

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 6, 2023**

AGENDA

- 9:30 Presentations
- 9:30 Presentation of the History Commission Report
- 10:00 Matters Presented by Board Members
- 10:00 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program – Hampton Knoll Drive and Villa Street (Franconia District)
- 2 Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program – Collingwood Road (Mount Vernon District)
- 3 Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program – Northedge Drive (Springfield District)
- 4 Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program – Spring Village Drive (Franconia District)
- 5 Extension of Review Period for Mason District Police Station 2232 Application (Mason District)
- 6 Extension of Review Period for Tysons Fire Station and Bus Transit Facility 2232 Application (Providence District)
- 7 Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic
- 8 Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Little River Turnpike Walkway - Hillbrook Drive - Little River Run Drive (Mason District)
- 9 Authorization to Advertise Public Hearings on a Proposed Amendment to Appendix Q (Land Development Services Fee Schedule) of The Code of the County of Fairfax, Virginia (County Code) Re: Site Inspection Fees for Bond Agreement Extensions

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 6, 2023**

**ADMINISTRATIVE
ITEMS
(continued)**

- 10 Supplemental Appropriation Resolution AS 23239 for the Department of Housing and Community Development to Accept Grant Funding from the U.S. Department of Housing and Urban Development for the Community Project Funding Request Included in the Consolidated Appropriations Act, 2022
- 11 Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the U.S. Department of Justice, Community Oriented Policing Service Office, FY 2023 Community Policing Development Microgrants Program
- 12 Authorization for the Department of Public Works and Environmental Services to Apply for and Accept Grant Funding from the United States Department of Agriculture Forest Service to Plant Street Trees to Address Heat Islands in Vulnerable Communities
- 13 Authorization for the Department of Public Works and Environmental Services to Apply for and Accept Grant Funding from the United States Department of Agriculture Forest Service to Grow and Sustain Urban Forests to Achieve Environmental Equity
- 14 Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Virginia Early Childhood Foundation to Support Mixed Delivery Slot Reimbursement and Required Mixed Delivery Coordination for Ready Region

ACTION ITEMS

- 1 Approval of FY 2023 Year-End Processing
- 2 Approval of the Memorandum of Agreement (MOA) Between the United States Department of Homeland Security Office of Intelligence and Analysis (DHS I&A), and the Fairfax County Police Department (FCPD), Regarding the Northern Virginia Regional Intelligence Center (NVRIC)
- 3 Approval of the Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice Drug Enforcement Administration (DEA) for the High Intensity Drug Trafficking Area (HIDTA) Group 5 (12) and Enforcement Group 1 (14)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 6, 2023**

**ACTION ITEMS
(continued)**

- 4 Approval of the High Intensity Drug Trafficking Area (HIDTA) State and Local Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice, Drug Enforcement Administration (DEA) for the Asset Removal Group HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) and the HIDTA Task Force Group 1(11) (Washington-Mass Transit)

- 5 Approval of the Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice Drug Enforcement Administration (DEA) for the HIDTA (High Intensity Drug Trafficking Area) Group 5 (12)

- 6 Approval of the Memorandum of Understanding (MOU) Between the Fairfax County Police Department (FCPD) and the Virginia State Police (VSP) for Establishing Governing Policies and Participation in the Northern Virginia Regional Intelligence Center (NVRIC)

- 7 Approval of a Parking Reduction for Seoul Plaza Located at 4231 Markham Street in the Annandale Commercial Revitalization District (Mason District)

- 8 Authorization for the County Executive to Execute a Wastewater Conveyance Capacity Agreement Between the City of Alexandria and Fairfax County

- 9 Approval of the Continuum of Care (CoC) Board Charter

**CONSIDERATION
ITEMS**

- 1 Amendments to the Fairfax County Council to End Domestic Violence (CEDV) Bylaws

CLOSED SESSION

Closed Session

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 6, 2023**

**PUBLIC
HEARINGS**

- | | | |
|------|---|---|
| 3:30 | | Public Hearing on PCA 2002-HM-043-005/CDPA 2002-HM-043-004 (RZPA 2022-DR-00058) (Arrowbrook Centre, LLC) (Dranesville District) |
| 3:30 | To be Deferred to
06/27/2023 at
3:30p.m. | Public Hearing on RZ 2022-PR-00017 (Madison Investment Portfolio LLC) (Providence District) |
| 3:30 | | Public Hearing on RZ 2022-SU-00010 (Matan Glorus Road, LLC) (Sully District) |
| 4:00 | | Public Hearing on a Proposal to Vacate a Portion of Barney Road (Sully District) |
| 4:00 | | Public Hearing on Proposed Plan Amendment 2021-IV-S2, Villa Park Road, Located South of Villa Park Road and West of the Ramp Between Backlick Road and Westbound Franconia-Springfield Parkway (Franconia District) |
| 4:00 | | Public Hearing to Amend and Readopt Chapter 127 of The Code of the County of Fairfax, Virginia, Relating to the Commercial Property Assessed Clean Energy and Resiliency Program |



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
June 6, 2023

9:30 a.m.

PRESENTATIONS

- RESOLUTION — To recognize Chantilly High School's Virginia Class 6 Diving and Wrestling State Champions. Requested by Supervisors Smith and Herrity.
- PROCLAMATION — To designate the month of June 2023 as Pride Month. Requested by Chairman McKay and Supervisors Foust and Palchik.
- PROCLAMATION — To designate June 19, 2023, as Juneteenth. Requested by Chairman McKay.
- PROCLAMATION — To designate June 2, 2023, as Gun Violence Awareness Day. Requested by Chairman McKay.
- RESOLUTION — To recognize the Health Care Advisory Board on its 50th anniversary. Requested by Chairman McKay.

STAFF:

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

Board Agenda Item
June 6, 2023

9:30 a.m.

Presentation of the History Commission Annual Report

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County History Commission 2022 Annual Report

PRESENTED BY:

Cheryl-Ann Repetti, Chair, Fairfax County History Commission

Fairfax County History Commission

2022 Annual Report



Preserving and Promoting our History

ABOUT US

Following the recommendation of the Landmark Preservation Committee of 1965, the Fairfax County Board of Supervisors established the History Commission in 1969 with a 21-member body. The Commission helps to identify, document, record, and preserve the County's historic past.

The purpose of the History Commission is to advise the County Government and to promote and encourage public interest in all matters bearing on the history of Fairfax County.

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EXECUTIVE SUMMARY

The Fairfax County History Commission (FCHC) and its volunteer members are proud of their contributions to preserve and promote the history of Fairfax County. We thank the Board of Supervisors (BoS) for this opportunity and for its continued support. A summary list of the Commission's 2022 achievements follows:

Achievements:

- We worked with Capstone students from the George Mason University (GMU) IT program to translate the Commission's African American History Inventory into a searchable online database. The FCHC also signed a memorandum of understanding with GMU's Fenwick Library to continue hosting, maintaining, and expanding the online inventory.
- We served on the African American Black Experience Marker Project Committee that engaged more than 100 students in researching Black history in Fairfax and nominating topics for six roadside historical markers. We also served on the Fairfax County Semiquincentennial Committee and as judges for National History Day.
- We provided matching support for the African American Survey in 2021 and this year advised the consultant conducting the survey. The Commission also provided matching support for the Mid-Twentieth Century Architectural Survey commissioned by the Department of Planning and Development.
- We expanded community outreach and education at community events, including Mount Vernon Town Hall, the Tinner Hill Music Festival, Gum Springs Juneteenth Celebration, Oak Hill open house, and Fairfax History Day.
- We advocated for the preservation and protection of the historic Fairfax County Courthouse, the Dunn Loring School, and Goins House.
- We researched the history of the re-naming of Fort Belvoir and participated in an extensive dialogue with historians associated with the Naming Commission.
- We saw the completion of the Section 106 process for the Soapstone Connector project and FCHC continues to serve as a consulting party on other Section 106 projects.

We continued to interview former public leaders, while planning to expand the oral history project to include elders and leaders of the County's diverse immigrant communities. The 18th Annual History Conference, *We Are Fairfax County - Part II*, was held in person for the first time since 2019. Conference speakers examined the experiences of the area's early German, Jewish, Italian, and Irish immigrants. The FCHC presented *Awards* to Debbie Robison, Mike Salmon and Ean Eschenburg, and GMU students to honor their contributions to promoting and preserving Fairfax County's history.

Four FCHC members --Phyllis Walker Ford, Mary Lipsey, Barbara Naef, and Barbara Peters - announced their retirement in 2022. This represents the loss of some 52 years of experience and achievements. The Commission deeply appreciates their invaluable service and will engage them as part of its Advisory Council in the future. The FCHC has a new full-time staff, in addition to the staff liaison. This new staff person is presently completing the African American Marker project and will assist with other tasks of the FCHC in the future.

The Commission thanks the Department of Planning and Development (DPD), the Architectural Review Board (ARB), the Park Authority (PA), the Virginia Room of the Fairfax County Public Library system, and Channel 16 for working with us toward shared goals of historic preservation and education. We look forward to another productive and exciting year.

Sincerely,



Cheryl-Ann Repetti
Chairperson, History Commission

MAJOR INITIATIVES

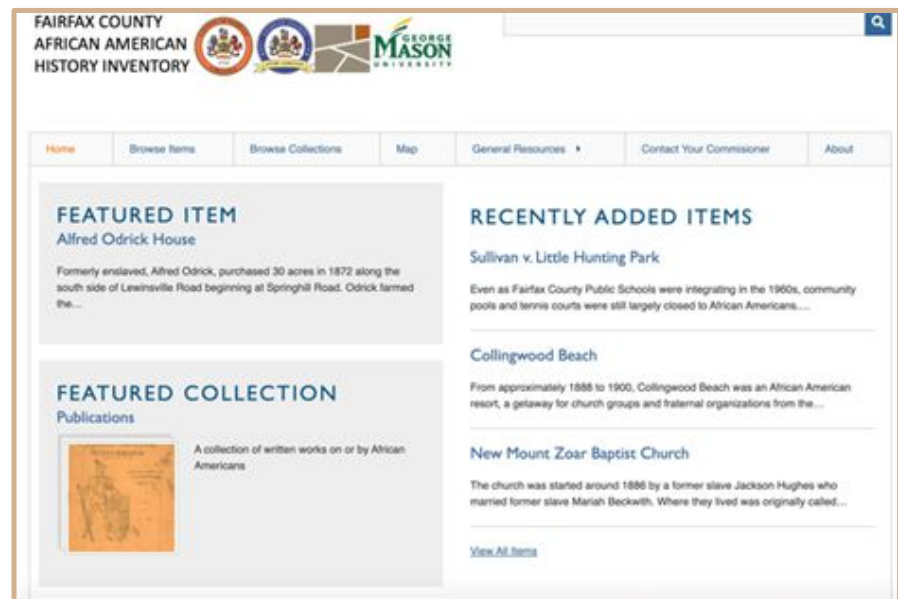
AFRICAN AMERICAN HISTORY INVENTORY

In October 2020, the Fairfax County History Commission (FCHC) approved a major new initiative to develop a research inventory, by Supervisory District, that provides information on the histories of African American communities in Fairfax County.

FCHC established the African American History Inventory (AAHI) Committee in January 2021 to address the mandate of the new initiative. The Commission appointed Phyllis Walker-Ford and Mary Lipsey as co-chairs to lead this effort. The African American History Inventory Committee had 15 members.

FCHC Commission members researched and collected information on an initial 150 historical assets¹ in 2021 and published the draft [Fairfax County History Inventory Report](#), a [General Resources Guide](#) and suggested [Research Topics](#) on its website in early 2022. The Inventory was shared with FCPS to assist with the development of materials for the History Marker Project, and the overall timeline for research and publication of the AAHI was adjusted to support the History Marker Project. County residents are encouraged to contact their district's

Commission members with additional information to expand the inventory.



Working with George Mason senior IT students, the AAHI was converted to a searchable, interactive database that is hosted by George Mason University (GMU.) It went live in April 2022. The AAHI Committee was dissolved in December 2022, but the work will go on through our Advisory Council members, existing Committees and GMU. The FCHC will work with GMU to advocate and advertise the database. Currently, the [African American History Inventory Database](#) is hosted on the GMU website.

¹ Such as physical sites, collection of printed materials, digital resources, oral histories, church and school histories, historical roadside markers, and family/private records.

INSTITUTIONAL CHANGES

The second half of 2022 was a period of change for the Fairfax County History Commission. These changes in the Department of Planning and Development staff and within the History Commission itself occurred at a time when Commission work was increasing, and preparations were being made for it and all its committees to return to meeting in person.

BYLAWS UPDATE

In the fall of 2019, while the Board of Supervisors was amending the History Commission's Resolution and Bylaws to include a member from the City of Fairfax, the Commission realized the need to clarify its internal financial review process. After the Board approved the amendments on December 3, 2019, FCHC began to work with the County Attorney's office on this small amendment. In February 2020, model bylaws for boards, authorities, and commissions (BACs) were released. The Commission decided to completely update the bylaws to conform to the new BAC Model Bylaws. The Bylaws Committee spent many hours considering language and passing drafts back and forth with the County Attorney's office, facilitated by Denice Dressel, our then Heritage Resources Branch Staff Liaison. The Commission voted to adopt the revised bylaws on August 4, 2021, and the Board approved them on May 10, 2022, after making one additional amendment. In the fall of 2021, the Office of the County Attorney raised concerns about the Commission's Awards program, which has been in existence since the 1990s. After much discussion and from an abundance of caution, it was agreed in the summer of 2022 that the Bylaws should be amended to include the Awards program, Publication Grants, and other mission-related expenditures. Over the course of 2022, an amended bylaws draft was developed and is now in the hands of the Bylaws Committee. Anne Barnes chairs the committee of six members.

TURNOVER OF DPD STAFF AND FCHC MEMBERS

The Commission wishes to acknowledge the outstanding service and dedication of the former Chief of the Heritage Resources Branch, Laura Arseneau, History Commission Liaison Denice Dressel, and Heritage Planner Grace Davenport. We are very pleased to congratulate and welcome Denice Dressel, as the new Chief of the Heritage Resources Branch and ARB Administrator; Laura Kviklys, as the new Liaison for the History Commission; and Stephanie Newman, in her position as a Heritage Planner II. We wish to thank the Board of Supervisors and the Department of Planning and Development for their support in creating the new Heritage Planner II position that now supports the History Commission. Having staff support in addition to a Liaison is essential for continuing the Commission's mission.

We began 2022 by welcoming a new Commission member, Jenee Lindner, representing Springfield District, and by welcoming Commissioner Lynne Garvey-Hodge to a new position as Historian At-Large. As 2022 ended, Commissioners Mary Lipsey, Barbara Naef, Phyllis Walker-Ford, and Barbara Peters each announced their retirements from the Commission. With their departure, we not only lost about 20% of our members, but the cumulative wisdom of more than 52 years of experience and institutional knowledge. Fortunately, these Commissioners agreed to continue their service as Advisory Members of the Commission. This has particularly facilitated the continuation of the African American Marker Project, the completion of the MOU with George Mason University to host the AAHI database and the ongoing expansion of the AAHI. We thank the Board for moving quickly to make new appointments to fill vacancies and we look forward to working with our new colleagues.

POST COVID TRANSITION

In December 2022, the History Commission held its first in-person meeting since March 2020. It was also the first meeting that utilized the electronic participation policy mandated by state legislation. Staff and Commission Members tackled the challenges of the hybrid format.

OUTREACH

EXPERTISE AND CONSULTATIONS

Archeology and Collections Branch Support: In April, the History Commission expressed concern for the funding of the Archeological and Collections facility at Lorton via a letter to the Board of Supervisors. In 2026, the American Association of Museums will begin the process of reaccrediting the Archaeology and Museum Collections. The last accreditation was dependent on the building of the projected new facility to house these collections. If this facility is not funded, the FCPA collections could lose their accreditation, initiating a cascade of unfortunate outcomes for the county. The History Commission suggested that the Board of Supervisors might directly fund the completion of the Archaeology and Collections Facility, or to move up a bond issue in support. In his response to our letter, Chairman McKay assured the Commission that the creation of this facility is one of his priorities, as it was for Chairman Sharon Bulova's. He also noted that the Park Authority Board agreed that FCPA would work with County budget and finance staff to find construction funding for this important facility.

Dunn Loring School: In late 2022, the History Commission learned in a public meeting that the historic Dunn



Historic Dun Loring Elementary School

Loring Elementary School is proposed for demolition. The school is significant for its association with President Roosevelt's New Deal programs. Its Colonial Revival architecture reflects the Public Works Administration's support for local architects and building styles. And, the school was important to the growth of the Dunn Loring community. The History Commission is concerned there is a lack of consideration for the preservation of this Inventory site and will be monitoring future developments.

Fort Belvoir: The FCHC has not taken any position regarding the decision to rename Fort Belvoir, but we believe that there should be a full and complete understanding of the history of President Roosevelt's order to change the name from Fort Humphreys to Fort Belvoir. In September 2021, the FCHC was invited to participate as a stakeholder in a Fort Belvoir meeting with the Naming Commission tasked under the National Defense Authorization Act with renaming military assets that have names associated with the Confederate States of America. In March 2022, the FCHC voted to produce a research report for the BoS on the history of the 1935 and research on this subject continued through the remainder of the year and early 2023. The Naming Commission published its final report in September 2022. It recommended the Army conduct its own review of

the 1935 Belvoir name change. It also included an addended historical report that we believe is not a complete and full weighing of the historical evidence. In early 2023, the History Commission prepared a letter for the Board of Supervisors with its recommendations.

Historic Courthouse: FCHC continued to express concerns for the integrity of the historic 1800 Fairfax County Courthouse building, participating in a survey of the property in April with Supervisor Palchik and staff to assess the situation. A contractor was authorized to survey the exterior in May 2022 and by September a masonry repair and repainting plan was fully funded and is currently in progress.

