency metrics including changes to household income and savings, need for Temporary Assistance to Needy Families (TANF), and changes in housing subsidies. Recommendations will cover substantive implications for the FCRHA, as well as suggestions for additional housing program research. The analysis of outcomes for both the study and control groups is also considering various economic impacts that the COVID-19 pandemic has had on participating households.

Application of Activity

This activity applies only to RAD-PBV households participating in the rent reform controlled study, both in the control and study groups.

Voucher Type	Activity 2014-6 Applicability	Voucher Type	Activity 2014-6 Applicability
MTW Vouchers	N/A	Homeownership Vouchers	N/A
Project-Based Vouchers	N/A	Family Unification Protection Vouchers - Pre 2008	N/A
RAD2 – Creekside Vouchers	N/A	1-Year Mainstream Vouchers - Pre 2008	N/A
RAD1	YES	Emergency Housing Vouchers	N/A
Tenant Protection Vouchers–Culpepper Gardens	N/A		
Tenant Protection Vouchers - Lake Anne	N/A		
Tenant Protection Vouchers	N/A		
Enhanced Voucher	N/A		

Definition of Work-Able and Non Work-Able

The following definitions apply to this activity:

- *Non Work-Able*: For a household to be considered non work-able, (1) the head of household (as well as the co-head of household, if applicable) must be elderly or disabled and not have any earned income; and (2) all other household members 18 years or older must be elderly or disabled without earned income, or enrolled in full-time school or job training program.
- *Work-Able*: Any household with a member who is 18 years or older where the member is not elderly or disabled with no earned income or not enrolled in full-time school or job training program.

Impact Analysis

The FCRHA does not anticipate that the rent reform study will disproportionately affect households in any specific group; elderly and disabled households are not a part of the study. The FCRHA anticipates that the reduced rent, coupled with incentives, will result in increased household savings and achievement of family self-sufficiency goals.

Annual Reevaluation of Rent Reform Initiative

Outcomes were measured and reviewed annually using standard metrics. The FCRHA closely monitored the impact of the COVID-19 pandemic on households participating in this study and staff met quarterly with Virginia Tech to review metrics. In addition, researchers at Virginia Tech collected qualitative data to integrated into quantitative metrics to enhance the overall findings of the study. A final report on the study is expected at the beginning of FY 2023.

Hardship Case Criteria

Families participating in the study are subject to the FCRHA's Hardship Policy. There were no hardship requests due to the rent reform controlled study.

Transition Period

All families in the pilot received at least a ninety-day notice prior to implementation of the new reform policies.

Planned Non-Significant Changes

There are no planned non-significant changes to this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2014-9 Increase the Family's Share of Rent from 30 Percent to 35 Percent of Family Income in the Housing Choice Voucher and Public Housing Programs

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Implemented: FY 2014 and FY 2018
- Amended: FY 2018

Description of Activity/Update

Along with other cost effectiveness measures, this activity was enacted by the FCRHA to counteract fiscal constraints and close potential operating shortfalls. The activity is as follows:

- Increases the percentage of a family's share of rent to 35 percent of adjusted income for all work-able households.
- Apply the change to all families in the HCV and RAD-PBV programs, except for families on fixed incomes (only SSI, SSDI, SS, or pensions, or any combination of those sources). These households will continue to pay the highest of (1) 30 percent of adjusted income, (2) 10 percent of gross income, or (3) the FCRHA's current minimum rent.

Participants who have difficulty paying the minimum rent are informed of their ability to request a hardship. This activity has been fully implemented and will be closely monitored in FY 2023 due to the economic impacts of the COVID-19 pandemic on households.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2014-9 Applicability	Voucher Type	Activity 2014-9 Applicability
MTW Vouchers	YES	Homeownership Vouchers	NO
Project-Based Vouchers	YES	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	NO	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	YES	Emergency Housing Vouchers	NO
Tenant Protection Vouchers– Culpepper Gardens	NO		
Tenant Protection Vouchers - Lake Anne	YES		
Tenant Protection Vouchers	NO		
Enhanced Voucher	YES		

Definition of Work-Able and Non Work-Able

The following definitions apply to this activity:

- *Non Work-Able*: For a household to be considered non work-able, (1) the head of household (as well as

the co-head of household, if applicable) must be elderly or disabled and not have any earned income; and (2) all other household members 18 years or older must be elderly or disabled without earned income, or enrolled in full-time school or job training program.

- *Work-Able*: Any household with a member who is 18 years or older where the member is not elderly or disabled with no earned income or not enrolled in full-time school or job training program.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2016-2 **Modify Project-Based Voucher Choice Mobility Criteria**

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Approved: FY 2014
- Implemented: FY 2014 and FY 2018
- Amended: FY 2021

Description of Activity/Update

Modifying the PBV Choice Mobility Criteria allows the FCRHA to prioritize limited resources to the neediest families and align housing resources with community needs. The FCRHA will reserve a majority of the tenant-based voucher opportunities for new families on its waiting list and promote the stability of families in PBV units by encouraging continued housing assistance at their current residence. By modifying choice mobility criteria, wait times for families on the tenant-based voucher list are reduced, thereby expanding affordable housing opportunities for families not currently served. When its voucher program is fully leased, the FCRHA typically has fewer than 200 tenant-based vouchers available each year due to attrition. In the past, families living in PBV units were given priority to receive tenant-based vouchers after only one year of residency, thereby reducing the number of tenant vouchers available to new families on the waiting list. This activity provides for the following:

- Maintains a waiting list of families that requested to convert their project-based voucher to a tenant-based voucher.
- Adds PBV families (that request to move) to the “PBV to HCV conversion” wait list after two years of residency. This does not apply to RAD-PBV households.
- One project-based voucher for every four tenant-based vouchers is processed per year (capped at 20 percent of the total vouchers issued per year).

Choice Mobility is allowed for instances for reasonable accommodations and Violence Against Women Act (VAWA) cases. This activity will continue to be fully implemented in FY 2023.

Application of Activity:

This activity applies to the following:

Voucher Type	Activity 2016-2 Applicability	Voucher Type	Activity 2016-2 Applicability
MTW Vouchers	N/A	Homeownership Vouchers	NO
Project-Based Vouchers	YES	Family Unification Protection Vouchers - Pre 2008	N/A
RAD2 – Creekside Vouchers	YES	1-Year Mainstream Vouchers - Pre 2008	N/A
RAD1	YES	Emergency Housing Vouchers	N/A
Tenant Protection Vouchers–Culpepper Gardens	YES		
Tenant Protection Vouchers - Lake Anne	YES		
Tenant Protection Vouchers	N/A		
Enhanced Voucher	N/A		

Planned Non-Significant Changes

There are no planned non-significant changes.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to this activity for FY 2023.

2017-1 Modifications to Family Self-Sufficiency Program

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2017
- Implemented: FY 2017

Description of Activity/Update

The FSS program provides an opportunity for participants to set individualized goals that will assist them in moving toward increased self-sufficiency within a five-year period. This activity modifies the FSS program as follows:

1. Allowing FSS Participants to Opt Out of Interest Payments on Escrow

In addition to case management and service coordination, an important component of the program is the participant's ability to grow assets – in the form of an escrow – over five years. The escrow accrues based on increases in a participant's TTP (total tenant payment) due to increases in the participant's earned income. To ensure that the FCRHA is operating a diverse and inclusive program, this activity allows participants to opt out of accruing interest on their escrow. Interest is calculated as normal throughout participation. Upon graduation or at an interim disbursement, participants can choose whether they would like to opt out or receive interest in their escrow disbursements.

2. Modify the Family Self-Sufficiency Escrow Structure

The ability to build assets is a key component of the FSS program. Upon graduation, the escrow a household accumulates during their participation in the program is disbursed to them to be used as they wish. To address inequalities in the growth of escrow accounts and provide an incentive for low- and moderate-income participants, the following changes were made:

- Participants must pay a minimum of \$220 in rent before they can begin to escrow (i.e., the "rent strike point").
- Once the participant reaches the rent strike point, the FCRHA establishes an escrow account and allocates a \$2,000 Homeownership Incentive Award each year the participant is escrowing and up to a maximum of \$10,000, contingent upon purchasing a home after the participant is eligible for graduation or for up to six months after graduation. If the participant does not purchase a home, this money is forfeited.
- Once the rent strike point is met, monthly escrow is calculated using a tiered system based on earned income. This money is disbursed to the participant once they have completed all contract goals and are eligible for graduation from the FSS program. If the participant is purchasing a home utilizing their accrued Homeownership Incentive Award, they receive both this escrow amount and the Homeownership Incentive Award when they are closing on their new home. The escrow tiers are as follows:

Income Range	Escrow Amount
\$10,000 - \$14,999	\$50
\$15,000 - \$19,999	\$100
\$20,000 - \$24,999	\$125
\$25,000 - \$29,999	\$150
\$30,000 - \$34,999	\$175
\$35,000 - \$39,999	\$200
\$40,000 - \$44,999	\$225

\$45,000 - \$49,999	\$250
\$50,000 - \$54,999	\$275
\$55,000 - \$59,999	\$300
\$60,000 - \$64,999	\$325
\$65,000 - \$69,999	\$350
\$70,000 - \$74,999	\$375
\$75,000 - \$79,999	\$400

FSS participants can continue to participate in the program until they reach the established income limits for RAD-PBV and HCV participation.

3. Establish a Work Requirement for Family Self-Sufficiency Participants

This activity establishes a 32-hour work requirement for FSS participants. During the first four years of participation in the FSS program, all participants who have signed a service plan are required to engage in any combination of employment/training/education totaling 32 hours per week. Participants are also required to work 32-hours per week for at least 12 consecutive months prior to graduation.

The FCRHA's FSS program does not discriminate based on age, education, or ability level. All interested applicants are encouraged to apply, including elderly and participants with a disability. In cases when participants are receiving SSI, SSDI, or who are elderly or disabled, work eligibility and appropriate hours will be determined through assessments with the Ticket to Work program, the Virginia Department of Aging and Rehabilitative Services, and the Fairfax County Department of Family Services.

Exceptions to this rule are granted on a case-by-case basis, in collaboration with the FSS Family, the FSS team and any outside case managers, supportive service providers, and family supports. Participants who are not in compliance and decline participation in supportive services, case management, or coaching are terminated from the FSS program. Participants are required to document and verify employment at their quarterly progress meetings. Program extensions remain an option for participants who are in good standing and are left to the discretion of the service coordinator.

4. Exclude Income of Family Self-Sufficiency Head of Household Participants Who Are Enrolled Full Time in School

Education, in addition to employment, is critical to the success of FSS participants in achieving their self-sufficiency goals. The FSS program encourages participants to remain active in the workforce while they are enrolled in school. The following applies to FSS Head of Household members who are both working and enrolled in approved education programs:

- When the head of the FSS Household is enrolled full-time in an accredited and approved education program, 100 percent of the individual's earned income is excluded during months 1 through 12. During months 13 through 21, 50 percent of the individual's income is excluded.
- Participation is limited to a first degree. For example, an individual with a bachelor's degree will not be approved for an income exclusion to enroll in a second bachelor's degree program, however the exclusion could apply if the individual enrolls in an advanced certification/graduate certificate or graduate degree program.

Full time status is defined by each institution, and students will be responsible for providing these documents for verification purposes. This is consistent with current FCRHA policy. The activity has will

continue to be fully implemented in FY 2023.

Application of Activity

This activity applies to only RAD-PBV and HCV households enrolled in the FSS program.

Planned Non-Significant Changes

There are no planned non-significant changes to this activity.

Planned Changes to Metrics/Data Collection

There are no changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to this activity.

2017-3 Authorization to Establish a Local Moving to Work Project-Based Voucher Program

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2017
- Implemented: FY 2019
- Amended: FY 2019

Description of Activity/Update

To increase affordable housing options for participants and preserve affordable units, the FCRHA established a local project-based voucher program. There are three key components of this authorization.

1. The FCRHA can provide a commitment of project-based vouchers utilizing an alternative competitive process, such as the Public-Private Educational Facilities Infrastructure Act or locally-administered procurement process, for:
 - Development or redevelopment by the FCRHA of FCRHA- or Fairfax County-owned housing units or land;
 - Development or redevelopment by private developers of FCRHA- or Fairfax County-owned housing units or land;
 - Development or redevelopment by private developers utilizing FCRHA financing.

The establishment of a Moving to Work project-based voucher program provides the FCRHA with the flexibility to work with private developers and commit valuable assets to potentially close the financing gap in affordable housing projects.

2. The FCRHA can utilize project-based vouchers for its own Fairfax County Rental Program units. Specific authorization from the FCRHA is requested for the commitment of project-based voucher projects under this authority. There continues to be a project-based voucher competition for other projects, as vouchers are available. Further, the FCRHA will inspect its own project-based voucher units, with requests for special inspections allowed from the occupants. The same Housing Quality Standards are used on FCRHA-owned units as with Housing Choice Voucher units. Authorization to waive independent entity requirements for inspections, rent reasonableness, and rent negotiations has been granted through the Third Amendment to the FCRHA's Moving to Work Plan. The FCRHA adopted the Third Amendment in April 2020 and now conducts its own inspections, rent reasonableness determinations, and rent changes at PBV units that are owned or operated by the FCRHA.
3. The FCRHA allows for a different subsidy standard for project-based vouchers than tenant-based vouchers. The subsidy standard for project-based vouchers is:
 - One bedroom for the head of household (and spouse or cohead, if applicable);
 - One bedroom for each two household members of the same sex, regardless of age or relationship;
 - Persons of the opposite sex (other than spouse or cohead, if applicable) will be allocated a separate bedroom; and
 - Any live-in aide (approved by the FCRHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) is allocated a separate bedroom.
4. The FCRHA offers protections for residents in instances of affordable housing development or

redevelopment when the FCRHA awards PBVs using MTW authority or under a competitive process and where there are current residents at these properties. In instances of affordable housing development or redevelopment where new units are being constructed at the same or adjacent site(s) as an existing property, the FCRHA has the authority to immediately move otherwise eligible current households residing at the property into the newly constructed PBV units without placing these households on waiting lists that are open to the public. This ensures that current residents are protected from displacement, are provided with housing choices, and can move into new units once eligibility is determined. Lacking this authority, households currently residing at properties in these situations would be subject to waiting list requirements and would be required to remain in the redeveloped portion of the property only or could be displaced.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2017-3 Applicability	Voucher Type	Activity 2017-3 Applicability
MTW Vouchers	No	Homeownership Vouchers	No
Project-Based Vouchers	YES	Family Unification Protection Vouchers - Pre 2008	No
RAD2 – Creekside Vouchers	No	1-Year Mainstream Vouchers - Pre 2008	No
RAD1	No	Emergency Housing Vouchers	No
Tenant Protection Vouchers– Culpepper Gardens	No		
Tenant Protection Vouchers - Lake Anne	No		
Tenant Protection Vouchers	No		
Enhanced Voucher	No		

Planned Non-Significant Changes

There are no planned non-significant changes to this activity in FY 2023.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2018A-1 Modify the Calculation of the Family Share of Rent for the Housing Choice Voucher Program

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2018
- Implemented: FY 2018
- Amended: FY 2020 and FY 2021

Description of Activity/Update

In FY 2018, the Fairfax County Department of Housing and Community Development (HCD) collaborated with advisory committees, local leaders, and the FCRHA to identify cost saving strategies that could help minimize the likelihood of program terminations in the Housing Choice Voucher (HCV) Program. Following rigorous analysis, several cost savings strategies were identified to help the FCRHA continue to serve existing participants, serve new participants, and fund other affordable housing goals such as the development and preservation of affordable housing units. In addition, the definitions of work-able and non work-able households were clarified.

