FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 15, 2025

AGENDA

9:30	**Done**	Presentations
9:30	**Done**	Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
10:00	**Done**	Matters Presented by Board Members
10:00	**Done**	Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Additional Time to Establish Use or Commence Construction for Special Exception SE-2022-MV-00002, Praesum Healthcare Services, LLC (Mount Vernon District)
2	**Approved**	Additional Time to Establish Use or Commence Construction for Special Exception SEA-93-Y-036-02, Trustees of Fairfax Church of Christ (Sully District)
3	**Approved**	Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Electrical Substations
4	**Approved**	Authorization to Advertise a Public Hearing to Consider an Ordinance Expanding the Oakton Residential Permit Parking District, District 19 (Providence District)
5	**Approved**	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program – Tyler Avenue (Providence District)
6	**Approved**	Supplemental Appropriation Resolution AS 26005 for the Fairfax County Health Department to Accept Grant Funding from the Association of State and Territorial Health Officials to Support Public Health Infrastructure Enhancement and Data Modernization Efforts
7	**Approved**	Extension of Review Period for 2232 Application for Cub Run Substation (Sully District)
8	**Approved**	Extension of Review Period for 2232 Application for Avion Substation (Sully District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 15, 2025

ACTION ITEMS

1	**Approved**	Approval of a Board of Supervisors' Draft Regular Meeting Schedule for Calendar Year 2026
2	**Approved**	Resolution to Support the Abandonment of Clifton School Roads, Routes 9523 and 9792 (Springfield District)
3	**Approved**	Approval of Changes to the Fairfax County Purchasing Resolution
4	**Approved**	Approval of a Plain Language Explanation for the 2025 Bond Referendum for Improvements to Public Schools
5	**Approved**	Authorization to Execute a Transfer Agreement for the Transfer of the Cable Franchise Held by Comcast of Virginia, LLC (Hunter Mill and Sully Districts)
6	**Approved**	Approval of the Consolidated Community Funding Advisory Committee Recommendations for the FY 2027 and FY 2028 Funding Categories for the Consolidated Community Funding Pool

CLOSED SESSION

	Held	Closed Session

PUBLIC HEARINGS

3:30	**Approved**	Public Hearing on SE 2024-MV-00036 (Varinia Vergara Miranda and Nima Home Daycare LLC) (Mount Vernon District)
3:30	**Approved**	Public Hearing on SE 2024-DR-00029 (Scott C. Harrison and Helen F. Harrison, Trustees) (Dranesville District)
3:30	**Approved**	Public Hearing on SE 2024-MV-00040 (Eastman Minerals, Inc.) (Mount Vernon District)
4:00	**Approved**	Public Hearing to Convey Crescent Apartments Located at 1513 and 1531 Cameron Crescent Drive to the Fairfax County Redevelopment and Housing Authority (Hunter Mill District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 15, 2025

	PUBLIC HEARINGS (continued)	
4:00	**Approved**	Public Hearing to Sublease Ash Grove House at 8881 Ashgrove House Lane to Sheila Consaul in Connection with the Resident Curator Program (Hunter Mill District)
4:00	**Approved**	Public Hearing to Consider Adoption of an Ordinance to Amend Appendix H of the Fairfax County Code to Approve the Transfer of the Cable Franchise Held by Comcast of Virginia, LLC (Hunter Mill and Sully Districts)

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
July 15, 2025

9:30 a.m.

PRESENTATIONS

RESOLUTION — To honor Stella Koch for her outstanding service on the Environmental Quality Advisory Committee. Requested by Chairman McKay.

RESOLUTION — To recognize George Lamb for his exceptional service on the Environmental Quality Advisory Committee. Requested by Chairman McKay.

RESOLUTION — To honor Robert W. Lazaro for his remarkable service as Executive Director of the Northern Virginia Regional Commission. Requested by Chairman McKay.

RESOLUTION — To recognize Inova for its outstanding achievement as the 2025 Healthcare Experience Health System of the Year. Requested by Chairman McKay and Supervisor Palchik.

RESOLUTION — To celebrate the 35th Anniversary of the Americans with Disabilities Act. Requested by Chairman McKay and Supervisor Bierman.

STAFF:
Tony Castrilli, Director, Office of Public Affairs
Jeremy Lasich, Office of Public Affairs
Imtiaz Ali, Office of Public Affairs

Board Agenda Item
July 15, 2025

9:30 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard July 15, 2025

STAFF:
Jill G. Cooper, Clerk for the Board of Supervisors

FINAL COPY

APPOINTMENTS TO BE HEARD JULY 15, 2025
(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 31, 2025)
(Unless otherwise noted, members are eligible for reappointment)

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Clifford L. Fields; appointed 2/09-1/20 by Bulova) Term exp. 1/21 *Resigned*	At-Large Chairman's Representative		McKay	At-Large Chairman's
Kerrie Wilson (Appointed 2/24 by Bierman) Term exp. 1/25	Dranesville District Representative		Bierman	Dranesville

ADVISORY SOCIAL SERVICES BOARD
(4-year terms – limited to 2 full terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Noah Abraham; appointed 5/23-11/24 by McKay) Term exp. 9/28 *Resigned*	At-Large Chairman's Representative	**Andrew Fischer**	McKay	At-Large Chairman's
VACANT (Formerly held by Ben Zuhl; appointed 12/21 by Foust) Term exp. 9/25 *Resigned*	Dranesville District Representative		Bierman	Dranesville

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4-year terms)

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

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AFFORDABLE DWELLING UNIT ADVISORY BOARD (4-year terms)
Continued from previous page

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by James Francis Carey; appointed 5/06 by Connolly) Term exp. 5/10 *Resigned*	Lending Institution Representative		By Any Supervisor	At-Large
Francis C. Steinbauer (Appointed 8/02-5/18 by Hudgins) Term exp. 5/22	Non-Profit Housing Representative		By Any Supervisor	At-Large

AFFORDABLE HOUSING ADVISORY COUNCIL (AHAC) (2-year Terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Kerrie Wilson (Appointed 6/21 by McKay) Term exp. 6/25	Co-Chair #1 Representative	**Kerrie Wilson**	McKay	At-Large Chairman
Jeremy Allen (Appointed 6/23 by Gross) Term exp. 6/25	Mason District Representative		Jimenez	Mason
VACANT (Formerly held by Keary Kincannon; appointed 6/23 by Storck) Term exp. 6/25 *Resigned*	Mount Vernon District Representative		Storck	Mount Vernon

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AFFORDABLE HOUSING ADVISORY COUNCIL (AHAC) (2-year Terms)
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Incumbent History	Requirement	Nominee	Supervisor	District
Barfonce Baldwin (Appointed 3/24 by Herrity) Term exp. 6/25	Springfield District Representative	**Barfonce Baldwin**	Herrity	Springfield

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

Incumbent History	Requirement	Nominee	Supervisor	District
Ronald Boggio (Appointed 5/22 by McKay) Term exp. 10/23	At-Large #1 Representative		By Any Supervisor	At-Large
Grant J. Nelson (Appointed 10/95-5/01 by Hanley; 6/04-9/07 by Connolly; 6/10-9/19 by Bulova) Term exp. 6/22	At-Large #2 Representative		By Any Supervisor	At-Large
Darren Dickens (Appointed 11/96-5/01 by Hanley; 6/04-10/07 by Connolly; 6/10-9/19 by Bulova) Term exp. 6/22	At-Large #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Linda Perlstein; appointed 11/22 by Alcorn) Term exp. 10/25 *Resigned*	At-Large #6 Representative		By Any Supervisor	At-Large

ARCHITECTURAL REVIEW BOARD (3-year terms)

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

Incumbent History	Requirement	Nominee	Supervisor	District
Kaye Orr (Appointed 6/18-9/21 by Gross) Term exp. 9/24	Related Professional Group #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Ali Akbar Sohanghpurwala; appointed 9/23 by Smith) Term exp. 9/24 *Resigned*	Related Professional Group #2 Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Marc Fernandes; appointed 10/20-1/22 by McKay) Term exp. 12/23 *Resigned*	Diversity-At-Large Principal Representative		By Any Supervisor	At-Large
Ian Harper (Appointed 10/23 by Foust) Term exp. 3/25	Dranesville District Principal Representative		Bierman	Dranesville

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ATHLETIC COUNCIL (2-year terms)
Continued from previous page

Incumbent History	Requirement	Nominee	Supervisor	District
Brian Luwis (Appointed 7/19-6/21 by Foust) Term exp. 3/23	Dranesville District Alternate Representative		Bierman	Dranesville
Scott Anderson (Appointed 1/24 by Jimenez) Term exp. 6/25	Mason District Principal Representative		Jimenez	Mason
VACANT (Formerly held by Thomas Fitzpatrick; appointed 3/24 by Storck) Term exp. 3/25 *Resigned*	Mount Vernon District Alternate Representative		Storck	Mount Vernon
Mark Heilbrun (Appointed 6/23 by Herrity) Term exp. 6/25	Springfield District Alternate Representative	**Mark Heilbrun**	Herrity	Springfield
VACANT (Formerly held by Hillary Richardson; appointed 9/20-6/22 by Alcorn) Term exp. 6/24 *Resigned*	Women's Sports Alternate Representative		By Any Supervisor	At-Large

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ken Balbuena; appointed 7/20-8/22 by McKay) Term exp. 6/23 *Resigned*	At-Large Chairman's Representative		McKay	At-Large Chairman's
VACANT (Formerly held by Barbara Glakas; appointed 1/12-6/19 by Foust) Term exp. 6/21 *Resigned*	Dranesville District Representative		Bierman	Dranesville
VACANT (Formerly held by Nancy Hall; appointed 6/24 by Jimenez) Term exp. 6/25 *Resigned*	Mason District Representative		Jimenez	Mason
Roberta K. Paul (Appointed 7/24 by Storck) Term exp. 6/25	Mount Vernon District Representative	**Roberta K. Paul**	Storck	Mount Vernon
Kim S. Farington (Appointed 1/19-6/24 by Herrity) Term exp. 6/25	Springfield District Representative	**Kim Farington**	Herrity	Springfield
Diana Maria Rhodes (Appointed 7/23-6/24 by Smith) Term exp. 6/25	Sully District Representative		Smith	Sully

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4-year terms)
NOTE: No official, technical assistant, inspector or other employee of the Department of Public Works and Environmental Services, Department of Planning and Development, or Fire and Rescue Department shall serve as a member on this Board.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Amado Fernandez; appointed 6/16-2/23 by Smith) Term exp. 2/27 *Resigned*	Alternate #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Michael Sanio; appointed 2/23 by Alcorn) Term exp. 2/27 *Resigned*	Alternate #4 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by John Bradley; appointed 7/23 by McKay) Term exp. 2/25 *Resigned*	Design Professional #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Daren Shumate; appointed 2/16-7/20 by Gross) Term exp. 2/24 *Resigned*	Design Professional #5 Representative		By Any Supervisor	At-Large

BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS (BOE) (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Robert Mansker; appointed 9/06-10/22 by Gross) Term exp. 12/24 *Resigned*	At-Large #3 Representative		By Any Supervisor	At-Large

CATHY HUDGINS COMMUNITY CENTER ADVISORY COUNCIL (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lisa Hviding; appointed 9/23 by Alcorn) Term exp. 4/24 *Resigned*	Fairfax County #1 Representative	**Maria Jimenez** (Alcorn)	By Any Supervisor	At-Large
VACANT (Formerly held by Darlena Ricks; appointed 6/20-3/22 by Alcorn) Term exp. 4/24 *Resigned*	Fairfax County #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Nahom Sewenet; appointed 10/22 by Alcorn) Term exp. 4/24 *Resigned*	Fairfax County #9 (Youth) Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(2-year terms- limited to 3 full terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Anna Fay Dixon; appointed 12/21-9/24 by Lusk) Term exp. 9/26 *Resigned*	At-Large #1 Representative		By Any Supervisor	At-Large

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Anne Kanter; appointed 9/11-10/18 by Bulova) Term exp. 9/23 *Resigned*	At-Large #1 Representative		McKay	At-Large Chairman's
VACANT (Formerly held by David W. Schnare; appointed 11/10-9/23 by Herrity) Term exp. 9/27 *Resigned*	Springfield District Representative		Herrity	Springfield

CHILD CARE ADVISORY COUNCIL (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Sangeeta Sarkar; appointed 2/24-2/25 by Smith) Term exp. 2/27 *Resigned*	Sully District Representative		Smith	Sully

CIVIL SERVICE COMMISSION (2-year terms)

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Deborah Woolen; appointed 12/20-9/23 by Lusk) Term exp. 12/24 *Resigned*	At-Large #2 Representative		By Any Supervisor	At-Large
Jason Fong (Appointed 1/20-12/21 by McKay) Term exp. 12/23	At-Large #4 Representative		By Any Supervisor	At-Large
Thomas Garnett (Appointed 1/20-3/22 by Lusk) Term exp. 12/23	At-Large #6 Representative		By Any Supervisor	At-Large
Patrick Morrison (Appointed 2/20-11/21 by McKay) Term exp. 12/23	At-Large #7 Representative		By Any Supervisor	At-Large

COMMISSION FOR WOMEN (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Dana Hines; appointed 5/24 by McKay) Term exp. 10/27 *Resigned*	At-Large Minority Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Pamela Montesinos; appointed 10/22 by Smith) Term exp. 10/25 *Resigned*	Sully District Representative		Smith	Sully

COMMISSION ON AGING (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Irvin Katz; appointed 6/24 by Jimenez) Term exp. 5/26 *Resigned*	Mason District Representative		Jimenez	Mason
James R. Kirkpatrick (Appointed 5/23 by Herrity) Term exp. 5/25	Springfield District Representative	**James Kirkpatrick**	Herrity	Springfield

COMMUNITY ACTION ADVISORY BOARD (CAAB) (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Kevin Hickerson (Appointed 3/22 by Smith) Term exp. 2/25	Sully District Representative		Smith	Sully

CONSUMER PROTECTION COMMISSION (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Jacqueline G. Rosier (Appointed 10/22 by McKay) Term exp. 7/25	Fairfax County Resident #1 Representative		By Any Supervisor	At-Large
Dennis Kirk (Appointed 6/98-8/22 by Gross) Term exp. 7/25	Fairfax County Resident #4 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Harold G. Belkowitz; appointed 7/08-7/24 by Herrity) Term exp. 7/27 *Resigned*	Fairfax County Resident #8 Representative	**Kenneth Reid** (Herrity)	By Any Supervisor	At-Large

COORDINATING COUNCIL ON AGING AND ADULTS WITH DISABILITIES (CCAAD) (2-year terms)

CONFIRMATION NEEDED:

- Mr. Ronald Hess as the Long Term Care Providers #27 Representative

CONTINUUM OF CARE BOARD (CoC) (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
NEW POSITION	Dranesville District Representative		Bierman	Dranesville
Kameron Wilds (Appointed 9/23 by Storck) Term exp. 6/25	Mount Vernon District Representative	**Kameron Wilds**	Storck	Mount Vernon
Ruth Pearson (Appointed 9/23 by Smith) Term exp. 6/25	Sully District Representative		Smith	Sully
NEW POSITION	City of Falls Church Representative		Confirmed by the Board	Confirmation

CONFIRMATION NEEDED:

- Ms. Sue Armstrong as the City of Falls Church Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
Herbert Kemp (Appointed 12/21 by Foust) Term exp. 11/24	Dranesville District Representative		Bierman	Dranesville
Ricardo E. Coleman (Appointed 9/16-3/21 by Gross) Term exp. 3/24	Mason District Representative		Jimenez	Mason

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michael J. Cooper; appointed 3/04-7/18 by Smyth) Term exp. 3/22 *Resigned*	At-Large #6 Representative		By Any Supervisor	At-Large

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

Incumbent History	Requirement	Nominee	Supervisor	District
Richard Fernicola (Appointed 1/22 by McKay) Term exp. 1/24	BOS At-Large #6 Representative		By Any Supervisor	At-Large

ENGINEERING STANDARDS REVIEW COMMITTEE (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Maya Huber; appointed 12/09-1/14 by Confirmation; 5/18 by Bulova) Term exp. 3/21 *Resigned*	Citizen #4 Representative		By Any Supervisor	At-Large

FAIRFAX AREA DISABILITY SERVICES BOARD
(3-year terms - limited to 2 full terms)

NOTE: Members may be reappointed after being off the Board for three years. State Code requires that the membership in the local disabilities board include at least 30 percent representation by individuals who have physical, visual, or hearing disabilities or their family members. For this 15-member board, the minimum number for this representation would be five members.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Courtney Cezair Mayers; appointed 6/21 by Foust) Term exp. 11/24 *Resigned*	Dranesville District Representative		Bierman	Dranesville
Deborah K. Hammer (Appointed 3/16-1/20 by Storck) Term exp. 11/22 ***Not eligible for reappointment***	Mount Vernon District Representative		Storck	Mount Vernon
Michael Ritter (Appointed 6/22 by Herrity) Term exp. 11/24	Springfield District Representative		Herrity	Springfield

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

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ann Whipple; appointed 2/20-6/22 by McKay) Term exp. 6/25 *Resigned*	At-Large #1 Representative		By Any Supervisor	At-Large
Sheila Jonas (Appointed 6/22 by Gross) Term exp 6/25 ***Not eligible for reappointment***	Mason District Representative		Jimenez	Mason

HEALTH CARE ADVISORY BOARD (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Kelly Green Kahn (Appointed 12/21 by Foust) Term exp. 6/25	Dranesville District Representative		Bierman	Dranesville
Shikha Dixit (Appointed 6/21 by Storck) Term exp. 6/25	Mount Vernon District Representative		Storck	Mount Vernon

HEALTH SYSTEMS AGENCY BOARD (3-year terms - limited to 2 full terms)
NOTE: Members may be reappointed after 1 year break

Incumbent History	Requirement	Nominee	Supervisor	District
Lydia Lawrence (Appointed 2/22 by Foust) Term exp. 6/24	Consumer #5 Representative		By Any Supervisor	At-Large
Bridget M. Jennison (Appointed 5/22 by Walkinshaw) Term exp. 6/24	Provider #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Magalie Emile-Backer; appointed 1/19-6/21 by Storck) Term exp. 6/24 ***Not eligible for reappointment*** *Resigned*	Provider #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Maria Zlotnick; appointed 6/20 by Alcorn) Term exp. 6/25 *Resigned*	Provider #4 Representative		By Any Supervisor	At-Large

HISTORY COMMISSION (3-year terms)
NOTE: The Commission shall include at least one member who is a resident from each District.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Joseph Imamura; appointed 7/23 by McKay) Term exp. 12/24 *Resigned*	Architect Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Carmen Powell; appointed 9/23 by Foust) Term exp. 6/24 *Resigned*	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Elise Murray; appointed 1/23 by Alcorn) Term exp. 12/25 *Resigned*	Citizen #3 Representative	**Carmen Powell** (Alcorn)	By Any Supervisor	At-Large
VACANT (Formerly held by Steve Sherman; appointed 9/21 by Lusk) Term exp. 12/23 *Resigned*	Citizen #9 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Esther McCullough; appointed 1/22 by Bulova) Term exp. 12/24 *Resigned*	Citizen #10 Representative		By Any Supervisor	At-Large

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HISTORY COMMISSION (3-year terms)
NOTE: The Commission shall include at least one member who is a resident from each District.
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Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lynne Garvey-Hodge; appointed 12/21 by Gross) Term exp. 12/24 *Resigned*	Historian #1 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Jimez Ashby (Appointed 5/22 by McKay) Term exp. 9/24	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Emanuel Solon; appointed 9/95-7/01 by Connolly; 9/04-9/19 by Smyth) Term exp. 9/22 *Resigned*	At-Large #5 Representative		By Any Supervisor	At-Large
Meena Bhinge (Appointed 9/21 Walkinshaw) Term exp. 9/24	At-Large #10 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Glenda Blake; appointed 2/24 by Alcorn) Term exp. 9/26 *Resigned*	At-Large #12 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Maria Posey (Appointed 1/23 by Walkinshaw) Term exp. 7/25	Braddock District #1 Representative	**Maria Posey**	Walkinshaw	Braddock
Nancy Hall (Appointed 2/25 by Jimenez) Term exp. 7/25	Mason District #2 Representative		Jimenez	Mason
Anthony Santelises (Appointed 7/24 by Palchik) Term exp. 7/25	Providence District #1 Representative		Palchik	Providence
VACANT (Formerly held by William Kogler; appointed 10/20 by Herrity) Term exp. 9/24 *Resigned*	Springfield District #1 Representative		Herrity	Springfield
Steven Lam (Appointed 11/20 by Herrity) Term exp. 11/24	Springfield District #2 Representative	**Steven Lam**	Herrity	Springfield
Kathleen Marvin (Appointed 5/24 by Smith) Term exp. 7/25	Sully District #1 Representative	**Arthur Wu**	Smith	Sully
VACANT (Formerly held by Edward Yost appointed 3/23 by Smith) Term exp. 7/27 *Resigned*	Sully District #2 Representative		Smith	Sully

INDUSTRIAL DEVELOPMENT AUTHORITY (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Christopher Glaser; appointed 11/21 by Alcorn) Term exp. 10/25 *Resigned*	At-Large #4 Representative		By Any Supervisor	At-Large

INFORMATION TECHNOLOGY POLICY ADVISORY COMMITTEE (ITPAC) (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Edward Blum; appointed 12/20-1/24 by Palchik) Term exp. 12/26 *Resigned*	Providence District Representative		Palchik	Providence

CONFIRMATION NEEDED:

- Mr. Guy Swope as the School Board Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
Crystopher Herrera (Appointed 2/22 by Foust) Term exp. 1/24	Dranesville District Representative		Bierman	Dranesville
Sean Wright (Appointed 1/20-2/22 by Palchik) Term exp. 1/24	Providence District Representative		Palchik	Providence

LIBRARY BOARD (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Brian Engler (Appointed 7/21 by Walkinshaw) Term exp. 7/25	Braddock District Representative	**Brian Engler**	Walkinshaw	Braddock
Sujatha Hampton (Appointed 7/21 by Foust) Term exp. 7/25	Dranesville District Representative		Bierman	Dranesville
Frances Millhouser (Appointed 4/15-7/21 by Gross) Term exp. 7/25	Mason District Representative		Jimenez	Mason
Gary G. Russell (Appointed 3/16-7/21 by Storck) Term exp. 7/25	Mount Vernon District Representative	**Gary G. Russell**	Storck	Mount Vernon
Soo Park (Appointed 9/21 by Palchik) Term exp. 7/25	Providence District Representative	**Soo Park**	Palchik	Providence
Philip Rosenthal (Appointed 1/18-6/21 by Herrity) Term exp. 6/25	Springfield District Representative	**Philip Rosenthal**	Herrity	Springfield

PARK AUTHORITY (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ken Quincy; appointed 2/20-12/24 by Palchik) Term exp. 12/28 *Resigned*	Providence District Representative	**Michael Reynolds**	Palchik	Providence

POLICE CIVILIAN REVIEW PANEL (3-year terms- limited to 2 full terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael Lau (Appointed 1/23 by McKay) Term exp. 2/25	Seat #8 Representative		By Any Supervisor	At-Large

POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Brendan D. Harold (Appointed 5/05-11/14 by Hyland; 12/18 by Storck) Term exp. 12/22	Citizen At-Large #2 Representative		By Any Supervisor	At-Large

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Angela E. Roberts; appointed 9/21 by Alcorn) Term exp. 9/25 *Resigned*	Apartment or Rental Owner Associations Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Margaret Parker; appointed 10/1 by Alcorn) Term exp. 9/25 *Resigned*	Commercial or Retail Ownership #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Karen Mantyla; appointed 6/21 by Alcorn) *Resigned*	Residential Owners and HOA/Civic Association #2 Representative		By Any Supervisor	At-Large

SMALL BUSINESS COMMISSION (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Tracey Wood; appointed 12/21 by McKay) Term 12/24 *Resigned*	At-Large #3 Representative		By Any Supervisor	At-Large
Khalid Mekki (Appointed 2/24 by Jimenez) Term exp. 12/24	Mason District Representative		Jimenez	Mason

TRAILS, SIDEWALKS AND BIKEWAYS COMMITTEE (2-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by James Albright; appointed 2/24 by Jimenez) Term exp. 1/26 *Resigned*	Mason District Representative		Jimenez	Mason

CONFIRMATION NEEDED

- Mr. John Eltzroth as the Washington Area Bicycle Association Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
Linda Colbert (Appointed 5/23 by McKay) Term exp. 2/25	Adjacent Community Member #1 Representative		By Any Supervisor	At-Large
Cory Scott (Appointed 2/23 by Palchik) Term exp. 2/25	Commercial or Retail Ownership #2 Representative		By Any Supervisor	At-Large

WETLANDS BOARD (5-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kimberly Larkin; appointed 12/22 by Storck) Term exp. 12/27 *Resigned*	At-Large #1 Representative		By Any Supervisor	At-Large

YOUNG ADULTS ADVISORY COMMITTEE
(2-year terms - limited to 2 full terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Emma Heisey; appointed 5/22 by McKay) Term exp. 1/24 *Resigned*	At-Large #2 Chairman's Representative	**Aaliyah M. Kissick**	McKay	At-Large Chairman's
Eddy Sandoval (Appointed 9/21 by Smith) Term exp. 1/24	Sully District Representative		Smith	Sully

NEW BOARD

COUNCIL FOR ECONOMIC OPPORTUNITY (CEO)
(3-year terms - limited to 2 full terms for Voting Members)

Incumbent History	Requirement	Nominee	Supervisor	District
NEW POSITION	At-Large #11 Representative		By Any Supervisor	At-Large
NEW POSITION	At-Large #12 Representative		By Any Supervisor	At-Large

VETERANS AND MILITARY FAMILIES COMMISSION (3-year terms)

Incumbent History	Requirement	Nominee	Supervisor	District
NEW POSITION	Department of Housing and Community Development Representative		Confirmed by the Board	Confirmation

Board Agenda Item
July 15, 2025

10:00 a.m.

Matters Presented by Board Members

Board Agenda Item
July 15, 2025

10:00 a.m.

Items Presented by the County Executive

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 1

Additional Time to Establish Use or Commence Construction for Special Exception SE-2022-MV-00002, Praesum Healthcare Services, LLC (Mount Vernon District)

ISSUE:
Board consideration of additional time to establish use or commence construction for SE-2022-MV-00002, pursuant to the provisions of subsection 8100.3.D.(6) of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve 12 months additional time for SE-2022-MV-00002, to establish the use or commence construction, to July 1, 2026.

TIMING:
Board action is requested on July 15, 2025. The expiration date of the special exception was July 1, 2025.

BACKGROUND:
Under *subsection 8100.3.D.(6) of the Zoning Ordinance*, if a use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. This request was filed on March 14, 2025, prior to the expiration date of July 1, 2025. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

The 0.65-acre subject property, zoned C-3, is a corner lot located at 7665 Lorton Road, located in the northwestern quadrant of the intersection of Richmond Highway and Lorton Road. [Tax Map 108-3 ((2)) 9] (See locator map, Attachment 1). On November 1, 2022, the Board of Supervisors approved Special Exception SE-2022-MV-00002, subject to development conditions (See Clerk's Letter, Attachment 2). The application was filed in the name of Praesum Healthcare Services, LLC, to permit a medical care facility, specifically a drug rehabilitation facility, with a total of 40 beds and 24/7 support staff, in

an existing 32,000 square foot (SF) structure previously approved for an assisted living facility. Medical care facilities are permitted in the C- 3 District with approval of a special exception (SE).

The SE was approved concurrent with Proffered Condition Amendment PCA-89-V-038, which permitted site modifications to the Generalized Development Plan that was proffered with RZ-89-V-038. The SE was approved with a condition requiring that the use be established, or construction be commenced and diligently prosecuted, within 30 months of the approval date unless the Board granted additional time. The SE would have expired, without notice, on May 1, 2025, however, §15.2-2209.1 of the *Code of Virginia* permitted an automatic extension to July 1, 2025. On March 14, 2025, the Department of Planning and Development (DPD) received a letter, from David I. Schneider, agent for the Applicant, requesting 12 months of additional time (See Attachment 4).

Mr. Schneider states additional time is necessary to commence construction and establish the use due to COVID-19 pandemic impacts on the inpatient medical care facility industry. Despite those industry challenges, the Applicant obtained minor site plan approval on January 8, 2024, (MSP-2023-00020 see Attachment 4) and has a pending building permit (ALTC-2024-00771 see Attachment 5) in County review. According to the Applicant, the existing building is vacant, and significant investment is required to repurpose the building. Since the approval of the SE, the Applicant has spent a significant amount of money towards completion of the project, however additional time is needed to arrange for financing to close on the property and commence construction. The aforementioned issues have delayed the project, and Mr. Schneider is requesting an additional 12 months to ensure the SE approval remains valid and allow the Applicant to commence construction.

Staff has reviewed SE-2022-MV-00002 and has determined that the proposal is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a medical care facility within the C-3 zoning district. Further, staff knows of no change in land use circumstances which should require the filing of a new special exception application and review through the public hearing process. The use remains as a permitted use, subject to maintenance of the SE, pursuant to PCA-89-V-038. The Comprehensive Plan recommendation for the property has not changed since approval of the special exception. Finally, the conditions associated with the Board's approval of SE-2022-MV-00002 are still appropriate and remain in full force and effect. The applicant has demonstrated that they are pursuing development of the property in good faith, and (as noted) have received minor site plan approval and have a building permit under review. Staff believes that approval of the request for 12 months additional time is in the public interest and recommends that it be approved.

Board Agenda Item
July 15, 2025

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Clerk's Letter Dated November 28, 2022, to David I. Schneider
Attachment 3: Letter Dated March 14, 2025, to Leslie B. Johnson
Attachment 4: MSP-2023-00020 Minor Site Plan
Attachment 5: ALTC-2024-00771 Pending Building Permit

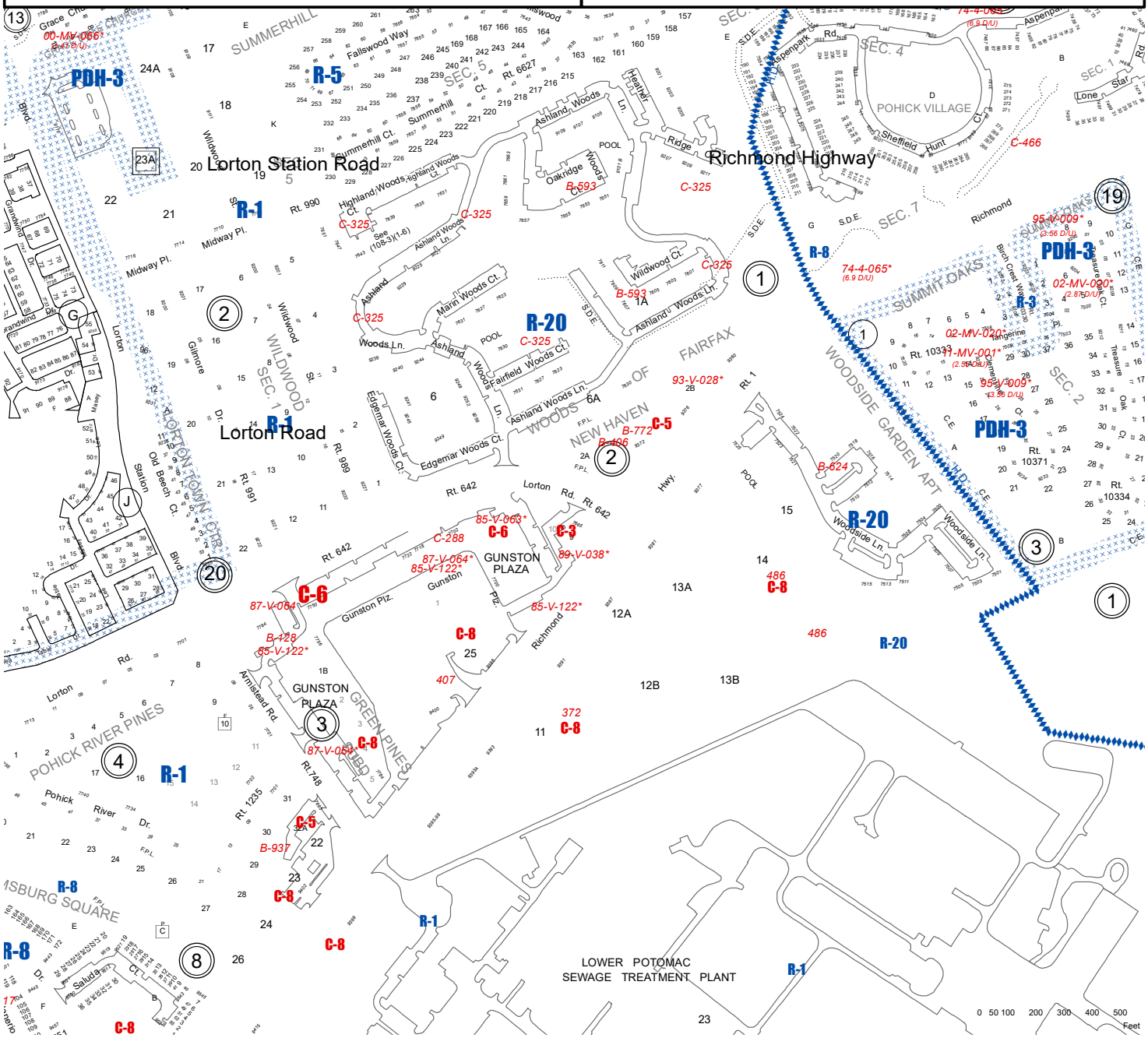
STAFF:
Jennifer Miller, Deputy County Executive
Tracy Strunk, Director, Department of Planning and Development (DPD)
Suzanne Wright, Director, Zoning Evaluation Division (ZED), DPD
Cathy Belgin, Chief, Conformance Review & Acceptance Branch, ZED, DPD
Ryan Johnson, Staff Coordinator, ZED, DPD

Special Exception

SE-2022-MV-00002



Applicant:	Praesum Healthcare Services, LLC
Accepted:	02/08/2022
Proposed:	Medical Care Facility
Area:	0.65 AC; DISTRICT - MOUNT VERNON
Located:	Northwest Quadrant of the of the intersectionof Lorton Road and Richmond Highway
Zoning:	C-3
Overlay District:	
Map Ref Num:	1083020009



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

REVISED:
Corrected development conditions inserted

November 28, 2022

David I. Schneider
Holland & Knight LLP
1650 Tysons Blvd, Suite 1700
Tysons, Virginia 22102

RE: Proffered Condition Amendment and Special Exception Applications
PCA 89-V-038 (Rezoning Plan Application and Amendment RZPA 2022-MV-00010) and SE 2022-MV-00002 - Praesum Healthcare Services, LLC
Mount Vernon District

Dear Mr. Schneider:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on November 1, 2022. The Board approved Proffered Condition Amendment Application PCA 89-V-038 (Rezoning Plan Application and Amendment RZPA 2022-MV-00010), subject to the executed proffers dated October 19, 2022.

The Board also approved Special Exception Application SE 2022-MV-00002, subject to the following development conditions dated September 6, 2022:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.

3. This Special Exception is subject to the provisions of Section 8100.7, Site Plans. Any plan submitted pursuant to this special exception shall be in conformance with the approved the combined Generalized Development Plan and Special Exception Plat (collectively "GDP/SE Plat"), prepared by Christopher Consultants Engineering, entitled "7665 Lorton Road General Development Plan – Special Exception Plat - Proffer Condition Amendment (GDP/SE/PCA)" and consisting of a total of 4 sheets, dated February 7, 2022, as revised through June 1, 2022.

4. No more than 40 residents shall be accommodated on the premises at any one time.

Department of Clerk Services
Clerk for the Board of Supervisors
12000 Government Center Parkway, Suite 552
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 711
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

5. No more than 14 employees can be on the premises at any one time.

6. The four-foot-high masonry wall shown on the GDP along the entire Lorton Road frontage and part of the Richmond Highway frontage must be retained as shown on the GDP/SE Plat. In addition, infill plantings will be put in portions of the frontage of the site as shown on the GDP/SE Plat.

7. Parking must be provided in accordance what is shown on the GDP/SE Plat and the recommendations of Land Development Services.

8. Patients cannot bring private vehicles onto the facility. Car service must be utilized by patients.

9. Pursuant to Section 8100.3.6.a of the Zoning Ordinance, this Special Exception will automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established as evidenced by the issuance of a non-RUP for the use or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

This approval, contingent on the above noted conditions, will not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

The Board also:

- Waived the 8-foot-wide trail requirement along Richmond Highway in lieu of the existing sidewalk and trail and future dedication of a 10-foot-wide major trail

- Modified the 45-foot building setback to that which is shown on the GDP/SE Plat

- Modified the loading space requirement to allow the one existing loading space as shown on the GDP/SE Plat

- Approved the Parking Reduction Request (#8100-PKS-001) for 7665 Lorton Road pursuant to Article 6, Section 6100 (Off-Street Parking) subsection 6100.6.G of the Zoning Ordinance based on the unique characteristics of the proposed use, and subject to the conditions dated May 25, 2022, and contained in Appendix 7

For additional information, please go to https://plus.fairfaxcounty.gov/CitizenAccess/ or contact the Zoning Evaluation Division at (703) 324-1290.

Sincerely,

Jill G. Cooper
Clerk for the Board of Supervisors

Cc: Supervisor Daniel G. Storck, Mount Vernon District
Thomas Reed, Director, Real Estate Division, Dept. of Tax Administration
David Pellegrino, Assistant Director, Real Estate Division, Dept. of Tax Administration
Tracy D. Strunk, Director, Zoning Evaluation Division, Dept. of Planning and Development
Drew Hushour, Deputy Zoning Administrator, Dept. of Planning and Development
Michael Liddle, Director, GIS Services, Department of Information Technology
Jeff Hermann, Section Chief, Transportation Planning Division
Samantha Hudson, Park Planning Branch Manager, FCPA
Abdi Hamud, Program Administrator, DHCD/Design Development Division
Jessica Gillis, Coordinator, Facilities Planning, Fairfax County Public Schools
Michael Guarino, Chief Capital Projects Sections, Dept. of Transportation
Morgan Wolfe, Chief, Bonds & Agreements, Land Development Services

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on November 1, 2022, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROFFERED CONDITION AMENDMENT APPLICATION
PCA 89-V-038 (Rezoning Plan Application and Amendment RZPA 2022-MV-00010)
(Concurrent with Special Exception Application SE 2022-MV-00002)

WHEREAS, Praesum Healthcare Services, LLC filed in the proper form an application requesting amendment to the plan of a certain parcel of land, hereinafter described, by amending conditions proffered and accepted pursuant to Virginia Code Ann., §15.2-2303(a), and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony, and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Mount Vernon District, and more particularly described as follows (see attached legal description):

Be and hereby is further restricted by the amended conditions proffered and accepted pursuant to Virginia Code Ann., §15.2-2303(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 1st day of November, 2022.

Jill G. Cooper
Clerk for the Board of Supervisors

PROFFER STATEMENT

PCA-89-V-038

October 19, 2022
September 15, 2022
August 8, 2022
July 12, 2022
April 18, 2022

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the title owner and the applicant for themselves and their successors and/or assigns (hereinafter collectively referred to as "Applicant"), hereby proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 108-3 ((2)) 9 (hereinafter referred to as the "Property") will be in accordance with the following conditions (the "Proffered Conditions"), if and only if, said rezoning request from the C-3 Zoning District to the C-3 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions will be null and void. Applicant hereby agrees that these Proffered Conditions will be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, (hereinafter referred to as the "Board") in accordance with applicable County and State statutory procedures. Upon approval, these Proffers will supersede any and all previously approved proffers applicable to the Property, including without limitation those proffers approved as part of RZ 89-V-038. The Proffered Conditions are:

1. Generalized Development Plan. Development of the Property will be in conformance with the combined Generalized Development Plan and Special Exception Plat (collectively "GDP/SE Plat"), prepared by Christopher Consultants Engineering, entitled "7665 Lorton Road General Development Plan – Special Exception Plat - Proffer Condition Amendment (GDP/SE/PCA)" and consisting of a total of 4 sheets, dated February 7, 2022, as revised through June 1, 2022.

2. Minor Modifications. Subject to the provisions of 8100.5(A)(1) of the Zoning Ordinance, minor modifications to the Proffers and the GDP/SE Plat may be allowed when the Zoning Administrator determines that they substantially conform to the proffered conditions and do not materially alter the character of the approved development.

3. Minor Variations. Minor variations to these proffered conditions and the GDP/SEA Plat may be approved without a public hearing in accordance with the provisions of Section 8100.5(A)(2) of the Zoning Ordinance without the need for a PCA or SEA.

4. Use. The permitted use in the building will be limited to a medical care facility providing inpatient treatment and care for alcoholism, substance abuse and related issues.

5. Landscape Plan. The Applicant will provide new landscaping on the Property in accordance with the Proposed Landscaping/Planting Schedule as shown on Sheet 4 of the GDP/SEA Plat. Adjustments to the type and location of vegetation and the design of landscaped areas from that shown on the GDP/SEA Plat will be permitted as approved by UFMD.

6. Landscape Planting Pre-installation Meeting. Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, UFMD staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and approved by UFMD staff prior to planting. The installation of plants not approved by UFMD may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release.

7. Green Building.

   A. The Applicant will incorporate into the design and implement the green building technologies and strategies listed in Proffer 7.D below. The Applicant will, at the time of site plan and building plan review, provide a certification statement from a LEED or equivalent-accredited professional (the "LEED-AP"), who is also a professional engineer or licensed architect, confirming that the green building elements listed below have been incorporated into the design of the building, to the extent possible at the time of site plan and building plan review, or that they will be incorporated and implemented with the final buildout. In addition to this statement, the Applicant must also provide documentation at 50 percent building design and at 50 percent building construction that the green building elements listed below have been or will be incorporated for review by Environment and Development Review Branch ("EDRB") and Land Development Services ("LDS"). Both reviews would require a County Staff review timeframe of 10-15 business days.

   B. Prior to building plan approval, the Applicant will post a "green building escrow" in the form of cash or a letter of credit from a financial institution acceptable to LDS and defined in the Public Facilities Manual. The amount of the escrow will be two dollars ($2.00) per square foot of gross floor area of the building. The green building escrow will be in addition to and separate from other bond requirements. This escrow will be released once the following conditions are met:

      i. Prior to final construction bond release, the LEED-AP will submit a certification statement including supporting documentation as detailed below, confirming that the green building elements listed in Proffer 7.D have been incorporated into the design and construction of the building.

      ii. Concurrence and acceptance of the certification statement by EDRB of the Department of Planning and Development ("DPD").

   C. If the Chief of EDRB does not concur or accept the certification statement described herein, and a review of the documentation determines that the green building elements have not been implemented or included in the design and construction of the project to the extent possible at the time of construction bond release, then the

Chief of EDRB will notify the Applicant's LEED-AP. The Applicant's LEED-AP and the Chief of EDRB will meet to discuss the potential deficiencies and to develop appropriate resolutions, which may include substitute techniques or elements that achieve the same intended sustainability or energy conservation benefits. Upon receipt of a revised certification statement within ninety (90) days of the meeting with the EDRB Chief, and its acceptance by EDRB, the escrow will be released. If the Applicant fails to take the necessary corrective actions and if the Applicant's LEED-AP does not submit a revised certification statement with supporting documentation within ninety (90) days of the meeting with the EDRB Chief, then the entirety of the green building escrow will be released to Fairfax County and posted to a fund within the County budget supporting implementation of County environmental initiatives. However, if Applicant demonstrates that the necessary corrective actions cannot be completed within ninety (90) days, then the time period may be extended as determined appropriate by the Zoning Administrator.

D. The Applicant will incorporate into the building design and implement the green building technologies and strategies in the medical care facility building to be constructed on the Application Property as described below:

i. The Applicant will provide an area for the separation, collection and storage of glass, paper, metal, plastic and cardboard generated by both those receiving care and employees. There will be a dedicated area on the Property for the storage of the recycled materials. The Applicant will provide proof of installation, installation locations and a copy of the recycling hauling contract.

ii. The Applicant will use low-emitting materials for the following interior materials (within the waterproofing membrane): adhesives, sealants, paints, coatings, flooring systems, composite wood, and insulation, as well as furniture and furnishings, if available. Low-emitting is defined as per LEED® v4.1 EQ Credit: Low-Emitting Materials. The Applicant will provide proof of installation and the manufacturers' product data.

iii. To the extent carpet is used in the project, the Applicant will install carpet and carpet padding that will meet the testing and product requirements of the Carpet and Rug Institute Green Label Plus Program. If installed, the Applicant will provide proof of installation and the manufacturers' product data.

iv. To the extent vinyl composition tile and/or rubber tile flooring is used in the project, the Applicant will use such materials that the requirements of the FloorScore certification program. If installed, the Applicant will provide proof of installation and the manufacturers' product data.

v. The Applicant will install Energy Star appliances and equipment for refrigerators, dishwashers, water heaters, computers, monitors, televisions, vending machines, water coolers, and other appliances and office equipment that are eligible for the Energy Star label. The Applicant will provide proof of installation, installation locations, and manufacturers' product data, including the Energy Star energy guide.

vi. The Applicant will replace all existing HVAC systems with high efficiency equipment to meet minimum standards of the 2018 Virginia Energy Conservation Code. The Applicant will provide proof of installation and the manufacturers' product data.

vii. The Applicant will provide outdoor air ventilation rates that exceed the ventilation rates in the ASHRAE Standard 62.1-2010 by 5%. The Applicant will provide calculations and manufacturer's product data.

viii. The Applicant will provide variable refrigerant volume (VRF) electric heat pumps with individual interior air handlers with dedicated controls for each patient room to meet the requirements of ASHRAE Standard 55–2010. The Applicant will provide proof of installation and the manufacturers' product data.

ix. The Applicant will replace all existing hot water heaters/boilers with high efficiency water heaters to meet minimum efficiency standards of the 2018 Virginia Energy Conservation Code. The Applicant will provide proof of installation and the manufacturers' product data.

x. The Applicant will replace all existing water closets, lavatories and showers with pressure assist 1.28GPF water closets and lower flow lavatories and showers to provide indoor water use reduction of 20% as compared to baseline listed in the 2018 Virginia Energy Conservation Code. The Applicant will provide proof of installation and the manufacturers' product data.

xi. The Applicant will replace all interior lighting with LED lighting to provide a 20% reduction to lighting power density as compared to the baseline listed in the 2018 Virginia Energy Conservation Code. The Applicant will provide proof of installation, energy usage calculations and manufacturers' product data.

xii. The Applicant will replace all lighting controls with automatic occupancy sensors for common areas and vacancy sensors for private/patient rooms.

The Applicant will provide proof of installation and the manufacturers' product data.

xiii. The Applicant will provide a light pollution reduction strategy for interior and exterior lighting for signage/interior lighting reduction by automatic device below the interior lighting power maximum allowances per International Energy Conservation Code (IECC) Table 505.5.2 for all nonemergency interior luminaries with a direct line of sight to any openings in the envelope (translucent or transparent) between certain hours, with an after-hours override provided by a manual or occupant-sensing device provided the override lasts no more than 30 minutes, or for exterior lighting, the input power of exterior lighting must be reduced (by automatic device) by more than the Zoning Ordinance's current minimum of 50 percent). The Applicant will provide proof of installation and plan locations.

8. Noise Attenuation. The existing building was built to attain a maximum 45 DBA on interior units and a maximum 65 DBA for the enclosed solariums. Any new windows that are incorporated into the building will have the same or higher sound transmission class (STC) as the window being replaced. The Applicant will provide documentation to EDRB and LDS confirming that this has been addressed prior to the issuance of a Non-Residential Use Permit (Non-RUP).

9. Richmond Highway Right of Way Reservation. As shown on 4 of the GDP/SE Plat, the area labeled as "5' ROW RESERVATION " along the Richmond Highway will be reserved for future dedication. This ultimate right-of-way reservation area will be dedicated and conveyed in fee simple to the Board of Supervisors within 60 days upon written request by the Board of Supervisors.

10. Density Credit. Advance density credit is and will be reserved consistent with Section 5100.2.E of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County Department of Transportation ("VDOT') or the Virginia Department of Transportation ("VDOT") pursuant to the Public Facilities Manual ("PFM"), at or prior to the time of subdivision and/or site plan approval.

11. Community Engagement. The Applicant commits to ongoing communication with the community with respect to the medical care being provided on site (subject to all Health Insurance Portability and Accountability Act regulations and other applicable laws), general operations, and the broader future of the Lorton area. In doing so, the Applicant will offer to meet at least once annually with each of the following: (i) the Mount Vernon District Supervisor's Office; (ii) the South County Federation, and (iii) the Fairfax-Falls Church Community Services Board (collectively, the "Community Stakeholders"). If any of the Community Stakeholders accepts the offer to meet, the Applicant will coordinate a mutually convenient time to conduct the meeting with the accepting Community Stakeholder. The Applicant will schedule additional meetings if requested by the Mount

Vernon District Supervisor. In addition, the Applicant will provide the Mount Vernon District Supervisor's office with a point of contact to be reached for comments, questions or concerns regarding the medical care facility.