Historical Marker Project: Mary Lipsey, Tammy Mannarino, and Cheryl-Ann Repetti represented the FCHC the BoS- initiated Historical Marker Project for county students. Ms. Lipsey shared detailed resource lists and the other FCHC members assisted in defining the project and determining logistics to communicate them to teachers, community leaders, and students across the County. They liaised between FCHC’s AAHI program and the Historical Marker Project to ensure that the Inventory and other research materials are available to support the project.

The county received over 50 student submissions. The project Voting Committee, consisting of county residents and students, selected fourteen submissions to be considered for markers. A review committee including Barbara Naef, Cheryl Repetti, Phyllis Walker-Ford, and Mary Lipsey selected six of the fourteen for DPD staff to finalize research and write-up before installing the markers with the review committee’s final concurrence.



Louise Archer, teacher and activist, for whom a marker will be dedicated.

Hollin Hills and Holmes Run: Elise Ruff Murray attended meetings of the Hollin Hills Work Group. The Group began meeting in the spring of 2019 and aided County staff with defining the area’s history, architecture, and boundaries for a proposed Hollin Hills Historic Overlay District. In February, the History Commission sent a letter in support of the creation of the Hollin Hills Historic Overlay District which became the 15th such district on March 8, 2022. Due to redistricting, History Commission representation on the Holmes Run Acres working group was transferred from Sue Kovach Shuman to Barbara Peters. On October 24, 2022, the Board of Supervisors decided not to proceed with the Holmes Run Historic Overlay District.

Semiquincentennial Work Group: Gretchen Bulova represented the Commission on the Fairfax County seven-member Semiquincentennial Work Group which made its final report in August. Commissioners Bulova, Carole Herrick, and Subhi Mehdi serve on the Fairfax County 250th Commission. Ms. Bulova also leads the FCHC Semiquincentennial Committee.

SECTION 106 CONSULTATIONS

Within the National Historic Preservation Act of 1966, Section 106 requires federal agencies to consider the effects of any changes to historic properties they approve. If a federal or federally assisted project can potentially affect historic properties, a Section 106 review takes place. The History Commission periodically serves as a consulting party on these projects. In 2022, FCHC initiated or continued to provide expertise on five such consultations:

The Capital One Lounge is part of the Dulles Airport Historic District. It was originally the Dulles restaurant with a mid-twentieth century aesthetic, designed by Eero Saarinen, and was included in his 1964 Master Plan. It is currently being updated to meet the needs of modern-day travelers while still maintaining connections to

mid-century design. In 2022, the FCHC continued to evaluate the planned updates, reacting to developer revisions, and providing feedback to mitigate continuing adverse effects through May.

The Coastal Storm Risk Management Feasibility Study is a U.S. Army Corps of Engineers project focused on installing flood mitigation measures in anticipation of rising sea levels and coastal flooding projections through 2100. In July 2022, the Commission unanimously voted to be a consulting party in the Section 106 process. The Fairfax County Archaeology and Collections Branch and the Architecture Review Board are also consulting parties. The Commission is concerned with the impact flood mitigation may have on the historic George Washington Memorial Parkway.

The I-495 Southside Express Lanes Study is a project to extend the existing express lanes on the southeast portion of I-495, from the I-95/I-395/I-495 interchange (Springfield) to Maryland Route 210 (Oxon Hill/National Harbor). The project does not anticipate widening of the Woodrow Wilson Memorial Bridge. In December 2022, the Federal Highway Administration and the Virginia Department of Transportation invited the History Commission to be a consulting party for the Section 106 process. The History Commission accepted the invitation.

The McMillen Farm was a 550-acre dairy farm in the Dranesville District. The barn was partially built in 1850, and the family home was completed about 50 years later in the early 1900s. The property was listed on the Inventory of Historic Sites. The home, Coomber Hall, and several other structures at McMillen Farm were deconstructed in Fall 2021 after Fairfax County granted a demolition permit to NVHomes to make way for new residential housing. Anne Stuntz, representing the History Commission, and staff have been in further contact with Dovetail Consulting concerning the interpretive installation called for in the MOA which resulted from the Section 106 Consultation process with the developer, the Army Corps of Engineers, SHPO, the History Commission, and the County.

The Soapstone Connector is a Federal Highway Administration project providing a connection between Sunset Hills Road and Sunrise Valley Drive in Reston. The Association Drive Historic District is a group of nine modern and postmodern office buildings, built between 1972 and 1991, that represent the initial concept, planning, and implementation of the Reston Plan—a significant mid-twentieth century, planned community. The district was determined to be eligible for the National Register. An MOA was signed by the BoS that included mitigations supported by FCHC: HABS and HALS documentation of the buildings and their setting, 3 wayside markers at the site to meet History Commission standards, and a publicly available report on the history of Association Drive.

Fairfax County’s rich history is rooted in the struggle for independence and the shaping of a new nation. From colonial times through the American Revolution, the Civil War, and the growth of the federal government, the story of Fairfax County is the story of America.

- **Sharon Bulova, Former Chairman of the Fairfax County Board of Supervisors**

SUSTAINED EFFORTS

INVENTORY OF HISTORIC SITES

The Fairfax County Inventory of Historic Sites is one of the History Commission's longest standing responsibilities. It serves as a valuable planning reference guide when used in conjunction with Fairfax County's Comprehensive Plan (CP). The County's CP includes these historic sites in the Heritage Resources section of each Planning District.

There were no additions in 2022 and one building was demolished, Mount Erin, located in the Franconia District. Once a home of joyful music and heart-rending loss, Mount Erin endured for over 200 years until it was demolished in March 2022 to make way for new development. Mount Erin was built circa 1811 by Thomas Tracy, an Irish immigrant who taught music to both enslaved children and the grandchildren of Martha Washington. It was the home of Alexandria merchant Samuel Pulman during the Civil War when an errant shell from Fort Lyon hit the house, killing two of the Pulman's children and injuring a third.

The current Inventory, along with its background, nomination forms, and research guidelines is accessible to staff and the public on the History Commission website. The Inventory of Historical Sites Committee is chaired by Elise Murray and has seven members.



Mount Erin, 1971



Mount Erin, March 2022

ETHNIC AND ORAL HISTORY

In 1997, the Ethnic Committee was formed in response to the changing demographic diversity of the County's population. The Committee was later assigned oral history tasks. It is now referred to as The Ethnic and Oral History Committee. The goal of this Committee is to encourage the citizens of all ethnicities to compile, record, and share their history with fellow citizens and others interested in the history of Fairfax County. In 2021, in partnership with the County's Channel 16, interviews with former Chairman Sharon Bulova, former Chairman Gerry Connolly, and former Supervisor Dana Kauffman were broadcasted in a program called *Fairfax County Looks Back at Our Recent History*. In 2022, former Supervisor Michael Frey and former Chairman Kate Hanley were interviewed. Former Commissioner Naomi Zeavin and others are being scheduled for 2023. These will soon be broadcasted on Channel 16 Television and archived in The Virginia Room. The second phase of the Oral History Project will involve interviews of County citizens at the community level. Our committee will plan a training program for persons in each district that will interview fellow citizens using our oral history interview methodology. The Ethnic History Committee is chaired by Esther McCullough and has seven members.

HISTORICAL ROADSIDE MARKERS

Fairfax County's Historical Roadside Marker Program began in January 1998 when the History Commission approved the design and funding of a distinctive roadside marker. With colors derived from George Washington's Fairfax Militia uniform, the buff and blue roadside marker is emblazoned with the Fairfax County seal. Since the inception of the program, FCHC approved the installation of over 60 historical roadside markers (including six state markers). The Historical Marker Committee, chaired by Mary Lipsey, reviews all marker requests for historical accuracy and significance, before submitting to the entire FCHC for approval. The public may request that the History Commission fund approximately fifty percent of the roadside marker and installation.

A marker dedication ceremony for the McLean Volunteer Firehouse marker was held on August 21, 2022. The ceremony had been delayed due to the Pandemic. In 2022, the Frying Pan Meeting House marker, erected in 1994, was sent to the foundry for repainting. The marker committee has been working with several applicants for new History Commission markers. Due to a backlog of orders, FCHC orders for new and replacement markers were delayed until January 2023. The cost of markers increased significantly in 2022.



McLean Firehouse Marker

PRESERVATION OF HISTORICAL CEMETERIES

FCHC and the Fairfax County Cemetery Preservation Association mutually agreed to form a partnership to identify, document, and advocate for cemeteries in our County that are threatened by development, vandalism, or neglect. The two organizations also committed to educate the community about the historical importance of cemeteries and their preservation. In 2022, they submitted a draft memorandum of agreement to the County Attorney's office for review.

THE 18TH ANNUAL FAIRFAX COUNTY HISTORY CONFERENCE

Reflecting the spirit of Fairfax County's *One Fairfax* policy, the FCHC is chronologically examining the diverse peoples who lived here in four consecutive annual history conferences. It held its first in-person annual History Conference since the COVID pandemic in November 2022, with the theme, *WE Are Fairfax County – Part II, Early Immigrant Groups of Fairfax County – Sowing the Seeds of Today's Fairfax County*. The conference represented the rich mix of citizens – specifically those arriving in the late 19th and early 20th century: our Irish, Jewish, German, Quaker and Italian citizens. Among about 70 in-person participants, our esteemed guests included U.S Representative Gerry Connolly, Chairman of the Board of Supervisors Jeff McKay, and Mayor of Fairfax City, the Honorable David Meyer.

Commissioner Esther McCullough presented on *The Earliest African American Churches and their Communities in Fairfax County*. She noted that churches were established in the latter 1800s when the African American population base found their communities in the churches that they attended. Many of those churches still provide a place for meetings, social events, fellowship and worship for African Americans and others in Fairfax County.



**Esther McCullough,
Commissioner and
Presenter**

Dr. Martha Claire Catlin is an author and currently the historian for the Alexandria Quaker Meeting House at Woodlawn. In her presentation, *The Woodlawn Quaker Anti-Slavery Colony*, she shared that the 19th century Alexandria and Mount Vernon-area Quakers in 1846 purchased a 2,000-acre tract of land to create “demonstration” farms at the Woodlawn estate (originally owned by President George Washington). The intent was to provide examples of successfully run farms without the use of enslaved persons.

The *Germanna Foundation's* Director of Archaeology **Dr. Eric Larsen** spoke on the history of the now lost to time, Germanna Colony. Germanna was an 18th century German settlement near present-day Fredericksburg, settled in two waves, in 1714 and in 1717. Today, The Germanna Foundation maintains a research library, a memorial garden, and plans interpretive walking trails to various historic and archaeological sites.

Shawn and Susan Dilles recently published an Arcadia book, *The Jewish Community of Northern Virginia*. In her presentation, Ms. Dilles provided an overview of the Jewish community that has resided in Northern Virginia for over 175 years. Since the colonial days, the Country experienced four major waves of Jewish immigration from eastern and central Europe as well as the Soviet Union. Many Jewish immigrants founded successful retail enterprises such as Rosenthal Chevrolet, Garfinkle's, Hechinger, Giant Food Stores, The Hecht Company, as well as the highly successful Vienna Inn. Robert E. Simon founded Reston and Charles Smith (son of Russian immigrants) founded Crystal City.



**Shawn and Susan Dilles
with Commissioner Jordan**

John Murphy, the Charter President, Fr. Corby Division of the Ancient Order of the Hibernians located at St. Mary of Sorrows Roman Catholic church in Fairfax Station, member of the Fairfax Station Railroad Museum and a retired attorney, spoke on *Fairfax County's Earliest Irish Citizens*. Mr. Murphy is the grandson of Irish immigrants and has extensively studied Irish immigrations of the 17th, 18th and 19th centuries.

Finally, two professors, **Dr. Martha Pallante** and **Dr. Donna DiBlasio**, Youngstown University shared research done for their presentation *Looking beyond the 'Big Apple: Investigating the Immigrant Experience in Understudied Communities*. Their focus was on the Italian immigrants of Fairfax County and the United States.

The conference was offered as a hybrid conference (virtual and in-person), with excellent assistance from Fairfax County Cable Channel 16. Lynne Garvey-Hodge was the mistress of ceremony. She chairs FCHC's Annual History Conference Planning Committee, an 11-member body. The Committee has begun planning the fourth conference in this series, *WE Are Fairfax – A County of Nations*. A copy of the full Conference report can be found [here](#).

AWARDS

Each year, the Fairfax County History Commission proudly presents Annual Awards to deserving citizens. The following awards were presented by Representative Gerry Connolly, Virginia's 11th District and Jeff McKay, Chairman of the Fairfax County Board of Supervisors, at the 2022 Annual History Conference.

The Lifetime Achievement Award: [Debbie Robison](#)



Ms. Robison with Chairman McKay and Representative Connolly

Debbie Robison served for 11 years as a Fairfax County History Commissioner (2007 – 2018) and as the Commission's Chairperson from 2009 – 2011. Ms. Robison also served as the Commission's Treasurer from 2013 – 2015. Her in-depth knowledge of Fairfax County and surrounding jurisdictions is beyond compare. Ms. Robison drafted the Fairfax County Historical Marker Guidelines and researched the history of the Gum Springs and Mount Pleasant Baptist Churches to assist them in obtaining historical markers. She developed historical markers in Centreville, including three at Newgate Tavern and a marker based on research of war correspondents during the Civil War.

Ms. Robison created a [website](#) which provides in-depth, source-documented research articles on this area's history, people, places, and events. She made other historical resources available through the [FCHC](#) website, including scanning the 1860 maps prepared by Beth Mitchell and working with GIS to create a map of the County with links to original maps. She wrote a document on the history and significance of Historic Centreville; wrote numerous historic structure reports with support from engineer and architect colleagues; identified the Fairfax County Freedman's Bureau Schools and wrote a supporting article on them. Ms. Robison performed in-depth research into the historical towns of Centreville, Clifton, Matildaville and Colchester; researched and identified the locations of dozens of historical mill sites in Fairfax County; and researched over 500 historical places and events in Fairfax County.

The Mayo Stuntz Award: [Mike Salmon and Ean Eschenburg](#)

Messrs. Salmon and Eschenburg recently entered the media world of video historic documentary production. One of their first productions entitled *The*



Messrs. Salmon and Eschenburg with Chairman McKay and Representative Connolly

Gravel Pits: Before There Was a Kingstowne takes the viewer from today's busy, attractive residential and commercial area of Alexandria, Virginia, known as *Kingstowne*, to when it was a semi-abandoned concrete plant known as the Leehigh Cement Company, nearly 50 years ago. Mike's and Ean's demonstrated keen enthusiasm and willingness to work long hours to present this otherwise lost-in-time slice of insight into young peoples' life in Fairfax County, a largely undocumented sector of people.

Distinguished Achievement Award: Akbar Asuri, Steve Cheuko, Brian Do, Fernando Galarza, Roman Patrick, and Samuel Pitch.

These 2021 GMU Capstone Computer Science Program graduates were the creators of the Fairfax County African American History Inventory Database. Under the leadership of Akbar Asuri, the GMU Capstone students applied and demonstrated their technical skills in a variety of integrative/applied/experiential ways. The team fashioned special features that enhance the quality of research and allow the user to search additional topics linked to the initial, research topic. The interactive map presents geophysical information for various locations that are shown in relation to other nearby resources within the County. The data is organized using tags and collections that simplify the search. This project successfully blended Information Technology with the Liberal Arts and History programs at GMU. Additionally, the team wrote a memorandum of understanding between the FCHC and the GMU Fenwick Library to host and maintain the national prototype African American History research database for Fairfax County. The street value of such a web site would be tens of thousands of dollars. This database was created under the guidance of Fairfax County History Commissioners: Barbara Naef, Phyllis Walker Ford, and Mary Lipsey. The Awards Committee is chaired by Lynne Garvey-Hodge and has three other members.



GMU Awardees with Representative Connolly, Chairman McKay and Commissioners Lipsey and Naef

RESIDENT CURATOR PROGRAM

The Resident Curator Program (RCP) preserves publicly owned historic buildings within the County. It enables the County to enter long-term leases with qualified tenants who agree to rehabilitate and maintain under-utilized historic properties and provide periodic public access for appreciation of their historical significance.

The RCP continues to oversee four curator-leased properties. The current occupied properties include Stemson House in Lorton (2017), Turner Farmhouse in Great Falls (2018) and Hannah P. Clark Enyedi House (2019). Renovation work will begin in the Spring of 2023 for the Ellmore Farmhouse (2021).

In 2022, preparations were being made to include Margaret White Gardens, Ash Grove, Lahey Lost Valley, Dranesville Tavern and Mount Gilead in the RCP. Historic Structure Reports and Treatment Plans are underway for Fairfax Arms and Union Farm. The RCP Committee is a four-person body chaired by Robert Beach.

ADVOCACY

FCHC's Advocacy Committee enables the Commission to promote interest in the County history through participation in events and press releases; advise and inform the BoS on matters of preservation of the County's history; and advocate for the preservation of our county's past. In 2022, the Advocacy Program staffed information tables at numerous county events, notably at:



**Sue Kovach Schuman and Edwin Henderson II,
2022 Tinner Hill Music Festival.**

- The Mt Vernon Town Hall
- Tour de Mount Vernon
- Tinner Hill
- Gum Springs Juneteenth Celebration
- Falls Church History Walk
- McLean Day

The program disseminated information about the Commission's work and its recent African American History Inventory and compiled the FCHC annual report. The Advocacy Committee is chaired by Anne Stuntz and has 10 members.