Under this activity, the following changes have been made:

1. Increase the family share of rent from 30 to 32 percent for all non work-able households. Project-Based Vouchers and Housing Choice Voucher Homeownership participants are exempt from this policy.
2. Revise the utility allowance for all program participants. This activity applies to all work-able and non work-able households in the Housing Choice Voucher Program. Households whose landlord does not include utilities in their rent receive a flat utility allowance based on the smaller of 1) the number of bedrooms for which they qualify; or 2) their actual unit size. The utility allowance is calculated based on 50 percent of the average utility allowance for participants for each specific bedroom size. If needed, the amount of the flat utility allowance could change in the future based on financial forecasts, significant changes in the cost of utilities, or community feedback. In that case, authorization from the FCRHA will be requested which would include an implementation plan. Lastly, should there be a case when a family would receive a Utility Reimbursement Payment, the FCRHA will no longer issue these payments. Project-Based Vouchers and Housing Choice Voucher Homeownership participants are exempt from this policy.
3. Exclude asset income from income calculations for families with assets under \$50,000 and accept self-certifications from households with these assets. If a household has assets above \$50,000, they will be allowed to provide documentation of assets up to 120 days old.
4. Simplifying income verification by accepting documentation that is up to 120 days old (instead of a maximum of 60 days old).
5. Accepting self-certifications from program participants with income decreases. A reported decrease in income is limited to one per calendar year.
6. Simplifying medical/disability expense deductions by allowing for self-certification of expenses up to \$1,000; if a household has more than \$1,000 in expenses, the household will be required to provide verification of these expenses.

These changes were made in conjunction with other MTW Activities to provide cost savings and improve cost efficiencies through administrative relief. These include Activity 2014-5 (increase in minimum rent) and Activity 2014-9 (increase in family share for all work-able households) and a Technical Amendment to the FY 2020 MTW Plan.

Definition of Work-Able and Non Work-Able

The following definitions apply to this activity:

- *Non Work-Able*: For a household to be considered non work-able, (1) the head of household (as well as the co-head of household, if applicable) must be elderly or disabled and not have any earned income; and (2) all other household members 18 years or older must be elderly or disabled without earned income, or enrolled in full-time school or job training program.
- *Work-Able*: Any household with a member who is 18 years or older where the member is not elderly or disabled with no earned income or not enrolled in full-time school or job training program.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2018A-1 Applicability	Voucher Type	Activity 2018A-1 Applicability
MTW Vouchers	YES	Homeownership Vouchers	No
Project-Based Vouchers	YES ; but excluded from 32% family share for non work-able and revised utility allowance	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	YES ; but excluded from revised utility allowance	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	YES ; but excluded from revised utility allowance	Emergency Housing Vouchers	YES
Tenant Protection Vouchers–Culpepper Gardens	YES		
Tenant Protection Vouchers - Lake Anne	YES		
Tenant Protection Vouchers	YES		
Enhanced Voucher	YES		

Annual Reevaluation of Rent Reform Controlled Study

Outcomes were measured and reviewed annually using identified metrics. The rent reform controlled study ended in FY 2022.

Hardship Case Criteria

Families impacted by the revised calculation of the family share of rent are subject to the FCRHA's Hardship Policy. Based on previous years, it is anticipated that fewer than 20 households will request a hardship exemption. However, the ongoing economic impacts of the COVID-19 pandemic may increase the number of hardship requests in FY 2023; the FCRHA will continue monitor and review these requests.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes for this activity.

2018A-3 Increase Cap on Maximum Family Contribution to Rent from 40 to 45 Percent

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2018
- Implemented: FY 2019

Description of Activity/Update

This activity allows Housing Choice Voucher (HCV) program participants--both new and current participants who are moving--to rent higher-cost units, up to a maximum amount of 45 percent of their adjusted income. This cap only applies to new leases. Because of the high-cost rental market in Fairfax County, rent and utilities are often more than the FCRHA's payment standards. This activity allows HCV participants, when entering a new lease with a new landlord, the option to pay more than 32 to 35 percent of their adjusted income on rent, up to 45 percent. This may provide additional housing options to program participants than were previously available to them.

This activity will continue to be fully implemented in FY 2023. The FCRHA will continue to monitor the number of households that are moving towards paying 45% of their adjusted income on rent, particularly considering the COVID-19 pandemic, and will modify if needed.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2018A-3 Applicability	Voucher Type	Activity 2018A-3 Applicability
MTW Vouchers	YES	Homeownership Vouchers	NO
Project-Based Vouchers	N/A	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	N/A	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	N/A	Emergency Housing Vouchers	NO
Tenant Protection Vouchers--Culpepper Gardens	N/A		
Tenant Protection Vouchers - Lake Anne	N/A		
Tenant Protection Vouchers	N/A		
Enhanced Voucher	YES		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2019-1 Establish Fairfax County Payment Standards

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2019
- Implemented: FY 2019
- Amended: FY 2021

Description of Activity/Update

In November 2016, HUD published a final rule implementing Small Area Fair Market Rents (SAFMR) to promote residential mobility and equity as well as reduce poverty. The SAFMRs are Fair Market Rents set at the ZIP code level rather than at the metropolitan level. The Fairfax County Department of Housing and Community Development (HCD) staff analyzed the potential impact of SAFMRs in Fairfax County and concluded that implementation of SAFMRs as written would have a significant negative financial impact to the program.

This activity outlines how the FCRHA is developing a local payment standard in lieu of the SAFMR. The development of local payment standards using current, local rental market data is being accomplished in two phases:

- **Phase 1** included decoupling from the Washington-Arlington-Alexandria, DC-VA-MD U.S. Department of Housing and Urban Development (HUD) Metro Fair Market Rents (FMR). The FCRHA set a local, countywide payment standard, which began in March 2019. Should there ever be any decrease in the Fairfax County payment standard, housing participants will be provided with this information at their recertification and the lower payment standard will be applied at their second recertification following the date of the change.
- **Phase 2** includes evaluating the Fairfax County rental market to determine sub-markets for payment standards that will promote positive residential mobility. The sub-market payment standards are expected to create equity opportunities for program participants by allowing residential mobility to areas which have higher rents, currently not as affordable with existing payment standards.

The implementation of Phase 2 will meaningfully address the intent of the SAFMRs, while also resulting in a more cost-effective approach by reducing the administrative burden and complexity of overseeing 60 zip codes with different FMRs in Fairfax County.

The original intent was to identify and develop an implementation plan for Phase 2 in FY 2021, however this was delayed due to the economic effects of the COVID-19 pandemic. When Phase 2 is implemented, the methodology to identify sub-market payment standards will be as follows:

- The payment standards will be based on Costar data for 2 BR units, as these are the units that are most frequently captured in the Costar database and the most common unit size in Fairfax County. Costar is a private subscription-based research company which provides data, analytics, and marketing services on the multifamily and commercial real estate industry. Rental data is frequently updated, often in real time based on agreements between Costar and multifamily properties.
- Average market rental data will be aggregated by zip code and then assigned to one of three “zones” based on the overall weighted average.
- The payment standard amount will be set between the 40th to 50th percentile of the market rental data

per zone.

- The payment standards for all bedrooms will then be determined using a standard adjustment methodology based on the 2-BR payment standard value.

The zip codes that are included in each zone will not necessarily be located next to one another. The methodology identifies payment standards based on market rents, not on a set of contiguous zip codes. In addition, the methodology will reflect the dynamic rental market in Fairfax and the recognition that there is tremendous variation in rents among zip codes.

Fairfax County will conduct an analysis to evaluate the rental market and economic status of HCV households at a later point in time. This will occur in late FY 2022 or early FY 2023, pending continued indication that the local economy is recovering from the COVID-19 pandemic. Full implementation of Phase 2 will be based on findings from the analysis to help ensure that the activity will result in its intended outcomes.

The FCRHA was granted authority to apply the Phase 2, sub-market payment standards, at any time after the effective date of the new payment standards amount when the payment standards increase. This will allow current HCV households to not be subject to waiting until their next reexamination to benefit from the sub-market payment standards. This is particularly important as most HCV households are on at least a two- year reexamination schedule. Applying new, increased payment standards after the effective date will help reduce the number of households who are rent burdened. If the payment standard would decrease, a household's current payment standard would remain in effect until the next scheduled reexamination. Because most households are on a biennial reexamination schedule, this conforms to HUD's requirement that a decrease in the payment standards be implemented at a household's second annual reexamination. This request is specific to the implementation of Phase 2 only and differs from proposed Activity 2023-1 which requests broader flexibility moving forward to apply payment standards increases at their effective date.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2019-1 Applicability	Voucher Type	Activity 2019-1 Applicability
MTW Vouchers	YES	Homeownership Vouchers	YES for Phase 1; No for Phase 2
Project-Based Vouchers	N/A	Family Unification Protection Vouchers - Pre 2008	YES
RAD2 – Creekside Vouchers	N/A	1-Year Mainstream Vouchers - Pre 2008	YES
RAD1	N/A	Emergency Housing Vouchers	YES
Tenant Protection Vouchers– Culpepper Gardens	N/A		
Tenant Protection Vouchers - Lake Anne	N/A		
Tenant Protection Vouchers	YES		
Enhanced Voucher	YES		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes regarding this activity.

2021-1 Affordable Housing Acquisition and Development

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2021
- Implemented: FY 2021

Description of Activity/Update

Based on projections made by Fairfax County and George Mason University Center for Regional Analysis, Fairfax County's population is expected to grow at an annualized rate of 1.0 percent per year over the next 15 years. This will result in approximately 15,000 additional households over the next 15 years earning 60 percent of the AMI and below. This is in addition to an existing current gap of affordable housing in the county.

In response to this growing affordable housing need, the Fairfax County Board of Supervisors directed the Fairfax County Department of Housing and Community Development, in partnership with the FCRHA, to produce a strategic plan to help address this need. As part of this plan, the Board of Supervisors and FCRHA set a goal to produce 5,000 new units for households earning 60 percent of the AMI or below over the next fifteen years. The creation of 5,000 new units is a countywide goal that will take the active engagement of public and private organizations and utilize multiple fiscal tools.

This activity allows the FCRHA to commit MTW funds for affordable housing acquisition and development to augment investment tools available when projects are identified. In combination with other financing tools, this activity will help Fairfax County meet the overarching goal of producing 5,000 new units by the year 2034.

This activity allows the FCRHA to provide an investment commitment for the:

1. Development or redevelopment by the FCRHA of FCRHA- or Fairfax County-owned housing units or land;
2. Development or redevelopment by private developers of FCRHA- or Fairfax County-owned housing units or land; and
3. Development or redevelopment by private developers utilizing FCRHA financing for affordable housing projects.
4. Acquisition of (a) newly built housing units developed by private developers, or (b) existing units owned by private owners for the purpose of housing affordability preservation; to be owned by the FCRHA.
5. Acquisition of land, to be owned by the FCRHA, for affordable housing units that are developed either by the FCRHA or a private developer.

Prioritization of MTW funds will be given to the development, redevelopment, or acquisition of housing units and/or land in areas which offer high opportunity for residents, as guided by the One Fairfax policy.

Use of these funds for a specific commitment requires a thorough financial analysis to ensure sufficient funds and reserves for the ongoing operation of the MTW program. Further, use of these funds will be approved by the FCRHA in each of the projects' financing plans. The FCRHA will meet the requirements as listed in PIH Notice 2011-45 for local, non-traditional activities as authorized through the MTW Agreement.

In FY 2022, the FCRHA approved the utilization of MTW funds (\$10 million) under this authority for the development of Dominion Square West, Phase 1. When complete, this multifamily project will include 175 units of affordable housing at or below 60% AMI. In addition, the FCRHA is expected to approve the utilization of \$7 million in MTW funding during the latter part of FY 2022 for development at Little River Glen, a senior housing development located in Fairfax County. The Little River Glen project will create 60 new units for seniors and will

also involve the redevelopment of an existing 120 units for seniors at the property.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

2021-2 Project-Based Vouchers Rental Assistance Demonstration Admissions Policy

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2021
- Implemented: FY 2021
- Amended: FY 2022

Description of Activity/Update

This activity modifies the admission requirement so that new, otherwise eligible RAD-PBV participants be allowed to lease a unit, even if they do not generate a HAP. However, the FCRHA is still required to serve 75 percent extremely low-income (below 30 percent AMI) households in the RAD-PBV Program. The tenant's share of rent for all RAD-PBV participants will continue to be 32 or 35 percent of the household's income, depending on whether the household is work-able or non work-able, consistent with the FCRHA's rent calculation policy.

RAD-PBV households can remain leased without generating a HAP until six (6) months after reaching 120% of the household Area Median Income (AMI) level. Households will be required to exit the RAD-PBV program and vacate their unit after their income level is at 120% of AMI or higher for six months. Household income levels will be determined at regularly scheduled reexaminations.

Households with income levels at 120% of AMI or higher who have received notice of the need to vacate will be responsible for securing private affordable housing themselves. The FCRHA considers households at 120% of AMI to be self-sufficient and therefore able to independently secure housing in the private market. Leases will not be extended, except in limited circumstances, as households will have six (6) months from their reexamination date to vacate the unit if their household income is and remains at 120% of AMI or above.

This activity may result in lower future HAP eligibility for leasing to households that do not generate a HAP. However, the FCRHA is committed to this cost trade off to reduce administrative burden and assist a broader spectrum of households. Thus, this activity will be monitored to ensure it is cost neutral to the program. This activity will be closely monitored in FY 2023 due to the economic impacts of the COVID-19 pandemic on households.