12. Youth and Community Education and Support: The Applicant will work with the Mount Vernon District Supervisor's Office, in coordination with the Fairfax-Falls Church Community Services Board, to offer:

    A. A virtual support group for teens, young adults and their families that may be impacted by Substance Use Disorders ("SUD Support Group"). The Applicant will work in good faith with the Mount Vernon District Supervisor to schedule and host the SUD Support Group at least four times per calendar year; and

    B. In-person presentations focused on substance abuse education and prevention for teens, young adults and their families ("Prevention Presentations"). The Applicant will work in good faith with the Mount Vernon District Supervisor to schedule and provide two Prevention Presentations per calendar year at a location proximate to the site, such as a nearby middle/high school or the Lorton Community Center.

    C. If the Mount Vernon District Supervisor declines the Applicant's offer to meet in Proffer 11 or does not indicate a desire to continue with the programs listed in Proffers 12 A & B, the Applicant is relieved from the obligations in Proffer 12 until the next calendar year. Furthermore, the desired audiences of the programs listed in Proffers 12 A & B may be modified at the request of the Mount Vernon District Supervisor.

13. Community Contribution. Prior to the issuance of the Non-RUP, the Applicant will make a one-time contribution in the amount of five thousand dollars ($5,000.00) to the Lorton Community Action Center, a non-profit partner of the Fairfax County that is located within the Lorton Community Center.

14. Timing. Notwithstanding the foregoing, upon demonstration that, despite diligent efforts or due to factors beyond the Applicant's control, proffered commitments have been delayed beyond the timeframes specified herein, the Zoning Administrator may agree to a later date for completion of such commitments.

15. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

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

[SIGNATURES ON NEXT PAGE]

APPLICANT/CONTRACT PURCHASER of 108-3 ((2)) 9

Praesum Healthcare Services, LLC

By: Timothy M. Doran
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER of 108-3 ((2)) 9

SUNRISE ASSISTED LIVING LP

By: Sunrise Senior Living Services, Inc.,
Its General Partner



By: Edward Frantz
Its: Vice President & Secretary

[SIGNATURES END]

Holland & Knight

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David I. Schneider
+1 703-720-8093
David.Schneider@hklaw.com

March 14, 2025

VIA Fairfax County PLUS

Ms. Leslie B. Johnson, Zoning Administrator
Zoning Administration Division
Fairfax County Department of Planning and Development
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: Request for Additional Time to Commence Special Exception
Applicant: Praesum Healthcare Services, LLC
Application: SE-2022-MV-00002
Address: 7665 Lorton Road, Lorton, VA 22079
Tax Map #: 108-3 ((2)) 9

Dear Ms. Johnson:

On behalf of the Applicant, Praesum Healthcare Services, LLC, I am writing this letter to request additional time in accordance with the provisions of Section 8100.3.D(3) of the Fairfax County Zoning Ordinance. The referenced Special Exception application was approved by the Board of Supervisors on November 1, 2022, to permit a medical care facility. Pursuant to Development Condition 9, the Special Exception is set to expire thirty (30) months after the date of approval unless the use has been established as evidenced by the issuance of a non-RUP for the use or construction has commenced and been diligently pursued, unless a timely request for an extension is provided to the Zoning Administrator. As such, the Special Exception would expire on May 1, 2025; however, pursuant to Section 15.2-2209.1:1 of the Code of Virginia, as amended and reenacted in 2023, the expiration date is July 1, 2025.

I hereby request twelve (12) months of additional time to commence construction of the improvements associated with the referenced Special Exception to provide for in-patient alcohol and addiction treatment and services. The Special Exception was approved concurrently with PCA 89-V-038. Proffer 4 of this Proffered Condition Amendment limits the use of the Property to the following Special Exception use: "The permitted use in the building will be limited to a medical care facility providing inpatient treatment and care for alcoholism, substance abuse and related issues."

The Applicant is committed to joining the local effort to battle the opioid epidemic and partner with essential organizations such as the Community Services Board; however, the Applicant has experienced a number of delays in commencing the construction on the Special Exception due to the impacts of the economy and the COVID 19 pandemic created further challenges for inpatient medical care facilities. The Applicant obtained minor site plan approval last year (MSP-2023-00020) and has a pending building permit. The existing building on the Property has been vacant for multiple decades and a significant investment is required to repurpose the building. Since the approval of the Special Exception, the Applicant has spent a significant amount of money to continue processing the Special Exception, but needs additional time to arrange for financing to close on the property and commence construction. As such, the Applicant respectfully requests the Special Exception be extended for a period of 12 additional months to a date certain of July 1, 2026.

There have been no changes in circumstances that would render the approval inconsistent with the Zoning Ordinance or the public interest. As stated in the Staff Report for the Special Exception, "*The proposed use will address a need for substance abuse treatment facilities as recognized in the Countywide Strategic Plan. Therefore, staff finds the proposal in harmony with the Comprehensive Plan.*" This is no less true today, than it was on the date of approval. In fact, in the year immediately following approval emergency department visits for opioid overdoes in the Fairfax Health District rose 33%.[1]

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me.

Sincerely yours,

HOLLAND & KNIGHT LLP

David I. Schneider

DIS:mr
Enclosures

[1] https://www.fairfaxcounty.gov/health/national-fentanyl-awareness-day-2024#:~:text=The%20third%20annual%20National%20Fentanyl,33%25%20from%202022%20to%202023

#518114231_v1

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 2

Additional Time to Establish Use or Commence Construction for Special Exception SEA-93-Y-036-02, Trustees of Fairfax Church of Christ (Sully District)

ISSUE:
Board consideration of additional time to establish use or commence construction for SEA-93-Y-036-02, pursuant to the provisions of *subsection 8100.3.D.(6) of the Zoning Ordinance*.

RECOMMENDATION:
The County Executive recommends that the Board approve twenty-four months additional time for SEA-93-Y-036-02, to establish use or commence construction, to July 1, 2027.

TIMING:
Board action is requested on July 15, 2025. The expiration date of the Special Exception Amendment (SEA) was July 1, 2025.

BACKGROUND:
Under *subsection 8100.3.D.(6) of the Zoning Ordinance*, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception amendment shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception amendment. This request was filed on May 7, 2025, prior to the expiration date of July 1, 2025. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

The 7.72 acre subject site, Tax Map 45-2 ((2)) 31 and 32A, is located at 3901 and 3919 Rugby Road, in Fairfax (see locator map, Attachment 1) and is zoned R-2. On July 27, 2021, the Board of Supervisors approved Special Exception Amendment SEA-93-Y-036-02, subject to development conditions (see Clerk's letter, Attachment 2). The SEA was filed in the name of Trustees of Fairfax Church of Christ, concurrent with rezoning application RZ-2020-SU-014, to permit the addition of land area and site

modifications, and to permit a nursery school with a daily, and total, enrollment of 200 children. SEA-93-Y-036-02 was approved with a condition that the use be established, or construction be commenced and diligently prosecuted within thirty (30) months of the approval date unless the Board grants additional time. The SEA would have expired, without notice, on January 24, 2024, however, *§15.2-2209.1 of the Code of Virginia* permitted automatic extensions of this deadline to July 1, 2025. On May 7, 2025, the Department of Planning and Development (DPD) received a letter, from Lynne Strobel, agent for the Applicant, requesting twenty-four (24) months of additional time (see Attachment 3).

The letter states additional time is necessary to establish the use. According to the letter, the Applicant is a non-profit with limited development experience, therefore, it has taken longer than anticipated to implement the approved SEA. Since the approval, the Applicant has slightly modified their design, and sought administrative approval of the changes, which has added time to their overall development schedule. However, they have now selected a designer/architect and a construction contractor to begin preparation of a site plan and architectural plans to submit to the County. Furthermore, Ms. Strobel has indicated that they will begin fundraising for this project. While the Applicant is diligently working through these processes, additional time of twenty-four (24) months is requested to ensure the SEA approval remains valid and will allow the requestor to establish the use and/or commence construction.

Staff has reviewed Special Exception Amendment SEA-93-Y-036-02 and has established that the proposal is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a place of worship within the R-2 zoning district. Further, staff knows of no change in land use circumstances which should require the filling of a new special exception amendment application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the special exception amendment. Finally, the conditions associated with the Board's approval of SEA-93-Y-036-02 are still appropriate and remain in full force and effect. The Applicant has demonstrated that they are pursuing development of the property in good faith, and staff believes that approval of the request for twenty-four (24) months additional time is in the public interest and recommends that it be approved.

EQUITY IMPACT:
None.

Board Agenda Item
July 15, 2025

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Clerk's Letter Dated August 19, 2021, to Lynne Strobel
Attachment 3: Letter Dated May 7, 2025, to Leslie Johnson

STAFF:
Jennifer Miller, Deputy County Executive
Tracy D. Strunk, Director, Department of Planning and Development (DPD)
Suzanne Wright, Director, Zoning Evaluation Division (ZED), DPD
Cathy Belgin, Chief, Conformance Review & Acceptance Branch, ZED, DPD
Laura O'Leary, Staff Coordinator, ZED, DPD

Rezoning Application

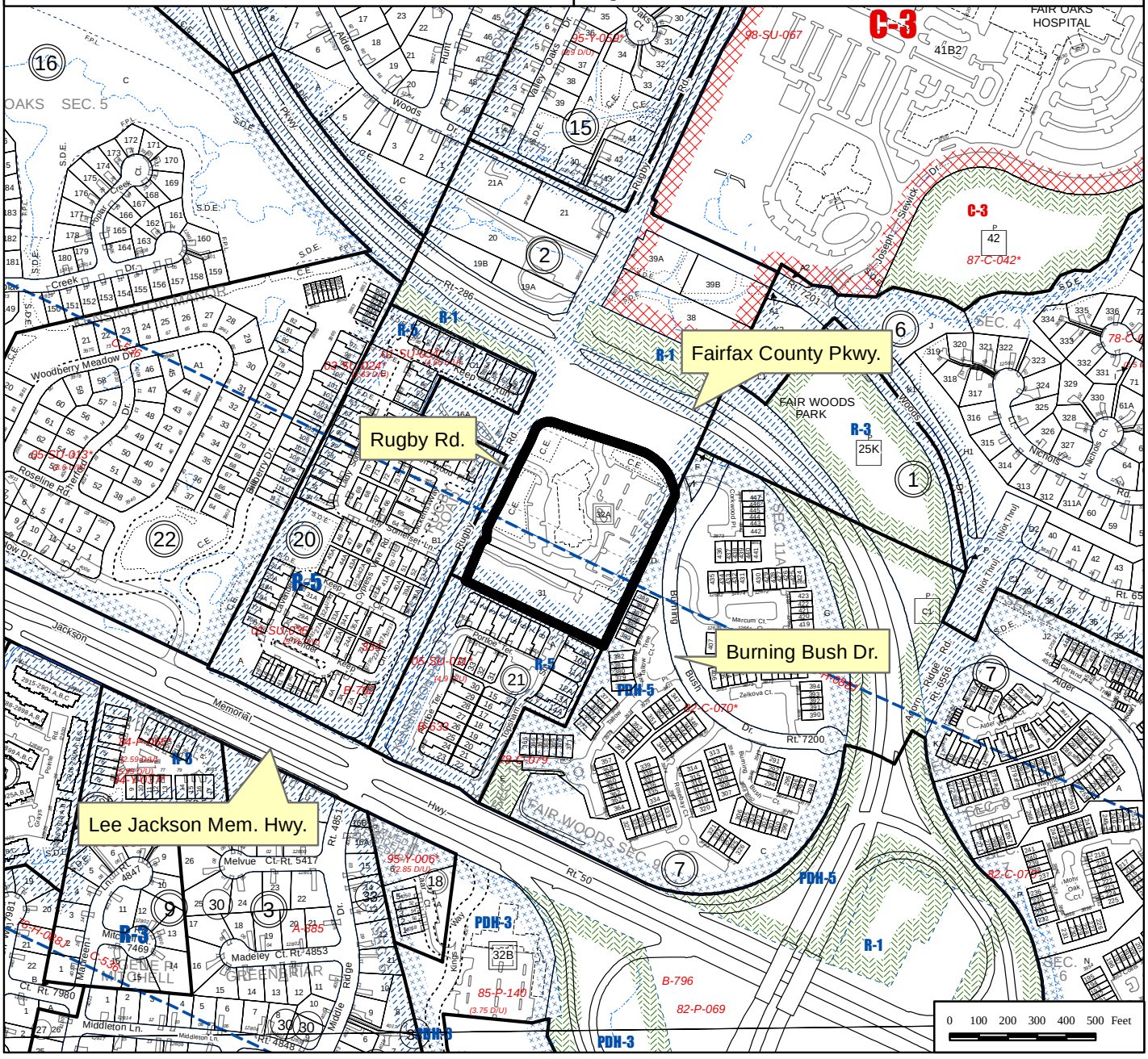
RZ 2020-SU-014

Applicant:	TRUSTEES OF FAIRFAX CHURCH OF CHRIST
Accepted:	11/06/2020
Proposed:	PLACE OF WORSHIP WITH NURSERY SCHOOL
Area:	7.72 AC; DISTRICT - SULLY
Zoning Dist Sect:	
Located:	EAST SIDE OF RUGBY ROAD AND SOUTH SIDE OF FAIRFAX COUNTY PARKWAY
Zoning:	FROM R- 1 TO R- 2
Overlay Dist:	WS HC
Map Ref Num:	045-2- /02/ /0031 /02/ /0032A

Special Exception Amendment

SEA 93-Y -036-02

Applicant:	TRUSTEES OF FAIRFAX CHURCH OF CHRIST
Accepted:	11/06/2020
Proposed:	AMEND SE 93-Y-036 PREVIOUSLY APPROVED FOR PLACE OF WORSHIP AND A NURSERY SCHOOL WITH CHILD CARE TO MODIFY SITE AND DEVELOPMENT CONDITIONS AND ADDITION OF LAND AREA
Area:	7.72 AC; DISTRICT - SULLY
Zoning Dist Sect:	03-0204
Located:	3901 AND 3919 RUGBY ROAD, FAIRFAX, VA 22033
Zoning:	R- 2
Plan Area:	3,
Overlay Dist:	WS HC
Map Ref Num:	045-2- /02/ /0031 /02/ /0032A



County of Fair fax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

REVISED
Corrected the date
of the proffers for
RZ 2020-SU-014

August 19, 2021

Lynne J. Strobel
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Blvd., Suite 1300
Arlington, Virginia 22201

RE: Special Exception Amendment and Rezoning Applications SEA 93-Y-036-02 and RZ 2020-SU-014 – Trustees of Fairfax Church of Christ
Sully District

Dear Ms. Strobel:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on July 27, 2021. The Board approved Special Exception Amendment Application SEA 93-Y-036-02, subject to the following development conditions dated July 27, 2021:

1. This Special Exception is granted for and runs with the land indicated in the application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s), and/or use(s) indicated on the Special Exception Plat approved with this application, as qualified by these development conditions.

3. This Special Exception is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Land Development Services (LDS). Any site plan submitted pursuant to this Special Exception will be in substantial conformance with the approved Special Exception Plat entitled "Special Exception Amendment Plat and Generalized Development Plan, Fairfax Church of Christ" prepared by R.C. Fields and Associates and dated May 3, 2021, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

4. The Gymnasium will operate as a use that is accessory to the Place of Worship, as defined in the Zoning Ordinance. The maximum occupancy of the Gymnasium building will not exceed 210 people at any one time, as may be reduced if needed to conform to building code, subject to review by LDS and Fire Marshall.

5. The architecture of the Gymnasium will be generally consistent with materials, bulk, and roofline shown in the elevations the SEA Plat/GDP.

Department of Clerk Services
Clerk for the Board of Supervisors
12000 Government Center Parkway, Suite 552
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 711
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

6. The property's Burning Bush Drive access will not be utilized for the drop-off or pick-up of children for the nursery school with extended child care. Traffic cones will be placed across the Burning Bush Drive access Monday through Friday from the hours of 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m. At the beginning of each session, the parents or guardians of children enrolled in the nursery school will receive an information packet that will include rules and regulations. The information will include details about the one-way vehicle circulation plan for entry and exit.

7. The maximum daily enrollment, and the maximum total enrollment, in the nursery school is 200.

8. The hours of operation for the nursery school will be limited to between the hours of 6:30 a.m. to 6:30 p.m. Monday through Friday.

9. The use of the children's outdoor play areas will meet the requirements of the Zoning Ordinance for recreational space per child.

10. In order to reduce the noise impacts from the Fairfax County Parkway on the children's play area, an architecturally solid fence flush to the ground with a minimum height of four feet will be provided along the northern boundary of the play area and will extend at least ten feet around the eastern and western boundaries of the play area.

11. The maximum seating capacity for the church use will be limited to 760 seats. Parking will be provided in conformance with Zoning Ordinance. All parking will be on-site.

12. The proposed building materials, color, landscaping and window treatments of the Phase I expansion will be compatible with the existing church building.

13. If it is determined necessary by the Urban Forest Management Division and/or LDS that existing trees within the Conservation Easement must be removed, then replacement trees will be provided pursuant to Section 12-0403.7 of the Public Facilities Manual as determined by the Urban Forester.

14. Fencing will conform to location and height requirements of the Zoning Ordinance.

15. Pursuant to the Zoning Ordinance, this Special Exception will automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

This approval, contingent on the above noted conditions, must not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The applicant is responsible for obtaining the required Non-Residential Use Permits through established procedures, and this Special Exception is not valid until this has been accomplished.

The Board also approved Rezoning Application RZ 2020-SU-014, subject to the executed proffers dated July 20, 2021.

The Board also:

- Modified the transitional screening requirements along the western, eastern, and southern boundaries of the subject property and a waived the barrier requirements along all property lines in favor of landscaping shown on the GDP/SEA Plat
- Modified the requirement for a designated bicycle lane on Rugby Road consistent with existing conditions
- Modified the current sight distance requirements for an existing left turn to remain at the northern site entrance which was designed and approved with a site plan under prior VDOT standards

For additional information, please go to https://plus.fairfaxcounty.gov/CitizenAccess/ or contact the Zoning Evaluation Division at (703) 324-1290.

Sincerely,

Jill G. Cooper
Clerk for the Board of Supervisors

Cc: Supervisor Kathy L. Smith, Sully District
Thomas Reed, Director, Real Estate Division, Dept. of Tax Administration
David Pellegrino, Assistant Director, Real Estate Division, Dept. of Tax Administration
Tracy D. Strunk, Director, Zoning Evaluation Division, Dept. of Planning and Development
Drew Hushour, Deputy Zoning Administrator, Dept. of Planning and Development
Michael Liddle, Director, GIS Services, Department of Information Technology
Jeff Hermann, Section Chief, Transportation Planning Division
Andrea Dorlester, Park Planning Branch Manager, FCPA
Abdi Hamud, Program Administrator, DHCD/Design Development Division
Jessica Gillis, Coordinator, Facilities Planning, Fairfax County Public Schools
Michael Guarino, Chief Capital Projects Sections, Dept. of Transportation
Morgan Wolfe, Chief, Bonds & Agreements, Land Development Services



WALSH COLUCCI
LUBELEY & WALSH PC

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@thelandlawyers.com

May 7, 2025

Via PLUS

Leslie Johnson, Zoning Administrator
Zoning Administration Division
Fairfax County Department of Planning & Development
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SEA 93-Y-036-02
Fairfax County Tax Map Reference: 45-2 ((2)) 31 and 32A (the "Subject Property")
Applicant: Trustees of Fairfax Church of Christ

Dear Ms. Johnson:

Please accept this letter as a request for additional time in accordance with the provisions of subsection 8100.3.D(6)(b) of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The Board of Supervisors (the "Board") granted the referenced special exception amendment at its hearing held on July 27, 2021. The approval was granted subject to development conditions including a requirement that the use be established as evidenced by the issuance of a Non-RUP within thirty (30) months after the approval date. The expiration date was initially January 24, 2024. Based on Section 15.2-2209.1:1 of the Code of Virginia, as amended and enacted in 2023, the expiration date was extended to July 1, 2025. On behalf of the Applicant, I hereby request twenty-four (24) months of additional time to establish the approved use.

As a non-profit with limited development experience, it has taken longer than anticipated for the Applicant to implement the approved special exception. The Applicant first submitted and received approval of an administrative interpretation to make minor modifications to the special exception. The Applicant then went through a lengthy process to select a designer/architect and a construction contractor. The selected firms will soon begin preparation of a site plan and architectural plans to submit to Fairfax County. During this time, the

fundraise. The entire process has been more complex than anticipated with many events unforeseen at the time of approval.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. There have been no changes in circumstances that would render the approval inconsistent with the Comprehensive Plan or the public interest.

As always, I appreciate your cooperation and assistance.

Very truly yours,

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

Lynne J. Strobel

LJS:kae
cc: Paul Wert
David Bell
Vince McHale
Tricia Nash

A1305052.DOCX / 1 Ltr to Johnson re: Additional Time Request - 05.07.25 011318 000002

REVISED

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 3

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Electrical Substations

ISSUE:
The proposed Zoning Ordinance amendment revises the permissions and standards for electrical substations to provide for compatibility with surrounding uses, adds the light utility facility use to the Planned Continuing Care Facility (PCC) District, and proposes other organizational and editorial revisions.

RECOMMENDATION:
The County Executive recommends the authorization of the proposed Zoning Ordinance amendment by adopting the Resolution set forth in Attachment 1.

TIMING:
Board action is requested on July 15, 2025, to provide sufficient time to advertise the proposed Planning Commission public hearing on ~~September 10~~ **October 16**, 2025, at 7:30 p.m., and the proposed Board of Supervisors public hearing on ~~October 14~~ **December 9**, 2025, at 4:00 p.m.

BACKGROUND:
Most new electrical substations are associated with the development of data centers. Based on this, a Board Matter dated March 19, 2024, relating to data centers identified that it may be appropriate as part of a separate effort to establish new permissions and standards for electrical substations in the Zoning Ordinance. This topic was included as a Tier 1 item on the Zoning Ordinance Work Program for fiscal years 2025-2026. The proposed Zoning Ordinance amendment revises the definition, permissions, and use-specific and other standards for electrical substations and adds all light utility facilities to the PCC District. The amendment also includes organizational and other editorial revisions.

Permissions
The proposed amendment includes the following changes in permissions:

- I-3, I-4: change electrical substations from by right to special exception (SE).
- I-5, I-6: continue to allow electrical substations by right, and add the ability to modify standards with SE approval.

- P districts: add all light utility facilities to the PCC District (Planned Continuing Care) to be consistent with other P districts.

Standards

The proposed substantive changes to the use-specific standards are highlighted below:

- Electrical substation setbacks and screening – The amendment adds specific standards for setbacks and screening, consisting of landscaping and a visually solid fence or wall. The standards would apply to new substations and would apply to a modification to an existing substation when the existing substation is expanded in area and the expansion would reduce the distance by more than ten percent (range for Board consideration 0 – 20 percent) to a street, R district (conventional residential zoning district or residential area of a P district),[1] property developed with a residential use, or a commercial district. In those cases, the new standards would only apply on the side(s) with the reduced distance. The proposed setbacks are as follows:
  - Abutting a public or private street: 50 feet (range 25 – 100 feet)
  - Abutting an R district or a property developed with a residential use: 100 feet (range 50 – 300 feet)
  - Abutting a C district: 20 feet (range 20 – 50 feet)

  Landscaping would be required as follows:[2]
  - Abutting a public or private street: 35 feet in width (range 25 – 50 feet)
  - Abutting an R district or a property developed with a residential use: 50 feet in width (range 25 – 50 feet)
  - Abutting a C district: 20 feet in width (range 10 – 50 feet)

  In addition, a minimum 12-foot high visually solid fence or wall would be required only where the substation abuts a street or residential.
- Noise study – A noise study would be required as part of an SE application or prior to site plan approval for an electrical substation that abuts residential.
- Alternative site consideration – As part of an SE application for a light utility facility in a residential area, the Zoning Ordinance currently requires that the Board find that there is no alternative site in a commercial or industrial district within one mile for a transformer (transmission) substation and a telecommunications central office and within 500 feet for any other light utility facility, which includes a distribution substation and other facilities, such as water and sewage pump stations and water storage facilities. The amendment would allow consideration of co-location or expansion of an existing substation if that would minimize adverse impacts on the residential area (as opposed to favoring a new substation in a nearby commercial or industrial area). The amendment also revises the distances to require a review within one mile for all types of substations and within 500 feet for other facilities.

[1] The amendment specifies that for these provisions, an R district does not include a property that is developed with an international airport and its related uses.
[2] Where trees are prevented by the presence of overhead electrical lines, shrubs or similar plantings would be provided.

This results in an increase in the review area for distribution substations (which, though not separately defined, are a type of electrical substation) and a decrease in the review area for a telecommunications central office.

A more detailed discussion of these and other proposed changes is contained in the Staff Report (Attachment 2).

EQUITY IMPACT:
This Zoning Ordinance amendment relates to One Fairfax Policy Area of Focus 11, which encourages a quality built and natural environment that supports a high quality of life for all people. The proposed amendment would regulate substations countywide and establish new permissions and standards to mitigate potential visual and noise impacts of substations on surrounding properties. One specific proposed standard that advances equity requires a setback from adjacent properties that are both zoned to a residential district and properties that are developed with a residential use, even if the zoning is not residential, such as existing manufactured home parks that are zoned to commercial or industrial districts. In addition, the One Fairfax policy encourages expansive community engagement to ensure that all people are heard and considered. Community meetings were broadly advertised and held to obtain public input on the proposed amendment as described in the Staff Report.

REGULATORY IMPACT:
The proposed amendment revises the permissions and standards for electrical substations. Changes include adding a requirement for SE approval for substations located within the I-3 and I-4 Districts, adding specific setback and screening requirements, and adding a noise study requirement when abutting a residential use. These proposed regulations are intended to address compatibility with and mitigate visual and noise impacts on residential and other surrounding uses. Staff has also included for the Board's consideration exceptions for applications currently under review. The amendment would also add the light utility facility use to the PCC District to correct an omission when the district was added to the Zoning Ordinance.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution
Attachment 2 – Staff Report

REVISED

Board Agenda Item
July 15, 2025

STAFF:
Jennifer Miller, Deputy County Executive
Tracy Strunk, Director, Department of Planning and Development (DPD)
Leslie B. Johnson, Zoning Administrator, DPD
William Mayland, Assistant Zoning Administrator, DPD
Carmen Bishop, Deputy Zoning Administrator, DPD

ASSIGNED COUNSEL:
T. David Stoner, Deputy County Attorney
Laura S. Gori, Senior Assistant County Attorney

Attachment 1

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, on July 15, 2025, at which meeting a quorum was present, the following resolution was adopted:

WHEREAS, in a Board Matter dated March 19, 2024, the Board directed that it may be appropriate to establish new permissions and standards for electrical substations and therefore, the topic was included as a Tier 1 item on the approved Zoning Ordinance Work Program; and

WHEREAS, electrical substations are a type of light utility facility, which, along with other light utility facilities, are currently allowed by right in certain zoning districts and are exempt from zoning district setbacks; and

WHEREAS, the need for new electrical substations is, in some instances, related to the development of new data centers and substations may be co-located with data center development; and

WHEREAS, revising the zoning district permissions and establishing new and revised use-specific standards for electrical substations would provide for compatibility with surrounding land uses, particularly residential land uses; and

WHEREAS, adding specific standards for setbacks and screening of electrical substations would minimize the visual and noise impacts on surrounding land uses; and

WHEREAS, requiring the submission of a noise study for electrical substations abutting property zoned for or developed with a residential use, other than property developed with an international airport, would confirm compliance with the Fairfax County Noise Ordinance; and

WHEREAS, the amendment would expand the area for review of alternative sites when a distribution substation is proposed for special exception approval within a residential district, while also allowing for consideration of co-location for all types of electrical substations; and

WHEREAS, it is desirable to make other organizational and editorial revisions and to add all light utility uses to the Planned Continuing Care Facility District; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to the Zoning Ordinance.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

_____
Jill G. Cooper
Clerk for the Board of Supervisors

FAIRFAX COUNTY

PROPOSED ZONING ORDINANCE AMENDMENT

STAFF REPORT
Electrical Substations

July 15, 2025

Hearing Dates
Planning Commission: September 10, 2025 @ 7:30 p.m.
Board of Supervisors: October 14, 2025 @ 4:00 p.m.

Staff Contact
Carmen Bishop, AICP, Deputy Zoning Administrator

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

PLANNING & DEVELOPMENT

Zoning Administration Division
12055 Government Center Parkway, 8th Floor
Fairfax, Virginia 22035-5507
Phone 703-324-1314
www.fairfaxcounty.gov/planning-development

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Introduction

A Board Matter dated March 19, 2024, relating to data centers, stated that it may be appropriate as part of a separate effort to establish new permissions and standards for electrical substations in the Zoning Ordinance. Therefore, this topic was included as a Tier 1 item on the Zoning Ordinance Work Program approved by the Board of Supervisors (Board) for fiscal years 2025-2026: "Review permissions and use standards for electrical substations in association with data centers and stand alone."

Background

Electrical Substations

There are currently over 80 electrical substations in Fairfax County. Substations are a necessary part of the interconnected energy network. Substations serve various functions, including connecting transmission lines, moving bulk electricity over long distances, and stepping power down to the distribution level for customers. The equipment varies in height from, for example, circuit breakers that are approximately 15 feet tall to backbone structures and transmission poles that are 75 to 95 feet tall. As further described below, electrical substations typically require approval of a 2232 application by the Planning Commission, and in most zoning districts, approval of a special exception (SE) application by the Board of Supervisors. Recently, most of the applications have been for new substations associated with the development of data centers or for the upgrading of existing substations.

Figure 1 - Electrical Substation



Current Regulations

Zoning Ordinance: An electrical substation is a type of light utility facility under the Zoning Ordinance, which includes facilities for the distribution of utility products or services. Other examples of light utility facilities include water and sewage pump stations, telephone local exchanges, and water storage facilities. Electrical substations are allowed in the following zoning districts:

- By right: I-3, I-4, I-5, and I-6 (industrial districts)
- SE: residential districts, commercial districts, I-2
- Development plan or SE: planned districts
- Not allowed: R-A, I-I, PCC

The light utility facility use-specific standards are in subsection 4102.4.X; the standards that currently apply to electrical substations are summarized below.

- Light utility facilities are not subject to lot size or bulk regulations. Bulk regulations include setbacks, floor area ratio, and building height.
- A fence or wall that is an integral part of an electrical substation is not subject to maximum fence or wall height limitations.
- Except in I-5 and I-6, light utility facilities are prohibited from storing materials or equipment, repairing or servicing vehicles or equipment, and parking vehicles (except for employees connected with the immediate facility).
- If a light utility facility is proposed to be located in an R district (residential districts and residential areas of planned districts) by special exception, the Board must find that there is no alternative site in a commercial or industrial district within one mile for an "electric transformer substation" or telecommunications central office; or within 500 feet for all other light utility facilities, which includes distribution substations. A transformer substation is typically referred to as a transmission substation.

In addition, a 35-foot-wide transitional screening yard (Type 2) and a six-foot-high solid wall or fence (Barrier D or E) are required for light utility facilities abutting or across the street from residential uses.

2232 Process: As public facilities, electrical substations are subject to the 2232 review process under Virginia Code Sect. 15.2-2232. For a facility that isn't already a feature shown on the Fairfax County Comprehensive Plan, this process determines whether the general or approximate location, character, and extent of the proposed facility are in substantial accord with the Comprehensive Plan. Additional information about this process is available online. The process includes submission of a 2232 Public Facility application, which is reviewed by County staff, and (unless it is a feature already shown) requires a public hearing before and determination by the Planning Commission. When both a 2232 and an SE are required, the applications are usually processed concurrently. Unlike an SE, a 2232 does not have conditions of approval and final approval is determined by the Planning Commission. The Comprehensive Plan includes objectives and policies relevant to electrical substations in the Public Facilities Element of the Policy Plan.

Other County Reviews: Substations are also subject to site plan review through the Department of Land Development Services. This includes review for access to the site, transitional screening, tree preservation, and other site requirements. Building permits are issued for certain structures and a Nonresidential Use Permit (NonRUP) is required upon completion and inspection of the improvements.

State Corporation Commission (SCC): Although the County regulates the location of electrical substations, the SCC regulates transmission lines that are 138kV or above (a public utility constructing a transmission line of only 138 kilovolts and associated facilities may either obtain SCC approval or may obtain 2232 approval and comply with local zoning ordinances). Because substations connect transmission lines, a new substation may require a related approval by the SCC. That process typically takes 9 to 12 months, and the County has the opportunity to provide comments on an application.

Other Jurisdictions

Staff reviewed the regulations for substations in other Virginia jurisdictions. Many other jurisdictions require a special exception or similar public process for an electrical substation. For example, Loudoun County requires an SE and a 100-foot setback from residential and has buffering standards. Prince William County allows substations by right in the data center overlay, but requires a special permit in other districts, as well as landscape buffering. Arlington County requires a use permit, which includes a public hearing, in most zoning districts. Henrico County requires a Board-approval process in many districts, as well as a 100-foot setback from residential and a 20-foot setback from other uses.

Proposed Changes

Except as noted below, these proposed changes will only apply to electrical substations; other light utility uses will continue to be subject to the current permissions and standards. Electrical substations have an industrial appearance with equipment that varies in height up to about 95 feet. As further described below, depending on the equipment, substations may also produce noise that could exceed the levels allowed by the Noise Ordinance. The proposed changes in permissions and standards are intended to address compatibility with and mitigate visual and noise impacts on surrounding uses.

With the proposed amendment, electrical substations would continue to be allowed in most zoning districts. Substations are an important part of public infrastructure; staff does not recommend that they be removed as an allowed use in any of the zoning districts where they are currently allowed. The proposed changes in permissions are limited and are intended to align more closely with the permissions for data centers. Where a substation is proposed as part of a data center development, as is common today, consistent zoning permissions would encourage an appropriate layout based on the site-specific location and characteristics because both facilities would be reviewed through the same process. As noted above, substations are often subject to the 2232 public hearing process, and an SE application can be processed

concurrently. In addition, a public hearing process for most substations is typical for other jurisdictions. Proposed changes in permissions are summarized in Table 1 below and include:

- I-3, I-4: change electrical substations from by right to SE
- I-5, I-6: continue to allow electrical substations by right, and add the ability to modify standards with SE approval
- P districts: add light utility facilities to the PCC District (Planned Continuing Care) to be consistent with other P districts.[1]

Table 1: Proposed Electrical Substation Permissions

Zoning District	Current Permission	Proposed Permission
Residential-Agricultural (R-A)	Not allowed	No change/not allowed
All other conventional R districts (R-E – R-MHP)	SE	No change/SE
Commercial districts (C-1 – C-8)	SE	No change/SE
Industrial-Institutional (I-I)	Not allowed	No change/not allowed
I-2	SE	No change/SE
I-3 and I-4	By right	SE
I-5 and I-6	By right	By right and SE allowed to modify standards
Planned districts (PDH, PRC, PDC, PRM, PTC)	Development plan or SE	No change/development plan or SE
Planned Continuing Care (PCC)	Not allowed	Development plan or SE

The proposed changes in standards and definitions are summarized in Table 2 below.

Table 2: Proposed Changes to Standards and Definitions

Subsection	Proposed Change
4102.4.X(1) and (2)	These standards regarding new utility or transmission poles with attached facilities, including small cell facilities, are proposed to be deleted. See discussion below.
New 4102.4.X(1)	A new table is added at the beginning of the use standards for light utility facilities that summarizes the permissions according to zoning district and type of light utility facility. The table carries forward the current permissions, except as outlined above.
New 4102.4.X(2) (previously (3))	This standard lists the light utility facility uses and structures that are exempt from the Ordinance. It is revised for clarity; no substantive changes are proposed.
New 4102.4.X(3) (previously (4))	The fence or wall standard for electrical substations is relocated to new standard (4).

[1] The addition of the PCC District to the Zoning Ordinance inadvertently did not include light utility facilities as a permitted use if shown on an approved development plan or by SE.

Subsection	Proposed Change
New 4102.4.X(4) (previously (5))	This standard is revised to remove the prohibition on equipment repair as part of a light utility facility, and to include editorial changes. Light utility facilities contain equipment that needs routine repair and maintenance. The revision is not intended to allow a separate principal use of an equipment repair or storage yard, except where otherwise allowed.
4102.4.X(6), (8), (9)	These standards are proposed to be deleted. They specify the types of light utility facilities permitted in certain districts, which is captured by the new permission table in new (1).
New 4102.4.X(5)	This standard adds new use-specific setbacks and screening requirements for electrical substations. See discussion below.
New 4102.4.X(6) and 8101.3.D(14)(e)	These standards require submission of a noise study prior to site plan approval or with an SE application for an electrical substation that is located next to residential. See discussion below.
4102.4.X(7)	This standard requires the finding of no alternative site in a commercial or industrial district if the proposed location is in an R district. The review area is one mile for a "transformer" (transmission) substation and a telecommunications central office, and 500 feet for any other light utility facility, which includes a distribution substation and other facilities, such as water and sewage pump stations and water storage facilities. Proposed revisions include: adding consideration of co-location or expansion of an existing facility if that would minimize adverse effects in the R district; and requiring a review of sites within one mile (range for consideration from 500 feet to one mile) for all types of electrical substations. This increases the area for a distribution substation to be the same as for a transmission substation. The visual impact can be similar for both transmission and distribution stations, with equipment of 75 feet or more in height. The distance for a telecommunications central office is proposed to be reduced to 500 feet, consistent with other light utility facilities.
5108.5.A(6)	Electrical substations are proposed to be added to the list of certain uses that are not subject to Table 5108.2 for transitional screening and barrier requirements, with the new use-specific screening standards referenced instead.
9103.4.E	Minor editorial changes are proposed to the definition of a light utility facility. A new sub-definition of electrical substation is added, and a sub-definition of a telecommunication facility is added for clarity based on the descriptions in the current standards.

Utility distribution or transmission poles with attached facilities: With the adoption of the new Zoning Ordinance that went into effect on July 1, 2021, the wireless facility use was

separated from the light utility facility use. Current standards X(1) and X(2) for light utility facilities reference the wireless facility standards in Y(5) and Y(6). This subjected new utility distribution or transmission poles to aesthetic and other requirements for wireless facilities in response to a Federal Communications Commission ruling that required aesthetic regulations imposed on small cell facilities to be no more burdensome than those applied to other types of infrastructure deployments. FCC Dec. Rul. & 3d. Rep. and Order, Sep. 26, 2018, ¶ 86. After a consolidated legal case struck down that standard, the County is no longer required to impose the same aesthetic standards on all infrastructure deployments. Based on this information, standard X(1) is unnecessary and may be deleted. Standard X(2) continues to be addressed by Y(6) and there are no other poles intended to be subject to the SE requirement. Utility poles with attached wireless facilities continue to be addressed in subsection 4102.4.Y and the proposed deletions result in no changes to the wireless facility standards.

New standards for setbacks and screening: To mitigate the substantial visual impacts, the proposed changes include removing the current transitional screening and barrier requirements noted above (a 35-foot-wide transitional screening yard and a six-foot-high solid wall or fence abutting or across the street from residential uses) and replacing them with use-specific requirements for setbacks and screening for electrical substations. These requirements would apply in all zoning districts; they would not be subject to administrative modification[2] but could be modified with SE approval. While an SE represents an additional application, as noted above, it can be processed concurrently with the 2232 application. For new substations associated with data centers, the data center applicant often determines the land area to be provided for the substation. The setbacks and landscaping requirements would ensure that sufficient land area is provided for the substation to minimize impacts on surrounding development.

- Applicability: The requirements would apply to new substations. In addition, when an existing substation expands in area, the requirements would apply in any direction that the expansion reduces the existing or approved distance by more than ten percent (range for Board consideration 0 – 20 percent) from a street, an R district or a residential use, or a C district. These applicability provisions are intended to recognize current conditions and provide additional flexibility for existing substations to expand and meet the new standards. In addition, for the purpose of these provisions only, an R district would not include any abutting property developed with an international airport and its related uses.
- Setbacks:
  - From a public or private street: 50 feet (range 25 – 100 feet)
  - From an R district, or a property developed with a residential use: 100 feet (range 50 – 300 feet)
  - From a C district: 20 feet (range 20 – 50 feet)

  For electrical substations, the setback would be measured from the lot line to the nearest structure or piece of equipment of the substation. The setback would not be

[2] Subsection 5108.5.B(4) allows a transitional screening yard to be reduced by up to two-thirds where a six-foot brick or architectural wall is provided (e.g., a 50-foot buffer may be reduced to 16 feet-8 inches). Subsection 5108.6.B allows certain waivers and modifications to be approved as part of the site plan approval process.

measured to the fence or wall or to the edge of the pad site. As indicated above, these use-specific setbacks are intended to mitigate adverse visual impacts and are similar to those required in certain other local jurisdictions.

- Fence or wall: A fence or wall for an electrical substation will continue to be exempt from the maximum fence or wall height limitations in subsection 4102.7.A(7)(b)5. The height for a substation fence or wall typically varies from 12 to 25 feet or more. A new provision is added to require a visually solid fence or wall that is a minimum of 12 feet in height where a substation abuts a street and where it abuts or is across the street from a residential area. As noted above, the Zoning Ordinance currently requires a six-foot high solid fence or wall when abutting or across the street from residential uses. Dominion Energy and NOVEC indicated that the height and materials for barriers are generally determined for each site based on local zoning requirements and security considerations. While a variety of barriers are employed by the utility companies, one of the standard fence types is a 5/8" non-climbable chain link fence, which would not be considered visually solid under the proposed standard. However, a more opaque barrier as proposed would minimize the visual impacts of substations on residential areas and the view from a street, which is particularly important where landscaping may not be possible due to the location of overhead electrical lines. The proposed requirement for a visually solid fence or wall could be satisfied with various options, some of which, such as a chain link fence with slats, would not increase costs. Other local jurisdictions also have zoning requirements for barriers that are opaque or nearly opaque.
- Landscaping: The standards establish requirements for a landscaped buffer planted with a mixture of large and medium trees and evergreen shrubs, similar to the requirements for transitional screening in subsection 5108.5. NOVEC has indicated that they prefer to plant evergreen trees, because deciduous trees pose a greater risk of falling into the substation. Accordingly, the proposed standard allows, but does not require, deciduous trees. The buffer would need to be continuous, except where driveways or other openings are required. Where electrical lines preclude the planting of trees, shrubs or other similar vegetation would need to be provided. As noted above, the standards could be modified with SE approval but would not be subject to administrative modification.
  - Abutting a public or private street: 35 feet in width (range 25 – 50 feet)
  - Abutting an R district or a property developed with a residential use: 50 feet in width (range 25 – 50 feet)
  - Abutting a C district: 20 feet in width (range 10 – 50 feet)

Noise: Substations are subject to the Noise Ordinance, Chapter 108.1 of the County Code. This is a separate chapter of the County Code from the Zoning Ordinance. Based on a report provided by an acoustical consultant, electrical substations can generate a sound level of approximately 55 to 80 dBA at the source, with the sound often being a low-frequency hum from the transformers. These facilities could potentially exceed the maximum sound levels allowed under the Noise Ordinance, which includes a maximum of 55 dBA at night and 60 dBA during the day in residential areas as measured at the property boundary or at any point within an affected property. Although the proposed setbacks will assist with reducing noise impacts on

surrounding properties, as indicated by acoustical experts, even with a 100-foot setback from residential uses, the noise could still exceed 55 dBA at the property line. Therefore, given the possibility that the noise generated by a substation could exceed the Noise Ordinance limits and the many variables that affect sound propagation, the amendment includes a requirement for submission of a single noise study either with an SE application (if an SE is required) or with a site plan application for a by-right electrical substation. Given the lower decibel levels in the Noise Ordinance for residential uses, the noise study would only be required for substations that are located abutting properties that are zoned or developed for a residential use.[3] While this would represent a new submission requirement[4], it would ensure that any required noise mitigation is determined as part of the noise study and incorporated during the approval process of the substation, ensuring that all mitigation measures are shown on the approvals, and limiting the potential for a difficult and costly retrofit following a complaint after development.

Electromagnetic fields: Questions have been raised during public hearings on certain substation applications about electromagnetic fields (EMF). This federal Environmental Protection Agency website contains information about EMF. It indicates that scientists continue to research the possible health effects of exposure to EMFs and notes that there are currently no federal standards limiting EMF from power lines and other similar sources. Dominion Energy also provides information about EMF, including comparisons to other sources in the home and the rates at which EMF levels reduce over distance. Based on the available information, EMF is not considered to be a topic for this Zoning Ordinance amendment.

Provisions relating to previous approvals:
While not part of the codified Zoning Ordinance, Appendix 1 – Provisions Relating to Previous Approvals, addresses the applicability of specific Zoning Ordinance amendments to previous approvals or applications under review. The Board may consider allowing applications that are under review to continue under the previous Zoning Ordinance requirements. Draft language is provided below:

B. Amendments Adopted After May 10, 2023

(#) Substations (ZO 112.2-2025-#)

(a) Any application for a special exception or site plan for an electrical substation that is (i) accepted for review before ***(insert effective date of amendment)***, or (ii) accepted for review before ***(insert date one year after effective date of amendment)*** and that is in accordance with a Va. Code 15.2-2232 application that has been approved or has been accepted for review prior to ***(insert effective date of amendment)*** and is approved before approval of the special exception or site plan – will be reviewed based on the provisions of the Zoning Ordinance in effect on ***(insert date prior to effective date of amendment)***, if:

[3] A noise study would not be required for a substation abutting Dulles airport property, which is zoned R-1.
[4] The potential cost of a noise study would be subject to site specifics, but estimates range from $10,000 to $30,000.

1. The application is approved by ***(insert date two years after effective date of amendment)***;
2. The approval remains valid; and
3. The uses, features, and substation are established or constructed in accordance with approved plans and permits.

An approved plan may be revised notwithstanding this amendment if it does not aggravate conflicts with the amendment. Building permits and other related subsequent plan and permit submissions may be accepted, and new approvals may be granted, consistent with the approved plan. The applicant/owner may elect to have the above applications reviewed in their entirety under the provisions of this amendment.

(b) For all rezonings and related development plans, special exceptions, or site plans that include an electrical substation approved before ***(insert effective date of amendment)***, the applicant/owner may continue under their previous approval. Subsequent plan and permit submissions may be accepted, and new approvals may be granted, consistent with those prior approvals. Revisions to such prior approvals may be approved if they do not aggravate conflicts with this amendment.

Community Outreach

In addition to meetings with Dominion Energy, NOVEC, and other interested parties, the substations Zoning Ordinance amendment was discussed at the Board's Land Use Policy Committee and the Planning Commission's Infrastructure Committee meetings in January 2025 and at two virtual community meetings in April 2025. Draft text was posted in advance of the community meetings, which were broadly advertised, and the recordings are posted on the project website. Feedback received was broad and included concerns from some groups about adding new regulations, and also recommendations from others for additional limitations to protect residential areas, such as increased setbacks, upgraded barriers, and the requirement for an SE whenever the site is adjacent to residential.

Summary

Overall, the proposed revisions would continue to allow these essential facilities throughout the County, with added provisions for compatibility with surrounding uses. Staff recommends that the amendment become effective at 12:01 a.m. on the day following adoption.

Proposed Text

In the revisions shown below, text to be deleted is identified with ~~strike-through~~ and text to be added is underlined. The footnotes are descriptive and will not be included in the Zoning Ordinance. Options for consideration are provided ***[in brackets, italics and bold]***. The proposed changes are based on the adopted Zoning Ordinance in effect as of April 23, 2025.

INSTRUCTION: In Table 4101.1, revise permissions for Utility Facility, Light to add SE to I-3, I-4, I-5, and I-6 as specified in the use standards. Also, delete the by-right permissions in the R districts and I-I. In Table 4101.2, revise the planned district permissions to SE in all districts where permitted, and add the PCC District, as shown below.