History Commission Display Table

BUDGET

History Commission FY2022 Actual, FY2023 Estimate, and First Half FY2023

	FY2022 Actual	FY2023 Estimate	First Half FY2023
Balance (July 1)	\$48,767.24	\$56,216.18	\$56,216.18
Income			
Fairfax County	\$21,013.00	\$21,013.00	\$21,013.00
Interest/Other	\$2600.06		(\$1305.33)
Marker Proffer Funds	\$2700.00		
Total Income	\$26,313.06	\$21,013	\$19,707.67
TOTAL Available	\$75,080.30	\$77,229.18	\$73,901.55
Expenses			
Operating Expenses	\$18,864.12	\$44,613.11	\$6,041.04
Total Expenses	\$ 18,864.12	\$44,613.11	\$6,041.04
Balance	\$ 56,216.18*	\$32,616.07	\$69,882.81

*Unspent funds from previous years are committed to historical roadside marker maintenance, archaeology grants, publications, and preservation and oral history programs.

COMMISSION MEMBERS

The History Commission, and its volunteer members, are proud of their contributions to preserving and promoting the history of Fairfax County. The members offer rich knowledge and expertise in local history and a very diverse background.

BRADDOCK DISTRICT

Mary Lipsey: Ms. Lipsey was raised in Fairfax County. She received a BA from Mary Washington College and an MA from Virginia Tech. She retired after 30 years of teaching seventh grade American History for FCPS. Her interest in local and women's history led her to author four books and lead programs for senior and community organizations concerning these areas of history. She is one of the directors of the Fairfax County Cemetery Preservation Association, Inc., whose goal is to preserve and protect family cemeteries in Fairfax County. She has supported over 50 preservation projects in county cemeteries and has made many presentations about historic cemeteries and how to preserve them. Ms. Lipsey retired from the Commission on December 31, 2022, and will serve as an Advisory Member in the future.

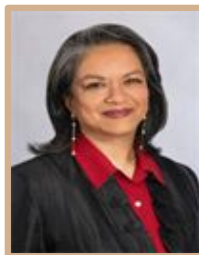


Gretchen M. Bulova: Ms. Bulova is the Director for the Office of Historic Alexandria in Alexandria, Virginia, managing eight museums as well as the City's Archives and Records Center and Archaeology program. She has been active in the regional museum community for more than 30 years. She is the Past President of the Virginia Association of Museums, President of the Historic House Museums Consortium of Washington, D.C., and a Governor appointee to the American Revolution 250 Commission. She has also served as a Governor appointee to the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion. She chaired the FCHC from 2012-2014, as well as the Fairfax County 275th Commemoration Committee. She currently serves on the Fairfax 250 Commission as a representative from the History Commission.

DRANESVILLE DISTRICT



Carole Herrick: As a nationally ranked tennis player, Ms. Herrick attended Los Angeles State College, where she received her BA in History. In 2012, she was inducted into the National Women's Intercollegiate Tennis Hall of Fame. She served 12 years on the Governing Board of the McLean Community Center, chaired the Fairfax County History Commission 2015-2017, and is currently president of the McLean Historical Society. Ms. Herrick received numerous accolades including *The Heartbeat of Rotary* and the *Friend in Deed* awards. In 2016, she was the honorary chair for the 50th anniversary of the Women's Club of McLean. The following year, she received the *Mary Kingman – Pillar of McLean* award presented by McLean Chamber of Commerce. In 2018 was the recipient of the *Jean Tibbetts History Award* and was *Lady Fairfax* representing the Dranesville District. Ms. Herrick is a highly regarded speaker and has written numerous articles for publication about the Northern Virginia area, along with authoring nine books.



Subhi Mehdi: Ms. Mehdi retired from the US Senior Executive Service in 2015 with a 30-year public service career with the US Departments of Veterans Affairs, Health and Human Services, and the Agency for International Development. She is a 40-year resident of Fairfax County, and actively volunteers in numerous national and local organizations. Ms. Mehdi is passionate about ancient history, especially the origins of the Abrahamic faiths and UNESCO World Heritage sites. At the History Commission, she volunteers in the Committees on Advocacy and Ethnic History. She also represents Dranesville District at the American Revolution 250 Year Commission. Ms. Mehdi has a BA from Sweet Briar College, an MA from American University, and an MPH from George Washington University.

HUNTER MILL DISTRICT

Elise Ruff Murray: Elise Murray has lived in Fairfax County since 1967 and currently resides in Vienna. She earned a BA in History from the University of Virginia and is interested in archaeology, history, and preservation. After working for a year and a half on an archaeology project in Northeastern Mississippi, she worked as an economic consultant advising on anti-trust and commercial litigation matters for over 20 years. A member of the Fairfax County History Commission since 1983, Ms. Murray has served as the Commission's ex-officio member of the Architectural Review Board since 1992. On the Commission, she served as chairman, treasurer, and vice chairman. She is the chair of the Inventory of Historic Sites Committee and serves on the Awards, Bylaws and Markers Committees.



Barbara M. Naef: Ms. Naef has a BA from Duke University and an MA from the University of Delaware. She retired in 2002 after 23 years working to preserve and interpret our county history at the Fairfax County Park Authority. She became supervisor of the county archaeology program in 1996 and is the Archaeologist Representative on the History Commission. In 2021 she was honored by the Park Authority Board with the *Mayo Stuntz Cultural Stewardship Award* "in recognition of her dedication to the long-term preservation and stewardship of cultural and historic resources throughout Fairfax County." She continues to advocate for Park Authority historic site programs, support local history groups, including the Reston Museum & Historic Trust. In 2022 she continued to serve on the Inventory of Historic Sites Committee, the Budget Committee, and the African American History Inventory Committee. Ms. Naef retired from the Commission on December 31, 2022, and will serve in its Advisory Council in the future.



Anne Stuntz: Ms. Stuntz grew up in Vienna, Virginia. She has a degree in art history from Princeton University and an MBA from Columbia University. After a career in finance in NY and London, Anne returned to her historic family home in Vienna, and is devoted to preserving the history of the area. She is president of Historic Vienna, Inc., Secretary Treasurer of the historic Flint Hill Cemetery Association, and Secretary of the Friends of the Virginia Room. She is on the Sully Foundation and the board of the Historical Society of Fairfax County. She is a member of the Fitzhugh Families of Virginia and the NSDAR. She served as Vice Chairman of the History Commission from 2015-2017 and as Chairman in 2018-2020. She is currently Secretary.

FRANCONIA DISTRICT



Steven Sherman: Mr. Sherman was born in Washington, D.C. and raised in Arlington, Virginia. He has lived in Northern Virginia for over 60 years and attended Morris Harvey College in Charleston, West Virginia and Northern Virginia Community College in Annandale, Virginia, where he majored in Accounting and History. He is President/Broker of Sherman Properties, Inc., located in Franconia and has been in the real estate business for the past 40 years. Since 1984, he has owned the historic "Five Oaks Estates" manor house built in 1910 located off Blake Lane in Fairfax County. Steve is the president of HMS Productions, which made a 90-minute documentary, *Mosby's Combat Operations in Fairfax County*.



Phyllis Walker-Ford: Ms. Walker-Ford was appointed to the Commission in February 2009. She has a BA in Business Administration from Bluefield State University, West Virginia, and an MBA from Trinity University, Washington, DC. She is President of Laurel Grove School Association, the governing body of Laurel Grove School Museum located in Franconia, Virginia. She serves as Vice President of Virginia Africana Associates, a network of museum, history, and preservation professionals. Ms. Walker-Ford is a current member of the History Commission Marker Committee and Conference Planning Committee. She, along with Mary Lipsey, co-chairs the African American

History Inventory Committee. Ms. Walker-Ford retired from the Commission on December 31, 2022, and will serve in its Advisory Council in the future.

MASON DISTRICT



Barbara Peters: Ms. Peters who joined the Commission in 2017, has been a Fairfax County resident for 40 years. She received her BA from Oakland University in Rochester, Michigan, and an MA in Library Science from the University of Michigan in Ann Arbor, MI. Before settling in Fairfax, she resided in Paraguay, Venezuela, and Thailand. She has been active in local civic activities for 30 years including service as an Election Officer. She retired in 2016 as the branch manager of the Thomas Jefferson Library in Fairfax County.

MOUNT VERNON DISTRICT

Anne M. Barnes: Ms. Barnes is a longtime Fairfax County resident who lives on Mason Neck, Virginia. She received a BS in Criminal Law from Savannah State College, and an MA in Government from Johns Hopkins University. She worked on an archeological project in South Carolina in the mid-1980s. She is a former Marine Corps Officer, U.S. Congressional staffer, American History teacher, and is currently the Resource Director for a federal and strategic training center. She served as Vice Chairman of the History Commission in 2006-2008 and as Treasurer in 2010-2012. She is currently the chairman of the Bylaws and Budget Committees.



Sallie Lyons: Ms. Lyons holds a BA in Art History from Duke University. She worked at the Library of Congress, TA'd in anthropology at the University of Maryland, and has done urban archaeology in Winchester, capital of Saxon England. She moved to Mount Vernon District in 1970, living on archaeological sites Brickyard Point and Colchester. She has spent over 30 years supporting preservation and archaeology in Colchester, Mason Neck, and Lorton. She owns Lyonshare Studios, LLC, founded with her late husband Jerry, doing technical writing and editing, and illustration. She founded the Friends of Fairfax County Archaeology and Cultural Resources, and, with former Commissioner Glenn Fatzinger, the Mount Vernon Regional Historical Society. She is also active in the Archaeological Society of Virginia, the Lorton Heritage Society, and the Seeds of Independence

Committee of Gunston Hall



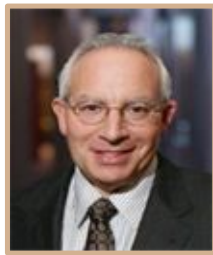
Tammy Mannarino: Tammy Mannarino enjoyed the nomadic childhood of a “Navy-brat” before her family settled in Fairfax County more than 40 years ago. She graduated from James Madison University with a degree in English and Political Science. She spent most of her career at the National Security Agency in the field of Information Systems Security. Ms. Mannarino holds an MA in Telecommunications and an MS in Systems Engineering. She lives in the Mount Vernon area where she researches, writes, and presents on local history on her website, BackyardMountVernon.com . In 2017, she joined with others to form the Mount Vernon Regional Historical Society where she currently holds the position of Treasurer. She was appointed to the Fairfax County History Commission in 2020.

PROVIDENCE DISTRICT



Sue Kovach Shuman: Ms. Shuman was appointed to the History Commission in 2020. She serves as Treasurer. A journalist with newspapers in Pennsylvania, Minnesota, and the Washington metro area, she worked for 20 years in news at The Washington Post, as well as at the American Embassy in Paris. She holds a BA in Journalism from Penn State, MA in Journalism from the University of Maryland, a Public History and Historic Preservation certificate from Northern Virginia Community College, and a Virginia Association of Museums management certification. She is a research historian and author of the book *Mantua*. She completed 19 USDA Forest Service volunteer projects in historic preservation, archaeology, and paleontology. For civic activities, including conducting interviews for the Providence Perspectives oral history project, she was honored in 2018 as a county Lady Fairfax. She is president of the Historical Society of Fairfax County and Mantua Citizens' Association.

SPRINGFIELD DISTRICT



Jordan Tannenbaum: Mr. Tannenbaum has a BA from Brandeis University, a JD from the Washington College of Law, and is a member of the DC Bar. After a decade with the U.S. Advisory Council on Historic Preservation (ACHP), he transitioned to the Development (fundraising) field working for Brandeis University. He has held senior positions at Georgetown University, the Wharton School, the National Trust for Historic Preservation, the Hillel Foundation, and is currently the Chief Development Officer for the U.S. Holocaust Memorial Museum. Tannenbaum retired from the JAG Corps, U.S Army Reserve as a lieutenant colonel. A member of the ACHP since 2016, he was appointed to the position of Vice Chairman in 2021. He currently serves on the boards of The Army Historical Foundation, the Rosenwald NHP Initiative, and the ACHP Foundation. Mr. Tannenbaum is on the History Conference and the Awards Committees.



Jenee Lindner: Ms. Lindner, MA, is a genealogist, historian, and living history presenter. She lectures on the history of the Fairfax family, Julia Ward Howe, Clara Barton, and Sarah Tracy. Ms. Lindner volunteered on several nonprofit organizations including Friends of the Historic Fairfax Court House, Historic Fairfax City Inc., Fairfax Station Railroad Museum, and as a facilitator for the historic African American Jermantown Cemetery. She led the founding of two private high schools - Commonwealth Academy in Alexandria, Virginia and GW Community School in Springfield, Virginia. She was the State Resident Curatorship Program lobbyist, now used in the county to help preserve historic homes and businesses. Ms. Lindner was recently appointed to the Fairfax County Confederate Name Task Force and Fairfax County Redistricting Advisory Committee. She won numerous service awards including Volunteer Fairfax Community Champion 2022.

SULLY DISTRICT



Esther W. McCullough: Ms. McCullough grew up in Longview, Texas and received her BS in Clothing and Textiles from North Texas State University (now The University of North Texas). After moving to Fairfax County in 1996, she sought history of African Americans in the area with little success. That was motivation for creating a brochure, African American Historical Sites in Fairfax County. She is the chair of the Ethnic Committee and sits on the Marker Committee and the History Conference Committee. Interviews of county leaders is a committee project. Esther has been a host at two history conferences and a presenter twice. She works tirelessly with the senior ministry at her church, First Baptist Church of Vienna, planning and presenting programs for seniors in the community.



Cheryl-Ann Repetti: Ms. Repetti joined the Commission in 2019. She has lived in Fairfax County since 1982 and moved to Centreville in 1990. She holds a PhD in Sociology from George Washington University and a Bachelor of Fine Arts from The Cooper Union in New York City. Ms. Repetti is the Historical Interpreter and Site Coordinator for Historic Huntley in Huntley Meadows Park and is a member of the board of directors of the Historic Centreville Society and the Friends of Historic Centreville. The latter group organizes Centreville Day each year, a community festival celebrating the area's rich and diverse heritage.

CITY OF FAIRFAX



David L. Meyer: David Meyer completed six years as Mayor of the City of Fairfax on December 31, 2022. Previously, he served five terms on the City Council (2008-17) before being elected Mayor in 2017. A city resident since 1981, Mr. Meyer has maintained a lifelong interest in local history and historic preservation, and co-authored *Fairfax, Virginia: A City Traveling Through Time*. He also authored *Pilgrimages of Faith, Histories of Churches in Vienna, Virginia*. Mr. Meyer retired in 2016 from the U.S. Nuclear Regulatory Commission, where he was a career member of the Senior Executive Service. He earned a BA from Randolph-Macon College and an MPA from American University.

AT-LARGE



Lynne Garvey-Hodge: Ms. Garvey-Hodge is Historian I, At-Large Commissioner, and the Chairperson (current and 2004-05) of FCHC. For over 22 years, she contributed to preserving the County's history in multiple ways. She led the 100th anniversary celebration of The Town of Clifton; worked with County staff to preserve Lorton Prison as a National Landmark, now The Lorton Workhouse Arts Center, and has been the force behind the annual Fairfax County History Conference, now in its 19th year. She published *Clifton* (Arcadia Books, 2009) and writes quarterly and monthly columns on Clifton. She is a founding member of the Turning Point Suffragist Association and has re-enacted the historical characters of Suffragist Mrs. Robert Walker and Angelina Grimke through over 150 performances. Ms. Garvey-Hodge served on the Fairfax County 275th Anniversary Committee.

Currently, she also serves as the FCHC Awards Committee Chairperson.



Robert E. Beach: Mr. Beach received a Bachelor of Architecture from Pratt Institute and practiced architecture in several notable New York City and Washington, DC area architecture firms before starting an architectural practice which provides design services for historic restorations at the Local, State and National levels. Mr. Beach has served as the Architect-at-large for the Commission, from 2000 to present. He was Vice Chair in 2004 and 2005, and Chair for the Commission from 2006 to 2008. He is Chair of the Resident Curator Program Committee, serves on the Curator Evaluation Team and served multiple times as a Juror for the Fairfax County Exceptional Design Awards. Mr. Beach is the Architect for the award-winning Turning Point Suffragist Memorial.

Board Agenda Item
June 6, 2023

10:00 a.m.

Matters Presented by Board Members

Board Agenda Item
June 6, 2023

10:00 a.m.

Items Presented by the County Executive

Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 1

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program – Hampton Knoll Drive and Villa Street (Franconia District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution (Attachment I) endorsing a traffic calming plan for Hampton Knoll Drive and Villa Street (Attachment II) consisting of the following:

- One Raised Crosswalk on Hampton Knoll Drive (Franconia District)
- One Speed Table on Villa Street (Franconia 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 June 6, 2023, to allow the proposed measure(s) to be installed as soon as possible.

BACKGROUND:

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

Board Agenda Item
June 6, 2023

On April 25, 2023, FCDOT received verification from the Franconia District Supervisor's office confirming community support for the Hampton Knoll Drive and Villa Street traffic calming plan.

