

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 13, 2021**

AGENDA

- 9:30 Presentation by the Workgroup on the Semiquincentennial Anniversary of the American Revolution, the Revolutionary War, and the Independence of the United States of America
- 9:30 Matters Presented by Board Members
- 9:30 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Streets into the Secondary System (Lee and Providence Districts)
- 2 Extension of Review Period for 2232 Application (Hunter Mill District)
- 3 Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Springfield District)
- 4 Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason District)
- 5 Authorization to Advertise a Public Hearing on a Proposal to Prohibit Through Truck Traffic on Hampton Road (Springfield District)
- 6 Approval of a Resolution Authorizing Proposed Zoning Ordinance and Comprehensive Plan Amendments, Including a Board-Initiated Rezoning to Establish Boundaries and Regulations for a Hollin Hills Historic Overlay District (Mount Vernon District)

ACTION ITEMS

- 1 Amendment of the Board’s Written Policy Governing Participation by Electronic Communication of Board Members in Public Meetings
- 2 Approval of Changes to the Fairfax County Purchasing Resolution
- 3 Adoption of the Updated Memorandum of Understanding Between the Board of Supervisors (BOS) and the Fairfax County Park Authority (FCPA)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 13, 2021**

**ACTION ITEMS
(continued)**

- 4 Establishment of a Task Force on Confederate Road Names
- 5 Adoption of the 2021 Fairfax County Operational Energy Strategy

CLOSED SESSION

Closed Session

**PUBLIC
HEARINGS**

- 3:30 Public Hearing on PRC-C-020-02 (Tall Oaks at Reston, L.C.) (Hunter Mill District)
- 3:30 Public Hearing on PCA 86-C-119-08/ DPA 86-C-119-04/ PRCA 86-C-119-02 (Boston Properties Limited Partnership) (Hunter Mill District)
- 3:30 Public Hearing on RZ 2020-BR-016 (Trustees of Annandale United Methodist Church) (Braddock District)
- 3:30 Public Hearing on SE 2020-MA-011 (Terry L. Slack and Amnuay Slack) (Mason District)
- 3:30 Public Hearing on PCA 74-8-126 (Yoshi Holdings, LLC) (Mount Vernon District)
- 4:00 Public Hearing on Spot Blight Abatement Ordinance for 2506 Fleming Street, Alexandria, VA 22306 (Mount Vernon District)
- 4:00 Public Hearing on the Continuation of the Fairfax County Park Authority for a Period of 30 Years, Until October 28, 2051
- 4:00 Public Hearing on a Proposed Zoning Ordinance Amendment to New Chapter 112.1 Re: Special Permit Fees and Other Minor Revisions
- 4:00 Public Hearing on Proposed Plan Amendment 2018-II-1M, West Falls Church Transit Station Area (TSA) Study, Located at the West Falls Church Metrorail Station, West of Haycock Road, and North of Route 7 (Dranesville District)

Board Agenda Item
July 13, 2021

9:30 a.m.

Presentation by the Work Group on the Semiquincentennial Anniversary of the American Revolution, the Revolutionary War, and the Independence of the United States of America

ENCLOSED DOCUMENTS:

Attachment 1: Semiquincentennial Work Group Report and Recommendations

PRESENTED BY:

Scott Muir Stroh III, Executive Director, George Mason's Gunston Hall and; Chair, Fairfax County Semiquincentennial Work Group

Fairfax County

Semiquincentennial Anniversary of the American Revolution, the Revolutionary War, and the Independence of the United States of America

Work Group Recommendations

July 13, 2021

Introduction:

Pursuant to a Board Matter, jointly presented with Supervisor Dan Storck and Chairman Jeff McKay in October 2020, Fairfax County established a seven person Work Group charged with providing recommendations to the County Board of Supervisors for the preferred approach for organizing and leading County-wide efforts for an inclusive observance, celebration, and commemoration of the semiquincentennial anniversary of the American Revolution, the Revolutionary War, and the Independence of the United States of American.

This Work Group, led by Gunston Hall, includes representatives from Visit Fairfax, George Washington's Mount Vernon, the National Museum of the United States Army, the Fairfax County History Commission, the Fairfax County Human Rights Committee, the City of Fairfax Regional Library, and associated County history, equity, and human rights staff. The Work Group also includes representatives from the County Department of Planning and Development and from the Office of Supervisor Storck.

At this time, I want to extend my thanks to Supervisor Storck and Chairman Jeff McKay for their leadership and support of this effort, as well as to all the Supervisors for their dedicated public service.

Finally, on behalf of the Work Group, and in recognition and appreciation of their efforts, I am pleased to present this report for consideration by the Board of Supervisors.

Background and Context:

The United States Semiquincentennial Commission (www.America250.org) was established by an act of Congress in July 2016 for the purpose of inspiring all Americans and each American to participate in our greatest milestone ever—the 250th anniversary of the founding of the United States. Comprised of US Senators, US Representatives, private citizens, and Ex-Officio members including Cabinet members, the Secretary of the Smithsonian, the Archivist of the US, the Librarian of Congress, and the Presiding Officer of the Council on the Arts and Humanities, this Commission is charged with orchestrating the largest and most inclusive anniversary observance in American history. In 2018, the American Battlefield Trust (www.battlefields.org) was named by the Department of the Interior as the official non-profit partner of the Commission.

In recognition of the importance of this commemoration, particularly given Virginia's central role in the revolutionary movement, an ad hoc group of individuals began meeting in 2018 for the purpose of considering how Virginia could play in central role in the 250th. This group included representation from museums and cultural organizations, the National Park Service, tourism and marketing entities, Virginia's tribes, and others with expertise and insight specific to the 250th.

The work of this ad hoc group resulted in two critically important outcomes. First, this group secured funding from the Virginia Tourism Corporation to implement a comprehensive survey of public perceptions and ideas specific to our shared history and the 250th. Second, this group initiated the effort which ultimately resulted in the establishment of Virginia's American Revolution 250 Commission.

The purpose of Virginia's American Revolution 250 Commission is to commemorate the 250th anniversary of the American Revolution, the Revolutionary War, and the independence of the United States. Lead commemoration partners include the Jamestown-Yorktown Foundation, the Virginia Museum of History and Culture, and George Mason's Gunston Hall. The Commonwealth Commission is also comprised of 22 members, including 17 non-legislative citizen members and five ex officio members. Currently led by the Virginia Secretary of Education, this Commission began meeting in November 2020. Presently, in response to a call to action from the United States Semiquincentennial Commission, Virginia is one of 10 other states to have established similar commissions in their respective jurisdictions.

As in part expressed in the above referenced Fairfax County Board Matter, the 250th anniversary is a not only a commemoration of how our Country began, but also an opportunity to explore and understand the journey our Country has been making over the last 250 years. This journey should not only be a celebration of our history, but an expression of our nation's movement towards greater justice and equity. The 250th should also renew our commitment to fulfill the promise of the Declaration of Independence that all people "are created equal and are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." As such, this is a time to commemorate what defines us as a nation and the values that we hold most dearly. While we have come far as a nation, however, we have more work to do to ensure these promises are accessible and equally available to all Americans.

Fairfax County can be a leader in creating and hosting appropriate events associated with the 250th, as well as supporting the Commonwealth's efforts to commemorate the 250th. In Virginia, and particularly in Fairfax County, the revolutionary movement was conceived and born, and Fairfax County is uniquely positioned to lead this effort on a local, regional, and national level. From our founders and revolutionary history, through ensuing decades of struggle for human, civil, educational, and environmental rights, our County and its distinctive places, stories, and people embody this history and this promise. Our County is also home to signature organizations championing these causes and telling these stories, and together with the Board's leadership through the One Fairfax initiative, the 250th anniversary offers a compelling opportunity to teach, inspire, connect, and to help each resident and each community in our County reach their full potential.

Overview of Work Group Activities:

The Work Group first met in January 2021 and subsequent meetings occurred in February, March, April, and June 2021. Each meeting benefited from full and engaged participation of the Work Group members. All meetings also followed a similar format and included time for public meeting announcements, comments from special guests, strategic dialogue around core topics, an open forum, and administrative updates. Most important were the strategic discussion and, specifically, these meetings focused on the following core topics and associated strategic discussions:

- January, 2021:
 - a. Discussion about the purpose and charge for the Work Group

- b. Review of the Commonwealth of Virginia’s American Revolution 250th Commission and the work of this Commission to date.
- c. Preliminary discussion of structure required in the report to be submitted to the Board of Supervisors and associated topics for future consideration.
- February, 2021:
 - a. Review and discussion about previous commemorations in Fairfax County (i.e. Fairfax 275th, War of 1812, American Civil War) and “lessons learned”.
- March, 2021:
 - a. Review of a research report, *Americans, Our History, and the 250th*, commissioned by the Virginia Tourism Corporation in support of the Commonwealth Commission’s work.
- April, 2021:
 - a. Discussion about additional diverse participants on the Work Group.
 - b. Discussion about a proposed committee structure for future planning efforts.
- June, 2021:
 - a. Review and discussion about the draft report to be submitted to the Board of Supervisors.

I am extremely proud of the productive, collaborative, thoughtful, and insightful discussions that occurred during the meetings of the Work Group.

Recommended Key Themes:

In March 2021, the Virginia American Revolution 250 Commission adopted key themes for the semiquincentennial. While the Commission understands and expects these themes to continue evolving in response to additional scholarship, insight, and perspective, the Commission is also confident that these themes articulate and express an important foundation for their work and the 250th commemoration more broadly. These themes are as follows:

Virginia’s history is America’s story: complex, diverse, and promising, a multicultural story that in the Revolutionary era was Native American, European, African and American, and is now so much richer for its diversity. Focusing on Revolutionary events in 1775 and 1776, the Virginia Semiquincentennial will embrace the inclusive history and narrative breadth of the era, and mark the origins of a revolutionary new nation.

- I. *Virginia is a powerfully historical place, home to sites and stories essential to our American story.*
 - *Virginia’s historic places include the stories of both prominent and ordinary people.*
 - *Virginia’s native peoples were first to shape the place that is the Commonwealth, and continue to shape Virginia and the nation.*
 - *Virginia’s honest reckoning with the paradox of our origins in both freedom and slavery aims to be a national model.*
 - *Virginia’s sites and museums reveal chapters of our founding narrative: key ideas about American governance including the first representative assembly in British America, the Virginia Resolution for Independence, Virginia Declaration of Rights, Declaration of Independence, Constitution, the Statute of Religious Freedom.*
 - *Much of American history is here in Virginia—native lands, a founding colonial settlement, the American Revolution, the Civil War, Civil Rights, and more.*
- II. *The Revolutionary challenge continues.*
 - *The American experiment has resulted in the most robust and longest democracy in history.*

- *The American Revolution was a time when passionate activists, summoning the courage to challenge centuries of an established world order, led a revolution that would change the world.*
 - *Many of those who fought for liberty—including enslaved people—were young radicals, rule breakers, optimists, justice seekers, and change agents.*
 - *American optimism and passion for change have been driving forces for progress, improvement and innovation.*
 - *The American founders could not have envisioned inclusion and diversity as we know it, but their work entitled Americans over more than two and a half centuries to fight for a more equal society.*
 - *The 250th anniversary of independence is a chance to assess our resolve to deliver on the American “promissory note” of freedom, equality, and “life, liberty, and the pursuit of happiness.”*
- III. *Here in Virginia, the American Revolution was a war, and more than a war.*
- *It was a war waged by Virginians, that divided some communities and families and brought others together.*
 - *It was a revolution of ideas, with many sources of inspiration for ideas about freedom including from European enlightenment thinkers, and Ancient Greek and Roman philosophy.*
 - *It was a revolution of expressions of liberty, including from enslaved people seeking freedom and Native Americans asserting sovereignty.*
 - *It was a struggle that produced a promise of equality in the Declaration of Independence participation on government as delineated in the Constitution, and protections defined in the Bill of Rights.*
 - *It was a struggle whose conclusion excluded most Virginians of the time, but which has inspired disenfranchised, subjugated, and disempowered groups to fight for their rights as Americans on the basis of our founding documents and the ideals they express.*
- IV. *We can tell our history to reflect the fullest American story.*
- *Virginia’s semiquincentennial of the American Revolution will serve as a continuum of recent Virginia commemorations—of 1607 and of 1619—that emphasize the challenges, diversity, and dynamism of the Commonwealth.*

The Work Group believes these themes appropriately reflect the meaning and opportunity associated with the 250th commemoration. The Work Group also believes that these themes demonstrate a critically important commitment to diversity, inclusion, and equality and that, as such, these theme will resonate with and galvanize support from among the broadest possible constituency in our County and our communities.

Accordingly,

The Work Group offers the following two recommendations regarding the Virginia American Revolution 250 Commission themes:

- 1. Adopt these themes as an important and powerful expression of the meaning, value, and importance of the semiquincentennial commemoration in Fairfax County.**
- 2. Articulate and adopt sub-themes that more specifically describe and relate to the distinctive history, culture, people, stories and places in Fairfax County.**

Recommended Preferred Approach:

Commemorations are certainly not new in our County or in our Commonwealth and individual Work Group members have participated in and the Work Group together has researched many of these recent events in order to learn and inform our work. Before considering the preferred approach of the

semiquincentennial in Fairfax County, however, it is important to first address the topic of word choice, language and message. Specifically, the Work Group believes that the most appropriate and inclusive term for the semiquincentennial, and the term that will most resonate with the largest and most diverse group of residents and visitors, is commemoration.

This belief is based on several key considerations. First, the Federal legislation creating the United States Semiquincentennial Commission clearly states that this Commission is to plan, develop, and coordinate the commemoration of the 250th anniversary of the founding of the United States. This term and the overarching concept of a commemoration has been repeated and reinforced by subsequent communications and conversations with representatives of this Commission. As such, it is clear that what is being envisioned at the Federal level, and what is envisioned nationally, is a commemoration.

Significant research, study, evaluation, and discussion informed the decision to use the term commemoration in association with the Federal Commission. The same approach is true for the Commonwealth Commission established for the same purpose. Accordingly, since Fairfax County is planning to closely coordinate and align its work with what will be occurring nationally and throughout Virginia, we believe the use of the term commemoration is important for consistency and clarity.

Second, in 2019 the Commonwealth, under the auspices of the Virginia Tourism Corporation (VTC), commissioned a study titled *Americans, Our History, and the 250th*. The VTC hired the respected firm, Wilkening Consulting, to conduct this study and to prepare an accompanying report of findings. This study was comprehensive and exhaustive in its approach and the analysis conducted was objective, scientific, and inclusive of a very broad and diverse population. While there is not time in this report to detail all the findings of this critically important work, it is important to note several key outcomes specific to the question of language and terminology.

Most importantly for our purposes, this study demonstrated the following:

1. Our values, attitudes, and beliefs affect how we approach the past...and the divisions in our country extend to history.
2. That history is highly valued...but a lack of inclusion is a barrier to engagement.
3. Yet the majority hold values about our country that they honor and respect...and will want to acknowledge in 2026.

Furthermore, this study revealed that on a national scale there are two clusters of values among the broader population, traditional and neoteric (meaning new or modern ideas). The traditional cluster largely values liberty, courage, the American Dream, exceptionalism, and opportunity. The neoteric cluster values equality, diversity, and tolerance. This study further demonstrated that while there is consensus that everyone wants what is best for our families, communities and country, there are strong differences in opinions about what that means. For example, some look to the past as the ideal and others find hope in the future.

Partly because of these differences, the study found that only 30% of the broader national population are definitely planning to celebrate the 250th, while another 30% indicated they would probably celebrate the 250th. Digging a bit deeper, over 60% of the population indicated that their anticipated participation in the 250th would be celebratory, but this figure skewed heavily to those in the traditional cluster. Conversely, the possibility of the 250th only being a celebration of our past was considered inappropriate by many survey respondents in light of the very real challenges still facing our country and community today. The

neoteric cluster, which includes a significant part of the broader population, more consistently expressed a desire for the 250th to offer opportunities for a thoughtful, inclusive experience that transcends our founding, embraces our differences, explores our diverse history, and looks to the future and the possibility of increasing equality, justice, and freedom.

As noted, this study was objective and scientific, and its findings not intended to pass judgement on any perspective or opinion. Based on this analysis, however, this study recommends the use of the term commemoration in order to ensure that the event is inclusive and that it engages a broad and diverse audience. This study also recommends the 250th focus on an exploration of freedom, that it create a sense of us striving to achieve freedom and equality for all, that it use history to help teach these shared values, that it tell inclusive stories, and that it provide opportunities for all American to be part of the process that helps create a better future for all in our country.

For all these reasons, while there will clearly be much to celebrate and much that is celebratory in 2026, we believe commemoration is the preferred term for the 250th.

Regarding a preferred approach, the Work Group believes that planning for the 250th should be guided by the following core principles:

1. The charge of the planning entity should be focused on a finite time-frame and put 1776 and 2026 at the center of its work. While there is much of importance that occurred before and after 1776, we believe the focus of the commemoration should be specifically on 1776 and 2026. We believe this approach is best for several reasons. First, based on our research, commemorations that extend for multiple years run the risk of becoming disjointed, losing momentum and interest, and creating fatigue among the visiting and travelling public. By focusing on 1776, we are better able to create and sustain enthusiasm and energy around the commemoration, an outcome that will also help with branding, marketing, and generating financial and other support for the event.
2. The planning entity should function as a convener and facilitator, and serve to comprehensively coordinate, collaborate, and communicate with a broad and diverse group of partners and supporters. We believe this decentralized approach to planning and administering the commemoration will be efficient, cost effective, and perhaps most importantly, inclusive. This approach, therefore, will foster participation and affinity, while also extending opportunities and benefits to the largest number of stakeholders and constituents in our County.
3. The planning entity should be strategic, intentional, and invitational in every aspect of its work. More specifically, the planning for the 250th should rely on an informed process of strategic thinking, it should be intentional in identifying and implementing plans, and it must be invitational in offering multiple opportunities for all to engage with and participate in the process and activities.

Based on these core principles, the Work Group believes that its role should eventually transition to a planning entity, perhaps a specifically created County council or commission, that would be responsible for planning, identifying core strategies, generating affinity and support for the effort, and communicating/reporting to the County Board of Supervisors. This planning entity should increase in size and include a broad and diverse group of individuals with expertise, insight, and perspectives important to the work of the planning entity and the implementation of a successful 250th commemoration. Finally, this

planning entity should remain in effect until June 30, 2027 in order to process the “close-out” of commemoration financials and other administrative matters.

We further believe that this planning entity should be organized around the following core committees:

1. Finance Committee: Responsible for oversight, management, and accountability for all appropriated and/or raised financial resources; responsible for preparing budgets as needed in support of effort.
2. Marketing and Communications: Responsible for developing and implementing ideas and initiatives that promote the effort and associated activities; responsible for identifying and supporting partnerships and collaborations that advance the public’s awareness and support of the effort.
3. Inclusion Committee: Responsible for ensuring a diversity of perspectives, voices, ideas, and insights are invited to participate and inform the effort; responsible for ensuring the effort is implemented in ways that reflect the diversity of the community and intended audience; responsible for ensuring an equitable approach to the effort and associated activities; responsible for coordinating the effort with One Fairfax.
4. Youth and Family Engagement Committee: Responsible for ensuring a family and child centered approach to the effort; responsible for coordinating the effort with FCPS, the Fairfax County Child Care Advisory Council, scouting organizations, PTA’s, and other related entities. This Committee should also include student representation.
5. Activity Committee: Responsible for identifying, planning, and implementing civic, cultural, historical, and educational activities; responsible for developing partnerships in support of activity implementation and success.
6. Signature Event Committee: Responsible for considering the possibility of a major signature event, and planning and implementing such an event as appropriate.
7. Outreach Committee: Responsible for communicating and coordinating with appropriate organizations and entities in support of the effort.

This planning entity should also be supported by an independent advisory body. This advisory body, would support the effort by serving as grassroots organizers and advocates, by ensuring representation from underserved communities, and by providing expertise beyond that found amongst those on the formal planning entity.

Accordingly,

The Work Groups offers the following four recommendations specific to the preferred approach for commemorating the semiquincentennial:

1. **Adopt the term “commemoration” as the key identifying term and philosophical foundation for the semiquincentennial.**
2. **Transition the existing Work Group to a planning entity that will remain in existence through June 30, 2027. Increase and diversify the composition of this group.**
3. **Adopt the committee structure proposed above.**
4. **Create and convene an advisory council to support the planning entity and ensure broad and inclusive community awareness and participation. The planning entity will recommend advisors to the Board of Supervisors for appointment.**

Recommended SMART Goals:

The Work Group believes strongly in the importance and the value of specific, measurable, attainable, relevant, and time-based (SMART) goals. As such, implementing a strategic approach to the commemoration that is guided by SMART goals is essential to the program's success. The Work Group also recognizes that the identification and articulation of many associated SMART goals, such as those in support of planning, promotion, and types of activities, would benefit from more time, discussion, and perspectives than that which has informed the efforts of the Work Group to date. The structure proposed above, however, would support this process and is anticipated to result in more concrete SMART goals for aspects of the commemoration such as the types of activities to be presented.

Finally, the Work Group believes that an essential component of this approach is the identification of an independent fiscal agent with responsibility for holding, managing, accounting for, and disbursing as appropriate any funds appropriated and/or raised in support of the effort.

Accordingly,

The Work Group offers the following five SMART goals as recommendations at this particular time:

- 1. Identify an appropriate fiscal agent by September 1, 2021**
- 2. Develop an organizational structure, business plan, and preliminary multi-year commemoration budget by December 31, 2021.**
- 3. Create and implement a community based, County-wide survey of residents specific to opportunities and ideas associated with the commemoration by December 31, 2021 (also consider other similar surveys in years leading up to the commemoration).**
- 4. Collaborate with VISIT Fairfax for the purpose of learning more about travel and tourism trends specifically associated with the commemoration by December 31, 2021 (this will also be ongoing).**
- 5. Develop and implement a marketing and promotion plan to build awareness and affinity for the commemoration by April 20, 2022. Consider applying for a grant from the Virginia Tourism Corporation for this purpose as part of their fall 2021 grant cycle.**

Recommended Ways, Means, Timetables, Approaches, and Accountability:

The Work Group believes that additional information specific to ways, means, timetables, approaches, and accountability will intentionally and naturally flow from the approach and strategies referenced above.

Accordingly,

The Work Group offers the following two recommendations specific to the accountability of the planning entity:

- 1. Present a semi-annual report of planning entity activities to the Board of Supervisors and the County Executive.**
- 2. Present monthly financial reports to the County entity, department, or individual designated by the Board of Supervisors.**

Conclusion:

I was honored to serve as Chair of this Work Group and am extremely proud of everyone's thoughtful, strategic, and creative efforts in support of both our work and the production of this report. As such, I am very pleased to thank and acknowledge all those serving on the Work Group, including:

1. Julie Almac, George Washington's Mount Vernon
2. Gretchen Bulova, History Commissioner
3. Patrick Lennon, VISIT Fairfax
4. George Alber, Human Rights Commissioner
5. Cameron Brumett, The Army Historical Foundation
6. Denice Dressel, Department of Planning and Development
7. Mary Lipsey, History Commissioner
8. Elizabeth Maurer, National Museum of the United States Army
9. Laura Wickstead, City of Fairfax Regional Library

I am also very pleased to thank Supervisor Storck and this staff team for their exceptional leadership and support of the Work Group.

Finally, I want to extend my thanks to all of you, our Board of Supervisors, for your dedicated public service and leadership on behalf of our County and all who live, work, and enjoy Fairfax County. Thank you very much, we appreciate your service, and we look forward to talking further with you all about the possibilities and potential of America's 250th commemoration.