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; blank cell = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

Use	Residential Districts														Commercial Districts								Industrial Districts						Use-Specific Standards NOTE: General Standards also apply
	R-A	R-C	R-E	R-1	R-2	R-3	R-4	R-5	R-8	R-12	R-16	R-20	R-30	R-MHP	C-1	C-2	C-3	C-4	C-5	C-6	C-7	C-8	I-I	I-2	I-3	I-4	I-5	I-6	
Public, Institutional, and Community Uses																													
Utilities: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities																													
Solar Power Facility	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	P	4102.4.V
Utility Facility, Heavy		SE	SE	SE	SE																		SE	SE	SE	SE	P SE	P	4102.4.W
Utility Facility, Light[5]	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	~~P~~ SE	P SE	P SE	P SE	P SE	P SE	P SE	P SE	P SE	~~P~~ SE	P SE	P SE	P SE	P SE	P SE	4102.4.X
Wireless Facility	See standards in 4102.4.Y for different permissions.																												4102.4.Y

[5] The permissions are revised to remove by-right permissions from the R districts and the I-I District because these are in reference to wireless permissions addressed in subsection 4102.4.Y.

TABLE 4101.2: Use Table for Planned Development Districts

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
SE = special exception; SP = special permit; blank cell = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use;
AP = allowed with approval of administrative permit

Use	PDH		PRC					PDC		PRM		PTC	PCC		Use-Specific Standards NOTE: General Standards also apply
	Principal	Secondary	Residential	Neighborhood Convenience Center	Village Center	Town Center	Convention/ Conference Center	Principal	Secondary	Principal	Secondary		Principal	Secondary	
Public, Institutional, and Community Uses															
Utilities: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities															
Solar Power Facility		✓/SE	✓/SE	✓/SE	✓/SE	✓/SE	✓/SE		✓/SE		✓/SE	✓/SE			4102.4.V
Utility Facility, Heavy			SE												4102.4.W
Utility Facility, Light		✓/SE	✓/SE	✓/SE	✓/SE	✓/SE	✓/SE		✓/SE		✓/SE	✓/SE		✓/SE	4102.4.X
Wireless Facility	See standards in 4102.4.Y for different permissions.														4102.4.Y

INSTRUCTION: Revise the standards in subsection 4102.4.X for Utility Facility, Light, as shown below. ***[Options for consideration included.]*** Also, revise subsection 4102.7.A(7)(b)5 to replace "electric substation" with "electrical substation."

4. Public, Institutional, and Community Uses

Community, Cultural, and Educational Facilities

X. Utility Facility, Light

~~**Standards applicable to new utility distribution or transmission poles:**~~

~~**(1)** New utility distribution or transmission poles with attached facilities, including small cell facilities, that are not more than 50 feet in height, are permitted by right when they comply with subsection 4102.4.Y(5) for Zoning Administrator approval of an Administrative Review Eligible Permit.~~

~~**(2)** New utility distribution or transmission poles with attached facilities, including small cell facilities, that are more than 50 feet in height, require special exception approval by the Board subject to subsection 4102.4.Y(6).~~

Standards applicable to all light utility facilities: ~~other Light Utility Facilities:~~

~~**General**~~

(1) The permissions for light utility facilities are as shown in the table below.[6]

Light Utility Facility Permissions		
Zoning District	**Uses Permitted By Right**	**Uses Permitted By SE**
R-A	None	Telecommunication facilities Utility transmission facilities Water storage, control, and pumping facilities
All other R districts	None	All light utility facilities
Commercial districts	Telecommunication facilities	All other light utility facilities
I-1	None	Sewerage pumping facilities
I-2	Telecommunication facilities	All other light utility facilities
I-3 and I-4	All light utility facilities, except electrical substations	Electrical substations
I-5 and I-6	All light utility facilities	Not applicable, except to modify standards for electrical substations
P districts	All light utility facilities if shown on development plan	All light utility facilities

(2)~~(3)~~ Except for electrical substations located on or above the surface of the ground, ~~If located in a street right-of-way or in an easement less than 25 feet in width,~~ the following light ~~facility~~ utility facility uses and structures are exempt from the Ordinance regulations if located in a street right-of-way or in an easement less than 25 feet in width:[7]

- ~~(a)~~ w~~W~~ires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a government entity or a public utility including customary meter pedestals, distribution transformers and temporary utility facilities required during building construction, whether any such facility is located underground or aboveground.
- ~~(b) This exemption does not include any substation located on or above the surface of the ground or any distribution facility.~~

(3)~~(4)~~ Light utility facility uses are not required to comply with the lot size requirements or the bulk regulations for the zoning district where they are located. ~~In addition, a fence or wall that is an integral part of an electrical substation may exceed the maximum fence or wall height in accordance with subsection 4102.7.A(7)(b)5.~~[8]

(4)~~(5)~~ Except in the I-5 or I-6 District, the following are prohibited as part of a light utility facility:

- **(a)** Storage of materials or equipment;
- **(b)** Repair or servicing of vehicles ~~or equipment~~; and

[6] This is a new standard that summarizes the specific permissions for light utility facilities. Permissions are carried forward, except in I-3 and I-4, electrical substations are changed from by right to SE; in I-5 and I-6, an SE is added to allow for modification of standards for substations. The PCC District is included with the other planned districts.
[7] This standard is revised for clarity.
[8] The last sentence is relocated to new subsection (5).

(c) Parking of vehicles except those needed by employees connected with the operation of the immediate facility.

(5) Electrical substation setbacks and screening

These requirements may be modified with special exception approval in accordance with subsection 8100.3. The requirements apply to any new electrical substation. In addition, when an existing substation expands in area, these requirements apply in any direction that the expansion reduces the existing or approved distance by more than ten percent ***[option to delete "by more than ten percent" or increase up to 20 percent]*** from the substation to: (i) a public or private street; (ii) an R district or a property developed with a residential use; (iii) a C district. For the purpose of these provisions, an R district does not include a property that is developed with an international airport and its related uses.

(a) Setbacks: The setback is measured to the nearest substation structure or equipment, not a fence or wall.

1. A minimum setback of 50 feet ***[25 to 100 feet]*** is required from a public or private street.

2. A minimum setback of 100 feet ***[50 to 300 feet]*** is required from an abutting lot line of an R district or a property developed with a residential use.

3. A minimum setback of 20 feet ***[20 to 50 feet]*** is required from an abutting lot line of a C district.

(b) Fence or wall: A fence or wall that is an integral part of an electrical substation may exceed the maximum fence or wall height in accordance with subsection 4102.7.A(7)(b)5. A visually solid fence or wall a minimum of 12 feet in height is required where a substation: (i) abuts a public or private street; or (ii) abuts or is across the street from the lot line of an R district or a property developed with a residential use.

(c) Landscaping:

1. A minimum of 35 feet ***[25 to 50 feet]*** in width is required abutting a public or private street.

2. A minimum of 50 feet ***[25 to 50 feet]*** in width is required abutting the lot line of an R district or a property developed with a residential use.

3. A minimum of 20 feet ***[10 to 50 feet]*** in width is required abutting the lot line of a C district.

4. The landscape buffer must be continuous, except where driveways, electrical line connections to the substation, or other openings are required. Where electrical line connections to the substation prevent the planting of trees, shrubs, in accordance with subsection (5)(c)5.c below, or similar plantings must be provided.

5. Landscaping must be provided in accordance with Chapter 12 of the Public Facilities Manual and as follows:

a. A mixture of large and medium trees that achieve a minimum ten-year tree canopy of 75 percent or greater;

b. A mixture of trees consisting of at least 70 percent evergreen trees, or at least 50 percent evergreen trees if at least 25 percent of the area contains existing vegetation and/or new native trees; and consisting of no more than 35 percent of any single species of tree; and

c. A mixture of predominately medium evergreen shrubs at a rate of three shrubs for every ten linear feet. The shrubs must generally be located away

from any barrier and staggered along the outer boundary of the landscaping.

(6) Unless provided as part of a special exception application, prior to site plan approval for an electrical substation that is abutting a lot line of an R district or a property developed with a residential use, a noise study must be submitted demonstrating to the Zoning Administrator's satisfaction that the operation of the substation will comply with the Noise Ordinance, Chapter 108.1 of the County Code. This requirement does not apply to a substation that is abutting property developed with an international airport and its related uses.

~~**Standards when all other light utility facilities are permitted by right:**~~

~~**(6)** In all commercial districts and in the I-2 District, only telecommunication facilities, which are uses that transmit information by wire or radio, including telephone or telegraph central offices and repeat stations, are allowed by right.~~[9]

Standards when ~~all other light utility facilities are~~ permitted by special exception:

(7) If the proposed location is in an R district ~~or the residential area of a P district~~,[10] the use may be permitted only upon a finding by the Board that: (a) the proposed location is a co-location or expansion of an existing facility and would minimize adverse effects in the R district as compared to alternative sites; or (b) there is no alternative site in a commercial or industrial district that can provide satisfactory service within the ~~following~~ distances below:

(a) One mile ***[500 feet to one mile]*** of the proposed location for an ~~proposed~~ electrical ~~transformer~~ substation ~~or telecommunications central office~~; and

(b) 500 feet of the proposed location for any other light utility facility.

~~**(8)** In the R-A District, only telecommunication facilities, including central offices and repeat stations, utility transmission facilities, and water storage, control, and pumping facilities, may be approved.~~

~~**(9)** In the I-I District, only sewerage pumping facilities may be approved.~~

INSTRUCTION: Revise subsection 5108.5.A(6) to include electrical substations, since transitional screening and barriers is addressed by new use standards.

5. Transitional Screening and Barriers

A. Applicability

(6) The following uses are not included in Table 5108.2 and are subject to the standards below:

(e) An electrical substation is subject to the requirements of subsection 4102.4.X(5).

[9] This standard and current subsections (8) and (9) are no longer needed with the proposed permission table in subsection (1). Deleted the reference to telegraph facilities.

[10] 'R district' is interpreted in subsection 9100.11 to include the residential areas in a P district.

INSTRUCTION: Add subsection 8101.3.D(14)(e) to require a noise study with a special exception application for an electrical substation.

D. Additional or Modified Submission Requirements for Specific Special Exception Applications

(14) Light Utility Facility, Heavy Utility Facility, and Wireless Facility

(e) For an electrical substation that is abutting a lot line of an R district or a property developed with a residential use, a noise study demonstrating that the proposed substation will comply with the Noise Ordinance, Chapter 108.1 of the County Code. This requirement does not apply where the abutting property is developed with an international airport and its related uses.

INSTRUCTION: Revise the definition for Utility Facility, Light, as shown below.

9103. Uses

4. Public, Institutional, and Community Uses

E. Utilities

Utility Facility, Light

A structure or facility generally related to the distribution or collection of utility products or services, rather than the production of those products or services, that needs to be in or near the neighborhood or near utility consumers. Examples of light utility facilities include water and sewage pump stations, telecommunication facilities ~~telephone local exchanges~~, water storage facilities, and electrical substations ~~including distribution centers and transformer substations~~. This use does not include (1) ordinary distribution facilities for delivery of utilities to customers that are in the public right-of-way or in easements or strips of property owned in fee simple not more than 25 feet in width; or (2) transmission lines approved by the State Corporation Commission.

Electrical Substation[11]

A facility that is part of a regional interconnecting grid system or dedicated to an individual user for the transformation, transmission, switching of transmission or distribution voltages, or distribution of electric power.

Telecommunication Facilities[12]

Uses that transmit information by wire or radio, including telephone central offices and repeat stations.

[11] This is a new definition of electrical substation to include both transmission and distribution substations.
[12] This definition carries forward the descriptions currently contained in the use standards.

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 4

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

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to *Appendix G of The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Oakton Residential Permit Parking District (RPPD), District 19, to include the east side of Sutton Road from Sutton Green Court to the northern property boundary of 9640 Sutton Green Court.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing for August 26, 2025, at 4:00 p.m., to consider adoption of the proposed amendment to Appendix G to expand the Oakton RPPD, District 19.

TIMING:
Board Action is requested on July 15, 2025, to provide sufficient time for advertisement of a public hearing for August 26, 2025, at 4:00 p.m.

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

The Sutton Green Homeowners Association has petitioned for the expansion of District 19 due to a high number of student vehicles parked on Sutton Road adjacent to their community during school hours. Staff have verified that the petitioning blocks are within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of Oakton High School and thus qualify for inclusion in District 19. Staff have also verified that all other requirements to establish the RPPD discussed above have been met.

EQUITY IMPACT:
The project area is located within a low vulnerability index. Approximately 13% of residents in this Census tract are in low-income occupations, and approximately 9% of the residents speak English less than well. Generally, the establishment of residential parking restrictions to prohibit non-resident vehicles during restriction hours supports Fairfax One Focus Area 12, a healthy and quality environment to live and work in that acknowledges the need to breathe clean air, to drink clean water now and for future generations by reducing the number of vehicles traveling on the street, leading to fewer vehicle emissions in the affected residential environment. However, at this time, there is insufficient information to determine an overall equity impact related to this change.

FISCAL IMPACT:
Funding of approximately $600 is required for signage and installation. Funds are currently available in Fairfax County Department of Transportation Fund 100-C10001, General Fund.

ENCLOSED DOCUMENTS:
Attachment 1: Proposed Amendment to the Fairfax County Code
Attachment 2: Map Depicting Proposed Expansion of Oakton RPPD, District 19

STAFF:
Jennifer Miller, Deputy County Executive
Gregg Steverson, Director, Fairfax County Department of Transportation (FCDOT)
Lisa Witt, Chief, Administrative Services, FCDOT
Mena Nakhla, Equity Manager, FCDOT
Eric Teitelman, Chief, Active Transportation, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Henri Stein McCartney, Sr. Transportation Planner, FCDOT

Board Agenda Item
July 15, 2025

ASSIGNED COUNSEL:
F. Hayden Codding, Assistant County Attorney

Attachment 1

PROPOSED CODE AMENDMENT

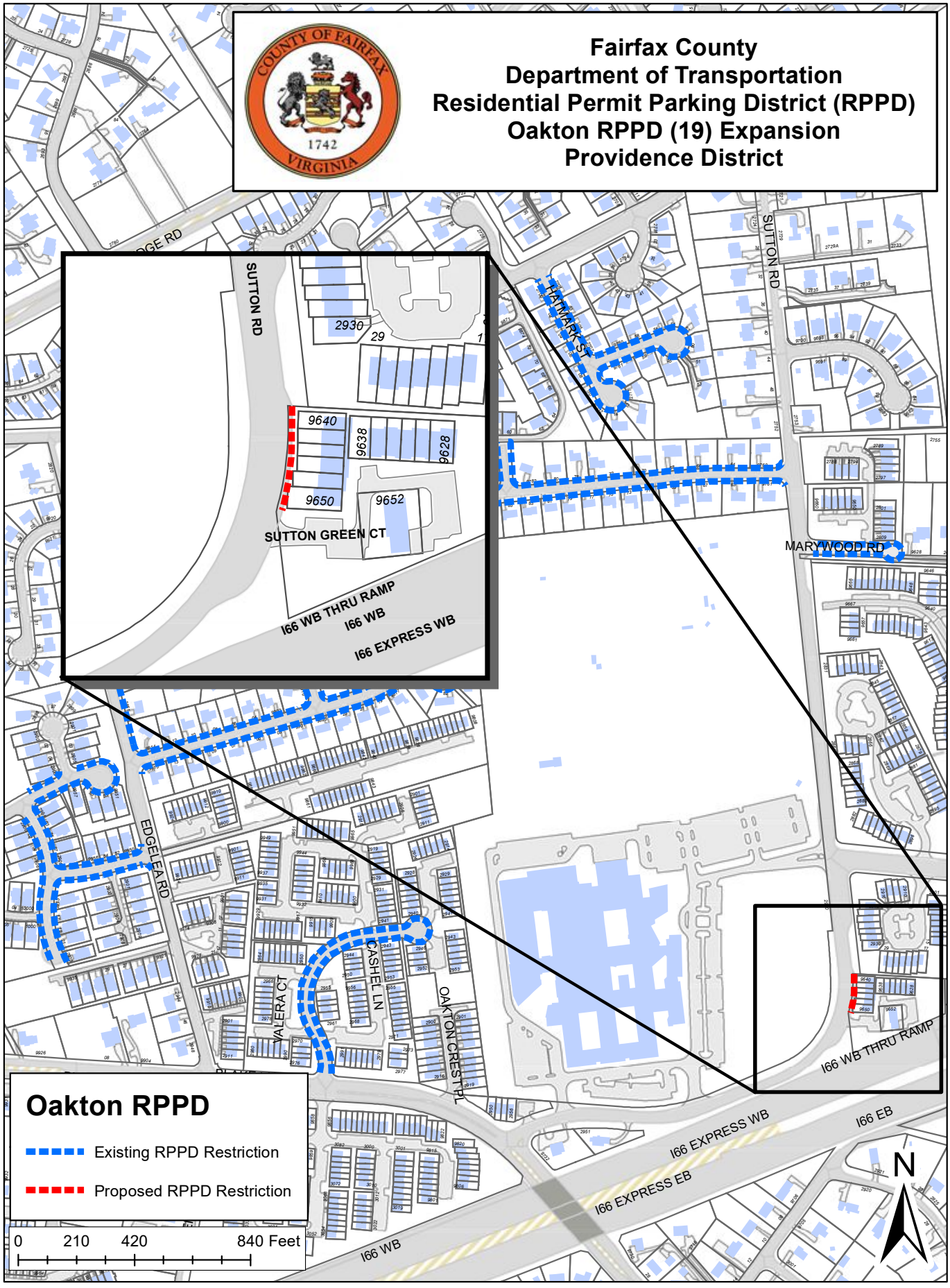
THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX G

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

Sutton Road (Route 701):

East side, from Sutton Green Court to the northern property boundary of 9640 Sutton Green Court

Attachment 2



Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 5

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program – Tyler Avenue (Providence District)

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

RECOMMENDATION:
The County Executive recommends that the Board approve a resolution (Attachment 1) endorsing a traffic calming plan for Tyler Avenue (Attachment 2) consisting of the following:

- Four Speed Humps on Tyler Avenue (Providence District)

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

TIMING:
Board action is requested on July 15, 2025, to allow the proposed measure(s) to be installed as soon as possible.

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

On June 2, 2025, FCDOT received verification from the Providence District Supervisor's office confirming community support for the Tyler Avenue traffic calming plan.

Board Agenda Item
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EQUITY IMPACT:
None.

FISCAL IMPACT:
Funding in the amount of $62,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-C30050, Transportation Improvements.

ENCLOSED DOCUMENTS:
Attachment 1: Traffic Calming Resolution for Tyler Avenue.
Attachment 2: Traffic Calming Plan for Tyler Avenue.

STAFF:
Jennifer Miller, Deputy County Executive
Gregg Steverson, Director, Fairfax County Department of Transportation (FCDOT)
Martha Elena Coello, Deputy Director, FCDOT
Eric Teitelman, Chief, Active Transportation, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT
Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT
Ryan O'Carroll, Transportation Planner, Traffic Engineering Section, FCDOT
Grace Vaughn, Planning Technician, Traffic Engineering Section, FCDOT

Attachment 1

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
TYLER AVENUE
PROVIDENCE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, July 15, 2025, at which a quorum was present and voting, the following resolution was adopted:

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

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

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

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

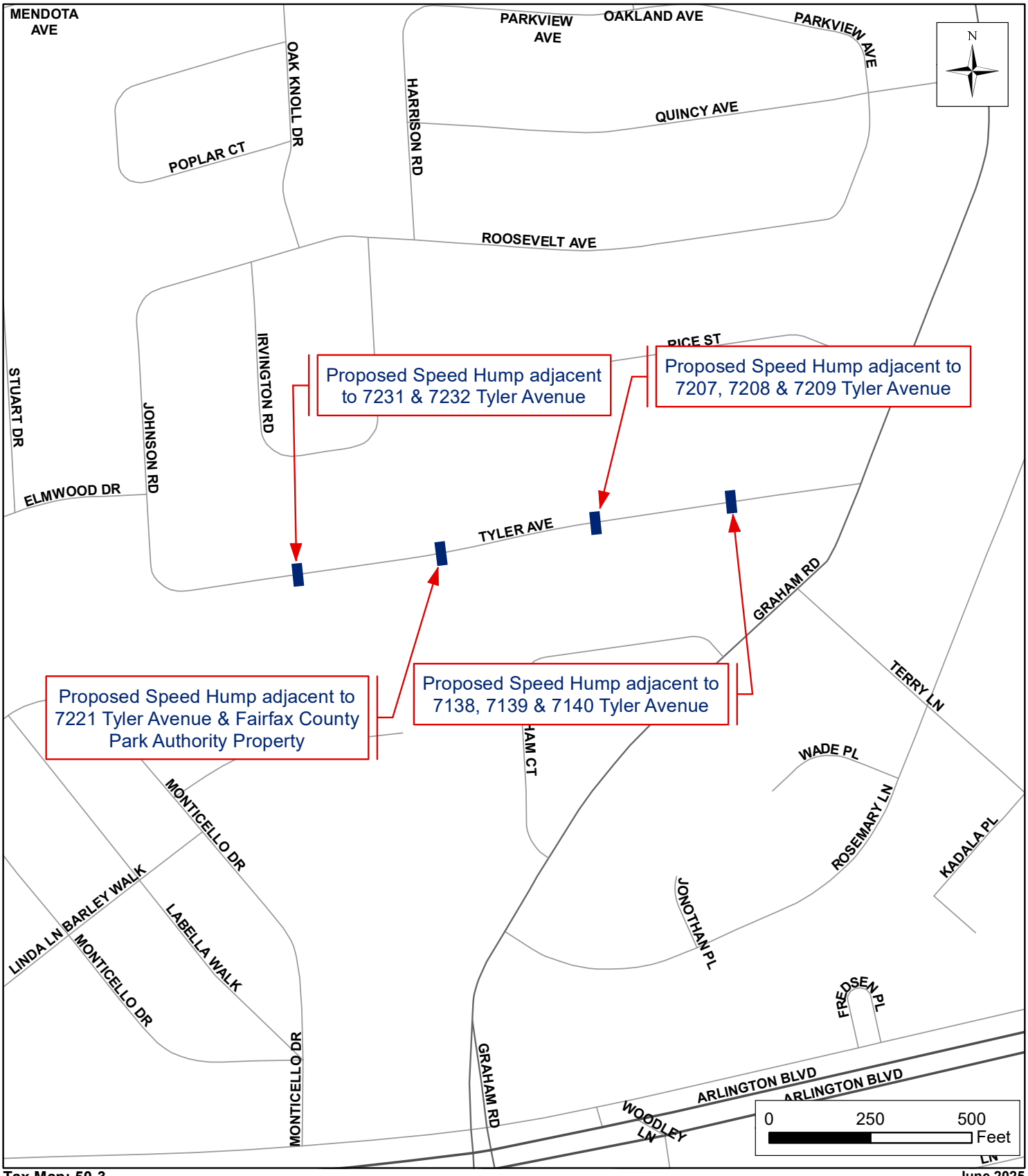
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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

ADOPTED this 15th day of July, 2025.

A Copy Teste:

_____
Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 50-3

June 2025

Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Tyler Avenue
Providence District

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 6

Supplemental Appropriation Resolution AS 26005 for the Fairfax County Health Department to Accept Grant Funding from the Association of State and Territorial Health Officials to Support Public Health Infrastructure Enhancement and Data Modernization Efforts

ISSUE:
Board of Supervisors' (Board) approval for the Fairfax County Health Department (FCHD) to accept $750,000 in funding from the Association of State and Territorial Health Officials (ASTHO) to modernize Fairfax County public health infrastructure. This funding will enable critical enhancements and state-level integration to the Health Department's local electronic disease surveillance system, improving the efficiency and effectiveness of the Epidemiology and Population Health Division. This grant will provide important system/infrastructure upgrades that were otherwise envisioned to occur in future years if/when funding became available. No Local Cash Match is required. Board authorization is also requested for the Chairman of the Board, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:
The County Executive recommends that the Board approve the Supplemental Appropriation Resolution AS 26005 from ASTHO in the amount of $750,000 to strengthen the public health infrastructure through data and system enhancements. No Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:
Board approval is requested on July 15, 2025.

BACKGROUND:
To advance the use of modern health IT standards and data exchange within public health agencies (PHAs), the U.S. Centers for Disease Control and Prevention (CDC)

established the Public Health Infrastructure Grant (PHIG), allocating $255 million. The CDC selected the Association of State and Territorial Health Officials, the National Network of Public Health Institutes (NNPHI), and the Public Health Accreditation Board (PHAB) – establishing the PHIG Partners – to implement this initiative. These partners then formed the Data Modernization Implementation Center Program (IC), designed to provide technical assistance and resources to PHAs, with a focus on enhancing data exchange capabilities.

Through the ICs, a survey of expressions of interest was conducted among PHAs to identify agencies ready to pursue modernization projects. Recognizing FCHD's commitment to ongoing public health infrastructure modernization, including the recent development of its local electronic disease surveillance system (EDSS), and cloud-based data warehouse, FCHD was selected for an interview. Following the interview, a review of FCHD's modernization efforts, and an assessment of its ability to complete the initiative within the program timeline, FCHD was chosen to participate in Wave 1 of the grant program.

This selection allows the Health Department to further strengthen its disease control efforts and improve agency efficiency by enhancing the EDSS through integration with state-level systems. Grant funding will allow the agency to implement these enhancements that will yield significant technical and programmatic benefits. The expected duration to implement these enhancements is 1 to 1.5 years. The ASTHO grant funding will directly support these critical initiatives, allowing the Health Department to build upon existing systems and ensure there is a robust data infrastructure in place to protect the health of the community.

EQUITY IMPACT:
None.

FISCAL IMPACT:
Funding in the amount of $750,000 from the Association of State and Territorial Health Officials will be used for development and enhancements to the Health Department's electronic disease surveillance system and public health cloud data warehouse. No Local Cash Match is required. This grant does not allow the recovery of indirect costs. This action does not increase the expenditure level of Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2026.

Board Agenda Item
July 15, 2025

CREATION OF POSITIONS:
No new positions will be created by this grant.

ENCLOSED DOCUMENTS:
Attachment 1: Subaward Agreement
Attachment 2: Supplemental Appropriation Resolution 26005

STAFF:
Christopher Leonard, Deputy County Executive
Gloria Addo-Ayensu, Director, Fairfax County Health Department (FCHD)
Jessica Werder, Deputy Director for Public Health Operations, FCHD
Noel Clarin, Public Health Informatics and IT Director, FCHD

SUBAWARD AGREEMENT

This Subaward Agreement (the "Agreement") is effective as of June 18, 2025, and is made by and between the **Association of State and Territorial Health Officials** (hereinafter referred to as "ASTHO"), 1600 Duke Street, Suite 450, Alexandria, VA 22314, and the following Subrecipient Awardee, hereinafter referred to as "Subrecipient":

_ Fairfax County, through the Fairfax County Health Department ____ 54-0787833
(Subrecipient Awardee) (Federal Tax ID No.)

10777 Main St
(Address)

Fairfax, VA 22030 _(703)-246-2411
(City, State and Zipcode) (Phone)

Hereinafter, ASTHO and Subrecipient each may be referred to individually as a "Party" and together as "Parties."

WHEREAS, in furtherance of its mission as a nonprofit corporation recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, ASTHO wishes to engage Subrecipient to perform certain services as set forth in this Agreement and Subrecipient agrees to do so under the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. PURPOSE OF AGREEMENT: For Subrecipient Services as per scope of work outlined in Attachment 1, which is attached hereto and hereby incorporated as a part of this Agreement.

2. TERM OF AGREEMENT: The term of the Agreement shall be from 6/18/2025 to 9/30/2027 (the "Term"). Expiration of the Term or termination of this Agreement shall not extinguish any rights or obligations of the parties which have accrued prior thereto. This Agreement may be extended and/or supplemented at any time with the mutual written agreement of the Parties.

3. RELATIONSHIP: ASTHO and the Subrecipient are independent parties, and the relationship between ASTHO and the Subrecipient shall be as set forth in this Subrecipient Agreement. Nothing herein shall be construed to create partnership, joint venture, or general agency. Neither party may speak nor act on behalf of the other, nor legally commit the other.

4. PAYMENT OF TAXES AND OTHER LEVIES: Subrecipient shall be exclusively responsible for reporting and payment of all applicable income tax payments, unemployment insurance, worker's compensation insurance, social security obligations, and similar taxes and levies.

5. INDEMNIFICATION: Each party shall be responsible for its own acts and omissions, and the results thereof. This Agreement does not provide for indemnification of one party by the other. Nothing in this section shall be construed as a waiver of any sovereign immunity, defense, or limitation of liability available to either party under applicable law.

6. REVISIONS AND AMENDMENTS: Any revisions or amendments to this Agreement must be made

in writing and signed by the parties.

7. ASSIGNMENT: Subrecipient may not assign its rights and obligations in this Agreement nor delegate any duties herein without prior written agreement from ASTHO.

8. INTERFERING CONDITIONS: Subrecipient shall promptly and fully notify ASTHO of any condition which interferes with, or threatens to interfere with, the successful carrying out of Subrecipient's duties and responsibilities under this Agreement, or the accomplishment of the purposes thereof. Such notice shall not relieve Subrecipient of said duties and responsibilities under this Agreement.

9. OWNERSHIP OF MATERIALS: All materials submitted or developed by Subrecipient for ASTHO, including reports, summaries, articles, pictures and art, and any other tangible work product produced by Subrecipient specifically on behalf of ASTHO during the term of this Agreement (collectively, "Materials") shall, as between Subrecipient and ASTHO, be deemed ASTHO's property exclusively (subject to any licensed third-party rights retained therein).

   Notwithstanding the foregoing and for the avoidance of doubt, this Section 10 shall only cover deliverables developed specifically at ASTHO's direction and shall not apply to any materials, data, tools, systems, software, documentation, methodologies, or other work products that are developed by Subrecipient for its own internal use or operations, or that existed prior to the Effective Date of this Agreement or were independently developed by Subrecipient outside the scope of services performed for ASTHO. No rights in Subrecipient's pre-existing or independently developed intellectual property are transferred or assigned to ASTHO under this Agreement.

10. SUBJECT IDEAS AND INVENTIONS:

    a. Definition. The term "Subject Ideas and Inventions" includes any and all ideas, processes, trademarks, service marks, inventions, designs, technologies, original works of authorship, formulas, discoveries, patents, copyrights, copyrightable works, products, marketing and business ideas, and all improvements, know-how, data, rights, and claims related to the foregoing that, whether or not patentable, are conceived, developed or created which: (1) relate to ASTHO's operations; (2) relate to the ASTHO's actual or demonstrably anticipated research or development; (3) result from any work performed by Subrecipient for ASTHO; (4) involve the use of the ASTHO's equipment, supplies, facilities or trade secrets; (5) result from or are suggested by any work done by ASTHO or at ASTHO's request, or any projects specifically assigned to Subrecipient; or (6) result from Subrecipient's access to any of ASTHO's memoranda, notes, records, drawings, sketches, models, maps, customer lists, research results, data, formulae, specifications, inventions, processes, equipment or other materials, regardless of whether such materials are in electronic, machine code, hard copy or any other format.

    b. Company Ownership. All right, title and interest in and to all Subject Ideas and Inventions, including but not limited to all registrable and patent rights which may subsist therein, shall be held and owned solely by ASTHO, and where applicable, all Subject Ideas and Inventions shall be considered works made for hire as defined in 17 U.S.C. § 101. Subrecipient shall mark all Subject Ideas and Inventions with ASTHO's copyright or other proprietary notice as directed by ASTHO and shall take all actions deemed necessary by the Subrecipient to protect ASTHO's rights therein. In the event that the Subject Ideas and Inventions shall be deemed not to constitute works made for hire, or in the event that Subrecipient should otherwise, by operation of law, be deemed to retain any rights (whether moral rights or otherwise) to any Subject Ideas and Inventions, Subrecipient hereby transfers all right, title and interest to any Subject Ideas and Inventions in favor of ASTHO

and shall execute such documents reasonably necessary to effectuate the assignment of Subrecipients entire right, title, and interest in and to each and every such Subject Ideas and Inventions to ASTHO, without further consideration.

c. Determination of Subject Ideas and Inventions. Subrecipient further agrees that all information and records pertaining to any idea, process, trademark, service mark, invention, trade secret, technology, computer hardware or software, original work of authorship, design, formula, discovery, patent, copyright, product, and all improvements, know-how, rights, and claims related to the foregoing ("Intellectual Property"), that Subrecipient does not believe to be a Subject Idea or Invention, but that is conceived, developed, or reduced to practice by ASTHO (alone by Subrecipient or with others) during the Term and for one (1) year following the termination or expiration of this Agreement, shall be disclosed promptly by Subrecipient to ASTHO. ASTHO shall examine such information to determine if in fact the Intellectual Property is a Subject Idea or Invention subject to this Agreement.

d. Assistance. Subrecipient further agrees to assist ASTHO in every proper way (but at ASTHO's expense) to obtain and from time to time enforce patents, copyrights or other rights or registrations on said Subject Ideas and Inventions in any and all countries, and to that end will execute all documents necessary;
   i. to apply for, obtain, and vest in the name of ASTHO alone (unless ASTHO otherwise directs) letters patent, copyrights, or other analogous protection in any country throughout the world and when so obtained or vested to renew and restore the same; and
   ii. to defend any opposition proceeding in respect of such applications and any opposition proceedings or petitions or applications for revocation of such letters patent, copyright, or other analogous protection; and
   iii. to cooperate with ASTHO (but at the ASTHO's expense) in any enforcement or infringement proceeding on such letter patent, copyright, or other analogous protection.

e. Authorization to ASTHO: In the event ASTHO is unable, after reasonable effort, to secure Subrecipient's signature on any patent, copyright, or other analogous protection relating to a Subject Idea and Invention for any reason whatsoever, Subrecipient hereby irrevocably designates and appoints ASTHO and its duly authorized officers and agents as Subrecipient's agent and attorney-in-fact, to act for and on Subrecipient's behalf and stead to execute and file any such application, applications or other documents and to do all other lawfully permitted acts to further the prosecution, issuance, and enforcement of letters patent, copyright or other analogous rights or protections thereon with the same legal force and effect as if executed by Subrecipient. Subrecipient's obligation to assist ASTHO in obtaining and enforcing patents and copyrights for Subject Ideas and Inventions in any and all countries shall continue beyond the termination of Subrecipient's relationship with PH ASTHO AB, but ASTHO shall compensate Subrecipient at a reasonable rate after such termination for time actually spent by Subrecipient at ASTHO's request on such assistance.

f. Notwithstanding anything to the contrary herein, the provisions of this Section 10 shall apply exclusively to Subject Ideas and Inventions that are created by Subrecipient in the course of performing services at the request of ASTHO and for the express purpose of use by ASTHO. This Section shall not apply to inventions, ideas, processes, technologies, or other intellectual property that are developed solely for Subrecipient's internal purposes, or that existed prior to the commencement of this Agreement, or were independently developed by Subrecipient without use of ASTHO's confidential

information, materials, or resources. All right, title, and interest in and to such excluded intellectual property shall remain the sole and exclusive property of Subrecipient.

11. RESOLUTION OF DISPUTES: Should disputes arise between the parties during the course of this Agreement, the parties shall make a good faith attempt to resolve disputes through dialogue and negotiation.

12. TERMINATION: Either Party may terminate this Agreement at any time by first giving the other Party fifteen (15) days' advance written notice to the other Party. If the Agreement is terminated pursuant to this provision, ASTHO will pay Subrecipient for services rendered through the date of termination for which Subrecipient had not been compensated previously.

13. ENTIRE AGREEMENT: This Agreement contains all agreements, representations, and understandings of the parties and supersedes and replaces any and all previous understandings, commitments, or agreements, oral or written.

14. PARTIAL INVALIDITY: If any part, term, or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law, the validity of the remaining portions or provisions shall not be affected.

15. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

16. ADDITIONAL FUNDING; SCOPE OF SERVICES: The Parties agree and acknowledge that there shall be no change in the Fee to be paid hereunder or in the scope of services to be performed hereunder unless agreed to in writing by the Parties.

17. REMEDIES FOR MISTAKES: If work that is prepared by Subrecipient is inaccurate or otherwise unsatisfactory in the reasonable judgment of ASTHO, Subrecipient will correct error(s) within five (5) business days of receipt of notice. Subrecipient will not charge ASTHO any additional amount to remedy such issues.

18. COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS: The provisions set forth in Attachment 2, attached hereto and hereby incorporated as a part of this Agreement, shall be binding on the Parties.

19. HARASSMENT AND ABUSIVE CONDUCT: Subrecipient and its employees and agents are prohibited from engaging in any conduct constituting sexual harassment or other discriminatory harassment or otherwise engaging in abusive, offensive, or bullying conduct. Any such conduct in violation of this section may be cause for immediate termination of the agreement in ASTHO's sole discretion as well as damages arising from breach of agreement.

20. CONFIDENTIAL INFORMATION:

    a. In the course of its engagement, Subrecipient will have access to ASTHO's confidential information. Subrecipient understands and agrees that for the purposes of this Agreement, Confidential Information" means: all information and data in whatever form that is valuable to ASTHO and is not generally known outside of ASTHO; all ASTHO proprietary information; all ASTHO trade secrets; and all information and data in whatever form that is disclosed by others in confidence to ASTHO. Subrecipient understands that Confidential Information may not be explicitly marked as confidential. If Subrecipient has doubts about whether particular information is Confidential Information, Subrecipient will promptly consult ASTHO's Contracts Director for guidance in advance. Subrecipient understands and

agrees that Confidential Information includes, but is not limited to, the information described below:

i. Technical information of ASTHO, its affiliates, its customers, or other third parties that is in use, planned or under development, such as but not limited to: manufacturing and/or research processes or strategies; computer product, process, and/or devices; software product; and any database methods, know-how, formulae, compositions, technological data, technological prototypes, processes, discoveries, machines, inventions, and similar items;

ii. Business information of ASTHO, its affiliates, its members, or other third parties, such as but not limited to: information relating to ASTHO employees (including information related to performance, skillsets, and compensation); actual and anticipated relationships between ASTHO and other companies; financial information; information relating to customer or vendor relationships; product pricing, customer lists, customer preferences, financial information, credit information; and similar items; and

iii. Information relating to future plans of ASTHO, its affiliates, its customers, or other third parties, such as but not limited to: marketing strategies, new product research; pending projects and proposals; proprietary production processes, research and development strategies and similar items; and

iv. All "Trade Secrets" within the meaning of the Virginia Uniform Trade Secrets Act.

b. To protect ASTHO's Confidential Information and goodwill, Subrecipient agrees that it will not use, publish, misappropriate, or disclose any Confidential Information, during or after Subrecipient's engagement, except as required in the performance of Subrecipient's duties for ASTHO or as specifically authorized in writing by ASTHO's Chief Executive Officer. The parties acknowledge that Subrecipient is a public body subject to public disclosure duties, including those contained in the Virginia Freedom of Information Act (VFOIA). Nothing in this section will be construed to prevent Subrecipient from complying with all applicable laws, including the VFOIA.

21. NOTICE: Subrecipient should submit all notices, invoices, and claims for reimbursement to ASTHO at the following address:

Programmatic Contact:
Janet Hui
Executive Advisor, Public Health Infrastructure Grant Implementation Center Program
Association of State and Territorial Health Officials
2231 Crystal Drive, Suite 450
Arlington, VA 22202
Email: jhui@astho.org
Phone: 202-371-9090

Subrecipient should contact ASTHO for any other items at the following address:

Contractual Contact:
Hunter McConnell
Director, Contracts
Association of State and Territorial Health Officials

2231 Crystal Drive, Suite 450
Arlington, VA 22202
Email: hmcconnell@astho.org
Phone: 202-371-9090

ASTHO should submit all notices, payments, and other correspondence to Subrecipient at the following address:

Noel Clarin
Public Health Informatics and IT Director
Fairfax County Health Department
10777 Main Street
Fairfax, Virginia 22030
Email: Noel.Clarin@fairfaxcounty.gov
Phone: 703-246-8462

ATTEST: For the mutual consideration described in the provisions of this Agreement, the parties hereto agree to those provisions through the signature, below, of the parties and/or persons who have the authority to bind the parties to this Agreement:

ASTHO**:**	**SUBRECIPIENT:**
Authorized Signature:	Authorized Signature:
_____ _____	_____ _____
Zarnaaz Bashir Date	Bryan J. Hill Date
ASTHO Deputy CEO	County Executive

Attachment 1:
SCOPE OF WORK, COMPENSATION AND REPORTING REQUIRMENTS

A. General Description of Engagement

Fairfax County (FFX) continues its efforts on public health data modernization. As part of that effort, there has been recent development and implementation of a local electronic disease surveillance system (EDSS) to support the needs of their Division of Epidemiology and Population Health. Additionally, implementation of our public health data warehouse within the cloud, has improved and enhanced our abilities for local analytics.

B. Textual Description of Key Tasks

To enhance agency operations for effective disease control, rapid access to electronic laboratory records (ELR)/electronic case reports (ECR) and immunization data is essential. Other divisions within the Fairfax County Health Department (e.g., School Health, Community Outreach, Emergency Response) require bulk immunizations data to accomplish their program goals. FFX is looking to enhance their system in three main ways:

1. Gain access to daily updated bulk immunizations data for all Fairfax Health District residents and any vaccine administered within Fairfax Health District.
2. Build functionality for person-level immunization query and response using TEFCA and eHealth exchange networks from FFX local EDSS.
3. Gain access to daily (or faster) ELR data among Fairfax Health District residents and Urgent Reportable Conditions at Fairfax Health District healthcare facilities (e.g., positive measles IgM for a non-Fairfax Health District resident tested at a hospital in Fairfax Health District).
4. Gain access to daily (or faster) ieCR data among Fairfax Health District residents and Urgent Reportable Conditions at Fairfax Health District healthcare.

C. Summary Table of Tasks, Deliverables, and Due Dates

TASK	DELIVERABLE	DUE DATE
1	epiFIND is updated to include query and response capability for Immunizations	10/1/2025
2	epiFIND is updated to include query and response capability for eCR	2/1/2026
3	epiFIND is updated to include query and response capability for eLR	12/1/2026
4	FFX successfully ingests and processes bulk immunization data from an HIE or HCO	1/1/2026
5	In addition to providing secure access to the data, Fairfax will enable useful and intelligible data analysis and informatics.	Ongoing through 09/302027
6	PHAs will be expected to engage and collaborate with NORC at the University of Chicago throughout their participation in	Ongoing through

	the IC program for the purposes of evaluating PHAs' experience in the IC Program.	09/30/2027
7	FFX successfully queries eHealth exchange network within VHI portal	6/30/2026
8	VHI works with Virginia hospital systems to ingest expanded HL7 and CCDA data feeds to be made available to Fairfax within VHI portal	Ongoing through 09/30/2027

D. Compensation and Reporting Requirements

Subrecipient shall be compensated on a cost reimbursement basis according to the budget attached to this Agreement. The total reimbursable amount may not exceed $750,000. Reallocations of less than 10% of a line item or $500 between budgeted line items are allowed but the ASTHO programmatic and financial contacts must be notified within thirty days. Reallocations of more than these amounts may be allowed but must be approved in advance by ASTHO. All incurred costs must be reasonable and conform to any provision of this Agreement regarding Allowable Costs.

Subrecipient must submit invoices to the program contact listed on page five of this agreement and send an electronic copy to AccountsPayable@astho.org to receive payment. Subrecipient shall render an invoice to ASTHO on a monthly basis on or before the last day of the subsequent month in which expenses were incurred. A narrative report describing activities conducted during the period must accompany each invoice. **The invoice should reference: "*Requisition #1328 – Project 1160-003-002-001,*" and must detail current period expenditures and cumulative expenditures versus the approved budget, along with the Purchase Order number detailed in the separate PDF attachment that will be sent along with the fully executed agreement.**

ASTHO will review the invoice and pay Subrecipient for allowable costs in accordance with the agreed upon budget.In the event ASTHO identifies any deficiencies in the deliverables submitted by Subrecipient, ASTHO shall provide written notice to Subrecipient detailing the nature of the deficiency. **Subrecipient must submit final invoice within 30 days of agreement end date, no later than *November 30, 2027* to receive payment**. Payment of the final invoice will not be made until all work has been completed and has been judged acceptable by ASTHO. Failure to provide a timely invoice(s) may result in non-payment of expenses for completed work or deliverables due to grant close-out. Invoice(s) will be paid within 30 days of receipt at ASTHO.

The Subrecipient shall return to ASTHO all overpayments, such as those due to actual rates or costs being less than estimated or provisional rates, or due to any other cause, in a timely and prompt manner.

E. Key Personnel

The active participation of the following person(s) designated by the Subrecipient/Agency is a material condition of this agreement:

Noel Clarin Public Health Informatics and IT Director

Jim Borda Public Health Informatics and IT Manager

Moses Liu	Health Systems Program Manager
Alida Laney	Public Health Data Manager
Ben Klekamp	Communicable Disease Epidemiology Manager

Attachment 2:
SUBRECIPIENT BUDGET AND NARRATIVE

SUBRECIPIENT BUDGET

I. CONTRACT INFORMATION

Contractor Name	Fairfax Department of Health	*ASTHO Lead Staff*	Janet Hui
Project Name	Accelerated Public Health Data for Surveillance Integration	*Period of Performance*	06/18/25-09/30/27
Project Code	1160-003-002-001	*Payment Method*	Cost Reimbursement
Date Submitted	6/18/2025	*Total Budget Amount*	$ 750,000.00

II. DIRECT LABOR

Project Task	Personnel	Duration (Months)	% FTE	Salary ($)	Total Cost
					$ -
					$ -
					$ -
					$ -
					$ -
SUBTOTAL DIRECT LABOR					**$ -**
FRINGE BENEFITS (%)				**0%**	$ -
SUBTOTAL DIRECT LABOR + FRINGE					**$ -**

III. CONSULTANTS/CONTRACTORS (e.g. a temp agency, subcontract, etc.)

Consultant/Contractor Name	Rate	# of Hours	Total Cost
Virginia Health Information			$ 265,000.00
eHealth Exchange			$ 85,000.00
RSM			$ 200,000.00
SHI/Rhapsody			$ 50,000.00
ESI			$ 150,000.00
SUBTOTAL CONSULTANTS/CONTRACTORS			**$ 750,000.00**

IV. MATERIALS/SUPPLIES

Item	Cost/Unit	# of Units	Total Cost
			$ -
			$ -
			$ -
			$ -
			$ -
SUBTOTAL DIRECT MATERIALS			**$ -**

V. OTHER EXPENSES

Item	Total Cost
SUBTOTAL OTHER EXPENSES	**$ -**

VI. TOTAL DIRECT COSTS

SUBTOTAL TOTAL DIRECT COSTS	**$ 750,000.00**

VII. INDIRECT COSTS

G&A/Indirect Costs	Percentage %	Cost	Total Cost
Indirect Cost Rate/G&A	0%		$ -
Indirect Costs			$ -
SUBTOTAL INDIRECT COSTS			**$ -**
TOTAL REQUESTED BUDGET AMOUNT			**$ 750,000.00**

BUDGET NARRATIVE

Instructions: Please use this section to provide details and explain the line items requested within the contract budget and why each is needed to accomplish the scope of work. Relevant experience and skills should be described for all personnel listed. Costs must prove to be reasonable, allowable, and allocable. If using a fixed price payment method, please identify payment schedule as it relates to the completion of each task within the justification section.

II. DIRECT LABOR

Project Task	Personnel	Justification
0		The subrecipient will not charge internal personnel time to this agreement.
0	0	
0	0	
0	0	
0	0	
0	0	

FRINGE BENEFITS (%)	Justification
0%	

III. CONSULTANTS/CONTRACTORS (e.g. a temp agency, subcontract, etc.)

Consultant/Contractor Name	Justification
Virginia Health Information	VHI portal access to support project initiatives through access to state and national clinical data. Expansion of data elements received beyond Admit, Transfer and Discharge received via VHI Portal. VHI portal license costs. Project planning and development for Immunization Bulk Data Exchange. Bulk data exchange maintenance costs.
eHealth Exchange	Project management and technical implementation fees to set up Virginia instance of eHealth exchange gateway. Infrastructure to access, support storage and hosting of data.
RSM	Immunization Query/Response, ELR/ECR Data Exchange technology upgrades in FFX's EDSS system
Rhapsody/SHI	Fairfax Data and Interoperability Upgrades. Data Storage
ESI	Fairfax staffed contractors (staff augmentation) to support in setting up new ETL/pipeline processes for new data sources into data infrastructure

IV. MATERIALS/SUPPLIES

Item	Justification
0	N/A
0	
0	
0	
0	

V. OTHER EXPENSES

Item	Justification
0	N/A
0	
0	
0	
0	

VII. INDIRECT COSTS

G&A/Indirect Costs	Percentage/Cost	Justification
Indirect Cost Rate/G&A	0%	Fairfax County Health Department is electing not to charge its approved indirect cost rate and is voluntarily waiving indirect costs for this subaward.
Indirect Costs	0	

Attachment 3:
ADDITIONAL TERMS AND CONDITIONS FOR UNITED STATES GOVERNMENT FUNDED AGREEMENTS

This Attachment 2 is attached to and incorporated as a part of the agreement between ASTHO and Fairfax County, acting through the Fairfax County Health Department("Subrecipient"), dated June 16, 2025. The following terms and conditions apply as if set forth in full to work partially or fully funded with federal grants or funds, as applicable.