FISCAL IMPACT:

Funding in the amount of \$30,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-C30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Hampton Knoll Drive and Villa Street
Attachment II: Traffic Calming Plan for Hampton Knoll Drive and Villa Street

STAFF:

Rachel Flynn, Deputy County Executive

Gregg Steverson, Acting Director, Fairfax County Department of Transportation (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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
HAMPTON KNOLL DRIVE AND VILLA STREET
FRANCONIA DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 6, 2023, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Hampton Knoll Drive and Villa Street have requested the Franconia District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Hampton Knoll Drive and Villa Street; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Hampton Knoll Drive and Villa Street 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

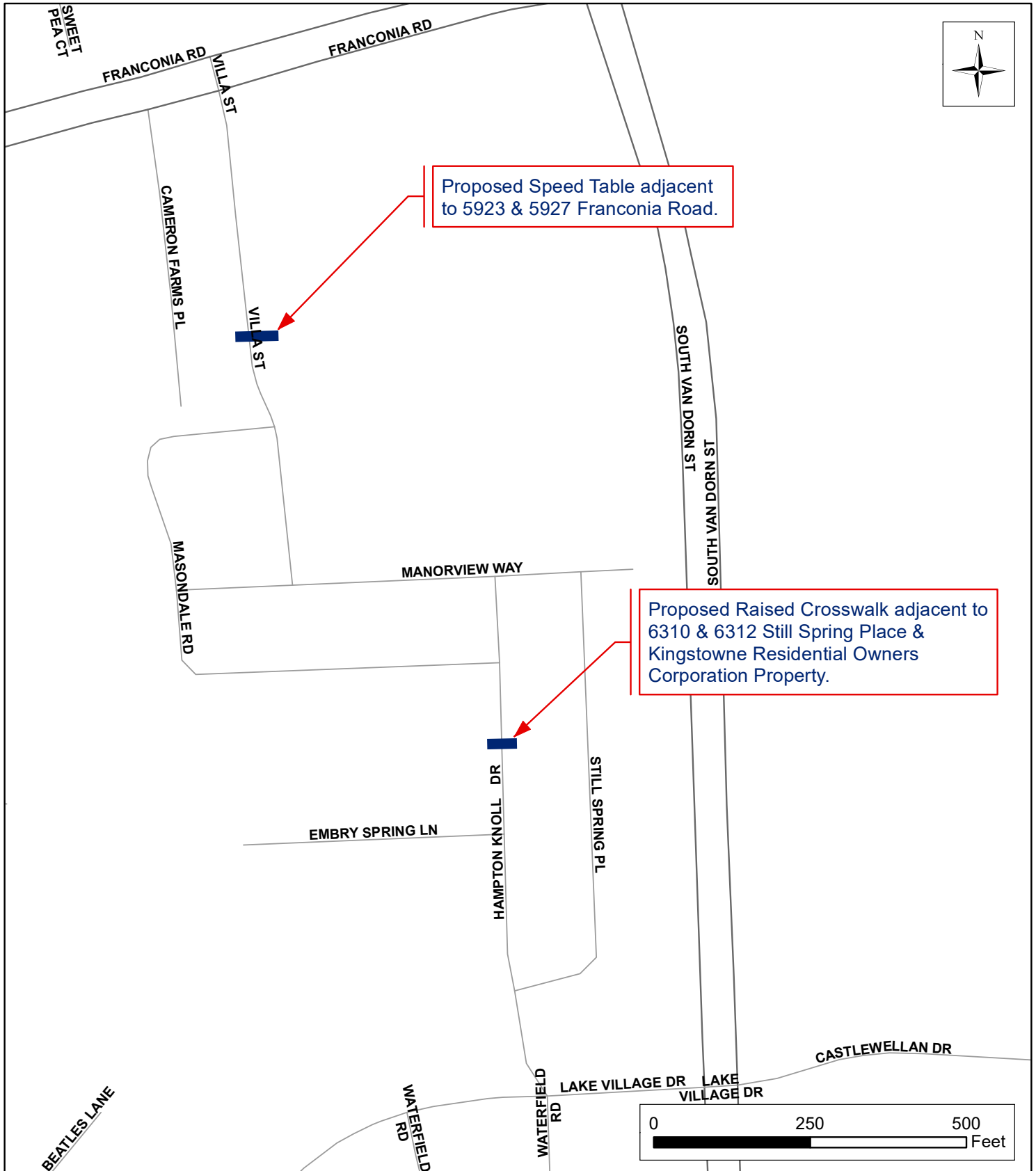
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

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 Hampton Knoll Drive and Villa Street as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 6th day of June, 2023.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map :81-4

May 2023

**Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Traffic Calming Plan
 Hampton Knoll Drive & Villa Street
 Franconia District**



Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 2

Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program – Collingwood Road (Mount Vernon District)

ISSUE:

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

RECOMMENDATION:

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

- Collingwood Road from Riverside Road to George Washington Memorial Parkway (Mount Vernon District)

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

TIMING:

Board action is requested on June 6, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

Collingwood Road (Mount Vernon District) meets the RTAP requirements for posting the “\$200 Additional Fine for Speeding” signs. On April 27, 2023, FCDOT received verification from the Mount Vernon District Supervisor’s office confirming community support.

Board Agenda Item
June 6, 2023

FISCAL IMPACT:

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

ENCLOSED DOCUMENTS:

Attachment I: “\$200 Additional Fine for Speeding” Signs Resolution – Collingwood Road

Attachment II: Area Map of Proposed “\$200 Additional Fine for Speeding” Signs – Collingwood Road

STAFF:

Rachel Flynn, Deputy County Executive

Gregg Steverson, Acting Director, Fairfax County Department of Transportation (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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
\$200 ADDITIONAL FINE FOR SPEEDING SIGNS
COLLINGWOOD ROAD
MOUNT VERNON DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 6, 2023, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Collingwood Road from Riverside Road to George Washington Memorial Parkway. Such road also being identified as a Major Collector Road; and

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

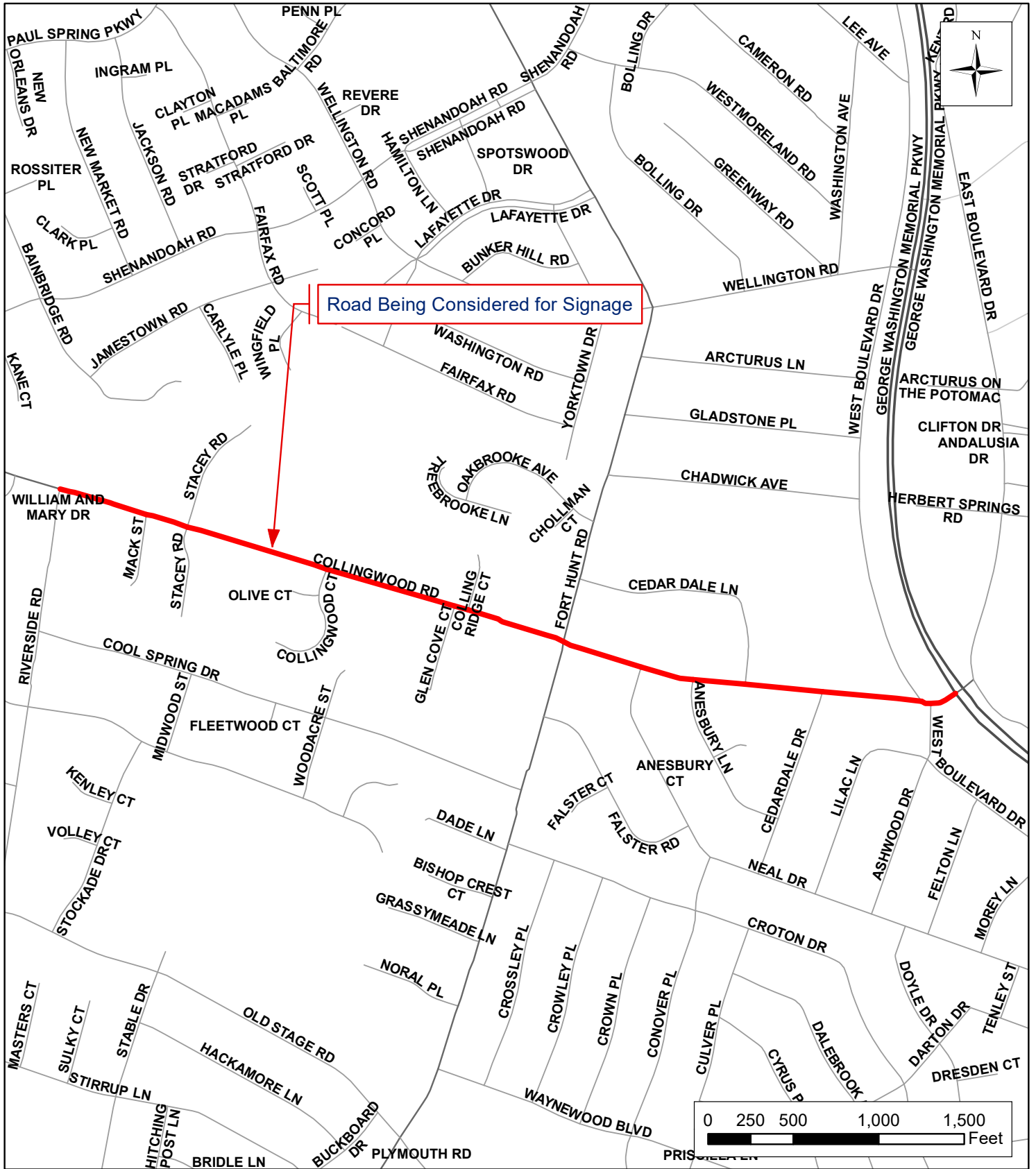
NOW, THEREFORE BE IT RESOLVED that "\$200 Additional Fine for Speeding" signs are endorsed for Collingwood Road from Riverside Road to George Washington Memorial Parkway.

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

ADOPTED this 6th day of June, 2023.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 102-1, 102-2, 102-3, 102-4

April 2023

**Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Proposed \$200 Additional Fine for Speeding
 Collingwood Road
 Mount Vernon District**



Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 3

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

ISSUE:

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

RECOMMENDATION:

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

- Northedge Drive from Scott Street to its terminus (Springfield District)

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

TIMING:

Board action is requested on June 6, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

Northedge Drive (Springfield District) meets the RTAP requirements for posting the “\$200 Additional Fine for Speeding” signs. On April 26, 2023, FCDOT received verification from the Springfield District Supervisor’s office confirming community support.

Board Agenda Item
June 6, 2023

FISCAL IMPACT:

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

ENCLOSED DOCUMENTS:

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

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

STAFF:

Rachel Flynn, Deputy County Executive

Gregg Steverson, Acting Director, Fairfax County Department of Transportation (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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
\$200 ADDITIONAL FINE FOR SPEEDING SIGNS
NORTHEDGE DRIVE
SPRINGFIELD DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 6, 2023, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Northedge Drive from Scott Street to its terminus. Such road also being identified as a Local Road; and

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

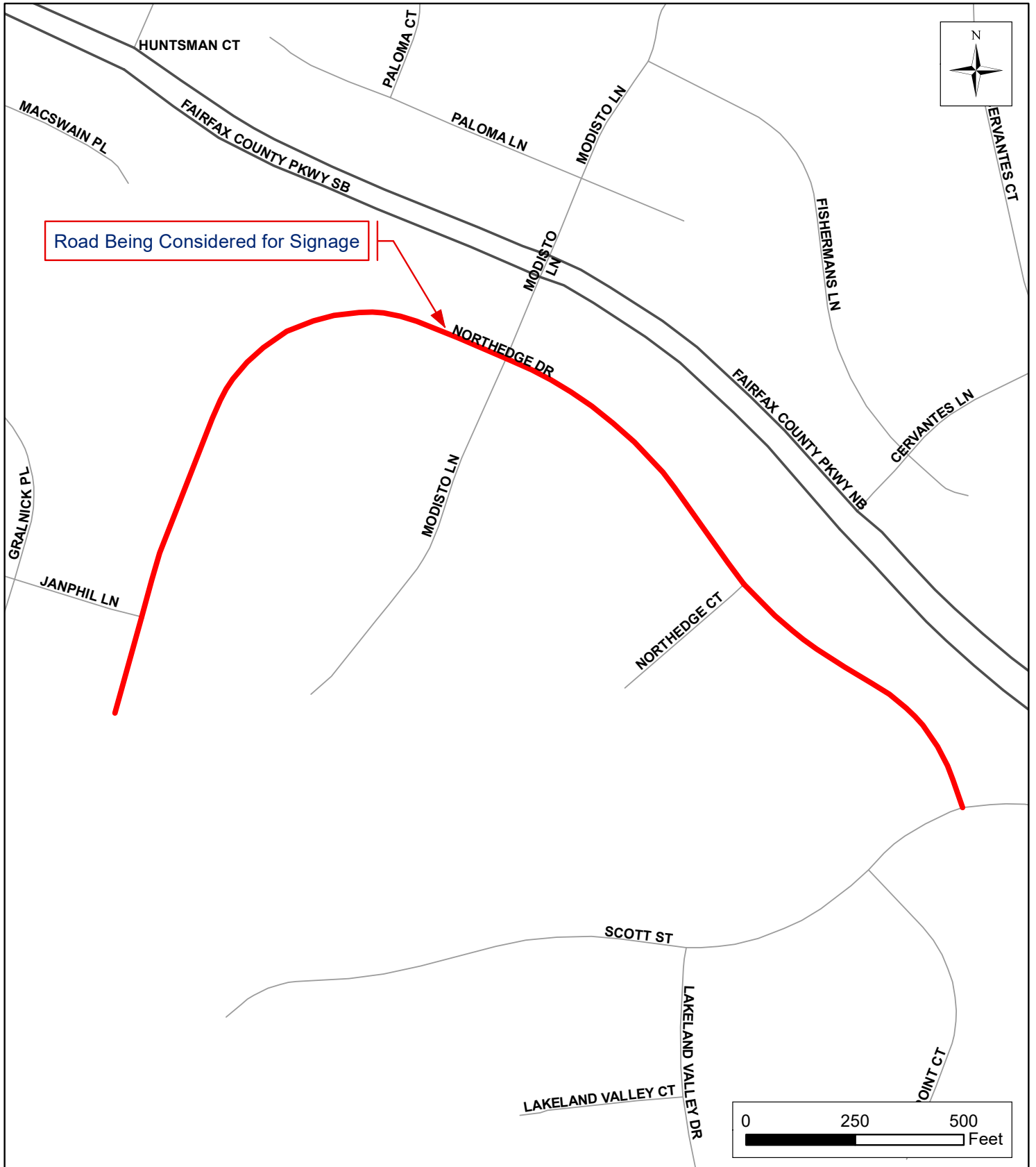
NOW, THEREFORE BE IT RESOLVED that "\$200 Additional Fine for Speeding" signs are endorsed for Northedge Drive from Scott Street to its terminus.

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

ADOPTED this 6th day of June, 2023.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Road Being Considered for Signage

Tax Map: 88-4, 97-2

April 2023

**Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Proposed \$200 Additional Fine for Speeding
 Northhedge Drive
 Springfield District**



Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 4

Approval of “\$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program – Spring Village Drive (Franconia District)

ISSUE:

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

RECOMMENDATION:

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

- Spring Village Drive from Franconia-Springfield Parkway to Hampton Creek Way (Franconia District)

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

TIMING:

Board action is requested on June 6, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

Spring Village Drive (Franconia District) meets the RTAP requirements for posting the “\$200 Additional Fine for Speeding” signs. On April 20, 2023, FCDOT received verification from the Franconia District Supervisor’s office confirming community support.

Board Agenda Item
June 6, 2023

FISCAL IMPACT:

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

ENCLOSED DOCUMENTS:

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

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

STAFF:

Rachel Flynn, Deputy County Executive

Gregg Steverson, Acting Director, Fairfax County Department of Transportation (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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
\$200 ADDITIONAL FINE FOR SPEEDING SIGNS
SPRING VILLAGE DRIVE
FRANCONIA DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 6, 2023, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Spring Village Drive from Franconia-Springfield Parkway to Hampton Creek Way. Such road also being identified as a Local Road; and

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

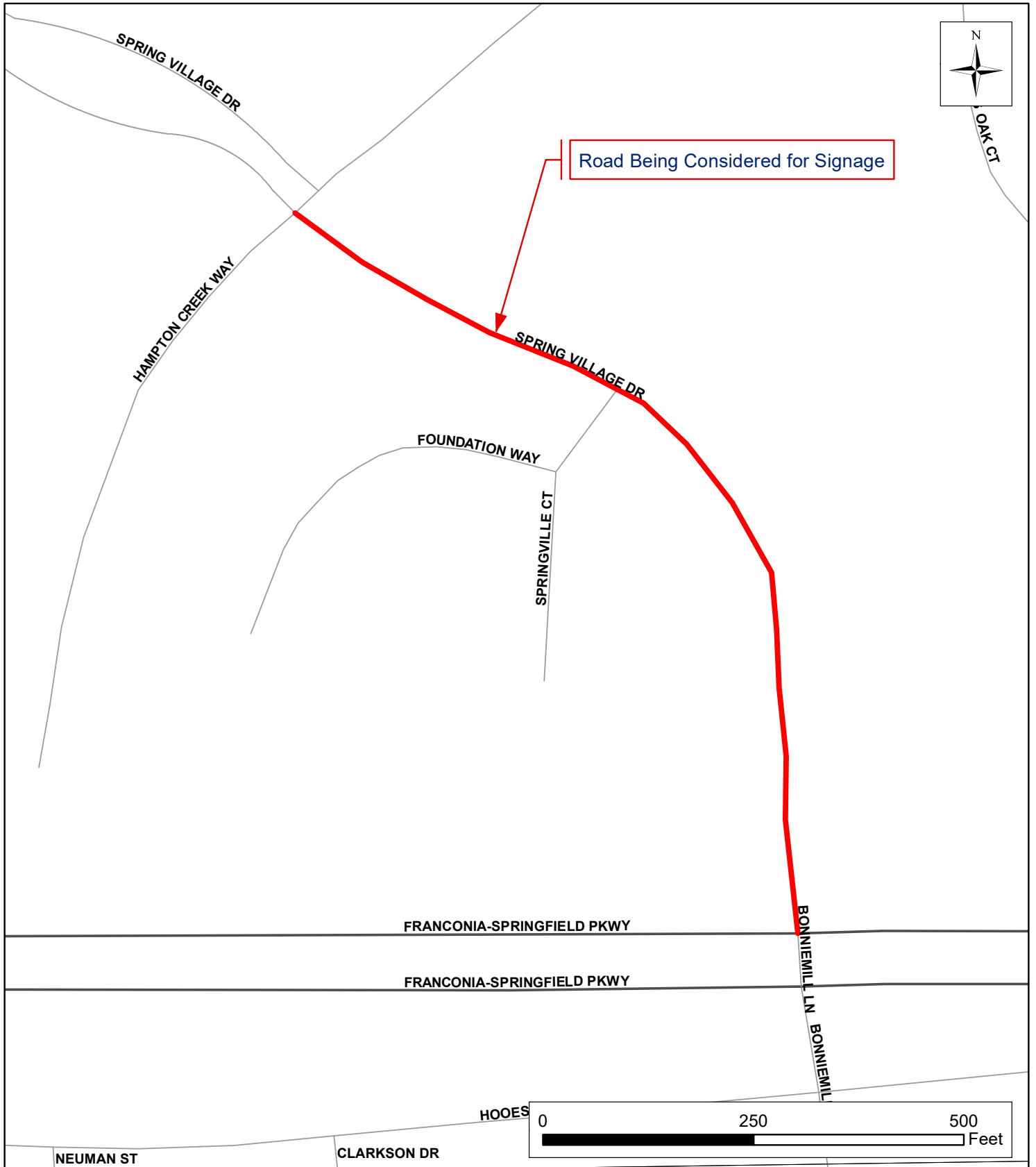
NOW, THEREFORE BE IT RESOLVED that "\$200 Additional Fine for Speeding" signs are endorsed for Spring Village Drive from Franconia-Springfield Parkway to Hampton Creek Way.