Respectfully Submitted,

Scott Muir Stroh III
Executive Director, George Mason's Gunston Hall and;
Chair, Fairfax County Semiquincentennial Work Group
June 8, 2021

Board Agenda Item
July 13, 2021

9:30 a.m.

Matters Presented by Board Members

Board Agenda Item
July 13, 2021

9:30 a.m.

Items Presented by the County Executive

Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 1

Streets into the Secondary System (Lee and Providence Districts)

ISSUE:

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

RECOMMENDATION:

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

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Hayfield Estates	Lee	Armstrong Court
Blackstone at Vale Ridge	Providence	Vale Ridge Court

TIMING:

Routine.

BACKGROUND:

Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Forms

STAFF:

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

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.	VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. PLAN NUMBER: 4838-SD-001 SUBDIVISION PLAT NAME: Hayfield Estates COUNTY MAGISTERIAL DISTRICT: Lee		
ENGINEERING MANAGER: Robert Burton BY: <u>Nadia Alphonse</u>	FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>04/15/2021</u>		
STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Armstrong Court	CL Old Telegraph Road, Route 634 - 455' N CL Piney Run Drive, Route 1205	337' East to End of Cul-De-Sac	0.06
NOTES: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT.			TOTALS: 0.06

Street Acceptance Form For Board Of Supervisors Resolution

<p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p>	<p>VIRGINIA DEPARTMENT OF TRANSPORTATION OFFICE OF LAND USE - FAIRFAX PERMITS</p> <p>REQUEST TO THE PERMITS MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 6049-SD-003</p> <p>SUBDIVISION PLAT NAME: Blackstone at Vale Ridge</p> <p>COUNTY MAGISTERIAL DISTRICT: Providence</p>		
<p>VDOT PERMITS MANAGER: Robert Burton</p> <p>BY: <u> <i>Nadia Alphonse</i> </u></p>	<p style="text-align: center;">FOR OFFICIAL USE ONLY</p> <p>VDOT INSPECTION APPROVAL DATE: <u> <i>05/20/2021</i> </u></p>		
STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Vale Ridge Court	CL Vale Road, Route 672 - 291' SE CL Chris Wood Court, Route 7185	1,100' SW to End of Dedication, Beginning of Temporary Turnaround	0.21
NOTES:			TOTALS:
			0.21

Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 2

Extension of Review Period for 2232 Application (Hunter Mill District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following application: 2232-H21-1.

TIMING:

Board action is required July 13, 2021, to extend the review period for the application noted above before its expiration date.

BACKGROUND:

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

The review period for the following application should be extended:

2232-H21-1	Fairfax County Public Schools Crossfield Elementary School Tax Map No. 36-1 ((10)) G Fox Mill Road Reston, VA Hunter Mill District Accepted May 27, 2021 Extended to October 26, 2021
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FISCAL IMPACT:

None.

Board Agenda Item
July 13, 2021

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

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

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

Salem Bush, Planner, Facilities Planning Branch, Planning Division, (DPD)

Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 3

Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Springfield District)

ISSUE:

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

RECOMMENDATION:

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

- Four “Watch for Children” signs on Hampton Road (Springfield District)

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

TIMING:

Board action is requested on July 13, 2021, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

On June 3, 2021, FCDOT received verification from the Springfield District Supervisor’s Office confirming community support for “Watch for Children” signs on Hampton Road.

FISCAL IMPACT:

Funding in the amount of \$1,200 is available in Fund 300-C30050, Project 2G25-076-000, Traffic Calming Program.

Board Agenda Item
July 13, 2021

ENCLOSED DOCUMENTS:

None

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 4

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

ISSUE:

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

RECOMMENDATION:

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

- Six speed humps on Randolph Drive (Mason District)

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

TIMING:

Board action is requested on July 13, 2021, in order to allow the proposed measures to be installed as soon as possible.

BACKGROUND:

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

On June 3, 2021, FCDOT received verification from the Mason District Supervisor's office confirming community support for the Randolph Drive traffic calming plan.

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FISCAL IMPACT:

Funding in the amount of \$60,000 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 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Randolph Drive
Attachment II: Traffic Calming Plan for Randolph Drive

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
RANDOLPH DRIVE
MASON DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, July 13, 2021, at which a quorum was present and voting, the following resolution was adopted:

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

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

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

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

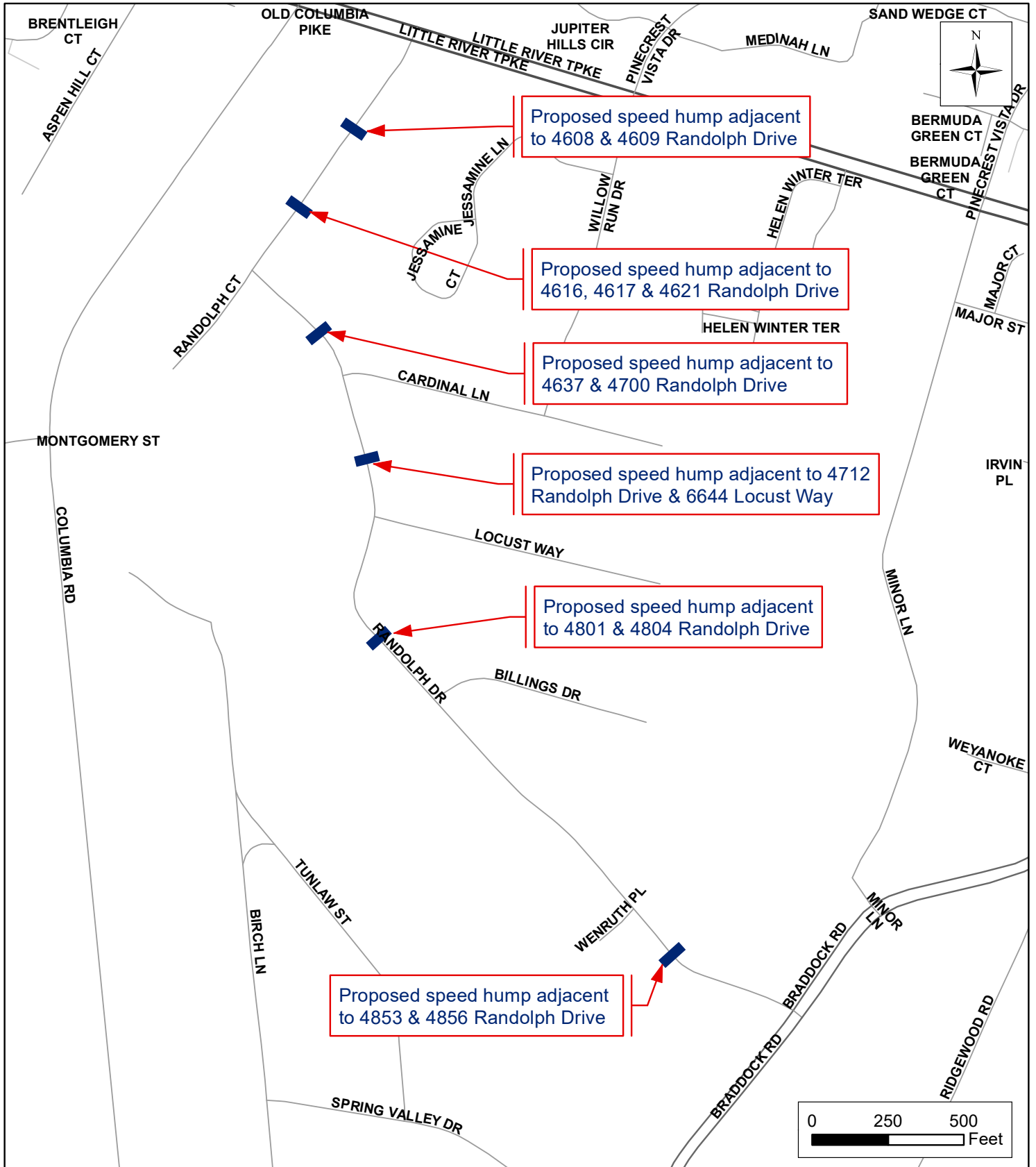
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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

ADOPTED this 13th day of July, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 71-2, 71-4, 72-1, 72-3

June 2021

Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Traffic Calming Plan
 Randolph Drive
 Mason District



Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing on a Proposal to Prohibit Through Truck Traffic on Hampton Road (Springfield District)

ISSUE:

Board authorization to advertise a public hearing, to be held on Tuesday, September 14, 2021, at 4:30 p.m., for the purpose of endorsing the following road to be included in the Residential Traffic Administration Program (RTAP) for a through truck traffic restriction:

- Hampton Road between Ox Road (Route 123) and Henderson Road

RECOMMENDATION:

The County Executive recommends the Board authorize advertisement of a public hearing for the purpose of endorsing Hampton Road, between Ox Road (Route 123) and Henderson Road, to be included in the RTAP for a through truck traffic restriction.

TIMING:

The Board should take action on July 13, 2021, to provide sufficient time for advertisement of the proposed public hearing scheduled for September 14, 2021, at 4:30 p.m.

BACKGROUND:

On May 11, 2021, the Springfield District Supervisor's Office requested that staff work with the Virginia Department of Transportation (VDOT) to implement a through truck traffic restriction on Hampton Road between Ox Road (Route 123) and Henderson Road. The request stemmed from safety concerns of residents in the area related to increased truck traffic utilizing this segment of the road as a shortcut. A possible alternate route, Ox Road (Route 123) directly to Henderson Road (Attachment II), has been identified.

Section 46.2-809 of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on a portion of this road (Attachment I) has been prepared for adoption and transmittal to VDOT, which will conduct the formal engineering study of the restriction request.

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FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Hampton Road

Attachment II: Area Map of Proposed Through Truck Traffic Restriction

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
THROUGH TRUCK TRAFFIC RESTRICTION
HAMPTON ROAD
SPRINGFIELD DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 14, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents who live along Hampton Road, between Ox Road (Route 123) and Henderson Road, have expressed concerns regarding the negative impacts associated with through truck traffic on this road; and

WHEREAS, a reasonable alternate route has been identified for Hampton Road starting at Hampton Road and Ox Road (Route 123), traveling along Ox Road to the intersection of Ox Road and Henderson Road, and then continuing on Henderson Road to end at the intersection of Henderson Road and Hampton Road; and

WHEREAS, it is the intent of the Fairfax County Board of Supervisors to ensure that the proposed through truck restriction be enforced by the Fairfax County Police Department; and

WHEREAS, a public hearing was held pursuant to Section 46.2-809 of the *Code of Virginia*;

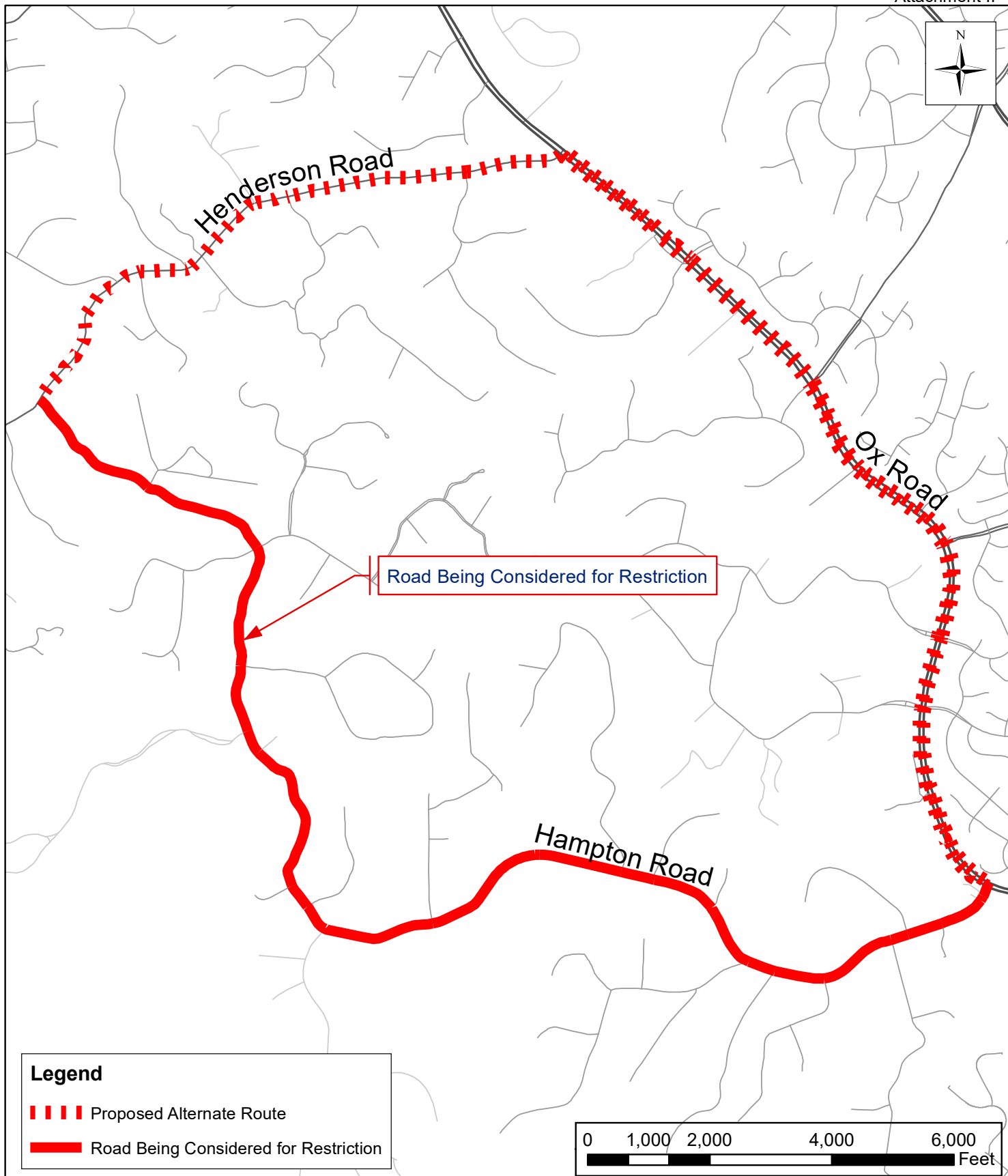
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Hampton Road, between Ox Road (Route 123) and Henderson Road, as part of the County's Residential Traffic Administration Program (RTAP).

FURTHER BE IT RESOLVED, that the Commonwealth Transportation Board is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 14th day of September, 2021.

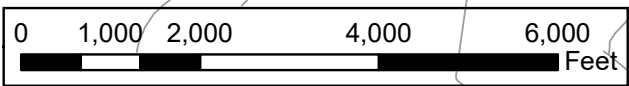
A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Legend

- Proposed Alternate Route
- Road Being Considered for Restriction



Tax Map: 87-3, 87-4, 88-3, 96-1,
96-2, 96-3, 96-4, 97-1,
97-3, 105-1, 105-2, 106-1

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Through Truck Restriction Map
Hampton Road
Springfield District**

June 2021



Board Agenda Item
July 13, 2021

ADMINISTRATIVE - 6

Approval of a Resolution Authorizing Proposed Zoning Ordinance and Comprehensive Plan Amendments, Including a Board-Initiated Rezoning to Establish Boundaries and Regulations for a Hollin Hills Historic Overlay District (Mount Vernon District)

ISSUE:

The establishment of the Hollin Hills Historic Overlay District (HOD) requires a Zoning Ordinance amendment to establish the regulations applicable to the proposed HOD, a Comprehensive Plan Amendment to reflect the HOD designation in the Comprehensive Plan, and a rezoning application (zoning map amendment) to establish the boundaries of the HOD. A Board resolution is required to authorize these amendments and rezoning. The Comprehensive Plan Amendment was previously authorized by the Board on [July 31, 2018](#). The amendments will proceed concurrently for public hearings.

RECOMMENDATION:

The County Executive recommends the Board adopt the Resolution set forth in Attachment 1.

TIMING:

Board action is requested on July 13, 2021, to provide sufficient time to file the rezoning application and to advertise public hearings for the Zoning Ordinance Amendment, the Comprehensive Plan Amendment, and the Rezoning Application before the Planning Commission on September 22, 2021, at 7:30 p.m., and before the Board of Supervisors on October 19, 2021, at 4:00 p.m.

BACKGROUND:

The Hollin Hills Subdivision in the Mount Vernon District was one of the first planned developments of contemporary architecture in the Washington metropolitan area, and one of the earliest subdivisions of its type in Virginia. The neighborhood was developed between 1949 and 1971. The proposal includes 493 separate properties, mostly comprised of single-family residential dwellings zoned R-2. Additional properties are owned by the Civic Association of Hollin Hills, the Fairfax County Park Authority and the Board of Supervisors. The neighborhood was listed on the County Inventory of Historic Sites on September 12, 1972, and was listed in the National Register of Historic Places on September 30, 2013.

Board Agenda Item
July 13, 2021

The Board directed staff to evaluate the establishment of a Historic Overlay District for Hollin Hills on [July 31, 2018](#), citing the Hollin Hills' important architectural and site design significance as a unique type of community development in Fairfax County. Since that time, staff has conducted research including site visits to document the current conditions of each dwelling in the neighborhood and any modification made to the original structures by taking photographs from the street frontage. Staff has also conducted community outreach meetings and collaborated with a community work group comprised of Hollin Hills property owners, members of the Architectural Review Board, and members of the Fairfax County History Commission for input on the proposal. Draft text of the Zoning Ordinance amendment and a draft copy of the design guidelines were also shared multiple times with the work group and the greater Hollin Hills community in January 2021 to gather feedback on the proposal. Staff has continued its outreach with the community in seeking input on the creation and analysis of the potential Hollin Hills HOD including the proposed district boundary, the proposed provisions to be included in the Zoning Ordinance, and recommendations to be included in the proposed design guidelines.

This Board Item formally seeks Board approval of a resolution to initiate and authorize advertisement of amendments to the Zoning Ordinance text and map (including a rezoning) and the Comprehensive Plan to establish a Hollin Hills HOD. A staff report with more detailed discussion on the proposed Zoning Ordinance amendment text, the proposed Comprehensive Plan amendment text, and the proposed Rezoning application will be published on the [County's website](#) in August of 2021, providing sufficient time for additional community input prior to the public hearing dates in September and October.

FISCAL IMPACT:

There is no direct fiscal impact associated with this action.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution

Attachment 2 – Board Matter (July 31, 2018)

STAFF:

Rachel Flynn, Deputy County Executive

Leslie B. Johnson, Zoning Administrator, Department of Planning and Development (DPD)

Leanna Hush O'Donnell, Director, Planning Division, DPD

Tracy D. Strunk, Director, Zoning Evaluation Division, DPD

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Laura B. Arseneau, Branch Chief, Heritage Resources and Plan Development, DPD
William Mayland, Deputy Zoning Administrator, DPD
Catherine Lewis, Branch Chief, Zoning Evaluation Division, DPD
Lily Yegazu, Senior Planner, Zoning Administration Division, DPD

ASSIGNED COUNSEL:

Cherie L. Halyard, Assistant County Attorney

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center Building, Fairfax, Virginia, on July 13, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Hollin Hills neighborhood in Mount Vernon District was one of the first planned developments of contemporary architecture in the Washington metropolitan area, and was developed between 1949 and 1971; and

WHEREAS, the Hollin Hills neighborhood was listed on the County Inventory of Historic Sites on September 12, 1972, and was listed in the National Register of Historic Places on September 30, 2013; and

WHEREAS, it embodies distinctive architectural and land site design significance as a unique type of community development in Fairfax County; and

WHEREAS, it is appropriate for the County to consider the establishment of a Historic Overlay District for Hollin Hills, due to its historic, cultural, and architectural significance in Fairfax County; and

WHEREAS, there is a clear public interest to be served by establishing such a district in order to preserve the significance of the Hollin Hills neighborhood; and

WHEREAS, on July 31, 2018, the Board directed staff to prepare a report to evaluate the proposal to create a Hollin Hills Historic Overlay District (“HOD”), and if recommended by the report, initiate an amendment to the Fairfax County Zoning Ordinance (“Zoning Ordinance”) and Comprehensive Plan to establish and create the boundaries of the HOD; and

WHEREAS, by adoption of this Resolution, the Board directs staff to prepare, and advertise public hearings on a proposed amendment to the Comprehensive Plan as well map and text amendments to Chapter 112.1 (Zoning Ordinance) of the County Code, to include a Board-initiated rezoning, to establish boundaries and regulations for the Hollin Hills HOD along with appropriate use regulations; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of proposed amendments to the Zoning Ordinance text and map and the Comprehensive Plan; and

NOW THEREFORE BE IT RESOLVED that, for the foregoing reasons and for the reasons stated in the in the July 13, 2021, Board Item and the July 31, 2018, Board matter and motion, the Board of Supervisors initiates amendments to the Zoning Ordinance text and map, including a Board-initiated rezoning, and an amendment to the Comprehensive Plan. The Board further authorizes advertisement of public hearings during which the Planning Commission and Board will consider proposed Zoning Ordinance text and map and Comprehensive Plan amendments, and the Board further authorizes the County Executive, Bryan J. Hill, or his designee, to act as agent

for the County for all matters concerning these amendments.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

impacts on the community. The property owner has conducted outreach to the South County Federation which is supportive of the proposed Plan amendment.

Therefore, Supervisor Storck moved that the Board:

- Direct planning staff to review the Plan Amendment proposal for the Subject Property, located in Land Unit K within the I-95 Corridor Industrial Area of the Springfield Planning District of the Comprehensive Plan, concurrently with the submission a special exception application or other applications filed with respect to the subject property.
- The review should consider the appropriateness of the subject property developing with hotel, restaurant and self-storage uses up to a floor area ratio of 0.70, and evaluate access options from Loisdale Road, Newington Road and Terminal Road, as well as the adopted transportation plan recommendations for the Loisdale Road and Newington Road intersection.

This motion should not be construed as a favorable recommendation for a potential plan amendment or any subsequent rezoning or other application and does not relieve the applicant from complying with all regulations, ordinances, or adopted standards, and will not prejudice the consideration of this application in any way. Supervisor Cook seconded the motion and it carried by unanimous vote.

8b.

POSSIBLE ESTABLISHMENT OF A HOLLIN HILLS HISTORIC OVERLAY DISTRICT (MOUNT VERNON DISTRICT) (1:12 p.m.)

STALZER

DPZ
Supervisor Storck said that the Hollin Hills Subdivision in the Mount Vernon District was the first planned development of modern architecture in the Washington Metropolitan area, and one of the earliest subdivisions of its type in Virginia. Developed between 1949 and 1971, the 326-acre residential neighborhood has 463 single family dwellings. The subdivision was listed as a historic district in the County Inventory of Historic Sites on September 12, 1972, and was listed in the National Register of Historic Places on September 30, 2013. The National Register map is attached to this motion for reference.

Supervisor Storck noted that Charles Goodman served as the architect for the vast majority of the houses, with developer and builder Robert Davenport designing two models. Landscape designer Lou Bernard Voigt, followed by Daniel Urban Kiley and Eric Paepcke, provided amenable property owners with a plan that harmonized the contours of the land and highlighted each building's individual design and siting.

The National Register nomination notes that Hollin Hills was “a true experimental laboratory for an architect who sought to create a diversity of architectural expression that honors both the land and its residents.” Hollin Hills provided a low-cost way to offer high quality housing to broad populations; blurred the traditional relationship between indoors and out; tested the potentialities of natural setting and modular construction; and explored the freedom of the open floor plan.