1) Notes:
    a. "Subaward" means this Agreement.
    b. "Subrecipient" means Fairfax County Health Department
    c. "Subcontract" means any contract placed by Subrecipient with any third party in performance of this Agreement.
    d. "Subcontractor" means any third party the Subrecipient enters into a Subcontract with. The Subrecipient is not permitted to engage any Subcontractor without prior written approval by ASTHO.

2) Instructions:

    a. With the exceptions of communication or notice regarding a violation of law or to comply with a general legal requirement, all other communication or notification required under the below referenced provisions from/to the Subrecipient to/from the Contracting Officer, Grants Officer (or any other government representative) shall be through ASTHO. All communication or notices regarding a violation of law shall be made directly to the cognizant federal authority, with a copy of such communication or notice to the ASTHO.
    b. Subrecipient shall flowdown the below provisions to all Subcontractors as required by law and regulation and require all of its Subcontractors to similarly flowdown such requirements.

3) Applicable to All Federally (or Potentially Federally) Funded Subawards and Subcontracts as Stipulated Below in Parenthesizes:

Applicable to All Subawards and Subcontracts:

a. *Debarment and Suspension (E.O.s 12549 and 12689)* - Subawards (see 2 C.F.R. § 180.220) shall not be made to parties listed on the government-wide exclusions in the System for Award Management ("SAM"), in accordance with the OMB guidelines at 2 C.F.R Part 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Subrecipient, by executing this Agreement, certifies that it is not presently suspended, debarred, proposed for debarment or otherwise excluded by the federal government, and that should the Subrecipient become suspended, debarred, proposed for debarment or otherwise excluded by the federal government, the Subrecipient shall immediately notify ASTHO. The Excluded Parties List System has recently been consolidated within the System for Award Management at https://www.sam.gov/portal/public/SAM/.

b. *Prohibition on Contracting for Covered Telecommunications Equipment or Services* – Effective August 13, 2020, the Subrecipient, upon acceptance of the agreement certifies its compliance with Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216. Subrecipients and consultants are prohibited from using funds under this agreement to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). In the event, Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during subrecipient performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report such information to the ASTHO.

c. *Domestic Preference for Procurements* – Consistent with section 200.322 of Title 2 of the Code of Federal Regulations, Subrecipient shall to the extent consistent with law and to the greatest extent practicable provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For iron and steel products, "produced in the United States" means that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

d. *Compliance with Law* – Subrecipient warrants and agrees that all activities and deliverables performed under this agreement shall comply with all applicable

federal, state and local laws, government and executive orders, rules and regulations, including but not limited to those imposed by the terms of the prime Federal award and 2 CFR Part 200 (Uniform Guidance). Subrecipient shall furnish to ASTHO upon request certificates or other evidence demonstrating such compliance. The Federal Government is not a party to this agreement and is not subject to any obligations or liabilities to the Subrecipient or any other party pertaining to any matter resulting from the agreement. Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient's actions pertaining to this agreement.

Applicable Based on Dollar Value (applicability in **bold text**):

a. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)* - **The Subrecipient and Subcontractors who apply or bid for an award of $100,000**, upon acceptance of the agreement certify their compliance with the Byrd Anti-Lobbying Amendment. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to ASTHO.
b. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended* - **Subawards and Subcontracts in excess of $150,000** shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to the ASTHO and the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Attachment 4:
FEDERAL SUBRECIPIENT ADDENDUM

The Subrecipient's status as a "Sub-recipient" as that term is defined in the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR Part 200 ("Omni Circular") imposes additional disclosure and reporting requirements on both ASTHO and the Subrecipient.

1. General Information:

A) CFDA Title: CDC's Collaboration with Academia to Strengthen Public Health
B) Assistance Listing (CFDA) Number: 93.967

C) Unique Entity ID No. ___W2ZUFMBDM378_____ (Subrecipient to Complete)
D) DUNS Number (9 digits):_____N/A_____ (Subrecipient to Complete)
E) NAICS Code: _____N/A_____ (Subrecipient to complete)
F) Zip + 4 of address where work will be completed ___22030-6903_____ (Subrecipient to complete)
G) Congressional district:_____11th_____ (Subrecipient to complete)

H) Award Name: Strengthening U.S. Public Health Infrastructure, Workforce and Data Systems
I) Award Number: 1 NE11OE000066-01-00
J) Award Date: 1/10/2024
K) Federal Agency Name: Department of Health and Human Services/Center for Disease Control and Prevention
L) Period of Performance: 06/18/2025-09/30/2027
M) Sub-recipient Name: Fairfax County, acting through the Fairfax County Health Department
N) Pass-Through Entity: Association of State and Territorial Health Officials

O) Amount of Federal Funds Obligated: $61,923,077.00
P) Total Amount of Federal Funds Obligated to Sub-recipient: $750,000
Q) Total Amount of Federal Award: $61,923,077.00
R) R&D ___ [Y] _X__[N]
S) Indirect Rate: None

2. The following requirements must be complied with:

A) Federal Laws and Regulations: US Department of Health and Human Services Grants Policy Statement; Office of Management and Budget Omni Circular; 45 CFR Part 92 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments; 48 CFR Part 352-- Contract Clauses; 48 CFR §331.101-70 – Salary rate limitation; 45 CFR Part 93 – Restrictions on lobbying; the Federal Funding Accountability and Transparency Act and Federal statutes generally applicable to public contracts, including with respect to equal opportunity and civil rights.

B) Contract or Grant Agreement

3. Subrecipient shall have an active System for Award Management (SAM) registration, formerly Central Contractor Registry (CCR).

4. Subrecipient shall allow ASTHO to monitor activities to ensure use of the funds complies with the authorized purposes in compliance with Federal laws, regulations and the provisions of contracts or grant agreements and that performance goals are achieved.

5. Subrecipient warrants that it shall, during the term of the Agreement and for a period of three (3) years following the date of submission of the final expenditure report, maintain accurate and complete financial records, including accounts, books, and other records related to charges, costs, disbursements, and expenses, in accordance with generally accepted accounting principles and practices, consistently applied.

ASTHO, directly or through its authorized agents, auditors or other independent accounting firm, at its own expense, and the Concerned Funding Agency directly or through its duly authorized representatives, shall have the right, from time to time, upon at least ten (10) days' notice, to audit, inspect, and copy the Subrecipient's records for the purpose of evaluating compliance with this Agreement. The Subrecipient shall fully cooperate, including by making available such of its personnel, records, and facilities as reasonably requested.

If an audit, litigation, or other action involving the records is initiated before the end of the three-year retention period, Subrecipient agrees to maintain the records until the audit, litigation, or action is completed and all findings are resolved.

If the Subrecipient expends $750,000 or more in federal funds during its fiscal year, it shall comply with the audit requirements of 2 CFR Part 200, Subpart F. The audit report must be submitted within 30 calendar days after receipt of the auditor's report or no later than nine (9) months after the end of the Subrecipient's fiscal year, whichever is earlier. The Subrecipient shall also provide ASTHO with a copy of the audit report, including any findings related to this agreement, upon request.

6. If Subrecipient, in its preceding completed fiscal year, received (a) 80 percent or more of its annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (b) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements, then Subrecipient hereby reports the names and compensation of its five most highly compensated officers below. [Note: This compensation information need not be reported here if it is otherwise publicly available through periodic reports filed under the Securities Exchange Act (15 U.S.C.§78m(a), §78o(d)) or the Internal Revenue Code (26 U.S.C. §6104). If that is the case, please check here: ___X___.]

Name:	Compensation:
_____	$_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

Attachment 5:
TRAVEL POLICY

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS

National Headquarters
2231 Crystal Drive, Suite 450
Arlington, VA 22202
(202) 371-9090

Regional Office
600 Peachtree Street NE, Suite 1000
Atlanta, GA 30308
(202) 371-9090

www.astho.org
@ASTHO

ASTHO Travel and Reimbursement Procedures
SUBRECIPIENTS

- ***Airfare***: Is allowed and should be on "American" carriers, unless doing so would be disadvantageous to ASTHO. Costs in excess of the lowest available commercial discount fare or standard coach fare are unallowable, except for the following: Would require circuitous route, add lengthy delays that affects the traveler's ability to reasonably meet other work-related obligations, or does not provide for medical needs of the traveler. Travelers must justify the use of a fare greater than lowest available fare. ASTHO requires pre-approval of any airfare greater than $500.00. ASTHO will pay airfare to/from the traveler's nearest airport to/from meeting location airport or within 25 miles of such airport if more than one is available. The cost of canceling and rebooking ticket is not reimbursable, unless it can be shown that it was necessary or required for legitimate business reasons. In addition, ASTHO will pay for check baggage as follows: 1 bag for expected stay of 5 days or less; 2 bags for expected stay of 5 days or more. ASTHO will not reimburse for excess or overweight baggage.

- ***Rail Transportation***: Is an allowed transportation expenses and can be used when either flying or driving is not feasible or for health or other approved reasons. Approval is required for rail services when the associated cost of flying is lower than rail service by more than $75.00. Rail service should be in coach class.

- ***Lodging***: Is allowed and cannot exceed the GSA lodging per diem for the location in which ASTHO business is being conducted. If lodging cannot be found within the GSA rate, prior approval from the Deputy CEO is required. Local or long-distance phone calls directly from the hotel room will not reimbursed.

- ***Personal Vehicle Transportation***: Travelers using personal automobiles on ASTHO business will be reimbursed at a per mile rate, based on the IRS rate at the time of travel. At no time will ASTHO reimburse more than the cost that would have been incurred had rail or air transportation been used. Any expected mileage over $300.00 requires prior approval. Use of the personal vehicles is permitted provided the traveler has a valid driver's license and has adequate insurance protection as required by state law in which the vehicle is registered. Automobile liability, bodily injury and property and physical damage insurance while on ASTHO travel is the responsibility of the traveler. ASTHO will reimburse travelers for travel from/to their home/place of business to/from the airport.

- ***Meals***: Travelers will be reimbursed according to the GSA meals and incidentals per diem rate (***currently $92/day for Arlington, VA***). The first day of travel is paid at 75% of the full per diem rate. Deductions from the per diem amount will be made when the meeting or conference included that particular meal, except for documented dietary restrictions not able to be accommodated by the conference restaurant or caterer. Alcoholic beverages consumed with meals are not allowable costs and will not be reimbursed.

- ***Rental Vehicle Transportation***: Rental vehicles are an allowed expense when the total expected costs to be incurred, including parking, fuel, and GPS, are less than using other modes of transportation such as taxis or shuttles. If a rented vehicle is used, the most economical vehicle adequate for business requirement must be used. There must be a clear advantage to justify the use of a rented vehicle. Travelers should refuel rental vehicles prior to return to the vendor if not the traveler is responsible for the difference in pricing between the average gas price and that charged by the rental agency including surcharges.

- ***Taxi & Shuttle Transportation***: Travelers will be reimbursed for transportation to/from airport to/from hotel. In addition, any taxi & shuttle services to related events or gatherings will be reimbursed. When possible, travelers should share taxis and shuttles to minimize costs.

Reimbursement Process

- ***Receipts***: Receipts are required regardless of amount for air/rail transportation, lodging expenses, and car rentals. ***Detailed, itemized receipts are required for all expenditures over $75.00, except for the meals & incidentals per diem. Alcoholic beverages consumed with meals are not allowable costs and therefore will not be reimbursed.*** Any expenditure without a receipt will only be paid up to the $75.00 maximum. Original hard copies of receipts are not required but legible photocopies of itemized receipts are acceptable and should be submitted.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 26005

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 July 15, 2025, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2026, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G7171, Health Department	
	Grant: 1710063-2024, Public Health Data Modernization Grant	$750,000

Reduce Appropriation to:

Agency:	G8787, Unclassified Admin	$750,000
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: Association of State and Territorial Health Officials, $750,000

A Copy - Teste:

_____

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 7

Extension of Review Period for 2232 Application for Cub Run Substation (Sully 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.*

PROJECT DESCRIPTION:
NOVEC is requesting 2232 approval to expand the existing Cub Run electrical substation facility to serve and meet the electrical demands of the surrounding area. The extension period request is to allow the applicant, county agency review, and the Planning Commission sufficient time to complete the 2232 review.

The review period for the following application should be extended:

2232-2025-SU-00005	Northern VA Electric Coop
	Tax Map No. 43-1 ((1)) 12; 43-2 ((2)) 9D, 9E; 43-2 ((6)) 11
	Sully District
	Accepted June 20, 2025
	Extended to July 20, 2026

RECOMMENDATION:
The County Executive recommends that the Board extend the review period for the following application: 2232-2025-SU-00005.

TIMING:
Board action is requested on July 15, 2025, to extend the review period for the application prior to the expiration of the current 60 day review period.

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 full length of an extension period may not be necessary, and any extension is not intended to set a date for final action.

Board Agenda Item
July 15, 2025

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
None.

STAFF:
Jennifer Miller, Deputy County Executive
Tracy Strunk, Director, Department of Planning and Development (DPD)
Salem Bush, Branch Chief, Public Facilities and Development Review Branch, Planning Division, (DPD)
Mohamed Ali, Planner II, Public Facilities and Development Review Branch, Planning Division, (DPD)

Board Agenda Item
July 15, 2025

ADMINISTRATIVE – 8

Extension of Review Period for 2232 Application for Avion Substation (Sully 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.*

PROJECT DESCRIPTION:
Dominion Energy is requesting 2232 approval to construct a proposed electrical substation facility to serve the adjacent data center complex and electrical demands of the surrounding area. The extension period request is to allow the applicant, county agency review, and the Planning Commission sufficient time to complete the 2232 review.

The review period for the following application should be extended:

2232-2025-SU-00006	Dominion Energy Tax Map No. 34-1 ((3)) 2, 3 Sully District Accepted June 25, 2025 Extended to July 25, 2026

RECOMMENDATION:
The County Executive recommends that the Board extend the review period for the following application: 2232-2025-SU-00006.

TIMING:
Board action is requested on July 15, 2025, to extend the review period for the application prior to the expiration of the current 60 day review period.

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 full length of an extension period may not be necessary, and any extension is not intended to set a date for final action.

Board Agenda Item
July 15, 2025

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
None.

STAFF:
Jennifer Miller, Deputy County Executive
Tracy Strunk, Director, Department of Planning and Development (DPD)
Salem Bush, Branch Chief, Public Facilities and Development Review Branch, Planning Division, (DPD)
Mohamed Ali, Planner II, Public Facilities and Development Review Branch, Planning Division, (DPD)

Board Agenda Item
July 15, 2025

ACTION – 1

Approval of a Board of Supervisors' Draft Regular Meeting Schedule for Calendar Year 2026

ISSUE:
Board approval of a draft regular meeting schedule for January through December 2026.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the draft regular meeting schedule for January through December 2026.

TIMING:
The Board should take action on July 15, 2025, in order that accommodations to implement this calendar can proceed in advance of January.

BACKGROUND:
The *Code of Virginia*, Section 15.2-1416, requires a governing body to establish the days, times and places of its regular meetings at the annual meeting, which is the first meeting of the year. Therefore, the draft schedule for the 2026 calendar is presented for Board approval. The section further states that "meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year."

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

At the first meeting of the Board of Supervisors in January, staff will present the January- December 2026 Draft Schedule to the Board for formal adoption.

EQUITY IMPACT:
None.

Board Agenda Item
July 15, 2025

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: January-December 2026 Draft Schedule for Board of Supervisors' Regular Meetings and Potential 2026 Tuesday dates for Board Committee Meetings

STAFF:
Ellicia Seard-McCormick, Deputy County Executive
Jill G. Cooper, Clerk for the Board of Supervisors

ASSIGNED COUNSEL:
Daniel Robinson, Senior Assistant County Attorney

Attachment 1

DRAFT
2026 Board of Supervisors Meeting Schedule

January 13, 2026

February 3, 2026

February 17, 2026

March 3, 2026

March 17, 2026

April 14, 2026
- 9:30 to 4:00 p.m. Board Meeting
- 4:00 p.m. Budget Public Hearing

April 15 and April 16, 2026
- 3:00 p.m. – Budget Public Hearings

April 28, 2026 (Budget Mark-up)

May 5, 2026

May 19, 2026

June 9, 2026

June 23, 2026

July 14, 2026

August 25, 2026

September 15, 2026

September 29, 2026

October 13, 2026

October 27, 2026

November 17, 2026

December 8, 2026

Potential 2026 Tuesday Dates for Board Committee Meetings

(Listed below are Tuesday dates that would be available for scheduling of Board Committee meetings in 2026)

January 27
February 10
February 24
March 10
March 24
April 7
May 12
June 2
June 16
July 7
September 1
September 22
October 6
October 20
November 24
December 1
December 15

Board Agenda Item
July 15, 2025

ACTION – 2

Resolution to Support the Abandonment of Clifton School Roads, Routes 9523 and 9792 (Springfield District)

ISSUE:
Board adoption of the attached resolution (Attachment 1), supporting the abandonment of the Clifton School Roads (Routes 9523 and 9792).

RECOMMENDATION:
The County Executive recommends that the Board adopt the attached resolution (Attachment 1) supporting the abandonment of the Clifton School Roads (Routes 9523 and 9792).

TIMING:
The Board should take action on July 15, 2025, so that the Virginia Department of Transportation (VDOT) has the support of the Board to finalize the abandonment in the State maintenance inventory.

BACKGROUND:
The Fairfax County Department of Transportation (FCDOT) received a request from VDOT for the abandonment of Old Clifton School Roads (Routes 9523 and 9792). VDOT has requested the support of the County, by a Board Resolution, to abandon the overlapping Clifton School Roads pursuant to *Sections 33.2-912 of the Code of Virginia*.

The original 0.18 miles of Clifton School Road (Route 9523) was realigned in the early 1960's and 0.23 miles was added to the VDOT maintenance system as Clifton School Road (Route 9792). In the mid 1970's the road was altered again and extended to the north as per Minor Site Plan #16850-MSP-01, as shown in the attachments. This new extended route was never added to the VDOT maintenance system. The previous school routes were consequently razed and thus VDOT's maintenance responsibilities were removed from the Clifton School. Fairfax County Public Schools (FCPS) assumed maintenance of the new route when construction of the minor site plan was complete.

In 2012, Clifton Elementary School (previously named Clifton School) closed, and the students were relocated to Union Mill, Oak View, and Fairview Elementary Schools.

Board Agenda Item
July 15, 2025

Clifton Elementary School is currently used as a parking facility for FCPS vehicles and continues to be maintained by FCPS per the Office of Facilities Management guidance. The Town of Clifton (Town) has also periodically used the parking lot at the school for events. The abandonment would have no impact on the Town's ability to use the lot.

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution
Attachment 2 – Clifton ES Aerial Exhibits
Attachment 3 – FCPS Letter of Support
Attachment 4 – Clifton Elementary School Addition Minor Site Plan
Attachment 5 – Abandonment of Clifton School Roads (Routes 9523 & 9792) Vicinity Map

STAFF:
Jennifer Miller, Deputy County Executive
Gregg Steverson, Director, Fairfax County Department of Transportation (FCDOT)
Martha Coello, Deputy Director, FCDOT
Jeffrey Hermann, Chief, Site Analysis & Transportation Planning Division, FCDOT
Gregory Fuller, Jr., Chief, Site Analysis Section (SAS), FCDOT
Brittany Nixon, Transportation Planner IV, SAS, FCDOT
Jeffrey Edmondson, Transportation Planner III, SAS, FCDOT
Colleen Campbell, Transportation Planner I, SAS, FCDOT

ASSIGNED COUNSEL:
Randall T. Greehan, Assistant County Attorney

ATTACHMENT 1

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
ABANDONMENT
CLIFTON SCHOOL ROADS, ROUTES 9523 AND 9792

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 15, 2025, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, Clifton School Roads, Routes 9523 and 9792, which were located off Clifton Road, Route 645, were part of the Secondary System of State Highways in regard to maintenance; and

WHEREAS, the completion of Minor Site Plan #16850-MSP-01 altered the school routes and then the school site on Clifton Road was closed and the children relocated to Union Mill, Fairview and Oak View Elementary Schools;

WHEREAS, the closure of Clifton Elementary School eliminated the school routes eligibility for Virginia Department of Transportation's maintenance and the school routes need to be removed from the Secondary System of State Highways; and

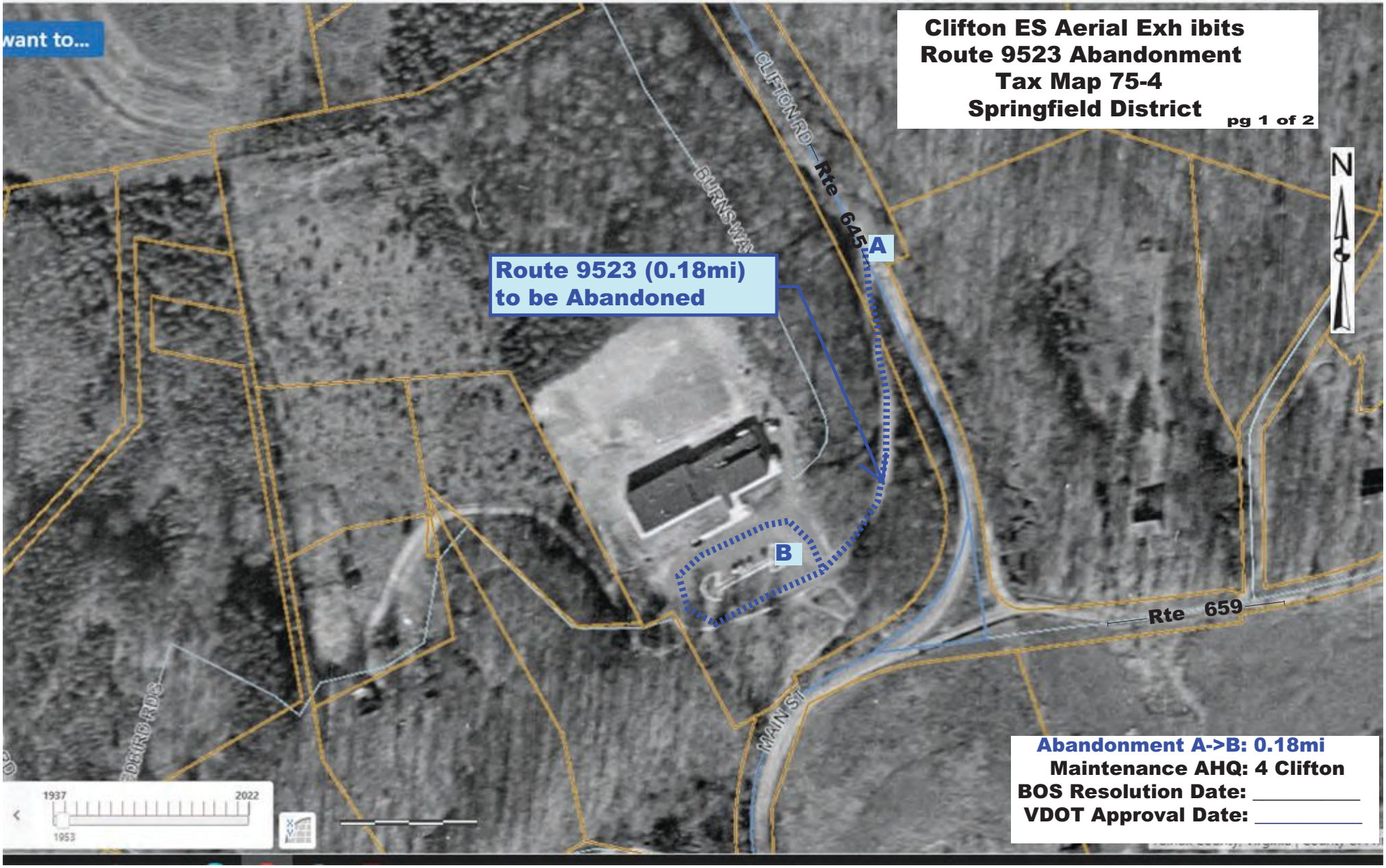
NOW THEREFORE, BE IT RESOLVED, that this Board, supports the abandonment of Clifton School Roads, Routes 9523 and 9792, as depicted on the Attachments for the Board Item and hereby requests that the Virginia Department of Transportation abandon the Old Clifton School Roads, Routes 9523 and 9792, from the Secondary System of State Highways, pursuant to §33.2-912 of the Code of Virginia. A copy of this resolution will be forwarded to the Resident Engineer for the Virginia Department of Transportation.

ADOPTED this 15th day of July, 2025

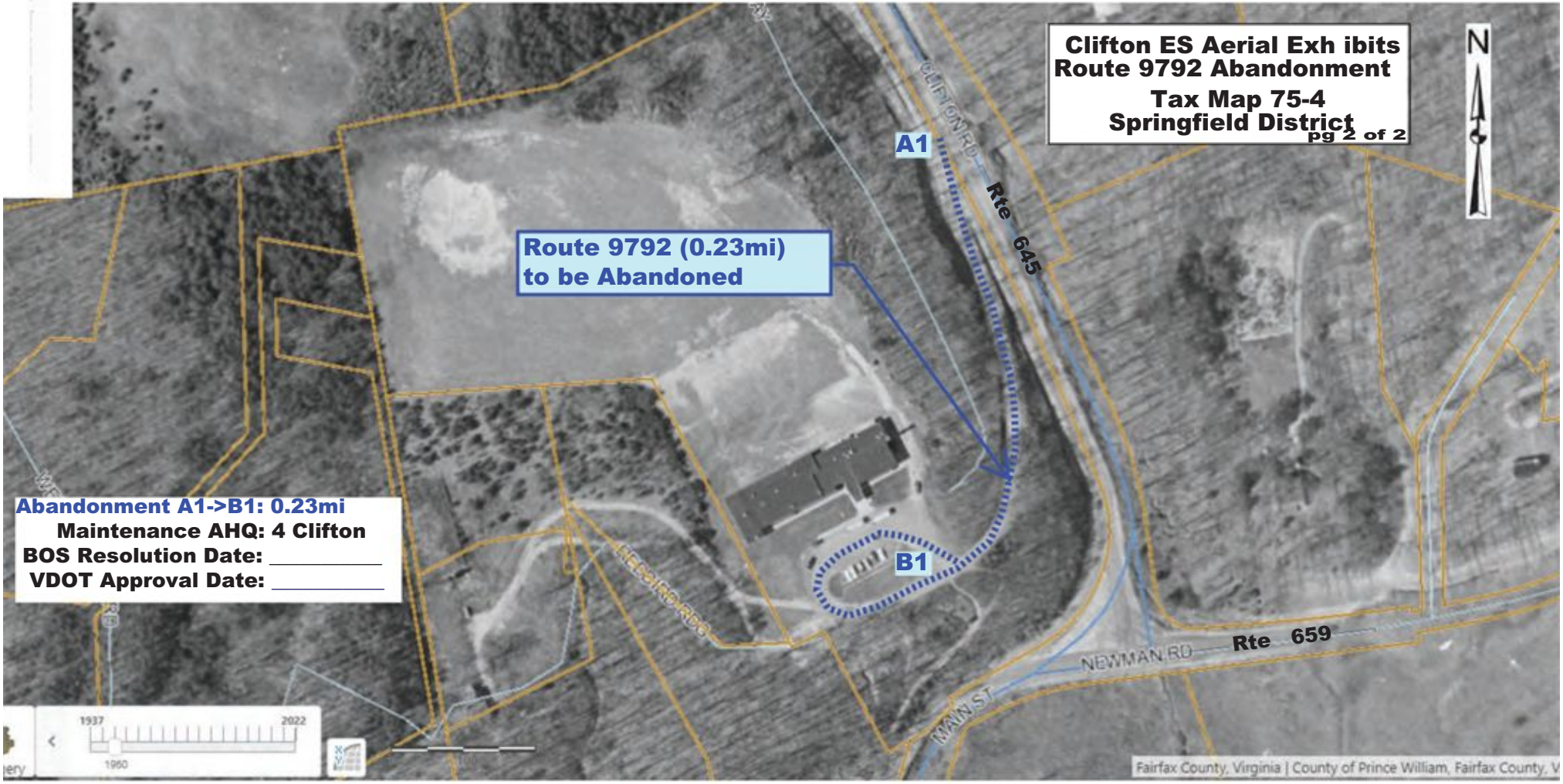
A Copy Teste:

_____

Jill G. Cooper
Clerk for the Board of Supervisors


Clifton ES Aerial Exh ibits
Route 9523 Abandonment
Tax Map 75-4
Springfield District
pg 1 of 2
Route 9523 (0.18mi)
to be Abandoned
A
B
CLIFTON RD
Rte 645
BURNS WAY
Rte 659
MAIN ST
N
Abandonment A->B: 0.18mi
Maintenance AHQ: 4 Clifton
BOS Resolution Date: _____
VDOT Approval Date: _____
1937
2022
1953

ATTACHMENT 2



Fairfax County PUBLIC SCHOOLS
ENGAGE • INSPIRE • THRIVE

Department of Facilities and Transportation Services
8115 Gatehouse Road, Suite 3500
Falls Church, Virginia 22042-1203

December 06, 2022

Robert H. Burton
Fairfax/Arlington Permits Manager
NOVA District
Virginia Department of Transportation

RE: Clifton Elementary School, Routes 9523 & 9792 Abandonment
School Project Plan # 16850-MSP-01

Dear Mr. Burton:

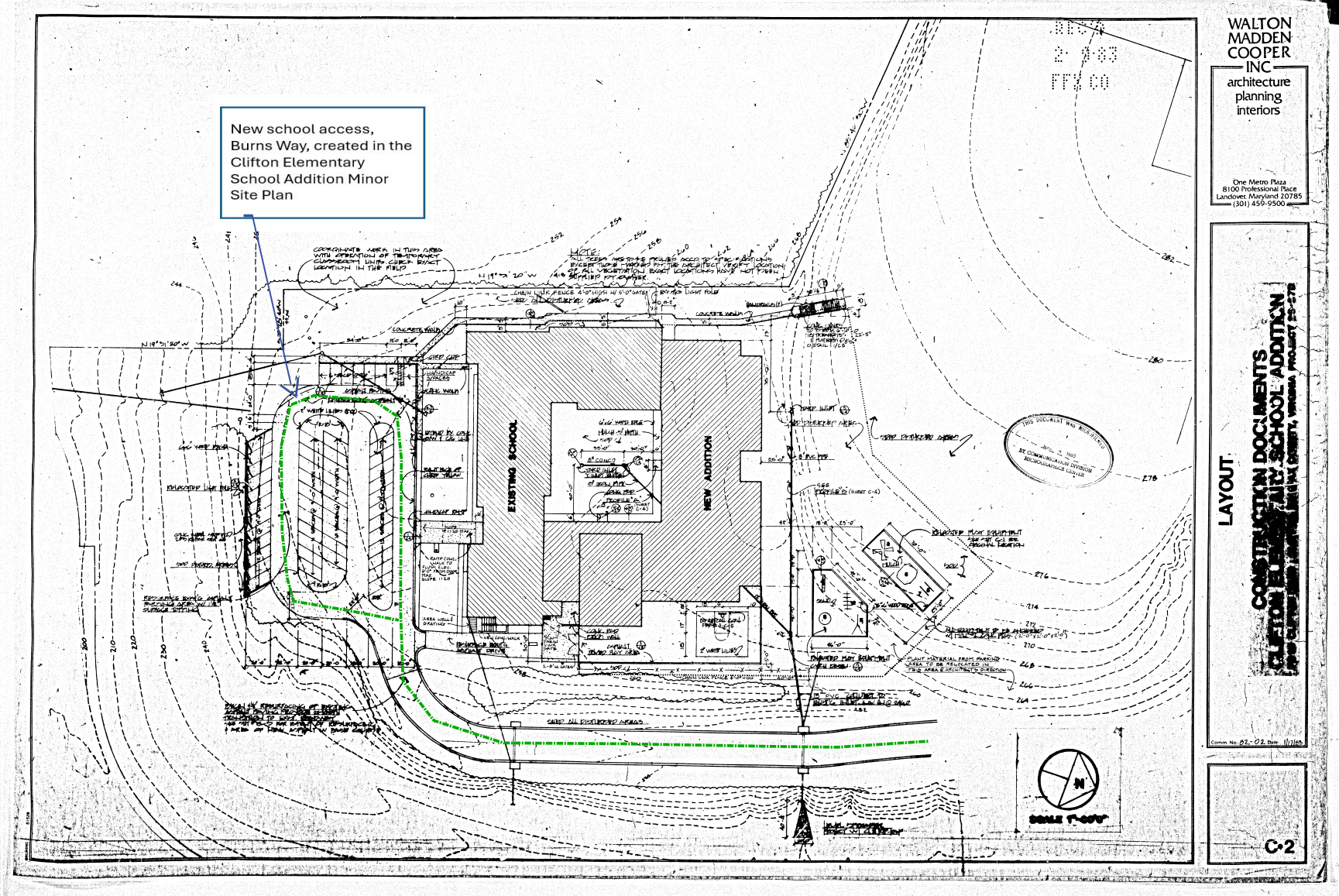
Fairfax County Public Schools ("**FCPS**") is in receipt of the Virginia Department of Transportation ("**VDOT**") request regarding the abandonment of Clifton School Road, (Routes 9523 & 9792) (the "**Subject Roads**") located on Tax Map 75-4 in the Springfield Magisterial District.

As the Subject Roads, Route 9523 and Route 9792 were altered due to the construction of the "Clifton Elementary School Addition", Fairfax County Plan # 16850-MSP-01; and in 2012 the school was closed and the site is utilized for parking which eliminates the Subject Roads' eligibility for VDOT's maintenance.

In my capacity as the Interim Assistant Superintendent of Facilities, FCPS supports VDOT's abandonment of the Subject Road, pursuant to Code of Virginia §33.2-912, as depicted on the attached sketch.

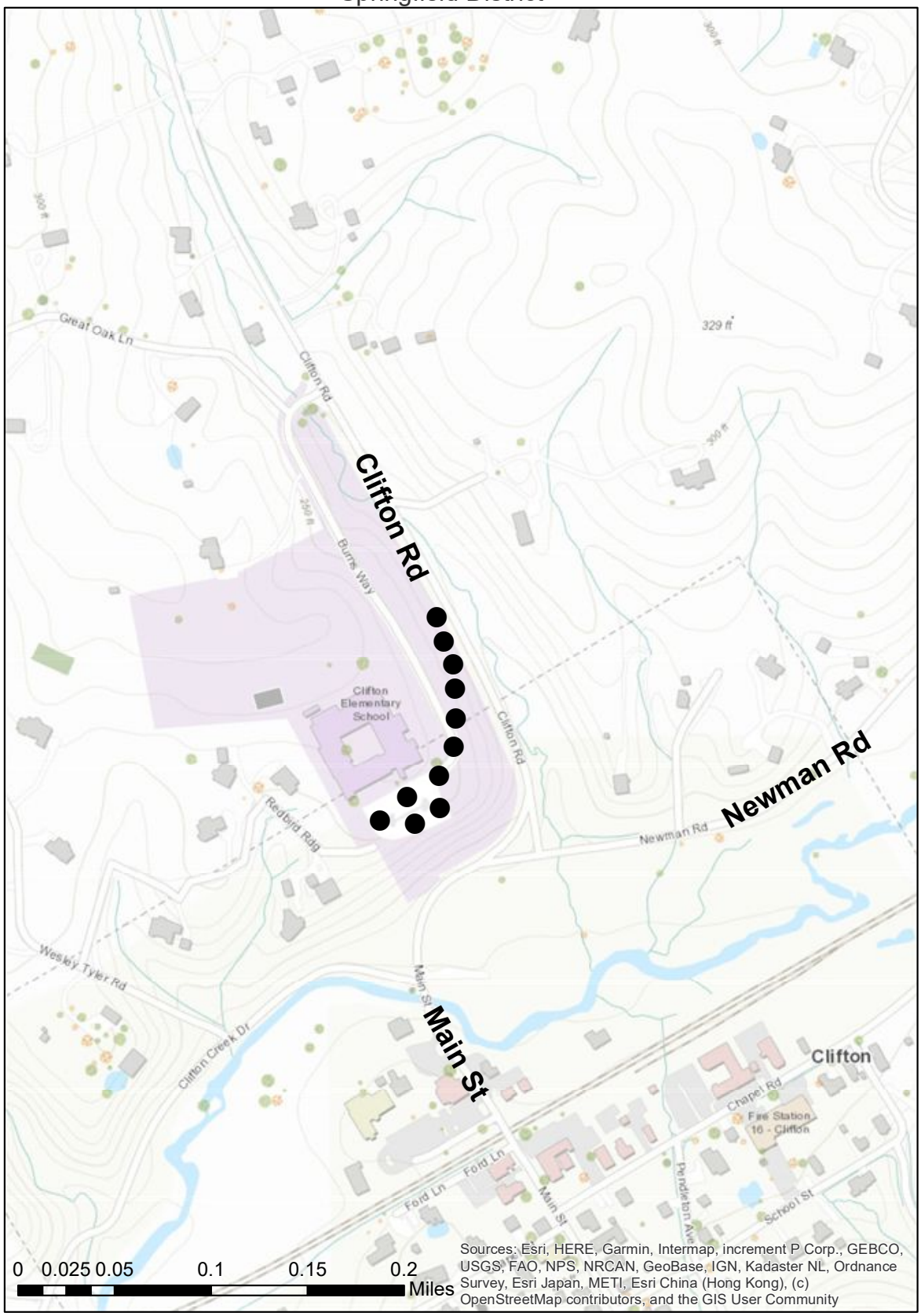
If you have any questions related to this abandonment, please contact Matthew Wright at 703-898-3339.

Charles W. Fanshaw, PE
Interim Assistant Superintendent, Facilities and Transportation Services


New school access, Burns Way, created in the Clifton Elementary School Addition Minor Site Plan
EXISTING SCHOOL
NEW ADDITION
WALTON MADDEN COOPER INC
architecture
planning
interiors
One Metro Plaza
8100 Professional Place
Landover, Maryland 20785
(301) 459-9500
LAYOUT
C-2

Abandonment of Clifton School Roads, Routes 9523 & 9792, Vicinity Map

Springfield District



N

● Denotes Area to be Abandoned

Tax Map 75-4

REVISED

Board Agenda Item
July 15, 2025

ACTION – 3

Approval of Changes to the Fairfax County Purchasing Resolution

ISSUE:
Board of Supervisors' approval of changes to the Fairfax County Purchasing Resolution ("Purchasing Resolution").

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the changes outlined below to the Fairfax County Purchasing Resolution, to become effective on July 15, 2025.

TIMING:
Board action is requested on July 15, 2025.

BACKGROUND:
The Board of Supervisors adopted the current version of the Fairfax County Purchasing Resolution on July 16, 2024. During the 2025 General Assembly session, seven (7) bills relating to procurement and/or contracts passed the House and Senate. There was one (1) successful bill under the Information Technology Access Act that is a mandatory statute. There were two bills that changed non-mandatory sections of the **Virginia Public Procurement Act (**VPPA**)** with potential benefits to the County. All three (3) of these bills are proposed for inclusion in the Purchasing Resolution and are listed below under the heading "Code Changes."

The remaining four (4) bills either:

- Modify sections of the Code that can affect contracting and procurement, but are not required to be addressed in the Purchasing Resolution, or
- Modify a section of the VPPA that is not included in the Purchasing Resolution.

In addition, staff recommends four (4) administrative amendments to the Purchasing Resolution, worth mentioning in this Item, which can be found under the heading "Administrative Changes." Other administrative changes not listed in this Item are incidental changes to correct formatting or are clarifications and technical corrections to the Purchasing Resolution.

REVISED

Board Agenda Item
July 15, 2025

Code Changes

1. House Bill 2150, *Code of Virginia §§2.2-4311.3*. Contract terms inconsistent with Virginia law. Provides that no public contract for information technology goods and services may contain terms in conflict with Virginia law (Pages 3, 43-44).
2. House Bill 2541, *Code of Virginia § 2.2- 3503*. Information technology access act; digital accessibility. This bill has delayed effective dates so that the Secretary of Administration for the Commonwealth can develop a technology access clause to be included in all contracts for procurement of information and communications technology executed or renewed after the effective date April 24, 2026 (Page 42).
3. Senate Bill 913, *Code of Virginia §§2.2-4311.3*. Procurement of imported goods; "forced and indentured child labor" prohibition. Prohibits contractors from the use of "forced or indentured child labor" in the performance of any contract (Page 42).

Administrative Changes

1. Corrections to section headings and pagination due to changes in the document text (Table of Contents).
2. Clarification of the delegated authority to the Director of Housing and Community Development (Page 7).
3. Updated Section 5. Excess and Surplus Property Management. To clarify the Department of Procurement and Material Management's role in determining methods of redistribution and disposal (Page 68).
4. Changed approval authority of the Selection Advisory Committee membership to Purchasing Agent or their designee (Pages 19, 20 and 23).

The text changes proposed in the Purchasing Resolution are presented in "track changes" format and legislative references are provided in the comments. These changes have been coordinated with the Department of Public Works and Environmental Services, the Department of Housing and Community Development, the Fairfax County Park Authority, the Department of Transportation, Fairfax County Public Schools, and the Office of the County Attorney.

EQUITY IMPACT:
This action item aligns with the One Fairfax Policy as it creates a tool that ensures fair and open competition for all contractors, as well as provides the mechanisms to establish contracts for critical and required services for all residents.

FISCAL IMPACT:
None.

REVISED

Board Agenda Item
July 15, 2025

ENCLOSED DOCUMENTS:
Attachment I - Revised Fairfax County Purchasing Resolution
Attachment II – Redline Track Changes for the Revised Fairfax County Purchasing Resolution

STAFF:
Christina Jackson, Deputy County Executive/Chief Financial Officer
Lee Ann Pender, Director, Department of Procurement and Material Management

ASSIGNED COUNSEL:
Emily Harwood Smith, Assistant County Attorney

Attachment 1

FAIRFAX COUNTY PURCHASING

RESOLUTION

July 2025

Adopted by the Board of Supervisors on July 15, 2025

FAIRFAX COUNTY PURCHASING RESOLUTION

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FAIRFAX COUNTY PURCHASING RESOLUTION

WHEREAS, the Fairfax County Board of Supervisors (the Board) is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved; and

WHEREAS, a central purchasing system is authorized by Virginia Code §15.2-831, and is a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and

WHEREAS, the Virginia Public Procurement Act (Chapter 43 of Title 2.2 of the Code of Virginia, as amended), enunciates the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party; and

WHEREAS, Virginia Code § 15.2-831, § 15.2-1236, and § 2.2-4311.3 (as amended) require all purchases of and contracts for supplies, materials, equipment and contractual services be in accordance with the Virginia Public Procurement Act and under such rules and regulations consistent with the Act and state law as established by the Board through this resolution; and

WHEREAS, Virginia Code § 15.2-831, § 2.2-4302, and § 2.2-4343 (as amended) allow implementation of the Virginia Public Procurement Act through resolutions and regulations consistent with this Act; and

WHEREAS, Virginia Code § 15.2-831 and §15.2-1543 empower the Board to employ a County Purchasing Agent, Virginia Code § 2.2-4302 authorizes the Board to act through its County Purchasing Agent, and § 15.2-831, § 15.2-1233 through § 15.2-1240, and § 15.2-1543 -set the County Purchasing Agent's duties;

THEREFORE BE IT RESOLVED that this resolution prescribes the basic policies for the conduct of all purchasing in Fairfax County (except as otherwise stipulated herein) to take effect on July 15, 2025, as follows:

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 1

GENERAL PROVISIONS

Section 1. Title.

This resolution shall be known as the Fairfax County Purchasing Resolution.

Section 2. Organization.

A. The Department of Procurement and Material Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.

B. The Director of the Department of Procurement and Material Management shall be the County Purchasing Agent who shall have general supervision of the DPMM. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.

The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce. The County Purchasing Agent, or their designee, has the authority to take any action or fulfill any duty granted by this Purchasing Resolution or by law, including, but not limited to, executing and administering contracts and making findings and addressing remedies as outlined in Article 5 of this Resolution.

Section 3. Exclusions from Duties.

A. The procurement of architectural, engineering and related consultant services for capital construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:

1. The Department of Public Works and Environmental Services (DPWES), pursuant to Virginia Code §15.2-834, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, is responsible for Fairfax County construction projects administered

by DPWES and the architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or their designee, has the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or their designee has the authority to enter into agreements pursuant to Virginia Code § 2.2-4366. Any such agreements shall be approved by the County Attorney.

2. The Fairfax County Public School Board is responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with Virginia Code § 22.1-79. The school division's Superintendent or their designee has the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.

3. The Fairfax County Park Authority is responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per Virginia Code § 15.2-5704 of the Code of Virginia, Board of Supervisors' Ordinance dated July 13, 2021, and a Memorandum of Understanding governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or their designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or their designee shall have the authority to enter into agreements pursuant to Virginia Code § 2.2-4366. Any such agreements shall be approved by the County Attorney.

4. The Department of Housing and Community Development shall be responsible for capital construction and the architectural, engineering, and consultant services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per Virginia Code §36-19 or Fairfax County. The Director of the Department of Housing and Community Development or their designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution.

Purchases made by the Director, or their designee, pursuant to the authority in this section and on behalf of Fairfax County will be pursuant to the rules and regulations established by the Department of Housing and Community Development and in accordance with this Resolution. Purchases made by the Director, or their designee, pursuant to this section and on behalf of the Redevelopment and Housing Authority will be in accordance with the Virginia Public Procurement Act.

5. The Department of Transportation, pursuant to Virginia Code § 33.2-338 and this Resolution, may be responsible for constructing or improving highways, including related architectural, engineering, and consulting services. Highways may include curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or their designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.

6. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.

B. The procurement of goods and services for individual schools using funds generated from school activities for the Fairfax County Public Schools is excluded from the duties of the County Purchasing Agent. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.

C. The Fairfax County Sheriff shall be the purchasing agent in all matters involving the commissary and non-appropriated funds received from inmates, in accordance with §53.1-127.1 Code of Virginia. The Purchasing Agent shall make all other purchases governed by Virginia Code § 53.1-126.

Section 4. Rules and Regulations.

A. The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and material management system.

B. The Agencies designated in Section 3(A) 1 - 6 shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 5. Authority of Purchasing Agent.

A. The Purchasing Agent, the individuals described in Section 3 (above), and their respective designees have exclusive authority for procurement transactions undertaken by the County. No County Employee shall attempt, directly or indirectly, to influence or coerce the Purchasing Agent in the performance of their duty.

Section 6. Definitions.

1. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:
    a. Planning acquisitions.
    b. Determining what supplies or services are to be acquired by the County, including developing statements of work.
    c. Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
    d. Evaluating bids or proposals.
    e. Awarding County contracts.
    f. Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).
    g. Terminating contracts.
    h. Determining whether contract costs are reasonable, allocable, and allowable.

2. Best Value, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

3. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).

4. Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2 A).

5. Complex Project means a construction project that includes one or more of the following significant components: difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.

6. Construction shall mean building, altering, repairing, improving or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading or similar work upon real property.

7. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

8. Consultant Services shall mean any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

9. Covered Employee means an individual who
    a. Is an employee of the contractor or subcontractor, a consultant, partner, or a sole proprietor; and
    b. Performs an acquisition function closely associated with inherently governmental functions.

10. Debarment is an action taken by the County Purchasing Agent, a contracting officer, or their designee, within the scope of their procurement authority, to exclude prospective contractors from contracting with County agencies or organizations for particular types of supplies, services, insurance, or construction, for specified periods of time.

11. Department means the Virginia Department of General Services

12. Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

13. DPMM shall mean the Department of Procurement and Material Management.

14. Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, including a public health emergency, or when any unforeseen circumstances arise causing curtailment or diminution of essential service and/or threat to the community that demands immediate action.

15. Employment Services Organization shall mean an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

16. Excess Property shall mean that property which exceeds the requirement of the department to which the property is assigned.

17. FCPS shall mean Fairfax County Public Schools.

18. Faith–Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.

19. Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.

20. Accountable Equipment shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of $10,000.

21. Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.

22. Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.

23. Independent Contractor shall mean a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of accomplishing the result.

24. Ineligibility shall mean an action taken to suspend or debar a prospective contractor from consideration for award of contracts. The suspension shall not be for a period exceeding twelve (12) months and the debarment shall not be for a period exceeding three (3) years.

25. Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

26. Job Order Contracting is a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing.

27. Non-public Government Information means any information that a covered employee gains by reason of work under a County contract and that the covered employee knows, or reasonably should know, has not been made public. It includes information that--
    a. Is exempt from disclosure under the Virginia Freedom of Information Act; or
    b. Has not been disseminated to the general public and is not authorized by the agency to be made available to the public.

28. Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.

29. Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.

30. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural, engineering and related consultant services for construction projects and the contracting for construction projects to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.

31. Pecuniary Interest Arising from the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.

32. Personal Conflict of Interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the County when performing under the contract.

    Among the sources of personal conflicts of interest are--

    a. Financial interests of the covered employee, of close family members, or of other members of the household;
    b. Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
    c. Gifts, including travel.

    Financial interests may arise from--

    1) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
    2) Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);

3) Services provided in exchange for honorariums or travel expense reimbursements;
4) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
5) Real estate investments;
6) Patents, copyrights, and other intellectual property interests; or
7) Business ownership and investment interests.

33. Potential Bidder or Offeror shall mean a person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

34. Prevailing Wages shall mean the rate, amount or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property that is the subject of construction is located as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. §276 et seq., as amended.

35. Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

36. Professional services shall mean any type of service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with this Resolution).

37. Project Labor agreement shall mean a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific public works project.

38. Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution. Public body shall

include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

39. Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

40. Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.

41. Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.

42. Responsive Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.

43. Reverse Auctioning shall mean a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

44. SAC shall mean Selection Advisory Committee.

45. Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

46. Surplus Property shall mean that property which exceeds the requirement of the entire County.

47. Suspension is a type of ineligibility based upon an immediate need when there is evidence that a prospective contractor has committed any of the grounds for debarment.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 2

PROCUREMENT POLICIES

Section 1. General.

A. Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.

B. Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article.

C. Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article.

D. Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance has certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. If any department or agency of the County government purchases or contracts for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract is void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.

E. Notwithstanding any other provision of law in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction, including the accessibility of such housing to employees of the county, town, or city or employees of the local school board. No more than fifty percent of the funds of the county, calculated on the basis of the average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award of a

contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.

F. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

G. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.

H. The County may, when procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, or when overseeing or administering such procurement, construction, manufacture, maintenance or operation, in its bid specifications, project agreements, or other controlling documents:

1. Require bidders, offerors, contractors or subcontractors to enter into or adhere to project labor agreements with one or more labor organizations, on the same or related public works projects; and
2. Require bidders, offerors, contractors, subcontractors, or operators to become or remain signatories or otherwise adhere to project labor agreements with one or more labor organizations, on the same or other related public works projects.

I. The County adopted an ordinance that requires payment of the Prevailing Wage Rate on County Construction Contracts, as those terms are defined in the Fairfax County Code (Chapter 2, Article 3, Section 2-3-1 and Section 2-3-2). Each County Construction Contract, as defined in the County's Prevailing Wage Ordinance, must contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done under the public contract shall be at a rate equal to the prevailing wage rate.

J. In alignment with the County's One Fairfax Policy on racial and social equity and its recognition that economic inclusivity benefits all, the County Purchasing Agent will establish and expand programs consistent with all provisions of this Resolution and applicable law to facilitate the participation of small businesses, businesses owned by women, minorities, and service-disabled veterans (SWaM Businesses) in procurement transactions. SWaM businesses are those businesses as defined by the Virginia Department of Small Businesses and Supplier Diversity (SBSD) at https://www.sbsd.virginia.gov/faqs/. Such programs may

include cooperation with the SBSD, the United States Small Business Administration, and other public or private agencies.

To measure the success of such programs, the County Purchasing Agent will track bid and proposal submissions by SWaM Businesses as well as procurement transactions under their authority with SWaM businesses.

K. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the fulfillment of the contract.

L. It is the County's policy to require that its contractors do not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.

Section 2. Methods of Procurement.

A. Competitive Sealed Bidding.- is a method of contractor selection that includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. The Invitation to Bid may include criteria to be used in determining whether a bidder who is not prequalified by the Virginia Department of Transportation is a responsible bidder pursuant to § 2.2-4301. Such criteria may include a history of (i) completion by the bidder and any potential subcontractors of specified safety training programs established by the U.S. Department of Labor, Occupational Safety and Health Administration; (ii) participation by the bidder and any potential subcontractors in apprenticeship training programs approved by state agencies or the U.S. Department of Labor; or (iii) maintenance by the bidder and any potential subcontractor of records of compliance with applicable local, state and federal laws. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed

by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting on the Department of General Services' central electronic procurement website, the Fairfax County Government website, other appropriate websites, or publication in a newspaper of general circulation. In addition, bids may be solicited directly from potential vendors.

3. Public opening and posting of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.

B. Competitive Negotiation.- is a method of contractor selection that includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. A public body may include as a factor that will be used in evaluating a proposal the proposer's employment of persons with disabilities to perform the specifications of the contract. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.

2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting on the Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or by publication in a newspaper of general circulation. In addition, proposals may be solicited directly from potential vendors.

3. Competitive Negotiation – Consultant Services

a. Selection Advisory Committee

1) When selecting a firm for consultant services where the compensation for such services is estimated to exceed $200,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee, shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee . Elected Officials and/or their appointed office staff may not participate as members of a Selection Advisory Committee or Technical Advisory Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than $200,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those consultant services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

1) When consultant services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for consultant services is estimated to be less than $200,000 may be accomplished without public announcement.

c. Selection, Negotiation and Approval Process.

1) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to

more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2) All proposed contracts for consultant services, where the compensation to be paid exceeds $200,000, after review of the SAC recommendation, shall be awarded by the Purchasing Agent for the County or an agency of the County. The Purchasing Agent or FCPS Division Superintendent will notify the Board of Supervisors and/or the School Board of such contract award prior to final execution.

3) All proposed contracts for consultant services, where the compensation to be paid is less than $200,000, shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4) For all cost-plus-a-fixed-fee consultant services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any consultant services contract under which such a certificate is required shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

4. Competitive Negotiation – Professional Services

a. Selection Advisory Committee.

1) When selecting a firm for professional services where the compensation for such professional services is estimated to exceed $80,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those professional services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee. Elected Officials and/or their appointed office staff may not participate as members of a Selection Advisory Committee or Technical Advisory

Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for professional services, where the compensation for such professional services is estimated to be less than $80,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement and Qualifications for Professional Services.

1) When professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for such professional services is estimated to be less than $80,000 may be accomplished without public announcement.

2) For architectural or engineering services estimated to cost less than $80,000, an annual advertisement requesting qualifications from interested architectural or engineering firms will meet the requirements of paragraph (1) above. The County shall make a finding that the firm to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record of performance, and experience of the firm.

c. Selection, Negotiation, and Approval Process

1) Selection of Professional Services: Where the cost is expected to exceed $80,000, the County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the County in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not

limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the County shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. DPMM or other Authorized Agency, with the aid of the Selection Advisory Committee, shall negotiate a proposed contract with the highest qualified firm for the professional services required. The firm deemed to be the most qualified will be required to disclose its fee structure during negotiation. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the County may award contracts to more than one offeror.

2) Except for construction projects and related architectural, engineering, and consultant services, all proposed contracts for professional services, where the compensation to be paid exceeds $200,000, after review of the SAC recommendation a contract shall be awarded by the Purchasing Agent for those professional services to be retained by the County or an agency of the County. The Purchasing Agent or FCPS Division Superintendent will notify the Board of Supervisors and/or the School Board prior to final contract execution.

3) All proposed contracts for professional services, where the compensation to be paid is less than $200,000, shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4) For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a certificate is required shall

contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

5) Multiphase professional services contracts satisfactory and advantageous to the County for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the County shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.

6) A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4303.1.

5. Competitive Negotiation – Non-Professional Services

a. Selection Advisory Committee

1) When selecting a firm for non-professional services where the compensation is estimated to exceed $200,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those non-professional services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee Elected Officials and/or their appointed office staff may not participate as members of a Selection Advisory Committee or Technical Advisory Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for non-professional services, where the compensation is estimated to be less than $200,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the

funded Agency or FCPS Department Head those non-professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

1) When non-professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for non-professional services is estimated to be less than $200,000 may be accomplished without public announcement.

c. Selection, Negotiation and Approval Process.

1) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2) All proposed contracts for non-professional services shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

C. Cooperative: The County or any entity identified in Article 1, Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the Metropolitan Washington Council of Governments, the National Association of Counties, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriff's Association even if it did not participate in the request for proposal or invitation to

bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

Except for contracts for architectural and engineering services, as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government.

D. Emergency.- In case of an Emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the Emergency and for the selection of the particular contractor shall be included in the appropriate contract or purchase order file. In addition, a notice shall be posted on the Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or in a newspaper of general circulation for contracts in excess of $200,000.

1. If an Emergency occurs during regular County business hours, the head of the using agency or their designee shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.

2. If an Emergency occurs at times other than regular County business hours and there is an immediate threat to personal safety and/or property, the using agency head or their designee may purchase the required goods or services directly. The agency head or their designee shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall or their designee also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the Emergency.

3. The County Purchasing Agent shall maintain a record of all Emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.

E. Informal Procurement.- An informal procurement is not subject to the rules governing competitive sealed bidding or competitive negotiation. Pursuant to Article 1, Section 4, the Purchasing Agent will adopt written procedures for informal procurements that will provide for competition wherever practicable. Informal procurements are subject to Article 2, Section 5 of this Resolution. No informal procurement procedures will waive compliance with the Uniform State Building Code.

1. Goods and Services: If the estimated contract value is $200,000 or less, an informal procurement may be used for(i) goods and services, other than professional services.

2. Non-Transportation Related Construction: If the estimated contract value is $300,000 or less, an informal procurement may be used for non-transportation-related construction. For purposes of this section, the contract value of non-transportation related construction is the aggregate or the sum of all phases of the contract.

3. Transportation-Related Construction: Informal procurement may be used for transportation-related construction contracts if the estimated contract value is $25,000 or less. For purposes of this section, the contract value for transportation-related construction includes the aggregate or sum of all phases of the contract.

4. Professional Services: An informal procurement may be used for single or term contracts for professional services if the estimated contract value is $80,000 or less. For purposes of this section, the contract value for professional services includes the aggregate or sum of all phases of the contract.

F. Reverse Auctioning.- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

G. Small Purchase.- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than $10,000, shall be deemed a small purchase and shall not be subject to the rules governing the competitive bidding process.

H. Sole Source.- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted on the

Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or in a newspaper of general circulation for contracts in excess of $200,000.

I. Auction. - Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

Section 3. Exceptions to the Requirement for Competitive Procurement.

A. Instructional Materials and Office Supplies: Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2. H.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School Board solely for such purchases.

B. Insurance / Electric Utility Services: As provided in the Code of Virginia, subdivision 13 of § 2.2-4345, the County may enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

C. Insurance: As provided in § 2.2-4303(C), upon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker

selected in the manner provided for the procurement of things other than professional services in §2.2-4302.2(A)(3) of the Virginia Public Procurement Act.

D. Legal Services: The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) the purchase of legal services; and (2) expert witnesses or other services associated with litigation or regulatory proceedings. Any contract for Legal Services may be entered into upon terms established by the County Attorney.

E. Public Assistance Programs: The County may procure goods or personal services without competition for direct use by a recipient of County administered public assistance or social services programs as defined by § 63.2-100 of the Code of Virginia, or community services board as defined in §37.2-100, or any public body purchasing services under the Children's Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such good or personal service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.

F. Workshops or Employment Services Organizations: The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Blind and Visually Impaired; or which are produced or performed by employment services organizations which offer transitional or supported employment services serving individuals with disabilities.

G. Other Special Exemptions: Procurement for single or term contracts for goods and services not expected to exceed $200,000 as identified by the Purchasing Agent.

H. Ballots and Elections Materials: The provisions of Articles 1, 2, and 5 of the Purchasing Resolution shall not apply to contracts for equipment, software, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election, except as stated in §24.2-602. The provisions of Fairfax County Purchasing Resolution, Article 6, shall apply to such contracts.

Section 4. Exemptions from the Purchasing Resolution.

A. Retirement Board Investments, Actuarial Services: The selection of services related to the management, purchase, or sale of investments authorized by Virginia Code Ann. §51.1-803, including but not limited to actuarial services, shall be governed by the standard of care set

forth in Virginia Code Ann. § 51.1-803(A) and shall not be subject to the provisions of the Purchasing Resolution or the VPPA.

B. Conference Planning: Acquisition of the use of meeting rooms and lodging rooms in hotels or motels is considered to be short term rentals of portions of real property -real estate transactions. So long as the procurement involves only the use of the facilities, the competitive requirements of the Fairfax County Purchasing Resolution do not apply. However, if the procurement includes the provision of catered meals, audio visual equipment, or other related services, and the value of these other included services exceeds the $10,000 level for which competition is required, the entire procurement, including the use of the space, shall be procured competitively as a package based on its anticipated value.

C. Virginia Grown Food Products: Neither the VPPA or the Purchasing Resolution applies to the purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed $100,000, provided that the procurement is accomplished by (i) obtaining written solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

D. Finance Board Investments: Pursuant to Virginia Code Ann. § 15.2-1548, the selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, of the local finance board shall not be subject to the provisions of the Virginia Public Procurement Act.

E. Multidivisional Online Providers: Pursuant to Virginia Code Ann. §22.2-212.24, the Fairfax County Public Schools may enter into contracts, consistent with the criteria approved by the FCPS Board, with approved private or nonprofit organizations to provide multidivisional online courses and virtual school programs. Such contracts shall be exempt from the Virginia Public Procurement Act.

F. Subaward Agreements: Subaward Agreements entered into pursuant to the principles set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. § 200 *et seq.*) are not subject to the Purchasing Resolution. Subaward Agreements and associated documents may, however, be executed by the Purchasing Agent.

G. Public Private Education Facilities and Infrastructure: The "Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)" (Virginia Code § 56-575 et seq.) provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are

exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.

Section 5. General Purchasing Provisions.

A. Competitive Solicitation Process.

1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and competitive negotiation methods of procurement. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.

2. The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or informal procurement methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor shall render the entire proceedings void and shall require re-advertising for bids.

3. All solicitations shall include the following provisions:

   a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of their knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of their immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

   b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph a. has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has

inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

4. Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named: it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

5. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

6. Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 5, Section 1.

7. The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.

8. Withdrawal of bids by a bidder.

   a. A bidder for a contract other than for public construction may request withdrawal of their bid under the following circumstances:

      1) Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

      2) Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier

quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

3) No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

4) If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

5) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

6) If the County denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

7) Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of Article 2, Section 5, Paragraph C.

B. Contract Award Process.-

1. The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in their judgment the public interest is best served. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if none, to the resident Virginia tie bidder, or if none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services.

2. When in the course of procuring goods, if the County receives two or more bids for products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, the County may only select among those bids unless, before selecting a different bid, the Purchasing Agent provides a written statement that demonstrates the bid price(s) of such products are unreasonable.

3. The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, the following criteria will be considered:

    a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;

    b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

    c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

    d. The quality of performance of previous contracts or services;

    e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

    f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

    g. The quality, availability and adaptability of the goods or services to the particular use required;

    h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

    i. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent;

    j. Whether the bidder who is not prequalified by the Virginia Department of Transportation has complied with criteria set forth in the solicitation regarding safety training programs, apprenticeship, and compliance records; and

k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

4. Pursuant to Virginia Code §15.2-1237, all contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.

5. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the responsive bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.

6. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

C. Disclosure of Information.-

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.

2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a

reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in 3. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section 5.E shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices.

4. Nothing contained in this section shall be construed to require the County, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

D. Bonds

1. The County may, at the discretion of the County Purchasing Agent, require bid, payment or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

   No forfeiture under a bid bond shall exceed the lesser of:
   a. the difference between the bid for which the bond was written and the next low bid, or
   b. the face amount of the bid bond.

2. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

3. Actions on payment bonds:

   a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

   b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where their office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

   c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

   d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

4. Alternative forms of security:
   a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier’s check or cash escrow in the face amount required for the bond.

   b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain

designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

E. Prequalification. –

1. Any prequalification of prospective contractor by the County shall be pursuant to a prequalification process.

   a. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

   b. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.

2. The County may deny prequalification to any contractor only if the County finds one of the following:

   a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

   b. The contractor does not have appropriate experience to perform the project in question;

c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts;

d. The contractor has been in substantial noncompliance with the terms and conditions of prior contracts with the County without good cause. If the County has not contracted with a contractor in any prior contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

e. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

f. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

g. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (a) through (f) of this subsection.

Section 6. Compliance with Conditions on Federal Grants or Contract.

Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the policy of full and open competition, the County Purchasing Agent may comply with the federal requirements only upon written determination by the County Executive and/or Board of Supervisors that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of this section in conflict with the conditions of the grant or contract.

Section 7. HIPAA Compliance.

The County is a "covered entity" as defined in 45 Code of Federal Regulations Section 160.103 by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The County has elected to designate itself as a Hybrid Covered Entity. In particular, the County performs HIPAA covered functions when it provides services as a health care provider transmitting health care information in an electronic format in connection with a transaction for which there has been a standard established in accordance with Subparts 160 and 162. A contractor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board; the Health Department; Fire and Rescue Department - Emergency Medical Services Division; and the Department of Human Resources, Benefits Division (health plan) upon award of contract.

Each contractor must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and, if required, the contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Code of Virginia – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: https://www.fairfaxcounty.gov/topics/hipaa-health-insurance-portability-accountability-act

Section 8. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in the Commonwealth.

A. Pursuant to competitive sealed bidding or competitive negotiation, the County shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

B. Any bidder or offeror described in subsection B that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Purchasing Agent.

C. Any business entity described in subsection A that enters into a contract with the County pursuant to this section shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

D. The County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

Article 3

CONTRACT TERMS AND CONDITIONS

Section 1. Authority to Bind the County.

The parties agree that only the Purchasing Agent may bind the County to contract terms or conditions. Any term or condition invoked through an "I agree" click box or other comparable mechanism (i.e. "click wrap" or "brows wrap" agreement) does not bind the County or any County authorized end user to such terms or conditions, unless agreed to in writing by or on behalf of the Purchasing Agent.

Section 2. Mandatory Terms and Conditions Applicable to All Contracts.

The following terms and conditions, as set forth below, are deemed included in all contracts for the purchase of goods, services, or both governed by the Purchasing Resolution. These terms and conditions will apply with the same force and effect as if set forth in the contract or ordering document.

A. Non-Discrimination: During the performance of this contract, the contractor agrees as follows:

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

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

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

The contractor will include the provisions of paragraphs 1, 2, and 3 above in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. Immigration Reform and Control Act Compliance: The contractor does not, and shall not, during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Immigration Reform and Control Act of 1986.

C. Nonvisual Access: -All information technology, which is purchased or upgraded by the County, must comply with the following access standards from the date of purchase or upgrade until the expiration of the Contract:

1. Effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means;
2. The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts;
3. Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and
4. The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.

Compliance with the nonvisual access standards set out this Section is not required if the Purchasing Agent determines that an exception as set out in Virginia Code § 2.2-3503 applies.

D. Prohibition on the Use of Certain Products, Services, Applications, and Website. Fairfax County may not use, whether directly or through work with or on behalf of another public body, any hardware, software, or services that have been prohibited by the Commonwealth of Virginia

and/or the U.S. Federal Government, including the Department of Homeland Security, for use on federal systems.

E. Venue. Venue for any claim under a contract or arising out of an order is exclusively in the state courts of Fairfax County, Virginia or the United States District Court for the Eastern District of Virginia, Alexandria Division.

F. Choice of Law. Any contract or ordering document will be governed for all purposes by and construed in accordance with the laws of the Commonwealth of Virginia.

G. Order of Precedence. If a term or condition included in a contract or ordering document (including any addendum, schedule, appendix, exhibit, or attachment) conflicts with the contract terms contained in this Article, this Article will control.

H. Contractual Disputes. Contractual disputes must be resolved as set forth in Article 5 of the Purchasing Resolution.

I. Electronic Signatures. Contractors agree that contracts and other associated documents may be executed using electronic signatures and delivered by electronic means. When electronic signatures are used, Contractors agree that the signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

J. Forced and Indentured Child Labor Prohibition. Contractors are prohibited from the use of "forced or indentured child labor" in the performance of the contract. Forced or indentured child labor means all work or service (i) exacted from any person younger than 18 years of age under the menace of any penalty for the nonperformance of such work or service and for which such person does not offer himself voluntarily or (ii) performed by any person younger than 18 years of age pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Section 3. Mandatory Terms Applicable to Contracts (including Amendments) in Excess of $200,000.

A. Authorization to Transact Business in the Commonwealth. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

B. Audit by the County. The County or its agent has reasonable access to and the right to examine any records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts. For purposes of this clause, the term "records" includes documents, and papers regardless of whether they are in written form, electronic form, or any other form. The Purchasing Agent may accept modifications to this requirement, in their discretion.

C. Drug Free Workplace: During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract. The Purchasing Agent may, in their discretion, accept a vendor's drug free workplace policy as satisfaction of this requirement, even if the vendor's drug free workplace policy differs from the requirements stated above.

Section 4. Prohibited Terms and Conditions.

The following terms and conditions are prohibited in any contract or ordering document executed by the County. No term or provision in any public contract for the acquisition of goods or services, including information technology goods or services, shall be valid or enforceable to the extent that it conflicts with this Purchasing Resolution or Virginia law. A public contract containing such a term or provision shall otherwise remain enforceable. As used in this section, "information technology goods or services" means communications, telecommunications, automated data processing, applications, databases, data networks, management information systems, and other related goods and services.

A. No Indemnification by the County. Under applicable law the County cannot indemnify or defend the Contractor or any third party.

FAIRFAX COUNTY PURCHASING RESOLUTION

B. Contracts Subject to Appropriation by Board of Supervisors. The County is not bound by any provision in a contract or ordering document that may or will cause the County, its agencies, or employees, to make or otherwise authorize an obligation in excess of the amount appropriated by the Fairfax County Board of Supervisors for such purpose. Such provisions include, for example, automatic renewal of the agreement, penalty payments by the County, indemnification by the County, and payment by the County of taxes or charges not specifically included in the prices of the goods or services.

C. Binding Arbitration or Mediation. The County does not agree to submit to any form of binding alternative dispute resolution, including without limitation arbitration or mediation, unless specifically authorized by the Board of Supervisors.

D. Limitation of Rights and Waiver of Remedies. The County does not agree to limit its rights or waive its remedies at law or in equity, unless specifically authorized by the Board of Supervisors.

E. Limitation of Liability. There is no limitation on the liability of a contractor for claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a contractor or any employee of a contractor. For information technology goods or services contracts in excess of $200,000 there is no limitation of liability of a contractor for the intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier.

F. Confidentiality. The County will not be bound by any confidentiality provision that is inconsistent with the requirements of the Virginia Code, including the Virginia Freedom of Information Act.

G. Unilateral Modification. Unilateral modification of the contract or ordering document by the contractor is prohibited.

H. Choice of Law and Venue. Any term or provision in a contract that (i) makes the public contract subject to, governed by, or interpreted under the laws of another state or country or (ii) requires or permits any litigation or other dispute resolution proceeding arising from the public contract to be conducted in another state or country shall be void. Such public contract shall instead be deemed to provide for the application of the law of the Commonwealth of Virginia, without regard to such contract's choice of law provisions, and to provide for jurisdiction in the courts of the Commonwealth.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 4

CONSTRUCTION CONTRACTING

Section 1. Authority.

The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are as set out in Article 1, Section 3.

Section 2. Rules and Regulations.

The Agencies designated in Section 1 above shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 3. Purchasing Policies.

A. Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.

B. The Purchasing Agent may establish written purchase procedures not requiring competitive sealed bids or competition negotiation for single or term contracts for non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed $300,000; and transportation-related construction, if the aggregate or sum of all phases is not expected to exceed $25,000. However, such purchase procedures shall provide for competition wherever practicable.

C. No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of $50,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.

D. A contract for architectural or professional engineering services relating to multiple projects may be awarded provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year and may be renewable for three additional terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in a contract term shall not exceed $10 million, (c) the fee for any single project shall not exceed $2.5 million. Any unused amounts from the first contract term shall not be carried forward to the additional term(s). Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.

E. No County construction contract shall waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on their behalf or on behalf of their subcontractor if and to the extent such delay is caused by acts or omissions of the County, its agents or employees and due to causes within their control.

1. Subsection E shall not be construed to render void any provision of a County construction contract that:

    a. Allows the County to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractor, agents or employees;
    b. Requires notice of any delay by the party claiming the delay;
    c. Provides for liquidated damages for delay; or
    d. Provides for arbitration or any other procedure designed to settle contract disputes.

2. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

3. A public body denying a contractor’s claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the County shall be equal to the percentage of the contractor’s total

delay claim for which the County's denial is determined through litigation or arbitration to have been made in bad faith.

Section 4. Methods of Procurement.

A. Construction Management/Design Build Services. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Resolution and law.

1. Prior to making a determination as to the use of construction management or design-build for a specific construction project, the County shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the County regarding the use of construction management or design-build for that project and (ii) assist the County with the preparation of the Request for Proposal and the evaluation of such proposals.

2. A written determination shall be made in advance by the County that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

3. Procedures adopted by the County for construction management pursuant to this article shall include the following requirements:

    a. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for the Commonwealth using construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file; public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;
    b. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;
    c. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the

selection of a contractor, the County may consider the experience of each contractor on comparable projects;

d. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. The provisions of this subdivision shall not apply to construction management contracts involving infrastructure projects;

e. The procedures allow for a two-step competitive negotiation process; and

f. Price is a critical basis for award of the contract.

4. Procedures adopted by the County for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

5. The County shall report by no later than November 1 of each year to the Director, Department of General Services on all completed capital projects in excess of $2 million, which report shall include at a minimum (i) the procurement method utilized; (ii) the project budget; (iii) the actual project cost; (iv) the expected timeline; (v) the actual completion time; and (vi) any post-project issues.

C. Job order contracting; limitations. Where the method for procurement of job order construction is competitive negotiation, the following shall apply:

1. A job order contract may be awarded by the County for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first.

2. Such contracts may be renewable for three additional one-year terms at the option of the County. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $10 million. Subject to the maximum threshold amount, no individual job order shall exceed $1,000,000.

3. For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.

4. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection 2 is prohibited.

5. No job order contract shall be issued solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Article 1, Section 6. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed $25,000 per job order, and (iii) do not exceed $75,000 per contract term.

6. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000, subject to the maximum annual threshold amount established in this section.

Section 5. Prequalification, Bonds, Escrow Accounts.

Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

A. Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.

1. The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph C.

2. In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

3. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

4. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. If upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.

B. The County may deny prequalification to any contractor only if the County finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the

prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

7. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.

   a. If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

C. Withdrawal of bids by a bidder.

1. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw their bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw their bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from

inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

2. The bidder shall give notice in writing of their claim of right to withdraw their bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. No bid shall be withdrawn when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. The lowest remaining bid shall be deemed to be the low bid. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

3. The County shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the County denies the withdrawal of a bid, it shall state in such notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the County shall return all work papers and copies thereof that have been submitted by the bidder.

D. Progress Payments.

1. In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with no more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

E. Bonds.-

1. Except in cases of emergency, all bids or proposals for construction contracts in excess of $500,000 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

No forfeiture under a bid bond shall exceed the lesser of:

a. the difference between the bid for which the bond was written and the next low bid, or

b. the face amount of the bid bond.

Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000.

2. Performance and payment bonds:

a. Upon the award of any public construction contract exceeding $500,000 awarded to any prime contractor, the contractor shall furnish to the County the following bonds:

1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

2) A payment bond in the sum of the contract amount, unless the contract is an indefinite delivery or quantity contract and the County has adopted an ordinance pursuant to subsection f. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work. As used in this subdivision "Labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

b. Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.

c. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.

d. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below $500,000.

e. Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount

of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

f. For indefinite delivery or quantity contracts awarded pursuant to subsection a, the County may, by ordinance allow the contractor awarded such contract to furnish to the County a performance bond and a payment bond, each of which shall be equal to the dollar amount of the individual tasks identified in the underlying contract. Such contractor shall not be required to pay the performance bond and payment bond in the sum of the contract amount if the County has adopted such an ordinance pursuant to this subsection. For purposes of this section, "indefinite delivery or quantity contract" means a contract that only requires performance of contractual obligations upon the request of the County and which establishes an annual cap for the total work that may be authorized for such contract.

3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

4. Actions on payment bonds:

a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was

furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where their office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

5. Alternative forms of security:

a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.

b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

F. Escrow Accounts.-

1. The County, when contracting directly with contractors for public contracts of $200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.

2. The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit their rights to the use of the Escrow account procedure.

3. The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.

4. This subsection F. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

5. Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.

This subsection F. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 5

BIDDER/CONTRACTOR REMEDIES

Section 1. Ineligibility.

A. Debarment as used in this section means any action taken by the County Purchasing Agent to exclude individuals or entities from contracting with County agencies or organizations for particular types of supplies, services, insurance, or construction for a specified period of time. A prospective contractor may be suspended from participating in County procurements if there is evidence that the prospective contactor has committed an act that would be the basis of a debarment and immediate action is needed to protect the County's interests. Debarment or suspension do not relieve the contractor of responsibility for its existing obligations.

B. The County Purchasing Agent shall have the authority to suspend or debar a prospective contractor from contracting for particular types of supplies, services, insurance or construction, for specified periods of time for the causes stated below:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

    a. failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

C. Ineligibility Period. Debarment shall be for a period of ninety (90) days to three (3) years, at the discretion of the County Purchasing Agent. The period of suspension shall not exceed one year. A debarment or suspension may be lifted or stayed at any time if the County Purchasing Agent determines that doing so is in the best interests of the County.

D. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within ten (10) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.

2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

E. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

Section 2. Appeal of Denial of Withdrawal of Bid.

A. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

B. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 5A, paragraph 8, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

Section 3. Appeal of Determination of Non-responsibility.

A. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

B. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

Section 4. Protest of Award or Decision to Award.

A. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County

of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 5.C, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 5.D, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia. Nothing in this section shall be construed to permit a bidder to challenge the validity of the terms or conditions of the Invitation for Bid or Request for Proposal.

B. If, prior to award, it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

D. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

Section 5. Contractual Disputes.

A. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce their decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

B. The Contractor's contractual claims, whether for money or other relief, must be submitted to the County Purchasing Agent in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given to the County Purchasing Agent at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

Section 6. Legal Action.

A. In addition to the requirements of Section 5, any bidder, offeror, potential bidder or offeror, or contractor that seeks monetary relief or damages from the County must submit its claim to the Board of Supervisors in compliance with Virginia Code §§ 15.2-1243 through 1249. The requirement to submit a claim for monetary relief or damages to the Board of Supervisors does not alter, toll, extend, or otherwise vary the Contractor's obligation to appeal the Purchasing Agent's decision within six (6) months of the date of Purchasing Agent's final written decision by instituting legal action, as described in Section 5.

B. No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 6

ETHICS IN COUNTY CONTRACTING

Section 1. General.

A. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), and Articles 2 (§ 18.2-438 et seq.) and 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

B. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of B1, B2, and B3 of § 2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 2. Solicitation or Acceptance of Gifts.

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services personal use rebates or anything

of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The County may recover the value of anything conveyed in violation of this section. No employee shall use rebates provided by any vendor for personal use. All monetary rebates received as the result of a procurement transaction are for the sole use of the County.

Section 3. Disclosure of Subsequent Employment.

No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.

Section 4. Gifts.

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

Section 5. Kickbacks.

A. No contractor or subcontractor shall demand or receive from any of their suppliers or their subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.

B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.

D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be

recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

E. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.

Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

A. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.

B. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.

C. The provisions of this Section shall not apply in the case of emergency.

Section 7. Certification of Compliance; Penalty for False Statements.

A. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.

B. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.

Section 8. Misrepresentations.

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

Section 9. Penalty for Violation.

The penalty for violations of any of the provisions under Article 6 of this Resolution is provided in the Code of Virginia, §2.2-4377.

Section 10. Personal Conflicts of Interest

It is County policy to require contractors to:

A. Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and

B. Prohibit employees who have access to non-public County information from using such information for personal gain.

Failure to comply may result in suspension or debarment or termination for cause. The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if the Purchasing Agent determines in writing that such mitigation is in the best interest of the County.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 7

PROPERTY MANAGEMENT

The Director of the Department of Procurement and Material Management is responsible for the management of all Fairfax County and Fairfax County Public Schools (FCPS) property, supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes physical accountability of consumable supplies and accountable equipment, as well as, validation of the inventory and accountable equipment values reported in Fairfax County's Comprehensive Annual Financial Report. DPMM shall prescribe the procedures to be used by departments in the acquisition, receipt, storage and management, and issuance of consumable supplies and accountable equipment inventory, and disposition of excess and surplus County property.

Section 1. County Consolidated Warehouse (Logistics Center).

The Director of the Department of Procurement and Material Management is responsible for operation of the County Logistics Center which provides temporary storage and distribution of the supplies and equipment to all County departments. The Logistics Center may be used as the storage point for customer owned inventory from other departments. The Director of the Department of Procurement and Material Management is responsible for space management and logistics coordination at the Logistics Center.

Section 2. Inventory Accountability.

Departments and Fairfax County Public Schools are required to establish and maintain accountability of consumable inventories and accountable equipment in their custody, and to conduct periodic physical inventories in accordance with schedules published by the Director of the Department of Procurement and Material Management.

Section 3. Consumable Inventory Property Management.

The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all consumable inventory warehouses and stockrooms. The program shall be administered in accordance with industry standards and best practices.

Section 4. Accountable Equipment Inventory Property Management.

A. The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all accountable equipment.

B. The Director of the Department of Procurement and Material Management is responsible for defining items to be capitalized as accountable equipment, and administering the Accountable Equipment Program in accordance with State and County codes, as well as industry standards and best practices.

Section 5. Excess and Surplus Property Management.

A. The Director of the Department of Procurement and Material Management is responsible for determining (i) the method of redistribution of serviceable excess property and inventory and (ii) the method of disposal of surplus property and inventory as allowed by law. Redistribution of serviceable excess property and inventory and the disposal of surplus property and inventory will be in accordance with any rules, regulations, or procedures established by DPMM.

B. Confiscated or abandoned property in the hands of the police shall be disposed in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.

C. Employees and members of their immediate family are not eligible to acquire property for personal use before such property has been declared surplus and has been made available to the general public. The County may, however, sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by the locality to be appropriate.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 6. Donations.

A. Accepting Donations:

1. Items $10,000 or more:
   The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services is responsible for approving the acceptance of donated items or services with a fair market value of $10,000 or more, and ensuring accepted items are properly accounted for.

2. Items under $10,000:
   Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under $10,000.

3. Inasmuch as the County is not offering consideration nor is it purchasing or initiating the provision of services, the County may accept a gift of services pursuant to the Virginia State Government Volunteers Act. Such services must be provided from a person who acts of their own free will and without any financial gain.

B. Making Donations:

1. Items $10,000 or more:
   When the fair market value of an item exceeds $10,000, the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may offer surplus County or School property to charitable or non-profit organizations or public bodies for sale or donation, where appropriate. The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services shall coordinate all requests to donate items with their respective Board.

2. Items under $10,000:
   When the fair market value of a surplus item is less than $10,000, the Director of the Department of Procurement and Material Management or FCPS Chief Financial Services may donate the item directly to charitable or nonprofit organizations or public bodies as appropriate and allowed by law.

FAIRFAX COUNTY PURCHASING RESOLUTION

It is further resolved that this resolution shall be effective July 15, 2025.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ATTACHMENT II

FAIRFAX COUNTY PURCHASING

RESOLUTION

July ~~2024~~2025	~~Adopted by the Board of Supervisors on July 16, 2024~~Adopted by the Board of Supervisors on July 15, 2025

ATTACHMENT II

FAIRFAX COUNTY PURCHASING RESOLUTION

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FAIRFAX COUNTY PURCHASING RESOLUTION

WHEREAS, the Fairfax County Board of Supervisors (the Board) is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved; and

WHEREAS, a central purchasing system is authorized by Virginia Code §15.2-831, and is a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and

WHEREAS, the Virginia Public Procurement Act (Chapter 43 of Title 2.2 of the Code of Virginia, as amended), enunciates the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party; and

WHEREAS, ~~the~~ Virginia Code § 15.2-831, ~~and Virginia Code~~ § 15.2-1236, and ~~-~~ § 2.2-4311.3 (as amended) require all purchases of and contracts for supplies, materials, equipment and contractual services be in accordance with the Virginia Public Procurement Act and under such rules and regulations consistent with the Act and state law as established by the Board through this resolution; and

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WHEREAS, Virginia Code § 15.2-831, § 2.2-4302, and § 2.2-4343 (as amended) allow implementation of the Virginia Public Procurement Act through resolutions and regulations consistent with this Act; and

WHEREAS, Virginia Code § 15.2-831 and §15.2-1543 empower the Board to employ a County Purchasing Agent, Virginia Code § 2.2-4302 authorizes the Board to act through its County Purchasing Agent, and § 15.2-831, § 15.2-1233 through § 15.2-1240, and § 15.2-1543 -set the County Purchasing Agent's duties;

THEREFORE BE IT RESOLVED that this resolution prescribes the basic policies for the conduct of all purchasing in Fairfax County (except as otherwise stipulated herein) to take effect on July ~~19~~15, ~~2024~~2025, as follows:

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 1

GENERAL PROVISIONS

Section 1. Title.

This resolution shall be known as the Fairfax County Purchasing Resolution.

Section 2. Organization.

A. The Department of Procurement and Material Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.

B. The Director of the Department of Procurement and Material Management shall be the County Purchasing Agent who shall have general supervision of the DPMM. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.

The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce. The County Purchasing Agent, or their designee, has the authority to take any action or fulfill any duty granted by this Purchasing Resolution or by law, including, but not limited to, executing and administering contracts and making findings and addressing remedies as outlined in Article 5 of this Resolution.

Section 3. Exclusions from Duties.

A. The procurement of architectural, engineering and related consultant services for capital construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:

1. The Department of Public Works and Environmental Services (DPWES), pursuant to Virginia Code §15.2-834, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, is responsible for Fairfax County construction projects administered

by DPWES and the architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or their designee, has the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or their designee has the authority to enter into agreements pursuant to Virginia Code § 2.2-4366. Any such agreements shall be approved by the County Attorney.

2. The Fairfax County Public School Board is responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with Virginia Code § 22.1-79. The school division's Superintendent or their designee has the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.

3. The Fairfax County Park Authority is responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per Virginia Code § 15.2-5704 of the Code of Virginia, Board of Supervisors' Ordinance dated July 13, 2021, and a Memorandum of Understanding governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or their designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or their designee shall have the authority to enter into agreements pursuant to Virginia Code § 2.2-4366. Any such agreements shall be approved by the County Attorney.

4. The Department of Housing and Community Development shall be responsible for capital construction and the architectural, engineering, and consultant services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per Virginia Code ~~-~~§36-19 or ~~the~~ Fairfax County~~ Board of Supervisors~~,~~ ~~The Director of the Department of Housing and Community Development or their designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5

of this Resolution. Purchases made by the Director, or their designee, pursuant to the authority in this section and on behalf of Fairfax County will be pursuant to the rules and regulations established by the Department of Housing and Community Development and in accordance with this Resolution. Purchases made by the Director, or their designee, pursuant to this section and on behalf of the Redevelopment and Housing Authority will be in accordance with the Virginia Public Procurement Act. ~~Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.~~

5. The Department of Transportation, pursuant to Virginia Code § 33.2-338 and this Resolution, may be responsible for constructing or improving highways, including related architectural, engineering, and consulting services. Highways may include curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or their designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 5 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.

6. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.

B. The procurement of goods and services for individual schools using funds generated from school activities for the Fairfax County Public Schools is excluded from the duties of the County Purchasing Agent. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.

C. The Fairfax County Sheriff shall be the purchasing agent in all matters involving the commissary and non-appropriated funds received from inmates, in accordance with §53.1-127.1 Code of Virginia. The Purchasing Agent shall make all other purchases governed by Virginia Code § 53.1-126.

Section 4. Rules and Regulations.

FAIRFAX COUNTY PURCHASING RESOLUTION

A. The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and material management system.

B. The Agencies designated in Section 3(A) 1 - 6 shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 5. Authority of Purchasing Agent.

A. The Purchasing Agent, the individuals described in Section 3 (above), and their respective designees have exclusive authority for procurement transactions undertaken by the County. No County Employee shall attempt, directly or indirectly, to influence or coerce the Purchasing Agent in the performance of their duty.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 6. Definitions.

1. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:
    a. Planning acquisitions.
    b. Determining what supplies or services are to be acquired by the County, including developing statements of work.
    c. Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
    d. Evaluating bids or proposals.
    e. Awarding County contracts.
    f. Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).
    g. Terminating contracts.
    h. Determining whether contract costs are reasonable, allocable, and allowable.

2. Best Value, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

3. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).

4. Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2 A).

5. Complex Project means a construction project that includes one or more of the following significant components: difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.

6. Construction shall mean building, altering, repairing, improving or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading or similar work upon real property.

7. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

8. Consultant Services shall mean any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

9. Covered Employee means an individual who
    a. Is an employee of the contractor or subcontractor, a consultant, partner, or a sole proprietor; and
    b. Performs an acquisition function closely associated with inherently governmental functions.

10. Debarment is an action taken by the County Purchasing Agent, a contracting officer, or their designee, within the scope of their procurement authority, to exclude prospective contractors from contracting with County agencies or organizations for particular types of supplies, services, insurance, or construction, for specified periods of time.

11. Department means the Virginia Department of General Services

12. Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

13. DPMM shall mean the Department of Procurement and Material Management.

14. Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, including a public health emergency, or when any unforeseen circumstances arise causing curtailment or diminution of essential service and/or threat to the community that demands immediate action.

15. Employment Services Organization shall mean an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

16. Excess Property shall mean that property which exceeds the requirement of the department to which the property is assigned.

17. FCPS shall mean Fairfax County Public Schools.

18. Faith–Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.

19. Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.

20. Accountable Equipment shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of $10,000.

21. Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.

22. Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.

23. Independent Contractor shall mean a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of accomplishing the result.

24. Ineligibility shall mean an action taken to suspend or debar a prospective contractor from consideration for award of contracts. The suspension shall not be for a period exceeding twelve (12) months and the debarment shall not be for a period exceeding three (3) years.

25. Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

26. Job Order Contracting is a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing.

27. Non-public Government Information means any information that a covered employee gains by reason of work under a County contract and that the covered employee knows, or reasonably should know, has not been made public. It includes information that--
    a. Is exempt from disclosure under the Virginia Freedom of Information Act; or
    b. Has not been disseminated to the general public and is not authorized by the agency to be made available to the public.

28. Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.

29. Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.

30. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural, engineering and related consultant services for construction projects and the contracting for construction projects to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.

31. Pecuniary Interest Arising from the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.

32. Personal Conflict of Interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the County when performing under the contract.

    Among the sources of personal conflicts of interest are--
    a. Financial interests of the covered employee, of close family members, or of other members of the household;
    b. Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
    c. Gifts, including travel.

    Financial interests may arise from--
    1) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
    2) Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);

3) Services provided in exchange for honorariums or travel expense reimbursements;
4) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
5) Real estate investments;
6) Patents, copyrights, and other intellectual property interests; or
7) Business ownership and investment interests.

33. Potential Bidder or Offeror shall mean a person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

34. Prevailing Wages shall mean the rate, amount or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property that is the subject of construction is located as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. §276 et seq., as amended.

35. Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

36. Professional services shall mean any type of service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with this Resolution).

37. Project Labor agreement shall mean a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific public works project.

38. Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution. Public body shall

include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

~~38.~~39. Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

~~39.~~40. Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.

~~40.~~41. Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.

~~41.~~42. Responsive Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.

~~42.~~43. Reverse Auctioning shall mean a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

~~43.~~44. SAC shall mean Selection Advisory Committee.

~~44.~~45. Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

~~45.~~46. Surplus Property shall mean that property which exceeds the requirement of the entire County.

~~46.~~47. Suspension is a type of ineligibility based upon an immediate need when there is evidence that a prospective contractor has committed any of the grounds for debarment.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 2

PROCUREMENT POLICIES

Section 1. General.

A. Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.

B. Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article.

C. Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article.

D. Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance has certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. If any department or agency of the County government purchases or contracts for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract is void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.

E. Notwithstanding any other provision of law in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction, including the accessibility of such housing to employees of the county, town, or city or employees of the local school board. No more than fifty percent of the funds of the county, calculated on the

basis of the average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.

F. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

G. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.

H. The County may, when procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, or when overseeing or administering such procurement, construction, manufacture, maintenance or operation, in its bid specifications, project agreements, or other controlling documents:

1. Require bidders, offerors, contractors or subcontractors to enter into or adhere to project labor agreements with one or more labor organizations, on the same or related public works projects; and
2. Require bidders, offerors, contractors, subcontractors, or operators to become or remain signatories or otherwise adhere to project labor agreements with one or more labor organizations, on the same or other related public works projects.

I. The County adopted an ordinance that requires payment of the Prevailing Wage Rate on County Construction Contracts, as those terms are defined in the Fairfax County Code (Chapter 2, Article 3, Section 2-3-1 and Section 2-3-2). Each County Construction Contract, as defined in the County's Prevailing Wage Ordinance, must contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done under the public contract shall be at a rate equal to the prevailing wage rate.

J. In alignment with the County's One Fairfax Policy on racial and social equity and its recognition that economic inclusivity benefits all, the County Purchasing Agent will establish and expand programs consistent with all provisions of this Resolution and applicable law to facilitate the participation of small businesses, businesses owned by women, minorities, and service-disabled veterans (SWaM Businesses) in procurement transactions. SWaM businesses are those businesses as defined by the Virginia Department of Small Businesses

and Supplier Diversity (SBSD) at https://www.sbsd.virginia.gov/faqs/. Such programs may include cooperation with the SBSD, the United States Small Business Administration, and other public or private agencies.

To measure the success of such programs, the County Purchasing Agent will track bid and proposal submissions by SWaM Businesses as well as procurement transactions under their authority with SWaM businesses.

K. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the fulfillment of the contract.

L. It is the County's policy to require that its contractors do not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.

Section 2. Methods of Procurement.

A. Competitive Sealed Bidding.- is a method of contractor selection that includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. The Invitation to Bid may include criteria to be used in determining whether a bidder who is not prequalified by the Virginia Department of Transportation is a responsible bidder pursuant to § 2.2-4301. Such criteria may include a history of (i) completion by the bidder and any potential subcontractors of specified safety training programs established by the U.S. Department of Labor, Occupational Safety and Health Administration; (ii) participation by the bidder and any potential subcontractors in apprenticeship training programs approved by state agencies or the U.S. Department of Labor; or (iii) maintenance by the bidder and any potential subcontractor of records of compliance with applicable local, state and federal laws. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed

by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting on the Department of General Services' central electronic procurement website, the Fairfax County Government website, other appropriate websites, or publication in a newspaper of general circulation. In addition, bids may be solicited directly from potential vendors.

3. Public opening and posting of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.

B. Competitive Negotiation.- is a method of contractor selection that includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. A public body may include as a factor that will be used in evaluating a proposal the proposer's employment of persons with disabilities to perform the specifications of the contract. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.

2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting on the Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or by publication in a newspaper of general circulation. In addition, proposals may be solicited directly from potential vendors.

FAIRFAX COUNTY PURCHASING RESOLUTION

3. Competitive Negotiation – Consultant Services

a. Selection Advisory Committee

1) When selecting a firm for consultant services where the compensation for such services is estimated to exceed $200,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee, shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee ~~and a member of the DPMM or other authorized agency~~. Elected Officials and/or their appointed office staff may not participate as members of a Selection Advisory Committee or Technical Advisory Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than $200,000,– the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those consultant services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

1) When consultant services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for consultant services is estimated to be less than $200,000 may be accomplished without public announcement.

c. Selection, Negotiation and Approval Process.

1) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to

more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2) All proposed contracts for consultant services, where the compensation to be paid exceeds $200,000, after review of the SAC recommendation, shall be awarded by the Purchasing Agent for the County or an agency of the County. The Purchasing Agent or FCPS Division Superintendent will notify the Board of Supervisors and/or the School Board of such contract award prior to final execution.

3) All proposed contracts for consultant services, where the compensation to be paid is less than $200,000, shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4) For all cost-plus-a-fixed-fee consultant services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any consultant services contract under which such a certificate is required shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

4. Competitive Negotiation – Professional Services

a. Selection Advisory Committee.

1) When selecting a firm for professional services where the compensation for such professional services is estimated to exceed $80,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those professional services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee. ~~and a member of the DPMM or other authorized agency.~~ Elected Officials and/or their appointed office staff may not participate as members of a

Selection Advisory Committee or Technical Advisory Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for professional services, where the compensation for such professional services is estimated to be less than $80,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement and Qualifications for Professional Services.