Application of Activity:

This activity applies to the following:

Voucher Type	Activity 2021-2 Applicability	Voucher Type	Activity 2021-2 Applicability
MTW Vouchers	N/A	Homeownership Vouchers	N/A
Project-Based Vouchers	N/A	Family Unification Protection Vouchers - Pre 2008	N/A
RAD2 – Creekside Vouchers	NO	1-Year Mainstream Vouchers - Pre 2008	N/A
RAD1	YES	Emergency Housing Vouchers	N/A
Tenant Protection Vouchers– Culpepper Gardens	N/A		
Tenant Protection Vouchers - Lake Anne	N/A		
Tenant Protection Vouchers	N/A		
Enhanced Voucher	N/A		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

IV.B Approved MTW Activities: Not Yet Implemented Activities

2016-1 Use MTW Funds for Local, Non-Traditional Housing Program

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2016
- Implemented: N/A

Description of Activity

In FY 2016, the FCRHA gain approval to implement this activity to create a gateway to federal housing programs for households who were either homeless or on one of the Fairfax County's waiting lists for affordable housing. The activity sought to use MTW funds to support the Fairfax County Bridging Affordability (BA) program. The BA program provided temporary rental subsidies of one to three years to help these families while they waited for permanent housing opportunities and provided case management/supportive services to help families with their unique needs.

In FY 2021, the Bridging Affordability program ended and was replaced with a local program known as the Rental Subsidy and Services Program (RSSP). The RSSP is a locally funded rental assistance program for Fairfax County residents. The program offers time-limited rental assistance with support services and is modeled after medium- to long-term rapid rehousing programs (6 to 24 months).

Although the FCRHA has not implemented this activity yet, this flexibility maybe explored in the future particularly on how to augment local funding to provide additional support for low-income households.

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

IV.C. Approved MTW Activities: Activities on Hold

2018A-2 Establish Shared Housing Program in Project-Based Voucher Program

Cost Effectiveness

Self-Sufficiency

Increase Housing Choice

Approved/Implemented/Amended

- Year Approved: FY 2014
- Implemented: FY 2014 and FY 2018

Description of Activity/Update

The Supported Shared Housing Program (SSHP) is a specialized housing program cooperatively administered by the Fairfax County Department of Housing and Community Development and the Fairfax-Falls Church Community Services Board (CSB). The program is designed to provide long-term affordable housing opportunities to adults who are disabled and meet the prescribed level of services established by CSB. The program allows two or more assisted individuals to live together in a single unit. The shared unit consists of both common space for use by the occupants and a separate private space for each assisted individual. As the FCRHA converted its Public Housing portfolio to PBVs via the RAD program, there was a need for Moving to Work authorization to continue this critical program.

This activity allowed for each tenant in a shared unit to be treated as a separate household. Rents were calculated using the unit gross rent divided by the number of household members. Since there are no payment standards in the PBV program, the individual gross rent was used for the rent calculation for each tenant. If the individual's total tenant payment (TTP) exceeded the individual rent, that person paid their entire pro-rated portion. If the individual's TTP was less than the pro-rated rent, then the Housing Assistance Payment subsidy made up that difference, as done in the voucher program.

For FY 2023, this activity is being placed on hold with the intent to close through the FY 2023 MTW Report. Over time, this activity did not realize the intended outcomes as anticipated. Importantly, residents who are served through this activity are in two-bedroom units, which are the units most in demand in Fairfax County and have the largest waiting list. Because this activity did not encourage one-person households to reside in studio or one-bedroom units, it had the unintended consequence of further contributing to waiting lists for two-bedroom units and not being able to serve larger families in two-bedroom units. The CSB has also indicated that the program did not yield outcomes as anticipated and has agreed to end the partnership on this program.

Application of Activity

This activity applies to the following:

Voucher Type	Activity 2018A-2 Applicability	Voucher Type	Activity 2018A-2 Applicability
MTW Vouchers	N/A	Homeownership Vouchers	N/A
Project-Based Vouchers	N/A	Family Unification Protection Vouchers - Pre 2008	N/A
RAD2 – Creekside Vouchers	N/A	1-Year Mainstream Vouchers - Pre 2008	N/A
RAD1	YES	Emergency Housing Vouchers	N/A
Tenant Protection Vouchers– Culpepper Gardens	N/A		
Tenant Protection Vouchers - Lake Anne	N/A		
Tenant Protection Vouchers	N/A		
Enhanced Voucher	N/A		

Planned Non-Significant Changes

There are no planned non-significant changes regarding this activity. This activity will be closed in FY 2023.

Planned Changes to Metrics/Data Collection

There are no planned changes to the metrics or data collection to report for this activity.

Planned Significant Changes

There are no planned significant changes to report regarding this activity.

IV.D. Approved MTW Activities: Closed Out

2014-4 Streamlined Inspections for Public Housing Residents

Approved/Implemented/Closed Out

- Year Approved: FY 2014
- Implemented: N/A
- Closed Out: FY 2018

Similar to Activity 2014-3 Streamlined Inspections for Housing Choice Voucher Units, the FCRHA believed that streamlining its Public Housing inspections would both reduce costs for the agency and provide another tool for families to engage in their own self-sufficiency. However, because the FCRHA was going through a RAD conversion of its Public Housing stock, this activity was never implemented.

2014-7 Convert Scattered-Site Public Housing Units to Project-Based Section 8 Assistance

Approved/Implemented/Closed Out

- Year Approved: FY 2014
- Implemented: N/A
- Closed Out: FY 2018

The Fairfax County Redevelopment and Housing Authority applied for the RAD program and successfully converted all Public Housing stock to long-term Section 8 rental assistance contracts in FY 2018. Therefore, this activity is closed out.

2014-8 Allow Implementation of Reduced Payment Standards at Next Annual Reexamination

Approved/Implemented/Amended

- Year Approved: FY 2014
- Implemented: N/A
- Closed Out: FY 2021

This activity was put on hold and never implemented because of the financial impact on Housing Choice Voucher families, particularly since the family share of rent was increased to 35 percent in FY 2015. The FCRHA currently does not have plans to reactivate this activity. Therefore, this activity is closed out.

2015-1 Eliminate Flat Rents in the Public Housing Program

Approved/Implemented/Closed Out

- Year Approved: FY 2015
- Implemented: FY 2015
- Closed Out: FY 2018

In an amended FY 2015 Moving to Work Plan, the FCRHA proposed to eliminate the flat rent option so that all families currently paying flat rent would be required to pay 35 percent of their adjusted income at their next annual recertification. HUD approved this activity in late 2015 and the FCRHA began implementation of this policy after the amended Plan was approved. The FCRHA sent letters to all affected families notifying them that a new rent calculation based on 35 percent of their adjusted income will become effective at their next annual recertification. They were given at least a 90-day notice. Families whose recertification fell less than 90 days from notification received the new rent calculation at their second annual recertification.

Because the FCRHA has converted its Public Housing to the RAD Project-Based Vouchers, this activity was closed.

2017-2 Establish Gateway to Housing Choice Voucher Program from the Tenant-Based Rental Assistance Program

Approved/Implemented/Amended

- Year Approved: FY 2014
- Implemented: FY 2014 and FY 2018
- Amended: N/A
- Closed: FY 2021

The FCRHA has nearly 50 TBRA vouchers which provide housing assistance to formerly homeless households, non-elderly disabled households, and families that are not able to be served through the RAD-PBV program because of a reasonable accommodation or some other reason. TBRA is funded through the federal HOME Investments Partnership Program. During each federal budget negotiation, the FCRHA was regularly concerned about a loss of funding for this program. Activity 2017-2 allowed the FCRHA to establish a gateway between the TBRA program and HCV, similar to the locally funded RSSP program. Thus, should it be necessary to decrease the number of TBRA households funded through HOME, the gateway would be established through a preference for priority on the HCV waiting list to ensure that these families continue to receive affordable housing assistance.

This activity was approved in the FY 2017 Moving to Work Plan. However, because HOME has continued to be funded at a level to allow the FCRHA to continue the TBRA program, this activity has been closed.

V. Planned Application of MTW Funds

I. Estimated Sources of MTW Funds

The MTW PHA shall provide the estimated sources and amount of MTW funding by Financial Data Schedule (FDS) line item.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT (MTW +RAD1)
70500 (70300+70400)	Total Tenant Revenue	\$0
70600	HUD PHA Operating Grants	\$72,063,588
70610	Capital Grants	\$0
70700 (70710+70720+70730+70740+70750)	Total Fee Revenue	\$0
71100+72000	Interest Income	\$7,853
71600	Gain or Loss on Sale of Capital Assets	\$0
71200+71300+71310+71400+71500	Other Income	\$4,563,488
70000	Total Revenue	\$76,701,438

II. Estimated Application of MTW Funds

The MTW PHA shall provide the estimated uses and amount of MTW spending by Financial Data Schedule (FDS) line item.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT (MTW + RAD1)
91000 (91100+91200+91400+91500+91600+91700+91800+91900)	Total Operating - Administrative	\$5,497,930
91300+91310+92000	Management Fee Expense	\$0
91810	Allocated Overhead	\$0
92500 (92100+92200+92300+92400)	Total Tenant Services	\$1,163,922
93000 (93100+93600+93200+93300+93400+93800)	Total Utilities	\$0
93500+93700	Labor	\$0
94000 (94100+94200+94300+94500)	Total Ordinary Maintenance	\$0
95000 (95100+95200+95300+95500)	Total Protective Services	\$0
96100 (96110+96120+96130+96140)	Total Insurance Premiums	\$0
96000 (96200+96210+96300+96400+96500+96600+96800)	Total Other General Expenses	\$10,190
96700 (96710+96720+96730)	Total Interest Expense & Amortization Cost	\$0
97100+97200	Total Extraordinary Maintenance	\$0
97300+97350	HAP + HAP Portability-In	\$69,440,847
97400	Depreciation Expense	\$0
97500+97600+97700+97800	All Other Expense	\$0
90000	Total Expenses	\$76,112,889

Please describe any variance between Estimated Total Revenue and Estimated Total Expenses:
None.

III. Description of Planned Use of MTW Single Fund Flexibility

The MTW PHA shall provide a thorough narrative of planned activities that use only the MTW single fund flexibility. Where possible, the MTW PHA may provide metrics to track the outcomes of these programs and/or activities. Activities that use other MTW authorizations in Attachment C and/or D of the Standard MTW Agreement (or analogous section in a successor MTW Agreement) do not need to be described here, as they are already found in Section (III) or Section (IV) of the Annual MTW Plan. The MTW PHA shall also provide a thorough description of how it plans to use MTW single fund flexibility to direct funding towards specific housing and/or service programs in a way that responds to local needs (that is, at a higher or lower level than would be possible without MTW single fund flexibility).

PLANNED APPLICATION OF MTW FUNDING FLEXIBILITY
<p>In FY 2023, the FCRHA plans to utilize MTW Block Grant to:</p> <ul style="list-style-type: none"> • Fund a pilot program on landlord outreach to HCV households. The intent of the pilot will be to increase the number of landlords participating in the HCV program. Pilot will focus efforts on improving retention of existing HCV landlords; assisting with landlord remediation issues for HCV households; and outreach to increase landlord participation. • Contract with a nonprofit organization (Northern Virginia Family Service) to provide case management to Housing Choice Voucher households. Contract includes employment services. • Contract with nonprofit organizations (Cornerstones and FACETS) to provide community building/organizing/case management services to HCV and RAD-PBV clients. • Provide organization/clean-out services for qualified RAD-PBV households to help address hoarding disorders. Funds will be restricted to reducing and removing items with the support of a qualified hoarding specialist and would not be authorized to cover storage fees.

IV. Planned Application of PHA Unspent Operating Fund and HCV Funding

Original Funding Source	Beginning of FY – Unspent Balances	Planned Application of PHA Unspent Funds during FY
HCV HAP	\$26,017,418 estimated (HUD held at \$25,556,854 and PHA held at \$460,564*)	\$17,000,000**
HCV Admin Fee	\$8,300,240 estimated	
PH Operating Subsidy	N/A	N/A
TOTAL	\$34,317,658 estimated	

* MTW & RAD1 funds only

** In FY 2022, the FCRHA authorized the use of \$10 million from MTW reserves for the development of Dominion Square West, Phase 1 (175 units of affordable housing) and \$7 million for the Little River Glen senior housing project (60 new units and the redevelopment of an existing 120 units). It is anticipated that of the funding authorized in FY 2022, approximately \$17 million in MTW reserves will be committed or expended in FY 2023 for the Little River Glen and Dominion Square projects.

V. Local Asset Management Plan

- I. Is the MTW PHA allocating costs within statute? **YES**
- II. Is the MTW PHA implementing a local asset management plan (LAMP)? **NO**
- III. Has the MTW PHA provide a LAMP in the appendix? **NO**
- IV. If the MTW PHA has provided a LAMP in the appendix, please describe any proposed changes to the LAMP in the Plan Year or state that the MTW PHA does not plan to make any changes in the Plan Year. **N/A**

VI. Rental Assistance Demonstration (RAD) Participation

I. Description of RAD Participation

The MTW PHA shall provide a brief description of its participation in RAD. This description must include the proposed and/or planned number of units to be converted under RAD, under which component the conversion(s) will occur, and approximate timing of major milestones. The MTW PHA should also give the planned/actual submission dates of all RAD Significant Amendments. Dates of any approved RAD Significant Amendments should also be provided.

RENTAL ASSISTANCE DEMONSTRATION (RAD) PARTICIPATION
All of the FCRHA’s Public Housing units were converted through RAD in previous years.

II. Has the MTW PHA submitted a RAD Significant Amendment in the appendix? A RAD Significant Amendment should only be included if it is a new or amended version that requires HUD approval. NO

III. If the MTW PHA has provided a RAD Significant Amendment in the appendix, please state whether it is the first RAD Significant Amendment submitted or describe any proposed changes from the prior RAD Significant Amendment? N/A

VI. Administrative

A. Board Resolution Adoption Annual Plan and Certifications of Compliance

<INSERT SIGNED FCRHA RESOLUTION>

<INSERT SIGNED COPY OF CERTIFICATIONS of COMPLIANCE>

<INSERT SIGNED CERTIFICATION OF CONSISTENCY WITH THE CONSOLIDATED PLAN>

B. Documentation of Public Process

The FCRHA made the Moving to Work Plan available for public comment from May 2, 2022 through June 2, 2022. The required public hearing was held on May 19, 2022.

NOTICE OF PUBLIC HEARING

Thursday, May 19, 2022 at 7 p.m.

The Fairfax County Redevelopment and Housing Authority (FCRHA) will conduct a public hearing on its Moving to Work (MTW) Plan for Fiscal Year 2023. The hearing is being conducted in compliance with U.S. Department of Housing and Urban Development requirements for Public Housing Agencies submitting a MTW Plan. The public hearing will be held in person at the Fairfax County Government Center, 12000 Government Center Parkway, Conference Room 11, Fairfax, VA 22035 at 7 p.m. on May 19, 2022. Interested residents are invited to share their views on the FCRHA MTW Plan at the public hearing. Residents wishing to speak are encouraged to contact Avis Wiley by phone at 703-246-5152, TTY 711, or by email at avis.wiley@fairfaxcounty.gov to indicate their desire to participate. If you have any questions concerning the public hearing, please call 703-246-5120, TTY: 711.