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

ADOPTED this 6th day of June, 2023.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 90-1

April 2023

**Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Proposed \$200 Additional Fine for Speeding
 Spring Village Drive
 Franconia District**



Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 5

Extension of Review Period for Mason District Police Station 2232 Application (Mason District)

ISSUE:

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

PROJECT DESCRIPTION:

The Fairfax Department of Public Works is requesting 2232 approval for interior renovations with a 4,567 square-foot exterior addition to the Mason District Police Station, which is co-located with the Mason District Government Center. The expanded facility will accommodate the needs for additional personnel and upgraded equipment. The proposal includes the placement of temporary facilities in the parking lot, consisting of a mobile office unit and a service vehicle canopy, to ensure the continuation of police operations during the renovations and construction of the expansion. The temporary facilities will be removed once a substantial portion of the project has been completed to allow occupancy within the permanent station.

The review period for the following application should be extended:

2232-2023-MA-00011	Department of Public Works and Environmental Services Mason District Police Renovations, Expansion, and Temporary Facilities Tax Map No. 61-3 ((1)) 3 6507 Columbia Pike, Annandale, VA 22003 Mason District Accepted May 3, 2023 Extend to March 19, 2024
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RECOMMENDATION:

Staff request that the Board extend the review period for application 2232 2023-MA-00011 until March 19, 2024, to ensure that adequate time is provided to the applicant to respond to any community feedback and review agency analysis, to ensure the proposed project is in general conformance with the adopted Comprehensive Plan.

Board Agenda Item
June 6, 2023

TIMING:

Board action is requested on June 6, 2023, to extend the review period to March 19, 2024, prior to expiration of the initial 60-day period on June 18, 2023.

BACKGROUND:

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

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

Salem Bush, Branch Chief, Facilities and Plan Development Branch, Planning Division,
(DPD)

Stephen Waller, Planner III, Facilities and Plan Development Branch, Planning Division,
(DPD)

Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 6

Extension of Review Period for Tysons Fire Station and Bus Transit Facility 2232 Application (Providence District)

ISSUE:

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

PROJECT DESCRIPTION:

The Department of Public Works and Environmental Services is requesting 2232 approval to construct a new 20,000 square foot Fire Station co-located with a 3,000 square foot Bus Transit Facility. The proposed fire station is an expansion compared to the existing station located at 1560 Spring Hill Rd. The bus transit facility will replace the existing building on the site. There is a concurrent application for a partial PCA (PCA-88-D-005-012) to delete land area and to amend the proffers for the development.

The review period for the following application should be extended:

2232-2023-PR-00013	Department of Public Works and Environmental Services Tax Map No. 29-1 ((1)) 4A 8300 Jones Branch Dr, Mclean, VA 22102 Providence District Accepted May 5, 2023 Extend to March 7, 2024
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RECOMMENDATION:

Staff request that the Board extend the review period for application 2232 2023-PR-00013 until March 7, 2024, to ensure that adequate time is provided for the applicant to respond to any community feedback and review agency analysis, to ensure the proposed project is in general conformance with the adopted Comprehensive Plan.

TIMING:

Board action is requested on June 6, 2023, to extend the review period to March 7, 2024, prior to expiration of the initial 60-day period on July 5, 2023.

Board Agenda Item
June 6, 2023

BACKGROUND:

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

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

Salem Bush, Branch Chief, Facilities and Plan Development Branch, Planning Division,
(DPD)

Mohamed Ali, Planner II, Facilities and Plan Development Branch, Planning Division,
(DPD)

Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 7

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

ISSUE:

Public Hearing on amendments to the Code of the *County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Sections 82-1-3, 82-1-6, 82-2-8, 82-5-29, 82-6-39, 82-6-40, 82-6-43, 82-6-44, and 82-9-2.*

RECOMMENDATION:

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

TIMING:

Authorization to advertise the proposed amendments on June 6, 2023; Board of Supervisors' public hearing scheduled for June 27, 2023, at 4:00 p.m.

BACKGROUND:

As a housekeeping measure to update Chapter 82, portions of Sections 82-1-6 (Adoption of state law), 82-2-8 (Authorization of school board to install and operate a video monitoring system to enforce law against passing stopped school buses), 82-6-39 (Head lamps on motor vehicles), 82-6-40 (Head lamps on motorcycles), 82-6-43 (Lamps on bicycles), 82-6-44 (Lamps on other vehicles; reflex reflectors), and 82-9-2 (Right-of-way of pedestrians) have been amended to reflect changes made to the Code of Virginia by the 2023 General Assembly. A summary of the changes as a result of the 2023 General Assembly amendments affecting Chapter 82 are provided in Attachments 2 and 4. Changes to Chapter 82, portions of Section 82-1-3 (Enforcement by County officers; officers to be uniformed) and 82-5-29 (Removal and disposition of certain unattended vehicles; sale, disposition or proceeds) reflects previous changes made to the Code of Virginia by the General Assembly. A summary of these changes to Chapter 82 are provided in Attachment 6.

EQUITY IMPACT:

None.

Board Agenda Item
June 6, 2023

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

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

Attachment 2 - Summary of 2023 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic, Article 1, In General.

Attachment 3 – Proposed Amendments to Chapter 82, Motor Vehicles and Traffic; Article 6, Equipment; and Article 9, Protection of Pedestrians.

Attachment 4 – Summary of 2023 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic, Article 2, Signs, Signals and Markers; Article 6, Equipment; and Article 9, Protection of Pedestrians.

Attachment 5 – Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 1, In General and Article 5, Stopping, Standing and Parking.

Attachment 6 – Summary of previous General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic, Article 1, In General, and Article 5, Stopping, Standing and Parking.

STAFF:

Thomas Arnold, Deputy County Executive

Colonel Kevin Davis, Chief of Police

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

**Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic**

Article 1. – In General.

Section 82-1-6. – Adoption of State Law

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2022~~ 2023, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2022~~ 2023, except where otherwise noted.

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

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

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

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

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

46.2-1234	46.2-1309	46.2-2910
<u>46.2-1240</u>	46.2-1508.2	
46.2-1242	46.2-1552	
46.2-1250	46.2-1561	

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

* To become effective on July 1, ~~2023~~ 2024, per ~~2022~~ 2023 Acts of General Assembly Chapter ~~54~~ 86.

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

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

ATTACHMENT 2

SUMMARY OF 2023 GENERAL ASSEMBLY AMENDMENTS AFFECTING CHAPTER 82

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

Be it enacted by the General Assembly of Virginia:

An Act to amend and reenact § [46.2-1025](#) of the Code of Virginia, relating to amber lights on motor vehicles. Removes the prohibition on using lit amber lights on vehicles used or operated by licensed amateur radio operators in certain situations while such vehicles are in motion.

An Act to amend and reenact § [46.2-684.2](#) of the Code of Virginia, relating to farm use placards. Delays from July 1, 2023, to July 2024, the date by which vehicles claiming a farm use exemption are required to obtain a farm use placard from the Department of Motor Vehicles and display such placard at all times.

An Act to amend and reenact § [46.2-380](#) of the Code of Virginia, relating to crash reports. Changes the person authorized to inspect a crash report from the present owner of the vehicle or property involved in the crash to the owner of such vehicle or property at the time of the crash.

An Act to amend and reenact § [46.2-1158.01](#) of the Code of Virginia, relating to commercial vehicle inspections. Provides that commercial vehicles operating in interstate commerce are exempt from the vehicle safety inspection requirement if such vehicle is inspected in accordance with the federal requirement of annual inspections.

An Act to amend and reenact §§ [46.2-844](#) and [46.2-859](#) of the Code of Virginia, relating to passing stopped school buses. Makes evidence that a bus was stopped with at least one warning device activated prima facie evidence that the bus was stopped for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons.

An Act to amend and reenact § [46.2-844](#) of the Code of Virginia, relating to video monitoring systems for passing stopped school buses. Extends from 10 days to 30 business days the deadline for issuing a summons for an alleged violation of passing a stopped school bus to create a rebuttable presumption that the registered owner of the motor vehicle was the person operating the motor vehicle at the time of the violation.

An Act to amend and reenact § [46.2-1016](#) of the Code of Virginia, relating to lights on animal-drawn vehicles. Clarifies that the existing requirements for vehicles to display

white lights in the front and red lights in the rear or approved reflectors applies to animal-drawn vehicles. Such lights may be battery-operated.

An Act to amend and reenact §§ [46.2-920](#), [46.2-1023](#), and [46.2-1030](#) of the Code of Virginia, relating to flashing red and white warning lights on emergency vehicles. Allows vehicles operated by the Washington Metropolitan Area Transit Authority Office of Emergency Preparedness to (i) be equipped with flashing, blinking, or alternating red or red and white combination warning lights and (ii) disregard certain regulations regarding the operation of vehicles without being subject to criminal prosecution while responding to an emergency.

An Act to amend and reenact § [46.2-861.1](#) of the Code of Virginia, relating to yielding or reducing speed for stationary vehicles, vehicles displaying hazard lights, caution signs, or road flares. Requires drivers to make a lane change or reduce speed when passing stationary vehicles that have activated the vehicular hazard warning signal flashers, displayed caution signs, or been marked with properly lit flares or torches on certain highways when safe and reasonable to do so.

An Act to amend and reenact § [46.2-818.2](#) of the Code of Virginia, relating to the use of handheld personal communication devices by the operators of motor vehicles. Clarifies the penalty structure for a first offense and a second or subsequent offense of using a handheld personal communication device by the operator of a motor vehicle, both of which are traffic infractions.

An Act to amend and reenact § [46.2-1054](#) of the Code of Virginia, relating to objects obstructing the driver's view. Allows the suspension and use of any dashboard camera and any accompanying wires or attachments in or on a motor vehicle provides that (i) the use is not prohibited by Title 49 of the Code of Federal Regulations and (ii) such camera, wires and attachments are wholly or mostly concealed behind the rear view mirror without any additional obstruction to the driver's view.

An Act to amend and reenact §§ [46.2-392](#) and [18.2-271.1](#) of the Code of Virginia, relating to the Alcohol Safety Action Program. Directs the local independent policy board of the program to endeavor to select one criminal defense attorney with specialized knowledge in representing persons charged with driving while intoxicated offenses and one local attorney for the Commonwealth. The amendment provides any court that has convicted a person of a reckless driving violation in which the defendant was initially charged with a driving while intoxicated violation shall have continuing jurisdiction over such person during any period of license revocation. Additionally, any person convicted of a reckless driving offense which the court has reason to believe is alcohol-related or drug-related and the person's driver's license is suspended and requires the person to enter and successfully complete an alcohol safety action program, the Commissioner shall not reinstate the person's driver's license until receipt of certification that the person has enrolled in and completed the alcohol safety action program.

An Act to amend and reenact §§ [46.2-1011](#), [46.2-1012](#), and [46.2-1015](#) of the Code of Virginia relating to aftermarket headlight modification; blue lights. Prohibits the use of headlights not approved by the Superintendent on motor vehicles, motorcycles, autocycles, bicycles, electric personal assistive mobility devices, personal delivery devices, electric power-assisted bicycles, mopeds, and motorized skateboards or scooters with aftermarket modifications that make such headlights appear as a blue light.

An Act to amend and reenact § [46.2-208](#) of the Code of Virginia relating to signal violation and traffic control device violation monitoring systems. Allows operators acting on behalf of certain government entities to request violator vehicle information related to (i) the name and address of the owner and (ii) the vehicle information, including all descriptive vehicle data, title, registration data, and (iii) if available, email or other electronic address for individuals who have failed to pay a toll, failed to comply with a traffic light signal, or improperly used the Dulles Access Highway.

An Act to amend and enact § [46.2-873](#) of the Code of Virginia, relating to school crossing zones. Increases the maximum boundaries of a school crossing zone from 600 feet to 750 feet from the limits of school property.

An Act to amend and enact § [46.2-924](#) of the Code of Virginia, relating to drivers stopping for pedestrians. Requires the driver of a vehicle on a highway approaching a pedestrian who is crossing such highway to stop when such pedestrian is within the driver's lane or within an adjacent lane and approaching the driver's lane.

An Act to amend and reenact § [46.2-832](#) of the Code of Virginia, relating to damaging or removing temporary work signs. Expands the prohibition on damaging or removing traffic control devices or street signs, punishable as a Class 1 misdemeanor, to include damaging or removing temporary signs approved by the Department of Transportation.

An Act to amend and reenact §§ [46.2-100](#), [46.2-844](#), [46.2-859](#), and [46.2-1090](#) of the Code of Virginia, relating to terminology regarding individuals with disabilities. Replaces instances of the terms "handicap," "handicapped," and similar variations throughout the Code of Virginia with alternative terms, as appropriate in the statutory context. These are technical amendments at the recommendation of the Virginia Disability Commission.

An Act to amend and reenact §§ [46.2-208](#) and [46.2-1240](#) of the Code of Virginia, relating to access to privileged information and the issuance of handicapped placards. Expands persons allowed to access privileged information to include advanced practice registered nurses and allows advanced practice registered nurses to issue handicapped placards.

**Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic**

ARTICLE 2. – Signs, Signals and Markers

Section 82-2-8. – Authorization of school board to install and operate a video monitoring system to enforce law against passing stopped school buses; enforcement; and penalty.

- (a) The Fairfax County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board, or it may contract with a private vendor to do so on its behalf for the purpose of recording violations of subsection A of Virginia Code § 46.2-844, incorporated by reference into the Fairfax County Code pursuant to Section 82-1-6.
- (b) "Video-monitoring system" has the same meaning as the definition set forth in Virginia Code § 46.2-844(B).
- (c) The driver of a vehicle that is found to have failed to comply with Virginia Code § 46.2-859, as evidenced by information obtained from a video-monitoring system, shall be liable for a monetary civil penalty of \$250.00 imposed in accordance with this ordinance.
- (d) In any prosecution for which a summons charging a violation of this section was issued within ~~ten~~ thirty business days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 of Subtitle II of Title 46.2 of the Virginia Code, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.
- (e) Any person who receives a summons pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Virginia Code § 16.1-69.40:1.B. The waiver shall be effective when the person pays the civil penalty of \$250.00 and all applicable court costs and processing fees to the Clerk of the General District Court.

- (f) The Clerk of the General District Court shall at month end, in addition to remittance of all other local cost and fee monies, transmit to the Fairfax County Director of Finance all funds received from a civil penalty imposed pursuant to this Section. In accordance with a written agreement between Fairfax County and the Fairfax County School Board, the Fairfax County Director of Finance shall deduct certain costs incurred by Fairfax County associated with the administration of this ordinance and then remit the remaining balance of the funds to the Fairfax County School Board.

(02-17-82.)

ARTICLE 6. - Equipment.

Section 82-6-39. – ~~Head lamps~~ Headlights on motor vehicles.

Every motor vehicle other than a motorcycle, road roller, road machinery or tractor used on a highway shall be equipped with at least two (2) ~~head lamps~~ headlights as approved by the Superintendent, at the front of and on opposite sides of the motor vehicle.

Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-175.)

Section 82-6-40. – ~~Head lamps~~ Headlights on motorcycles.

Every motorcycle shall be equipped with at least one (1) headlight and not more than two (2) ~~head lamps~~ which shall be of a type that has been approved by the superintendent and shall be capable of projecting sufficient light to the front of such motorcycle to render discernible a person or object at a distance of two hundred (200) feet, but shall not project a glaring or dazzling light to persons approaching such motorcycles. Each motorcycle may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent except as otherwise provided in this section. However, headlights shall not (i) project a glaring or dazzling light to persons approaching such motorcycles or (ii) have any aftermarket modifications that cause such headlight to appear as a blue light. Such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-176.)

Section 82-6-43. – Lamps Lights on bicycles.^[134]

Every bicycle, when in use between sunset and sunrise, shall be equipped with a lamp headlight on the front which shall emit a white light visible in clear weather from a distance of at least five hundred (500) feet to the front and with a red reflector visible from a distance of at least six hundred (600) feet on the rear of a type approved by the Superintendent which shall be visible from all distances in clear weather from fifty (50) feet to three hundred (300) feet a distance to the rear when directly in front of lawful upper ~~upper~~ lower beams of head lamps headlights on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of five hundred (500) feet to the rear may be used in lieu of or in addition to the red reflector. Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-178.)