1) When professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for such professional services is estimated to be less than $80,000 may be accomplished without public announcement.

2) For architectural or engineering services estimated to cost less than $80,000, an annual advertisement requesting qualifications from interested architectural or engineering firms will meet the requirements of paragraph (1) above. The County shall make a finding that the firm to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record of performance, and experience of the firm.

c. Selection, Negotiation, and Approval Process

1) Selection of Professional Services: Where the cost is expected to exceed $80,000, the County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the County in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not

limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the County shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. DPMM or other Authorized Agency, with the aid of the Selection Advisory Committee, shall negotiate a proposed contract with the highest qualified firm for the professional services required. The firm deemed to be the most qualified will be required to disclose its fee structure during negotiation. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the County may award contracts to more than one offeror.

2) Except for construction projects and related architectural, engineering, and consultant services, all proposed contracts for professional services, where the compensation to be paid exceeds $200,000, after review of the SAC recommendation a contract shall be awarded by the Purchasing Agent for those professional services to be retained by the County or an agency of the County. The Purchasing Agent or FCPS Division Superintendent will notify the Board of Supervisors and/or the School Board prior to final contract execution.

3) All proposed contracts for professional services, where the compensation to be paid is less than $200,000, shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4) For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a certificate is required shall

contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

5) Multiphase professional services contracts satisfactory and advantageous to the County for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the County shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.

6) A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4303.1.

5. Competitive Negotiation – Non-Professional Services

a. Selection Advisory Committee

1) When selecting a firm for non-professional services where the compensation is estimated to exceed $200,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those non-professional services firms that are to be retained by the County. The SAC will be composed of principal staff personnel and other such individuals as determined by the Purchasing Agent or their designee ~~and a member of the DPMM or other authorized agency.~~ Elected Officials and/or their appointed office staff may not participate as members of a Selection Advisory Committee or Technical Advisory Committee. For purposes of this section, Elected Officials does not include Constitutional Officers.

2) When selecting a firm for non-professional services, where the compensation is estimated to be less than $200,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of principal staff personnel to recommend to the Director of the

funded Agency or FCPS Department Head those non-professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

1) When non-professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for non-professional services is estimated to be less than $200,000 may be accomplished without public announcement.

c. Selection, Negotiation and Approval Process.

1) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2) All proposed contracts for non-professional services shall be approved by the Director of DPMM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

C. Cooperative: The County or any entity identified in Article 1, Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the Metropolitan Washington Council of Governments, the National Association of Counties, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriff's Association even if it did not participate in the request for proposal or invitation to

bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

Except for contracts for architectural and engineering services, as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government.

D. Emergency.- In case of an Emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the Emergency and for the selection of the particular contractor shall be included in the appropriate contract or purchase order file. In addition, a notice shall be posted on the Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or in a newspaper of general circulation for contracts in excess of $200,000.

1. If an Emergency occurs during regular County business hours, the head of the using agency or their designee shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.

2. If an Emergency occurs at times other than regular County business hours and there is an immediate threat to personal safety and/or property, the using agency head or their designee may purchase the required goods or services directly. The agency head or their designee shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall or their designee also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the Emergency.

3. The County Purchasing Agent shall maintain a record of all Emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.

E. Informal Procurement.- An informal procurement is not subject to the rules governing competitive sealed bidding or competitive negotiation. Pursuant to Article 1, Section 4, the Purchasing Agent will adopt written procedures for informal procurements that will provide for competition wherever practicable. Informal procurements are subject to Article 2, Section 5 of this Resolution. No informal procurement procedures will waive compliance with the Uniform State Building Code.

1. Goods and Services: If the estimated contract value is $200,000 or less, an informal procurement may be used for(i) goods and services, other than professional services.

2. Non-Transportation Related Construction: If the estimated contract value is $300,000 or less, an informal procurement may be used for non-transportation-related construction. For purposes of this section, the contract value of non-transportation related construction is the aggregate or the sum of all phases of the contract.

3. Transportation-Related Construction: Informal procurement may be used for transportation-related construction contracts if the estimated contract value is $25,000 or less. For purposes of this section, the contract value for transportation-related construction includes the aggregate or sum of all phases of the contract.

4. Professional Services: An informal procurement may be used for single or term contracts for professional services if the estimated contract value is $80,000 or less. For purposes of this section, the contract value for professional services includes the aggregate or sum of all phases of the contract.

F. Reverse Auctioning.- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

G. Small Purchase.- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than $10,000, shall be deemed a small purchase and shall not be subject to the rules governing the competitive bidding process.

H. Sole Source.- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted on the

Department of General Services' central electronic procurement website, the Fairfax County Government website, or other appropriate websites, or in a newspaper of general circulation for contracts in excess of $200,000.

I. Auction. - Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

Section 3. Exceptions to the Requirement for Competitive Procurement.

A. Instructional Materials and Office Supplies: Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2. H.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School Board solely for such purchases.

B. Insurance / Electric Utility Services: As provided in the Code of Virginia, subdivision 13 of § 2.2-4345, the County may enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

C. Insurance: As provided in § 2.2-4303(C), upon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker

selected in the manner provided for the procurement of things other than professional services in §2.2-4302.2(A)(3) of the Virginia Public Procurement Act.

D. Legal Services: The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) the purchase of legal services; and (2) expert witnesses or other services associated with litigation or regulatory proceedings. Any contract for Legal Services may be entered into upon terms established by the County Attorney.

E. Public Assistance Programs: The County may procure goods or personal services without competition for direct use by a recipient of County administered public assistance or social services programs as defined by § 63.2-100 of the Code of Virginia, or community services board as defined in §37.2-100, or any public body purchasing services under the Children's Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such good or personal service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.

F. Workshops or Employment Services Organizations: The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Blind and Visually Impaired; or which are produced or performed by employment services organizations which offer transitional or supported employment services serving individuals with disabilities.

G. Other Special Exemptions: Procurement for single or term contracts for goods and services not expected to exceed $200,000 as identified by the Purchasing Agent.

H. Ballots and Elections Materials: The provisions of Articles 1, 2, and 5 of the Purchasing Resolution shall not apply to contracts for equipment, software, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election, except as stated in §24.2-602. The provisions of Fairfax County Purchasing Resolution, Article 6, shall apply to such contracts.

Section 4. Exemptions from the Purchasing Resolution.

A. Retirement Board Investments, Actuarial Services: The selection of services related to the management, purchase, or sale of investments authorized by Virginia Code Ann. §51.1-803, including but not limited to actuarial services, shall be governed by the standard of care set

forth in Virginia Code Ann. § 51.1-803(A) and shall not be subject to the provisions of the Purchasing Resolution or the VPPA.

B. Conference Planning: Acquisition of the use of meeting rooms and lodging rooms in hotels or motels is considered to be short term rentals of portions of real property -real estate transactions. So long as the procurement involves only the use of the facilities, the competitive requirements of the Fairfax County Purchasing Resolution do not apply. However, if the procurement includes the provision of catered meals, audio visual equipment, or other related services, and the value of these other included services exceeds the $10,000 level for which competition is required, the entire procurement, including the use of the space, shall be procured competitively as a package based on its anticipated value.

C. Virginia Grown Food Products: Neither the VPPA or the Purchasing Resolution applies to the purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed $100,000, provided that the procurement is accomplished by (i) obtaining written solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

D. Finance Board Investments: Pursuant to Virginia Code Ann. § 15.2-1548, the selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, of the local finance board shall not be subject to the provisions of the Virginia Public Procurement Act.

E. Multidivisional Online Providers: Pursuant to Virginia Code Ann. §22.2-212.24, the Fairfax County Public Schools may enter into contracts, consistent with the criteria approved by the FCPS Board, with approved private or nonprofit organizations to provide multidivisional online courses and virtual school programs. Such contracts shall be exempt from the Virginia Public Procurement Act.

F. Subaward Agreements: Subaward Agreements entered into pursuant to the principles set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. § 200 *et seq.*) are not subject to the Purchasing Resolution. Subaward Agreements and associated documents may, however, be executed by the Purchasing Agent.

G. Public Private Education Facilities and Infrastructure: The "Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)" (Virginia Code § 56-575 et seq.) provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are

exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.

Section 5. General Purchasing Provisions.

A. Competitive Solicitation Process.

1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and competitive negotiation methods of procurement. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.

2. The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or informal procurement methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor shall render the entire proceedings void and shall require re-advertising for bids.

3. All solicitations shall include the following provisions:

   a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of their knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of their immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or

debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph a. has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

4. Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named: it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

5. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

6. Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 5, Section 1.

7. The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.

8. Withdrawal of bids by a bidder.

a. A bidder for a contract other than for public construction may request withdrawal of their bid under the following circumstances:

1) Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

2) Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

3) No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

4) If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

5) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

6) If the County denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

7) Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of Article 2, Section 5, Paragraph C.

B. Contract Award Process.-

1. The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in their judgment the public interest is best served. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if none, to the resident Virginia tie bidder, or if none, to one of the tie bidders by drawing lots in public;

or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services.

2. When in the course of procuring goods, if the County receives two or more bids for products that are Energy Star certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, the County may only select among those bids unless, before selecting a different bid, the Purchasing Agent provides a written statement that demonstrates the bid price(s) of such products are unreasonable.

3. The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, the following criteria will be considered:

    a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;

    b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

    c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

    d. The quality of performance of previous contracts or services;

    e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

    f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

    g. The quality, availability and adaptability of the goods or services to the particular use required;

    h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

    i. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent;

j. Whether the bidder who is not prequalified by the Virginia Department of Transportation has complied with criteria set forth in the solicitation regarding safety training programs, apprenticeship, and compliance records; and

k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

4. Pursuant to Virginia Code §15.2-1237, all contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.

5. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the responsive bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.

6. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

C. Disclosure of Information.-

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.

2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all

bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in 3. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section 5.E shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices.

4. Nothing contained in this section shall be construed to require the County, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

D. Bonds

1. The County may, at the discretion of the County Purchasing Agent, require bid, payment or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

   No forfeiture under a bid bond shall exceed the lesser of:
   a. the difference between the bid for which the bond was written and the next low bid, or
   b. the face amount of the bid bond.

2. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including

the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

3. Actions on payment bonds:

   a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

   b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where their office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

   c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

   d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

4. Alternative forms of security:

a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.

b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

E. Prequalification. –

1. Any prequalification of prospective contractor by the County shall be pursuant to a prequalification process.

   a. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

   b. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.

2. The County may deny prequalification to any contractor only if the County finds one of the following:

   a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be

sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

b. The contractor does not have appropriate experience to perform the project in question;

c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts;

d. The contractor has been in substantial noncompliance with the terms and conditions of prior contracts with the County without good cause. If the County has not contracted with a contractor in any prior contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

e. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

f. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

g. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (a) through (f) of this subsection.

Section 6. Compliance with Conditions on Federal Grants or Contract.

Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the policy of full and open competition, the County

Purchasing Agent may comply with the federal requirements only upon written determination by the County Executive and/or Board of Supervisors that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of this section in conflict with the conditions of the grant or contract.

Section 7. HIPAA Compliance.

The County is a "covered entity" as defined in 45 Code of Federal Regulations Section 160.103 by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The County has elected to designate itself as a Hybrid Covered Entity. In particular, the County performs HIPAA covered functions when it provides services as a health care provider transmitting health care information in an electronic format in connection with a transaction for which there has been a standard established in accordance with Subparts 160 and 162. A contractor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board; the Health Department; Fire and Rescue Department - Emergency Medical Services Division; and the Department of Human Resources, Benefits Division (health plan) upon award of contract.

Each contractor must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and, if required, the contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Code of Virginia – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: https://www.fairfaxcounty.gov/topics/hipaa-health-insurance-portability-accountability-act

Section 8. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in the Commonwealth.

A. Pursuant to competitive sealed bidding or competitive negotiation, the County shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

B. Any bidder or offeror described in subsection B that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Purchasing Agent.

C. Any business entity described in subsection A that enters into a contract with the County pursuant to this section shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

D. The County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

Article 3

CONTRACT TERMS AND CONDITIONS

Section 1. Authority to Bind the County.

The parties agree that only the Purchasing Agent may bind the County to contract terms or conditions. Any term or condition invoked through an "I agree" click box or other comparable mechanism (i.e. "click wrap" or "brows wrap" agreement) does not bind the County or any County authorized end user to such terms or conditions, unless agreed to in writing by or on behalf of the Purchasing Agent.

Section 2. Mandatory Terms and Conditions Applicable to All Contracts.

The following terms and conditions, as set forth below, are deemed included in all contracts for the purchase of goods, services, or both governed by the Purchasing Resolution. These terms and conditions will apply with the same force and effect as if set forth in the contract or ordering document.

A. Non-Discrimination: During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis

prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

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

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

The contractor will include the provisions of paragraphs 1, 2, and 3 above in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. Immigration Reform and Control Act Compliance: The contractor does not, and shall not, during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Immigration Reform and Control Act of 1986.

C. Nonvisual Access: -All information technology, which is purchased or upgraded by the County, must comply with the following access standards from the date of purchase or upgrade until the expiration of the Contract:

1. Effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means;
2. The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts;
3. Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and
4. The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.

Compliance with the nonvisual access standards set out this Section is not required if the Purchasing Agent determines that ~~(i) the information technology is not available with nonvisual~~

~~access because the essential elements of the information technology are visual and (ii) nonvisual equivalence is not available~~an exception as set out in Virginia Code § 2.2-3503 applies.

Commented [AJ2]: HB2541

D. Prohibition on the Use of Certain Products, Services, Applications, and Website. Fairfax County may not use, whether directly or through work with or on behalf of another public body, any hardware, software, or services that have been prohibited by the Commonwealth of Virginia and/or the U.S. Federal Government, including the Department of Homeland Security, for use on federal systems.

E. Venue. Venue for any claim under a contract or arising out of an order is exclusively in the state courts of Fairfax County, Virginia or the United States District Court for the Eastern District of Virginia, Alexandria Division.

F. Choice of Law. Any contract or ordering document will be governed for all purposes by and construed in accordance with the laws of the Commonwealth of Virginia.

G. Order of Precedence. If a term or condition included in a contract or ordering document (including any addendum, schedule, appendix, exhibit, or attachment) conflicts with the contract terms contained in this Article, this Article will control.

H. Contractual Disputes. Contractual disputes must be resolved as set forth in Article 5 of the Purchasing Resolution.

I. Electronic Signatures. Contractors agree that contracts and other associated documents may be executed using electronic signatures and delivered by electronic means. When electronic signatures are used, Contractors agree that the signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

~~I.~~J. Forced and Indentured Child Labor Prohibition. Contractors are prohibited from the use of "forced or indentured child labor" in the performance of the contract. Forced or indentured child labor means all work or service (i) exacted from any person younger than 18 years of age under the menace of any penalty for the nonperformance of such work or service and for which such person does not offer himself voluntarily or (ii) performed by any person younger than 18 years of age pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Commented [AJ3]: SB913

Section 3~~.~~—. Mandatory Terms Applicable to Contracts (including Amendments) in Excess of $200,000.

FAIRFAX COUNTY PURCHASING RESOLUTION

A. Authorization to Transact Business in the Commonwealth. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

B. Audit by the County. The County or its agent has reasonable access to and the right to examine any records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts. For purposes of this clause, the term "records" includes documents, and papers regardless of whether they are in written form, electronic form, or any other form. The Purchasing Agent may accept modifications to this requirement, in their discretion.

C. Drug Free Workplace: During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract. The Purchasing Agent may, in their discretion, accept a vendor's drug free workplace policy as satisfaction of this requirement, even if the vendor's drug free workplace policy differs from the requirements stated above.

Section 4. Prohibited Terms and Conditions.

The following terms and conditions are prohibited in any contract or ordering document executed by the County. ~~If a contract governed by the Purchasing Resolution, including any exhibits, attachments, or other documents incorporated by reference therein, includes a prohibited term or condition then that term or condition is stricken from the contract and of no effect.~~ No term or provision in any public contract for the acquisition of goods or services, including information technology goods or services, shall be valid or enforceable to the extent that it conflicts with this

FAIRFAX COUNTY PURCHASING RESOLUTION

Purchasing Resolution or Virginia law. A public contract containing such a term or provision shall otherwise remain enforceable. As used in this section, "information technology goods or services" means communications, telecommunications, automated data processing, applications, databases, data networks, management information systems, and other related goods and services.

Commented [AJ4]: HB 2150

A. No Indemnification by the County. Under applicable law the County cannot indemnify or defend the Contractor or any third party.

B. Contracts Subject to Appropriation by Board of Supervisors. The County is not bound by any provision in a contract or ordering document that may or will cause the County, its agencies, or employees, to make or otherwise authorize an obligation in excess of the amount appropriated by the Fairfax County Board of Supervisors for such purpose. Such provisions include, for example, automatic renewal of the agreement, penalty payments by the County, indemnification by the County, and payment by the County of taxes or charges not specifically included in the prices of the goods or services.

C. Binding Arbitration or Mediation. The County does not agree to submit to any form of binding alternative dispute resolution, including without limitation arbitration or mediation, unless specifically authorized by the Board of Supervisors.

D. Limitation of Rights and Waiver of Remedies. The County does not agree to limit its rights or waive its remedies at law or in equity, unless specifically authorized by the Board of Supervisors.

E. Limitation of Liability. There is no limitation on the liability of a contractor for claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a contractor or any employee of a contractor. For i~~I~~nformation ~~T~~technology goods or services contracts in excess of $200,000 there is no limitation of liability of a contractor for the intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier.

F. Confidentiality. The County will not be bound by any confidentiality provision that is inconsistent with the requirements of the Virginia Code, including the Virginia Freedom of Information Act.

G. Unilateral Modification. Unilateral modification of the contract or ordering document by the contractor is prohibited.

~~G.~~H. Choice of Law and Venue. Any term or provision in a contract that (i) makes the public contract subject to, governed by, or interpreted under the laws of another state or country or (ii) requires or permits any litigation or other dispute resolution proceeding arising from the public contract to be conducted in another state or country shall be void. Such public contract shall instead be deemed to provide for the application of the law of the Commonwealth of Virginia, without regard to such contract's choice of law provisions, and to provide for jurisdiction in the courts of the Commonwealth.

Commented [AJ5]: HB2150

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 4

CONSTRUCTION CONTRACTING

Section 1. Authority.

The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are as set out in Article 1, Section 3.

Section 2. Rules and Regulations.

The Agencies designated in Section 1 above shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 3. Purchasing Policies.

A. Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.

B. The Purchasing Agent may establish written purchase procedures not requiring competitive sealed bids or competition negotiation for single or term contracts for non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed $300,000; and transportation-related construction, if the aggregate or sum of all phases is not expected to exceed $25,000. However, such purchase procedures shall provide for competition wherever practicable.

C. No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of $50,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.

D. A contract for architectural or professional engineering services relating to multiple projects may be awarded provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year and may be renewable for three additional terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in a contract term shall not exceed $10 million, (c) the fee for any single project shall not exceed $2.5 million. Any unused amounts from the first contract term shall not be carried forward to the additional term(s). Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.

E. No County construction contract shall waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on their behalf or on behalf of their subcontractor if and to the extent such delay is caused by acts or omissions of the County, its agents or employees and due to causes within their control.

1. Subsection E shall not be construed to render void any provision of a County construction contract that:

    a. Allows the County to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractor, agents or employees;
    b. Requires notice of any delay by the party claiming the delay;
    c. Provides for liquidated damages for delay; or
    d. Provides for arbitration or any other procedure designed to settle contract disputes.

2. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

3. A public body denying a contractor’s claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the County shall be equal to the percentage of the contractor’s total

delay claim for which the County's denial is determined through litigation or arbitration to have been made in bad faith.

Section 4. Methods of Procurement.

A. Construction Management/Design Build Services. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Resolution and law.

1. Prior to making a determination as to the use of construction management or design-build for a specific construction project, the County shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the County regarding the use of construction management or design-build for that project and (ii) assist the County with the preparation of the Request for Proposal and the evaluation of such proposals.

2. A written determination shall be made in advance by the County that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

3. Procedures adopted by the County for construction management pursuant to this article shall include the following requirements:

   a. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for the Commonwealth using construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file; public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;
   b. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;
   c. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the

selection of a contractor, the County may consider the experience of each contractor on comparable projects;

d. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. The provisions of this subdivision shall not apply to construction management contracts involving infrastructure projects;

e. The procedures allow for a two-step competitive negotiation process; and

f. Price is a critical basis for award of the contract.

4. Procedures adopted by the County for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

5. The County shall report by no later than November 1 of each year to the Director, Department of General Services on all completed capital projects in excess of $2 million, which report shall include at a minimum (i) the procurement method utilized; (ii) the project budget; (iii) the actual project cost; (iv) the expected timeline; (v) the actual completion time; and (vi) any post-project issues.

C. Job order contracting; limitations. Where the method for procurement of job order construction is competitive negotiation, the following shall apply:

1. A job order contract may be awarded by the County for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first.

2. Such contracts may be renewable for three additional one-year terms at the option of the County. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $10 million. Subject to the maximum threshold amount, no individual job order shall exceed $1,000,000.

3. For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.

4. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection 2 is prohibited.

5. No job order contract shall be issued solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Article 1, Section 6. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed $25,000 per job order, and (iii) do not exceed $75,000 per contract term.

6. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000, subject to the maximum annual threshold amount established in this section.

Section 5. Prequalification, Bonds, Escrow Accounts.

Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

A. Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.

1. The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph C.

2. In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

3. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

4. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. If upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.

B. The County may deny prequalification to any contractor only if the County finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the

prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

7. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.

   a. If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

C. Withdrawal of bids by a bidder.

1. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw their bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw their bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from

inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

2. The bidder shall give notice in writing of their claim of right to withdraw their bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. No bid shall be withdrawn when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. The lowest remaining bid shall be deemed to be the low bid. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

3. The County shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the County denies the withdrawal of a bid, it shall state in such notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the County shall return all work papers and copies thereof that have been submitted by the bidder.

D. Progress Payments.

1. In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with no more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

E. Bonds.-

1. Except in cases of emergency, all bids or proposals for construction contracts in excess of $500,000 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

   No forfeiture under a bid bond shall exceed the lesser of:

a. the difference between the bid for which the bond was written and the next low bid, or

b. the face amount of the bid bond.

Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000.

2. Performance and payment bonds:

a. Upon the award of any public construction contract exceeding $500,000 awarded to any prime contractor, the contractor shall furnish to the County the following bonds:

1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

2) A payment bond in the sum of the contract amount, unless the contract is an indefinite delivery or quantity contract and the County has adopted an ordinance pursuant to subsection f. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work. As used in this subdivision "Labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

b. Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.

c. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.

d. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below $500,000.

e. Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount

of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

f. For indefinite delivery or quantity contracts awarded pursuant to subsection a, the County may, by ordinance allow the contractor awarded such contract to furnish to the County a performance bond and a payment bond, each of which shall be equal to the dollar amount of the individual tasks identified in the underlying contract. Such contractor shall not be required to pay the performance bond and payment bond in the sum of the contract amount if the County has adopted such an ordinance pursuant to this subsection. For purposes of this section, "indefinite delivery or quantity contract" means a contract that only requires performance of contractual obligations upon the request of the County and which establishes an annual cap for the total work that may be authorized for such contract.

3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

4. Actions on payment bonds:

a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was

furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where their office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

5. Alternative forms of security:

a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.

b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

F. Escrow Accounts.-

1. The County, when contracting directly with contractors for public contracts of $200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.

2. The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit their rights to the use of the Escrow account procedure.

3. The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.

4. This subsection F. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

5. Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.

This subsection F. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 5

BIDDER/CONTRACTOR REMEDIES

Section 1. Ineligibility.

A. Debarment as used in this section means any action taken by the County Purchasing Agent to exclude individuals or entities from contracting with County agencies or organizations for particular types of supplies, services, insurance, or construction for a specified period of time. A prospective contractor may be suspended from participating in County procurements if there is evidence that the prospective contactor has committed an act that would be the basis of a debarment and immediate action is needed to protect the County's interests. Debarment or suspension do not relieve the contractor of responsibility for its existing obligations.

B. The County Purchasing Agent shall have the authority to suspend or debar a prospective contractor from contracting for particular types of supplies, services, insurance or construction, for specified periods of time for the causes stated below:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

    a. failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

C. Ineligibility Period. Debarment shall be for a period of ninety (90) days to three (3) years, at the discretion of the County Purchasing Agent. The period of suspension shall not exceed one year. A debarment or suspension may be lifted or stayed at any time if the County Purchasing Agent determines that doing so is in the best interests of the County.

D. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within ten (10) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.

2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

E. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 2. Appeal of Denial of Withdrawal of Bid.

A. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

B. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 5A, paragraph 8, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

Section 3. Appeal of Determination of Non-responsibility.

A. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

B. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

Section 4. Protest of Award or Decision to Award.

A. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County

of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 5.C, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 5.D, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia. Nothing in this section shall be construed to permit a bidder to challenge the validity of the terms or conditions of the Invitation for Bid or Request for Proposal.

B. If, prior to award, it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

D. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 5. Contractual Disputes.

A. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce their decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

B. The Contractor's contractual claims, whether for money or other relief, must be submitted to the County Purchasing Agent in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given to the County Purchasing Agent at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

Section 6. Legal Action.

A. In addition to the requirements of Section 5, any bidder, offeror, potential bidder or offeror, or contractor that seeks monetary relief or damages from the County must submit its claim to the Board of Supervisors in compliance with Virginia Code §§ 15.2-1243 through 1249. The requirement to submit a claim for monetary relief or damages to the Board of Supervisors does not alter, toll, extend, or otherwise vary the Contractor's obligation to appeal the Purchasing Agent's decision within six (6) months of the date of Purchasing Agent's final written decision by instituting legal action, as described in Section 5.

B. No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 6

ETHICS IN COUNTY CONTRACTING

Section 1. General.

A. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), and Articles 2 (§ 18.2-438 et seq.) and 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

B. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of B1, B2, and B3 of § 2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 2. Solicitation or Acceptance of Gifts.

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services personal use rebates or anything

of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The County may recover the value of anything conveyed in violation of this section. No employee shall use rebates provided by any vendor for personal use. All monetary rebates received as the result of a procurement transaction are for the sole use of the County.

Section 3. Disclosure of Subsequent Employment.

No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.

Section 4. Gifts.

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

Section 5. Kickbacks.

A. No contractor or subcontractor shall demand or receive from any of their suppliers or their subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.

B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.

D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be

recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

E. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.

Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

A. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.

B. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.

C. The provisions of this Section shall not apply in the case of emergency.

Section 7. Certification of Compliance; Penalty for False Statements.

A. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.

B. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.

Section 8. Misrepresentations.

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

Section 9. Penalty for Violation.

The penalty for violations of any of the provisions under Article 6 of this Resolution is provided in the Code of Virginia, §2.2-4377.

Section 10. Personal Conflicts of Interest

It is County policy to require contractors to:

A. Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and

B. Prohibit employees who have access to non-public County information from using such information for personal gain.

Failure to comply may result in suspension or debarment or termination for cause. The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if the Purchasing Agent determines in writing that such mitigation is in the best interest of the County.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 7

PROPERTY MANAGEMENT

The Director of the Department of Procurement and Material Management is responsible for the management of all Fairfax County and Fairfax County Public Schools (FCPS) property, supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes physical accountability of consumable supplies and accountable equipment, as well as, validation of the inventory and accountable equipment values reported in Fairfax County's Comprehensive Annual Financial Report. DPMM shall prescribe the procedures to be used by departments in the acquisition, receipt, storage and management, and issuance of consumable supplies and accountable equipment inventory, and disposition of excess and surplus County property.

Section 1. County Consolidated Warehouse (Logistics Center).

The Director of the Department of Procurement and Material Management is responsible for operation of the County Logistics Center which provides temporary storage and distribution of the supplies and equipment to all County departments. The Logistics Center may be used as the storage point for customer owned inventory from other departments. The Director of the Department of Procurement and Material Management is responsible for space management and logistics coordination at the Logistics Center.

Section 2. Inventory Accountability.

Departments and Fairfax County Public Schools are required to establish and maintain accountability of consumable inventories and accountable equipment in their custody, and to conduct periodic physical inventories in accordance with schedules published by the Director of the Department of Procurement and Material Management.

Section 3. Consumable Inventory Property Management.

The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all consumable inventory warehouses and stockrooms. The program shall be administered in accordance with industry standards and best practices.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 4. Accountable Equipment Inventory Property Management.

A. The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all accountable equipment.

B. The Director of the Department of Procurement and Material Management is responsible for defining items to be capitalized as accountable equipment, and administering the Accountable Equipment Program in accordance with State and County codes, as well as industry standards and best practices.

Section 5. Excess and Surplus Property Management.

~~A.~~ The Director of the Department of Procurement and Material Management is responsible for determining (i) the method of redistribution of serviceable excess property and inventory~~, to include furniture, equipment, , etc.~~

~~B.~~

~~C.~~A. ~~The Director of the Department of Procurement and Material Management~~ and (ii) ~~is responsible for determining~~ the method of~~the~~ disposal of surplus property and inventory as allowed by ~~applicable by~~ law. Redistribution of serviceable excess property and inventory and the ~~Disposals will be evaluated in an effort to maximize financial returns to the County and/or minimize environmental impact.~~disposal of surplus property and inventory will be in accordance with any rules, regulations, or procedures established by DPMM.

~~D.~~B. Confiscated or abandoned property in the hands of the police shall be disposed in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.

~~E.~~C. Employees and members of their immediate family are not eligible to acquire property for personal use before such property has been declared surplus and has been made available to the general public. The County may, however, sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by the locality to be appropriate.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 6. Donations.

A. Accepting Donations:

1. Items $10,000 or more:
   The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services is responsible for approving the acceptance of donated items or services with a fair market value of $10,000 or more, and ensuring accepted items are properly accounted for.

2. Items under $10,000:
   Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under $10,000.

3. Inasmuch as the County is not offering consideration nor is it purchasing or initiating the provision of services, the County may accept a gift of services pursuant to the Virginia State Government Volunteers Act. Such services must be provided from a person who acts of their own free will and without any financial gain.

B. Making Donations:

1. Items $10,000 or more:
   When the fair market value of an item exceeds $10,000, the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may offer surplus County or School property to charitable or non-profit organizations or public bodies for sale or donation, where appropriate. The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services shall coordinate all requests to donate items with their respective Board.

2. Items under $10,000:
   When the fair market value of a surplus item is less than $10,000, the Director of the Department of Procurement and Material Management or FCPS Chief Financial Services may donate the item directly to charitable or nonprofit organizations or public bodies as appropriate and allowed by law.

FAIRFAX COUNTY PURCHASING RESOLUTION

It is further resolved that this resolution shall be effective July ~~16~~15, ~~2024~~2025.

A Copy Teste:

Jill G. Cooper
Clerk to the Board of Supervisors

ATTACHMENT II

Board Agenda Item
July 15, 2025

ACTION – 4

Approval of a Plain Language Explanation for the 2025 Bond Referendum for Improvements to Public Schools

ISSUE:
Board approval of an explanatory statement for the school bond referendum planned to be held in conjunction with the November general election.

RECOMMENDATION:
The County Executive recommends that the Board approve the plain language explanation and authorize staff to translate it, post it online, and print sufficient copies to make it available at County absentee voting sites and polling places.

TIMING:
Board action is recommended on July 15, 2025, so that staff can translate the explanation, post it on the County's website as soon as possible, and have it printed and available when absentee voting begins on September 19, 2025.

BACKGROUND:
At its meeting on June 24, 2025, the Board adopted a resolution asking the Fairfax County Circuit Court to order a referendum on November 4, 2025, on the question of whether the County should be authorized to issue general obligation bonds for public school improvements. The County Attorney filed the resolution with a Petition asking the Circuit Court to order the election, and the Court is expected to enter the order promptly.

State law requires localities to provide for the preparation and printing of an explanation for each referendum question that involves the issuance of bonds by the locality. The statement must include the ballot question and a neutral explanation of not more than 500 words prepared by the locality's attorney. The Board approved the wording of the ballot question when it adopted the Resolution, and the Circuit Court is expected to order that the ballot question be stated as approved by the Board. This Action Item presents only the explanation portion of the proposed statement for the Board's approval.

These plain language explanatory statements are frequently referred to as "plain English" statements, because State law requires them to be written in "plain English."

The law defines “plain English” to mean “written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.”

Under Section 203 of the federal Voting Rights Act (VRA), and Section 24.2-128 of the Virginia Rights of Voters Act (VRVA), Fairfax County is required to provide voting and voter information materials in Spanish and Vietnamese. The Electoral Board has also provided ballots and other election-related materials in Korean since 2017, because the 2015 and subsequent American Community Service Survey results showed that the number of Korean speakers almost met the thresholds for translation of election materials under the VRA and VRVA. As a result, the County will provide these statements in English, Spanish, Vietnamese, and Korean.

EQUITY IMPACT:
This action item aligns with the One Fairfax Policy. Specifically, bond funding for FCPS promotes focus area 5 to invest in educational facilities that are available to County children to prepare them for success in school and life. The statements are written using plain language, avoiding technical and legal terminology while providing a concise explanation of the nature and purposes of the proposed bonds, and so facilitating communication with our diverse community. In addition to the translations required by federal and Virginia elections laws, the plain language statements are also translated into multiple languages across various social media and print platforms to account for the County’s diverse population, consistent with and in support of Engage Fairfax’s goal of language access.

FISCAL IMPACT:
Expenses associated with printing and translating the explanation will be paid out of existing appropriations in Fund 20000, Consolidated County and Schools Debt Service.

ENCLOSED DOCUMENTS:
Attachment 1 – Virginia Code § 24.2-687
Attachment 2 – Draft Explanation for 2025 School Bond Referendum

STAFF:
Christina Jackson, Deputy County Executive/Chief Financial Officer
Philip Hagen, Director, Department of Management and Budget
Joseph LaHait, Deputy Director, Department of Management and Budget

Board Agenda Item
July 15, 2025

ASSIGNED COUNSEL:
Elizabeth D. Teare, County Attorney
Martin Desjardins, Assistant County Attorney

Code of Virginia
Title 24.2. Elections
Chapter 6. The Election
Article 5. Special Elections

§ 24.2-687. Authorization for distribution of information on referendum elections

A. The governing body of any county, city or town may provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters of the county, city or town to be distributed at the polling places on the day of the referendum election. The governing body may have the explanation published by paid advertisement in a newspaper with general circulation in the county, city or town one or more times preceding the referendum.

The explanation shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county, city or town or, if there is no county, city or town attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

If the referendum question involves the issuance of bonds by a locality, the locality shall provide for such printed explanation. The explanation shall (i) state the estimated maximum amount of the bonds proposed to be issued, and (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used.

B. Nothing in this section shall be construed to limit a county, city or town from disseminating other neutral materials or advertisements concerning issues of public concern that are the subject of a referendum; however, the materials or advertisements shall not advocate the passage or defeat of the referendum question.

C. This section shall not be applicable to statewide referenda.

D. Any failure to comply with the provisions of this section shall not affect the validity of the referendum.

1996, c. 297;2004, cc. 21, 399;2006, c. 302;2011, c. 590.

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

PUBLIC SCHOOL BONDS EXPLANATION

Ballot Question

PUBLIC SCHOOL BONDS

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue capital improvement bonds in the maximum aggregate principal amount of $460,000,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding, and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system?

Explanation

This referendum asks Fairfax County voters whether the County government should be authorized to contract a debt and issue bonds in the maximum aggregate principal amount of $460,000,000 for improvements to the County's public schools. If a majority of voters approve this referendum, then the County would be allowed to issue bonds to fund school improvements as described in the ballot question. The bonds can only be issued for purposes described in the ballot question.

Virginia law permits the County government to borrow money to acquire land, plan, design, and construct projects by issuing general obligation bonds, which are sold to investors and repaid over time with County revenues. However, before the County may incur a general obligation debt, County voters must authorize the County to borrow those funds. Bond proceeds are used as a source of funding for many County and public school facilities. Bond financing allows the cost of a facility to be spread over a number of years so that each generation of taxpayers contributes a proportionate share toward these long-term assets. Bonds authorized by a referendum may be issued up to eight years after the date of the referendum, a period that may be extended for two additional years by order of the circuit court.

The County plans for the proceeds of bonds authorized by this referendum to be used to fund school improvements in accordance with the School Board's Capital Improvement Program (CIP) as updated and amended annually. Each year's CIP reviews student membership and facilities data and identifies future needs for capital improvements, renovations, capacity enhancements, new construction, and potential site acquisitions. Using that information, the CIP describes a five-year program of school improvement projects and site acquisitions intended to meet present and projected infrastructure needs. The School Board's current CIP

identifies the projects to be funded in FY 2026-FY 2030 and also includes a Ten-Year Capital Improvement Program Forecast for FY 2026-FY 2035.

The FY 2026-FY 2030 CIP anticipates using bond proceeds to fund the next stages of school renovation projects that are currently ongoing, as well as other projects identified in the Plan document. Land acquisition, project planning, and actual construction are usually completed in phases over a period of years. The phases are typically paid from sequential bond issues to allow timely implementation of the projects without issuing bonds for construction costs earlier than necessary.

Renovation projects are generally intended to upgrade the life safety, environmental, electrical, security, and telecommunications systems of school buildings, and bring aging school facilities into full compliance with legal requirements such as the Americans with Disabilities Act and federal and state storm water quality and quantity requirements. The improvements provide updated site features including, where practicable, additional parking, recreational fields, accessibility, site lighting, and improved traffic patterns. Upgrades also seek to increase energy efficiency and overall environmental sustainability of school facilities.

This explanation was prepared, printed, and made available at election polling places in accordance with Virginia Code § 24.2-687

Board Agenda Item
July 15, 2025

ACTION – 5

Authorization to Execute a Transfer Agreement for the Transfer of the Cable Franchise Held by Comcast of Virginia, LLC (Hunter Mill and Sully Districts)

ISSUE:
Board of Supervisors' approval of, and authorization for the County Executive or designee to execute, a transfer agreement for the transfer of the cable franchise held by Comcast of Virginia, LLC, to Comcast Cable Communications Management, LLC, a different Comcast subsidiary.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the County Executive, or designee, to execute a transfer agreement, substantially in the form of Attachment 1, for the transfer of the cable franchise currently held by Comcast of Virginia, LLC, to Comcast Cable Communications Management, LLC, contingent on the Board's vote to adopt the ordinance amendment following the public hearing on July 15, 2025.

TIMING:
Board action is requested on July 15, 2025.

BACKGROUND:
The County's cable franchise for the Reston Franchise Area is currently held by Comcast of Virginia, LLC, a wholly owned subsidiary of Comcast Corporation. (The Reston Franchise Area lies almost entirely within the Hunter Mill District, with a small part extending into the Sully District). Comcast wishes to transfer the franchise to Comcast Cable Communications Management, LLC, a separate wholly owned subsidiary of Comcast Corporation. No change of control or of ultimate ownership will be involved.

Comcast has assured the County that the transaction will have no effect on subscriber rates or services, and that the financial position of the transferee is no worse than that of the transferor. Both are wholly owned subsidiaries of the same corporate parent.

Comcast has satisfied the requirements of the County Code and its franchise agreement with respect to the proposed transfer. Staff recommends approval of the

transfer, subject to the provisions of a transfer agreement in substantially the form attached. Pursuant to *Section 9.2-5-1(b) of the County Code*, no transfer of a cable franchise shall occur without approval of the Board and that approval shall be expressed by ordinance.

EQUITY IMPACT:
This action supports digital access and literacy, a One Fairfax area of focus, as the continued operation of Comcast's cable communications system offers information and entertainment to all County residents in the Reston franchise area.

These communications capabilities serve two of the County's strategic outcome areas: lifelong education and learning, and cultural and recreational opportunities. In particular, the provision of public, educational, and governmental access channels on the cable system gives individual residents and groups a voice that can be heard throughout the County, as well as access to telecourses and other learning programs. Fairfax County Government Channel 16 also serves the goal of effective and efficient government by making the County government's activities transparent and accessible to County residents.

The recommended action maintains the current benefits of the Comcast franchise without regard to potentially discriminatory factors. Thus, the cable franchise helps advance the goal of equal opportunities for all residents.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Transfer Agreement

STAFF:
Ellicia Seard-McCormick, Deputy County Executive
Rebecca L. Makely, Director, Department of Cable and Consumer Services
Frederick E. Ellrod III, Department of Cable and Consumer Services

ASSIGNED COUNSEL:
Joanna L. Faust, Assistant County Attorney

TRANSFER AGREEMENT

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TRANSFER AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2025, by and between: Fairfax County, Virginia ("County"); Comcast of Virginia, LLC ("Transferor"); and Comcast Cable Communications Management, LLC ("Transferee"). Transferor and Transferee may be referred to jointly herein as "Companies."

RECITALS

WHEREAS, Transferor currently holds a cable franchise (the "Franchise") from the County subject to A Cable Franchise Agreement Between Fairfax County, Virginia and Comcast of Virginia, Inc., entered into July 1, 2005 ("Franchise Agreement") and to Chapter 9.2 of the Fairfax County Code ("Cable Ordinance"), both of which documents, as they may have been amended from time to time, are collectively referred to as the "Franchise Documents"; and

WHEREAS, Transferee will acquire the franchise currently held by Transferor and the Transferor's assets and liabilities (the "Proposed Transaction"); and

WHEREAS, the Proposed Transaction constitutes an assignment of the franchise pursuant to Transferor's Franchise Agreement, § 3(a)(2)(A); and

WHEREAS, Transferor has represented to the County that the Proposed Transaction will result in no change in ultimate control, and that the Proposed Transaction will result in no change in local management or operations; and

WHEREAS, Transferee has agreed to comply with the Franchise Documents and applicable law from and after the completion of the Proposed Transaction; and

WHEREAS, relying on Transferor's and Transferee's representations, the County is willing to grant its consent to the Proposed Transaction, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration for the County's consent to the Proposed Transaction, and subject to the terms and conditions of this Agreement, THE PARTIES DO HEREBY AGREE as follows:

1. DEFINITION

1.1. For purposes of this Agreement, “Franchisee” shall mean Transferor prior to the effective date of the Franchise transfer, and Transferee on and after that date.

2. TRANSFER OF FRANCHISE

2.1. The foregoing recitals are true and correct and are incorporated herein by reference.

2.2. The County consents to the Proposed Transaction as specified in the Transfer Application.

3. ACCEPTANCE OF FRANCHISE OBLIGATIONS

3.1. Franchisee hereby accepts, acknowledges, and agrees that, after the Proposed Transaction, it will continue to be bound by all the commitments, duties, and obligations, present, continuing and future, of the Franchisee embodied in the Franchise Documents, and that the Proposed Transaction will have no effect on these obligations.

3.2. The Companies agree that neither the Proposed Transaction nor the County's approval of the Proposed Transaction shall in any respect relieve the Franchisee or any of its

successors in interest of responsibility for past acts or omissions, known or unknown. Transferee hereby agrees that it shall be liable for any such acts and omissions, known and unknown, including liability for any and all previously accrued but unfulfilled obligations to the County under the Franchise Documents and applicable law, for all purposes, including but not limited to review of past performance for purposes of determining whether its Franchise should be renewed. Franchisee agrees that all acts and omissions of Franchisee occurring prior to this Agreement will continue to be deemed to be those of Franchisee. The Proposed Transaction shall not restrict or expand the rights of the Franchisee under or related to the Franchise Documents as compared to those that could have been exercised by the Franchisee prior to the Proposed Transaction.

3.3. The Companies shall ensure that all records pertaining to the Franchise, including financial records, shall continue to be available after the Proposed Transaction in the same way and to the same extent such information was available prior to the Proposed Transaction.

3.4. Transferee shall execute and submit to the County an Acceptance of Franchise by Transferee in substantially the form attached hereto as Exhibit 1.

4. RESERVATION OF RIGHTS

4.1. The County reserves all rights not expressly granted in this Transfer Agreement, including without limitation those specified below.

4.2. The County waives none of its rights with respect to the Franchisee's compliance with the requirements set forth in the Franchise Documents. At no time will the Companies contend, either directly or indirectly, that the County is barred, by reason of the Proposed Transaction, from considering, or raising claims based on, any defaults of Franchisee, any failure by Franchisee to provide reasonable service in light of the community's needs, or any failure by

Franchisee to comply with the terms and conditions of the Franchise Documents or with applicable law. The County's approval of the Proposed Transaction shall in no way be deemed a representation by the County that the Franchisee is in compliance with all of its obligations under the Franchise Documents.

4.3. Neither this Transfer Agreement, nor any other action or omission by the County at or before the execution of this Transfer Agreement, shall be construed to grant the County's consent to any future transfer of the Franchise and/or the cable system, and/or any future change in ownership and/or control of the Franchise and/or the cable system, or to mean that the County's consent to any future transaction is not required.

4.4. Any consent given by the County to the Proposed Transaction is made without prejudice to, or waiver of, the County's right to investigate and take into account any lawful considerations during any franchise renewal or any future transfer process.

5. NO EFFECT ON RATES

5.1. The Companies represent and warrant that neither the Proposed Transaction nor this Transfer Agreement will result in any increase in subscriber rates. The Transferee remains free to modify subscriber rates for other reasons, consistent with federal, state, and local law.

6. REPRESENTATIONS AND WARRANTIES

6.1. Each of the Companies hereby represents and warrants that at the time of the execution of this Agreement: (a) it is a corporation or partnership duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the Franchise Documents and, assuming due execution hereof by the other parties hereto, this Transfer Agreement constitute legal, valid and binding obligations of such Company enforceable

in accordance with their terms; (c) the execution and delivery of, and performance by such Company under, this Transfer Agreement and the Franchise Documents, where applicable, are within such Company's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite corporate or partnership action on the part of such Company and are not in contravention of such Company's partnership agreement, charter, bylaws, and/or other organizational documents; and (d) no representation made to the County by such Company is incomplete, untrue or inaccurate in any material respect.

6.2. Transferee represents and warrants that neither the Proposed Transaction nor this Transfer Agreement will adversely affect its ability to meet the requirements of the current Franchise Documents, or to meet the County's future cable-related needs and interests in a renewal franchise.

6.3. The Companies represent and warrant that the Proposed Transaction will not have any adverse financial effect on the cable system, or adversely affect performance. Transferee represents and warrants that after the Proposed Transaction, Transferee's financial qualifications will be such as shall enable it to maintain and operate its cable system in the County.

6.4. Transferee represents and warrants that the Proposed Transaction will not in any respect reduce the quality of customer service in the County.

7. ADDITIONAL CONDITIONS

7.1. In the event the transfer does not close by December 31, 2025, or closes on terms that are in any material respect different from the terms disclosed to the County in writing, then

any County consent to the Proposed Transaction shall be void and of no force or effect, and the Proposed Transaction deemed to have been timely denied.

7.2. The Companies hereby waive any and all claims that they may have that any denial of the Transfer Application that results from failure of the conditions in Section 7.1 fails to satisfy the deadlines established by applicable law including, without limitation, claims based on, arising out of, or relating to 47 U.S.C. § 537, as amended, and agree that they shall be deemed to have agreed to an extension of the time to act on the Transfer Application as required to make any denial effective.

8. MISCELLANEOUS PROVISIONS.

8.1. **Effective Date**: This Transfer Agreement shall be effective and binding upon the signatories once it has been signed by all signatories.

8.2. **Binding Acceptance**: This Transfer Agreement shall bind and benefit the parties hereto and their respective receivers, trustees, successors and assigns. Any purported assignment of this Transfer Agreement is void without the express written consent of the signatories.

8.3. **Voluntary Agreement**: This Transfer Agreement is freely and voluntarily given by each party, without any duress or coercion, and after each party has consulted with its

counsel. Each party has carefully and completely read all of the terms and provisions of this Transfer Agreement.

8.4. **Severability**: If any term, condition, or provision of this Transfer Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

8.5. **Counterparts**: This Transfer Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

8.6. **Governing Law**: This Transfer Agreement shall be governed in all respects by the law of the Commonwealth of Virginia.

8.7. **Captions and References**: The captions and headings of sections throughout this Transfer Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Transfer Agreement. Such captions shall not affect the meaning or interpretation of this Transfer Agreement.