The Fiscal Year 2023 MTW Plan will be available for public review on the county website beginning May 2, 2022 at www.fairfaxcounty.gov/housing/initiatives/moving-to-work. Citizens wishing to comment on the Plan in writing may do so via the email address linda.hoffman@fairfaxcounty.gov or by writing to the attention of Linda Hoffman, Management Analyst, Policy and Compliance, at the Fairfax County Department of Housing and Community Development, 3700 Pender Drive, Fairfax, Virginia 22030. **The deadline for receipt of written comments on the draft Plan is 4 p.m. on Thursday, June 2, 2022.**

Fairfax County is committed to a policy of nondiscrimination in all county programs, services and activities and will provide reasonable accommodations upon request. To request special accommodations, call 703-246-5120 or TTY 711. Equal Housing/Equal Opportunity Employer



Run Date: April 18th, 2022

AD#60770

Resident Advisory Council Letter of Support

The MTW Advisory Committee was provided an opportunity to review the draft FY 2023 Moving to Work Plan through a virtual format due to the ongoing COVID-19 pandemic and inability to meet in-person.

<INSERT LETTER FROM MTW ADVISORY COMMITTEE>

C. Planned and Ongoing Evaluations

The rent reform controlled study, involving a pilot group of RAD PBV participants, is scheduled to conclude at the end of FY 2022. HCD contracted with Virginia Tech to conduct the evaluation. Data from both the “control” and “study” groups that participated in the pilot was analyzed by Virginia Tech. The evaluation and analysis will take into account the impact of the COVID-19 pandemic on employment and the ability of participants to fully participate in the rent reform controlled study. A full report of the findings is anticipated to be available in FY 2023. Findings from the study will be carefully reviewed to understand if they have broader applicability to other MTW households and determine any next steps.

D. Lobbying Disclosures

<INSERT DISCLOSURE OF LOBBYING ACTIVITIES FORM>

<INSERT INFLUENCE FEDERAL TRANSACTIONS FORM>

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. *Pomeroy/Clark I, LLC, Assets Capital, LLC, and The Pomeroy Companies Inc. v. Fairfax County, Virginia and Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2021-0014108 (Fx. Co. Cir. Ct.) (Dranesville District)
 - 2. *Jonate Williams v. Fairfax County*, Case No. 1:21-cv-00598 (E.D.Va.)
 - 3. *Fairfax County Board of Supervisors v. Shoosmith Brothers, Inc. and Duffield Hauling, Inc.*, Case No. CL-2020-0016000 (Fx. Co. Cir. Ct.)
 - 4. *Jane Doe v. Michael O. Barbazette, Jason J. Mardocco, James Baumstark, Vincent Scianna, Edwin C. Roessler, Fairfax Police Officers ##3-10, and Fairfax County, Virginia*, Case No. 1:21-cv-1150 (E.D. Va.)
 - 5. *Ebony Lashay Smith, a/k/a Ebony Manns-Smith v. Fairfax County Department of Family Services*, Record No. 210991 (Va. Sup Ct.)
 - 6. *Stephen Bernarde Odoms v. Fairfax County Department of Family Services*, Record No. 0624-22-4 (Va. Ct. App.)
 - 7. *Orayl Dale Vonte Ingram v. Fairfax County Department of Family Services*, Record No. 1289-20-4 (Va. Ct. App.)
 - 8. *Tysons Corner Hotel Plaza, LLC v. Fairfax County*, Case No. CL-2021-0017755 (Fx. Co. Cir. Ct.)
 - 9. *Qadeer Manj v. Thomas Mey*, Case No. GV21-012087 (Prince William Co. Gen. Dist. Ct.)
 - 10. *Jay Riat, Building Official for Fairfax County, Virginia v. Port Royal, Inc., and Agave Bar Restaurant Inc.*, Case No. GV21-016478 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

11. *Jay Riat, Building Official for Fairfax County, Virginia v. Ace Condos, LLC*, Case No. GV21-016971 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Cuong Tan Nguyen*, Case No. CL-2022-0000434 (Fx. Co. Cir. Ct.) (Dranesville District)
13. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Stephen Patrick MacManus*, Case No. GV22-006931 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
14. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. The Doris W. Wood Amended Trust*, Case No. GV22-003150 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
15. *Jay Riat, Building Official for Fairfax County, Virginia v. Mai Huong Thi Quach and Tien Nan Wang*, Case No. GV22-003480 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
16. *Jay Riat, Building Official for Fairfax County, Virginia v. Swathi Tummala and Gandhi Tummala*, Case No. GV22-006738 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
17. *Jay Riat, Building Official for Fairfax County, Virginia v. Daniel Fikre, Hiwot Tekle, Joseph H. Minasie*, Case No. GV21-016473 (Fx. Co. Gen. Dist. Ct.) (Lee District)
18. *Jay Riat, Building Official for Fairfax County, Virginia v. Juan Luis Alfaro and Lorena I. Blanco*, Case No. GV21-018017 (Fx. Co. Gen. Dist. Ct.) (Lee District)
19. *Jay Riat, Building Official for Fairfax County, Virginia v. Hometown America Communities*, Case No. GV22-003299 (Fx. Co. Gen. Dist. Ct.) (Lee District)
20. *Jay Riat, Building Official for Fairfax County, Virginia v. Julio C. Lazo and Sonia M. Lazo*, Case No. GV22-004611 (Fx. Co. Gen. Dist. Ct.) (Lee District)
21. *Jay Riat, Building Official for Fairfax County, Virginia v. Analise Latoya Fagan*, Case No. GV22-006692 (Fx. Co. Gen. Dist. Ct.) (Lee District)
22. *Jay Riat, Building Official for Fairfax County, Virginia v. Xin Yi Jia Trading Inc.*, Case No. GV22-006932 (Fx. Co. Gen. Dist. Ct.) (Lee District)
23. *Jay Riat, Building Official for Fairfax County, Virginia v. Eliodoro Guzman Calvimonte*, Case No. GV22-016475 (Fx. Co. Gen. Dist. Ct.) (Mason District)
24. *Jay Riat, Building Official for Fairfax County, Virginia v. Steuart Backlick Plaza, LLC and Fresh World One, Inc.*, Case No. GV22-006936 (Fx. Co. Gen. Dist. Ct.) (Mason District)

25. *Jay Riat, Building Official for Fairfax County, Virginia v. Carlos A. Carcamo Cabrera and Maria Castro*, Case No. CL-2022-0002545 (Fx. Co. Cir. Ct.) (Mount Vernon District)
26. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Steven M. Spar*, Case No. CL-2022-0003575 (Fx. Co. Cir. Ct.) (Mount Vernon District)
27. *Jay Riat, Building Official for Fairfax County, Virginia v. Lilian G. Maldonado and Salvador Zelaya*, Case No. GV22-002476 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
28. *Jay Riat, Building Official for Fairfax County, Virginia v. L&M Body Shop, Inc. & Innovation Investments, LLC*, Case No. GV22-004770 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
29. *Jay Riat, Building Official for Fairfax County, Virginia v. M and K Realty, LLC.*, Case No. GV22-006399 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
30. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Robert Edward Carr and George William Carr*, Case No. GV22-006732 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
31. *Jay Riat, Building Official for Fairfax County, Virginia v. David Sisson*, Case No. GV22-006734 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
32. *Jay Riat, Building Official for Fairfax County, Virginia v. Hao Ngoc Nguyen and Anna Thi Nguyen*, Case No. CL-2022-0006184 (Fx. Co. Cir. Ct.) (Providence District)
33. *Jay Riat, Building Official for Fairfax County, Virginia v. Thomas E. Carmel and Deborah M. Carmel*, Case No. GV22-002853 (Fx. Co. Gen. Dist. Ct.) (Providence District)
34. *Jay Riat, Building Official for Fairfax County, Virginia v. Lisa Kuniyoshi Sullivan*, Case No. GV22-003391 (Fx. Co. Gen. Dist. Ct.) (Providence District)
35. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Martin H. Heisrath*, Case No. GV22-006713 (Fx. Co. Gen. Dist. Ct.) (Providence District)

36. *Jay Riat, Building Official for Fairfax County, Virginia v. William A. Taylor and Elisa Taylor*, Case No. GV22-002853 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
37. *Jay Riat, Building Official for Fairfax County, Virginia v. Kanathur N. Srikanth and Nalina Srikanth*, Case No. GV22-006736 (Fx. Co. Gen. Dist. Ct.) (Sully District)
38. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Vaidyanathan Ramaswamy and Sarada Ramaswamy*, Case No. GV22-006933 (Fx. Co. Gen. Dist. Ct.) (Sully District)

Board Agenda Item
June 7, 2022

3:30 p.m.

Decision Only on SEA 84-V-035-03 (Huntwood, L.L.C.) to Amend SE 84-V-035 Previously Approved for an Increase in Building Height to Allow for Addition of Land Area, Increase in Floor Area Ratio (FAR), Increase in Office Use, Site Modifications and Uses in Floodplain, Located on Approximately 4.67 Acres of Land Zoned C-8, HC and CRD (Mount Vernon District)

This property is located at 5845 and 5863 Richmond Hwy., Alexandria, 22303. Tax Map 83-4 ((1)) 8, 9, 10 and 11.

On May 10, 2022, the Board of Supervisors held the public hearing on this application and deferred their decision only to June 7, 2022.

PLANNING COMMISSION RECOMMENDATION:

On May 4, 2022, the Planning Commission voted 11-1 (Commissioner Cortina voted in opposition) to recommend to the Board of Supervisors approval of SEA 84-V-035-03, subject to the development conditions dated May 3, 2022.

In related actions, the Planning Commission voted 8-3 (Commissioner Sargeant was not present for the vote and Commissioners Strandlie, Cortina, and Niedzielski-Eichner voted in opposition) to recommend to the Board of Supervisors approval of Resource Protection Area Encroachment Exception #6216-WRPA-001-5 and Water Quality Impact Assessment #6216-WQ-001-5, subject to the development conditions contained in Attachment A of Appendix 4 in the staff report dated March 25, 2022.

ENCLOSED DOCUMENTS:

Additional information available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

Planning Commission Meetings Video Archive available online at:

<https://www.fairfaxcounty.gov/cableconsumer/channel-16/planning-commission-meetings-video-archives>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Curtis Rowlette, Planner, DPD

Board Agenda Item
June 7, 2022

3:30 p.m.

Public Hearing on RZ 2021-SU-013 (4700 Centreville, LLC) to Rezone from I-3, R-1, C-6 and WS to C-6 and WS to Permit the Development of a Commercial Building with an Overall Floor Area Ratio (FAR) of 0.08, Located on Approximately 0.93 Acres of Land (Sully District) (Concurrent with PCA 2003-SU-040-02)

and

Public Hearing on PCA 2003-SU-040-02 (4700 Centreville, LLC) to Amend the Proffers for RZ 2003-SU-040 Previously Approved for Commercial Development to Permit Deletion of Land Area and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio (FAR) of 0.08, Located on Approximately 0.19 Acres of Land Zoned C-6 and WS (Sully District) (Concurrent with RZ 2021-SU-013)

This property is located in the N.W. quadrant of Sully Rd. and Poplar Tree Rd., E. of Stonecroft Blvd. Tax Map 44-3 ((1)) 3; 44-3 ((6)) 21A2 (pt.); and 44-3 ((1)) 3A.

This property is located on the W. side of Sully Rd., N. of Stonecroft Blvd. and Poplar Tree Rd. Tax Map 44-3 ((6)) 21A2 (pt.).

PLANNING COMMISSION RECOMMENDATION:

On April 27, 2022, the Planning Commission voted 11-0 (Commissioner Jimenez was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 2003-SU-040-02; and
- Approval of RZ 2021-SU-013, subject to the execution of proffered conditions consistent with those dated March 31, 2022.

ENCLOSED DOCUMENTS:

Additional information available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

Board Agenda Item
June 7, 2022

Planning Commission Meetings Video Archive available online at:
<https://www.fairfaxcounty.gov/cableconsumer/channel-16/planning-commission-meetings-video-archives>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Emma Estes, Planner, DPD

Board Agenda Item
June 7, 2022

4:00 p.m.

Public Hearing on a Proposal to Prohibit Through Truck Traffic on Olin Drive, Munson Hill Road and Row Street (Mason 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:

- Olin Drive, a portion of Munson Hill Road, and Row Street, between Arlington Boulevard (Route 50) Service Road and Leesburg Pike (Route 7)

RECOMMENDATION:

The County Executive recommends that the Board approve the attached resolution (Attachment I) endorsing Olin Drive, Row Street and Munson Hill Road between Olin Drive and Row Street be included in the RTAP for a through truck traffic restriction, following the aforementioned public hearing.

TIMING:

On May 10, 2022, the Board authorized advertisement of a public hearing scheduled for June 7, 2022, at 4:00 p.m.

BACKGROUND:

On June 1, 2021, the Mason District Supervisor's Office requested that staff work with the Virginia Department of Transportation (VDOT) to implement a through truck traffic restriction on Olin Drive, Munson Hill Road (a portion) and Row Street, between Arlington Boulevard Service Road and Leesburg Pike. The request stemmed from safety concerns of residents in the area related to increased truck traffic utilizing these roads as a shortcut after a weight restriction was removed from a bridge on Olin Drive. A possible alternate route, starting at Row Street and Leesburg Pike, traveling along Leesburg Pike to the intersection of Leesburg Pike and Patrick Henry Drive, continuing on Patrick Henry Drive to the intersection of Patrick Henry Drive and Arlington Boulevard Service Road, and then continuing on Arlington Boulevard Service Road to the intersection of Arlington Boulevard Service Road and Olin Drive (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

Board Agenda Item
June 7, 2022

which will conduct the formal engineering study of the through truck restriction request.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Olin Drive,
Munson Hill Road and Row Street
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
OLIN DRIVE, MUNSON HILL ROAD AND ROW STREET
MASON 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, June 7, 2022, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents who live along Olin Drive, Munson Hill Road and Row Street, between Arlington Boulevard (Route 50) Service Road and Leesburg Pike (Route 7), 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 Olin Drive, Munson Hill Road and Row Street starting at Row Street and Leesburg Pike, traveling along Leesburg Pike to Patrick Henry Drive, continuing on Patrick Henry Drive to Arlington Boulevard Service Road, and then continuing on Arlington Boulevard Service Road to Olin Drive; 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*;