Footnotes:

--- (134) ---

126. For similar state law, see Va. Code Ann., § 46.2-1015.

Section 82-6-44. – Lamps Lights on other vehicles; reflex-reflectors.^[135]

- (a) All vehicles, including animal-drawn vehicles, or other mobile equipment not heretofore in this Article required to be equipped with specified lamps lights shall carry one or more lamps or lanterns lights capable of projecting a white light to the front and a red light to the rear visible in clear weather from a distance of not less than five hundred (500) feet to the front and rear of such vehicles. Such light may be battery-operated.
- (b) In lieu of or in addition to the lamps or lanterns lights, a reflex reflector of a type, size and color approved by the Superintendent may be permanently affixed to the rear and front of such any vehicle described in this section. (3-13-63; 1961 Code, § 16-179.) Code, § 16-179.)

Footnotes:

--- (135) ---

127. For similar state law, see Va. Code Ann., § 46.2-1016.

ARTICLE 9. – Protection of Pedestrians.

Section 82-9-2. – Right-of-way of pedestrians.^[169]

- (a) The driver of any vehicle upon a highway or street shall ~~yield the right-of-way to stop when~~ a pedestrian crossing is within the driver's lane or within an adjacent lane and approaching the driver's lane of such highway or street within any clearly marked crosswalk, whether at mid-block or at the end of any block, or at any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, or at any intersection when the driver is approaching on a highway or street where the legal maximum speed does not exceed thirty-five miles per hour, except at intersections or crosswalks where the movement of traffic is being regulated by law enforcement officers, uniformed school crossing guards, or traffic direction devices where the driver shall yield according to the direction of the law enforcement officer, uniformed school crossing guard, or device.
- (b) No pedestrian shall enter or cross an intersection in disregard of approaching traffic.
- (c) The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or come to a complete stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.
- (d) Pedestrians crossing highways or streets at intersections shall at all times have the right-of-way over vehicles making turns into the highways or streets being crossed by the pedestrians. (3-13-63; 1961 Code, § 16-222; 37-76-82; 35-02-82.)

Footnotes:

--- (169) ---

161. For similar state law, see Va. Code Ann., § 46.2-924.

ATTACHMENT 4

SUMMARY OF 2023 AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

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

Section [82-2-8](#) of the Traffic Code of Fairfax County, Virginia, related to the school board to install and operate a video monitoring system to enforce laws against passing stopped school buses, § [46.2-844](#) of the Code of Virginia. Extends the time from 10 days to 30 business days the deadline for issuing a summons for an alleged violation of passing a stopped school bus to give rise to a rebuttable presumption that the registered owner of the vehicle was the operator during the violation.

Section [82-6-39](#) of the Traffic Code of Fairfax County, Virginia, related to head lamps on motor vehicles, § [46.2-1011](#) of the Code of Virginia. Updates language from “head lamps” to “headlights” and prohibits the use of headlights on motor vehicles with aftermarket modifications that make such headlights appear as a blue light, unless such headlights are approved by the Superintendent.

Section [82-6-40](#) of the Traffic Code of Fairfax County, Virginia, related to head lamps on motorcycles, § [46.2-1012](#) of the Code of Virginia. Updates language from “head lamps” to “headlights” and prohibits the use of headlights on motorcycles with aftermarket modifications that make such headlights appear as a blue light, unless such headlights are approved by the Superintendent.

Section [82-6-43](#) of the Traffic Code of Fairfax County, Virginia, related to lamps on bicycles, § [46.2-1015](#) of the Code of Virginia. Updates the language from “lamps” to “lights” or “headlights” depending on the context and prohibits the use of headlights on bicycles with aftermarket modifications that make such headlights appear as blue light, unless such headlights are approved by the Superintendent. Additionally, updates the language regarding a red reflector visible from a distance of at least 600 feet to the rear when directly in front of the lower beam headlights on a motor vehicle.

Section [82-6-44](#) of the Traffic Code of Fairfax County, Virginia, related to lamps on other vehicles, § [46.2-1016](#) of the Code of Virginia. Updates the language from “lamps” to “lights” and clarifies the requirements that animal-drawn vehicles are required to display white lights in the front and red lights in the rear or use approved reflectors affixed to the rear and front of such vehicle. Additionally, the use of any such lights may be battery-operated.

Section [82-9-2](#) of the Traffic Code of Fairfax County, Virginia, related to right-of-way of pedestrians, § [46.2-924](#) of the Code of Virginia. Requires the driver of a vehicle on a highway approaching a pedestrian who is crossing such highway to stop when such pedestrian is within the driver's lane or within an adjacent lane and approaching the driver's lane.

ATTACHMENT 5

Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 5

Article 5. – Stopping, Standing and Parking

Section 82-1-3. Enforcement by County officers; officers to be uniformed.

- (a) Every police officer shall enforce the provisions of this Chapter; provided that such officer shall be uniformed at the time of such enforcement or shall display his badge, or other sign of authority; and provided further, that all officers making arrests incident to the enforcement of this Chapter shall be paid fixed and determined salaries for their services and shall have no interest in, nor be permitted by law to accept the benefit of, any fine or fee resulting from the arrest or conviction of an offender against any provision of this Chapter.
- (b) With the consent of the landowner, any such officer or other uniformed employee of the police department may patrol the landowner's property to enforce State or County motor vehicle registration and licensing requirements.
- (c) Any law enforcement officer may patrol the streets and roads within subdivisions of real property or within a condominium pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or land submitted to a horizontal property regime pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), which streets and roads are maintained by the owners of the lots or parcels of land within the subdivision or the owners of condominium units within any horizontal property regime or any association of such owners, on the request or with the consent of the owners or association of owners, to enforce the provisions of Title 46.2 of the Code of Virginia punishable as felonies, misdemeanors, or traffic infractions.
- (d) A summons or parking ticket for violations of the parking regulations contained in this Chapter may be issued by law-enforcement officers, uniformed employees of the Fairfax County Police Department who are authorized by the Chief of Police, or by uniformed personnel serving under contract with the County pursuant to the Code of Virginia § 46.2-1220. (3-13-63; 1961 Code, § 16-3; 37-76-82; 26-81-82; 13-21-82.)

Section 82-5-29. Removal and disposition of unattended vehicles; sale; disposition or proceeds.^[107]

- (a) Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic, or is parked in such manner as to be in violation of law, or whenever any motor vehicle, trailer or semitrailer is left unattended for more than 15 days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer, or semitrailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a ~~police officer~~ law-enforcement officer or other uniformed employee of the Fairfax County Police Department who specifically is authorized to do so by the Chief of Police or his designee to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the property owner, property lessee, or property occupant thereof.
- (b) The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the County against any loss or expense incurred by reason of removal, storage or sale thereof.
- (c) It shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if: (1) it lacks either a current license plate, or a valid state inspection certificate or sticker, or is parked in violation of the law; or (2) it has been in a specific location for 15 days without being moved at least 300 feet. Provision (2) does not apply if the vehicle is parked within 500 feet of the property line where the vehicle is registered.
- (d) Each removal shall be reported immediately to the Department of Public Safety Communications and notice thereof given to the owner of the motor vehicle, trailer or semitrailer as promptly as possible.
- (e) The owner of such motor vehicle or trailer or semitrailer, before obtaining possession thereof, shall pay to the parties entitled thereto all reasonable costs incidental to the removal, storage, and locating and notifying the owner of the motor vehicle, trailer, or semitrailer. Should such owner fail or refuse to pay the cost, or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last-known address and to the holder of any lien of record filed with the Virginia Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, the officer or authorized agent designated by the Chief of Police may, after holding the motor vehicle, trailer or semitrailer 40 days and after due notice of sale dispose of the same at a public auction, which may include an internet sale by auction. The County or its authorized agent shall reimburse itself for the expenses of the auction, the cost of removal, storage, and

investigation as to ownership and liens. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interest in the vehicle, as their interests may appear, for 60 days, and then be deposited into the General Fund of the County.

- (f) This Section shall not operate to deprive any person of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or other services rendered.
- (g) The Virginia Department of Motor Vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under this Section.
- (h) Any person who shall violate, permit, or suffer or allow anyone to violate any provisions of Section 82-5-29 shall be punished as provided in Section 82-1-32. (3-13-63; 1961 Code, § 16-133; 37-76-82; 26-81-82; 24-84-82; 34-86-82; 08-06-82; 27-18-82.)

Footnotes:

--- (107) ---

98. For authority of the county to adopt this Section, see Va. Code Ann., § 46.2-1213.

ATTACHMENT 6

SUMMARY OF AMENDMENTS AND REPEAL AFFECTING CHAPTER 82, Article 1, In General & ARTICLE 5, STOPPING, STANDING AND PARKING

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

Section [82-1-3](#) of the Traffic Code of Fairfax County, Virginia, related to enforcement of parking regulations, § [46.2-1220](#) of the Code of Virginia. Clarifies that parking regulations may be enforced by law-enforcement officers, authorized uniformed employees of the Fairfax County Police Department, or by uniformed personnel serving under contract with the County. This provision of Va. Code § 46.2-1220 was amended in 2019 and made applicable to all localities.

Section [82-5-29](#) of the Traffic Code of Fairfax County, Virginia, related to the removal and disposition of unattended vehicles, § [46.2-1213](#) of the Code of Virginia. Expands the authority to remove motor vehicles, trailers or semitrailers to other authorized uniformed employees of the Fairfax County Police Department, to include Parking Enforcement Officers.

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June 6, 2023

ADMINISTRATIVE – 8

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Little River Turnpike Walkway - Hillbrook Drive - Little River Run Drive (Mason District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Little River Turnpike Walkway - Hillbrook Dr.- Little River Run Dr., in Project 5G25-060-000, Pedestrian Improvements – 2014, in Fund 30050, Transportation Improvements.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for June 27, 2023, commencing at 4:00 p.m.

TIMING:

Board action is requested on June 6, 2023, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project consists of construction of a variable width sidewalk along the south side of Little River Turnpike Walkway, between Hillbrook Drive and Little River Run Drive. The total segment length is approximately 1,500 feet.

Land rights for these improvements are required on 10 properties, nine of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Dedication for Public Street Purposes, Storm Drainage Easement, and Grading and Temporary Construction Easement.

The final property is an unknown land rights owner/heir situation, so there is no known owner who can convey the needed land rights; therefore, it is necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, *Va. Code Ann. Sections 15.2-1903 through 15.2-1905* (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

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EQUITY IMPACT:

The project area is located in a High Vulnerability Index block, with a vulnerability index of 3, where more than 41% of the renter population is severely burdened, and more than 46% of the population is in a low-income occupation.

This action aligns with multiple focus areas of the One Fairfax Policy. Construction of the proposed walkway supports focus area two, safely connecting more housing units, most notably those in mixed-use areas, to multiple modes of transport. Improved walkability ensures that focus area 8's goal is furthered by improving the quality of life for everyone in the neighborhood by providing a safe, well-maintained travel route between neighborhoods. The overall goal of the project aligns with focus area 11's guidance to protect existing stable neighborhoods and green spaces, and thereby allow residents to access transportation modes which promotes employment opportunities, housing, amenities and services for all. Finally, the project promotes focus area 14's goal of providing a multi-modal transportation system that supports the economic growth, health, congestion mitigation, and prosperity goals of Fairfax County and provides accessible mobility solutions that are based on the principles associated with sustainability, diversity, and community health.

The Land Acquisition Division's project locations are chosen by other departments, resulting in the division's necessity to focus on equity of process. The equity impact of the LAD process is positive, with the focus of cost evaluation, offer, and negotiation being on tax assessment and comparable land sales rather than on the owner of record. LAD staff engage property owners in their preferred method of communication and at times that are agreeable to the owner.

As a result of both the project location and design, as well as the process to obtain land rights, the overall impact of this action provides a positive equity impact.

FISCAL IMPACT:

Funding is available in Project 5G25-060-000, Pedestrian Improvements – 2014, in Fund 30050, Transportation Improvements. This project is included in the FY 2023 – FY 2027 Adopted Capital Improvement Program (with future Fiscal Years to FY 2032) and is included in the Board's Transportation Priorities Plan (TPP) adopted on January 28, 2014, and as amended on December 3, 2019. No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A - Project Location Maps
Attachment B - Listing of Affected Properties

Board Agenda Item
June 6, 2023

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation

Chris Herrington, Director, Department of Public Works and Environmental Services
(DPWES)

Carey Needham, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Hayden Coddling, Assistant County Attorney



Little River Tnpk Walkway - Hillbrook Dr to Little River Run Dr

Project: 5G25-060-044

Tax Map: 071-2

Mason District

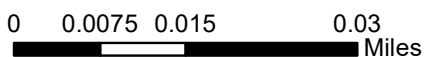
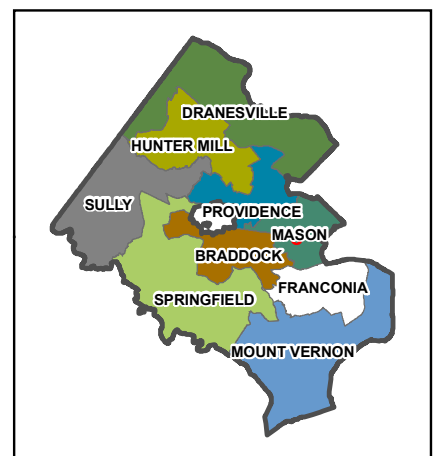
Affected Properties:



Proposed Dedication:



Proposed Storm Easement:



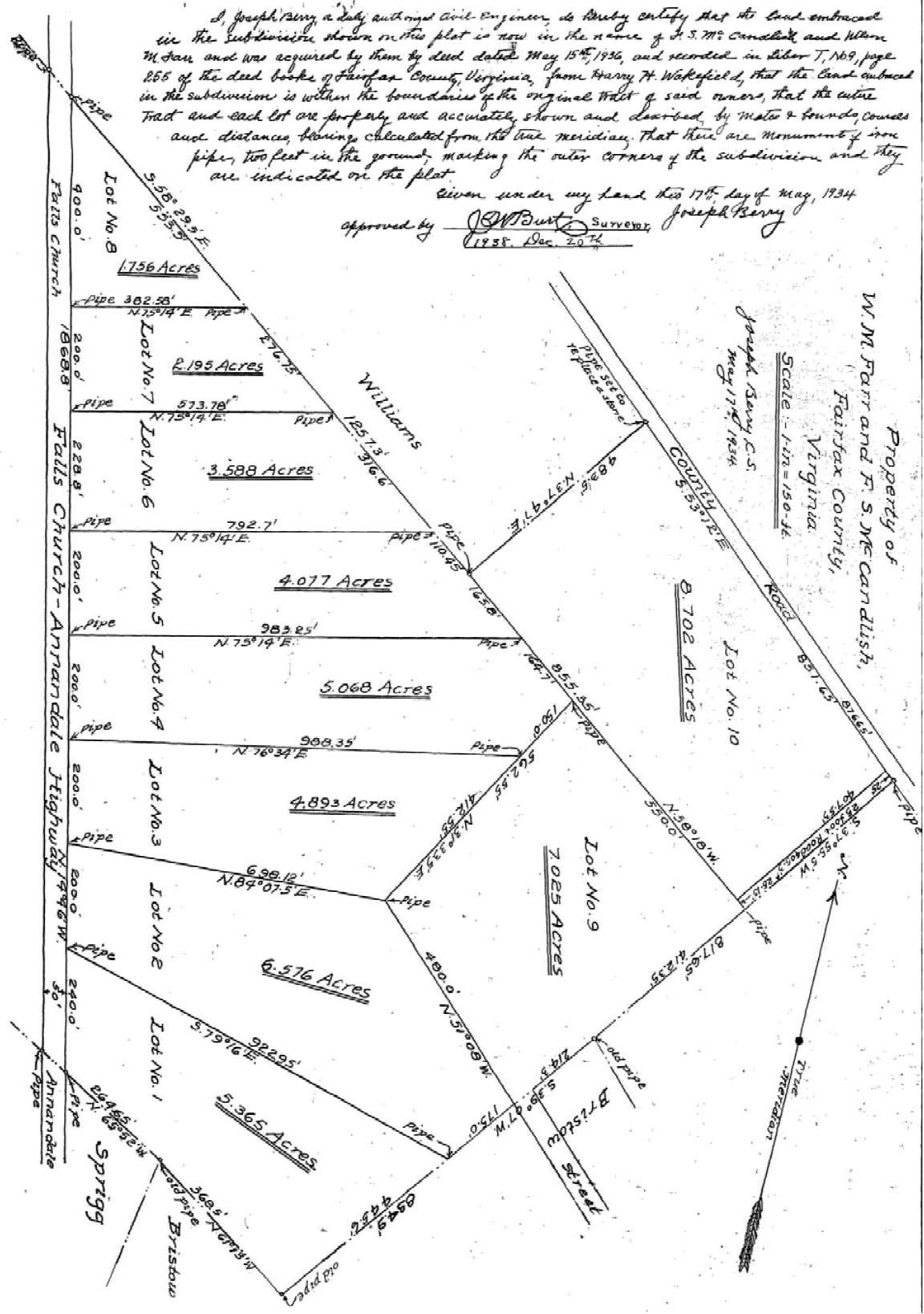
LISTING OF AFFECTED PROPERTIES
Project 5G25-060-044
Little River Turnpike Walkway - Hillbrook Dr.- Little
River Run Dr (Mason District)

PROPERTY OWNER(S)

1. MABEL CRANDALL AND/OR
HEIRS AND ASSIGNS AND OWNERS UNKNOWN 000-0-00-0000

Address: OFF OF LITTLE RIVER TNPk NEXT TO LITTLE RIVER RUN DRIVE
PROPERTY COMPOSING PORTIONS OF WHAT WAS 4.78 ACRES DEEDED
IN DEED BOOK 435 PAGE NUMBER 329. KNOWN AS LOT 5 ON PLAT BOOK
G13 PAGE 589 SEE ATTACHED PLAT.