FAIRFAX COUNTY, VIRGINIA

By: _____
Bryan J. Hill
County Executive

ATTEST:

_____
County Clerk

COMCAST OF VIRGINIA, LLC

By: _____
Raymon Roundtree
Regional Senior Vice President,
Beltway Region

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

By: _____
Raymon Roundtree
Regional Senior Vice President,
Beltway Region

EXHIBIT_1

ACCEPTANCE OF FRANCHISE BY THE FRANCHISEE

Comcast Cable Communications Management, LLC ("Transferee") hereby accepts the cable franchise currently held by Comcast of Virginia, LLC (“Transferor”). By this acceptance, Transferee agrees that it shall be bound by the terms and conditions of A Cable Franchise Agreement Between Fairfax County, Virginia and Comcast of Virginia, Inc., entered into July 1, 2005, and Section 9.2 of the Fairfax County Code (collectively, the "Franchise Documents").

By accepting the franchise, the Transferee further: (1) acknowledges and accepts the County's legal right to issue and enforce the franchise; (2) agrees that it will not oppose the County's intervention in any proceeding affecting its franchise or obligations thereunder; (3) accepts and agrees to comply with each and every provision of the Franchise Documents; and (4) agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

The Transferee declares that it has carefully read all of the terms and conditions of the Franchise Documents, and accepts and agrees to abide by same.

The Transferee is bound to maintain and operate a cable system under the terms, conditions and limitations set forth in the Franchise Documents and other applicable law, as of the time and date it files this written acceptance with the Cable TV Administrator.

AGREED TO THIS _____ DAY OF _____, _____.

Comcast Cable Communications Management, LLC

By: Raymon Roundtree

Its: Regional Senior Vice President, Beltway Region

Board Agenda Item
July 15, 2025

ACTION – 6

Approval of the Consolidated Community Funding Advisory Committee Recommendations for the FY 2027 and FY 2028 Funding Categories for the Consolidated Community Funding Pool

ISSUE:
Board of Supervisors' approval of the FY 2027 and FY 2028 funding categories for the Consolidated Community Funding Pool (CCFP), as recommended by the Consolidated Community Funding Advisory Committee (CCFAC). The CCFP is a consolidated competitive funding source made up of the County's general funds, Community Services Block Grant (CSBG), and Community Development Block Grant (CDBG) to form one streamlined funding source administered through a Request for Proposal (RFP) process.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the FY 2027 and FY 2028 funding categories for the CCFP as recommended by the CCFAC.

TIMING:
Board approval on the categories for the CCFP funding is requested on July 15, 2025 to allow staff time to prepare the next CCFP RFP, which is scheduled for release in the fall of 2025.

BACKGROUND:
The Board of Supervisors has charged the CCFAC with responsibility for overseeing the CCFP. As part of that responsibility, the CCFAC recommends funding categories for the funding pool for each two-year cycle. Throughout the CCFP's history, the CCFAC has strategically adjusted the categories to meet the County's changing needs and to recognize the changing nature of community-based providers.

As part of the Budget Guidance for FY 2025 and FY 2026 that was approved by the Board on April 30, 2024, staff were directed to review the CCFP process and provide recommendations to the Board about the most efficient way to deliver services that are awarded through the CCFP process. To develop recommendations, staff convened a multidisciplinary workgroup comprised of the CCFAC Chair and Vice Chair, senior leaders from non-profit organizations, and County staff. Additionally, the County

engaged with an external consultant with a deep understanding of the health and human services landscape as well as the non-profit environment.

As presented to the Board at the June 3, 2025, Health and Human Services (HHS) Committee meeting, staff recommended to remove Emergency Housing and Emergency Food services from the CCFP process, and transfer those services to a traditional procurement process. For the past two CCFP cycles these categories have been included in RFP II, but will not be included in the upcoming CCFP RFP cycle and are not reflected in this Action Item. The Department of Neighborhood and Community Services (NCS) will directly administer an RFP for Emergency Housing and Emergency Food services outside of the CCFP process beginning in FY 2027. Transitioning the Emergency Housing and Emergency Food services to a traditional procurement method outside of CCFP will improve efficiency in the delivery of these services, reduce the administrative burden on the non-profit agencies applying for the contracts, and strengthen the emergency safety net system for community members. The staff recommendations were discussed with the CCFAC at their June 10, 2025 meeting.

The CCFAC explicitly recognizes the value of health and human services that emphasize neighborhoods (geographically defined) and communities (shared interests, not bound to the one location), as well as for individuals and families. It is recognized that CCFP funding is for services and is not to be considered as a general source of funding for organizations. Appropriately, the CCFP offers no guarantee to any organization to be funded.

During each funding cycle review, the CCFAC utilizes a consistent process for gathering community and Board input on the funding categories and also analyzes current data and trends:

- Public Survey: To prepare for the FY 2027-FY 2028 cycle, an online survey was available from December 20, 2024, through January 8, 2025, to obtain community input on the needs of the community. In addition, a second online survey was available from March 15, 2025, through April 8, 2025, for community input on the proposed draft categories. The County's social media tools, such as Engage Fairfax/Public Input, and other social network platforms, such as Next Door, were used to promote and advertise online surveys. In addition, survey links were shared with various Boards, Authorities and Commissions, non-profit partners, interfaith networks, community members, and County staff.

- Public Hearing: CCFAC held a public hearing on Tuesday, April 8, 2025. Following the Public Hearing, the CCFAC discussed the community input and provided slight modifications to the proposed categories.

- Board of Supervisors (BOS) Input: Staff held individual feedback sessions with BOS members and/or their staff between June 3, 2025, and June 17, 2025, on the draft categories.

- Final CCFAC Review: CCFAC held a meeting on Tuesday, June 10, 2025, and County staff provided an update on the draft categories that incorporated BOS input. Feedback from three Board Members was received after the CCFAC meeting and that input was shared with the CCFAC before finalizing the draft categories contained in this Board item.

The recommended funding categories for the FY 2027 and FY 2028 cycle, including their respective outcome statements and service examples, are included in Attachment 1. CCFAC recommendations and Board Member feedback, specific to category or service examples, have been incorporated into the category list and noted through italics and underlining. The public input processes did not indicate that significant changes to the categories were necessary for the upcoming cycle, as the existing categories are comprehensive and meet a wide range of community needs, so the recommended changes are primarily to refine, clarify, and enhance the existing category language.

EQUITY IMPACT:
Non-profit organizations form a network of services that play a significant role in improving the quality of life for residents. The CCFP categories encompass the Human Services needs identified in Fairfax County and expressed by the Fairfax community. The categories therefore aim to support initiatives that address a variety of community needs and link with key equity drivers to include Community Health and Wellbeing, Cradle to Career Success, Inclusive Prosperity, and Equitable Community Development. The programs and services delivered by CCFP awardees that meet these identified community needs reduce barriers, provide recipients with opportunities for stability, and contribute to the upward mobility of individuals and their families. Each category directly connects with one or more of the One Fairfax areas of focus.

FISCAL IMPACT:
CCFP funding included in the FY 2026 Adopted Budget Plan totals $14.4 million, of which approximately $9.2 million is for RFP I and approximately $5.2 million is for Emergency Housing and Emergency Food services in RFP II. While this action does not impact current year funding and the level of services provided, Emergency Housing and Emergency Food services are being removed from the CCFP process beginning with the FY 2027 and FY 2028 cycle. The funding associated with these services, approximately $5.2 million, will be moved to Agency 79, the Department of

Neighborhood and Community Services as part of the FY 2027 budget. The proportion of the current funding dedicated to Emergency Housing and Emergency Food services will not change.

ENCLOSED DOCUMENTS:
Attachment 1 – FY 2027 and FY 2028 Funding Categories for CCFP RFP

STAFF:
Christopher Leonard, Deputy County Executive
Lloyd Tucker, Director, Department of Neighborhood and Community Services (NCS)
Chadwick Pressey, Deputy Director, NCS
Marla Zometsky, Program Manager, NCS

CCFP Categories Overarching Statement

These categories were identified as community needs and are aligned with health and human services determinants. *Programs and services that meet these needs reduce barriers, provide recipients with opportunities for stability, and contribute to the upward mobility of individuals and their families.* Each outcome statement focuses on a broad community definition and specifically includes all individuals, families, communities, income levels, abilities, and ages.

Where appropriate, providing legal services; case management *(to include bilingual case management)*; transportation; high-quality and affordable childcare; linguistically (interpretation and translation), culturally and developmentally appropriate services; *trauma-informed frameworks;* and/or other resources that remove barriers and allow participation, may be included in all seven categories of CCFP RFP.

CATEGORY	OUTCOME STATEMENT	SERVICE EXAMPLES
FINANCIAL STABILITY Financial Assistance to Financial Empowerment	To have the ability to possess and maintain sufficient income to consistently meet their basic needs – with no or minimal financial assistance or subsidies from private or public organizations.	• Financial literacy/management training and counseling to foresee and prevent financial crises • Financial counseling • Financial asset formation • Affordable, accessible, quality childcare for family members transitioning into the workforce • Employment assistance, job and entrepreneurship training • Financial exploitation prevention services • Programs that support economic mobility and reduce dependency
FOOD AND NUTRITION	To have reliable and consistent access to sufficient, affordable, *fresh,* and nutritious food. This includes food which reflect the cultural, religious, and situational needs of recipients. To have access to information and education about healthy and nutritious food and the opportunity to develop the knowledge and resources to practice healthy eating.	• Nutrition education programs • Farmers markets, food co-ops, mobile markets, neighborhood distribution sites, community gardens, *and urban agriculture* • Food provision programs that offer case management services towards self-sufficiency • Supplemental food programs (e.g., backpack programs)

CATEGORY	OUTCOME STATEMENT	SERVICE EXAMPLES
HEALTH	To have access to primary, specialty, oral, behavioral, and long-term health care, particularly prevention services. To develop the knowledge and resources to practice healthy behaviors and to take action to prevent and manage disease and adverse health conditions.	• Healthcare affordability and accessibility services, particularly oral, visual, and auditory • Behavioral health services (e.g. suicide prevention, mental health, drug misuse prevention, and recovery) • Primary medical/dental services and specialty care • Senior/Older adults' health care including dementia • Hospice, homecare • Programs and services that increase access to health services for individuals with limited English proficiency and those with all levels of ability • Health fairs and health screening clinics, dental clinics, inoculations, nutrition education
HOUSING	To have safe, stable, and accessible living accommodations along with other basic necessities. To have access to affordable accessible housing with the supportive services necessary to live as independently as possible in a community setting.	• Services to support housing stability and to maximize tenants' ability to live independently (e.g., case management, mental health, alcohol and substance abuse, independent living, *transportation*, home health visits, home share programs, vocational, health, furniture and other household goods, peer support, and social activities) • Services to assist individuals transitioning from institutional to home or community-based care • Services to assist individuals and families to locate housing in communities with adequate support networks and services, including opportunities for seniors and persons with special needs
LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT	To have the ability to read, write, and communicate effectively in order to manage finances, and attain employment	• English proficiency services and/or instruction • Early childhood development services including ASL and

CATEGORY	OUTCOME STATEMENT	SERVICE EXAMPLES
	goals through academic and vocational achievement. To have access to quality childcare and education and supports to develop employment and independent living skills.	Cued speech training for parents • Educational supports including tutoring *and/or family literacy* • Services that provide employment and training skills to effectively assist individuals with disabilities to live independently • Adult education, credentialing • Supportive employment and education • Digital access and literacy programs • Services that address the specific needs of individuals with disabilities to meet these outcomes
POSITIVE BEHAVIORS AND HEALTHY RELATIONSHIPS	To develop positive behaviors and healthy relationships that are safe and free from abuse, neglect, and trauma and promote physical, emotional, mental, and social well-being.	• Counseling services • Conflict resolution and anger management training and counseling • Youth-based prevention programs and services focusing on positive behaviors and healthy relationships • Trauma recovery services • Domestic violence and sexual abuse prevention and recovery services • Programs and services that address the needs of individuals with limited English proficiency and*/or* those with all levels of ability • *Programs and services that address acculturation*
SUPPORT/COMMUNITY/ SOCIAL NETWORKS	To have access to local services, including community-based transportation and childcare, and the ability to establish and maintain *intergenerational*, communal and social relationships.	• Courses that teach language or culture to help groups interact positively • Mentoring programs • Language and cross-cultural assistance • Social environments for isolated/homebound individuals

CATEGORY	OUTCOME STATEMENT	SERVICE EXAMPLES
		• Respite services to help caregivers • Affordable, accessible, quality childcare to help parents/guardians stay employed • Affordable transportation, especially for vulnerable populations • Supportive programs for persons with disabilities • Access to recreational activities (rec centers, classes) • Wi-Fi/Internet access and computer support

Board Agenda Item
July 15, 2025

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, as identified below, where discussion in an open session would adversely affect the negotiating or litigating posture of the public body, as well as consultation with legal counsel regarding specific legal matters listed below requiring the provision of legal advice by such counsel, all as permitted by Virginia Code § 2.2-3711(A) (7) and (8).

1. *John P. Sopko v. Fairfax County Board of Supervisors, Virginia Department of Veterans Services, and Chuck Zingler, in his official capacity as Commissioner of the Virginia Department of Veterans Services,* Case No. CL-2024-0006380 (Fx. Co. Cir. Ct.) (Franconia District)

2. *Association of Energy Conservation Professionals, et. al., v. Virginia State Air Pollution Control Board, et. al.,* Record No. 0234-25-3 (Va. Ct. App.)

3. *Fairfax Workers Coalition and David J. Lyons, Michelle Herrera Meadows, Julie Fincher, Jennifer McCullough, Randall Stewart, Brenda Reagan, Brandon Hahn, Athena Baker, Steven Zeizel, Sandra Nolff, Nikki Thomas-Campbell, Jackie Faett, and Jahangir-Chand v. Fairfax County and Sarah Miller Espinosa, J.D., Labor Relations Administrator for Fairfax County*, Case No. CL-2025-0003246 (Fx. Co. Cir. Ct.)

4. *Patrick Winston Lynch, administrator of the estate of Jasper Aaron Lynch, Deceased v. Chief Kevin Davis, Officer First Class Edward George, Officer Pak Kyoung, Officer Nicholas Kirsch, and John Does 1-3*, Case No. CL-2024-0008384 (Fx. Co. Cir. Ct.)

5. *Lidia Yrma Tapia Ovando v. Alexander Voziyan*, Case No. GV25-009721 (Fx. Co. Gen. Dist. Ct.)

6. *Jay Riat, Fairfax County Building Official v. Shahzad Ul Islam Qureshi,*

Case No. GV25-006174 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

7. *Jay Riat, Building Official for Fairfax County, Virginia v. Kurt Adam Janssen, Eric Janssen, and Bonnie Janssen,* Case No. CL-2024-0000339 (Fx. Co. Cir. Ct.) (Dranesville District)

8. *Jay Riat, Building Official for Fairfax County, Virginia v. Mustafa Zamani,* Case No. CL-2024-0004095 (Fx. Co. Cir. Ct.) (Dranesville District)

9. *Jay Riat, Building Official for Fairfax County, Virginia v. Rajwinder Singh,* Case No. CL-2025-0008986 (Fx. Co. Cir. Ct.) (Dranesville District)

10. *Jay Riat, Building Official for Fairfax County, Virginia v. Arciel Paz Munoz and Nardy Silas Sejas,* Case No. GV25-004267 (Fx. Co. Gen. Dist. Ct.) (Franconia District)

11. *Jay Riat, Building Official for Fairfax County, Virginia v. Hometown Audubon, L.L.C. et al,* Case No. GV25-006862 (Fx. Co. Gen. Dist. Ct.) (Franconia District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Nathan Williams,* Case No. GV25-12430 (Fx. Co. Gen. Dist. Ct.) (Franconia District)

13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Aaron Samson, Mary Samson, and Zaaki Restaurant and Café LLC (Grapes Lounge),* Case No. CL-2020-0009420 (Fx. Co. Cir. Ct.) (Mason District)

14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mieu Lien Phung Living Trust, KIFAB, LLC, and MNK Management,* Case No. CL-2021-0014458 (Fx. Co. Cir. Ct.) (Mason District)

15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Baileys I, LLC,* Case No. CL-2025-0004270 (Fx. Co. Cir. Ct.) (Mason District)

16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Annan Center, LLC,* Case No. CL-2025-0007620 (Fx. Co. Cir. Ct.) (Mason District)

17. *Jay Riat, Building Official for Fairfax County, Virginia v. Griselda G. Fernandez,* Case No. GV24-029646 (Fx. Co. Gen. Dist. Ct.) (Mason District)

18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Thanh H. Nguyen and Xuan T. Nguyen,* Case No. GV25-014904 (Fx. Co. Gen. Dist. Ct.) (Mason District)

19. *Jay Riat, Building Official for Fairfax County, Virginia v. Thanh H. Nguyen and Xuan T. Nguyen,* Case No. GV25-014905 (Fx. Co. Gen. Dist. Ct.) (Mason District)

20. *Gabriel M. Zakkak, Property Maintenance Code Official for Fairfax County, Virginia v. Ingrid Teasdale,* Case No. CL-2025-0002847 (Fx. Co. Cir. Ct.) (Providence District)

21. *Jay Riat, Building Official for Fairfax County, Virginia v. Jayesh Kumar,* Case No. CL-2025-0008336 (Fx. Co. Cir. Ct.) (Providence District)

22. *Jay Riat, Building Official for Fairfax County, Virginia v. Aveshka, Inc.,* Case No. GV25-003265 (Fx. Co. Gen. Dist. Ct.) (Providence District)

23. *Jay Riat, Building Official for Fairfax County, Virginia v. Jose O. Lara Amaya and Celia E. Ramos Ventura,* GV25-012782 (Fx. Co. Gen. Dist. Ct.) (Providence District)

24. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Philip S. Smith,* Case No. GV25-016321 (Fx. Co. Gen. Dist. Ct.) (Providence District)

25. *Jay Riat, Building Official for Fairfax County, Virginia v. Hooshang Roohani,* Case No. GV25-017412 (Fx. Co. Gen. Dist. Ct.) (Providence District)

26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Hooshang Roohani,* Case No. GV25-017386 (Fx. Co. Gen. Dist. Ct.) (Providence District)

27. *Gabriel M. Zakkak, Property Maintenance Code Official for Fairfax County, Virginia v. Hooshang Roohani,* Case No. GV25-017413 (Fx. Co. Gen. Dist. Ct.) (Providence District)

28. *Jay Riat, Building Official for Fairfax County, Virginia, and Leslie B. Johnson, Fairfax County Zoning Administrator v. Akhtar H. Shah and Humera Akhtar Shah,* Case No. CL-2025-0002637 (Fx. Co. Cir. Ct.) (Springfield District)

29. *Jay Riat, Building Official for Fairfax County, Virginia v. St.Jude Syro-Malabar Catholic Church,* Case No. GV25-012432 (Fx. Co. Gen. Dist. Ct.) (Sully District)

Board Agenda Item
July 15, 2025

3:30 p.m.

Public Hearing on SE 2024-MV-00036 (Varinia Vergara Miranda and Nima Home Daycare LLC) to Permit a Home Day Care Facility, Located on Approximately 7,975 Square Feet of Land (Mount Vernon District)

This property is located at Tax Map 107-2 ((8)) (F) 60.

PLANNING COMMISSION RECOMMENDATION:
On June 25, 2025, the Planning Commission voted 11-0 (Commissioner Hancock was absent from the meeting) to recommend to the Board of Supervisors approval of SE 2024-MV-00036, subject to the development conditions consistent with those dated June 11, 2025, included in the staff report.

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:
Suzanne L. Wright, Director, Zoning Evaluation Division (ZED), Department of Planning and Development (DPD)
Savannah De Murray, Planner, ZED, DPD

Board Agenda Item
July 15, 2025

3:30 p.m.

Public Hearing on SE 2024-DR-00029 (Scott C. Harrison and Helen F. Harrison, Trustees) to Permit a Waiver for Minimum Lot Width, Located on Approximately 5.78 Acres of Land (Dranesville District)

This property is located at Tax Map 7-2 ((1)) 37.

PLANNING COMMISSION RECOMMENDATION:
On June 4, 2025, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of SE 2024-DR-00029, subject to the development conditions dated May 21, 2025 included in the staff report.

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:
Suzanne L. Wright, Director, Zoning Evaluation Division (ZED), Department of Planning and Development (DPD)
Savannah De Murray, Planner, ZED, DPD

Board Agenda Item
July 15, 2025

3:30 p.m.

Public Hearing on SE 2024-MV-00040 (Eastman Minerals, Inc.) to Permit Production or Processing, Heavy, Located on Approximately 3,000 Square Feet of Land (Mount Vernon District)

This property is located at Tax Map 99-3 ((1)) 42 (pt.).

PLANNING COMMISSION RECOMMENDATION:
On June 11, 2025, the Planning Commission voted 11-0 (Commissioner Spain was absent from the meeting) to recommend to the Board of Supervisors approval of SE-2024-MV-00040, subject to the development conditions consistent with those dated June 4, 2025 included in the staff report.

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:
Suzanne L. Wright, Director, Zoning Evaluation Division (ZED), Department of Planning and Development (DPD)
Savannah De Murray, Planner, ZED, DPD

Board Agenda Item
July 15, 2025

4:00 p.m.

Public Hearing to Convey Crescent Apartments Located at 1513 and 1531 Cameron Crescent Drive to the Fairfax County Redevelopment and Housing Authority (Hunter Mill District)

ISSUE:
Public hearing regarding the conveyance of Board-owned property located at 1513 and 1531 Cameron Crescent Drive (Crescent Property) to the Fairfax County Redevelopment and Housing Authority (FCRHA).

RECOMMENDATION:
The County Executive recommends that the Board authorize staff to convey the Crescent Property to the FCRHA and authorize the County Executive or his designee to take such actions as may be reasonably necessary or appropriate to effectuate such a conveyance, as described in this item.

TIMING:
On June 10, 2025, the Board authorized the advertisement of a public hearing to convey certain Board-owned property to the FCRHA.

BACKGROUND:
The Board owns approximately 16.49 acres of land in the Hunter Mill District known as Crescent Apartments, described as Tax Map Parcels 0172 16 0001A and 0172 14 01 0002G. The Crescent Property was constructed in 1963 and is improved with a five-building, 181-unit, garden style apartment complex. A total of 150 of the households living at the Crescent have incomes at or below 60% AMI, of which 71 households are extremely low income at or below 30% AMI. Leveraging the additional planned density will allow a redevelopment to not only preserve the affordability already committed on the property, but would also support the development of additional affordable units, thereby contributing toward the Board's goal of 10,000 net new affordable units by 2034.

Occupying the northeast portion of the Lake Anne Village Center in Reston, the Crescent Property is within walking distance of bus stops, retail, offices, healthcare, and

has convenient access to vital services including schools, parks, transit routes, and recreational amenities.

An economic visioning study for the Lake Anne Village Center has recently been completed, and the anticipated redevelopment of the Crescent Property will be complementary to the revitalization and economic development needs of the historic heart of Reston. The FCRHA is evaluating measures to leverage this high opportunity property for development of housing at a range of incomes by partnering with a private developer. Future land use and zoning actions will be evaluated by County staff and reviewed at public hearings by both the Planning Commission and the Board. The public will be afforded several opportunities during the review process to comment on the design of the redevelopment and its possible impacts on surrounding communities. FCRHA met with residents of Crescent Apartments earlier this spring to begin planning for the redevelopment, and public outreach efforts to the larger Reston community are expected to begin later this summer.

Should the transfer be approved, the FCRHA will be expected to take the Lake Anne Economic Visioning Study into consideration in implementing the development of affordable housing, complementary market-rate housing and associated uses. The FCRHA would also be expected to provide the Board with access to and use of the site as may be reasonably necessary or appropriate until such time as development activities begin. If the FCRHA no longer pursues the project for redevelopment as affordable housing, the Board may direct the FCRHA to transfer ownership of the property back to the Board pursuant to the memorandum of agreement with the FCRHA approved by the Board on January 15, 2025. Staff recommends that any public utilities located on the property that are owned and maintained by County agencies, such as sanitary sewers and stormwater management facilities and structures, continue to be owned and maintained by the County.

EQUITY IMPACT:
Leveraging this underutilized parcel will help achieve the Board's goal of increasing the supply of affordable housing with a minimum of 10,000 new units by 2034 to meet the needs of working families. With Fairfax County's Area Median Income at $163,900 for a family of four, the delivery of new affordable housing units in the Hunter Mill District, the location of the Crescent Property in the Reston area aligns with the One Fairfax Policy, which recommends, in part, (i) the implementation of housing policies and practices that encourage all who want to live in Fairfax to be able to do so, and (ii) the providing of a full spectrum of housing opportunities across the county, most notably those in mixed-use areas that are accessible to multiple modes of transport. The Crescent Property project will promote opportunities for everyone to fully participate in the region's

economic vitality, contribute to its readiness for the future, and connect to its assets and resources.

FISCAL IMPACT:
The advertisement of the subject public hearing has no direct fiscal impact. However, the redevelopment of Crescent Property subsequent to a potential transfer to the FCRHA would have a significant, positive fiscal impact. A redevelopment would allow the FCRHA to leverage very substantial non-local resources to deliver a new, mixed-income community with more housing and community amenities. Absent a redevelopment, the apartments at the Crescent Property would require a major renovation, which would require significant local funding to complete and would constrain the existing site for several decades to come at the existing density.

ENCLOSED DOCUMENTS:
Attachment 1 – Location Map

STAFF:
Ellicia Seard-McCormick, Deputy County Executive
Christopher Leonard, Deputy County Executive
Thomas Fleetwood, Director, Housing and Community Development (HCD)
Anna Shapiro, Deputy Director, Real Estate Finance and Development, HCD
Mark Buenavista, Division Director, Capital Planning and Development, HCD
José Comayagua, Director, Facilities Management Department (FMD)
Mike Lambert, Assistant Director, FMD

ASSIGNED COUNSEL:
Brett Callahan, Assistant County Attorney
Ryan Wolf, Senior Assistant County Attorney

ATTACHMENT 1



Board Agenda Item
July 15, 2025

4:00 p.m.

Public Hearing to Sublease Ash Grove House at 8881 Ashgrove House Lane to Sheila Consaul in Connection with the Resident Curator Program (Hunter Mill District)

ISSUE:
Public hearing to sublease property owned by the Fairfax County Park Authority (FCPA) at 8881 Ashgrove House Lane to Sheila Consaul in connection with the Resident Curator Program.

RECOMMENDATION:
The County Executive recommends that the Board authorize staff to execute the lease of Ash Grove House from the FCPA to the Board and sublease of Ash Grove House from the Board to the Resident Curator in substantially the same forms as the attached.

TIMING:
On June 10, 2025, the Board authorized the advertisement of a public hearing on July 15, 2025, at 4:00 p.m. to sublease FCPA-owned property at 8881 Ashgrove House Lane.

BACKGROUND:
In accordance with enabling legislation enacted by the Commonwealth, the Board approved the creation of the Resident Curator Program (Program) to address underutilized, publicly-owned historic properties by entering into long-term leases with qualified tenants who pledge to rehabilitate the property in accordance with federal standards established for the treatment of historic properties. The tenant under the lease (Resident Curator) agrees to complete the rehabilitation and provide ongoing maintenance and upkeep of the property for the duration of the lease in exchange for rent-free accommodation. The program is managed by the FCPA.

State legislation requires that the Board serve as the landlord under the lease. Consequently, the FCPA will lease the property selected through the screening process established in the Program to the Board (Lease), and the Board will concurrently sublease the property to the Resident Curator (Sublease). The Sublease will contain detailed provisions on the rehabilitative workplan for the property; however, the responsibility for monitoring the Resident Curator's progress with the workplan and the Program will remain with the FCPA per the terms of the Lease.

The sixth property selected by the FCPA for inclusion in the Program is the two-and-a-half-story, Federal-style building called Ash Grove House located at 8881 Ashgrove House Lane (Tax Map No. 0282 13 B) within 14 acres of parkland. The 4,200 square feet residence and two outbuildings, a brick kitchen and laundry and a weatherboard smokehouse, were constructed in the late 18th century. The main structure was badly damaged by a fire in 1960, but the house was substantially rebuilt with the aid of existing photographs and measured drawings. The property is listed on the County's inventory of historic sites.

The Resident Curator selected during the screening process for the Program is Sheila Consaul, an historic preservationist who was recently responsible for the restoration of a century-old lighthouse off the coast of Lake Erie. During the almost eight-year term of the Sublease, the Resident Curator will rehabilitate the residence to make the historic structure compatible with modern use. Planned projects include a full renovation of the kitchen, upgrades to the mechanical and electrical systems and repairs to the interior walls, ceilings and woodwork. The implementation of these renovations will be governed by a building conditions report and FCPA-approved workplan that will be incorporated into the terms of the Sublease. To facilitate public access, the Resident Curator will also hold an annual open house as well as provide scheduled tours to preservation organizations and community groups.

The lease also authorizes the Board and the Resident Curator to negotiate an amendment that will allow the Resident Curator to run a home-based business out of the property in accordance with all applicable laws.

EQUITY IMPACT:
The inclusion of Ash Grove House in FCPA's resident curator program and the grant of the lease to the historic curators align with focus area 13 of the One Fairfax Policy, which advocates for the development of a parks and recreation system that provides quality facilities, programs, and services to all communities.

FISCAL IMPACT:
None. Any expenses associated with the Program or acting as landlord under the Sublease shall be borne by the FCPA.

ENCLOSED DOCUMENTS:
Attachment 1 – Location Map
Attachment 2 – Images of Ash Grove House
Attachment 3 – Draft Lease Agreement
Attachment 4 – Draft Sublease Agreement

Board Agenda Item
July 15, 2025

STAFF:
Ellicia Seard-McCormick, Deputy County Executive
Christopher Leonard, Deputy County Executive
Jai Cole, Director, Fairfax County Park Authority
Jose A. Comayagua, Jr., Director, Facilities Management Department
Mike Lambert, Assistant Director, Facilities Management Department

ASSIGNED COUNSEL:
Daniel Robinson, Senior Assistant County Attorney

ATTACHMENT 1



ATTACHMENT 2







ATTACHMENT 3

FCPA-BOS LEASE

for Resident Curator Ash Grove

THIS **DEED OF LEASE ("Lease")** made this _____ day of _____, 2025 by and between the **FAIRFAX COUNTY PARK AUTHORITY,** a body corporate and politic, as the landlord and lessor, hereunder **("Landlord")**, and the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a body corporate and politic, as the tenant and lessee, hereunder **("Tenant")**.

RECITALS

R-1 Landlord is the Property Owner **("Property Owner")** of certain real estate that is identified in the Fairfax County Tax Administration records as Parcel Identification Number 0282 13 B **("Parcel")**, which is approximately 2.0012 acres in size and considered part of ASH GROVE HISTORIC SITE PARK **("Park")** in the Hunter Mill District.

R-2 Chapter 125, The Resident Curator Program Ordinance, to *The Code of the County of Fairfax Virginia*, established a Resident Curator Program ("**Resident Curator Program**") to preserve and maintain historic properties owned or leased by Fairfax County by leasing historic properties to individuals or businesses for the purposes of maintaining and improving leased properties in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68 (2013), as amended.

R-3 Landlord desires to lease to Tenant and Tenant desires to lease from Landlord, approximately 18,291.7 square feet of the Parcel that includes the ASH GROVE HOUSE ("**Ash Grove**"), 8881 Ashgrove House Lane, Vienna, Virginia 22182 referred to as the **("Leased Property")** as shown on **Exhibit A**, so Leased Property can participate in the Resident Curator Program.

R-4 Tenant desires to enter into a lease with **Sheila A. Consaul** who will be the Resident Curator **("Resident Curator")** in accordance with the approved **Ash Grove Resident Curator Program** and consistent with the Resident Curator Lease ("**Resident Curator Lease**") attached hereto as **Exhibit B**.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. GRANT OF LEASED PROPERTY. Landlord does hereby lease unto Tenant and Tenant does hereby lease from Landlord the Leased Property, which Leased Property includes nonexclusive access to the Leased Property through the Park as shall be designated by Landlord. Tenant agrees that there are no requirements imposed upon Landlord to perform improvements to the Leased Property.

2. TERM OF OCCUPANCY. The term of occupancy under this Lease ("**Term**") shall be for a period of **seven years ten months and twenty-five days years** to begin at 12:00 noon on the ___ day of _____, 2025 ("**Commencement Date**") and, unless otherwise agreed by the parties hereto and, subject to early termination which will occur if the Resident Curator Lease terminates early, will expire on the last day of the ninety-fourth (94th) month and 25 days following the Commencement Date which is the ____th day of_____, 2032 ("**Scheduled Termination Date**"). At the expiration of the tenancy hereby created, or upon any re-entry by Landlord into the Leased Property pursuant to any provision herein, Tenant shall surrender the Leased Property.

3. RENT. Not Applicable

4. USE OF LEASED PROPERTY. Tenant has leased the Leased Property for the purpose of entering into a sub-lease agreement with the Resident Curator in furtherance of the Tenant's Resident Curator Program. Landlord has negotiated and approved the terms of the sub-lease agreement, defined as the Resident Curator Lease above, and will be responsible for monitoring the Resident Curator's performance under the Resident Curator Lease and for ensuring the Resident Curator complies with the terms of the Resident Curator Lease.

5. MEETINGS WITH REPRESENTATIVES. Landlord, Tenant and Resident Curator shall meet quarterly starting on the date of the Commencement Date. Tenant shall include a provision in the Resident Curator Lease requiring the Resident Curator to attend the quarterly meetings. The Landlord's representative is David Buchta, Heritage Conservation Branch Manager (or his designee or successor), (703) 324-8586. The Tenant's representative is Mike Lambert, Assistant Director, Facilities Management Department (or his designee or successor), (703) 324-2825. The Resident

Curator is Sheila A. Consaul, who shall be contacted at 8881 Ashgrove House Lane, Vienna, VA 22182 (XXX) XXX-XXXX.

6. UTILITIES AND SERVICE CONNECTIONS. Landlord and Tenant have no obligation to provide to the Leased Property, or to arrange for the availability at the Leased Property of, any utilities or services and they make no representations or warranties relating thereto or to the condition of the Leased Property. Tenant shall include a provision in the Resident Curator Lease that requires the Resident Curator to arrange for any utilities or services that it requires during the term of the Resident Curator Lease. Tenant is authorized to recover any amounts Landlord is required to pay to utilities based on Resident Curator's failure to pay and Tenant will reimburse Landlord for any amounts recovered.

7. REPAIRS AND MAINTENANCE. Landlord and Tenant shall have no obligation to maintain or repair any portion of the Leased Property. Tenant shall include a provision in the Resident Curator Lease that requires the Resident Curators to perform any repairs or maintenance that is necessary to the Leased Property during the term of the Resident Curator Lease.

8. END OF TERM. Upon the Scheduled Termination Date or other termination of this Lease or the Resident Curator Lease, the Tenant shall quit and surrender to Landlord the Leased Property.

9. NOTICES. Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Leased Property, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows:

(a) If to Tenant:

Director, Facilities Management Department
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035

(b) If to Landlord:

Executive Director, Fairfax County Park Authority
12055 Government Center Parkway, Suite 927
Fairfax, Virginia 22035

Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or referred by the party to whom it was sent.

10. TENANT'S FINANCIAL OBLIGATIONS. To the extent there are any financial obligations of the Tenant under this Lease, such financial obligations are subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.

11. PARK USE. Tenant acknowledges that Leased Property is located in a public park and, therefore, is subject to inconveniences due to the public nature of the grounds surrounding the Leased Property.

12. INTERPRETATION. All nouns used herein shall be interpreted and construed to include the singular, plural, masculine, feminine, or neuter forms in any place or places in which the context may require to indicate such interpretation and construction.

13. ENTIRE AGREEMENT. This Lease constitutes the entire agreement between Landlord and Tenant with respect to the Leased Property. This Lease shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

14. SMOKING. Smoking is prohibited at all of Landlord's properties.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals:

LANDLORD:

FAIRFAX COUNTY PARK AUTHORITY

By: _____
Jai Cole, Executive Director
Fairfax County Park Authority

Commonwealth of Virginia :

County of Fairfax :

The foregoing Lease was acknowledged before me this ____ day of _____, 2025 by Jai Cole, in their capacity as Executive Director of the Fairfax County Park Authority, the Landlord hereunder.

_____ My Commission expires:_____
Notary Public

Registration Number: _____

Witness the following signatures and seals:

TENANT:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY

By: _____
Ellicia L. Seard-McCormick
Deputy County Executive of Administration
Fairfax County

Commonwealth of Virginia :

County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of _____, 2024 by Ellicia L. Seard-McCormick, in their capacity as the Deputy County Executive of Administration, the Tenant hereunder.

_____ My Commission expires:_____
Notary Public

Registration Number: _____

ATTACHMENT 4

RESIDENT CURATOR DEED OF LEASE

EFFECTIVE DATE

_____, 2025

between

BOARD OF SUPERVISORS OF FAIRFAX COUNTY as LESSOR ("LESSOR")
and

SHEILA A. CONSAUL as LESSEE ("RESIDENT CURATOR")

on Property owned by the

FAIRFAX COUNTY PARK AUTHORITY ("PROPERTY OWNER")

at the

Ash Grove House
8881 Ashgrove House Lane
Vienna, Virginia 22182

in

ASH GROVE HISTORIC SITE

Parcel Identification Number 0282 13 B

RESIDENT CURATOR LEASE

THIS **DEED OF LEASE** ("**Lease**") made this **____ day of _____ , 2025 (the "Lease Effective Date")** by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** ("**BOS**"), 12000 Government Center Parkway, Suite 424, Fairfax, Virginia 22035, as **Lessor** ("**Lessor**"), and **Sheila A. Consaul,** as **Lessee** ("**Resident Curator"),** on property owned by the **FAIRFAX COUNTY PARK AUTHORITY ("FCPA")**, a body corporate and politic, as **Property Owner** ("**Property Owner**").

RECITALS

R-1 Property Owner is the owner of certain real estate that is identified in the Fairfax County Tax Administration records as Parcel Identification Number 0282 13 B **("Parcel")**, which is approximately 2.0012 acres in size and considered part of ASH GROVE HISTORIC SITE PARK **("Park**") in the Hunter Mill District of Fairfax County. Property Owner leased the Leased Property to Lessor pursuant to a Lease dated _____,2025 **("FCPA-BOS Lease")**.

Lessor desires to lease to the Resident Curator, and Resident Curator desires to lease from Lessor, approximately 18,291.7 square feet of the Parcel that includes the ASH GROVE HOUSE ("**Ash Grove House**"), 8881 Ashgrove House Lane, Vienna, VA 22182, referred to as the **("Leased Property")** as shown on **Exhibit A**. Resident Curator's use of the Leased Property will be in accordance with Property Owner's Ash Grove Historic Site General Management Plan and Conceptual Development Plan **("Master Plan")** that was approved on April 2000, other approvals by the BOS for the Leased Property, and the terms of this Lease.

R-2 The Resident Curator Program Ordinance, Chapter 125, of *The Code of the County of Fairfax Virginia*, established a Resident Curator Program ("**Resident Curator Program**") to preserve and maintain historic properties owned or leased by Fairfax County by leasing historic properties to individuals or businesses for the purposes of maintaining and improving these properties in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation as shown on **Exhibit B**.

R-3 The Resident Curator responded to an Invitation to Submit Application **("ISA")** for participation in the Resident Curator Program at Ash Grove House, and the Lessor and the

Property Owner accepted the Resident Curator's Response to the ISA ("**Resident Curator's Response to ISA**") attached as **Exhibit C** and incorporated by reference into this Lease, and appointed the Resident Curator as the Resident Curator of the Leased Property under this Lease.

R-4 Lessor desires to enter into this Lease with the Resident Curator to fulfill the requirements of the Resident Curator Program, to include: (a) rehabilitating the Ash Gove House as a residence, and (b) holding an open house for the public, at least one time per year, on the Leased Property. Resident Curator's performance of the requirements of the Resident Curator Program and this Lease will be subject to monitoring and review by Property Owner's staff.

R-5 Resident Curator will perform all of the required Resident Curator duties and maintain the Leased Property in accordance with the Resident Curator's Response to the ISA**,** the Resident Curator Maintenance Guidelines and Checklist **("Maintenance Guidelines")** attached hereto as **Exhibit D** and incorporated into this Lease**,** the Ash Grove Historic Structure Report - Treatment Plan ("**Treatment Plan**") attached hereto as **Exhibit E** and incorporated into this Lease, and the Approved Work Plan **("Approved Work Plan")** attached hereto as **Exhibit F** and incorporated into this Lease**.** The Resident Curator's Response to the ISA, Maintenance Guidelines, Treatment Plan, and Approved Work Plan are collectively referred to as the Ash Grove House Curator Program **("Curator Program").**

R-6 This Lease shall incorporate as applicable Additional Non-Discretionary Improvements **("Additional Non-Discretionary Improvements")** pursuant to Section 8, and Additional Discretionary Improvements **("Additional Discretionary Improvements")** pursuant to Section 9. The creation and performance of all documents, plans, responsibilities, and improvements for the Curator Program, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements are collectively referred to as **Curator Program Duties ("Curator Program Duties")** and must be in compliance with the Master Plan, and applicable local, state and federal laws and regulations.

R-7 The Lessor delegated certain responsibilities to the Property Owner to effectuate efficient administration of the Resident Curator Program per a March 29, 2016, memorandum and Property

Owner will monitor Resident Curator's compliance with this Lease pursuant to the FCPA-BOS Lease.

R-8 Lessor, the Resident Curator, and the Property Owner will collectively be referred to as the Parties ("**Parties**").

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. GRANT OF LEASED PROPERTY. Lessor does hereby lease unto Resident Curator and Resident Curator does hereby lease from Lessor the Leased Property, including nonexclusive access to the Leased Property via the driveway shown on **Exhibit A**. It is agreed that by occupying the Leased Property, Resident Curator acknowledges that it has had full opportunity to examine the Leased Property and is fully informed, independent of any statements by Lessor and Property Owner, as to the character, construction and structure of the Leased Property. All amenities and appliances, if any, are in "AS IS" condition and Lessor and Property Owner shall have absolutely no obligation whatsoever to repair such items or to replace any such amenities at the end of their useful life. It is agreed that by occupying the Leased Property, Resident Curator agrees that there are no requirements imposed upon Lessor or Property Owner to perform improvements or repairs to the Leased Property. Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that Resident Curator's agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

2. OCCUPANCY and ACCEPTANCE OF POSSESSION. The Ash Grove House is ready for occupancy. The Property Owner obtained an assessment of the Ash Grove House electrical, mechanical, and plumbing systems **("House Systems Assessment")**. The House Systems Assessment was completed in August 2017 and a copy of the findings was provided to the Resident Curator and Resident Curator represents that it had the opportunity to review the findings before entering into this Lease. Lessor shall deliver possession of the Leased Property to Resident Curator under this Lease at 12:00 noon on _____ day of _____, 2025

(**"Commencement Date")** and Resident Curator shall accept possession of the Leased Property in its **"AS IS"** condition on the Commencement Date.

3. TERM and SCHEDULED TERMINATION DATE. The term of this Lease **(the "Term")** shall be for a period of seven years ten months and twenty-nine days, commencing on 12:00 noon on the Commencement Date and will expire on twenty-fifth day of the ninety-fourth (94th) month following the Commencement Date which is the __ day of_____ , 2032 **("Scheduled Termination Date"**) unless otherwise agreed by the Parties in writing or subject to any early termination as permitted in this Lease. At the expiration of the tenancy hereby created, or upon any re-entry by Lessor into the Leased Property pursuant to any provision herein, Resident Curator will surrender the Leased Property and all residents will vacate the Ash Grove House and remove all of their possessions. Resident Curator does not have any right to extend or renew this Lease except as provided for herein.

4. CURATOR SCHEDULE and MILESTONES. Resident Curator, at Resident Curator's sole expense, must timely perform and complete the Curator Program Duties in accordance with corresponding schedules and performance milestones herein referred to as **"Curator Schedules and Milestones".** The Curator Program Duties documents are set forth in detail sufficient to satisfy Lessor and Property Owner of the items, methodology and timeframes for the development, redevelopment, remediation, repair, replacement, refurbishment, renovation, rehabilitation, and maintenance of the Leased Property. The Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that the Resident Curator's agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

5. EARLY TERMINATION. No party has the right to terminate this Lease prior to the Scheduled Termination Date unless it is terminated in accordance with the terms of this Lease or the parties enter into a separate written agreement.

6. RENT, FAIR MARKET RENTAL VALUE. Resident Curator's consideration for the Lease is the performance of the Curator Program requirements as set forth in R-5, in accordance

with all schedules and milestones imposed on Resident Curator under this Lease, and that the parties agree, have an estimated cost of two hundred thirty-six thousand, nine hundred fifty-five dollars and no/100 ($236,955.00) and the parties agree that the adjusted ("**Fair Market Rental Value")** for the Term is **two hundred thirty-six thousand, nine hundred fifty-five dollars and no/100 ($236,955.00)** as shown on **Exhibit G** which is incorporated into this Lease. The Fair Market Rental Value will be provided by the Resident Curator through the performance of the Curator Program requirements set forth in R-5 and not in the form of any regular rent payments to Lessor or to Property Owner. Any adjustments to the Fair Market Rental Value must be agreed to by the Parties in writing.

7. WORK-IN-PROGRESS and APPROVED INSTALLED IMPROVEMENTS. The Parties anticipate there will be the following three categories of improvements that the Resident Curator will make to the Leased Property pursuant to this Lease: (1) improvements required by the Curator Program **("Curator Program Improvements")**, (2) Additional Non-Discretionary Improvements, and (3) Additional Discretionary Improvements. All plan submissions, plan approvals, permitting, rehabilitation, construction, installation, inspections, and corrective action for the Curator Program Improvements, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements shall be collectively referred to as **"Work-In-Progress"** until deemed an Approved Installed Improvement as defined in this Lease

7.1 Construction, rehabilitation or installation of improvements that result in plan closeout, permit closeout, bond release, occupancy, or similar final approval for the Curator Program Improvements, the Additional Non-Discretionary Improvements, or the Additional Discretionary Improvements shall be collectively referred to as **"Approved Installed Improvements"** and the date of final action that qualifies Work-In-Progress as an Approved Installed Improvement shall be referred to as the **"Approved Improvement Date"**.

7.2 In the event of Early Termination or Event of Default, as defined in this Lease, Property Owner, in its sole discretion through Lessor, may require that Work-In-Progress be cured or removed at Resident Curator's cost especially if Work-In-Progress creates an unsafe condition.

8. ADDITIONAL NON-DISCRETIONARY IMPROVEMENTS. Resident Curator and Lessor acknowledge that there may be certain improvements that are necessary, that affect the structure of the Leased Property, that were unknown to the Parties at the execution of this Lease, that are not included in the Curator Schedules and Milestones and that are capital in nature; these improvements are defined as **"Additional Non-Discretionary Improvements"**.

8.1 If Resident Curator determines that it is required to perform such Additional Non-Discretionary Improvements, then it must provide written notice to Lessor and Property Owner of all such Additional Non-Discretionary Improvements. If Lessor and Property Owner agree that the improvements listed on that written notice qualify as Additional Non-Discretionary Improvements, then they shall (a) notify Resident Curator in writing that they agree the improvements qualify as Additional Non-Discretionary Improvements, and (b) advise Resident Curator in writing whether they consent to Resident Curator performing the Additional Non-Discretionary Improvements. Resident Curator may not commence work on Additional Non-Discretionary Improvements until it receives consent in writing from Lessor and Property Owner.

8.2 The Parties may agree to add the cost of the Additional Non-Discretionary Improvements to the estimated cost of the Curator Program requirements if, before commencement of the Additional Non-Discretionary Improvements, (a) the Resident Curator gives written notice to Lessor and Property Owner of any intent to add the cost of the Additional Non-Discretionary Improvements, (b) the Resident Curator provides a cost accounting of all labor and materials to Lessor and Property Owner, and (c) Lessor and Property Owner agree in writing to add the cost of the Additional Non-Discretionary Improvements to the estimated cost of the Curator Program requirements. Additional Non-Discretionary Improvements covered in this Section shall be accounted for according to the template attached as **Exhibit H** and incorporated in this Lease, and if agreed to in writing by the Parties, the term of the Lease may be extended in accordance therewith. Lessor and Property Owner reserve the right to refuse all or any part of such cost accounting.

9. ADDITIONAL DISCRETIONARY IMPROVEMENTS. "Additional Discretionary Improvements" are those improvements, capital or otherwise, that the Resident Curator decides to undertake for its own convenience or desire, and that are not considered a part of the Curator Program or considered Additional Non-Discretionary Improvements. Resident Curator may not perform any Additional Discretionary Improvements unless it has the written consent of Property Owner, which consent may be withheld in its absolute discretion. Resident Curator understands that it makes any such Additional Discretionary Improvements at its own risk and expense, and such Additional Discretionary Improvements become the property of Property Owner at Property Owner's sole discretion. At the sole discretion of Property Owner and Lessor, Additional Discretionary Improvements may be required to be removed upon the expiration or termination of this Lease and costs for removal, including offsite disposal or any necessary restoration (per approval by the Property Owner) will be the responsibility of the Resident Curator.