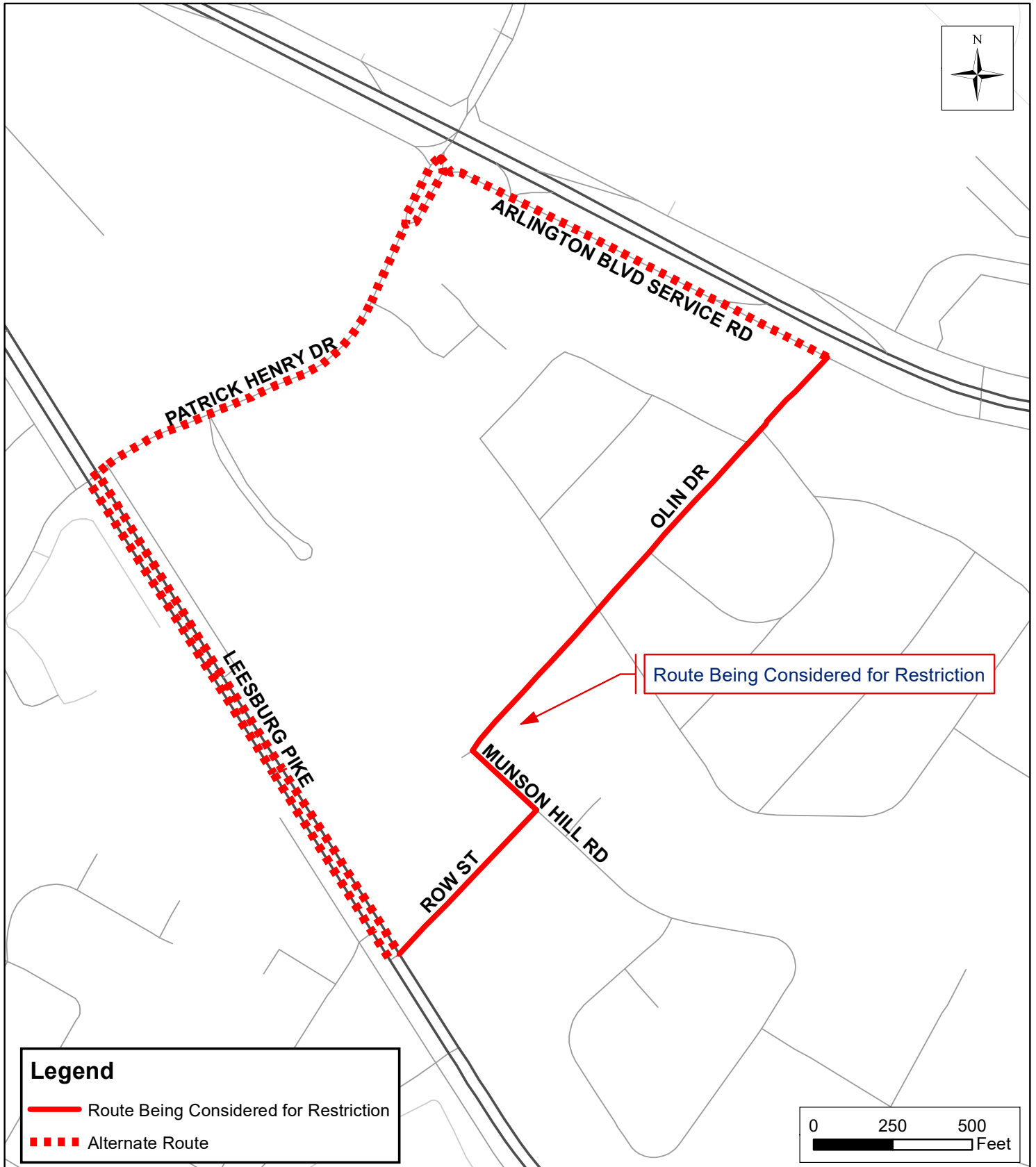
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Olin Drive, a portion of Munson Hill Road, and Row Street, between Arlington Boulevard Service Road and Leesburg Pike, 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 7th day of June, 2022.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



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

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Through Truck Restriction Map
Olin Drive, Munson Hill Road, Row Street
Mason District**

April 2022



Board Agenda Item
June 7, 2022

4:00 p.m.

Public Hearing to Amend and Readopt Fairfax County Code Sections 7-2-5 and 7-2-13 to Relocate a Polling Place and Rename Precincts in the Hunter Mill District; Relocate a Polling Place in the Mount Vernon District; Rename Polling Places in the Providence District; and Relocate a Polling Place in the Springfield District

ISSUE:

Public Hearing to consider an ordinance that proposes to amend and readopt Fairfax County Code Sections 7-2-5 and 7-2-13 to relocate the polling place for North Point #1 precinct and rename this precinct in the Hunter Mill District; rename North Point # 2 in the Hunter Mill District; relocate the polling location for Lorton precinct in the Mount Vernon District; rename the polling location for Mosby #1 and Mosby #2 precincts in the Providence District; and relocate the polling place for Fairfax Station precinct in the Springfield District.

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On May 24, 2022, the Board authorized a public hearing to be held on June 7, 2022, at 4:00 p.m. to consider this ordinance. Board action on June 7, 2022, will allow adequate time to notify voters who are affected by this change in advance of the next election which is expected to be the General and Special Election on November 8, 2022. The proposed effective date of June 22, 2022, avoids any possible confusion about the status of precincts and polling places during the June 21, 2022, primary election.

BACKGROUND:

The Virginia Code permits the governing body of each county and city to establish by ordinance as many precincts as it deems necessary with one polling place for each precinct. The Board of Supervisors is authorized to change polling place locations subject to the requirements of Virginia Code Sections 24.2-307, 24.2-310, and 24.2-310.1.

Virginia Code Section 24.2-129 also requires that certain “covered practices” go through either a statutorily specified public comment process or receive a Certification of No Objection from the Attorney General before the practices can be given effect. The

Board Agenda Item
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public comment process takes a minimum of 75 days to complete, while the Attorney General process takes a maximum of 60 days to complete.

Among the “covered practices” identified are any changes that relocate polling places in the County. The Board must first adopt an ordinance making the required polling place changes. If and after the Board adopts the ordinance, the County Attorney will file a request for a Certification of No Objection with the Virginia Attorney General, in accordance with Virginia Code Section 24.2-129(D).

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

In the Hunter Mill District, St. Thomas á Becket Catholic Church, 1421 Wiehle Avenue, Reston, the current polling place for both North Point #1 and North Point #2 precincts, notified the Office of Elections that it could not logistically accommodate voting for both precincts. Staff recommends moving North Point #1 to Aldrin Elementary School, 11375 Center Harbor Road, Reston, and renaming the precinct “North Point.” North Point #2 will continue to vote at St. Thomas á Becket and to avoid voter confusion, staff recommends the precinct be renamed “Piney Run.”

In Mount Vernon District, staff recommends moving the polling place for Lorton precinct from Lorton Station Elementary School, 9298 Lewis Chapel Road, Lorton, where it was temporarily relocated in March 2020 to accommodate construction and expansion of its polling place at Lorton Library. The library, as part of the newly expanded Lorton Community Center, will reopen in August 2022. This recommendation will permanently move the polling place for Lorton precinct back to Lorton Community Center, 9520 Richmond Highway, Lorton.

In Providence District, on February 18, 2021, the Fairfax County School Board voted to change the name of Mosby Woods Elementary School, the current polling location for Mosby #1 and Mosby #2 precincts, to Mosaic Elementary School. All voters affected by this change have already been notified through the Virginia Election and Registration Information System (VERIS). Staff recommends recognizing and adopting this change.

In the Springfield District, St. Peter’s in the Woods Church, 5911 Fairview Woods Drive, Fairfax Station, the current polling location for Fairfax Station precinct, notified the Office of Elections that it will be undergoing renovation expected to last for the next two years. Staff recommends moving the polling place to the Burke Centre Library, 5935 Freds Oak Road, Burke, a location within one mile of the precinct boundary. The Burke Centre Library is also one of Fairfax County’s voter satellite offices.

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FISCAL IMPACT:

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

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Election Precincts and Polling Places

Attachment 2: Summary of Proposed Changes

Attachment 3: Descriptions and Maps of Proposed Changes

Attachment 4: Proposed Ordinance

STAFF:

Eric L. Spicer, General Registrar and Director of Elections

Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board

Katherine K. Hanley, Secretary, Fairfax County Electoral Board

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

§ 24.2-307 (in part). Requirements for county and city precincts.

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

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

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

Each precinct shall be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city.

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

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

§ 24.2-310. Requirements for polling places.

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

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

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

D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot

to be voted at the alternative polling place, subject to the prior approval of the State Board. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

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

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

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

§ 24.2-310.1. Polling places; additional requirement.

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

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

§ 24.2-129. Covered practices; actions required prior to enactment or administration.

A. For the purposes of this section:

"Certification of no objection" means a certification issued by the Attorney General that there is

no objection to the enactment or administration of a covered practice by a locality because the covered practice neither has the purpose or effect of denying or abridging the right to vote based on race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

"Covered practice" means:

1. Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district;
2. Any change, or series of changes within a 12-month period, to the boundaries of the locality that reduces by more than five percentage points the proportion of the locality's voting age population that is composed of members of a single racial or language minority group, as determined by the most recent American Community Survey data;
3. Any change to the boundaries of election districts or wards in the locality, including changes made pursuant to a decennial redistricting measure;
4. Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or that limits or impairs the creation or distribution of voting or election materials in any language other than English; or
5. Any change that reduces the number of or consolidates or relocates polling places in the locality, except where permitted by law in the event of an emergency.

"Voting age population" means the resident population of persons who are 18 years of age or older, as determined by the most recent American Community Survey data available at the time any change to a covered practice is published pursuant to subsection B.

B. Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body shall cause to be published on the official website for the locality the proposed covered practice and general notice of opportunity for public comment on the proposed covered practice. The governing body shall also publicize the notice through press releases and such other media as will best serve the purpose and subject involved. Such notice shall be made at least 45 days in advance of the last date prescribed in the notice for public comment.

Public comment shall be accepted for a period of no fewer than 30 days. During this period, the governing body shall afford interested persons an opportunity to submit data, views, and arguments in writing by mail, fax, or email, or through an online public comment forum on the official website for the locality if one has been established. The governing body shall conduct at least one public hearing during this period to receive public comment on the proposed covered practice. The governing body may make changes to the proposed covered practice in response to public comment received. If doing so, the revised covered practice shall be published and public comment shall be accepted in accordance with this subsection, except the public comment period shall be no fewer than 15 days.

C. Following the public comment period or periods prescribed in subsection B, the governing body shall publish the final covered practice, which shall include a plain English description of the practice and the text of an ordinance giving effect to the practice, maps of proposed boundary changes, or other relevant materials, and notice that the covered practice will take effect in 30 days. During this 30-day waiting period, any person who will be subject to or affected by the covered practice may challenge in the circuit court of the locality where the covered practice is to be implemented the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic

group with respect to their effective exercise of the electoral franchise. In such action, the court may, in its discretion, allow a private plaintiff a reasonable attorney fee as part of the costs, if such plaintiff is the prevailing party.

D. The governing body of a locality seeking to administer or implement a covered practice, in lieu of following the provisions of subsections B and C, may submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection. Such practice shall not be given effect until the Attorney General has issued such certification. A certification of no objection shall be deemed to have been issued if the Attorney General does not interpose an objection within 60 days of the governing body's submission or if, upon good cause shown and to facilitate an expedited approval within 60 days of the governing body's submission, the Attorney General has affirmatively indicated that no such objection will be made. An affirmative indication by the Attorney General that no objection will be made or the absence of an objection to the covered practice by the Attorney General shall not bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

2021, Sp. Sess. I, cc. [528](#), [533](#).

Attachment 2: Summary of Proposed Changes

<i>June 2022 SUMMARY OF PRECINCT AND POLLING PLACE CHANGES</i>							
SUPERVISOR DISTRICT	OLD PRECINCT(S)	REGISTERED VOTERS*	OLD POLLING PLACE(S)	NEW PRECINCT(S)	PROJECTED REGISTERED VOTERS	NEW POLLING PLACE(S)	NOTES ON CHANGES
HUNTER MILL	233 North Point #1	2,683	St. Thomas á Becket Church	233 North Point	2,683	Aldrin Elementary School	Relocate the polling place and rename the precinct. Current polling place cannot accommodate co-located precincts.
HUNTER MILL	245 North Point #2	1,128	St. Thomas á Becket Church	245 Piney Run	1,128	St. Thomas á Becket Church	Rename the precinct after moving one of the co-located polling places to another location.
MOUNT VERNON	617 Lorton	4,264	Lorton Station Elementary School	617 Lorton	4,264	Lorton Community Center	Relocate the polling place back to its original location at the Lorton Community Center
PROVIDENCE	709 Mosby #1	2,914	Mosby Woods Elementary School	709 Mosby #1	2,914	Mosaic Elementary School	Recognize the change in the name of the polling place.
PROVIDENCE	737 Mosby #2	1,155	Mosby Woods Elementary School	737 Mosby #2	1,155	Mosaic Elementary School	Recognize the change in the name of the polling place
SPRINGFIELD	805 Fairfax Station	1,692	St. Peter's in the Woods	805 Fairfax Station	1,692	Burke Centre Library	Relocate the polling place due to renovation of the current polling place.

* VERIS registered voters as of 042722_Reports Library_Statistics_Registrant_Counts_By_District Types

Commonwealth of Virginia
COUNTY OF FAIRFAX
HUNTER MILL District

PRECINCT: **233 NORTH POINT #1**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **38**

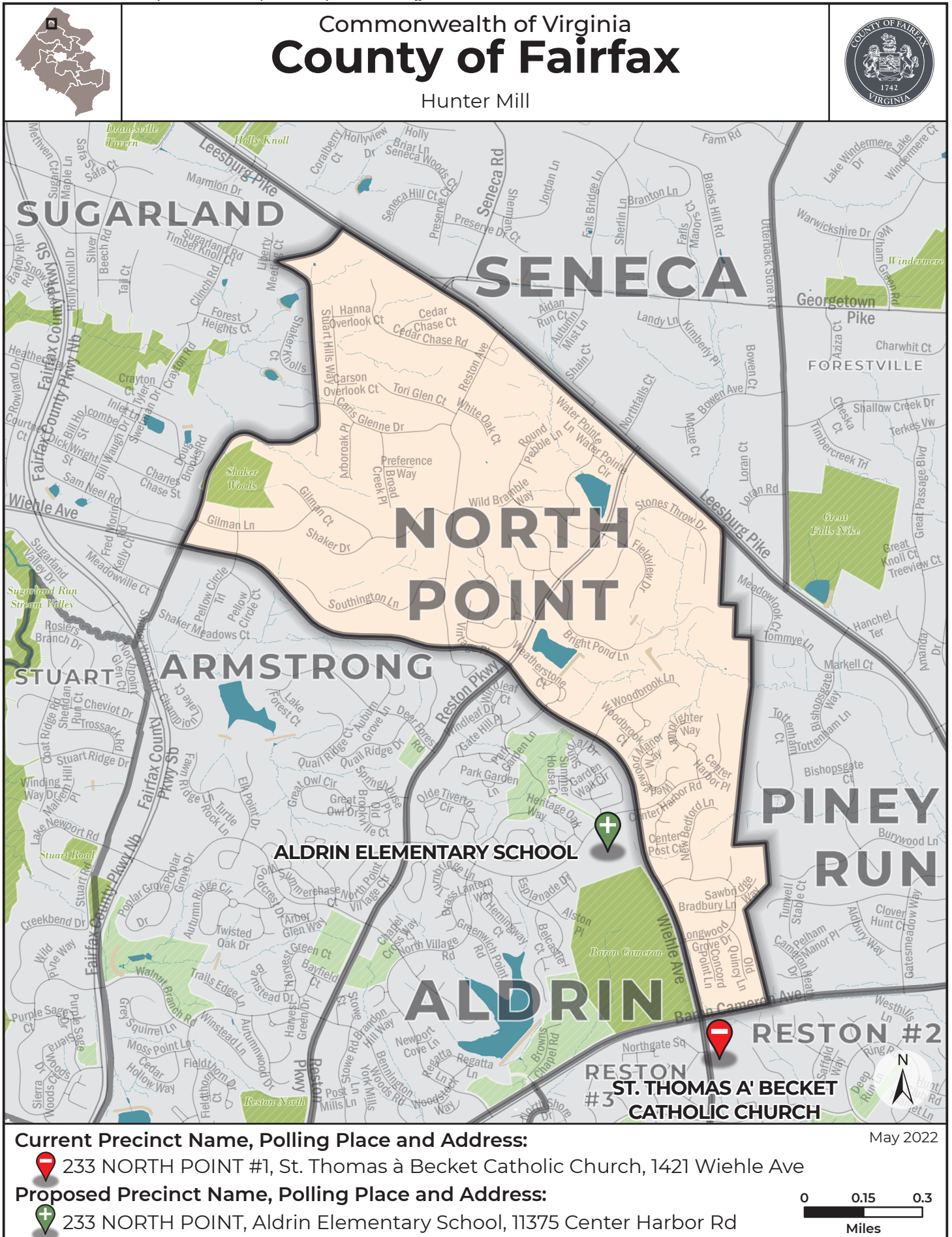
HOUSE OF DELEGATES DISTRICT: **7**

DESCRIPTION:

Beginning at the intersection of Sugarland Road and Leesburg Pike (Route 7), follow Leesburg Pike (Route 7) southeast to its intersection with the eastern border of Census Block 2004; thence with the eastern border of Census Block 2004 in a southerly direction to its intersection with Baron Cameron Avenue; go west along Baron Cameron Avenue to its intersection with Wiehle Avenue; follow Wiehle Avenue in a northwesterly direction to its intersection with Shaker Woods Road; follow Shaker Woods Road northeast to its intersection with Sugarland Road; go northeast along Sugarland Road to its intersection with Leesburg Pike (Route 7), the point of beginning.

POLLING PLACE: St. Thomas à Becket Catholic Church - Aldrin Elementary School
1421 Wiehle Ave, 11375 Center Harbor Road, Reston

NOTES: Established May 1988
Boundaries adjusted in 1993 and 1996
The southern portion of Stuart Road was consumed by construction of the Fairfax County Parkway and the northern portion of Stuart Road was renamed Shaker Woods Road in 2001. Stuart Road and Shaker Woods Road both dead-end on opposite sides of the Fairfax County Parkway.
Precinct description revised and readopted – March 2003
Congressional District changed from 8th to 11th – January 2012
Precinct divided – December 2015
Senatorial and House Districts changed – December 2021
Precinct split into North Point #1 and North Point #2 – March 2022
Precinct name changed and polling place moved – June 2022



Commonwealth of Virginia
COUNTY OF FAIRFAX
HUNTER MILL District

PRECINCT: **245 ~~NORTH POINT #2~~ PINEY RUN**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **38**

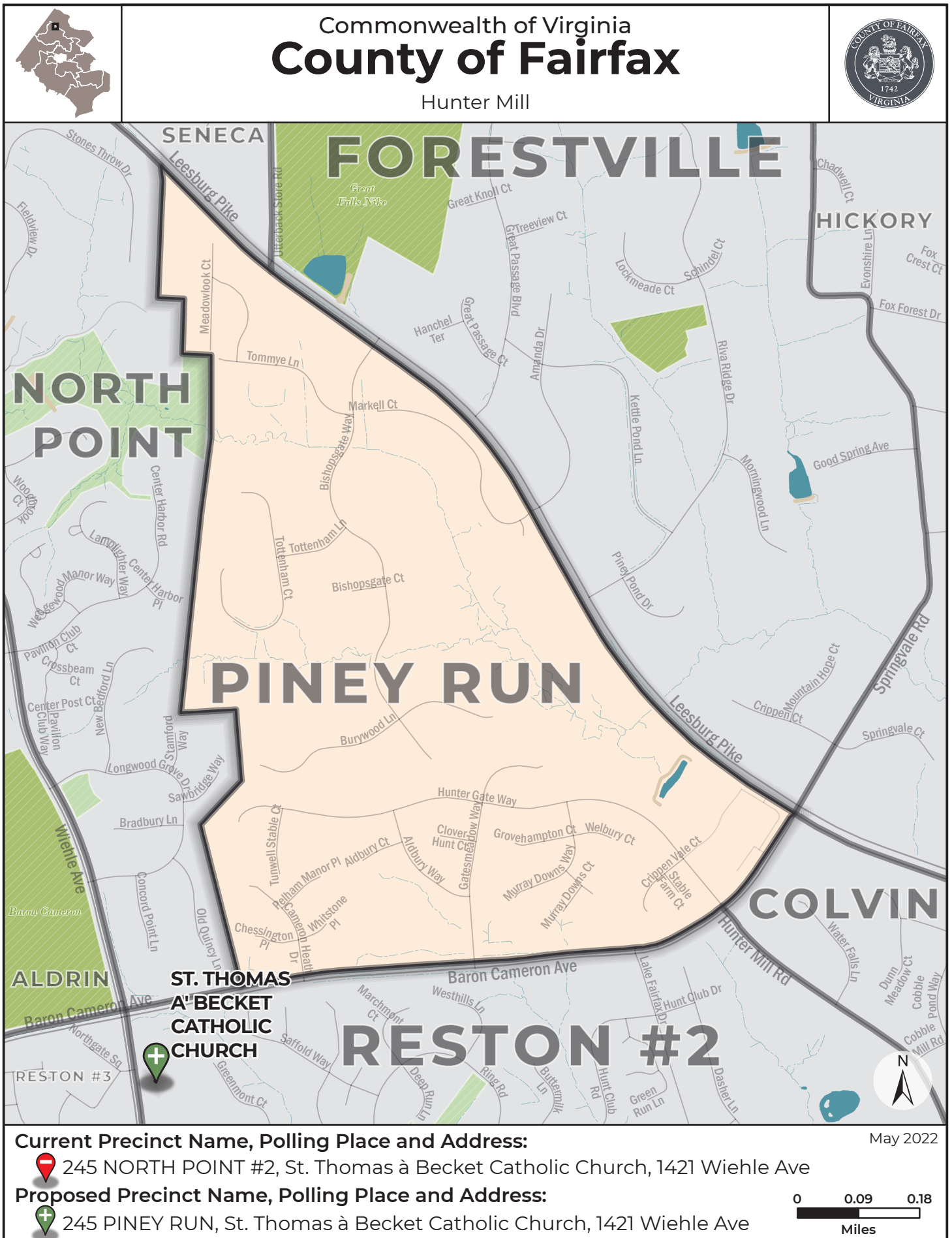
HOUSE OF DELEGATES DISTRICT: **6**

DESCRIPTION:

Beginning from Leesburg Pike (Route 7) and its intersection with the eastern border of Census Block 2004, go south on Leesburg Pike (Route 7) to its intersection with Baron Cameron Avenue; continue west on Baron Cameron Avenue to its intersection with the eastern border of Census Block 2004; go north along the eastern border of Census Block 2004 to its intersection with Leesburg Pike (Route 7), the point of beginning.

POLLING PLACE: St. Thomas à Becket Catholic Church
1421 Wiehle Ave, Reston

NOTES: Established March 2022
Precinct renamed – June 2022



Commonwealth of Virginia
COUNTY OF FAIRFAX
MOUNT VERNON District

PRECINCT: **617 LORTON**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **34**

HOUSE OF DELEGATES DISTRICT: **19**

DESCRIPTION:

Beginning at the intersection of the Prince William County/Fairfax County Line (Occoquan River) and the Shirley Memorial Highway (I-95), thence with Shirley Memorial Highway (I-95) in a northeast direction to its intersections with Lorton Road, thence with Lorton Road in an easterly direction to its intersection with Pohick Creek, thence with the meanders of Pohick Creek in a southeasterly direction to its intersection with Richmond Highway (Route 1), thence with Richmond Highway in a northeasterly direction to its intersection with Pohick Road, thence in Richmond Highway in an southeasterly direction to its intersection with Old Colchester RD, thence in a southwesterly direction with Old Colchester RD, thence until it reaches the cemetery at 9501 Old Colchester Road and following and including the boundaries of this property, thence continuing in a southwesterly direction on Old Colchester Road to its intersection with the Prince William County/Fairfax County Line at (Occoquan River), thence with the Prince William County/Fairfax County Line in a generally northerly direction to its intersection with Shirley Memorial Highway (I-95), point of beginning.

POLLING PLACE: ~~Lorton Station Elementary School~~ Lorton Community Center
~~9298 Lewis Chapel Rd,~~ 9520 Richmond Highway, Lorton

NOTES: Established June 1991
Boundary originally followed the District of Columbia Department of Corrections (Lorton Prison) property line. When the prison closed in 2001, the Fairfax County Park Authority acquired a portion of the property.
Precinct description revised and readopted – March 2003
Precinct divided and polling place changed – March 2006
Congressional District changed from 11th to 8th – January 2012
Polling place moved – March 2020
Congressional, Senatorial, and House Districts changed – December 2021
Polling place moved – June 2022



Commonwealth of Virginia
COUNTY OF FAIRFAX
PROVIDENCE District

PRECINCT: **709 MOSBY #1**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **37**

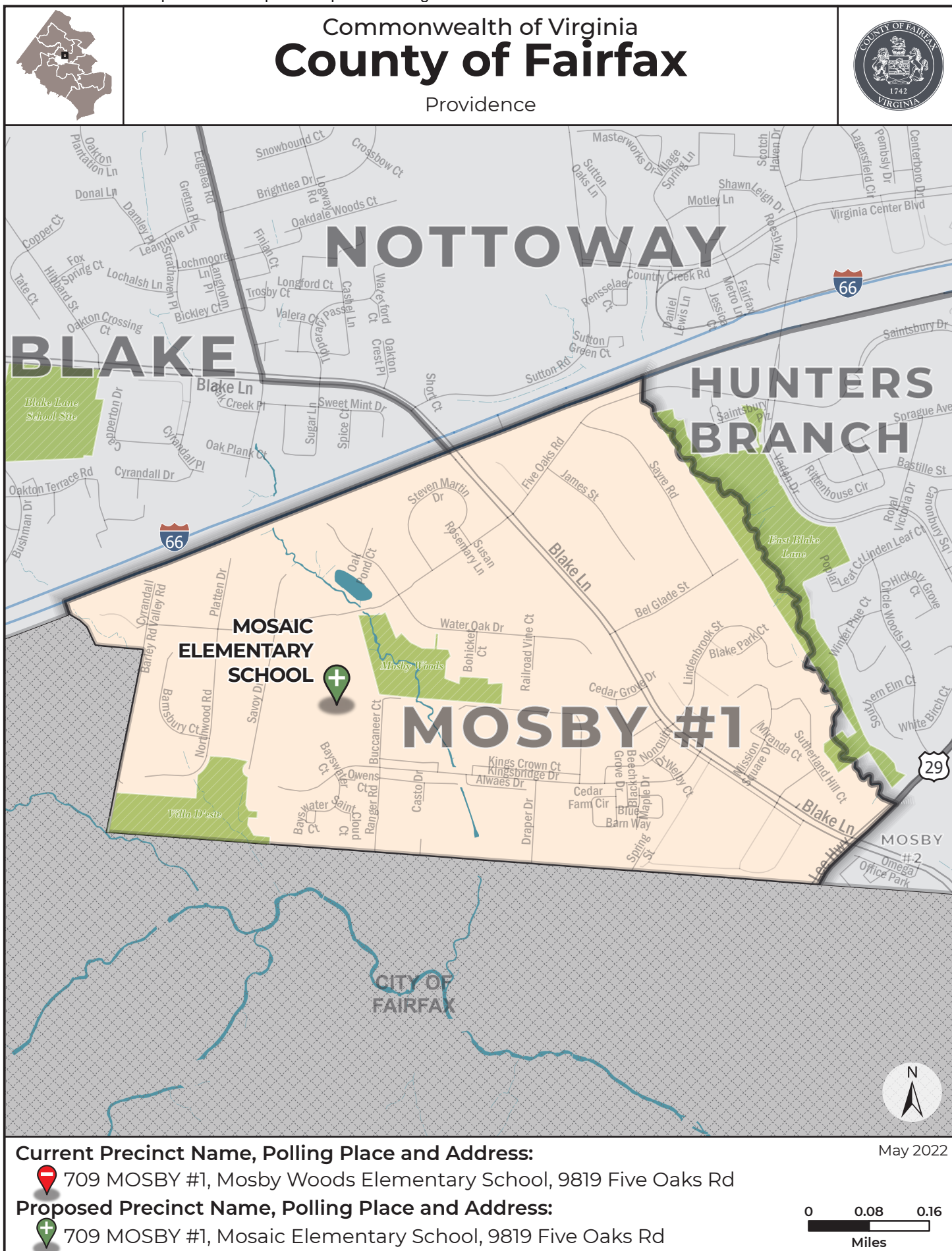
HOUSE OF DELEGATES DISTRICT: **11**

DESCRIPTION:

Beginning at the intersection of the north corporate boundary of the City of Fairfax and Interstate 66, thence with Interstate 66 in a northeasterly direction to its intersection with Hatmark Branch (stream), thence with meanders of Hatmark Branch in a southeasterly direction to its intersection with Lee Highway (Route 29), thence with Lee Highway in a southwesterly direction to its intersection with the east corporate boundary of the City of Fairfax, thence with the corporate boundary of the City of Fairfax in a generally westerly, then northerly, then westerly, then northwesterly direction to its intersection with Interstate 66, point of beginning.