Supervisor Storck expressed his belief that it is appropriate for the County to consider the establishment of a Hollin Hills Historic Overlay District (HD) due to its important architectural and land design significance to the character of Fairfax County.

Therefore, Supervisor Storck moved that the Board direct staff to evaluate the establishment of a Historic Overlay District for Hollin Hills, which will include but is not limited to the following:

- As required by Par. 3 of Sect. 7-203 of the Zoning Ordinance staff should prepare a written report and ensure that the resultant report is coordinated with all appropriate Boards, Authorities, and Commissions
- Initiate an amendment to the Zoning Ordinance to establish the Historic Overlay District, if recommend by the report. This Zoning Ordinance amendment should be added as a Priority 1 item to the Zoning Ordinance Amendment Work Program
- Prepare an amendment to the Comprehensive Plan for any map and text changes that may result from this process
- Initiate a Board’s own rezoning to create the boundaries of the district, if such is recommended by the report

Chairman Bulova seconded the motion and it carried by unanimous vote.

9b.

CONCURRENT PROCESSING OF SPECIAL EXCEPTION AMENDMENT AND 2232/FEAURE SHOWN TO PERMIT THE DEVELOPMENT OF THE LORTON COMMUNITY CENTER (MOUNT VERNON DISTRICT) (1:16 p.m.)

STALZER

Supervisor Storck said that the new Lorton Community Center was approved as part of the Human Services and Community Development Bond Referendum in November, 2016. The facility will include space for the Lorton Community Action Center (LCAC), as the Murphy House/trailer currently used by the LCAC will be demolished, and the Lorton Senior Center, currently operating in leased

DPZ

Board Agenda Item
July 13, 2021

ACTION - 1

Amendment of the Board's Written Policy Governing Participation by Electronic Communication of Board Members in Public Meetings

ISSUE:

On March 24, 2020, the Board adopted a Written Policy Governing Participation By Electronic Communication of Board Members in Public Meetings. Virginia Code § 2.2-3708.2 authorizes the electronic participation of members of public bodies in public meetings under certain conditions. Effective July 1, 2021, the General Assembly amended Virginia Code § 2.2-3708.2(A)(1) to allow a member of a public body to participate remotely if that member's family member has a medical condition that requires the member's care. The amendment also allows a member to participate remotely for personal reasons in either two meetings or 25 percent of the meetings per year, whichever is greater. The proposed amendments to the Policy reflect these statutory changes.

RECOMMENDATION:

That the Board adopt the Amended Written Policy (Attachment 1) amending the Board's Policy Governing Participation By Electronic Communication of Board Members in Public Meetings.

TIMING:

Board action is requested on July 13, 2021, to promptly adopt amendments expanding remote participation of Board members in public meetings.

BACKGROUND:

The Virginia Freedom of Information Act (FOIA) generally prohibits meetings of public bodies, including the Board of Supervisors, from being conducted through telephonic, video, electronic, or other electronic communication means where the members of the public body are not physically assembled to discuss or transact public business. Va. Code § 2.2-3707(B). There are two exceptions to this prohibition. First, while under a State of Emergency, the Board may conduct a meeting entirely through electronic means if it is impracticable or unsafe to assemble a quorum in a single location, and the

Board Agenda Item
July 13, 2021

meeting solely addresses the emergency. Va. Code § 2.2-3708.2(A)(3). Second, individual members may participate remotely in the Board's in-person meetings if they meet the requirements of the Board's Policy for Participation in Meetings by Electronic Communication. The Board's current Policy was adopted on March 24, 2020.

The current Policy allows individual members to participate remotely if:

- A quorum of the public body is physically assembled at a primary meeting location; Va. Code § 2.2-3708.2(C)(2);
- The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary location; Va. Code § 2.2-3708.2(C)(3); and
- The member of the public body requesting remote participation is unable to attend the meeting either due to (1) a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or (2) a personal matter that is identified with specificity. Va. Code § 2.2-3708.2(A)(1).

The General Assembly amended Virginia Code § 2.2-3708.2(A)(1) (effective July 1, 2021) by authorizing public bodies to allow a member who is unable to attend a meeting due to a family member's illness to participate in the meeting remotely through electronic communication means. Previously, remote participation was permitted only for the member's disability or medical condition. The member must be prevented from attending the meeting because the family member's medical condition requires the member to care for them.

The amendment also alters the calculation of the number of meetings a public body member may participate in remotely due to personal reasons. As of July 1, 2021, a member may participate in two meetings remotely or 25 percent of the meetings held that calendar year, whichever is greater. Please note that there is no limit to the number of times a member may meet remotely due to their own disability or medical condition or that of their family member.

Amending the Board's Policy to reflect the legislative changes is recommended at this time.

FISCAL IMPACT:

There is no anticipated fiscal impact.

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July 13, 2021

ENCLOSED DOCUMENTS:

Attachment 1- AMENDED POLICY FOR PARTICIPATION IN MEETINGS BY
ELECTRONIC COMMUNICATION with track changes

Attachment 2- AMENDED POLICY FOR PARTICIPATION IN MEETINGS BY
ELECTRONIC COMMUNICATION

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

ASSIGNED COUNSEL:

Sarah Annear, Assistant County Attorney

THE FAIRFAX COUNTY BOARD OF SUPERVISORS' POLICY FOR PARTICIPATION IN MEETINGS BY ELECTRONIC COMMUNICATION

1. **AUTHORITY AND SCOPE.**

a. This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.2 and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code §§ 2.2-3700—3715.

b. This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor or this Board. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Va. Code § 2.2-3708.2(A)(3).

2. **DEFINITIONS.**

a. “**Board**” means the Fairfax County Board of Supervisors.

b. “**Member**” means any member of the Board.

c. “**Remote participation**”, “**remotely participate**”, or “**participate remotely**” mean participation by a member of the Board via telephonic, video, or other audio or combined audio and video electronic communication method where the member is not physically assembled with the other members of the Board.

d. “**Meeting**” means a meeting as defined by Va. Code § 2.2-3701.

e. “**Notify**” or “**notifies**,” for purposes of this policy, means actual notice, including, but not limited to, email, text, telephone, or in-person notice.

3. **MANDATORY REQUIREMENTS**

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

a. A quorum of the Board must be physically assembled at the primary or central meeting location; and

b. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

4. **PROCESS TO REQUEST REMOTE PARTICPATION**

a. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Board Chair (or the Vice-Chair if the requesting member is the Chair) that they are unable to physically attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance or (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance or (iii) a personal matter and identifies with specificity the nature of the personal matter.~~a personal matter or a temporary or permanent disability or other medical condition that prevents their physical attendance at the meeting.~~

b. The requesting member shall also notify the Clerk of the Board of their request, but their failure to do so shall not affect their ability to remotely participate.

c. If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.~~two times per calendar year.~~ There is no limit to the number of times that a member may participate remotely due to a temporary or permanent disability or other medical condition or that of a family member that requires the member to provide care.

d. The requesting member is not obligated to provide independent verification regarding the temporary or permanent disability or other medical condition or the family member's medical condition that prevents their physical attendance at the meeting~~the reason that they are not able to physically attend the meeting.~~

e. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether their request is in conformance with this policy, and therefore approved or disapproved.

5. **PROCESS TO CONFIRM APPROVAL OR DISAPPROVAL OF PARTICIPATION FROM A REMOTE LOCATION**

When a quorum of the Board has assembled for the meeting, the Board shall vote to determine whether:

a. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and

b. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

6. **RECORDING IN MINUTES:**

a. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, or a family member's medical condition that requires the member to provide care to the family member, the Board shall record in its minutes (1) the Board's approval of the member's remote participation; and (2) the remote location from which the member participated.

b. If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as how many times the member has attended remotely due to a personal matter~~whether this is the first or second meeting of the calendar year in which the member has participated remotely due to a personal matter~~, and the remote location from which the member participated.

c. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

7. **CLOSED SESSION**

If the Board goes into closed session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

8. **STRICT AND UNIFORM APPLICATION OF THIS POLICY**

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

THE FAIRFAX COUNTY BOARD OF SUPERVISORS' POLICY FOR PARTICIPATION IN MEETINGS BY ELECTRONIC COMMUNICATION

1. **AUTHORITY AND SCOPE.**

a. This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.2 and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code §§ 2.2-3700—3715.

b. This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor or this Board. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Va. Code § 2.2-3708.2(A)(3).

2. **DEFINITIONS.**

a. “**Board**” means the Fairfax County Board of Supervisors.

b. “**Member**” means any member of the Board.

c. “**Remote participation**”, “**remotely participate**”, or “**participate remotely**” mean participation by a member of the Board via telephonic, video, or other audio or combined audio and video electronic communication method where the member is not physically assembled with the other members of the Board.

d. “**Meeting**” means a meeting as defined by Va. Code § 2.2-3701.

e. “**Notify**” or “**notifies**,” for purposes of this policy, means actual notice, including, but not limited to, email, text, telephone, or in-person notice.

3. **MANDATORY REQUIREMENTS**

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

a. A quorum of the Board must be physically assembled at the primary or central meeting location; and

b. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

4. **PROCESS TO REQUEST REMOTE PARTICPATION**

a. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Board Chair (or the Vice-Chair if the requesting member is the Chair) that they are unable to physically attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance or (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance or (iii) a personal matter and identifies with specificity the nature of the personal matter.

b. The requesting member shall also notify the Clerk of the Board of their request, but their failure to do so shall not affect their ability to remotely participate.

c. If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely due to a temporary or permanent disability or other medical condition or that of a family member that requires the member to provide care.

d. The requesting member is not obligated to provide independent verification regarding the temporary or permanent disability or other medical condition or the family member's medical condition that prevents their physical attendance at the meeting.

e. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether their request is in conformance with this policy, and therefore approved or disapproved.

5. **PROCESS TO CONFIRM APPROVAL OR DISAPPROVAL OF PARTICIPATION FROM A REMOTE LOCATION**

When a quorum of the Board has assembled for the meeting, the Board shall vote to determine whether:

a. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and

b. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

6. **RECORDING IN MINUTES:**

a. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, or a family member's medical condition that requires the member to provide care to the family member, the Board shall record in its minutes (1) the Board's approval of the member's remote participation; and (2) the remote location from which the member participated.

b. If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as how many times the member has attended remotely due to a personal matter, and the remote location from which the member participated.

c. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

7. **CLOSED SESSION**

If the Board goes into closed session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

8. **STRICT AND UNIFORM APPLICATION OF THIS POLICY**

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Board Agenda Item
July 13, 2021

ACTION - 2

Approval of Changes to the Fairfax County Purchasing Resolution

ISSUE:

Board of Supervisors' approval of changes to the Fairfax County 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 13, 2021.

TIMING:

Routine.

BACKGROUND:

The Board of Supervisors adopted the current version of the Fairfax County Purchasing Resolution on July 28, 2020. During the 2021 General Assembly session, eight (8) bills relating to procurement and/or contracts and passed the House and Senate. There were no successful bills that modified a mandatory section of the Virginia Public Procurement Act (VPPA), however, there were two bills that changed non-mandatory sections of the VPPA with potential benefits to the County. These two bills are proposed for inclusion in the Purchasing Resolution and are listed below under the heading "Code Changes."

The remaining six 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.

Looking forward, the County expects continued interest in legislation related to sustainable and construction contracting in the 2022 General Assembly session.

This year, staff recommends nine (9) administrative amendments to the Purchasing Resolution, which can be found under the heading "Administrative Changes." These amendments are clarifications and technical corrections to the Purchasing Resolution.

Code Changes

1. House Bill 2327, Code of Virginia §§2.2-4321.3. Clarifies that the definition of public works as it pertains to payment of prevailing wages, includes transportation infrastructure projects. This definition is found at page 11.
2. House Bill 1811, Code of Virginia §2.2-4328.1. Authorizes any public body, including any state or local government, when engaged in procuring goods to give preference to those products with certain environmental designations in evaluation for award. This legislation provides the County with the local option to use this preference at page 31.

Administrative Changes

1. Corrections to section headings and pagination due to changes in the document text (Table of Contents).
2. Added definition of Prevailing Wages (Page 10).
3. Added language to clarify that the County may, by ordinance, require contractors performing on public works contracts to pay prevailing wages (Page 14).
4. Added non-discrimination language to align with One Fairfax Policy (Page 15).
5. Amended language to provide clarity regarding the requirement to notify the Board of Supervisors or School Board of the award of consulting services contracts in excess of \$200,000 (Page 18).
6. Amended language to increase the dollar threshold at which public notice of Emergency Purchases must be posted (Page 23).
7. Added language regarding the responsibility criteria of bidders from Article 2, Section 2, Paragraph A.1. to align with the existing list of responsibility criteria that the Purchasing Agent may consider (Page 32).
8. Revised language regarding limitation of liability to be consistent with Virginia law (Page 42).
9. Revised language regarding informal purchase procedures for construction to be consistent with the informal purchase dollar threshold (Page 46).

The text changes proposed in the Purchasing Resolution are presented in “track changes” format and legislative references are provided in highlight. 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.

Board Agenda Item
July 13, 2021

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I - Revised Fairfax County Purchasing Resolution

STAFF:
Joseph Mondoro, Chief Financial Officer
Cathy A. Muse, Director, Department of Procurement and Material Management

ASSIGNED COUNSEL:
Patricia M. McCay, Senior Assistant County Attorney

FAIRFAX COUNTY PURCHASING RESOLUTION



July 2021¹⁰

~~Adopted by the Board of Supervisors on July 28,~~
~~2020~~ [Adopted by the Board of Supervisors on July 13,](#)
[2021](#)

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Commented [CM1]: Administrative Change – Headings and pagination corrected to align with changes in the document

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WHEREAS, a central purchasing system is authorized by §15.2-1543 of the Code of Virginia, and is thus a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and

WHEREAS, the Board of County Supervisors 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, the Code of Virginia, §2.2-4300 through §2.2-4383 (as amended), enunciate 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, which sections shall be known as the Virginia Public Procurement Act; and

WHEREAS, the Code of Virginia, §15.2-1236 (as amended) requires all purchases of and contracts for supplies, materials, equipment and contractual services shall be in accordance with Chapter 43 of Title 2.2 of the Code of Virginia; and

WHEREAS, the Code of Virginia, §2.2-4343 (as amended) allows implementation of the Virginia Public Procurement Act by ordinance, resolutions, or regulations consistent with this Act by a public body empowered by law to undertake the activities described by the Act; and

WHEREAS, the Code of Virginia, §15.2-1543, empowers the Board of Supervisors to employ a County Purchasing Agent and set ~~his~~their duties as prescribed by the Code of Virginia, §15.2-831, §15.2-1233 through §15.2-1240, and §15.2-1543;

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 13, 2021, 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 her 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 §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18,

FAIRFAX COUNTY PURCHASING RESOLUTION

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 his 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 his designee has the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). 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 §22.1-79 of the Code of Virginia. The school division's Superintendent or his 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 §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his 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 his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). 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 §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, The Director of the Department of Housing and Community Development or

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his 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. 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 § 33.2-338 of the Code of Virginia, 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 his 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.

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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.

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Section 5. Definitions.

1. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:
 - 1) Planning acquisitions.
 - 2) Determining what supplies or services are to be acquired by the County, including developing statements of work.
 - 3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
 - 4) Evaluating bids or proposals.
 - 5) Awarding County contracts.
 - 6) 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).
 - 7) Terminating contracts.
 - 8) 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.

FAIRFAX COUNTY PURCHASING RESOLUTION

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
 - 1) Is an employee of the contractor or subcontractor, a consultant, partner, or a sole proprietor; and
 - 2) 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, or when any unforeseen circumstances arise causing curtailment or diminution of essential service.
15. Employment Services Organization shall mean an organization that provides community based employment services to individuals and disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

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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. Fixed Asset 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 \$5,000.
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.

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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--
- 1) Is exempt from disclosure under the Virginia Freedom of Information Act; or
 - 2) 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--
1. Financial interests of the covered employee, of close family members, or of other members of the household;
 2. Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
 3. Gifts, including travel.
- Financial interests may arise from--
- a. Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
 - b. Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);
 - c. Services provided in exchange for honorariums or travel expense reimbursements;

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- d. Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
- e. Real estate investments;
- f. Patents, copyrights, and other intellectual property interests; or
- g. 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.

~~33-34.~~ 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 public works 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.

Commented [CM2]: Administrative Change – definition added in accordance with HB833 passed in the 2020 legislative session.

~~34-35.~~ 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.

~~35-36.~~ 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).

~~36-37.~~ 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.

~~37-38.~~ 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

FAIRFAX COUNTY PURCHASING RESOLUTION

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.

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

~~39-41.~~ Public works shall mean the operation, erection, construction, alteration, improvement, maintenance, or repair of any public facility or immovable property owned, used or leased by a public body, [including transportation infrastructure projects](#).

Commented [MCA3]: Code Change – HB2327

~~40-42.~~ 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.

~~41-43.~~ 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.

~~42-44.~~ 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.

~~43-45.~~ SAC shall mean Selection Advisory Committee.

~~44-46.~~ 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.

~~45-47.~~ Surplus Property shall mean that property which exceeds the requirement of the entire County.

~~46-48.~~ 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

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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

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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 may, by ordinance, require that, when letting contracts for public works paid for in whole or in part by funds of the County, or when overseeing or administering a public contract, its bid specifications, project agreements, or other public contracts applicable to the public works, bidders, offerors, contractors, and subcontractors shall pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract at the prevailing wage rate. Each public contract of a locality that has adopted an ordinance described in this section shall 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

Commented [MP4]: Code Change. Reflects prevailing wage authority granted by HB833, which is effective May 1, 2021.

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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 SBSB, 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 her 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.

Commented [MP5]: Administrative change. Revised for consistency with One Fairfax Policy.

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

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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 or publication in a newspaper of county wide circulation, or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. 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, by publication in a newspaper of county wide

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circulation or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. 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 three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPMM or other authorized agency.

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 three or more 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.

3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.

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, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

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

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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, a contract shall be awarded by the Purchasing Agent for ~~those consultant 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 of such contract award prior to final execution. -

Commented [MP6]: Administrative Change: Revised for clarity.

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

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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 three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPMM or other authorized agency.

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 three or more 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.

3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.

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, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

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

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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.

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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 three or more principal

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staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPMM or other authorized agency.

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 three or more 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, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

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

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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 -on the day the County awards or announces its decision to award the contract in excess of ~~\$100,000~~200,000, whichever occurs first.

1. If an emergency occurs during regular County business hours, the head of the using agency 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, the using agency head may purchase the required goods or services directly. The agency head 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 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.

Commented [MCA7]: Administrative change. Aligns with other dollar thresholds in the Purchasing Resolution.

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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.- Any Fairfax County contract when the estimated cost is less than \$200,000 in value, shall be deemed an informal procurement and not be subject to the rules governing competitive sealed bidding or competitive negotiation for goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$200,000; and transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000. However, such ~~small~~-purchase procedures shall provide for competition wherever practicable.
 1. Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$80,000. Where ~~small~~-informal purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.
 2. The Purchasing Agent may adopt procedures that establish informal purchase procedures. The rules and regulations adopted pursuant to Section 4 of Article 2 of this Resolution shall prescribe in detail the procedures to be observed in giving notice to prospective bidders, in tabulating and recording bids, in opening bids, in making purchases from the lowest responsive and responsible bidder, and in maintaining records of all informal procurements for public inspection.
- F. Public Private Education Facilities and Infrastructure.- The "Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)" 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.
- G. 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.

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- H. 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 formal competitive bidding process.
- I. 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 on the day the County awards or announces its decision to award the contract in excess of \$200,000, whichever occurs first.
- J. 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

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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.

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- 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, Disability Determination 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~~^{10,005,000} 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. Multidivision 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 multidivision online

Commented [MCAS]: Administrative Change – increased threshold consistent the County’s small procurement threshold.

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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.

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 his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her 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

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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.

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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 D.

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 ~~his~~ their judgment the public interest is best served.
- a. 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

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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.

- b. 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~~local public body~~ provides a written statement that demonstrates the bid price(s) of such products are unreasonable
2. 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;

Commented [MP9]: Code change. HB1811

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~~j.i.~~ 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

~~j.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 nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

3. 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.
4. 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.
5. 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

Commented [MCA10]: Administrative Change. Reflects responsibility criteria included in Virginia Code § 2.2-4302.1 and already reflected Article 2, Section 2, Paragraph A.1.

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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 F 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.

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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 his 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:

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- 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

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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

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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

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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.

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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:

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.

1. 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.
2. 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.

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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.

- D. Prohibition on the Use of Certain Products and Services. 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 U.S. 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.

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- 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.

Section 3: Mandatory Terms Applicable to Contracts (including Amendments) in Excess of \$200,000

- B. 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.
- C. 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.
- D. 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

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marijuana during the performance of the contract. The Purchasing Agent may, in her 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.

- 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. ~~For contracts in excess of \$100,000, there~~ 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 supplier or any employee of a supplier. ~~For Information Technology contracts in excess of \$100,000 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 or (ii) claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a supplier or any employee of a supplier.~~

Commented [MP11]: Administrative change. Revised for consistency with Virginia law.

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- 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.

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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 excluded from the duties of the County Purchasing Agent for the organizations as specified below:

- A. The Department of Public Works and Environmental Services (DPWES), pursuant to §15.2-834 of the Code of Virginia, 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 his 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 his designee has the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.
- B. 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 §22.1-79 of the Code of Virginia. The school division's Superintendent or his 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.
- C. The Fairfax County Park Authority is responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee has 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

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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 his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.

- D. The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his 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. 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.
- E. The Department of Transportation, pursuant to §33.2-338 of the Code of Virginia, and this Resolution, may be responsible for constructing or improving highways, including related architectural and engineering 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 his 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.
- F. 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.

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

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regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 3. Definitions.

- A. 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.
- B. 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.
- C. 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, transportation project, or other item specified in the contract.
- D. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural and engineering design services 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.

Section 4. 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 \$200,000; 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

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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 construction projects may be negotiated for multiple projects 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 four additional one-year 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 one contract term shall not exceed \$8 million, (c) the project fee of 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 his behalf or on behalf of his 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.

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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 5. 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;

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- 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;
 - 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 two 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

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term shall not exceed \$ 6 million. Subject to the maximum threshold amount, no individual job order shall exceed \$500,000.

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 6. 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.

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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

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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 his 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 his bid from

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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 his claim of right to withdraw his 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 not 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 non-transportation-related construction contracts in excess of \$500,000 or transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 that are in excess of \$250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized

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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.

For non-transportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with §2.2-4317 of the Code of Virginia. The County may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of \$100,000 but less than \$300,000 upon a written determination made in advance by the County that waiving the requirement is in the best interests of the County. The county shall not enter into more than 10 such contracts per year.

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 for non-transportation-related projects or \$350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.

2. Performance and payment bonds:

- a. Upon the award of any (i) public construction contract exceeding \$500,000 awarded to any prime contractor, (ii) construction contract exceeding \$500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body, or (iii) transportation-related projects exceeding \$350,000 that are partially or wholly funded by the Commonwealth, or (iv) construction contract exceeding \$500,000 in which the performance of labor of the furnishing of materials will be paid with public funds, 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. For transportation-related

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projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2, such bond shall be in a form and amount satisfactory to the public body.