Examined by O.S. & R.M. No. 13, page 587



I, Joseph Perry, a duly authorized Civil Engineer, do hereby certify that the land embraced in the subdivision shown on this plat is now in the name of J. S. Mc Candlish and Helen Mc Jan and was acquired by them by deed dated May 15th, 1936, and recorded in Liber T, 169, page 265 of the deed books of Fairfax County, Virginia, from Harry H. Wakefield, that the land embraced in the subdivision is within the boundaries of the original tract of said owner, that the entire tract and each lot are properly and accurately shown and described by Matter & boundary courses and distances, bearings calculated from the true meridian, that there are monuments of iron pipe, two feet in the ground, marking the outer corners of the subdivision and they are indicated on the plat.

Given under my hand this 17th day of May, 1934
 approved by Joseph Perry Surveyor
 1938, Dec. 20th

Property of
 W. M. Farr and F. S. Mc Candlish,
 Fairfax County,
 Virginia.
 Scale - 1 in = 150 ft.
 Joseph Perry C.E.
 May 17th 1934

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ADMINISTRATIVE - 9

Authorization to Advertise Public Hearings on a Proposed Amendment to Appendix Q (Land Development Services Fee Schedule) of *The Code of the County of Fairfax, Virginia* (County Code) Re: Site Inspection Fees for Bond Agreement Extensions

ISSUE:

Board of Supervisors (Board) authorization to advertise a public hearing on a proposed amendment to Appendix Q (Land Development Services Fee Schedule) of the County Code that addresses site inspection fees for bond agreement extensions.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendment as set forth in the Staff Report dated June 6, 2023 (Attachment A).

The proposed amendment has been prepared by Land Development Services (LDS) in coordination with the Office of the County Attorney and the Department of Management and Budget.

TIMING:

Board action is requested on June 6, 2023, to provide sufficient time to advertise the public hearing before the Planning Commission on June 28, 2023, and before the Board on July 25, 2023, at 4:30 p.m. If adopted by the Board, the amendment will become effective at 12:01 a.m. on July 26, 2023.

BACKGROUND:

On December 7, 2021, the Board adopted amendments to the Land Development Services Fee Schedule with the amendments related to Vertical Transportation and Elevators effective on December 8, 2021, and the other amendments, including site inspection fees, effective upon launch of the Planning and Land Use System (PLUS) on October 31, 2022. After implementing the new fees for 6 months, LDS recommends reverting to the previous Inspection Fee for Agreement Extensions pending further study and future changes.

The current fee for site inspections for site plans, subdivision plans, and public improvement plans is based on a percentage (either 3% or 4% depending on plan type) of the dollar value of bonded improvements. To simplify the computation of inspection

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June 6, 2023

fees and the associated administrative burden on staff and customers, the costs for inspecting erosion and sediment (E&S) controls are included in the computation of inspection fees based on the bonded improvements. If there are no bonded improvements, the owner pays the minimum fee for that plan type to cover E&S control inspections and determine compliance with the approved plan. Inspection fees are paid at or before permit issuance for the duration of the chosen agreement period and the owner posts a bond with the County for completion of the public improvements.

When agreements must be extended because projects are not yet completed, additional inspections for the added project duration are required. A fee is charged to cover the cost of these additional inspections. The inspection fee for agreement extensions was modified with a new calculation method effective in the 2022 fee changes. The inspection fee for agreement extensions is currently 75% of the original inspection fee converted to a monthly value based on the length of the original agreement which is then multiplied by the length of the extension in months.

Prior to adoption of the current fee schedule, inspection fees for site-related plans were calculated based on both the number of disturbed acres and specific bonded improvements. Inspection fees for agreement extensions were calculated based on the number of disturbed acres without considering the bonded improvements, which is a method that only accounts for the continuing inspection of E&S controls.

LDS has received 50 requests for agreement extension since the fee change became effective. Of those 50 requests, 49 have a higher inspection fee while one is lower than the fee that would have resulted from the prior method. Cumulative inspection fees assessed are 339% higher than under the previous method. The average inspection fee for an agreement extension is equivalent to \$188.17 per disturbed acre per month versus the previous fee of \$46.26 per disturbed acre per month. Because the current method is based on the value of bonded items, smaller projects have seen proportionally greater fees per acre of project.

After six months of implementing this new fee schedule, LDS believes the inspection fee formula warrants further review and modelling to ensure it accurately reflects the inspection costs for agreement extensions. LDS will engage a consultant to review LDS fees in Appendix Q and associated costs for delivery of services. The review is expected to be completed within twelve months and will inform a comprehensive fee schedule update. To address immediate concerns with the current inspection fee for agreement extensions, the proposed amendment will reinstate the fee that existed prior to adoption of the current fee schedule. No change to the current inspection fee for the original agreement is proposed.

As explained in more detail in the Fiscal Impact section, this change will, on average, reduce fees for customers and have a negative impact on the LDS budget.

PROPOSED AMENDMENT:

The proposed amendment to Appendix Q of the County Code computes the inspection fees for an agreement extension as follows:

- \$46.26 per disturbed acre per month.
- A one-time fifty-percent reduction of the extension inspection fee may be permitted (This allowance is in both the existing and prior provisions and is being retained with the proposed amendment.).

The proposed amendment is attached to the Staff Report.

EQUITY IMPACT:

The proposed amendment supports a quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities and services for all people. Industry has indicated to LDS that the new pricing calculation for agreement extensions that went into effect on October 31, 2022, is a burden to their projects. The current agreement extension costs are significantly higher than the prior calculations. Projects that are funded by nonprofits and community groups with modest budgets tend to use smaller contractors who may not be familiar with Fairfax County's policies and practices. If those projects require multiple extensions, a greater cost will be incurred, which can be untenable to the project. Coupled with increased materials costs and general inflation, these new costs have the potential to exceed project budgets.

Reverting to the prior calculation provides consistency and predictability in uncertain financial times to the projects underway in the County. This benefits those community-serving projects with tighter funding as they proceed through construction. It is expected that the results of the LDS consultant's fee analysis will provide a more equitable fee schedule for all customers while providing sufficient revenue for LDS to provide its services. This proposed change has the potential to advance equity throughout the County by reducing the costs associated with the construction of public infrastructure including sidewalks, trails, street lights, and stormwater management facilities.

REGULATORY IMPACT:

The proposed change to the inspection fee for agreement extensions will reduce the costs for agreement extensions paid by customers. This will impact approximately 100 plans per year.

FISCAL IMPACT:

An analysis of the proposed change to the inspection fee for agreement extensions indicates that the change will have a negative impact on LDS revenue in Fund 40200. Staff reviewed inspection fees charged for 50 agreement extension requests submitted in the six-month period immediately following the effective date of the current fee schedule and determined what the fee would be under the proposed change. Table 1 below reflects the projected change in annual revenue assuming 100 agreement extension requests per year. LDS projects a 77% reduction in annual revenue for agreement extensions. The dollar amount of the loss for FY2024 will be slightly smaller because the change in fees will only be in effect for approximately eleven months. While the loss in revenue seems substantial, this proposed change corrects the calculation for inspection fees for agreement extensions in a way that benefits customers and allows LDS to continue providing services. County staff will continue to monitor the status of this fund and provide updates, if necessary, as part of future quarterly budget reviews.

Table 1: Projected Annual Revenue

Fee	Current Fee Schedule	Proposed Fee Schedule	Change
Inspection Fee for Agreement Extensions	\$1,814,900	\$413,400	(\$1,400,600)

ENCLOSED DOCUMENTS:

Attachment A – Staff Report dated June 6, 2023

STAFF:

Rachel Flynn, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services (LDS)
Jodi Florentine, Revenue Manager, Financial Management Branch, LDS

ASSIGNED COUNSEL:

Patrick V. Foltz, Assistant County Attorney

LAND DEVELOPMENT SERVICES
June 6, 2023

STAFF REPORT

- PROPOSED COUNTY CODE AMENDMENT
- PROPOSED PFM AMENDMENT
- PROPOSED ZONING ORDINANCE AMENDMENT
- APPEAL OF DECISION
- WAIVER REQUEST

Proposed Amendment to Appendix Q (Land Development Services Fee Schedule) of *The Code of the County of Fairfax, Virginia* (County Code)
Re: Site Inspection Fees for Bond Agreement Extensions

PUBLIC HEARING DATES

Authorization to Advertise: June 6, 2023
Planning Commission Hearing: June 28, 2023 at 7:30 p.m.
Board of Supervisors' Hearing: July 25, 2023 at 4:30 p.m.

Prepared By: John Friedman
Site Code Research and Development Branch
Land Development Services
(703) 324-1848

STAFF REPORT

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (Board) adopt the proposed amendment to Appendix Q (Land Development Fee Schedule) of the County Code. Edits are shown by underlining for added text and strikethrough for deleted text.

DISCUSSION

On December 7, 2021, the Board adopted amendments to the Land Development Services Fee Schedule with the amendments related to Vertical Transportation and Elevators effective on December 8, 2021, and the other amendments, including site inspection fees, effective upon launch of the Planning and Land Use System (PLUS) on October 31, 2022. After implementing the new fees for 6 months, LDS recommends reverting to the previous Inspection Fee for Agreement Extensions pending further study and future changes.

The current fee for site inspections for site plans, subdivision plans, and public improvement plans is based on a percentage (either 3% or 4% depending on plan type) of the dollar value of bonded improvements. To simplify the computation of inspection fees and the associated administrative burden on staff and customers, the costs for inspecting erosion and sediment (E&S) controls are included in the computation of inspection fees based on the bonded improvements. If there are no bonded improvements, the owner pays the minimum fee for that plan type to cover E&S control inspections and determine compliance with the approved plan. Inspection fees are paid at or before permit issuance for the duration of the chosen agreement period and the owner posts a bond with the County for completion of the public improvements.

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The proposed amendment is attached to this report.

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The proposed amendment supports a quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities and services for all people. Industry has indicated to LDS that the new pricing calculation for agreement extensions that went into effect on October 31, 2022, is a burden to their projects. The current agreement extension costs are significantly higher than the prior calculations. Projects that are funded by nonprofits and community groups with modest budgets tend to use smaller contractors who may not be familiar with

Fairfax County's policies and practices. If those projects require multiple extensions, a greater cost will be incurred, which can be untenable to the project. Coupled with increased materials costs and general inflation, these new costs have the potential to exceed project budgets.

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Fee	Current Fee Schedule	Proposed Fee Schedule	Change
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ATTACHED DOCUMENTS

Attachment 1– Amendment to Appendix Q (LDS Fee Schedule)

**Proposed Amendment to
Appendix Q (Land Development Services Fee Schedule) of
The Code of the County of Fairfax, Virginia**

Amend Part II (Site Development Fees), Section C (Site Inspection Fees), where insertions are underlined and deletions are struck, to read as follows:

C. SITE INSPECTION FEES		
Unless otherwise noted, the following fees shall be paid at the time of bonding, or prior to issuance of a construction permit for land disturbing activity, whichever occurs first. The Fire Prevention inspection fees are listed in Part D.		
<i>(A) Base Fee for Projects with Bonded Improvements including agreement only plans: Fee is based on a percentage of the bonded amount</i>		
	• Major Site Plans	4.0%
	◦ With a minimum of	\$7,500
	◦ With a maximum of	\$230,000
	• Subdivision Plans	3.0%
	◦ With a minimum of	\$20,000
	◦ With a maximum of	\$150,000
	• Public Improvement Plans	4.0%
	◦ With a minimum of	\$5,500
	◦ With a maximum of	\$35,000
<i>(B) Inspection Fee for Agreement Extensions: 75% of the base inspection fee for the now expired bond agreement period divided by the number of months in the preceding bond agreement period, then multiplied by the number of months in the extension. Per disturbed acre, per agreement month. A one-time fifty-percent reduction of the extension inspection fee may be permitted.</i>		<u>\$46.26</u>

(C) <i>Inspection following a stop work order</i> : each, payable at next bonding action	\$740.00
(D) <i>Inspection following a violation</i> : each inspection, payable at next bonding action	\$370.00

ADMINISTRATIVE – 10

Supplemental Appropriation Resolution AS 23239 for the Department of Housing and Community Development to Accept Grant Funding from the U.S. Department of Housing and Urban Development for the Community Project Funding Request Included in the Consolidated Appropriations Act, 2022

ISSUE:

Board of Supervisors approval of Supplemental Appropriation Resolution AS 23239 for the Department of Housing and Community Development (HCD) to accept grant funding totaling \$1,030,000 from the U.S. Department of Housing and Urban Development (HUD) for funding received for the community project funding request included in the Consolidated Appropriations Act, 2022. This award was part of the County's community project funding requests coordinated through Government Relations and submitted to the County's Congressional offices. No Local Cash Match is required. When grant funding expires, the County is under no obligation to continue funding. HCD received funding for the following project:

1. Homeownership: Down Payment and Closing Cost Assistance - \$1,030,000
This project will provide first time homebuyers with down payment and closing cost assistance. Based on the current approved zoning projects through May 2023, there are 61 Affordable Dwelling Units (ADUs) and 84 Workforce Dwelling Units (WDUs) in the pipeline to be placed in the Department of Housing and Community Development's First Time Homebuyers (FTHB) Program. The FTHB Program currently offers financial assistance to qualifying applicants on their down payment and closing costs through the use of Community Development Block Grant (CDBG) funding; however, the amount of CDBG funding available is limited. This funding will enable the program to continue to meet the need for assistance.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 23239 from HUD in the amount of \$1,030,000 supporting one HCD project that was funded through the Consolidated Appropriations Act, 2022. No Local Cash Match is required.

TIMING:

Board approval is requested on June 6, 2023.

BACKGROUND:

As the Board may recall, last year the 117th Congress reinstated the practice of authorizing direct funding of specific projects, previously known as “earmarks” and now referred to as “community project funding requests” (CPFRs), after nearly a decade-long ban on the practice. The County developed a list of 20 CPFRs for submission to the County’s Congressional offices. The selected projects had to meet the following criteria:

- Projects had to be eligible for federal funding from accounts available for community funding projects;
- Projects had to be previously approved by the Board, required for the County to comply with federal or state mandates, or to carry out Board priorities; and
- Projects had to meet all federal requirements for individual funding accounts, including the amount of funding available, types of projects eligible, project readiness, and requirements for community support of projects.

The Board was notified on March 11, 2022, through the “Update on Federal Community Project Funding Requests” memorandum from Claudia Arko, Legislative Director, that the Consolidated Appropriations Act, 2022 was passed in March 2022 and included funding for 11 of the 20 County CPFR projects submitted for Congressional consideration. Each CPFR is being administered by the appropriate federal agency, and each project will be separately accounted for in Fund 50000, Federal-State Grant Fund. Attachment 1 lists the 11 projects, the County department responsible for administering the award, and the status of project funding. There is no set timeframe for when each federal agency will release the funding; however, as funding is released, a Board item will be submitted to formally appropriate the funding.

HUD has released the funding for the following HCD project.

1. Homeownership: Down Payment and Closing Cost Assistance - \$1,030,000
HCD currently offers down payment and closing costs assistance for low to moderate-income households through CDBG funding, which is limited. HCD will leverage the Community Project Funding to continue to provide gap financing to increase the purchasing ability of qualifying applicants in the FTHB Program.

The Community Project Funding will provide financial assistance to households earning up to 100 percent of the Area Median Income. The loan amounts will be up to \$50,000 for each household and as a second deed of trust. HCD will use 10 percent of the funding (\$103,000) for administrative costs and anticipates providing up to 18 loans totaling \$927,000.

Board Agenda Item
June 6, 2023

HCD will build off existing FTHB program procedures and requirements to implement this loan program. Purchasers must attend an orientation session and homeownership education class. The purchasers must also obtain a lender pre-approval letter and meet certain financial underwriting criteria.

FISCAL IMPACT:

Funding in the amount of \$1,030,000 from HUD has been received for a community funding project to HCD, which was included in the Consolidated Appropriations Act, 2022. No Local Cash Match is required. This grant does allow the recovery of indirect costs; however, HCD has elected to omit inclusion of indirect costs to maximize funding in support of the program. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2023.

CREATION OF NEW POSITIONS:

There are no new grant positions associated with this award.

ENCLOSED DOCUMENTS:

Attachment 1: Fairfax County Funded CPFR Projects
Attachment 2: Grant Agreement No. B-22-CP-VA-0892
Attachment 3: Supplemental Appropriation Resolution AS 23239

STAFF:

Christopher A. Leonard, Deputy County Executive
Thomas Fleetwood, Director, Housing and Community Development
Anna Shapiro, Deputy Director, Housing and Community Development

Fairfax County Funded CPFR Projects

Project Title	Funded Amount	Department Administering the Award	Status of Project Funding
1. Homeownership: Down Payment and Closing Cost Assistance	\$1.03 million	Department of Housing and Community Development (HCD)	Funding has been released by the federal agency administering the award and budget appropriation is being requested as part of this Board item.
2. Residences at Government Center II – Community Facility	\$1.5 million	HCD	HCD staff is working with the federal agency to release funding.
3. Stable Families, Thriving Futures	\$1.0 million	Health Department	Accept Board Item on May 23, 2023
4. Innovation Skills Hub: Apprenticeship Readiness Training Program	\$400,000	Department of Family Services	Accept Board Item on May 9, 2023
5. Local Inpatient Purchase of Services (LIPOS) and Discharge Assistance Planning (DAP) Data Collection and Management System	\$375,000	Fairfax-Falls Church Community Services Board (CSB)	Accept Board Item on December 6, 2022
6. Regional Projects Data Warehouse	\$800,000	CSB	Accept Board Item on December 6, 2022
7. Merrifield Crisis Response Center (MCRC) Reconstruction	\$2.0 million	CSB	Accept Board Item on December 6, 2022
8. Fair Ridge at West Ox Residential	\$1.7 million	HCD	HCD staff is working with the federal agency to release funding.
9. Pohick Road Sidewalk (I-95 to Richmond Highway)	\$1.0 million	Department of Transportation (DOT)	DOT staff is working with the federal agency to release funding.
10. Capital Bikeshare for Underserved Areas	\$1.0 million	DOT	DOT staff is working with the federal agency to release funding.
11. George Washington Memorial Parkway-Traffic and Safety Context Sensitive Solutions, Belle Haven to City of Alexandria	\$300,000	DOT	DOT staff is working with the federal agency to release funding.