POLLING PLACE: ~~Mosby Woods~~ Mosaic Elementary School
9819 Five Oaks Rd, Fairfax

NOTES: Established July 1981
Precinct description revised and readopted – March 2003
Precinct divided – July 2011
Senatorial and House Districts changed – December 2021
Precinct split into Mosby #1 and Mosby #2 – March 2022
Polling place renamed – June 2022



Commonwealth of Virginia
COUNTY OF FAIRFAX
PROVIDENCE District

PRECINCT: **737 MOSBY #2**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **37**

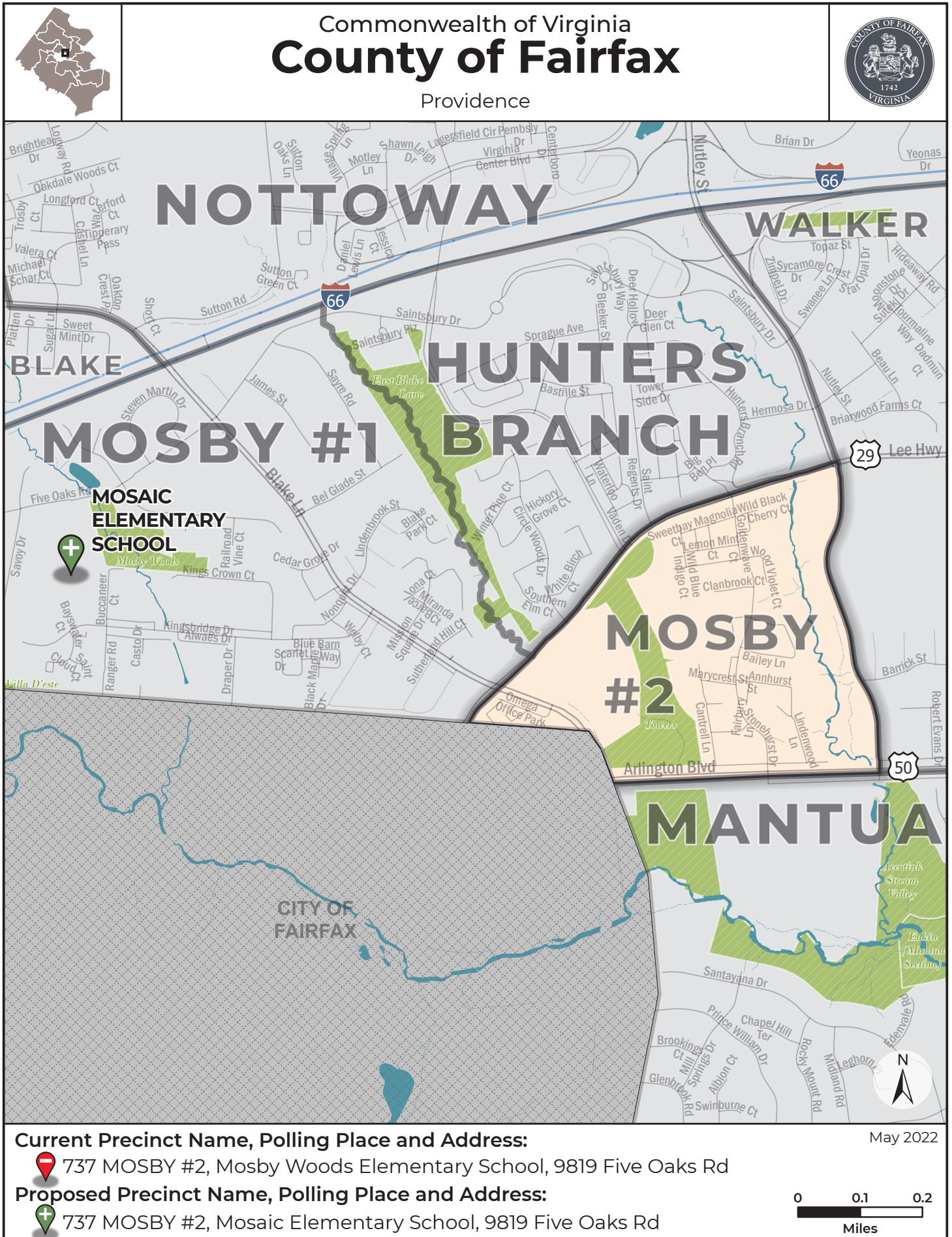
HOUSE OF DELEGATES DISTRICT: **12**

DESCRIPTION:

Beginning at the intersection of the north corporate boundary of the City of Fairfax and Lee Highway, thence with Lee Hwy in a northeasterly direction to its intersection with Nutley Street; hence with Nutley Street in a southerly direction to its intersection with Arlington Boulevard, thence with Arlington Boulevard in a westerly direction to the northeasterly corporate boundary of the City of Fairfax, hence with the corporate boundary of the City of Fairfax in a northerly, then westerly direction to its intersection with Lee Highway, point of beginning.

POLLING PLACE: ~~Mosby Woods~~ Mosaic Elementary School
9819 Five Oaks Rd, Fairfax

NOTES: Established March 2022
Polling place renamed – June 2022



Commonwealth of Virginia
COUNTY OF FAIRFAX
SPRINGFIELD District

PRECINCT: **805 FAIRFAX STATION**

CONGRESSIONAL DISTRICT: **11**

VIRGINIA SENATORIAL DISTRICT: **36**

HOUSE OF DELEGATES DISTRICT: **10**

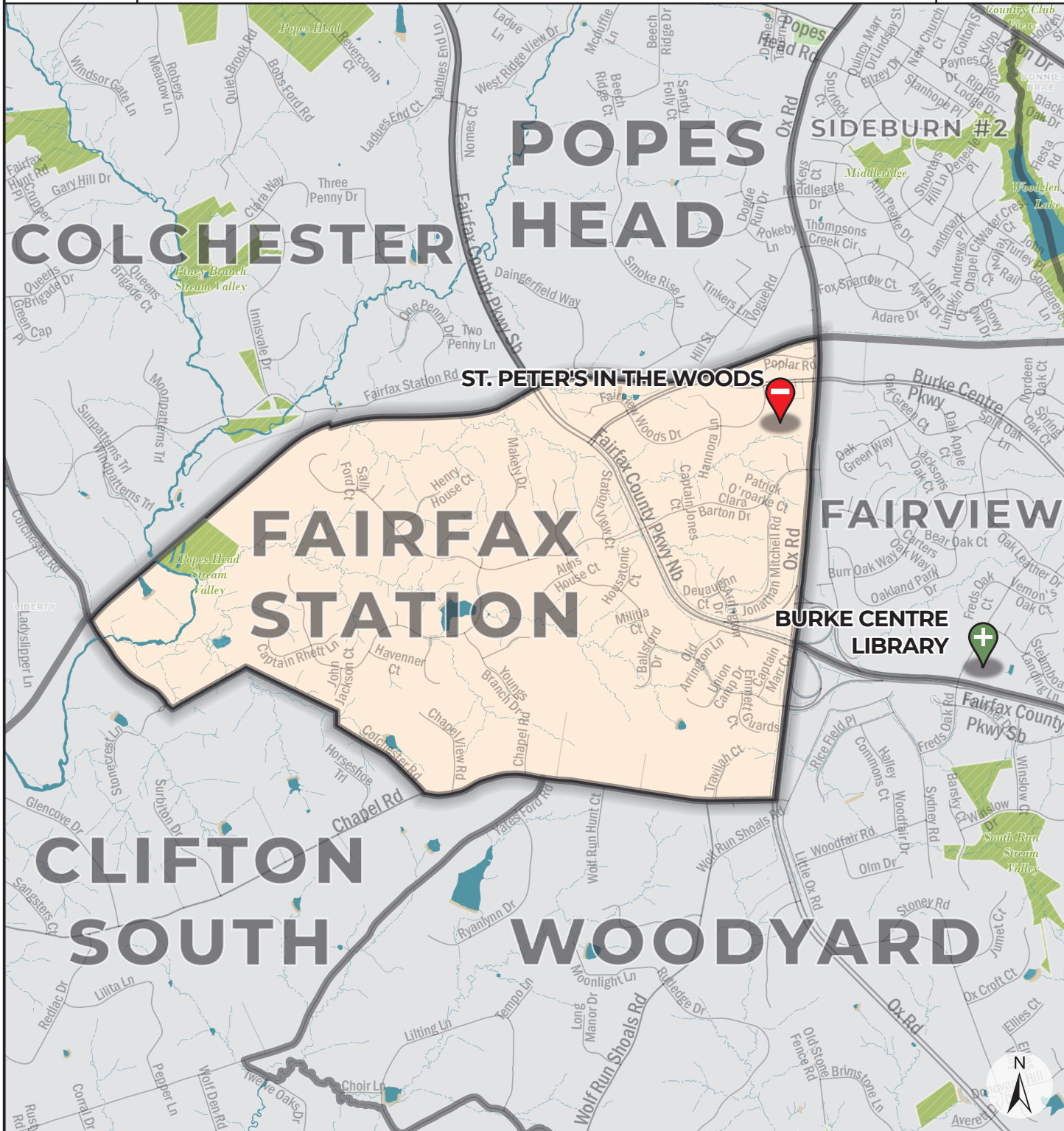
DESCRIPTION:

Beginning at the intersection of Colchester Road and the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in a northeasterly direction to its intersection with Ox Road (Route 123), thence with Ox Road in a southerly direction to its intersection with Chapel Road, thence with Chapel Road in a westerly direction to its intersection with Colchester Road, thence with Colchester Road, the unconstructed right-of-way of Colchester Road and Colchester Road in a northwesterly direction to its intersection with the Norfolk Southern Railroad, point of beginning

POLLING PLACE: ~~St. Peter's in the Woods~~ Burke Centre Library
~~5911 Fairview Woods Dr,~~ 5935 Freds Oak Road, Fairfax Station-Burke

NOTES: Established July 1981
Boundary adjusted June 1994
Boundary adjusted April 1998
Precinct description revised and readopted – March 2003
Precinct boundary adjusted – July 2011
Congressional District changed from 11th to 10th – January 2012
Congressional, Senatorial, and House Districts changed – December 2021
Polling place moved – June 2022

	<p>Attachment 3: Descriptions and Maps of Proposed Changes</p>	<p>Commonwealth of Virginia County of Fairfax Springfield</p>	
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Current Precinct Name, Polling Place and Address:

May 2022

805 FAIRFAX STATION, St. Peter's in the Woods, 5911 Fairview Woods Dr

Proposed Precinct Name, Polling Place and Address:

805 FAIRFAX STATION, Burke Centre Library, 5935 Freds Oak Rd



**AN ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE SECTIONS 7-2-5
AND 7-2-13 TO RELOCATE A POLLING PLACE AND RENAME PRECINCTS IN THE
HUNTER MILL DISTRICT; RELOCATE A POLLING PLACE IN THE MOUNT VERNON
DISTRICT; RENAME A POLLING PLACE IN THE PROVIDENCE DISTRICT; AND
RELOCATE A POLLING PLACE IN THE SPRINGFIELD DISTRICT**

Draft of Adopted on June 7, 2022

AN ORDINANCE to amend and readopt Fairfax County Code Sections 7-2-5 and 7-2-13 to relocate a polling place and rename precincts in the Hunter Mill District; relocate a polling place in the Mount Vernon District; rename a polling place in the Providence District; and relocate a polling place in the Springfield District.

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

1. That Sections 7-2-5 and 7-2-13 of the Fairfax County Code are amended and readopted:

Section 7-2-5. Hunter Mill District.

The Hunter Mill District shall consist of these election precincts: Aldrin, Armstrong, Cameron Glen, Colvin, Dogwood, Flint Hill No. 1, Flint Hill No. 2, Floris, Fox Mill No. 1, Fox Mill No. 2, Frying Pan, Glade, Hughes, Hunters Woods, Madison, McNair, ~~North Point No. 1~~, North Point, ~~North Point No. 2~~, Piney Run, Reston No. 1, Reston No. 2, Reston No. 3, South Lakes, Stuart, Sunrise Valley No. 1, Sunrise Valley No. 2, Vienna No. 1, Vienna No. 2, Vienna No. 4, Vienna No. 6, Westbriar No. 1, Westbriar No. 2, and Wolftrap.

Section 7-2-13. - General provisions.

All references to election precincts shall refer to those precincts, together with the descriptions and maps of the boundaries and polling places for each of those precincts, which were adopted by the Board of Supervisors on March 24, 2003, as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26, 2007, September 10, 2007, March 10, 2008, January 12, 2009, March 9, 2010, July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012, March 19, 2013, July 9, 2013, November 18, 2014, June 23, 2015, December 8, 2015, July 12, 2016, July 11, 2017, March 20, 2018, December 4, 2018, and April 9, 2019, December 3, 2019, March 24, 2020, March 23, 2021, December 7, 2021, ~~and March 8, 2022~~, and June 7, 2022, and kept on file with the clerk to the Board of Supervisors. Whenever a road, a stream, or other physical feature describes the boundary of a precinct, the center of such road, stream, or

physical feature shall be the dividing line between that precinct and any adjoining precinct.

2. That the election polling place for the following existing precincts are established at:

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Hunter Mill	North Point #1 (polling place relocated)	From: St. Thomas á Becket Catholic Church 1421 Wiehle Avenue Reston, Virginia 20190
		To: Aldrin Elementary School 11375 Center Harbor Road Reston, Virginia 20194
Mount Vernon	Lorton (polling place relocated)	From: Lorton Station Elementary School 9298 Lewis Chapel Road Lorton, Virginia 22079
		To: Lorton Community Center 9520 Richmond Highway Lorton, Virginia 22079
Springfield District	Fairfax Station (polling place relocated)	From: St. Peter's in the Woods 5911 Fairview Woods Drive Fairfax Station, Virginia 22039
		To: Burke Centre Library 5935 Freds Oak Road Burke, Virginia 22015

3. The following precincts are renamed:

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Hunter Mill	North Point	Aldrin Elementary School

(formerly North Point #1) 11375 Center Harbor Road
Reston, VA 20194

Hunter Mill Piney Run St. Thomas á Becket Catholic Church
(formerly North Point #2) 1421 Wiehle Avenue
Reston, Virginia 20190

4. The following polling places are renamed:

Supervisor

District

Precinct

Polling Place

Providence Mosby #1 From:
(polling place renamed) Mosby Woods Elementary School
9819 Five Oaks Road
Fairfax, Virginia

To:

Mosaic Elementary School
9819 Five Oaks Road
Fairfax, Virginia

Providence Mosby #2 From:
(polling place renamed) Mosby Woods Elementary School
9819 Five Oaks Road
Fairfax, Virginia

To:

Mosaic Elementary School
9819 Five Oaks Road
Fairfax, Virginia

5. That this ordinance shall become effective on June 22, 2022, and that clause 2 shall be given effect after completion of the procedures set forth in Virginia Code § 24.2-129(D).

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

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GIVEN under my hand this _____ day of _____, 2022.

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135

Jill G. Cooper

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Clerk for the Board of Supervisors

137

Department of Clerk Services

Board Agenda Item
June 7, 2022

4:00 p.m.

Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-3-2 to Establish Additional Voter Satellite Offices at Richard Byrd Library and Lorton Community Center and Remove the Voter Satellite Office at Laurel Hill Golf Club

ISSUE:

Public Hearing to consider an ordinance that proposes to amend Fairfax County Code Section 7-3-2 and establish additional voter satellite offices for absentee voting in person at Richard Byrd Library and Lorton Community Center. The proposed ordinance will also remove Laurel Hill Golf Club as a voter satellite office.

RECOMMENDATION:

The County Executive recommends adoption of this ordinance.