2. A payment bond in the sum of the contract amount. 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 such contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body. 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. For non-transportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the performance and payment bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with § 2.2-4317. However, the locality may waive the requirement for prequalification of a contractor with a current Class A contractor license for contracts in excess of \$100,00 but less than \$300,000 upon a written determination in advance by the local governing body that waiving the requirement is in the best interest of the County. The County shall not enter into more than 10 such contracts per year.
 - c. 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.
 - d. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.
 - e. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below \$500,000 for non-transportation-related projects or \$350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.
 - f. 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

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- 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 his rights to the use of the Escrow account procedure.

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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.

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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 goods for a specified period of time. A prospective contractor may be suspended from participating in County procurements if there is evidence that the prospective contractor 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 on 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

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- 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.

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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

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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.D, 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 his 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. Contractual claims, whether for money or other relief, shall be submitted 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 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. 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

FAIRFAX COUNTY PURCHASING RESOLUTION

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 his suppliers or his 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

FAIRFAX COUNTY PURCHASING RESOLUTION

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.

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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:

- 1) Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and
- 2) 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 he determines in writing that such mitigation is in the best interest of the County.

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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 redistribution of serviceable excess property and inventory, to include furniture, equipment, , etc.
- B. The Director of the Department of Procurement and Material Management is responsible for the disposal of surplus property and inventory as applicable by law. Disposals will be evaluated in an effort to maximize financial returns to the County and/or minimize environmental impact.
- C. 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.
- D. 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 \$5,000 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 \$5,000 or more, and ensuring accepted items are properly accounted for.
2. Items under \$5,000:
Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under \$5,000.
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 his own free will and without any financial gain.

B. Making Donations:

1. Items \$5,000 or more:
When the fair market value of an item exceeds \$5,000, 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 \$5,000:
When the fair market value of a surplus item is less than \$5,000, 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 as appropriate and allowed by law.

FAIRFAX COUNTY PURCHASING RESOLUTION

It is further resolved that this resolution shall be effective [July 13, 2021](#).

A Copy Teste:

Jill G. Cooper
Clerk to the Board of Supervisors

Board Agenda Item
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ACTION - 3

Adoption of the Updated Memorandum of Understanding Between the Board of Supervisors (BOS) and the Fairfax County Park Authority (FCPA)

ISSUE:

Approval by the Board of Supervisors of the Updated Memorandum of Understanding between itself and the Fairfax County Park Authority. This agreement updates the responsibilities of both parties for the interactive operations of the Park Authority and the County.

RECOMMENDATION:

The County Executive recommends that the Chairman of the Board of Supervisors be authorized to sign the agreement between the Board of Supervisors and the Park Authority Board.

TIMING:

Board action is requested on July 13, 2021, to maintain the timeline concurrently with the Reauthorization of the Ordinance for the existence of the FCPA.

BACKGROUND:

In December of 1950, the Fairfax County Park Authority was authorized by ordinance by the Fairfax County Board of Supervisors. In May of 1986, the original Memorandum of Understanding between the BOS and FCPA was signed; and in September of 1991, the Memorandum of Understanding was recertified.

The Memorandum of Understanding with the Fairfax County Park Authority is necessary to continue the established policies and procedures governing the relationship of the BOS and the FCPA in matters of financial management. This updated MOU includes inclusion of One Fairfax, support and coordination with the County's Strategic Plan, and a change in County Liaison to Health and Human Services Deputy County Executive.

FISCAL IMPACT:

None

Board Agenda Item
July 13, 2021

ENCLOSED DOCUMENTS:

Attachment 1 - Draft Memorandum of Understanding

STAFF:

Christopher Leonard, Deputy County Executive
Rachel Flynn, Deputy County Executive
Joseph M. Mondoro, Chief Financial Officer
Sara Baldwin, Acting Director, Fairfax County Park Authority

ASSIGNED COUNSEL:

Elizabeth Teare, County Attorney

**Memorandum of Understanding
Between the Board of Supervisors and the Park Authority**

FAIRFAX COUNTY BOARD OF SUPERVISORS
and
FAIRFAX COUNTY PARK AUTHORITY
MEMORANDUM OF UNDERSTANDING (“Agreement”)

BE IT AGREED by and between the Board of Supervisors of Fairfax County (“Board of Supervisors”) and the Fairfax County Park Authority (“Park Authority”) as follows:

1. **Appointment and authority of the Executive Director.** The Fairfax County Park Authority Board (“Park Authority Board”), subject to approval by the Board of Supervisors, will appoint an Executive Director of the Park Authority. The Executive Director will serve at the pleasure of the Park Authority Board and will have the following responsibilities to the Park Authority Board:
 - A. To appoint the officers, agents, and employees of the Park Authority permanent or temporary as may be required, and to determine their qualifications, duties, and compensation.
 - B. To enter into contracts pursuant to the provisions of the Virginia Code § 15.2-5704, as amended.
 - C. To interpret, implement and administer all policy decisions of the Park Authority as conveyed to the Executive Director by the Park Authority Board.
 - D. In accordance with the policies set by the Park Authority Board to carry out all the activities of the Park Authority to include those set forth in Article II of the *Bylaws governing the Fairfax County Park Authority of Fairfax County, Virginia* as revised and adopted December 10, 2014, or as may be amended during the term of this Agreement and as set forth under Va. Code §§15.2-5700, *et seq.*, as amended.
2. **Evaluation and Salary of the Executive Director.** Annually the Park Authority Board will provide the Board of Supervisors with a performance evaluation on the appointed Executive Director of the Park Authority. The evaluation will include a Park Authority Board recommendation for any salary changes for the Executive Director. The actual salary level will be established by the Board of Supervisors in accordance with the County's Merit System. The Park Authority Board shall develop written procedures and guidelines to delineate the Executive Director's responsibilities as set forth in paragraph number one above, and to clarify performance standards for evaluation in accordance with this agreement.
3. **County Executive Liaison Role.** The Fairfax County Executive or their appointee, the Deputy County Executive for Health and Human Services, during the period of this Agreement, will perform the duties as the Board of Supervisor's administrative liaison to the Park Authority. In this capacity the County Executive will represent the Board of Supervisors on matters affecting budget planning, organizational administration, and the design/construction phases of development that the Park Authority may undertake as a participant in County processes and procedures.

4. **Legal Services.** The Park Authority will use the legal services of the Fairfax County Attorney's Office unless the Park Authority and the County Attorney believe that (a) the service needed is non-routine and time critical such that it could not be met by the County Attorney's Office or (b) that a conflict of interest may exist. Upon recognition of the need for outside counsel, the Park Authority will proceed to select counsel from an approved list submitted by the County Attorney.
5. **One Fairfax.** The Park Authority will work collaboratively to provide a park and recreation system that is equitable and inclusive by providing quality facilities, programs, and services to all communities; balancing the distribution of parks, programs and facilities; and providing accessible and affordable facilities and programs. The Park Authority will work in collaboration with other Fairfax County agencies and community partners to achieve the County's equity goals.
6. **Countywide Strategic Plan.** The Park Authority agrees to fully support and align with the Countywide Strategic Plan, following adoption of the plan by the Board of Supervisors, and for the Executive Director to serve as a personal champion for all of the elements of the plan that relate to providing a healthy environment, preserving natural and cultural heritage, offering inspiring recreational experiences, and promoting healthy lifestyles throughout Fairfax County.
7. **Transfer of Functions.** Upon mutual agreement of the Board of Supervisors and the Park Authority, the Fairfax County Executive may direct the transfer of any Park Authority program, activity, or function to one or more general County agencies or departments, or may direct the transfer of any general County functions and resources to the Park Authority. The Park Authority may also direct the transfer of resources (land or facilities) to support the County's strategic goals.
8. **General Fund Operating Budget.** The Park Authority's General Fund Operating Budget is to be prepared in accordance with procedures and formats established by the Board of Supervisors and used by other Fairfax County agencies. This is subject to appropriation by the Board of Supervisors.
9. **Contributions by Board of Supervisors, Generally.** Contributions to the Park Authority operations made by the Board of Supervisors will be in the form of goods and services with title vesting in the Park Authority.
10. **Contributions by Board of Supervisors, Park Authority Capital Program.** Board of Supervisors' contributions to the Park Authority Capital Program will be budgeted as projects and in accordance with County budget procedures. Project detail sheets with total project estimates and complete funding source will be provided to the Board of Supervisors consistent with the County's customary capital construction budget process. The anticipated staff level and operating costs involved with each project also will be submitted to the Board of Supervisors for the Board's review and comments. The capital budget submission will include project details identifying the specific fiscal year that the facility will begin operating and the specific Park Authority funding source for operating the new facility. The Park Authority will submit its Capital Program by priority as established by the Park Authority. The Capital budget will identify all sources of funds including Park Capital Trust Funds. The Board of Supervisors will appropriate only to those expenditures supported by non-trust fund monies (primarily general obligation bond monies).
11. **Park Authority Trust Fund.** Funds (including revenue from park operations, grants, and gifts) received by the Park Authority shall be considered as trust funds of the Park Authority to be appropriated and expended solely by the Park Authority in accordance with its Trust Fund Budget. The Park Authority has the fiduciary responsibility under the law to appropriate, manage

and expend operating Trust Funds. To provide the Board of Supervisors with the information necessary for an overview of the total Fairfax County park program, the Park Authority agrees to adopt such budgeting and reporting procedures for the Operating Trust Fund as are in use by the General County Government.

12. **Finance Director as Fiscal Agent.** As permitted by the Park Authorities Act, Va. Code §§ 15.2-5700, et seq, as amended, the Director of Finance of Fairfax County (“County Director of Finance”) is appointed fiscal agent and trustee for Park Authority Funds. The County Director of Finance will employ accounting principles and techniques satisfactory to the State Auditor of Public Accounts and the County’s auditor (who shall also be the Park Authority’s auditor), and in such detail as may be compatible with the above and as may be required by the Park Authority.
13. **Fund Structure.** The Director of Finance shall maintain a fund structure for Park Authority Funds consistent with County policy and procedures. The structure of Park Authority Trust Funds shall be compatible with the established accounting system but may otherwise be as desired by the Park Authority.
14. **Investments.** The County Director of Finance may, except where provided otherwise by revenue bond resolution, invest Park Authority funds with the County ‘pooled cash’ investments. All funds shall be accounted for in a manner that will provide an audit trail identifying the equity of the Park Authority in the cash pool. Trust funds so invested and interest earned on the trust fund money are subject to appropriations only by the Fairfax County Park Authority Board.
15. **Personnel Policies.** The Park Authority has requested, and the Board of Supervisors has agreed, that the Park Authority’s employees shall be administered under the provisions governing Fairfax County’s personnel system both as in effect now and as may be subsequently modified by the Board of Supervisors. Park Authority positions currently designated as being in competitive service and those currently designated as being exempt service shall continue to be treated as such unless changed by the Authority. It is also agreed that employees of the Park Authority shall have the same rights to file grievances under the County’s grievance procedure as County employees.
16. **Purchasing Procedures.** All Park Authority purchasing and bidding will be in accordance with purchasing policies and procedures established in Fairfax County’s Department of Procurement and Material Management. Procurement practices will be handled through the County Purchasing Agent. As is done with all General County capital projects that the Park Authority will submit all contracts to the Board of Supervisors prior to award to be included in the Board package for review and comment as necessary by the Board of Supervisors.
17. **Innovation and Entrepreneurial Aspects.** The Park Authority will work with the Fairfax County Department of Technology, Office of Public Affairs and other agencies to create future innovation/entrepreneurial opportunities to enhance the capabilities of the Park Authority.
18. **Park Planning.** The responsibilities of the Park Authority and Fairfax County agencies in the park planning cycle shall be as follows:

Action	Responsible Party
A. Maintain Comprehensive County-funded parks and recreation programs and services	Park Authority in coordination with Neighborhood and Community Services.
B. Establishment of parks and recreation Programs and services to meet Objectives of A, above.	Park Authority

C. Development of long-range land and facilities needs plan. - Number and type needed - General locational criteria - Timing and priority	Park Authority– in coordination with the County Department of Planning and Development, and Neighborhood and Community Services
D. Preparation of comprehensive land-use plans (to include input from the Park Authority).	County Department of Planning and Development
E. Preparation of County Capital Improvements Plan (to include Park Authority input).	County Department of Planning and Development
F. Preparation of Capital Improvement Program (including bond sale schedule).	Park Authority in coordination with County Departments of Planning and Development and Management and Budget
G. Preparation of park site design and construction plans.	Park Authority
H. Review of park site design and construction plans.	Land Development Services, Department of Planning and Development, Police and Fire and other agencies as required

18. **Budget and Financial Management**. The responsibilities of the Park Authority and County agencies in the park budget are as follows:

Action	Responsible Organization
A. Preparation of Park Authority annual operating budgets (utilizing County codes, forms and procedures) for all funds.	Park Authority
B. Review and analysis for all funds.	Department of Management and Budget

19. **Land Acquisition**: The responsibilities of the Park Authority and County agencies in the process of land acquisition are as follows:

Action	Responsible Organization
A. Establishment of land acquisition priorities and schedules as to specific sites; and estimates of costs.	Park Authority
B. Research into ownerships, establishment of actual boundaries (through real estate records).	Park Authority
C. County staff review and recommendation of specific sites to be transferred to the Park Authority	County Facilities Management Division including input from Park Authority

D. Inclusion of site on Public Facilities Plan upon application by Park Authority--with recommendation of County Facilities Management Division	Planning Commission (subject to review by Board of Supervisors)
E. Obtaining of appraisals surveys and setting price limits.	Park Authority
F. Negotiation of sale and obtaining engineering studies where deemed necessary. (This is the general case, though there could be exceptions in the case of small acquisitions).	Park Authority
G. Authorization of condemnation action.	Park Authority with assistance by County Attorney as requested by Park Authority.
H. Institution of condemnation action.	Park Authority

20. **Land Bank**: The Land Bank Agreement, as amended from time to time, between the Board of Supervisors and the Park Authority is incorporated herein by reference, and allows the conveyance of certain parcels of land from one party to the other without substantial consideration being paid therefore, in order to support the mission of each party.
21. **Contract Management**: The Park Authority will manage all capital contracts in conformance with adopted Fairfax County Purchasing Resolutions and appropriate financial management procedures used by all County Agencies.
22. **Indemnification of Authority Board Members**. The Board of Supervisors shall include the members of the Park Authority Board among those boards and commissions covered by its Resolution on the Indemnification and Representation of Officers and Employees (copy attached as Exhibit 1).
23. **State Law Controls**. While the Park Authority agrees to follow and comply with Fairfax County procedures where possible as provided above, none of the foregoing provisions is to be construed as limiting the Park Authority's statutory responsibility for the control of its trust funds and the discharge of its non-delegable duties.
24. **State Law Controls (Continued)**. The foregoing provisions are not to be construed or applied in a manner contrary to applicable laws of the Commonwealth of Virginia.
25. **Foundation or its Successors**. The Board of Supervisors acknowledges that the Park Authority has created a separate foundation in order to promote and facilitate County Parks and park activity.

This Memorandum of Agreement shall remain in full force and effect until terminated either by written agreement of both parties, or after 360 days written notification by either party to the other. This Memorandum of Agreement may be formally reviewed by both parties after five (5) years from the date of this Memorandum of Agreement. This Memorandum of Agreement may be amended only by the mutual agreement of the Park Authority and the Board of Supervisors. During the period that this Memorandum of Agreement is in force, neither the Park Authority nor the Board of Supervisors shall take any unilateral action or establish any policy contrary to or in derogation of any of the matters agreed to in the Memorandum of Agreement.

Date

Chairman, Fairfax County Board of Supervisors

Date

Chairman, Fairfax County Park Authority

A Copy Teste:

Clerk for the Board of Supervisors

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ACTION - 4

Establishment of a Task Force on Confederate Road Names

ISSUE:

Board of Supervisors' establishment of a task force to review the names of Lee Highway (U.S. Route 29) and Lee-Jackson Memorial Highway (U.S. Route 50) and make recommendations to the Board on:

- a) whether to change the names of one or both roadways; and
- b) what the names should be changed to.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors establish the Confederate Names Task Force, approve the list of proposed task force members included as Attachment 1, and select Evelyn Spain as the chair of the Task Force.

TIMING:

The Board is requested to act on this item on July 13, 2021, so the task force has sufficient time to prepare their recommendations by the end of calendar year 2021.

BACKGROUND:

On June 23, 2020, the Board requested that the History Commission:

- Create an inventory of Confederate street names, Confederate monuments, and Confederate named public places in Fairfax County;
- Research legal and financial implications of name changes; and
- Seek input from other county entities.

On December 8, 2020, the History Commission provided their report to the Board at a Land Use Policy Committee meeting.

Following discussion, the Board directed staff to:

- Provide more information on the process the Board would have to use to change the names of the two primary roadways identified by the report, Lee Highway and Lee-Jackson Memorial Highway (and possibly other significant secondary roads

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and public facilities) by the end of January 2021. The Board indicated that the process should clarify the role of the Board and the role of the public in decision-making.

- Prepare a memo to explain the existing County process for changing the name of a secondary road in a neighborhood. The memo should outline the process and answer questions such as whether a change in the street name would affect the property deed, how to handle address changes with United States Postal Service, and what other impacts there might be for citizens considering changing the name of a neighborhood road. The process should educate citizens and include a place that the Board can direct inquiries to.
- Provide information about changing the names of subdivisions for the benefit of citizens interested in making those changes.
- Coordinate with neighboring jurisdictions that are undertaking their own name change processes and return to the Board with information about those processes.
- Provide a report about the history of the naming and renaming of the Magisterial Districts.

County staff provided a memo to the Board responding to their request on January 29, 2021, (Attachment 2). The Board discussed the memo on February 2, 2021, at a Land Use Policy Committee meeting and provide additional direction to staff to expand the task force recommendations. Staff presented additional information to the Board at a Land Use Policy Committee meeting on May 25, 2021 (Attachment 3).

Following discussion, the Board directed staff to return to the Board on July 13, 2021, for formal action to establish the Confederate Names Task Force, endorse the membership of the task force, and select the chair of the task force.

Staff is proposing that the first task force meeting be held in late July or early August 2021, and that task force prepare a recommendation for the Board's consideration by the end of calendar year 2021. Staff is also in the process of hiring a facilitator to assist the task force in its deliberation.

In addition to its own deliberations, the task force will seek public input as it prepares its recommendations. The task force will also be asked to coordinate its deliberations with the efforts of neighboring jurisdictions considering changes to the names of the same roads.

Following the task force recommendations, should the Board choose to advance the recommendations, it is suggested that the Board hold one or more public hearings in early 2022. If the Board desires to change the names of one or both roads, the Board

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will need to make a formal request to the Commonwealth Transportation Board and agree to pay the cost of changing the street signs.

FISCAL IMPACT:

Staff has set aside \$50,000 in County General Funds to support the task force and pay for the facilitator. If the Board decides to change the names of one or both roads, the Board will need to commit to the cost of replacing the street signs. The Board may also want to consider financial assistance to affected businesses and property owners in implementing the change in their materials and facilities.

ENCLOSED DOCUMENTS:

Attachment 1: Confederate Names Task Force Members Recommendations
Attachment 2: Memorandum to the Board of Supervisors, dated January 29, 2021
Attachment 3: Presentation to the Board Land Use Policy Committee, dated May 25, 2021

STAFF:

Rachel Flynn, Deputy County Executive
Karla Bruce, Chief Equity Officer
Barbara Byron, Director, Department of Planning and Development (DPD)
Denice Dressel, DPD
Bill Hicks, Director, Department of Land Development Services (LDS)
Paul Fernandes, LDS
Tony Castrilli, Director, Office of Public Affairs (OPA)
Crystal Santos, OPA
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Noelle Dominguez, FCDOT
Malcolm Watson, FCDOT
Anna Nissinen, FCDOT
Robin Geiger, FCDOT

Affiliation	Organization	Recommended By	Representative/Contact
Resident	George Mason University (GMU)	Braddock District	Wilkerson, Philip
HOA	Marymead HOA	Braddock District	Leckert, Jeanne
Resident	N/A	Braddock District	Floyd, Robert H.
Resident	N/A	Braddock District	Jevon Walton
Business Community	A.J. Dvoskin & Associates	Braddock District	Robins, Roni
Civic Association	Random Hills Civic Association	Braddock District	Correia, Richard
Resident	N/A	Chairman	Lamba, Isham
Resident	N/A	Dranesville District	Glakis, Barbara
Resident	N/A	Mason District	Bryant, Bunyan
BAC	Communities of Trust	Mount Vernon	Shirley Ginwright
HOA	Stonewall HOA	Providence District	Berke, Alex
BAC	History Commission	Providence District	Schuman, Sue Kovach
BAC	Women's Commission	Providence District	Woods, Phylcia
HOA	Stonewall	Providence District	Tsui, Julie Park
Resident	N/A	Providence District	Byrne, Linda
Faith Community	First Baptist Church of Merrifield	Providence District	Pastor Paul Sheppard
Historical Group	Tinner Hill Heritage Foundation	Providence District	Edwin Henderson
Historical Group	Chantilly Battlefield Association	Springfield District	Wentzel, Ed
HOA	Pine Ridge HOA	Springfield District	Onks, Peyton
BAC	Springfield District Land Use Committee	Springfield District	Morrissey, John
Historical Group	Bull Run Civil War Roundtable	Springfield District	Meyers, Blake
BAC	History Commission	Sully District	Repetti, Cheryl-Ann
Business Community	Dulles Regional Chamber	Sully District	Martin, Joe
Historical Group	Stuart-Mosby Historical Society	Sully District	Hogge, Dennis
BAC	Small Business Commission	Sully District	Powell, Marvin
Resident	N/A	Sully District	Robinson, Carol
Business Community	Hispanic Chamber of Commerce of Northern Virginia	Staff recommendation/Countywide	Marino, Susana
BAC	Planning Commission	Staff recommendation/Countywide	Spain, Evelyn
BAC	Fairfax County Transportation Advisory Commission (TAC)	Staff recommendation/Countywide	Champness, Michael
Civic Association	National Association for the Advancement of Colored People (NAACP)	Staff recommendation/Countywide	George Alber
Civic Association	Fairfax Federation of Civic Organizations	Staff recommendation/Countywide	Tim Thompson
BAC	Park Authority	Staff recommendation/Countywide	Crowell, Elizabeth



County of Fairfax, Virginia

MEMORANDUM

DATE: January 29, 2021

TO: Members, Board of Supervisors

VIA: Rachel Flynn
Deputy County Executive

FROM: Barbara Byron, Director
Department of Planning and Development

Bill Hicks, Director
Land Development Services

Tony Castrilli, Director
Office of Public Affairs

Tom Biesiadny, Director
Department of Transportation

SUBJECT: Responses to Board Requests Regarding Confederate Names

Background

On June 23, 2020, the Board requested that History Commission:

- Create an inventory of Confederate street names, Confederate monuments, and Confederate public places in Fairfax County;
- Research legal and financial implications of name changes; and
- Seek input from other county entities.

On December 8, 2020, the History Commission provided their report to the Board at the Land Use Policy Committee meeting. A copy of the presentation is included as Attachment I.

Following discussion, the Board directed staff to:

- Provide more information on the process the Board would have to go through to change the names of the two primary roadways identified by the report, Lee Highway and Lee Jackson Memorial Highway (and possibly other significant secondary roads and public facilities) by the end of January 2021. The Board indicated that the process should clarify the role of the Board and the role of the public in decision-making. The Board ultimately must approve any name changes and submit them to the Commonwealth Transportation Board for consideration. (A proposed process is included as Attachment II).