10. CONDITIONS FOR WORK-IN-PROGRESS and APPROVED INSTALLED IMPROVEMENTS. The Resident Curator must fulfill the Curator Program Duties as defined in R-6 Iin accordance with this Lease and must obtain all required governmental approvals and permits for such work. As part of the Curator Program Duties, Resident Curator must submit applicable documents to Property Owner for review and written approval of Work-In-Progress. Preliminary testing, construction, and other related activity may not commence until Property Owner has determined that the Work-In-Progress will have "no adverse effect" on the historic integrity of the Leased Property and Property Owner has given final written approval.

10.1 APPROVAL, DISAPPROVAL. In order to obtain written approval for Work-In-Progress, Resident Curator must provide to Property Owner the following support information: (a) narrative summary of proposed improvements; (b) representative photos (digital or print) that clearly indicate the proposed project area; (c) a site map indicating the project area; and (d) any supporting material, material samples, plans, schematics and specifications that Property Owner determines is pertinent to review the project. Property Owner shall review the plans and specifications for conformity with the terms of this Lease, and Property Owner shall, within thirty (30) business days after receipt thereof, either approve the submissions, or notify the Resident Curator in writing of disapproval including specifying the respects in which the submissions do not conform to the terms of

this Lease. If Property Owner fails to respond within thirty (30) business days, such plans and specifications for Curator Program Improvements Additional Non-Discretionary Improvements and Additional Discretionary Improvements, individually or any combination thereof, shall be deemed disapproved.

10.2 RESUBMISSION. In the event of disapproval, the Resident Curator shall modify the plans and specifications to conform to the terms of this Lease in those respects specified by Property Owner as the grounds for disapproval provided the Resident Curator may elect not to pursue and therefore not to modify and resubmit the plans and specifications for Additional Discretionary Improvements. If the plans and specifications were deemed disapproved due to Property Owner's failure to respond within 30 days pursuant to Section 10.1 above, Resident Curator must re-submit the plans and specifications to Property Owner. Any re-submission under this Section 10.2 shall be subject to review and approval by Property Owner in accordance with the procedure provided above for an original submission, until the plans and specifications have been approved by Property Owner.

10.3 ADDITIONAL REVIEW. If the Work-In- Progress requires review by the **Fairfax County Architectural Review Board ("ARB")**, or by another regulatory entity, then the Resident Curator will prepare required documents in accordance with the governing regulations and submit required documents to the ARB or other applicable regulatory entity for review with a copy to Property Owner. Resident Curator will inform Lessor and Property Owner of any regulatory entity determination(s). In the event of a determination of adverse effect, Resident Curator must follow and fulfill any prescribed mitigation requirements if the Work-In-Progress proceeds as proposed and when such additional regulatory review is required, Work-In-Progress will only be allowed to proceed if Property Owner consents in writing and the ARB or other regulatory entity determines that there will be no adverse effect on the Leased Property's historic or archaeological resources.

10.4 COMPLIANCE. Work-In-Progress undertaken by or for the Resident Curator at the Leased Property, and any future changes thereto, and all Approved Installed Improvements shall be in material conformity with all applicable Laws, including,

without limitation, the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 1210l, et seq. and the Resident Curator's insurance policies.

10.5 DUE DILIGENCE, PERMITS. The Resident Curator's Work-In-Progress and Approved Installed Improvements must comply with all applicable laws. The Resident Curator must obtain and pay for the preparation and approval of required engineering, architectural or other plans, permits, and inspections for any renovation, replacement and/or construction work undertaken by or for the Resident Curator on the Leased Property. Any architect or engineer undertaking any of the Work-In-Progress must carry professional liability insurance naming the Resident Curator, Lessor, and Property Owner as additional insureds, and the Resident Curator must provide proof of such insurance to Lessor and Property Owner.

10.6 CONSTRUCTION. The term **Contractor ("Contractor")** means any person or entity, including the Resident Curator, that provides labor, materials or both for the Curator Program Duties whether or not paid by the Resident Curator. Contractor must provide evidence of any required license **("License")**, bond **("Bond")** and insurance **("Contractor's Insurance")** for Work-In-Progress performed by Contractor in accordance with all applicable local, state and federal laws and regulations and this Lease. During Work-In-Progress, Resident Curator must maintain or require its Contractor(s) to maintain insurance at least as broad in the amounts and form to the insurance required Section 19 in addition to builder's risk insurance (or such reasonably comparable insurance) on a "Special Peril" basis (including collapse) insuring against casualty to such construction for full replacement value of the work performed and the equipment, supplies and materials furnished and stored, unless such insurance coverage is provided under policies carried by Resident Curator.

10.7 GENERAL PROVISIONS. Contractor may not commence Work-In-Progress until all required permits, certificates, or other approvals have been issued and are in effect. Once commenced, the Work-In-Progress must be prosecuted continuously and with diligence in accordance with the Curator Schedules and Milestones. Work-In-Progress must be of high quality and performed in a workmanlike manner, free from faults and

defects. Resident Curator must dispose of all waste and debris that result from the demolition of existing structures or other Work-In-Progress performed on the Leased Property, and such disposal must be performed in accordance with applicable laws and regulations.

10.8 PAYMENT FOR WORK-IN-PROGRESS. Resident Curator must pay the entire cost of all Work-In-Progress in cash or its equivalent, promptly, within the time periods specified in its Contractor contract(s) or other business contract, unless the Parties agree in writing to allow a different payment arrangement.

10.9 CURATOR EXPENSE REPORTING. The Resident Curator must submit an Hours & Expense Tracking Form using the template found in **Exhibit I** or a similar agreed upon template incorporating the same information found in **Exhibit I ("Tracking Form")**. Tracking Form must be submitted monthly to record work hours and material, rental, and contractor expenses.

10.9.1. MATERIALS. Material expenses which are credited towards the curator's total investment and must be recorded in the Tracking Form include durable materials which do not exceed a cost of twenty-five dollars and no/100 ($25.00) and consumable materials. Credit for durable materials exceeding twenty-five dollars and no/100 ($25.00) require prior approval in writing by Property Owner. Durable (non-expendable) materials are supplies and materials that are not consumed in one use, retaining their original identity during a period of use (unique tools and equipment). Consumable (expendable) products are materials and supplies which are consumed in one use (ie, paint, nails, caulk, lumber). For each reported expense, a corresponding receipt or invoice must be submitted.

10.9.2. WORK TASK. Each work task in the Approved Work Plan has a unique Computerized Maintenance Management System ID **("ID")** that is shown on **Exhibit F**. To track the expense of each task, the Resident Curator will assign each reported expense (material, rental, contractor, work hours) to the appropriate ID in Tracking Form.

10.9.3. ADMINISTRATION. The hours spent on administrative bookkeeping/receipt paperwork do not count towards the cost of the rehabilitation investment and cannot be reported on the Tracking Form.

10.9.4. TRACKING FORM. The Tracking Form is due on the 7th of the month after the work is completed, or the first business day after the 7th if the 7th is a weekend or holiday. Expenses claimed more than 30 days after the work is completed or without receipt (except labor) may be declined by Property Owner. A new Tracking Form shall be used for each monthly submittal. The completed Tracking Form with receipts shall be emailed to the Property Owner Contact.

10.10 INSPECTION OF WORK-IN-PROGRESS. Lessor and Property Owner will enter upon the Leased Property from time to time upon reasonable notice to Resident Curator and without material interruption to the Work-In-Progress, for the purpose of reviewing the Work-In-Progress being performed by or on behalf of Resident Curator, and such entry shall not be construed to be a violation of Resident Curator's right to the Leased Property.

10.11 TIME FOR COMPLETION OF WORK-IN-PROGRESS. Notwithstanding any provision of this Lease, including any applicable cure period for a default or Force Majeure, the Work-In-Progress must be completed in accordance with the Curator Schedules and Milestones.

10.12 APPROVED INSTALLED IMPROVEMENTS. The Work-In-Progress will be considered an Approved Installed Improvement for the purposes of this Lease only when Resident Curator can demonstrate completion of plumbing, electrical, mechanical, structural, site, or other elements, proper offsite removal and disposal of construction debris, proof that all governmental inspections have been completed, and proof of issuance of required permits, approvals, and the like, necessary for the lawful use and occupancy of such portion of the Leased Property impacted by the Work-In-Progress or any portion

thereof, including any temporary or permanent certificates of occupancy, copies of which must be delivered by Resident Curator to Property Owner.

10.13 WARRANTY. All Contractors must provide a warranty **("Warranty")** for labor for at least one (1) year after Approved Improvement Date. Warranties for materials shall be in accordance with the manufacturer's warranty. Resident Curator must place user manuals and warranty documents for materials, equipment, appliances, and the like in a three (3) ring binder and store the binder in a safe place with easy access should Lessor or Property Owner request a review of the documents, which request must be granted by Resident Curator. The Binder will become the property of Property Owner upon any Early Termination or Scheduled Termination of this Lease.

10.14 RECORD SET OF DRAWINGS. Resident Curator must furnish Lessor and Property Owner with a complete record set of any final plans and specifications for Approved Installed Improvements constructed by or for Resident Curator as part of the Curator Program Duties, together with copies of all final permits and approvals issued by plumbing, gas, electrical, building, health department, or other inspectors.

10.15 MECHANICS' LIENS. No mechanics, materialmen or similar lien shall attach against Lessor or Property Owner's interest in or to the Leased Property for any Work-In-Progress or Approved Installed Improvements performed by or for Resident Curator. If, as part of the Curator Program Duties, any lien relating to the Work-In-Progress or Approved Installed Improvements is filed against Lessor, Property Owner or Resident Curator's interest in the Leased Property, and such lien is not removed within sixty (60) days after the date for payment under the contract for such Curator Program Duties, then Resident Curator must discharge the same by payment or by filing any necessary bond within fifteen (15) days after the expiration of such sixty (60) day period.

10.16 CONTROL OF WORK-IN-PROGRESS and OWNERSHIP OF APPROVED INSTALLED IMPROVEMENTS. Property Owner will continue to have title to the Leased Property and Resident Curator, subject to the terms of this Lease, will have control of the Work-In-Progress within the Leased Property. Upon the expiration or termination

of this Lease, all Approved Installed Improvements will become the property of Property Owner with no compensation to Resident Curator for any Approved Installed Improvements which may have been paid for by or on behalf of Resident Curator.

11. UTILITIES and SERVICE. Resident Curator is responsible for securing accounts with local utility companies in order to activate service of all utilities as of the Commencement Date and is responsible for payment of all utility usage commencing on the Commencement Date. Utilities and services used at the Leased Property must be consistent with this Lease. Unless otherwise noted in this Lease, Resident Curator is responsible for costs associated with extending utilities or other services within the Leased Property for utilities or services that support the Curator Program Duties.

12. USE OF LEASED PROPERTY. This Section sets forth the only permitted uses of the Leased Property **("Permitted Uses")**. The Leased Property may not be used for any use other than the Permitted Uses without the prior written permission of Property Owner.

12.1 RESIDENT CURATOR PROGRAM. Resident Curator will use the Leased Property to perform and fulfill the Curator Program Duties.

12.2 USE OF ASH GROVE HOUSE FOR RESIDENTIAL PURPOSES. Resident Curator may use the Leased Property for its primary residence and in accordance with the terms of this Lease and subject to applicable Fairfax County zoning regulations. If Resident Curator would like additional individual(s) to reside in the Ash Grove House, a request must be made in writing and Property Owner must consent in writing. Resident Curator must carry applicable insurance pursuant to Section 19.

12.3. AMENDMENT FOR LIMITED NON-PROFIT ACTIVITY. Lessor authorizes the County Executive, or his designee authorized to execute lease agreements, to negotiate and execute a written amendment to this Lease at a later date in order to expand the Permitted Uses to permit the limited use of a home-based business in line with the Fairfax County Zoning Ordinance and any other agreed to terms and conditions set forth in such written amendment. Lessor, through the County Executive or his designee authorized to

execute lease agreements, has the sole discretion to decide whether to enter into such written amendment.

13. SIGNS AND MARKETING. Lessor and Property Owner will have the right to install one or more Signs or Kiosks **("Signs")** on the Leased Property on the exterior and in the interior of the buildings provided that such Signs do not unreasonably interfere with Resident Curator's use of the Leased Property.

13.1 Property Owner shall have the right to install a plaque or other designating signage on the Leased Property in order to indicate the name of Ash Grove House and its inclusion in the Resident Curator Program. No signage, whether exterior or interior, that is visible from the exterior shall include any commercial advertising beyond the identification of Resident Curator and the Leased Property. Resident Curator agrees that Lessor's or Property Owner's name and logo shall be included in major signage such as entrance signage.

14. PARK USE and CONTACTS. Resident Curator acknowledges that the Leased Property is located in a public park and, therefore, (a) is subject to inconveniences due to the public nature of the grounds surrounding the Leased Property, and (b) is subject to Fairfax County Park Authority Regulations **("Park Authority Regulations")** attached hereto as **Exhibit J** and incorporated into this Lease. The Park Authority Regulations are subject to change and if they change, Property Owner will provide a copy of the revised Park Authority Regulations to Resident Curator. Upon receipt of the revised Park Authority Regulations by Resident Curator, the revised Park Authority Regulations will be deemed incorporated in this Lease. Resident Curator must provide a two (2) week advanced written notification (email notification is acceptable) to Property Owner Contact and the Park Contact for any activities that could potentially impact or interfere with Park operations or management. Property Owner may, in its absolution discretion, prohibit any such activity. Resident Curator shall adjust Work-In-Progress or other activities that could potentially impact or interfere with Park operations or management if required by Property Owner.

14.1 RESIDENT CURATOR CONTACT:
Sheila A. Consaul, (xxx) xxx-xxxx
Email:

14.2 PROPERTY OWNER CONTACT:
David Buchta, Heritage Conservation Branch Manager, Resource Management Division
David.Buchta@fairfaxcounty.gov, (703) 324-8586

14.3 PARK CONTACTS:
Michael Cardona, Area 6 Manager, Park Operations Division
Michael.Cardona@fairfaxcounty.gov (703) 759-4851

14.4 LESSOR CONTACT:
Mike Lambert, Assistant Director, Facilities Management
Michael.Lambert@fairfaxcounty.gov, (703) 324-2825

The contacts listed in this Section may be changed by any party through the Notice process set forth in this lease.

15. PUBLIC ACCESS. Resident Curator shall allow public access to the Leased Property consistent with the historic property's nature and use as agreed upon by the Parties in writing (email confirmation is acceptable) pursuant to the Resident Curator Program, provided such access is consistent with Resident Curator's reasonable expectations of privacy and control of the Ash Grove House as a residence, and does not impact or interfere with Resident Curator's Permitted Uses of the Leased Property. Resident Curator will offer one open house opportunity annually in agreement with the Property Owner. A failure to allow the public access required in this Section for two consecutive years will be considered an Event of Default.

16. MEETINGS. The Parties shall meet quarterly or more frequently at the request of any party, at a location determined by the Property Owner, starting on the Commencement Date of this Lease. The Property Owner's representative is David Buchta or his designee or successor. Meetings shall be set up with Contacts identified in Section 14 of this Lease.

17. ANNUAL REPORT. Within ninety (90) days after the end of the first year of the Term, and after the end of every year of the term thereafter, Resident Curator shall submit to Property Owner a written Annual Report **("Annual Report")** that summarizes the progress and status of the Resident Curator Program at the Leased Property for the then-ended term year. The Annual Report shall demonstrate to Lessor's and Property Owner's reasonable satisfaction that Resident Curator is rehabilitating and maintaining the Leased Property in compliance with the Resident

Curator Program and this Lease. The Annual Report shall also note the nature and dates for any public and community activities at the Leased Property, and the number of visitors participating in each event. The Annual Report must contain a financial statement accounting for all Approved Installed Improvements completed to date as well as the value of any Work-In-Progress. Resident Curator will certify each Annual Report under the penalty of perjury, as being accurate, true, and complete, to the best of Resident Curator's knowledge, belief, and ability to ascertain. Resident Curator's failure to file the Annual Report within the time limits prescribed hereunder will be considered an Event of Default.

18. **AUDIT.** All reports, financial statements, analyses and other documentation provided by Resident Curator shall be subject to verification and audit by Lessor, Property Owner, or their agents or assigns. Resident Curator must provide additional documents upon request if required as part of an audit.

19. **LEASE AND CONTRACT INSURANCE PROVISIONS.**

19.1 The Resident Curator shall be responsible for the Curator Program Duties and its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Resident Curator assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work to be performed under this Lease, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Lease. The Lessor, Property Owner, agents or assigns shall not be liable for any personal injury to the Resident Curator (including its employees, business invitees, Resident Curator, customers, clients), arising from the use, occupancy and condition of the premises.

19.2 The Resident Curator shall, during the continuance of all work under the Lease, provide the following:

a. Maintain statutory Workers' Compensation and Employer's Liability insurance in limits of not less than $1,000,000 to protect the Resident Curator from any liability or damages for any injuries (including death and disability) to any and

all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia. This provision shall be waived if the Resident Curator is not required to procure workers' compensation under Virginia law and it execute a document, in writing and under penalty of perjury, that it is exempt from its States statutory requirements to provide Worker' Compensation coverage in addition to waiving its rights under the Labor Code.

b. Commercial General Liability insurance in limits of not less than of $1,000,000 per occurrence/ $2,000,000 in aggregate, to protect the Resident Curator, and the interest of the Lessor and Property Owner their officers and employees against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Lease or in connection with the work to be performed under the Lease or as a result of the condition of the Leased Premises.

c. Owned, non-owned, and hired Automobile Liability insurance, in limits of not less than $1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Resident Curator. In addition, all mobile equipment used by the Resident Curator in connection with the work to be performed under the Lease, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. The Garage Keeper's Liability coverage shall also be maintained where appropriate.

d. If the Resident Curator is an organization, Directors & Officers Insurance in the amount of $1,000,000 per occurrence/aggregate.

e. Property Insurance on a "Special Peril" basis on buildings and personal property in an amount not less than the full insurable replacement value of such buildings and personal property. Property insurance will include Rental Reimbursement coverage for not less than the equivalent of twelve (12) month's rental.

19.3 After a period of five (5) years from Lease Effective Date, the Lessor may reasonably require higher limits of insurance or additional insurance coverage against other

hazards for which insurance is reasonably obtainable and which, at the time, are commonly insured against in the case of similar properties conducting similar activities within the geographic area of the Leased Property, whether or not such additional insurance requirements are otherwise described or contemplated herein.

19.4 Any deductibles and/or self-insured retentions greater than $10,000 must be disclosed to and approved by the Lessor's Risk Manager prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the Lessor.

19.5 Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

19.6 The Resident Curator agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VII. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the Resident Curator's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A: VII or better.

19.7 All insurance required by this Section shall be written by insurers, in such forms, and shall contain such terms, as Lessor may reasonably require. Resident Curator acknowledges that Lessor and Property Owner are not required to procure or maintain insurance of any kind on or with respect to the Leased Property under this Lease.

19.8 Hold-harmless and Indemnification: The Resident Curator hereby agrees to indemnify and hold harmless, the Lessor, Property Owner, Fairfax County, Virginia, their officers, agents and all employees and volunteers, from any and all claims for bodily injury, and personal injury and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorney fees, and the cost of appeals arising out of any

claims or suits which result from the condition of the Leased Property errors, omissions, or negligent acts of the Resident Curator, its contractors and each of its agents and employees.

19.9 The Resident Curator will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein.

19.10 The Resident Curator will secure and maintain all insurance certificates of its contractors and its subcontractors, which shall be made available to the Lessor on demand.

19.11 The Resident Curator will provide on demand certified copies of all insurance policies related to the Lease within ten business days of demand by the Lessor. These certified copies will be sent to the Lessor from the Resident Curator's insurance agent or representative to dofcoi@fairfaxcounty.gov and to David.Buchta@fairfaxcounty.gov.

19.12 No change, cancellation, or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the Lessor. The Resident Curator shall furnish a new certificate prior to any change or cancellation date. The failure of the Resident Curator to deliver a new and valid certificate will be considered an Event of Default pursuant to Section 23.

19.13 Compliance by the Resident Curator and all of its contractors and subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Resident Curator and all of its liabilities provisions of the Lease.

19.14 Contractual and other liability insurance provided under this Lease shall not contain a supervision, inspection or engineering services exclusion that would preclude the Lessor from supervising and/or inspecting the project as to the end result. The Resident Curator shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of its contractors.

19.15 The Resident Curator shall be as fully responsible to the Lessor and Property Owner for the acts and omissions of its contractors and subcontractors and of persons employed by it as it is for acts and omissions of person directly employed by it.

19.16 Precaution shall be exercised at all times for the protection of persons (including employees) and property.

19.17 The Resident Curator and all of its contractors and subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-596, as it may apply to this Lease.

19.18 Lessor, Property Owner and each of their officers and employees shall be named as an "additional insured" in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the Lessor may possess."

19.19 WAIVER OF SUBROGATION: Notwithstanding any provisions herein to the contrary, Resident Curator waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against the Lessor, Property and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Contractor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Resident Curator or its contractors. Where permitted by law, Resident Curator must require similar written express waivers of subrogation and insurance clauses from each of its contractors

20. **NO HAZARDOUS CONDITIONS.** Resident Curator will not permit any hazardous materials, explosives, combustible, corrosive or erosive materials, as defined by the Fire Marshal, on the Leased Property or perform any action, or fail to perform any action, which would increase the cost of fire or other hazard insurance on the Leased Property. Resident Curator will not do

anything or permit anything to be done or any hazardous condition to exist ("Increased Risk") which shall invalidate or cause the cancellation of the insurance policies carried by Resident Curator. If Resident Curator does or permits any Increased Risk which causes an increase in the cost of insurance policies then Resident Curator shall promptly pay (or, if Lessor (being under no obligation to do so) initially pays such amounts, reimburse Lessor) for additional premiums attributable to any act, omission or operation of Resident Curator causing the increase in the premiums. Payment of additional premiums will not excuse Resident Curator from terminating or removing the Increased Risk unless Lessor agrees in writing. Absent agreement, Resident Curator shall promptly terminate or remove the Increased Risk

21. PARTICIPATION IN ILLEGAL ACTIVITIES. If the Lessor or Property Owner determines that the Resident Curator has participated in or in any manner permitted any criminal activities on the Leased Property, Lessor or Property Owner reserves the right immediately to declare an Event of Default and Lessor shall thereafter have the immediate right to terminate this Lease.

22. EXPIRATION OR TERMINATION OF LEASE. Upon the expiration or other termination of this Lease, Resident Curator shall quit and surrender to Property Owner the Leased Property with all Approved Installed Improvements, broom-cleaned and in such order and condition as Resident Curator is required to maintain the same hereunder and must vacate the Leased Property. Resident Curator must remove all movable personal property therefrom to the extent that such personal property does not constitute a fixture to the Leased Property, failing which, such moveable personal property will be deemed to have been abandoned.

23. DEFAULT AND LESSOR'S RIGHT TO REPOSSESS.

23.1 EVENT OF DEFAULT. An Event of Default **("Event of Default")** will exist if any of the following situations occur:

23.1.1 FAILURE TO COMPLETE WORK. If Resident Curator does not achieve benchmarks in accordance with the Curator Schedules and Milestones and has not commenced the required Work-In-Progress within thirty (30) days' notice

of a failure to achieve a benchmark and/or does not diligently pursue such Work-In-Progress to completion.

23.1.2 BANKRUPTCY. If the Resident Curator files any petition or answer seeking any reorganization, arrangement, liquidation, dissolution, or similar relief for Resident Curator under the United States Bankruptcy Code, as then in effect, or any other present or future federal, state, or other statute, law, or regulation, or if Resident Curator seeks, consents to or acquiesces in the appointment of any trustee, receiver, or liquidator of Resident Curator or of all or any substantial part of Resident Curator's properties, or makes any general assignment for the benefit of creditors.

23.1.3 CHANGE OF RESIDENT CURATOR STATUS. If the Resident Curator no longer maintains Ash Grove House as the primary residence.

23.1.4 FAILURE TO PERFORM LEASE REQUIREMENTS. In addition to the Events of Default defined above, and except as provided herein, if any party fails to perform or observe any covenants, terms or conditions in this Lease after thirty (30) days written notice thereof from the non-defaulting party, then such a failure to perform or observe shall also be considered an Event of Default; provided that if compliance requires more than thirty (30) days to perform, such additional time for performance shall be allowed as long as the defaulting party diligently pursues the performance to completion.

At the expiration of the tenancy hereby created pursuant to an Event of Default, Resident Curator shall surrender the Leased Property will vacate the Ash Grove House, and will remove all pets, if they have been allowed, from the Leased Property within thirty (30) days of such expiration of the tenancy.

23.2 REMEDY OF DEFAULT. In addition to its remedies under this Lease, a non-defaulting party shall have all available rights and remedies at law and in equity. The failure of one party to the action in case of a breach of the Lease, or the failure of a party to enforce its rights hereunder shall not be deemed a waiver of any breach of this Lease.

In the absence of written notice or consent, any such breach shall be a continuing one. This Section however shall not be construed as a waiver of any defenses that one party may assert against the other under the Lease. The non-defaulting party has the right to terminate this Lease in the Event of Default by providing written notice to the defaulting party that the Lease will be terminated **("Notice of Termination")**. The Notice of Termination must set forth the date on which the Lease will terminate **("Default Termination Date")**, which date must be at least thirty (30) calendar days after the date the Notice of Termination is served on the defaulting party. If Lessor serves Resident Curator with a Notice of Termination, then after the Default Termination Date and notwithstanding any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Lessor lawfully may, in addition to any and all rights and remedies otherwise available to Lessor at law, enter into and upon the Leased Property and repossess the same and expel Resident Curator and those claiming through or under Resident Curator or otherwise in occupancy and remove its effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any rights or remedies to which Lessor might otherwise be entitled, for arrears of rent or preceding breach of covenant.

23.3 LESSOR'S RIGHTS. Resident Curator covenants and agrees regardless of any entry or re-entry by Lessor whether by summary proceedings, termination or otherwise, that Resident Curator is, and will remain, liable for any obligations of Resident Curator under the Lease. If Resident Curator has not achieved completion of Curator Program Duties at the date of re-entry by Lessor or termination of the Lease, then Lessor and Property Owner each have the right to finish the Work-In-Progress at Resident Curator's expense. Lessor and Property Owner will have no obligation to mitigate damages upon the occurrence of an Event of Default. Resident Curator acknowledge that the Leased Property belongs to Property Owner.

24. NOTICES. Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Leased Property, each such notice, demand, request or other communication shall be in writing and, any law or statute to

the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows:

24.1 IF TO LESSOR:

Director, Facilities Management Department
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035

24.2 IF TO PROPERTY OWNER:

Director, Fairfax County Park Authority
12055 Government Center Parkway, Suite 927
Fairfax, Virginia 22035

24.3 IF TO RESIDENT CURATOR:

Sheila A. Consaul, Resident Curator
8881 Ashgrove Lane
Vienna, Virginia 22182

24.4 Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or referred by the party to whom it was sent.

24.5 Wherever in this Lease notice or requests to Lessor and a response is required within a specified period of time, the envelope containing the notice or request shall bear on the outside thereof and the first page of such notice at the top of such page, the following legend, printed in bold-face type in a font of at least fourteen (14) points in size:

NOTICE

THIS NOTICE REQUIRES REPLY WITHIN [ ] DAYS

with the blank in such legend filled in with the number of days for notice or request referred to in the applicable Section of this Lease, as appropriate.

25. DAMAGE BY CASUALTY. Resident Curator must give prompt notice to Lessor of any damage or loss by fire or other casualty to the Leased Property. If the Leased Property shall be partially or completely damaged by fire or other cause and the damage renders the Leased Property

or the approaches thereto unfit for use and occupancy, or if repairs to fix the damage are not financially feasible, each of which as determined by Lessor or Resident Curator in its sole respective discretions, Lessor or Resident Curator shall have the right to terminate this Lease. Lessor and Property Owner are not responsible for Resident Curator's personal goods lost or damaged during any fire or fire suppression activity, and Lessor and Property Owner shall have no obligation to replace such items or compensate Resident Curator in any way for such loss or damage. Resident Curator may obtain insurance for any real or personal property not owned by Lessor and Property Owner, but is under no obligation to obtain such coverage.

26. WAIVERS. No waiver or oversight of any breach of covenant, condition, or agreement herein contained, or compromise of settlement relating to such a breach, shall operate as a waiver of the covenant, condition, or agreement itself, or of any subsequent breach thereof.

27. ASSIGNMENT AND SUBLEASE. Resident Curator may not assign, transfer, convey, encumber, sublease, or dispose of its right or interest in the whole or any part of the Leased Property, all and each of which shall be considered an impermissible transfer of Resident Curator's interest in the Leased Property.

28. INTERPRETATION. All nouns used herein shall be interpreted and construed to include the singular, plural, masculine, feminine, or neuter forms in any place or places in which the context may require to indicate such interpretation and construction.

29. ENTIRE AGREEMENT. This Lease constitutes the entire agreement between Lessor and Resident Curator with respect to the Leased Property. This Lease shall not be changed or modified in any manner except by an instrument in writing executed by the Parties hereto.

30. KEYS AND SECURITY. Property Owner shall furnish Resident Curator with two (2) sets of keys. Each key provides access to Ash Grove House. Property Owner shall have the right to retain sets of keys as Property Owner deems appropriate for maintenance and emergency purposes as provided herein.

31. ANIMALS. Typical pets are permitted under this Lease, including, without limitation, service animals as defined in the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq*;

provided such pets are permitted by and remain in compliance with all applicable laws and do not interfere with Park use and the public access to the Leased Property permitted under this Lease. Resident Curator must provide written notice (email is acceptable) to Property Owner regarding any animals that will be allowed inside the Ash Grove House.

32. GROUND DISTURBANCE. Resident Curator may not dig on the Leased Property unless it has the written consent of the Property Owner, which consent may be withheld in its absolute discretion.

33. SMOKING. Smoking is prohibited inside the Ash Grove House and on the Leased Property.

34. SAFETY, SECURITY. Resident Curator is responsible for ensuring adequate law enforcement at the Leased Property when breach of the peace can be reasonably anticipated, or when required by the Park Authority Regulations. When applicable, Resident Curator shall develop and maintain safety and security plans for its own activities subject to Lessor's and Property Owner's prior written approval.

35. NONDISCRIMINATION. Resident Curator agrees that Resident Curator will not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation, discriminate against any qualified employee, applicant for employment, contractor, subcontractor, or person or firm seeking to provide goods or services to Resident Curator, or deny any person access to the Leased Property or to any activities or programs carried out upon the Leased Property. Resident Curator must comply with all applicable laws prohibiting discrimination in employment or public accommodation.

36. REAL ESTATE TAXES. ("Real Estate Taxes") means real estate taxes levied, assessed, or imposed against the Leased Property or the leasehold interest created pursuant to this Lease. Resident Curator acknowledges the leasehold created pursuant to this Lease will be assessed for Real Estate Taxes and that Resident Curator will pay timely all Real Estate Taxes imposed during the term of this Lease; provided, Resident Curator reserves the right (i) to apply for and participate in any County program that provides reductions in real estate taxes, and (ii) to appeal any real estate assessment of the leasehold interest as permitted by and in accordance with applicable law.

37. **LIABILITY.** No official, employee or consultant of Lessor or Property Owner will be personally liable to Resident Curator or to any successor in interest or person claiming through or under Resident Curator in the Event of Default or breach of this Lease by Resident Curator or for any amount which may become due or on any claim, cause or obligation whatsoever under the terms of this Lease.

38. **ESTOPPEL.** Lessor and Resident Curator agree, at any time and from time to time, upon not less than fifteen (15) days prior written request by the other, to execute, acknowledge and deliver to the other either a statement in writing certifying that this Lease is unmodified and in full force and effect; or if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications; and that either under the Lease there is no default and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default, or that a default exists under this Lease and specifying the nature and status thereof; and the dates to which the rent and other charges have been paid in advance.

39. **AMENDMENTS.** This Lease may be modified or altered only by agreement in writing by Amendment **("Amendment")** between Lessor and Resident Curator after review and consent by Property Owner.

40. **GOVERNING LAW.** Lessor and Resident Curator agree to be bound by the Laws of the Commonwealth of Virginia in any proceeding, whether in law or in equity, with respect to any dispute arising under this Lease. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall be the applicable District or Circuit Courts of Fairfax County or the United States District Court for the Eastern District of Virginia.

41. **FORCE MAJEURE.** In any case where Resident Curator is required to do any act other than the payment of money, delays caused by or resulting from Acts of God, war, civil commotion, fire, flood or other casualty, strikes, unavailability of materials or equipment, unusually severe weather or other causes beyond the reasonable control of Resident Curator, herein referred to as Force Majeure **("Force Majeure")** shall not be counted in determining the time when the performance of such act must be completed. The period of time for completion shall be extended by the same number of days as lost due to the Force Majeure event. If Resident Curator claims

any delay was caused by Force Majeure, it must provide written notification to Property Owner within seven (7) days of the first day of delay caused by Force Majeure. This written notification **("Force Majeure Notification**") must set forth the basis for the claim of Force Majeure, the delay that was caused and the length of the delay. If the delay continues for a period of time longer than seven (7) days, then Resident Curator must provide a Force Majeure Notification to Property Owner every seven (7) days until the delay no longer exists.

42. AGREEMENT AND COVENANT. Every term, condition, agreement, or provision contained in this Lease that imposes any obligation on Resident Curator or Lessor shall be deemed to be also a covenant by Resident Curator or Lessor.

43. NO PARTNERSHIP. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Resident Curator, or to create any other relationship between the parties hereto other than that of Lessor and Resident Curator.

44. RECITALS. Recitals R-1 through R-8, above, are incorporated into this Lease and are binding on Lessor and Resident Curator.

45. INTENTIONALLY OMITTED.

46. SIGNATURES. This Lease may be executed in any number of counterparts and by the Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. The parties may transact this Lease using electronic signatures and delivery, including e-signature programs and/or transmittal by electronic mail PDF format, which instruments shall be deemed to constitute originals and may be relied upon, for all purposes, as authentic, binding and enforceable.

47. LESSOR'S FINANCIAL OBLIGATIONS. To the extent there are any financial obligations of Lessor under this Lease, such financial obligations are subject to appropriations by the BOS to satisfy payment of such obligations.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals:

LESSOR:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY

By: _____
Ellicia L. Seard-McCormick
Deputy County Executive of Administration
Fairfax County

Commonwealth of Virginia :

County of Fairfax :

The foregoing Lease was acknowledged before me this ___ day of _____, 2025 by Ellicia L. Seard-McCormick, in their capacity as Deputy County Executive of Administration of Fairfax County, the Lessor hereunder.

_____ My Commission expires:_____
Notary Public

Registration Number: _____

Witness the following signatures and seals:

LESSEE:

SHEILA A. CONSAUL

By: _____
Sheila A. Consaul
Resident Curator

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of _____ , 2025 by Sheila A. Consaul, in her capacity as the Resident Curator.

_____ My Commission expires:_____
Notary Public

Registration Number: _____

Board Agenda Item
July 15, 2025

4:00 p.m.

Public Hearing to Consider Adoption of an Ordinance to Amend Appendix H of the Fairfax County Code to Approve the Transfer of the Cable Franchise Held by Comcast of Virginia, LLC (Hunter Mill and Sully Districts)

ISSUE:
Public hearing to consider adoption of an ordinance to amend *Appendix H of the Fairfax County Code* to approve the transfer of the cable franchise currently held by Comcast of Virginia, LLC, to Comcast Cable Communications Management, LLC, a different Comcast subsidiary.

RECOMMENDATION:
The County Executive recommends adoption of an ordinance to amend *Appendix H of the Fairfax County Code* to approve the transfer of the cable franchise currently held by Comcast of Virginia, LLC, to Comcast Cable Communications Management, LLC.

TIMING:
On June 10, 2025, the Board authorized an advertisement to hold a public hearing on July 15, 2025, at 4:00 p.m. and adopt an ordinance to amend Appendix H of the Fairfax County Code to approve the proposed transfer.

BACKGROUND:
The County's cable franchise for the Reston Franchise Area is currently held by Comcast of Virginia, LLC, a wholly owned subsidiary of Comcast Corporation. (The Reston Franchise Area lies almost entirely within the Hunter Mill District, with a small part extending into the Sully District). Comcast wishes to transfer the franchise to Comcast Cable Communications Management, LLC, a separate wholly owned subsidiary of Comcast Corporation. No change of control or of ultimate ownership will be involved.

Comcast has assured the County that the transaction will have no effect on subscriber rates or services, and that the financial position of the transferee is no worse than that of the transferor. Both are wholly owned subsidiaries of the same corporate parent.

Comcast has satisfied the requirements of the County Code and its franchise agreement with respect to the proposed transfer. Staff recommends approval of the

transfer, subject to the provisions of a transfer agreement in substantially the form attached. Pursuant to *Section 9.2-5-1(b) of the County Code*, no transfer of a cable franchise shall occur without approval of the Board and that approval shall be expressed by ordinance.

EQUITY IMPACT:
This action supports digital access and literacy, a One Fairfax area of focus, as the continued operation of Comcast's cable communications system offers information and entertainment to all County residents in the Reston franchise area.

These communications capabilities serve two of the County's strategic outcome areas: lifelong education and learning, and cultural and recreational opportunities. In particular, the provision of public, educational, and governmental access channels on the cable system gives individual residents and groups a voice that can be heard throughout the County, as well as access to telecourses and other learning programs. Fairfax County Government Channel 16 also serves the goal of effective and efficient government by making the County government's activities transparent and accessible to County residents.

The recommended action maintains the current benefits of the Comcast franchise without regard to potentially discriminatory factors. Thus, the cable franchise helps advance the goal of equal opportunities for all residents.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Amendment to Appendix H of the Fairfax County Code
Attachment 2 – Transfer Agreement

STAFF:
Ellicia Seard-McCormick, Deputy County Executive
Rebecca L. Makely, Director, Department of Cable and Consumer Services
Frederick E. Ellrod III, Department of Cable and Consumer Services

ASSIGNED COUNSEL:
Joanna L. Faust, Assistant County Attorney

AN ORDINANCE TO AMEND APPENDIX H OF THE FAIRFAX COUNTY CODE TO APPROVE THE TRANSFER OF A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

Draft as of April 21, 2025

AN ORDINANCE to amend Appendix H of the Fairfax County Code to approve the transfer of the non-exclusive cable television franchise currently held by Comcast of Virginia, LLC to Comcast Cable Communications Management, LLC.

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

1. That Section B of Appendix H of the Fairfax County Code is amended to add the following:

> Paragraph 3. Pursuant to Title VI of the Communications Act of 1934, Chapter 21 of Title 15.2 of the Code of Virginia, and Section 9.2-5-1(b) of the Fairfax County Code, the Fairfax County Board of Supervisors approves the transfer of the cable television franchise set forth in Paragraphs 1 and 2 of this Section B to Comcast Cable Communications Management, LLC.

2. This ordinance shall become effective upon Comcast Cable Communications Management LLC's delivery of a fully executed Transfer Agreement, in substantially the form attached, to the Cable Television Administrator no later than August 31, 2025, or this ordinance will be rendered null and void.

GIVEN under my hand this ____ day of _____ 2025.

_____

Jill G. Cooper

Clerk for the Board of Supervisors

TRANSFER AGREEMENT

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Attachment 2

TRANSFER AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2025, by and between: Fairfax County, Virginia ("County"); Comcast of Virginia, LLC ("Transferor"); and Comcast Cable Communications Management, LLC ("Transferee"). Transferor and Transferee may be referred to jointly herein as "Companies."

RECITALS

WHEREAS, Transferor currently holds a cable franchise (the "Franchise") from the County subject to A Cable Franchise Agreement Between Fairfax County, Virginia and Comcast of Virginia, Inc., entered into July 1, 2005 ("Franchise Agreement") and to Chapter 9.2 of the Fairfax County Code ("Cable Ordinance"), both of which documents, as they may have been amended from time to time, are collectively referred to as the "Franchise Documents"; and

WHEREAS, Transferee will acquire the franchise currently held by Transferor and the Transferor's assets and liabilities (the "Proposed Transaction"); and

WHEREAS, the Proposed Transaction constitutes an assignment of the franchise pursuant to Transferor's Franchise Agreement, § 3(a)(2)(A); and

WHEREAS, Transferor has represented to the County that the Proposed Transaction will result in no change in ultimate control, and that the Proposed Transaction will result in no change in local management or operations; and

WHEREAS, Transferee has agreed to comply with the Franchise Documents and applicable law from and after the completion of the Proposed Transaction; and

WHEREAS, relying on Transferor's and Transferee's representations, the County is willing to grant its consent to the Proposed Transaction, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration for the County's consent to the Proposed Transaction, and subject to the terms and conditions of this Agreement, THE PARTIES DO HEREBY AGREE as follows:

1. DEFINITION

1.1. For purposes of this Agreement, “Franchisee” shall mean Transferor prior to the effective date of the Franchise transfer, and Transferee on and after that date.

2. TRANSFER OF FRANCHISE

2.1. The foregoing recitals are true and correct and are incorporated herein by reference.

2.2. The County consents to the Proposed Transaction as specified in the Transfer Application.

3. ACCEPTANCE OF FRANCHISE OBLIGATIONS

3.1. Franchisee hereby accepts, acknowledges, and agrees that, after the Proposed Transaction, it will continue to be bound by all the commitments, duties, and obligations, present, continuing and future, of the Franchisee embodied in the Franchise Documents, and that the Proposed Transaction will have no effect on these obligations.

3.2. The Companies agree that neither the Proposed Transaction nor the County's approval of the Proposed Transaction shall in any respect relieve the Franchisee or any of its

successors in interest of responsibility for past acts or omissions, known or unknown. Transferee hereby agrees that it shall be liable for any such acts and omissions, known and unknown, including liability for any and all previously accrued but unfulfilled obligations to the County under the Franchise Documents and applicable law, for all purposes, including but not limited to review of past performance for purposes of determining whether its Franchise should be renewed. Franchisee agrees that all acts and omissions of Franchisee occurring prior to this Agreement will continue to be deemed to be those of Franchisee. The Proposed Transaction shall not restrict or expand the rights of the Franchisee under or related to the Franchise Documents as compared to those that could have been exercised by the Franchisee prior to the Proposed Transaction.

3.3. The Companies shall ensure that all records pertaining to the Franchise, including financial records, shall continue to be available after the Proposed Transaction in the same way and to the same extent such information was available prior to the Proposed Transaction.

3.4. Transferee shall execute and submit to the County an Acceptance of Franchise by Transferee in substantially the form attached hereto as Exhibit 1.

4. RESERVATION OF RIGHTS

4.1. The County reserves all rights not expressly granted in this Transfer Agreement, including without limitation those specified below.

4.2. The County waives none of its rights with respect to the Franchisee's compliance with the requirements set forth in the Franchise Documents. At no time will the Companies contend, either directly or indirectly, that the County is barred, by reason of the Proposed Transaction, from considering, or raising claims based on, any defaults of Franchisee, any failure by Franchisee to provide reasonable service in light of the community's needs, or any failure by

Franchisee to comply with the terms and conditions of the Franchise Documents or with applicable law. The County's approval of the Proposed Transaction shall in no way be deemed a representation by the County that the Franchisee is in compliance with all of its obligations under the Franchise Documents.

4.3. Neither this Transfer Agreement, nor any other action or omission by the County at or before the execution of this Transfer Agreement, shall be construed to grant the County's consent to any future transfer of the Franchise and/or the cable system, and/or any future change in ownership and/or control of the Franchise and/or the cable system, or to mean that the County's consent to any future transaction is not required.

4.4. Any consent given by the County to the Proposed Transaction is made without prejudice to, or waiver of, the County's right to investigate and take into account any lawful considerations during any franchise renewal or any future transfer process.

5. NO EFFECT ON RATES

5.1. The Companies represent and warrant that neither the Proposed Transaction nor this Transfer Agreement will result in any increase in subscriber rates. The Transferee remains free to modify subscriber rates for other reasons, consistent with federal, state, and local law.

6. REPRESENTATIONS AND WARRANTIES

6.1. Each of the Companies hereby represents and warrants that at the time of the execution of this Agreement: (a) it is a corporation or partnership duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the Franchise Documents and, assuming due execution hereof by the other parties hereto, this Transfer Agreement constitute legal, valid and binding obligations of such Company enforceable

in accordance with their terms; (c) the execution and delivery of, and performance by such Company under, this Transfer Agreement and the Franchise Documents, where applicable, are within such Company's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite corporate or partnership action on the part of such Company and are not in contravention of such Company's partnership agreement, charter, bylaws, and/or other organizational documents; and (d) no representation made to the County by such Company is incomplete, untrue or inaccurate in any material respect.

6.2. Transferee represents and warrants that neither the Proposed Transaction nor this Transfer Agreement will adversely affect its ability to meet the requirements of the current Franchise Documents, or to meet the County's future cable-related needs and interests in a renewal franchise.

6.3. The Companies represent and warrant that the Proposed Transaction will not have any adverse financial effect on the cable system, or adversely affect performance. Transferee represents and warrants that after the Proposed Transaction, Transferee's financial qualifications will be such as shall enable it to maintain and operate its cable system in the County.

6.4. Transferee represents and warrants that the Proposed Transaction will not in any respect reduce the quality of customer service in the County.

7. ADDITIONAL CONDITIONS

7.1. In the event the transfer does not close by December 31, 2025, or closes on terms that are in any material respect different from the terms disclosed to the County in writing, then

any County consent to the Proposed Transaction shall be void and of no force or effect, and the Proposed Transaction deemed to have been timely denied.

7.2. The Companies hereby waive any and all claims that they may have that any denial of the Transfer Application that results from failure of the conditions in Section 7.1 fails to satisfy the deadlines established by applicable law including, without limitation, claims based on, arising out of, or relating to 47 U.S.C. § 537, as amended, and agree that they shall be deemed to have agreed to an extension of the time to act on the Transfer Application as required to make any denial effective.

8. MISCELLANEOUS PROVISIONS.

8.1. **Effective Date**: This Transfer Agreement shall be effective and binding upon the signatories once it has been signed by all signatories.

8.2. **Binding Acceptance**: This Transfer Agreement shall bind and benefit the parties hereto and their respective receivers, trustees, successors and assigns. Any purported assignment of this Transfer Agreement is void without the express written consent of the signatories.

8.3. **Voluntary Agreement**: This Transfer Agreement is freely and voluntarily given by each party, without any duress or coercion, and after each party has consulted with its

counsel. Each party has carefully and completely read all of the terms and provisions of this Transfer Agreement.

8.4. **Severability**: If any term, condition, or provision of this Transfer Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

8.5. **Counterparts**: This Transfer Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

8.6. **Governing Law**: This Transfer Agreement shall be governed in all respects by the law of the Commonwealth of Virginia.

8.7. **Captions and References**: The captions and headings of sections throughout this Transfer Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Transfer Agreement. Such captions shall not affect the meaning or interpretation of this Transfer Agreement.

FAIRFAX COUNTY, VIRGINIA

By: _____
Bryan J. Hill
County Executive

ATTEST:

_____
County Clerk

COMCAST OF VIRGINIA, LLC

By: _____
Raymon Roundtree
Regional Senior Vice President,
Beltway Region

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

By: _____
Raymon Roundtree
Regional Senior Vice President,
Beltway Region

EXHIBIT_1

ACCEPTANCE OF FRANCHISE BY THE FRANCHISEE

Comcast Cable Communications Management, LLC ("Transferee") hereby accepts the cable franchise currently held by Comcast of Virginia, LLC (“Transferor”). By this acceptance, Transferee agrees that it shall be bound by the terms and conditions of A Cable Franchise Agreement Between Fairfax County, Virginia and Comcast of Virginia, Inc., entered into July 1, 2005, and Section 9.2 of the Fairfax County Code (collectively, the "Franchise Documents").

By accepting the franchise, the Transferee further: (1) acknowledges and accepts the County's legal right to issue and enforce the franchise; (2) agrees that it will not oppose the County's intervention in any proceeding affecting its franchise or obligations thereunder; (3) accepts and agrees to comply with each and every provision of the Franchise Documents; and (4) agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

The Transferee declares that it has carefully read all of the terms and conditions of the Franchise Documents, and accepts and agrees to abide by same.

The Transferee is bound to maintain and operate a cable system under the terms, conditions and limitations set forth in the Franchise Documents and other applicable law, as of the time and date it files this written acceptance with the Cable TV Administrator.

AGREED TO THIS _____ DAY OF _____, _____.

Comcast Cable Communications Management, LLC

By: Raymon Roundtree

Its: Regional Senior Vice President, Beltway Region