TIMING:

On May 24, 2022, the Board authorized a public hearing to be held on June 7, 2022, at 4:00 p.m. to consider this ordinance. Board action on June 7, 2022, will ensure sufficient time to inform voters of all voter satellite office locations no later than 55 days prior to next election which is anticipated to be the General and Special Election on Tuesday, November 8, 2022. The proposed effective date of June 22, 2022, avoids any possible confusion about the status of voter satellite offices during the June 21, 2022, primary election.

BACKGROUND:

Virginia Code Section 24.2-701.2 requires the governing body of each county and city to establish the locations of voter satellite offices by ordinance, if any such offices are desired. The Board of Supervisors may establish as many voter satellite offices as it deems necessary to support countywide absentee voting in person, subject to the physical and accessibility requirements of Virginia Code Section 24.2-701.2.

In July 2020, the Board of Supervisors established fourteen (14) voter satellite offices which included Laurel Hill Golf Club in Lorton. Lorton Library, previously used as a satellite voting location due to its ideal location in southern Fairfax County, was unavailable for consideration as a voter satellite office due its closure as part of the expansion of the proposed Lorton Community Center. The Lorton Community Center includes Lorton Library, Lorton Community Action Center, Murphy House, and Lorton

Board Agenda Item
June 7, 2022

Senior Center. The project is now complete and is expected to reopen in August 2022. The newly expanded Lorton Community Center will provide a more central location and improved accessibility for voters than Laurel Hill Golf Club, therefore staff recommends adding Lorton Community Center as a voter satellite office and removing Laurel Hill Golf Club.

In the November 2021 election, Fairfax County's Central Absentee Precinct (ballots received by mail and cast early in person) accounted for 5.4% of the total ballots cast in Virginia. Approximately 40% of ballots in the county were cast before Election Day, either in person at one of the early voting locations or by mail/drop box. The number of voters choosing to vote early is expected to increase in Fairfax County due to expanded voting opportunities resulting from the establishment of "no excuse" absentee voting, the permanent absentee voter list, ballot drop-off boxes, and the increase in the number of early voting locations.

In response to that anticipated growth, and in addition to improved access through use of the Lorton Community Center as described above, the proposed ordinance also establishes an additional voter satellite office at the Richard Byrd Library in Springfield.

FISCAL IMPACT:

Under this proposal, with the establishment of two voter satellite offices and the removal of one voter satellite office, the net increase is expected to be \$20,000 over the amount budgeted under the proposed FY 2023 Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Voter Satellite Offices
Attachment 2: Map of Proposed Voter Satellite Offices
Attachment 3: Proposed Ordinance

STAFF:

Eric L. Spicer, General Registrar and Director of Elections
Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board
Katherine K. Hanley, Secretary, Fairfax County Electoral Board

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

§ 24.2-701.1. Absentee voting in person (2021 updated version)

A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election. In the case of a special election, excluding for federal offices, if time is insufficient between the issuance of the writ calling for the special election and the date of the special election, absentee voting in person shall be available as soon as possible after the issuance of the writ.

Any registered voter offering to vote absentee in person shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § 24.2-706. Except as provided in subsection F, a registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter he claims to be. A voter who requires assistance in voting by reason of a physical disability or an inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement. A voter who does not show one of the forms of identification specified in this subsection or does not sign this statement shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to § 24.2-653.01 and this section.

B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar or a voter satellite office established pursuant to § 24.2-701.2. For purposes of this chapter, such offices shall be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections. The electoral board or general registrar may provide for absentee voting in person in such offices on Sundays. Any applicant who is in line to cast his ballot when the office of the general registrar or voter satellite office closes shall be permitted to cast his absentee ballot that day.

C. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.

D. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary. However, such requirement shall not apply when (i) voting systems that are being used pursuant to subsection C are located in the office of the general registrar or voter satellite office and (ii) the general registrar or an assistant registrar is present.

E. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

F. This subsection shall apply in the case of any individual who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time he votes in a federal election in the state. At such election, such individual shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § [24.2-653](#). The identification requirements of subsection B of § [24.2-643](#) and subsection A of § [24.2-653](#) shall not apply to such voter at such election. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to § [24.2-653.01](#) and this section.

2019, cc. [278](#), [668](#), [669](#); 2020, cc. [735](#), [856](#), [1064](#), [1065](#), [1149](#), [1151](#), [1201](#); 2021, Sp. Sess. I, c. [204](#).

§ 24.2-701.2. Absentee voting in person; voter satellite offices.

A. The governing body of any county or city may establish, by ordinance, voter satellite offices to be used in the locality for absentee voting in person. The governing body may establish as many offices as it deems necessary. No change in, including the creation or abolishment of, any voter satellite office shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the locality once a week for two successive weeks.

B. Any voter satellite office shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purposes of completing the application for an absentee ballot in person pursuant to §§ [24.2-701](#) and [24.2-706](#). Any such location shall have adequate facilities for the protection of all elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.

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

D. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each voter satellite office for the conduct of elections.

E. Not later than 55 days prior to any election, the general registrar shall post notice of all

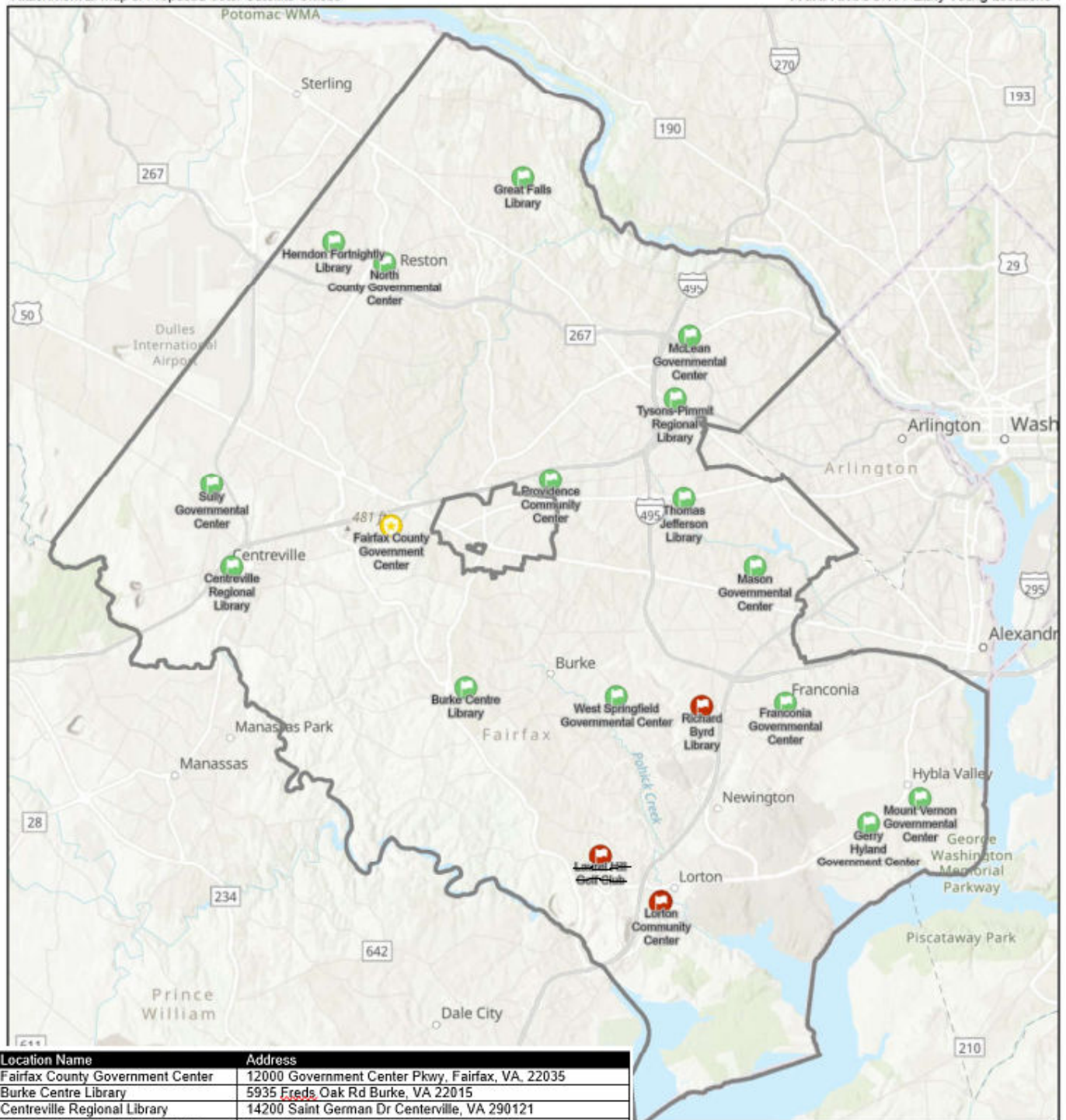
voter satellite office locations in the locality and the dates and hours of operation of each location in the office of the general registrar and on the official website for the county or city. Such notice shall remain in the office of the general registrar and on the official website for the county or city for the duration of the period during which absentee voting in person is available. If the county or city does not have an official website, such notice shall be published in a newspaper of general circulation in the county or city at least once prior to the election but not later than 55 days prior to such election.

F. If an emergency makes a voter satellite office unusable or inaccessible, the electoral board or the general registrar shall provide an alternative voter satellite office, subject to the approval of the State Board, and shall give notice of the change in the location of the voter satellite office. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

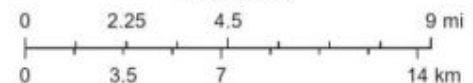
G. The provisions of subsection E of § [24.2-310](#) providing certain limited circumstances in which a local electoral board may approve an exception to the prohibition on the distribution of campaign materials inside the prohibited area outside of a polling place shall apply to voter satellite offices and the building in which such offices may be located.

H. A voter satellite office established pursuant to this section shall be deemed to be the equivalent of an office of the general registrar for purposes of completing an application for an absentee ballot in person pursuant to §§ [24.2-701](#), [24.2-701.1](#), and [24.2-706](#).

2020, cc. [856](#), [1149](#), [1151](#), [1201](#).



1:325,000



Location Name	Address
Fairfax County Government Center	12000 Government Center Pkwy, Fairfax, VA, 22035
Burke Centre Library	5935 Freds Oak Rd Burke, VA 22015
Centerville Regional Library	14200 Saint German Dr Centerville, VA 290121
Franconia Governmental Center	6121 Franconia Road Alexandria, VA 22310
Gerry Hyland Government Center	8350 Richmond Hwy, Alexandria, VA 22309
Great Falls Library	9830 Georgetown Pike Great Falls, VA 22066
Herndon Fortnightly Library	768 Center St Herndon, VA 20170
Laurel Hill Golf Club	8701 Laurel Crest Drive, Lorton, 22079
Lorton Community Center	9520 Richmond Highway, Lorton 22079
Mason Governmental Center	6507 Columbia Pike Annandale, VA 22003
McLean Governmental Center	1437 Balls Hill Road McLean, VA 22101
Mount Vernon Governmental Center	2511 Parkers Lane Alexandria, VA 22306
North County Governmental Center	1801 Cameron Glen Drive Reston, VA 20190
Providence Community Center	3001 Vaden Drive Fairfax, VA 22031
Richard Byrd Library	7520 Commerce Street, Springfield, 22150
Sully Governmental Center	4900 Stonecroft Boulevard Chantilly, VA 20151
Thomas Jefferson Library	7415 Arlington Blvd, Arlington, VA 22042
Tysons-Pimmit Regional Library	7584 Leesburg Pike Falls Church, VA 22042
West Springfield Governmental Center	6140 Rolling Road Springfield, VA 22152

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community. Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

AN ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE SECTION 7-3-2 AND ESTABLISH VOTER SATELLITE OFFICES AT LORTON COMMUNITY CENTER AND RICHARD BYRD LIBRARY AND REMOVE THE VOTER SATELLITE OFFICE FROM LAUREL HILL GOLF CLUB

~~Draft of~~ **Adopted on June 7, 2022**

AN ORDINANCE to amend and readopt Fairfax County Code Section 7-3-2 and establish additional voter satellite offices at Lorton Community Center and Richard Byrd Library and remove the voter satellite office at Laurel Hill Golf Club pursuant to Virginia Code Section 24.2-701.2.

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

- 1. That Section 7-3-2 of the Fairfax County Code is amended and readopted, as follows:**

Section 7-3-2. – Voter Satellite Offices.

Voter satellite offices are hereby established at the following locations:

- (a). – Burke Centre Library**
5935 Fred Oaks Road, Burke, Virginia 22015
- (b). – Centreville Regional Library**
14200 Saint Germain Drive, Centreville, Virginia 20121
- (c). – Franconia Governmental Center**
6121 Franconia Road, Alexandria, Virginia 22310
- (d). – Gerry Hyland Governmental Center**
8350 Richmond Highway, Alexandria, Virginia 22309
- (de). – Great Falls Library**
9830 Georgetown Pike, Great Falls, Virginia 22066
- (ef). – Herndon Fortnightly Library**
768 Center Street, Herndon, Virginia 20170
- ~~(f). – Laurel Hill Golf Club~~**
~~8701 Laurel Crest Drive, Lorton, Virginia 22079~~
- (g). – Lorton Community Center**
9520 Richmond Highway, Lorton, Virginia 22079

- 46
47 **(gh). – Mason Governmental Center**
48 6507 Columbia Pike, Annandale, Virginia 22003
49
50 **(hi). – McLean Governmental Center**
51 1437 Balls Hill Road, McLean, Virginia 22101
52
53 **(ij). – Mount Vernon Governmental Center**
54 2511 Parkers Lane, Alexandria, Virginia 22306
55
56 **(jk). – North County Governmental Center**
57 1801 Cameron Glen Drive, Reston, Virginia 20190
58
59 **(kl). – Providence Community Center**
60 3001 Vaden Drive, Fairfax, Virginia 22031
61
62 ~~**(l). – Gerry Hyland Government Center**~~
63 ~~8350 Richmond Highway, Alexandria, Virginia 22309~~
64
65 **(m). – Richard Byrd Library**
66 7250 Commerce Street, Springfield, Virginia 22150
67
68 **(mn). – Sully Governmental Center**
69 4900 Stonecroft Boulevard, Chantilly, Virginia 20151
70
71 **(no). – Thomas Jefferson Library**
72 7415 Arlington Boulevard, Falls Church, Virginia 22042
73
74 **(op). – Tysons-Pimmit Regional Library**
75 7584 Leesburg Pike, Falls Church, Virginia 22043
76
77 **(pq). – West Springfield Governmental Center**
78 6140 Rolling Road, Springfield, Virginia 22152
79
80

81 **2. That this ordinance shall become effective on June 22, 2022.**
82

83
84 GIVEN under my hand this _____ day of _____, 2022.
85
86
87

88 _____
89 Jill G. Cooper
90 Clerk for the Board of Supervisors
Department of Clerk Services