Members, Board of Supervisors

January 29, 2021

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- Prepare a memo to explain the existing County process for changing the name of a secondary road in a neighborhood. The memo should outline the process and answer questions such as whether a change in the street name would affect the property deed, how to handle address changes with USPS, and what other impacts there might be for citizens considering changing the name of a neighborhood road. The process should educate citizens and include a place that the Board can direct inquiries to. Staff should return to the Board in January 2021 with more information. (The current process for changing secondary road names in Fairfax County is included as Attachment III).
- Provide information about changing the names of subdivisions for the benefit of citizens interested in making those changes. (Information is included as Attachment IV).
- Coordinate with neighboring jurisdictions that are undertaking their own name change processes and return to the Board with information about those processes. Information about activities in Arlington County (Attachment V), Prince William County (Attachment VI), Loudoun County (Attachment VII), the City of Alexandria (Attachment VIII), and the City of Fairfax (Attachment IX) are included with this memo.
- Provide a report about the history of the naming and renaming of the Magisterial Districts. (This report is included as Attachment X).

In a subsequent discussion with Chairman McKay, staff was directed to provide additional information to the Board on the processes Fairfax County Park Authority (FCPA) and Fairfax County Public Schools (FCPS) must undertake to change the names of their respective facilities.

- At the direction of the Park Authority Board Executive Committee, from 2017 through 2018, staff researched and identified a total of 15 parks or park facilities which bore potential Confederate surnames or used terminology related to the Confederacy in their names. On January 9, 2019, the Park Authority Board voted to change the name of JEB Stuart Park to Justice Park and Dixie Hill Park to West Fairfax Park. On January 23, 2019, the Park Authority Board voted to change the name of the Robert E. Lee Recreation to the Lee Recreation Center. Park Authority Policy 304: *Naming of Parks and Facilities*, provides guidance as to how these parks are named or renamed. To rename a park or facility owned by the Park Authority, a majority of a quorum of the Park Authority Board must vote in support of the action in compliance with the Park Authority's park naming policy. (The current policy for changing the names of FCPA facilities is included as Attachment XI.)
- In 2015, students led a campaign to rename J.E.B. Stuart High School. The students' request led the Fairfax County School Board to revise its policy establishing guidelines for naming school facilities to include allowing name changes if a compelling need exists. After a lengthy public input process, in July 2017, the School Board voted to

Members, Board of Supervisors
January 29, 2021
Page Three

change the name of J.E.B. Stuart High School, and in October 2017, the School Board voted to adopt the new name of Justice High School. In October 2019, the Fairfax County School Board revised the policy and regulation for naming and renaming school facilities again, to include name changes “to ensure an inclusive, respectful learning environment as outlined in our adopted One Fairfax Policy or when the Board deems it appropriate.” School Board Policy 8170.7 and Regulation 8170.8: *Facilities Planning Procedures for Naming School Facilities and Dedicating Areas of School Facilities or Grounds* sets forth the policy and procedures as to how school facilities are named or renamed. In June 2020, the School Board voted to change the name of Robert E. Lee High School. After soliciting input from the public, in July 2020, the Board voted to adopt the new name of John R. Lewis High School. In October 2020, the School Board voted to proceed with the name change for Mosby Woods Elementary School. The Board postponed its scheduled renaming decision in December 2020 to solicit more community engagement. (The current policy and regulation for changing the names of FCPS facilities are included as Attachments XII and XIII.)

This item has been scheduled for additional Board discussion at the Land Use Policy Committee on February 2, 2021. Representatives of the Fairfax County Park Authority and Fairfax County Public Schools will be in attendance to answer questions about the Board’s role in changing the names of their facilities.

- Attachment I: Presentation from Land Use Policy Committee Meeting, December 8, 2020
- Attachment II: Proposed Process for Changing the Names of Lee Highway and Lee-Jackson Memorial Highway
- Attachment III: Current Process for Changing Street Names
- Attachment IV: Proposed Process for Informing Citizens of the Process for Changing the Names of Subdivisions
- Attachment V: Summary of Arlington County’s Name Changing Activities
- Attachment VI: Summary of Prince William County’s Name Changing Activities
- Attachment VII: Summary of Loudoun County’s Name Changing Activities
- Attachment VIII: Summary of the City of Alexandria’s Name Changing Activities
- Attachment IX: Summary of the City of Fairfax’s Name Changing Activities
- Attachment X: History of Naming and Renaming of Magisterial Districts
- Attachment XI: FCPA Policy 304 Naming of Parks and Facilities
- Attachment XII: FCPS Policy 8170.7 Naming School Facilities
- Attachment XIII: FCPS Regulation 8170.8 Procedures for Naming School Facilities

Cc: Bryan Hill, County Executive

Attachment II

Proposed Process for Changing the Names of Lee Highway and Lee-Jackson Memorial Highway (and Potentially Other Major Secondary Roads and Facilities)

To consider whether to change the names of Lee Highway and Lee-Jackson Memorial Highway (and potentially other major secondary roads and facilities) staff recommends the following:

- The Board establish a diverse community task force to discuss the two roadway names and consider alternative names. Members of the task force should include one representative each from the History Commission, the Planning Commission, the Transportation Advisory Commission, the Economic Development Authority, the National Association for the Advancement of Colored People (NAACP); the Northern Virginia Chamber of Commerce, the Fairfax Federation of Civic Associations; and any other organizations the Board would like to add. The task force should be charged with developing an outreach process for engaging the community to include, but not be limited to, virtual forums to secure the community's input on whether to change the names of these two roadways, the implications of changing the names of the roadways and alternative names for the roadways. If the task force recommends changing the names, the task force should recommend two to five alternative names for each of the roads. These suggested names would then be incorporated into a community survey to solicit feedback. The task force would be supported by a County staff member. A deadline should be established for the completion of the task force's work and submission of a report to the Board.
- Following the completion of task force recommendations and the community survey, the Board should hold one or more public hearings to allow formal public comment on whether the roadway names should be changes and the list of alternative names. Following the public hearing(s), the Board should act to keep the road names the same or change them. If the Board votes to change the names, the action should include a resolution that would be transmitted to the Commonwealth Transportation Board requesting that the names be changed and committing to the cost of changing signage. The Board should also approve a budget consideration item to address the cost associated with changing of the road signs, as well as assistance for local businesses in changing their addresses and company materials.
- The Board establish an inter-department working group to prepare information on the process, costs, and timelines for changing the roadway names. This working group should include representatives of the Department of Planning and Development, the Department of Transportation, the Police Department, the Fire and Rescue Department, the Office of Public Affairs, the Office of the County Attorney, the Department of Information Technology, the Department of Public Works and Environmental Services, the Department of Tax Administration, the Department of Finance, the Department of Management and Budget, and possibly others. The working group should be charged with providing support for the community task force, as well as identify and quantify implementation items. This working group would also be responsible for coordinating

Fairfax County's actions related to Confederate names with Arlington, Loudon, and Prince William Counties, and the Cities of Alexandria and Fairfax and reporting back to the Board of Supervisors prior the scheduling of any public hearing to consider citizen comments.

Proposed Process for Informing Citizens of the Process for Changing the
Names of Subdivisions

The Office of Public Affairs, in coordination with other County agencies and leadership, will develop a common message communications strategy to educate the community about the Confederate renaming process of subdivisions/communities. The information will be shared through County and district offices communication channels, the media, and through direct public engagement. Communication platforms and resources to be used will include:

- Coordinating virtual Q&A sessions for groups interested in renaming their communities.
- Outreach to homeowner's associations and community organizations via lists from district offices and County agencies.
- Communication toolkit for Board of Supervisors, agency and community newsletters and other communications.
- Social Media (Nextdoor, Facebook, Twitter, and YouTube.)
- 16 Around Fairfax video explaining the process that will also be shared on social media platforms.
- Infographic with links explaining the renaming process.
- Media promotion through press releases and targeted pitches to local reporters who have covered this issue extensively.

Summary of Arlington County's Name Changing Activities

Richmond Highway

The General Assembly, in Chapter 286 of the 1922 Virginia Acts of Assembly, named U.S. Route 1 "the Jefferson Davis Highway".

The Arlington County Board participated in the City of Alexandria's Ad Hoc Advisory Group on Renaming Jefferson Davis Highway in 2017. That Advisory Group recommended the name "Richmond Highway" within the boundaries of the City of Alexandria and the City Council voted on June 23, 2018, to adopt an ordinance changing the name of the road, effective January 1, 2019. Arlington County included language in its 2019 Legislative Package to explore avenues to allow Arlington County to rename the section of Jefferson Davis Highway that runs through the county with the same name adopted by Alexandria.

The Virginia Attorney General's Office stated in an advisory opinion on March 21, 2019, that the Commonwealth Transportation Board (CTB) "may change the name of those portions of Jefferson Davis Highway located in Arlington County, provided that its Board of Supervisors adopts a resolution requesting the renaming."

Arlington engaged residents and businesses along the roadway to inform them of the intent to request the name change to Richmond Highway and held a public hearing on the issue. The Arlington County Board adopted a resolution on April 25, 2019, requesting that the CTB rename Jefferson Davis Highway within the County of Arlington to "Richmond Highway" or in the alternative, "Richmond Boulevard". The CTB renamed the roadway, per Arlington County's request, on May 16, 2019.

Lee Highway

In Summer 2020, the Lee Highway Alliance announced it was beginning a renaming process for Lee Highway (U.S. Route 29). It set up a working group and accepted name suggestions through October. The list of names was narrowed to 20 and a public poll was held from October 23 to November 30. The Group reviewed the results and then approved one preferred name (Mildred & Richard Loving Avenue) and four alternates John M. Langston Boulevard, Ella Baker Boulevard, Dr. Edward T. Morton Avenue, and Main Street. They presented the recommendation to the Arlington County Board on December 15, 2020. Delegate Rip Sullivan introduced legislation (HB 1854) for the 2021 General Assembly session that authorizes the Arlington County Board to name any section of U.S. Route 29 located within the boundaries of the locality. The bill provides that the Department of Transportation will place and maintain appropriate signs that will be paid for by the locality.

Summary of Prince William County's Name Changing Activities

During the past year, the Prince William Board of County Supervisors directed staff to conduct a public information meeting regarding the changing of the name of U. S. Route 1 from Jefferson Davis Highway to Richmond Highway. Subsequently, the Board also held a formal public hearing on the matter and approved a resolution requesting that to the Commonwealth Transportation Board (CTB) change the name. The CTB approved this change in December 2020. Prince William County staff indicated that there was no further discussion about what other new names for U.S. Route 1 would be, since the roadway is already called Richmond Highway in Fairfax County. U.S. Route 1 in Prince William County is approximately 12.3 miles.

Prince William County staff estimate that more than 900 businesses will be affected by the name change, and outreach to stakeholders is continuing. It is estimated at that cost of changing street and overhead signs will be between \$400,000 and \$500,000, and Prince William County staff has recommended that the Board allocate more than \$3 million for business assistance to reflect the change. This figure is based on a survey of businesses along the roadway.

As part of the outreach effort associated with the name change, Prince William County staff have also identified code and other compliance issues that need to be addressed.

The Prince William Board of County Supervisors has not discussed changing the name of Lee Highway (U. S. Route 29).

Summary of Loudoun County's Name Changing Activities

On September 15, 2020, the Loudoun County Board of Supervisors directed staff to create a scope of work for the inventory of roads, signs, buildings, and other public infrastructure named after and honoring Confederate and segregationist figures. Staff presented the scope of work for this inventory to the Loudoun County Board of Supervisors on December 15, 2020. The scope includes a public information campaign and public submission tool used to suggest landmarks that need to be renamed and identified June 2021 as the anticipated completion date. The Board voted to approve the scope of work.

Also, on December 15, 2020, a subsequent motion was approved by the Board to initiate the process to rename Route 7 (Harry Byrd Highway) and Route 50 (Mosby Highway) within Loudoun County, and asked staff to attempt to coordinate names for these two roads across the County line with Fairfax County. Staff was asked to report back to the Board with outreach process and associated costs of this effort by June 2021. Recent coordination with Loudoun County staff is developing the outreach strategy and draft process for the renaming of Route 50 and Route 7 that will likely include:

- Public input
- Sign inventory
- Structural analyses/preliminary engineering for larger signs
- Cost estimate for consultant services and materials costs

Summary of the City of Alexandria's Name Changing Activities

In September 2015, Alexandria City Council unanimously passed a resolution establishing an Ad Hoc Advisory Group on Confederate Memorials and Street Names. The resolution directed the City Manager to appoint the seven members of the Advisory Group consisting of representatives from the Planning Commission, the Historic Alexandria Resources Commission, the Transportation Commission, the Human Rights Commission, the Society for the Preservation of Black Heritage and two at-large positions for which the City solicited applicants. The group was asked to develop recommendations on actions, if any, that it believes City Council should consider with respect to:

- the status of the *Appomattox* statue on South Washington Street owned by the United Daughters of the Confederacy
- the name of Jefferson Davis Highway in the City of Alexandria
- the names of the many streets within the City that are named after Confederate generals and military leaders
- a specific policy on flying of any flags on property owned or under the control of the City* -

*In September 2015, City Council voted unanimously to prohibit the flying of the Confederate flag on City property on Robert E. Lee's Birthday and on Confederate Memorial Day.

The Advisory Group was established September 2015; Their final report was submitted August 2016.

In September 2016, the City Council took the following actions:

- directed the City Manager to begin the process of renaming Jefferson Davis Highway in Alexandria, by creating a robust community engagement process.
- decided not to act on any other street names, agreeing with the Advisory Group that individual requests for street name changes should be considered if brought by residents under existing processes.
- directed staff to initiate a discussion with the United Daughters of the Confederacy (UDC), which owns *Appomattox*, regarding the possibility of moving the statue from the middle of the street to the edge, on the lawn of The Lyceum. UDC removed *Appomattox* in June 2020.

In 2017, the City Manager announced an Ad Hoc Advisory Group on Renaming Jefferson Davis Highway, to solicit public feedback and consider potential new names. The group included: two members from Alexandria and two members from Arlington.

In August 2017, the Advisory Group launched an online survey and scheduled two public hearings to solicit potential new names for renaming Jefferson Davis Highway.

In October 2017, the Advisory Group unanimously recommended renaming Jefferson Davis Highway to Richmond Highway.

In June 2018, the Alexandria City Council voted 6-0 to approve an ordinance renaming Jefferson Davis Highway to Richmond Highway in Alexandria, effective January 1, 2019.

Summary of the City of Fairfax's Name Changing Activities

The City of Fairfax has begun a community dialogue on racial issues that include a discussion about Confederate names.

Fairfax County staff is seeking additional information from City of Fairfax staff regarding this effort.



Confederate Names Primary Road Recommendations

Board Land Use Policy Committee Meeting
May 25, 2021

Tom Biesiadny, Director
Fairfax County Department of Transportation

Today's Agenda

- Background
- Changing Neighborhood Streets and Subdivision Names
- Changing Lee Highway and Lee-Jackson Memorial Highway
 - Stakeholder Task Force
 - Facilitator
- Proposed Schedule
- Update on Planning District Names
- Feedback Requested from Board Members



Background

- On June 23, 2020, the Board requested that History Commission:
 - Create an inventory of Confederate street names, monuments, and public places in Fairfax County;
 - Research legal and financial implications of name changes; and
 - Seek input from other county entities.
- On December 8, 2020, the History Commission provided their report at the Land Use Policy Committee
 - The Board directed staff to:
 - Provide more information on
 - the process to change the names of Lee Highway and Lee-Jackson Memorial Highway
 - the process for changing the name of a secondary road in a neighborhood
 - changing the names of subdivisions
 - Coordinate with neighboring jurisdictions
 - Provide a report about the history of the naming and renaming of Magisterial Districts
- On February 2, 2021, staff
 - Presented recommendations for a task force to address Lee Highway and Lee-Jackson Memorial Highway;
 - Provided information about how communities and subdivisions can change their street and community names;
 - Summarized actions that adjacent jurisdictions regarding Confederate names.
- The Board:
 - Asked for additional information regarding the process for communities to change their street names
 - Provided feedback on the proposed organizations to be represented on the stakeholder task force; and
 - Directed staff to proceed with formalizing a recommendation for the Board's consideration



Changing Neighborhood Street Names

To change a neighborhood street name, the following items should be submitted to Land Development Services:

- Petition signed by at least 51% of the lot owners on the street
- A one-time fee in accordance with the Fairfax County Sign Shop price list for the cost of manufacturing the sign(s).

Street name change requests can be submitted and tracked online.

Changing Subdivision Names

- There are no statutes or ordinances regulating changing a subdivision's name on an entrance sign.
- If the community would like to legally document the subdivision name change in the land records and erase the current name from its chain of title and history, the property owners' association or authorized entity representing the subdivision must submit a deed of correction, with any properly authorized signature, to Land Development Services to change the name on the original subdivision plat.

Additional information on changing neighborhood street names and subdivision names is available at

<https://www.fairfaxcounty.gov/landdevelopment/addressing-and-street-names>

Changing Lee Highway and Lee-Jackson Memorial Highway

- County staff working group formed
 - Includes representatives from County Executive's Office, Public Affairs, Chief Equity Officer, Planning and Development, Land Development Services and Transportation
 - Worked with Board offices to identify stakeholder groups and individual representatives
 - Developed a scope of work for facilitator to assist the task force
 - Identified potential facilitators and ultimately select the facilitator
 - Formalized a proposal for the role of the task force

Changing Lee Highway and Lee-Jackson Memorial Highway

- Potential Task Force Members

- Based on Board input on February 2, staff has polled all Board members for input and broadened the stakeholders list
- Of the organization and individuals identified, approximately 30 have expressed an interest in participating on the task force.
- 14 organizations and individuals declined to participate.
- Community resources have also been identified.
- Staff requests the Board's feedback on the list of organizations and individuals that have expressed an interest in participating by June 4.

Changing Lee Highway and Lee-Jackson Memorial Highway



- Proposed Task Force Approach
 - Approximately 25 members, appointed by the Board
 - Chairperson appointed by the Board
 - By the end of the year, make a recommendation to the Board on:
 - Whether to changes the names of Lee Highway and Lee-Jackson Memorial Highway
 - What to changes the names for these highway to
 - Working with a facilitator, develop a process for discussing these topics and for securing public input on both topics
 - Chairperson to present recommendation to Board
 - Board to scheduled at least one public hearing on the task force's recommendations
 - Following the public hearing(s), Board decisions on whether to request CTB approval of a change

Changing Lee Highway and Lee-Jackson Memorial Highway

- Facilitator
 - Staff has identified several potential facilitators and will seek proposals from each
 - Staff may interview the facilitators before making a selection
- Expanding the Staff Task Force
 - While six County agencies have been working on the Confederate Names effort to date, if name changes are advanced, additional County agencies, including Public Works and Environmental Services, the County Attorney's Office, Tax Administration and others will need to be included to identify the costs and other implications of changing the names for these two highways.
 - This additional information can be provided to the Board and the task force.

Proposed Schedule

- Board Land Use Policy Committee: May 25, 2021
- Board Feedback on Potential Task Force Members: June 4, 2021
- Board Approval of Task Force Members and Chair: July 13, 2021
- First Task Force Meeting: Late July 2021
- Task Force Recommendations Due: December 2021
- Board Public Hearing and Decision: Early 2022



Planning Sectors with Confederate Associated Names

SECTOR NAME	SECTOR ID	PLAN AREA	PLANNING DISTRICT	SUPERVISOR DISTRICT	NOTES
LEE	V1	II	VIENNA	PROVIDENCE	Lee Hwy runs through this Community Planning Sector
LEE-JACKSON	UP8	III	UPPER POTOMAC	SULLY	Lee-Jackson Memorial Hwy is the southern border of this Community Planning Sector
STRINGFELLOW	BR4	III	BULL RUN	SPRINGFIELD AND SULLY	Stringfellow Road runs through this Community Planning Sector
MOSBY WOODS	F3	II	FAIRFAX	PROVIDENCE	
SHREVE WEST	J8	I	JEFFERSON	PROVIDENCE	County family name with Confederate ties; Shreve Road is the northern border of this Community Planning Sector
BALLS HILL	M4	II	MCLEAN	DRANESVILLE	County family name with Confederate ties

Feedback Requested from Board Members

- Input on proposed process
- Input on proposed timeline
- Input on proposed task force membership
- Any other guidance the Board would like to provide

Board Agenda Item
July 13, 2021

ACTION - 5

Adoption of the 2021 Fairfax County Operational Energy Strategy

ISSUE:

Board adoption of the 2021 Fairfax County Operational Energy Strategy.

RECOMMENDATION:

The County Executive recommends that the Board adopt the 2021 Fairfax County Operational Energy Strategy, which is provided as Attachment 1.

TIMING:

Board action is requested on July 13, 2021, as requested by the Board of Supervisors Environmental Committee at its June 15, 2021 meeting.

BACKGROUND:

To ensure that Fairfax County does its part to meet the global climate crisis, this revised Operational Energy Strategy (OES or Energy Strategy) presents transformational targets aimed at reducing energy use by county buildings, facilities, fleet, and other government operations and the carbon emissions associated with that energy use. These targets and the actions that advance them support an overarching goal of energy carbon neutrality by 2040. They embody direction from the Board of Supervisors (Board) over the last several years, but particularly since late 2020.

In June 2017, the Board of Supervisors (Board) adopted an updated [Environmental Vision](#) that included a new section on Climate and Energy. This section added objectives intended to reduce both the county's operational use of energy from fossil fuel sources and the greenhouse gas (GHG) emissions associated with that energy use.

In July 2018, to further these climate objectives, the Board adopted its first-ever [Operational Energy Strategy](#). The OES provided goals, targets and actions in 10 specific focus areas, including energy use and efficiency, green buildings, electric vehicles, innovative energy solutions and waste management.

In April 2019, the Board of Supervisors and the Board of the Fairfax County Public Schools (FCPS) formed the Joint Environmental Task Force, or JET, with the mission of joining the political and administrative capabilities of the county and the school system

Board Agenda Item
July 13, 2021

to proactively address climate change and environmental sustainability. The JET issued its [Final Report](#) in October 2020 with an overarching recommendation of energy carbon neutrality by 2040 and supporting recommendations in the areas of energy, transportation, waste management and recycling, and workforce development.

In October 2020, the Board accepted the JET's Final Report and directed staff to begin work on an implementation plan. Implementation was the subject of a [March 9, 2021 memorandum](#) to the Board and discussed at Board meetings in 2021, including the [March 16](#) and [April 6, 2021](#) meetings of the Board's Environmental Committee. The April meeting included an extensive discussion of some of the challenges associated with the JET's transportation recommendations.

A May 4, 2021, Board Matter, jointly sponsored by Chairman McKay and Supervisors Gross and Storck, directed the Office of Environmental and Energy Coordination (OEEC) to develop a carbon neutrality declaration and supporting energy and climate policy statements for discussion at the June 15 Environmental Committee meeting. In support of these materials, OEEC proposed to update the 2018 Operational Energy Strategy, as explained in a [June 9, 2021 memorandum](#) to the Board.

At the [June 15, 2021 Environmental Committee meeting](#), the Board discussed and expressed support for updating the Energy Strategy to incorporate both the overarching goal of carbon neutrality by 2040 and related goals, except transportation, which it agreed to consider at its June 29, 2021 Transportation Committee meeting. At that time, the Board directed staff to bring forward an Action Item to adopt the updated Energy Strategy at the July 13, 2021 Board meeting.

At the June 29 Transportation Committee meeting, the Fairfax County Department of Transportation discussed its plans to meet the following goals to transition the county's bus fleet from diesel to electric:

- no diesel bus purchases after FY 2024 without further Board discussion;
- pursue the goal of a non-carbon emitting transit fleet by 2035;
- work with local, state and federal governments to ensure a continuous and interconnected transit system; and
- identify ways to transition to electric buses more quickly, while not impacting route and ridership needs.

The updated Operational Energy Strategy is provided as Attachment 1. It adds the overarching goal of carbon neutrality and substantially revises targets for six of the ten original focus areas as compared to the 2018 OES. These revised targets are consistent with Board discussion and direction, including discussion at the June 15 Environmental Committee and June 29 Transportation Committee meetings.

Board Agenda Item
July 13, 2021

OEEC greatly appreciates the support of the Board and County Executive in developing and presenting this updated OES. OEEC will assume responsibility for tracking, monitoring and reporting the county's progress on OES items on a regular basis, as well as proposing updates as warranted. However, progress in achieving the Energy Strategy's very ambitious goals and targets requires the cooperation and collaboration of county agencies. As we move forward, we recognize that although we may not have all the tools we need today, we operate within a society that is increasingly galvanized by the need for urgent action to reduce carbon emissions through innovation, technological change and enhanced efficiencies. All agencies must keep apprised of changes in technologies, markets, and regulation and be sufficiently nimble to pivot as necessary to incorporate constructive developments.

FISCAL IMPACT:

As explained in the [June 9, 2021 memorandum](#), OEEC anticipates continuing to request funding for OES projects through quarterly reviews, as it has over the last several years. In the near term, OEEC expects to request \$15 million at FY 2021 carryover to begin implementing the revised OES targets. Additionally, as major plans are adopted, OEEC will work closely with the Department of Management and Budget to propose funding in the FY 2023 Advertised Budget to supplement the quarterly reviews.

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County 2021 Operational Energy Strategy

STAFF:

Joseph Mondoro, Chief Financial Officer

Kambiz Agazi, Director, Office of Environmental and Energy Coordination (OEEC)

Susan Hafeli, Deputy Director, OEEC

Fairfax County Operational Energy Strategy

July 13, 2021



A Fairfax County, Va., publication

FAIRFAX COUNTY BOARD OF SUPERVISORS

- Jeffrey C. McKay, Chairman. At-Large
- Penelope A. Gross, Vice-Chairman. Mason District
- James R. Walkinshaw. Braddock District
- John W. Foust. Dranesville District
- Walter L. Alcorn. Hunter Mill District
- Rodney L. Lusk. Lee District
- Daniel G. Storck. Mount Vernon District
- Dalia A. Palchik. Providence District
- Pat Herry. Springfield District
- Kathy L. Smith. Sully District



From left to right: Walter Alcorn, Kathy Smith, Pat Herry, Daniel Storck, Penny Gross, Jeffrey McKay, Dalia Palchik, John Foust, James Walkinshaw, Rodney Lusk.

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Introduction

In June 2017, the Board of Supervisors (Board) adopted an updated [Environmental Vision](#) that included a new section on Climate and Energy. This section added objectives intended to reduce both the county's operational use of energy from fossil fuel sources and the greenhouse gas (GHG) emissions associated with that energy use.

In July 2018, to further these climate objectives, the Board adopted its first-ever Operational Energy Strategy (OES or Energy Strategy). The OES provided goals, target and actions in 10 specific focus areas, including energy use and efficiency, green buildings, electric vehicles, innovative energy solutions and waste management.

In April 2019, the Board of Supervisors and the Board of the Fairfax County Public Schools (FCPS) formed the [Joint Environmental Task Force](#), or JET, with the mission of joining the political and administrative capabilities of the county and the school system to proactively address climate change and environmental sustainability. The JET issued its [Final Report](#) in October 2020 with an overarching recommendation of energy carbon neutrality by 2040 and supporting recommendations in the areas of energy, transportation, waste and recycling, and workforce development.

In October 2020, the Board accepted the JET's Final Report and directed staff to begin work on an implementation plan. Implementation was discussed at Board meetings in 2021, including the March and April 2021 meetings of the Board's Environmental Committee. The April meeting included an extensive discussion of some of the challenges associated with the JET's transportation recommendations.

At its June 15, 2021 Environmental Committee meeting, the Board discussed and expressed support for updating the Energy Strategy to incorporate both the overarching goal of carbon neutrality by 2040 and related goals, except transportation, which it agreed to consider at its June 29, 2021 Transportation Committee meeting. At that time, the Board directed staff to bring forward an Action Item to adopt the updated Energy Strategy at the July 13, 2021 Board meeting.

At the June 29 meeting, the Fairfax County Department of Transportation discussed its plans to meet the following goals to transition the county's bus fleet from diesel to electric:

- no diesel bus purchases after FY 2024 without further Board discussion;
- pursue the goal of a non-carbon emitting transit fleet by 2035;
- work with local, state and federal governments to ensure a continuous and interconnected transit system; and
- identify ways to transition to electric buses more quickly, while not impacting route and ridership needs.

Consistent with Board direction, this updated OES adds an overarching goal of carbon neutrality and substantially revises targets for six of the ten original focus areas to incorporate the related goals.

Fairfax County recognizes that the path to carbon neutrality will be neither easy nor inexpensive. But creative teamwork and action is needed now. Consequently, this Operational Energy Strategy sets forth transformational targets for energy used by county buildings, facilities, fleets and other operations. It is intended to clearly communicate county objectives regarding emissions reductions and to provide guidance for achieving them, subject to support including adequate staffing and resources and dedicated funding. This Strategy is also intended to be a living document. While its goals, targets and actions reflect current conditions, periodic review and update will help ensure that these elements of the Energy Strategy remain meaningful.

Overview

A. Fairfax County is Committed to Emissions Reductions

Fairfax County, which is home to over 1.1 million residents, is governed by an elected 10-member Board of Supervisors. Board [Priorities](#) include engaging residents and business and to protect investment in eight critical areas, including ensuring “a clean, sustainable environment.” The updated Energy Strategy advances this Board priority and is the latest in a long line of proactive county policies and initiatives to address environmental goals and challenges.

In 2004, the Board adopted its “Environmental Excellence for Fairfax County: A 20-year Vision.” This vision document, also known as the Environmental Agenda, describes environmental stewardship as both a key responsibility and a critical legacy of any elected public body. (The Environmental Agenda was superseded in 2017 by the [Environmental Vision](#).)

In July 2007, the Fairfax County Board signed the Cool Counties Climate Stabilization Declaration ([Cool Counties Declaration](#)), committing itself to take certain actions, including working with partners to reduce regional greenhouse gas (GHG) emissions to 80 percent below 2005 levels by 2050. This 2050 goal was one of several emission reduction goals adopted by the Metropolitan Washington Council of Governments in 2008.

Fairfax County undertook a range of actions to reduce its GHG emissions in response to these developments and commitments. In 2009 the Board adopted a Sustainable Development Policy for Capital Facilities that established LEED Silver requirements for new county construction and major renovations of county buildings over a certain size. (This policy was revised in 2020, with further revisions recommended by the JET and included in the updated OES.) It adopted an Energy Policy in 2009, encouraged energy improvements in its buildings and facilities, and began a transition to hybrid-electric and electric vehicles (EVs), leading to over 100 hybrids and EVs in the county fleet today. The county also began implementing innovative approaches to energy and emissions reductions. Two of these programs still in effect today are a landfill gas program, in which methane from the county’s closed landfill is captured, processed and sold to generate electricity, and a water-reuse program, in which treated wastewater is safely used for irrigation and industrial purposes. More information is available in the county’s [Sustainability Initiatives](#) report.

As a result of these and other emissions reduction efforts, as well as the shift by the electric utility industry away from coal-fired electricity generation, Fairfax County community-wide GHG emissions decreased 13 percent between 2005 and 2018, according to the county’s [2021 GHG emissions inventory](#). During this same period, per capita emissions decreased 24 percent despite a 15 percent growth in population.

In April 2019 the Board of Supervisors and the School Board formed the Joint Environmental Task Force, or JET, to focus on and set goals regarding operational emissions, as discussed in the Introduction. The JET issued its Final Report in October 2020 with an overarching recommendation of energy carbon neutrality by 2040 and supporting recommendations in the areas of energy, transportation, waste and recycling, and workforce development. Most of these recommendations are incorporated in the updated OES, either as proposed by the JET or modified by the Board.

With many of the commitments in the Cool Counties Declaration fulfilled and increasing urgency to significantly reduce emissions, the Board considered the adoption of a proposed Carbon Neutral Counties Declaration and supporting Policy Statements during its June 15, 2021 Environmental Committee meeting. This Declaration is a commitment county governments can make to reduce their operational greenhouse gas emissions. Signatories to the Declaration are asked to:

- commit to being energy carbon neutral by 2040;
- urge federal and state lawmakers to provide incentives, requirements or other such measures to meet the carbon neutral goal; and
- ensure equitable implementation of the goal so that no communities are disproportionately impacted by the transition to a carbon neutral economy, and all have access to the benefits that may arise.

A decision regarding adoption of the Declaration and related Policy Statements is scheduled for the Board's July 13, 2021 public meeting. This updated Operational Energy Strategy, which is also scheduled for Board consideration during the July 13, 2021 meeting, is intended to help implement the carbon neutrality goal and policies as applied to county government operations.

Meanwhile, two significant climate planning efforts are also underway in Fairfax County: the [Community-wide Energy and Climate Action Plan](#) (CECAP) and the [Resilient Fairfax](#) initiative. The CECAP, which is slated for Board consideration in September 2021, is a mitigation effort that will include community-defined emissions reduction goals, strategies and actions for Fairfax County residents, businesses, organizations, and other stakeholders. While the JET recommendations and updated OES are focused on government operations, the CECAP is focused on the community. Resilient Fairfax is a comprehensive climate adaptation and resilience planning effort for the county and the community. This plan, which is slated for Board consideration in mid-2022, will include strategies to reduce risk to county residents, businesses, and infrastructure from economic, social and environmental risks associated with climate change.

B. Achieving Energy Carbon Neutrality in County Government Operations Will Require Significant and Sustained Efforts

Global warming refers to the long-term heating of Earth's climate system observed since the pre-industrial period (between 1850 and 1900) due to human activities, primarily fossil fuel burning, which increases heat-trapping greenhouse gas (GHG) levels in Earth's atmosphere. The term is frequently used interchangeably with the term climate change, though the latter refers to both human- and naturally-produced warming. The GHGs that the OES intends to address are carbon dioxide, which is the most abundant of the GHGs, methane and nitrous oxide. While for simplicity's sake the document may refer to carbon or carbon dioxide (CO₂), OES-related emissions reductions and avoidance will be measured and reported as "carbon dioxide equivalent," or CO₂e, where available to capture the different global warming potentials (GWP) of the three GHGs.

The county’s energy carbon neutrality commitment is understood as a balance of carbon emissions: that is, removing as much CO₂ from the atmosphere as is emitted in a defined period of time.

Achieving energy carbon neutrality is expected to require, first, reducing carbon emissions to the greatest extent possible, then making up the remaining difference through carbon offsets. Offsets are required because so long as there is continued use of some existing fossil-fuel infrastructure, reaching zero emissions is not possible.

County government operations currently use fossil fuels, either directly or indirectly, to meet electricity, heating and transportation needs. To significantly reduce the fossil fuel usage and resulting carbon emissions of county government operations, the updated Energy Strategy sets more ambitious goals and targets in seven of the 11 focus areas and also provides examples of supporting actions that can be taken to help achieve these reductions. The revised focus areas, listed below and discussed separately in the following sections, are:

- | | |
|-----------------------|---------------------------|
| Emissions Reductions | Energy Use and Efficiency |
| Green Buildings | Renewables |
| Fleet Electrification | Goods and Services |
| Waste Management | |

The **goal** for each focus area is a long-term objective that, as a general rule, reflects some or all of various Board policies or initiatives. The **target** for each focus area is intended to provide specific direction. In most cases, the targets are quantifiable and therefore measurable. The **actions** in each focus area are intended to help achieve the goal and target of a specific focus area. The actions are a set of possible opportunities directed towards operations personnel that can reduce fossil fuel use and avoid carbon emissions. Targets and actions should be periodically reviewed and updated to ensure they remain vital despite expected advances in technology and legislative and regulatory change.

The chart below shows the magnitude of the effort that will be required to achieve the energy carbon neutrality goal and the magnitude of the impact it will have, using FY2018 as a baseline year. Additional information about operational energy use and emissions is provided in Appendix 2.

Fuel Type	FY2018 Energy Use	Equivalent Homes Powered ¹	Equivalent Passenger Vehicles ¹
Electricity	262,073,761 kWh	10,706	19,317
Natural Gas	4,706,577 Therms	3,009	5,430
Gasoline	4,330,866 Gallons	4,637	8,367
Diesel	8,049,160 Gallons	9,872	17,813
Total	2,991,597,570 kBtu	28,225	50,928

¹ Equivalent Homes Powered and Equivalent Passenger Vehicles are from the [EPA’s Greenhouse Gas Equivalencies Calculator](#).

Reaching the goal of energy carbon neutrality by 2040 will require a sustained, multi-pronged effort to reduce fossil fuel use, thereby reducing the CO₂ emissions recognized to drive global warming. Reaching the goal also will require supportive federal and state laws, policies and actions, as well as technological, market and other developments that will re-shape the possibilities available to us, especially in the areas of vehicle emissions and fleet electrification. The county's effort must include actions such as emphasizing energy efficiency and conservation, implementing deep building retrofits, increasing reliance on renewable energy and alternative technologies, and continuing to encourage and empower behavior change. Fortunately, actions that reduce fossil fuel use not only avoid CO₂ emissions, they also tend to lower utility bills, thus providing both environmental and fiscal benefits.

As was recognized in the 2018 version of the Operational Energy Strategy, no focus area is the responsibility of one department or agency alone. Fairfax County Government leadership, management, and employees will need to work together to successfully implement this transformative Energy Strategy and achieve its benefits. Detailed action plans and increased inter-agency coordination and cooperation will be crucial. In some cases, leadership and management may need to expressly empower staff to act in furtherance of the goals, targets, and actions in this Energy Strategy. Periodic reviews and updates will help ensure it remains vital despite expected advances in technology and legislative and regulatory change.

Further, achieving the Energy Strategy's goals and targets requires financial commitments from the Board, departments, and agencies. Initial capital outlays, adequate staffing and resources, and dedicated funding are essential both to undertake the actions in this Energy Strategy and to realize their benefits. Implementing ambitious building retrofits, pursuing renewable energy and fleet electrification, and reimagining procurement and waste management strategies and practices will be heavy lifts, but making the necessary investments are critical to slowing and reversing growth in carbon emissions and will generate returns and benefits for decades.

Focus Area: Greenhouse Gas Emissions Reductions



The emphasis of the 2021 Operational Energy Strategy is to sufficiently reduce GHG emissions from county government operations and activities so as to achieve energy carbon neutrality by 2040. Reaching this very ambitious goal will require substantial and coordinated effort from county government. In addition to reducing GHG emissions, this effort will yield important additional benefits over time, including improving facility comfort and reducing pollution that affects local air quality; it also is expected to reduce operating costs.

Goal:

Significantly reduce greenhouse gas emissions in county facilities and operations.

Targets:

1. Reduce emissions 50% by 2030, as compared to the FY 2018 baseline.
2. Be energy carbon neutral by 2040, as compared to the FY 2018 baseline.

Actions:

Actions that can reduce greenhouse gas emissions are described in each of the subsequent focus areas. In general, they include:

1. Making energy efficiency an integral part of facility management, capital improvement and renovation projects throughout county operations, including pursuit of deep energy reduction retrofits.
2. For new construction, designing and building net-zero energy (NZE) structures that incorporate best practice energy-efficient design, use of electricity-based space and water heating, and on-site renewable electricity generation.
3. Deploying renewable energy generation at county buildings and facilities and procuring high quality renewable energy from beyond county government locations to offset energy use where on-site renewable energy generation is not feasible or affordable.
4. Electrifying the county fleet of vehicles to the extent possible, in parallel with installation of appropriate vehicle recharging infrastructure.
5. Developing and implementing a sustainable purchasing policy that considers supply chain emissions and prioritizes low- or no-carbon solutions when selecting vendors and making procurement decisions.
6. Developing and implementing a zero waste plan to conserve resources, support a local circular economy, and promote social equity.
7. Collecting and managing data on energy use and GHG emissions from across the county enterprise, to measure progress and identify challenges and opportunities.
8. Ensuring appropriate training for staff, educating them on the importance of energy efficiency and conservation practices, and empowering them to identify and contribute their own project ideas.

Focus Area: Energy Use and Efficiency



This focus area is intended to reduce or avoid the use of fossil-fuel energy in county government operations. Achieving carbon neutrality by 2040 will require sustained investment to fund improvements in existing buildings and facilities. These improvements will include deep energy efficiency retrofits and beneficial electrification to allow for the use of electricity in lieu of fossil fuels like natural gas. These and other improvements are expected to reduce overall emissions as well as energy costs.

Goal:

Reduce electricity and natural gas use in existing county facilities and operations.

Targets:

1. Decrease energy use 25% by 2030, as compared to the FY 2018 baseline.
2. Decrease energy use 50% by 2040, as compared to the FY 2018 baseline.

Actions:

1. Collect energy use data across the enterprise. Benchmark and analyze this information to monitor facility performance and identify opportunities for energy improvements.
2. Perform facility energy audits on a routine basis to identify efficiency opportunities.
3. Pursue deep energy retrofits of existing facilities using a whole-building scope of work instead of multiple incremental retrofits of isolated systems over time. Use energy-saving performance contracts when feasible.
4. Where whole-building approaches to deep energy retrofits are not feasible, implement cost-effective energy efficiency projects on building systems.
5. When replacing heating, ventilation, and cooling (HVAC) equipment, right-size the mechanical equipment for actual building loads, rather than simple like-for-like replacement. Specify high-efficiency equipment to the extent possible.
6. Be alert to opportunities to replace fossil-fuel heating and water heating equipment with efficient electric alternatives, where possible.
7. Optimize facility and equipment performance through systematic practices that maintain efficiency in existing equipment.
8. Use energy management systems and automated controls to optimize whole-system performance for energy savings and occupant comfort.
9. Implement a retrocommissioning program for whole-building tune-ups, with a further goal of continuous commissioning for the largest county buildings.
10. For replacement equipment and motors, specify ENERGY STAR® rated equipment and NEMA Premium® motors where available.

Focus Area: Water Use and Efficiency



Fairfax County Water Reuse Facilities

Measures that reduce water use in county operations achieve energy savings and environmental benefits. Direct benefits include reductions in the county's water and sewer costs and the conservation of valuable treated drinking water. Indirect benefits include reductions in county government electricity use and the avoidance of associated GHG emissions, because water treatment and distribution are energy intensive activities.

Goal:

Reduce water use in county facilities and operations.

Target:

Reduce water usage 20% for all new construction or major renovations.

Actions:

1. Monitor and analyze water use and equipment performance. Review utility bills and other available data to identify areas of opportunity.
2. Routinely audit and assess existing building stock for water efficiency opportunities.
3. Engage in commissioning, preventative maintenance, and other practices to optimize cooling tower and other equipment performance.
4. Identify and implement cost-effective water efficiency projects, including the installation of water-efficient fixtures and systems.
5. Expand use of control systems to maximize water efficiency and ensure appropriate programming and maintenance.
6. Incorporate natural landscaping with native vegetation to minimize irrigation needs. Install web-based irrigation control systems where appropriate.
7. Install leak detection sensors in facilities at higher risk of water loss or damage.
8. Exceed Virginia code requirements when replacing equipment and fixtures.
9. Continue to explore additional opportunities to use reclaimed wastewater from the Noman M. Cole Jr. Pollution Control Plant.
10. Routinely evaluate new technologies that can reduce water consumption.

Focus Area: Green Buildings



Dolley Madison Library (LEED® Gold)

The construction of net zero energy (NZE) and near-NZE buildings and major renovations is a critical component of Fairfax County's plan to achieve energy carbon neutrality. Minimizing energy use through efficient building design is a fundamental design criterion. In addition, as the electric grid in Virginia continues to decarbonize, ensuring that new construction and major renovations avoid direct use of fossil fuels allows the county to further reduce carbon emissions while maximizing use of on-site renewable electricity from solar photovoltaics.

Goal:

Ensure that new construction and major renovations of county facilities are energy- and water-efficient.

Targets:

For facilities with an occupied area greater than 10,000 square feet:

1. All new construction and major renovations beginning planning and design in 2021 meet NZE standards unless the Board of Supervisors is advised prior to the 30% design phase as to why the project cannot meet the NZE standard. LEED Gold plus 50% more efficient than baseline is the minimum certification.
2. All new facility construction, additions and major renovations (a) beginning design in FY 2022 or later are electric-ready and (b) beginning design in FY 2024 or later use only electric equipment and appliances, unless no alternative can be identified.

Actions:

1. Coordinate among agencies to ensure that the lifetime energy and water use of a new building or major renovation is minimized by design. This includes intentional building orientation and massing to consider energy loads, as well as high-efficiency building envelopes and appropriately sized energy-efficient mechanical systems.
2. For major renovations, convert fossil fuel systems to electric equivalents unless impracticable.
3. Incorporate renewable energy systems, such as rooftop solar panels, into designs for new construction and major renovations.
4. Attain high-efficiency building certifications. Where appropriate, design for LEED Platinum and pursue the Designed to Earn ENERGY STAR certification. Keep apprised of and consider pursuing LEED Zero certifications.
5. Seek to reduce or eliminate embodied carbon in building construction or renovation, including considering changes in concrete specifications for lower-embodied carbon.
6. Coordinate among agencies to ensure that electric vehicle (EV) charging infrastructure is provided at new and renovated facilities where fleet and/or public vehicle EV charging is appropriate and desirable.
7. Advocate for strengthened Virginia energy and building code requirements.

Focus Area: Renewables



Stringfellow Park-and-Ride

The county is committed to the use of renewable energy for a substantial portion of its electricity use in the near future. This focus area continues the county's long history of applying innovative approaches and technologies to achieve environmental and energy objectives, including its waste-to-energy operations, its landfill gas capture and reuse initiative, and its use of reclaimed water.

Goal:

Reduce GHG emissions and electricity costs by generating and using renewable sources of energy.

Targets:

1. Produce 25% of county electricity from renewable energy generation by 2030, using FY 2018 energy use as the baseline.
2. Produce 50% of county electricity from renewable energy generation by 2040, using FY 2018 energy use as the baseline.

Actions:

1. Install solar photovoltaic systems at county facilities, using power purchase agreements or county capital funds as appropriate for the size and setting of each site. Direct on-site use of renewable energy systems is a key component of net zero energy construction.
2. Procure high-quality renewable electricity through contractual agreements. Such agreements should provide additionality of renewable power, even if physical electrons are not delivered to Fairfax.
3. Participate in joint initiatives with public- and/or private-sector partners that encourage innovation, including opportunities for renewable energy projects on privately-owned property for county benefit.
4. Identify opportunities to implement alternative renewable energy technologies on county government property, such as geothermal energy and energy storage.
5. Continue recovering landfill gas from the county's closed landfills and using the gas for heating, industrial purposes, or to generate electricity that is sold back to the grid.
6. Pursue resource recovery at wastewater treatment plants to lower total net energy consumption and GHG emissions at these facilities.
7. Develop demonstration projects that can be viewed by the public.

Focus Area: Fleet Electrification



Merrifield Electric Autonomous Shuttle

This focus area supports the transition from gasoline-powered vehicles to hybrid-electric and electric vehicles (EVs). The transition with respect to passenger vehicles has been underway for several years in response to the county's interest in cleaner and more energy-efficient vehicles. In May 2021, Fairfax County was awarded state grants to fund several additional types of EVs and their charging stations, including four electric shuttle buses, four electric solid waste and recycling trucks, and an electric box truck.

Goal:

Minimize use of petroleum-based transportation fuels, primarily through electrification.

Targets:

1. Develop a plan to use 100% non-carbon emitting fuels for county fleet vehicles by 2030. For non-bus fleet vehicles that may not have non-carbon emitting alternatives, develop a plan to mitigate emissions.
2. County buses and fleet vehicles will be electric or a non-carbon emitting alternative by 2035. By 2035, 99% of Connector bus fleet miles traveled will be with non-carbon emitting vehicles.
3. No diesel buses will be purchased after FY2024 without further Board discussion.

Actions:

1. Continue to reduce reliance on petroleum-based fuels by accelerating the fleet transition to zero- and low-emission vehicles.
2. Install necessary charging infrastructure for county fleet vehicles. Deploy infrastructure needed to support EVs and other alternative-fueled vehicles. Where possible, ensure charging infrastructure can serve both county and school operations.
3. Ensure fleet vehicle replacement strategies are consistent with fleet electrification targets.
4. Consider the social cost of carbon when evaluating costs for county fleet vehicles.
5. Reserve parking for hybrids and EVs at county government buildings.
6. Apply for grant funding for county fleet vehicles when possible.
7. Where feasible, implement scheduling and routing practices that reduce vehicle travel time. Use video conferencing solutions that reduce the need for vehicle travel, where practicable.

Focus Area: Goods and Services



Fairfax County's supply chain is large and complex, with \$1 billion currently spent annually among thousands of suppliers across hundreds of sectors. Given the impact of its purchases, the county is committed to developing responsible and sustainable sourcing strategies that will advance its policies, including those regarding the environment, climate action, and racial and social equity. Because supply chain emissions typically are many times the emissions levels of operational emissions, these sourcing strategies will have a significant impact on the county's overall emissions profile.

Goal:

Encourage and increase the purchase of environmentally preferable products and services.

Target:

Review purchases and develop a sustainable purchasing program.

Actions:

1. Continue to evaluate and improve the county's Supply Chain Corporate Social Responsibility (CSR) performance.
2. In furtherance of the Zero Waste target set forth in the Waste Management and Recycling focus area, undertake a review of purchasing to ensure an understanding of what is being purchased and used, especially paper supplies and other items that can be recycled.
3. Leverage the county's purchasing power to decarbonize the supply chains associated with purchased products by adopting embodied carbon procurement policies to source low-carbon products and engage suppliers in targeting a net-zero supply chain.
4. When evaluating products, include carbon and efficiency as considerations. Seek out products that are carbon-neutral or carbon-negative.
5. Require that all major appliances, such as refrigerators and televisions, are ENERGY STAR-certified or equivalent, unless it can be shown that an energy-efficient option is not available.
6. Promote the use and purchase of products and services that reduce negative environmental effects on employees, the community, and the environment. Discourage the purchase of single-use products wherever possible.
7. Require contractors to use environmentally preferable and sustainable products and practices in performing services for Fairfax County Government, where practicable.
8. Purchase products that include recycled content or are made of materials that can be recycled, are durable, conserve energy and resources and have the fewest toxic compounds.
9. Purchase from suppliers that reuse, take back and/or recycle the product purchased.

Focus Area: Waste Management and Recycling



Crushed glass for reuse or sale

Fairfax County is environmentally responsible both in the waste disposal and recycling options it offers to residents and in its own waste management operations. For example, its circular economy glass recycling initiative, started in 2019 and expanded regionally, led to the collection and reuse of over 4 million pounds of glass just by 2020. Achieving the Zero Waste target by 2030 will require concerted efforts across county operations, including additional circular economy initiatives and reimagined procurement, recycling and disposal practices.

Goal:

Pursue and promote sustainable consumption that significantly minimizes waste in county government operations.

Targets:

1. Be Zero Waste by 2030.
2. Encourage composting among county government workers and students.

Actions:

1. Create a plan for county government and schools to achieve Zero Waste by 2030, including the establishment of a central implementation team and funding mechanisms to support all county and school agencies in Zero Waste efforts.
2. Foster a culture of sustainability by engaging individuals to pursue Zero Waste through collaboration, education, and outreach.
3. Reduce consumption to only that which is necessary. Phase out single-use products and packaging wherever possible.
4. Support a circular economy by purchasing more durable, reusable, repairable, and recyclable materials that are produced sustainably and adopting closed-loop systems.
5. Once products and packaging can no longer serve their intended purposes, treat materials as valuable resources rather than waste by recycling, composting or devising new uses for them. Pursue regional initiatives where appropriate.
6. Explore the development and implementation of new policies, programs, and facility upgrades to support the transition to Zero Waste.
7. Periodically conduct trash and recycling audits.
8. Expand county composting operations.
9. Develop and implement a recycling program for construction/demolition debris (CDD).
10. Use renewable energy in support of waste process applications.

Focus Area: Awareness and Engagement



FEEE's 2018 Green Lounge

Fairfax Employees for Environmental Excellence (FEEE) serves as Fairfax County's employee green team. FEEE strives to foster a greener workplace culture by encouraging employees to participate in existing environmental programs, including recycling, green purchasing, and the reuse of surplus county property, and to identify new opportunities for minimizing the county's environmental impact. This focus area supports the efforts of county departments and agencies, either in conjunction with FEEE or on their own, to inspire and empower employees to exercise environmental responsibility, particularly in the areas of waste management and recycling, energy efficiency and conservation, and emissions reductions.

Goal:

Foster a culture of efficiency and conservation in the county workplace.

Target:

FEEE will hold at least four employee events per year.

Actions:

1. Plan events and special initiatives, such as Earth Day Fairs, the FEEE Litter Challenge and the employee Compost Program.
2. Publicize efficiency, conservation and sustainability actions in the workplace. Provide content on a regular basis to communications channels like *NewsLink*, newsletters, and the FEEE FairfaxNet blog available to employees.
3. Educate staff responsible for purchasing decisions on the benefits of energy- and water-efficient goods and services.
4. Sponsor lunch-and-learns on a range of efficiency and conservation topics to enhance employee awareness and to encourage action.
5. Establish reward and recognition programs to motivate behavior change.
6. Designate champions within departments or facilities who will foster communication and encourage efficiency and conservation.
7. Increase employee awareness of opportunities for source reduction, reuse and recycling.
8. Publicize county policies and procedural memoranda that pertain to energy or water use or sustainability in the work environment.

Focus Area: Utility Cost Management

This focus area is unique in that it relates solely to reducing energy costs. Electricity costs in particular can reflect choices made over time, from pre-occupancy load estimates that determine the size of electrical transformers installed by the utility, to the specific rate schedule selected for day-to-day power needs. This focus area encourages thoughtful consideration of possible actions and choices that can affect electricity and other utility costs.

Goal:

Manage electric and other utility service and load to achieve cost savings.

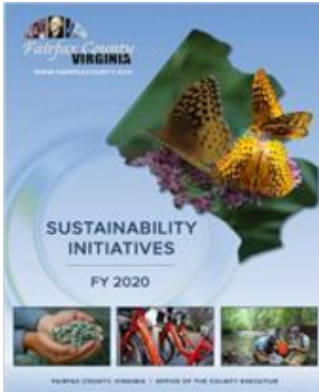
Target:

Quarterly review of utility cost management best practices by OEEC.

Actions:

1. Coordinate among agencies when preparing load letters and letter supplements to ensure that utility transformers are appropriately sized for the facilities they will serve.
2. Coordinate among agencies regarding rate schedule selection.
3. Coordinate among agencies to ensure appropriate metering, including functionality, type, number and opportunities for sub-metering.
4. For accounts with demand charges, implement programs to minimize peak charges. Manage electricity use to minimize peak demand charges and reset billing ratchets, where possible. Use the facility's demand profile to help develop a strategy for reducing peak use.
5. Use bill audits to ensure that utility bills received are correct. Periodically review utility bills for possible cost savings. Use rate comparisons to evaluate the cost of service under alternate rate schedules.
6. Renegotiate contract demand and/or contract dollar minimum with the electric utility in the event of a permanent load reduction.
7. Install meters for sewer credit on cooling towers and irrigation systems where appropriate.

Focus Area: Reporting and Collaboration



Consistent with the county's interests in accountability and transparency, this focus area ensures that the Board and public will remain informed about progress towards the goals and targets in this Energy Strategy. Collaboration is essential both to the success of this strategy and to the reporting of its progress.

Goal:

Communicate the county's progress to the Board and the community.

Target:

Progress toward the OES goals and targets will be reported to the public and the Board of Supervisors annually.

Actions:

1. Periodically update the Board and public on progress made in implementing the OES with the parameters of that reporting to be guided by the Board's Environmental Committee.
2. Maintain and update county webpages highlighting accomplishments in emissions reductions, energy efficiency and conservation.
3. Continue to seek opportunities to collaborate regionally on energy and water challenges and to promote resulting achievements.
4. Participate in regional task forces and workshops.
5. Participate in educational conferences and other public events.

Appendix 1: Abbreviations and Acronyms

Board: The Fairfax County, Virginia, Board of Supervisors.

Btu or BTU: British Thermal Unit, a traditional unit of heat defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

CECAP: Fairfax County's Community-wide Energy and Climate Action Plan.

CO₂: Carbon dioxide.

CO₂e: "Carbon dioxide equivalent," or CO₂e, is a term for describing different greenhouse gases in a common unit. For any quantity and type of greenhouse gas, CO₂e signifies the amount of CO₂ that would have the equivalent global warming impact.

CSR: Corporate Social Responsibility

EV: Electric vehicle.

FEEE: Fairfax Employees for Environmental Excellence.

FCPS: Fairfax County Public Schools.

GHG: Greenhouse gas, which absorbs and emits radiant energy within the thermal infrared range.

GWP: Global warming potential.

HVAC: Heating, ventilation and air conditioning.

kWh: Kilowatt hour, which is a composite unit of energy equivalent to one kilowatt of power sustained for one hour. A megawatt hour is equivalent to 1,000 kilowatt hours.

LED: Light-emitting diode, a lighting technology.

LEED®: Leadership in Energy and Environmental Design, a green building certification program developed by the non-profit U.S. Green Building Council.

M: Million.

MT: Metric Tons. One million metric tons is abbreviated as MMT.

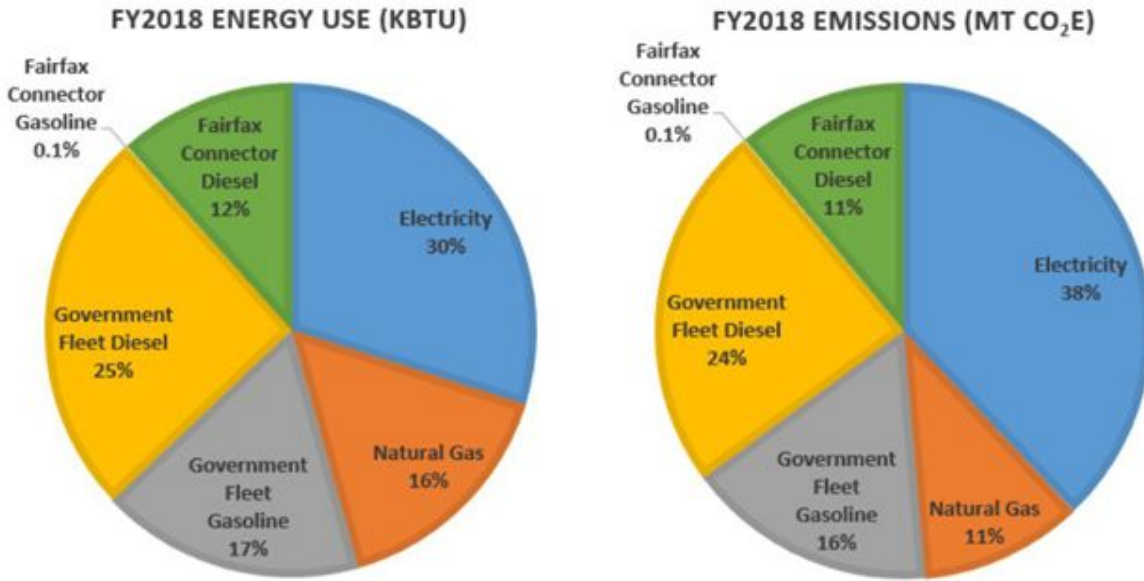
NZE: Net zero energy.

OES: Operational Energy Strategy.

USGBC: U.S. Green Building Council, a non-profit entity.

Appendix 2: Fairfax County FY 2018 Energy Data

Fairfax County Government energy use and equivalent emissions for FY2018 are shown below. FY2018 is serving as the baseline year from which energy and emission reductions are calculated. The data used to create the pie charts is provided in the table below the charts.



	FY2018 Energy Use	Baseline Energy Use (kBtu)	FY2018 Emissions (MT CO ₂ e)
Electricity	262,073,761 kWh	894,195,673	88,860
Natural Gas	4,706,577 Therms	470,657,700	24,978
Government Fleet Gasoline	4,299,569 Gallons	517,177,957	38,210
Government Fleet Diesel	5,520,287 Gallons	758,382,548	56,197
Fairfax Connector Gasoline	31,297 Gallons	3,764,591	278
Fairfax Connector Diesel	2,528,873 Gallons	347,419,102	25,744



12000 Government Center Parkway, Suite 533
Fairfax, VA 22035-0066
703-324-7136 TTY 711

<https://www.fairfaxcounty.gov/environment-energy-coordination/>

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. *City of Eugene, Or, et al. v. Federal Communications Commission, et al.*, Case No. 19-4161 (Sixth Circuit)
 - 2. *Board of Supervisors of Fairfax County, Virginia v. Hollybrooke II Condominium Unit Owners Association*; Case No. CL-2021-0008585 (Fx. Co. Cir. Ct.) (Mason District)
 - 3. *CoxCom, LLC d/b/a Cox Communications Northern Virginia v. Fairfax County and Board of Supervisors of Fairfax County*, Record No. 210568 (Va. Sup. Ct.)
 - 4. *Abrar Omeish v. Sheriff Stacey Ann Kincaid, Officer J. Patrick, and David M. Rohrer*, Case No. 1:21-cv-35 (E.D. Va.)
 - 5. *Marty Matthews v. Fairfax County, Virginia*, Case No. 1:20-cv-01469 (E.D. Va.)
 - 6. *Sophia D. Alford, et al. v. Fairfax County Department of Family Services – Children, Youth and Families, et al*; Case No. CL-2021-0002095 (Fx. Co. Cir. Ct.)
 - 7. *Board of Supervisors of Fairfax County, Virginia ex rel. Fairfax County Human Rights Commission v. Praveen Kumar Annavarapu and Sudha M. Putla*, Case No. CL-2021- 0008930 (Fx. Co. Cir. Ct.) (Providence District)
 - 8. *Rodger E. Perkins v. Fairfax County Police Dept.*, Case No. GV21-005011 (Fx. Co. Gen. Dist. Ct.); *Rodger E. Perkins v. Government of Fairfax County*, Case No. GV21-007795 (Fx. Co. Gen. Dist. Ct.)

9. *Jacob Nguyen, a minor by his mother and next friend, Jea Shin v. Eddie L. Price, Case No. GV19-020676 (Fx. Co. Gen. Dist. Ct.)*
10. *Jea Shin v. Eddie L. Price, Case No. GV19-020674 (Fx. Co. Gen. Dist. Ct.)*
11. *Ethan Nguyen, a minor by his mother and next friend, Jea Shin v. Eddie L. Price, Case No. GV19-020675 (Fx. Co. Gen. Dist. Ct.)*
12. *April Michelle Marshall, a.k.a. April Norwood v. Alicia A. Adkins and USAA; Case No. CL-2021-0004405 (Fx. Co. Cir. Ct.)*
13. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Charles V. Duran, Case No. GV21-009782 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
14. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Oanh Kim Tran and Cong Thanh Ngo, Case No. GV21-009780 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Yajun Wang, Case No. CL- 2020-0011324 (Fx. Co. Cir. Ct.) (Dranesville District)*
16. *Elizabeth Perry, Property Maintenance Code Official v. Alidad Arabshahi, Case No. GV21-001639 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
17. *Hiba Aziz, Building Official v. David Lupton and Pratima P. Lupton, Case No. GV21-0006743 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
18. *Hiba Aziz, Building Official for Fairfax County, Virginia v. David E. Levanson, Trustee Under the David E. Levanson Trust Date June 3, 2009, Case No. GV21-009756, Hiba Aziz, Building Official for Fairfax County, Virginia v. Caitlin B. Levanson, Trustee Under the Caitlin B. Levanson Trust Date June 3, 3009, Case No. GV21-009761, Hiba Aziz, Building Official for Fairfax County, Virginia v. Federal Home, LLC, Case No. GV21-009762 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Uzair Siddiqui and Rubina Siddiqui, Case No. CL-2021-0006475 (Fx. Co. Cir. Ct.) (Hunter Mill District)*
20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Salena Azaad and Zalena Kahn-Ramprashad, Case No. GV 20-006959 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)*
21. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Juan F. Hernandez and Thelma A. Ayala, Case No. GV21-009580 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)*

22. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Debra A. Padgett and Darcy A. Shepherd, Case No. GV21- 009581 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)*
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lazaro Villatoro and Maria Lazo, Case No. CL-2021-0005288 (Fx. Co. Cir. Ct.) (Lee District)*
24. *Hiba Aziz, Building Code Official for Fairfax County, Virginia v. Fairfax Property Management Corporation, Case No. GV21-006507 (Fx. Co. Gen. Dist. Ct.) (Lee District)*
25. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Rafael Hernandez Damian, Case No. GV21-007216 (Fx. Co. Gen. Dist. Ct.) (Lee District)*
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. U-Haul Real Estate Company, Case No. CL-2021-0002114 (Fx. Co. Cir. Ct.) (Mason District)*
27. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Kurt W. Kruger, Case No. CL-2021-0008712 (Fx. Co. Cir. Ct.) (Mason District)*
28. *In re: March 10, 2021, Decision of the Board of Zoning Appeals of Fairfax County, Virginia; Harmony Hills Equestrian Center, Inc., and Terry Abrams v. Board of Supervisors of Fairfax County, Virginia, Case No. CL-2021-0004806 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
29. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Fahad Razzaq and Ruth Elizabeth Razzaq, Case No. GV21-006506 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)*
30. *Hiba Aziz, Building Official v. Sultanewas Nahida, Case No. GV21-006748 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)*
31. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Simple Changes Farm LLC, Case No. GV21-007843 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)*
32. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Benton Chrea and Siphath Chrea, Case No. CL-2020-0010911 (Fx. Co. Cir. Ct.) (Providence District)*
33. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Marisol Ferrel, Case No. CL-2008-0010799 (Fx. Co. Cir. Ct.) (Providence District)*
34. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Marisol Ferrel, Case No. CL-2016-0005993 (Fx. Co. Cir. Ct.) (Providence District)*

35. *Board of Supervisors of Fairfax County, Virginia v. DSF/Long Metro, LLC, and Westchester Fire Insurance Company*, Case No. CL-2019-0014805 (Fx. Co. Cir. Ct.) (Providence District)
36. *Board of Supervisors of Fairfax County, Virginia v. DSF/Long Metro, LLC, and Lexon Insurance Company*, Case No. CL-2017-0016541 (Fx. Co. Cir. Ct.) (Providence District)
37. *Hiba Aziz, Code Official for Fairfax County, Virginia v. Suffies, LLC*, Case No. GV21-007726 (Fx. Co. Gen. Dist. Ct.) (Providence District)
38. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sidney Tobias Harris*, Case No. CL-2021-0008931 (Fx. Co. Cir. Ct.) (Springfield District)
39. *Leslie B. Johnson, Zoning Administrator v. David and Nyaint Morgan*, Case No. GV 21-008076 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
40. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Christie Lynn Kellogg*, Case No. GV21-009777 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
41. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. EPD Forest Glen 2 LP and Florence Frey*, Case No. CL-2021-0008941 (Fx. Co. Cir. Ct.) (Sully District)
42. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Asrat Betew Lulu*, Case Nos. GV21-005576 and GV21-005577 (Fx. Co. Gen. Dist. Ct.) (Sully District)

Board Agenda Item
July 13, 2021

3:30 p.m.

Public Hearing on PRC-C-020-02 (Tall Oaks at Reston, L.C.) to Approve a PRC Plan Associated with RZ-C-020 to Permit Additional Parking for an Existing Assisted Living Facility, Located on Approximately 2.45 Acres of Land Zoned PRC (Hunter Mill District)

This property is located on the N. side of North Shore Dr., E. of its intersection with Wiehle Ave. Tax Map 18-1 ((5)) 8B.

On June 22, 2021, the Board of Supervisors deferred this public hearing to July 13, 2021, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On May 19, 2021, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors approval of PRC C-020-02, subject to the proposed development conditions dated May 19, 2021, and approval of Parking Reduction Study #3828-PKS-001-01, subject to the proposed conditions contained in Appendix 6 of the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Joseph Onyebuchi, Planner, DPD

Board Agenda Item
July 13, 2021

3:30 p.m.

Public Hearing on PCA 86-C-119-08/ DPA 86-C-119-04/ PRCA 86-C-119-02 (Boston Properties Limited Partnership) to Amend the Proffers, Conditions, and Development Plan for RZ 86-C-119, Previously Approved for Mixed Use Development, to Add Office as a Permitted Use on Block D and Associated Modifications to Proffers and Site Design at an Intensity of 7.25 Floor Area Ratio for Block D and 3.22 Floor Area Ratio for the Overall Development, Located on Approximately 2.06 Acres of Land Zoned PRC (Hunter Mill District)

This property is located on the E. side of Town Center Parkway, N. of Sunset Hills Rd. and S. of the Washington and Old Dominion Trail. Tax Map 17-3 ((22)) 5.

On June 22, 2021, the Board of Supervisors deferred this public hearing to July 13, 2021, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On May 19, 2021, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 86-C-119-08, DPA 86-C-119-04, and PRCA 86-C-119-02, subject to the execution of proffered conditions consistent with those dated May 5, 2021;
- Approval of PRCA 86-C-119-02, subject to the proposed development conditions dated May 6, 2021;
- Reaffirmation of a modification of Par. 1 of Sect. 2-505 of the Zoning Ordinance to permit development of corner lots to that shown on the DPA/PRC Plan;
- Reaffirmation of a modification of Sect. 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the DPA/PRC Plan;
- Reaffirmation of a modification of Sects. 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the DPA/PRC Plan;

Board Agenda Item
July 13, 2021

- Reaffirmation of a modification of Par. 2 of Sect. 17-201 of the Zoning Ordinance to permit the streetscape and on-road bicycle lanes to that shown on the DPA/PRC Plan in lieu of the minor paved trail as shown on the Countywide Trails Plan;
- Reaffirmation of a modification of Par. 14 of Sect. 17-201 of the Zoning Ordinance for installation of streetlights;
- Reaffirmation of a modification of Section 8-0201.3 of the Public Facilities Manual to permit on-street bicycle lanes as shown on the DPA/PRC Plan in lieu of the minor paved trail as shown on the Countywide Trails Plan;
- Reaffirmation of a modification of Section 12-0510.4.E (5) to permit the use of structural cells to allow a reduction of the minimum planting area and to permit trees to be located closer than four feet to a restrictive barrier;
- Reaffirmation of a modification of Section 12-0515.6B of the Public Facilities Manual to allow landscaping trees to be located within five feet of a stormwater easement that contains pipes for Phase 1 of the development; and
- Reaffirmation of a modification of Section 12-0515.6E of the Public Facilities Manual to permit trees to be planted within the Virginia Department of Transportation right-of-way to count towards the 10-year tree canopy requirement.

In a follow-on motion, the Planning Commission voted 10-0-1 (Commissioner Sargeant abstained from the vote and Commissioner Ulfelder was absent from the meeting) to recommend that the Board of Supervisors direct the Department of Land Development Services and the Fairfax County Department of Transportation to work with the Washington Metropolitan Area Transit Authority (WMATA), Virginia Department of Transportation, and Dominion Energy Virginia to improve access and safety for pedestrians and bicyclists to Transit stations with a goal to improve pedestrian safety, increase flexibility in street design, increase transit ridership and improve access, especially for people that depend on transit for daily use. The Planning Commission recommended the consideration of the following specific actions:

Improving the Design of Travel Lanes:

- Providing wide crosswalks at intersections within walking distance to transit stations;

Board Agenda Item
July 13, 2021

- Reducing the corner radii at all intersections and providing a double ramp for the handicapped that directs pedestrians to each crosswalk instead of a single ramp currently in use that directs pedestrians to the middle of the intersections;
- Avoiding additional lanes to speed vehicular travel at intersections with high pedestrian volumes including right turn lanes and multiple left turn lanes;
- Reducing lane width from 12 feet to 10 - 11 feet; and
- Providing a substantial area of refuge for pedestrians and bicyclists on divided streets.

Improving the Sidewalk Areas: Improving the design of sidewalk areas that provide for pedestrian safety and encourage the use of transit by:

- Avoiding the use of mountable curbs in pedestrian-oriented areas and instead using straight curbs;
- Providing closely spaced street trees between the curb and sidewalk area to protect pedestrians;
- Allowing non-standard features including benches, trash enclosures, banners, and landscaping within the public right-of-way without waivers; and
- Allowing appropriate and safe pedestrian-oriented streetlights in the public right-of-way.

WMATA Access: Improving the design of the WMATA Stations for pedestrians and bicyclists.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Mary Ann Tsai, Branch Chief, DPD

Board Agenda Item
July 13, 2021

3:30 p.m.

Public Hearing on RZ 2020-BR-016 (Trustees of Annandale United Methodist Church) to Rezone from C-5 and R-20 to C-5 to Permit a Place of Worship with Community Resource Center with an Overall Floor Area Ratio of 0.22, Located on Approximately 1.77 Acres of Land (Braddock District)

This property is located on the W. side of Heritage Dr., S. of Patriot Dr. Tax Map 70-2 ((1)) 2.

PLANNING COMMISSION RECOMMENDATION:

On June 16, 2021, the Planning Commission voted 10-0 (Commissioners Spain and Strandlie were absent from the meeting) to recommend to the Board of Supervisors approval of RZ 2020-BR-016, subject to the execution of proffered conditions consistent with those dated June 1, 2021.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Brandon McCadden, Planner, DPD

Board Agenda Item
July 13, 2021

3:30 p.m.

Public Hearing on SE 2020-MA-011 (Terry L. Slack and Amnuay Slack) to Permit a Waiver of Minimum Lot Size Requirements (Width) from 80 Feet to 71.1 Feet, Located on Approximately 28,195 Square Feet of Land Zoned R-3 (Mason District)

This property is located at 6264 Lincolnia Rd., Alexandria, VA 22312. Tax Map 72-2 ((1)) 50A and 72-2 ((6)) A2.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2021, the Planning Commission voted 11-0 (Chairman Murphy was absent from the meeting) to recommend to the Board of Supervisors approval of SE 2020-MA-011, subject to the proposed development conditions dated May 11, 2021, and a modification of Par. 2 of Sect. 17-201 of the Zoning Ordinance to waive the construction of a major paved trail requirement along Lincolnia Road in favor of the existing sidewalk.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Zach Fountain, Planner, DPD

Board Agenda Item
July 13, 2021

3:30 p.m.

Public Hearing on PCA 74-8-126 (Yoshi Holdings, LLC) to Amend the Proffers and Conceptual Development Plan for RZ 74-8-126 (Concurrent with RZ 74-8-125), Previously Approved for 212 Dwelling Units at a Density of 2.5 Dwelling Units per Acre, to Permit the Development of 6 Single Family Detached Dwellings and Associated Modifications to Proffers and Site Design at a Density of 2.26 Dwelling Units per Acre, Located on Approximately 2.65 Acres of Land Zoned PDH-3 (Mount Vernon District)

This property is located on the E. side of Hooes Rd. and S. side of Southern Oaks Pl. Tax Map 98-3 ((14)) B.

PLANNING COMMISSION RECOMMENDATION:

On May 26, 2021, the Planning Commission voted 11-0 (Chairman Murphy was absent from the meeting) to recommend to the Board of Supervisors approval of PCA 74-8-126, subject to the execution of proffered conditions consistent with those dated May 5, 2021.

In a related action, the Planning Commission voted 11-0 (Chairman Murphy was absent from the meeting) to approve FDPA 74-8-126, subject to the proposed development conditions dated May 13, 2021.

Further, the Planning Commission voted 11-0 (Chairman Murphy was absent from the meeting) to recommend that prior to subdivision plan approval, the applicant be required to show evidence of the request to the Northern Virginia Soil and Water Conservation District for information on proper maintenance of the proposed pollinator garden, which will then be shared with the Homeowners Association.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Cathy Lewis, Branch Chief, DPD

Board Agenda Item
July 13, 2021

4:00 p.m.

Public Hearing on Spot Blight Abatement Ordinance for 2506 Fleming Street,
Alexandria, VA 22306 (Mount Vernon District)

ISSUE:

Public hearing to adopt a Spot Blight Abatement Ordinance for 2506 Fleming Street, Alexandria, VA 22306 (Tax Map No. 093-1 ((09)) (02) 0505) and to approve a blight abatement plan for the Property.

RECOMMENDATION:

The County Executive recommends that the Board adopt an ordinance to declare 2506 Fleming Street blighted, constituting a nuisance, and approve the blight abatement plan for the Property.

TIMING:

On April 13, 2021, the Board authorized advertisement of this public hearing to be held Tuesday, June 8, 2021, at 4:00 p.m. On June 8, 2021, the Board deferred this public hearing to July 13, 2021, at 4:00 p.m.

BACKGROUND:

Va. Code Ann. § 36-49.1:1 (2019) (Spot Blight Abatement Statute) allows the Board, by ordinance, to declare a property as "spot blight." Under Va. Code Ann. § 36-3 (2019), a property is considered "blighted" if any structure or improvement on that property endangers the public health, safety, or welfare because it is "dilapidated, deteriorated, or violates minimum health and safety standards." If, after reasonable notice, the owner fails to abate or obviate the conditions that cause a property to be blighted, the Board may approve a spot blight abatement plan, and may recover the costs of implementing that plan against the property owner in the same manner as for the collection of local taxes. Va. Code Ann. § 36-49.1:1(D)—(E).

The structure has a property maintenance complaint history beginning in October 2018 which resulted in litigation in May 2019. An inspection conducted by a property maintenance investigator on January 8, 2020, determined that the property was unsafe for occupancy, and the structure was placarded; however, the property owner repeatedly entered and occupied the dwelling. On September 15, 2020, by directive of the Maintenance Official, the property was secured by county personnel. The structure lacks normal maintenance to a point that there are major structural members

Board Agenda Item
July 13, 2021

compromised from years of water infiltration and neglect, and collapse is likely. The owner has made no attempt to abate the maintenance code violations and has not responded to any correspondence from blight abatement staff.

Located on the subject property is a 954 square foot brick dwelling constructed in 1951. The roof and floor system of the structure are deteriorated to the point of collapse.

This property was reviewed by the Neighborhood Enhancement Task Force (NETF) on December 10, 2020, and the NETF Committee determined the property met the blighted property guidelines and made a preliminary blight determination. Certified and regular Notice was sent to the owner advising her of this determination. To date, there has been no response from the owner nor otherwise submitted a spot blight abatement plan acceptable to the County.

Due to the increasing deterioration of the structure, BAP staff has determined that the dwelling is not economically feasible to repair and recommends demolition. The NETF concurs in this recommendation.

In accordance with the Spot Blight Abatement Statute, the Board, by Ordinance, may declare the Property to be blighted and approve abatement of blight. State Code requires that the Board provide notice concerning adoption of such and ordinance. Notice was published on May 21, 2021, and May 28, 2021.

Although the County will continue to seek cooperation from the owner to eliminate blighted conditions, it is requested that a public hearing, in accordance with the Spot Blight Abatement Statute, be held to adopt an Ordinance declaring the property to be blighted, and to approve the spot blight abatement plan, whose purpose as noted above, will be to demolish the structures. State code requires that the Board provide notice concerning proposed adoption of such an Ordinance.

If the owner fails to abate the blighted conditions within thirty days after notification of the Board's action, the County will proceed with the demolition process for the structure, as approved by the Board. The County will incur the cost, expending funds that are available in Fund 30010, General Construction and Contributions, Project 2G97-001-000, Strike Force Blight Abatement. The County will then pursue reimbursement from the owner who is ultimately liable for all abatement costs incurred. A lien will be placed on the property and recorded in the County land.

FISCAL IMPACT:

If the blighted conditions are not eliminated by the owner, the County will fund the demolition from blight abatement funds already designated for this purpose. The demolition is estimated to cost approximately \$41,000.

Board Agenda Item
July 13, 2021

It is anticipated that the costs to demolish the structure will be recovered from the property owner. Funds recovered will be allocated to the Blight Abatement Program to carry out future blight abatement plans.

ENCLOSED DOCUMENTS:

Attachment 1: Property Photographs

Attachment 2: Ordinance for 2506 Fleming Street, Alexandria (Mount Vernon District)

Attachment 3: Blighted Property Technical Report and Abatement Plan

STAFF:

Rachel Flynn, Deputy County Executive

Jack W. Weyant, P.E., Director, Department of Code Compliance

Karen McClellan, Operations Manager, Department of Code Compliance

Victoria Fitzgerald, Code Compliance Investigator III, Department of Code Compliance

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

Attachment 1
2506 Fleming Street, Alexandria
Tax Map 093-1 ((09)) (02) 0505



Attachment 1
2506 Fleming Street, Alexandria
Tax Map 093-1 ((09)) (02) 0505



**ORDINANCE FOR 2506 FLEMING STREET
(MOUNT VERNON DISTRICT)**

WHEREAS, a goal of the Fairfax County Board of Supervisors (“Board”) is the preservation and improvement of residential neighborhoods and commercial areas; and

WHEREAS, the Code of Virginia empowers localities, by ordinance to declare any property “spot blight” as defined in the Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board has approved the implementation of a blight abatement program authorized by State legislation; and

WHEREAS, citizens have expressed concern about specific properties in their communities that are abandoned, dilapidated or otherwise in an unsafe state; and

WHEREAS, it has been determined that the property located at 2506 Fleming Street (Mount Vernon District) identified on the Fairfax County Tax Map as 093-1 ((09)) (02) 0505 (“Property”) meets the definition of blight as defined in Va. Code Ann. § 36-3 (2019); and

WHEREAS, the Board desires that the blight be abated as authorized by Va. Code Ann. § 36-49.1:1 (2019);

NOW THEREFORE, BE IT RESOLVED, THAT BY ORDINANCE, the Property is deemed blighted as that term is defined in Va. Code Ann. § 36-3 (2019).

BE IT FURTHER RESOLVED; THAT BY ORDINANCE the Board hereby directs that the aforementioned blight be abated in accordance with the terms as authorized by Va. Code Ann. § 36-49.1:1 (2019), including without limitation that if the owner of the Property fails to abate or obviate the nuisance within thirty (30) days, Fairfax County may do so by demolishing the improvements on the Property and removing all debris from the site in which event the County may collect the costs thereof from the owner of the Property in any manner provided by law for the collection of state or local taxes.

Upon certification by the County Executive of Fairfax County or his designee that the blight has been abated and that all expenses of Fairfax County with respect thereto have been paid in full, this Ordinance shall be deemed of no further force or effect.

PROPERTY ADDRESS (DISTRICT)
2506 Fleming Street (Mount Vernon District)

TAX MAP NUMBER
093-1 ((09)) (02) 0505

BLIGHTED PROPERTY TECHNICAL REPORT AND ABATEMENT PLAN

PROJECT TITLE (OWNERS): Heirs of Emma Saltess

CASE: # 202004997 SR #176814173585

OWNER'S ADDRESS: PO Box 324, Alexandria, VA 22313

ADDRESS OF BLIGHTED PROPERTY: 2506 Fleming Street, Alexandria, VA 22313

TAX MAP NO.: 093-1 ((09)) (02) 0505 **MAGISTERIAL DISTRICT:** Mount Vernon

2020 ASSESSED VALUE: \$ 225,000 **LAND:** \$215,000 **IMPROVEMENTS:** \$10,000

PROPERTY ZONING: R-1 **YEAR BUILT:** 1951

TAX STATUS: current through December 2020

DESCRIPTION:

Located on the subject property is a 954 square foot brick dwelling constructed in 1951. The roof and floor system of the structure are deteriorated to the point of collapse. An inspection conducted by a property maintenance investigator on January 8, 2020 determined that the property was unsafe for occupancy, and the structure was placarded; however, the property owner repeatedly entered and occupied the dwelling. On September 15, 2020, by directive of the Maintenance Official, the property was secured by county personnel. The structure lacks normal maintenance to a point that there are major structural members compromised from years of water infiltration and neglect, and collapse is likely. The structure was constructed in 1951 according to Fairfax County Tax Records. The owner has not responded to any correspondence from Blight Abatement Program (BAP) staff and has not submitted a blight abatement plan. BAP staff feels that the dwelling and accessory structures are not economically feasible to repair and recommends demolition.

IMPACT OF PROPERTY ON SURROUNDING USES:

The property in its current state is an attractive nuisance and blight on the surrounding community.

NATURE OF COMPLAINTS:

The property located at 2506 Fleming Street was referred to the Blight Abatement Program (BAP) on September 22, 2020, reference its dilapidated and attractive nuisance conditions.

STAFF RECOMMENDATION:

BAP recommends demolishing the dilapidated structures and removing all debris on the property in the event that the owners fail to cure the blighted conditions of the property.

after receiving written notice of the Board's adoption of the Blight Abatement Ordinance. Costs of blight abatement, including direct County administrative costs, would then be collected from the property owners.

Board Agenda Item
July 13, 2021

4:00 p.m.

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

ISSUE:

Public hearing for the purpose of considering the attached ordinance amendment which would continue the existence of the Fairfax County Park Authority until October 28, 2051.

RECOMMENDATION:

The County Executive recommends that the Board adopt the proposed ordinance amendment.

TIMING:

On June 8, 2021, the Board authorized a public hearing to consider this matter on July 13, 2021, at 4:00 p.m.

BACKGROUND:

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

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

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

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

Board Agenda Item
June 8, 2021

STAFF:

Christopher Leonard, Deputy County Executive

Rachel Flynn, Deputy County Executive

Joseph M. Mondoro, Chief Financial Officer

Sara Baldwin, Acting Director, Fairfax County Park Authority

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

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

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

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

SECTION III.

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

GIVEN under my hand this 13th day of July, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
July 13, 2021

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment to New Chapter 112.1
Re: Special Permit Fees and Other Minor Revisions

ISSUE:

With the adoption of the new and modernized Zoning Ordinance, four special permit application types, including one for an increase in flagpole height, were created. Because specific application fees were not established for these special permit types, they are subject to the general fee of \$16,375 for special permit uses. Therefore, an amendment is needed to establish application fees commensurate with the fees of other similar types of special permit applications. The amendment also restores permissions for three uses and proposes several clarifications and editorial revisions.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on June 16, 2021, and voted to recommend to the Board of Supervisors adoption of the proposed Zoning Ordinance amendment, as set forth in the Staff Report dated May 18, 2021, with the following recommended options: a) a special permit fee of \$435 for an Increase in Flagpole Height; and b) a special permit fee of \$910 for Accessory Structures on Through Lots, Increase in the Cumulative Square Footage of Freestanding Accessory Structures, and an Increase in the Height of a Freestanding Accessory Structure.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation.

TIMING:

The Board of Supervisors authorized advertisement of the public hearings on May 18, 2021; the Planning Commission public hearing was held on June 16, 2021, at 7:30 p.m.; and the Board of Supervisors public hearing is scheduled for July 13, 2021, at 4:00 p.m.

BACKGROUND:

On March 23, 2021, the Board adopted a new and modernized Zoning Ordinance that will take effect on July 1, 2021. As part of this new Ordinance, the Board adopted standards regulating the height of flagpoles. On a lot developed with a single-family dwelling or a manufactured home, flagpole height is limited to 25 feet, and on a lot with another use, flagpole height is limited to 60 feet. The Board included a provision for the Board of Zoning Appeals to approve an increase in flagpole height by a special permit.

Board Agenda Item
July 13, 2021

However, because a fee for this special permit had not been specifically advertised, the Board directed staff to process a separate amendment to establish a fee that is commensurate with other similar fees in the Zoning Ordinance. The Board also directed that the amendment should proceed expeditiously, given the July 1, 2021, effective date for the new Zoning Ordinance.

As further described below under Fiscal Impact, the proposed fee changes establish a fee for the Increase in Flagpole Height and fees for three other special permit application types that were added with the new Ordinance without an advertised fee. These special permits are: Increase in the Height of a Freestanding Accessory Structure, Increase in the Cumulative Square Footage of Freestanding Accessory Structures, and Accessory Structures on Through Lots. The omission of separate fees for these application types was inadvertent and this amendment proposes fees that are compatible with other similar application types for residential lots.

As detailed more fully in the accompanying staff report (Attachment 2), the proposed changes also include corrections to certain permissions in Use Table 4101.1, such as allowing Farmers Markets in the R-A District and affordable dwelling unit developments in certain districts, additional corrections to the Fee Schedule, and a correction to a cross-reference in the Summary of Special Permits table in subsection 8100.4.A. Other revisions include: a) restoring the provisions regulating at-grade attached or detached patios and decks in the front yard to those of the previous Zoning Ordinance, exempting these patios and decks from the limits on encroachment only in the side and rear yard; b) replacing the term “setback” with “yard” to restore the provisions requiring parking in in the R-1 through R-4 Districts on a lot of 36,000 square feet or less to occur on a surfaced area in the front yard; and c) other editorial revisions.

REGULATORY IMPACT:

The proposed amendment establishes fees for four special permit application types and corrects certain other provisions.

FISCAL IMPACT:

The proposed amendment establishes a special permit application fee of \$435 for an Increase in Flagpole Height, and a fee of \$910 for the following special permit applications: Increase in the Height of a Freestanding Accessory Structure, Increase in the Cumulative Square Footage of Freestanding Accessory Structures, and Accessory Structures on Through Lots. A range of \$435 to \$910 will be advertised for Board consideration for each of the fees. These four special permit application types were added with the new and modernized Zoning Ordinance. These fees are commensurate with the application fees of other similar special permit and variance applications. It is expected that the revenue impact of these changes will be minor as staff anticipates receiving a limited number of each of these application types per year.

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ENCLOSED DOCUMENTS:

Attachment 1 – June 16, 2021 Planning Commission Verbatim can be found online at:
<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim61621zoachapter112.1respecialpermitfeesandminorrevisions.pdf>

Attachment 2 – Staff Report can be found online at:
<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/s-p-fees-staff-report.pdf>

STAFF:

Rachel Flynn, Deputy County Executive
Barbara Byron, Director, Department of Planning and Development (DPD)
Leslie B. Johnson, Zoning Administrator, DPD
Carmen Bishop, Deputy Zoning Administrator, DPD
Casey Judge, Senior Planner, DPD

ASSIGNED COUNSEL:

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

Board Agenda Item
July 13, 2021

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2018-II-1M, West Falls Church Transit Station Area (TSA) Study, Located at the West Falls Church Metrorail Station, West of Haycock Road, and North of Route 7 (Dranesville District)

ISSUE:

Plan Amendment (PA) 2018-II-1M proposes to amend the Comprehensive Plan guidance for approximately 24 acres of land adjacent to the West Falls Church Metrorail station, specifically for the Washington Metropolitan Area Transit Authority (WMATA) property and the Virginia Tech and City of Falls Church property in the West Falls Church TSA. The Plan amendment proposes recommendations that will provide the opportunity to establish a mixed-use, pedestrian-oriented place that offers a range of housing and transportation choices. Sub-unit A-1 (the WMATA property) is recommended for a mix of uses, including multifamily and single-family attached residential, office, and retail up to 0.96 FAR. Sub-unit A-2 (the Virginia Tech and City of Falls Church property) is recommended for a mix of uses, including multifamily residential, office, retail, and institutional up to 2.5 FAR. The Plan amendment also proposes additional guidance for transportation, urban design, parks and open space, and stormwater management.

PLANNING COMMISSION RECOMMENDATION:

On June 16, 2021, the Planning Commission voted 10-0 (Commissioners Spain and Strandlie were absent from the meeting) to defer the decision only on the proposed Plan Amendment to June 30, 2021.

On June 30, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Strandlie were absent from the meeting) to recommend that the Board of Supervisors adopt a Planning Commission Alternative to the Staff Recommendation (Attachment 1).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – June 16, 2021
Planning Commission decision only – June 30, 2021
Board of Supervisors public hearing – July 13, 2021

Board Agenda Item
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BACKGROUND:

On July 31, 2018, through the approval of the Comprehensive Plan Amendment Work Program, the Board of Supervisors (Board) authorized the consideration of PA 2018-II-1M for approximately 24 acres adjacent to the West Falls Church Metrorail station (Tax Map Parcels 40-4 ((1)) 13, 40-4 ((2)) 1 and 2, 40-3 ((1)) 83 and 84). The Board directed staff to consider mixed-use development consisting of office, retail, and multifamily and single-family attach residential uses up to 0.96 FAR.

On September 25, 2018, the Board authorized the expansion of the scope for PA 2018-II-1M to include the adjacent 7.53-acre site of Virginia Tech's Northern Virginia Center (Tax Map Parcels 40-3 ((1)) 92 and 92A). The Board directed staff to consider a mix of uses consisting of institutional, office, retail, and multifamily residential up to 2.5 FAR. The proposed plan amendment was prepared with extensive input from a community task force and members of the public. The task force met from January 2019 through April 2021 and recommended approval of the plan amendment on April 20, 2021.

The Planning Commission Alternative dated June 30, 2021, (included in Attachment 1), includes changes that better integrate the parks and open space and environmental recommendations, and further underscore the importance of pedestrian safety.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: The June 30, 2021 Planning Commission verbatim excerpt, including the Planning Commission Alternative, is available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim63021pa2018-ii-1mwestfallschurchtsastudy-deonly.pdf>

Attachment 2: The June 29, 2021 DPD Memo to Planning Commission is available

online at: https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/westfallschurchtsa/pa2018-ii-1m_memo_to_pc_062921.pdf

Attachment 3: The Staff Report for PA 2018-II-1M has been previously furnished and is available online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/westfallschurchtsa/2018-ii-1m-staff-report.pdf>

Board Agenda Item
July 13, 2021

STAFF:

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

Leanna O'Donnell, Director, Planning Division (PD), DPD

Michelle Stahlhut, Branch Chief, Public Facilities and Plan Development Branch,
Assistant Director, PD, DPD

Bryan Botello, Planner II, Public Facilities and Plan Development Branch, PD, DPD