**FY 2022 COMMUNITY PROJECT FUNDING
GRANT AGREEMENT NO. B-22-CP-VA-0892**

Grantee Name: Fairfax County

Grantee Address: 10455 Armstrong Street Fairfax, VA 22030

Grantee's Unique Entity Identifier (UEI):

Grantee's Employer Identification Number (EIN)

Federal Award Identification Number (FAIN) B-22-CP-VA-0892

Assistance Listing Number and Name 14.251 Economic Development Initiative,
Community Project Funding, and Miscellaneous Grants

Period of Performance/Budget Period Start Date Date of grant obligation

Period of Performance/Budget Period End Date August 31, 2030

This Grant Agreement between the Department of Housing and Urban Development (HUD) and Fairfax County (the Grantee) is made pursuant to the authority of the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the Explanatory Statement for Division L of that Act, which was printed in the House section of the Congressional Record on March 9, 2022 (Explanatory Statement); and superseding provisions of the Consolidated Appropriations Act, 2023 (Public Law 117-328).

In reliance upon and in consideration of the mutual representations and obligations under this Grant Agreement, HUD and the Grantee agree as follows:

ARTICLE I. Definitions

The definitions at 2 CFR 200.1 apply to this Grant Agreement, except where this Grant Agreement specifically states otherwise.

Budget period is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

Period of Performance is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

ARTICLE II. Total Grant Amount

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of \$1,030,000 available to the Grantee.

ARTICLE III. Award-Specific Requirements

A. Federal Award Description. The Grantee must use the Federal funds provided under this Grant Agreement (Grant Funds) to carry out the Grantee's "Project." Unless changed in accordance with Article III, section C of this Grant Agreement, the Grantee's Project shall be as described in the Project Narrative that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved Project Narrative as Appendix 1 to the Grant Agreement on the date that HUD signs this Grant Agreement.

B. Approved Budget. The Grantee must use the Grant Funds as provided by the Approved Budget. Unless changed in accordance with Article III, section C of this Grant Agreement, the Approved Budget shall be the line-item budget that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved line-item budget as Appendix 2 to this Grant Agreement on the date that HUD signs this Grant Agreement.

C. Project and Budget Changes. All changes to the Grantee's Project or Approved Budget must be made in accordance with 2 CFR 200.308 and this Grant Agreement. To request HUD's approval for a change in the Project or Approved Budget, the Grantee must submit a formal letter to the Director of HUD's Office of Economic Development - Congressional Grants Division through the assigned Grant Officer. The letter must be submitted by email to the assigned Grant Officer and must provide justification for the change. The email submitting the letter must also include a revised project narrative or revised line-item budget, as applicable, that includes the requested change. The Grantee is prohibited from making project or budget changes that would conflict with the Applicable Appropriations Act Conditions described in Article III, section D of this Grant Agreement. The assigned Grant Officer for this grant is provided in the Award Letter for this grant and found on HUD's website. The HUD Office of Economic Development – Congressional Grants Division will notify the Grantee in writing, by email, whether HUD approves or disapproves the change. Before the Grantee expends Grant Funds in accordance with any change approved by HUD or otherwise allowed by 2 CFR 200.308, the Grantee must update its grant information in Disaster Recovery Grant Reporting (DRGR) to reflect that change.

D. Applicable Appropriations Act Conditions. The conditions that apply to the Grant Funds as provided by the Consolidated Appropriations Act, 2022, the Explanatory Statement, and the Consolidated Appropriations Act, 2023 are hereby incorporated and made part of this Grant Agreement. In the event of a conflict between those conditions, the conditions provided by the later Act will govern. The Grant Funds are not subject to the Community Development Block Grants regulations at 24 CFR part 570 or Title I of the Housing and Community Development Act of 1974.

E. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. As authorized under 2 CFR 200.307(e)(2), program income may be treated as an addition to the Federal award, provided that the Grantee uses that income for allowable costs under this Grant Agreement. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. Any program income that cannot be expended on allowable costs under this Grant Agreement must be paid to HUD before closeout of the grant, unless otherwise specified by an applicable Federal statute.

F. The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee's indirect cost rate information is as provided in Appendix 3 to this Grant Agreement. Unless the Grantee is an Institution of Higher Education, the Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate during the Period of Performance, so that HUD can amend the Grant Agreement to reflect the change if necessary. Consistent with 2 CFR part 200, Appendix III (C.7), if the Grantee is an Institution of Higher Education and has a negotiated rate in effect on the date this Grant Agreement is signed by HUD, the Grantee may use only that rate for its indirect costs during the Period of Performance.

G. The Grantee must comply with any specific award conditions that HUD may attach to this Grant Agreement as provided by 2 CFR 200.208. If applicable, these conditions will be listed or added as Appendix 5 to this Grant Agreement.

H. The Grantee is responsible for managing the Project and ensuring the proper use of the Grant Funds. The Grantee is also responsible for ensuring the completion of the Project, the grant closeout, and compliance with all applicable federal requirements. The Grantee may subaward all or a portion of its funds to one or more subrecipients, as identified in the Project Narrative (Appendix 1) or as may be approved by HUD in accordance with 2 CFR 200.308. All subawards made with funding under this Grant Agreement are subject to the subaward requirements under 2 CFR art 200, including 2 CFR 200.332, and other requirements provided by this Grant Agreement. The Grantee is responsible for ensuring each subrecipient complies with all requirements under this Grant Agreement, including the general federal requirements in Article IV. A subaward may be made to a for-profit entity only if HUD expressly approves that subaward, and the for-profit entity is made subject to the same Federal requirements that apply to all other subrecipients, including the requirements 2 CFR part 200 provides for a "non-Federal entity" that receives a subaward.

ARTICLE IV. General Federal Requirements

A. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee is the Responsible Entity (as defined in 24 CFR part 58) and agrees to assume all of the responsibilities for environmental review and decision-making and action, as specified and required in regulations issued by the Secretary pursuant to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR art 58.

B. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe or Alaskan Native Village, within which the Project is located and which exercises land use responsibility, to act as Responsible Entity and assume all of the responsibilities for environmental review and decision-making and action as specified in paragraph A above, and the Grantee shall carry out all of the responsibilities of a grantee under 24 CFR art 58.

C. After Grantee's receipt of the Letter of Invitation for this grant, neither the Grantee nor any of its contractors, subrecipients and other funding and development partners may undertake, or commit or expend Grant Funds or local funds for, project activities (other than for planning, management, development and administration activities), unless a contract requiring those activities was already executed prior to the Letter of Invitation, until one of the following occurs: (i) the Responsible Entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and given a release of funds; (ii) the Responsible Entity has determined and documented in its environmental review record that the activities are exempt under 24 CFR 58.34 or are categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or (iii) HUD has performed an environmental review under 24 CFR part 50 and has notified Grantee in writing of environmental approval of the activities.

D. Following completion of the environmental review process, the Grantee (recipient) shall exercise oversight, monitoring, and enforcement as necessary to assure that decisions and mitigation measures adopted through the environmental review process are carried out during project development and implementation.

E. The Grantee must comply with the generally applicable HUD and CPD requirements in 24 CFR part 5, subpart A, including all applicable fair housing, and civil rights requirements. If the Grantee is a Tribe or a Tribally Designated Housing Entity (TDHE) as established under 24 CFR 1000.206, the Grantee must comply with the nondiscrimination requirements in 24 CFR 1000.12 in lieu of the nondiscrimination requirements in 24 CFR 5.105(a). The Grantee must report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of the Grantee's Project, consistent with the instructions and forms provided by HUD in order to carry out its responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987 (e.g. HUD-27061).

F. The Grantee must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR part 200, as may be amended from time to time. If 2 CFR part 200 is amended to replace or renumber sections of part 200 that are cited specifically in this Grant Agreement, the part 200 requirements as renumbered or replaced by the amendments will govern the obligations of HUD and the Grantee after those amendment become effective.

G. The Grantee must comply with the Award Term in Appendix A to 2 CFR part 25 ("System for Award Management and Universal Identifier Requirements") and the Award Term in Appendix A to 2 CFR part 170 ("Reporting Subawards and Executive Compensation"), which are hereby incorporated into and made part of this Grant Agreement.

H. If the Total Grant Amount, as provided in Article II of this Grant Agreement, is greater than \$500,000, the Grantee must comply with the Award Term and Condition for Grantee Integrity and Performance Matters in Appendix 4 to this Grant Agreement.

I. Unless the Grantee is exempt from the Byrd Amendment as explained below, the Grantee must comply with the provisions of Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment) and 24 CFR part 87, which prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement. The Grantee must include in its award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), the requirements for the certification required by Appendix A to 24 CFR part 87 and for disclosure using Standard Form- LLL (SF-LLL), "Disclosure of Lobbying Activities." In addition, the Grantee must obtain the executed certification required by Appendix A and an SF-LLL from all covered persons. "Person" is as defined by 24 CFR part 87. Federally recognized Indian tribes and TDHEs established by Federally recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment. State-recognized Indian tribes and TDHEs established only under state law must comply with this requirement.

J. The Grantee must comply with drug-free workplace requirements in Subpart B of 2 CFR part 2429, which adopts the governmentwide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988, Pub. L. 100-690, Title V, Subtitle D (41 U.S.C. 701-707).

K. The Grantee must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) as implemented by regulations at 49 CFR part 24. The URA applies to acquisitions of real property and relocation occurring as a direct result of the acquisition, rehabilitation, or demolition of real property for Federal or Federally funded programs or projects. Real property acquisition that receives Federal financial assistance for a program or project, as defined in 49 CFR 24.2, must comply with the acquisition requirements contained in 49 CFR part 24, subpart B. Unless otherwise specified in law, the relocation requirements of the URA and its implementing regulations at 49 CFR part 24, cover any displaced person who moves from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD financial assistance

L. If Grant Funds are used for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

M. The Grantee must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u, and HUD's regulations at 24 CFR part 75, as applicable, including the reporting requirements in 24 CFR 75.25. Grants made to Tribes and TDHEs are subject to Indian Preference requirements in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). As stated in 24 CFR 75.3(c), grants to Tribes and TDHEs are subject to Indian Preference requirements in lieu of Section 3. Grantees that are not exempt from Section 3 must submit annual reports of Section 3

accomplishment Performance Measures in DRGR in January of the calendar year. This report reflects Section 3 accomplishments for the previous calendar year.

N. The Grantee must not use any Grant Funds to support any Federal, state, or local project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use. Public use includes use of funds for mass transit, railroad, airport, seaport, or highway projects, and utility projects which benefit or serve the general public (including energy-related, communication-related, water-related, and waste water-related infrastructure), other structures designated for use by the general public or with other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields, as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118). Public use does not include economic development that primarily benefits private entities.

O. The Grantee must not use any Grant Funds to maintain or establish a computer network that does not block the viewing, downloading, and exchanging of pornography. This requirement does not limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

P. The Grantee must administer its Grant Funds in accordance with the Conflict of Interest requirements set forth in Appendix 6 of this Grant Agreement.

Q. The Grantee must comply with the governmentwide debarment and suspension requirements in 2 CFR part 180 as incorporated and supplemented by HUD's regulations at 2 CFR part 2424.

R. The Grantee must comply with the award term and condition regarding trafficking in persons in Appendix 7 of this Grant Agreement.

S. The assurances and certifications the Grantee has made and submitted to HUD are incorporated by this reference and made part of this Grant Agreement.

ARTICLE V. Drawdown Requirements

A. The Grantee may not draw down Grant Funds until HUD has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying, if applicable.

B. The Grantee must use HUD's Disaster Recovery Grant Reporting (DRGR) system to draw down Grant Funds and report to HUD on activities.

C. The Grantee must enter activity and budget information in DRGR that is consistent with the Project and Approved Budget as described in Article III, sections A and B of this Grant Agreement and complies with HUD's instructions for entering information in DRGR found in

the document titled “Grant Award Instructions” that accompanies the Grant Agreement. The Grantee must only enter activities in DRGR that are described in the Approved Budget.

D. The Grantee must expend all Grant Funds in accordance with the activity and budget information in DRGR.

E. Each drawdown of Grant Funds constitutes a representation by the Grantee that the funds will be used in accordance with this Grant Agreement.

F. The Grantee must use DRGR to track the use of program income and must report the receipt and use of program income in the reports the Grantee submits to HUD under Article VI of this Grant Agreement. The Grantee must expend program income before drawing down Grant Funds through DRGR.

G. Notwithstanding any other provision of this grant agreement, HUD will not be responsible for payment of any Grant Funds after the date Treasury closes the account in accordance with 31 U.S.C. § 1552. Because Treasury may close the account up to one week before the September 30 date specified by 31 U.S.C. § 1552, the grantee is advised to make its final request for payment under the grant no later than September 15, 2030.

ARTICLE VI. Program-Specific Reporting Requirements

In addition to the general reporting requirements that apply under other provisions of this Agreement, the following program-specific reporting requirements apply to the Grantee:

A. The Grantee must submit a performance report in DRGR on a semi-annual basis and must include a completed Federal financial report as an attachment to each performance report in DRGR. Performance reports shall consist of a narrative of work accomplished during the reporting period. During the Period of Performance, the Grantee must submit these reports in DRGR no later than 30 calendar days after the end of the 6-month reporting period. The first of these reporting periods begins on the first of January or June (whichever occurs first) after the date this Grant Agreement is signed by HUD.

B. The performance report must contain the information required for reporting program performance under 2 CFR 200.329(c)(2) and (d), including a comparison of actual accomplishments to the objectives of the Project as described in Article III, section A of this Grant Agreement; the reasons why established goals were not met, if appropriate; and additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

C. Financial reports must be submitted using DRGR or such future collections HUD may require and as approved by OMB and listed on the Grants.gov website (<https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>).

D. The performance and financial reports will undergo review and approval by HUD. If a report submission is insufficient, HUD will reject the report in DRGR and identify the corrections the Grantee must make.

E. No drawdown of funds will be allowed through DRGR while the Grantee has an overdue performance or financial report.

F. The Grantee must report and account for all property acquired or improved with Grant Funds as provided by 2 CFR part 200 using the applicable common forms approved by OMB and provided on the Grants.gov website (<https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>). This reporting obligation includes submitting status reports on real property at least annually as provided by 2 CFR 200.330, accounting for real and personal property acquired or improved with Grant Funds as part of Project Closeout, and promptly submitting requests for disposition instructions as provided by 2 CFR 200.311(c), 200.313(e), and 200.314(a).

ARTICLE VII. Project Closeout

A. The grant will be closed out in accordance with 2 CFR part 200, as may be amended from time to time, except as otherwise specified in this Grant Agreement.

B. The Grantee must submit to HUD a written request to closeout the grant no later than 30 calendar days after the Grantee has drawn down all Grant Funds and completed the Project as described in Article III, section A of this Grant Agreement. HUD will then send the Closeout Agreement and Closeout Certification to the Grantee.

C. At HUD's option, the Grantee may delay initiation of project closeout until the resolution of any findings as a result of the review of semi-annual activity reports in DRGR. If HUD exercises this option, the Grantee must promptly resolve the findings.

D. The Grantee recognizes that the closeout process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any HUD review, including reasonable requests for on-site inspection of property acquired or improved with Grant Funds. E. No

1. A Certification of Project Completion.
2. A Grant Closeout Agreement.
3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of 2 CFR part 200, subpart E); a certification of the costs; and the amounts and sources of other project funds.

4. A final performance report providing a comparison of actual accomplishments with the objectives of the Project as described in Article III, section A of this Grant Agreement, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.
5. A final property report, if specifically requested by HUD at the time of closeout.

ARTICLE VIII. Default

A default under this Grant Agreement shall consist of any use of Grant Funds for a purpose other than as authorized by this Grant Agreement, any noncompliance with statutory, regulatory, or other requirements applicable to the Grant Funds, any other material breach of this Grant Agreement, or any material misrepresentation in the Grantee's submissions to HUD in anticipation of this award. If the Grantee fails to comply with the terms and conditions of the Grant Agreement, HUD may adjust specific conditions of this Grant Agreement as described in 2 CFR part 200, as may be amended from time to time. If HUD determines that noncompliance cannot be remedied by imposing additional conditions, HUD may take one or more of the remedies for noncompliance described in 2 CFR part 200, as may be amended from time to time. HUD may also terminate all or a part of this award as provided by 2 CFR 200.340 and other applicable provisions of 2 CFR part 200, as may be amended from time to time. Nothing in this Grant Agreement shall be construed as creating or justifying any claim against the Federal government or the Grantee by any third party.

ARTICLE IX. HUD Contact Information

Except where this Grant Agreement specifically states otherwise, all requests, submissions, and reports the Grantee is required to make to HUD under this Grant Agreement must be made in writing via email to CPFGGrants@hud.gov.

This agreement is hereby executed on behalf of the Grantee and HUD as follows:

GRANTEE

(Name of Organization)

BY: _____

(Signature of Authorized Official)

(Typed Name and Title of Authorized Official)

(Date)

HUD

BY: _____

Robin J. Keegan,
Deputy Assistant Secretary for Economic Development

(Date)

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 23239

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 June 6, 2023, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2023, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	H3838, Department of Housing and Community Development	
Grant:	1380108-2022, Homeownership: Down Payment and Closing Costs Assistance	\$1,030,000

Reduce Appropriation to:

Agency:	G8787, Unclassified Admin	\$1,030,000
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Housing and Urban Development, \$1,030,000

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ADMINISTRATIVE – 11

Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the U.S. Department of Justice, Community Oriented Policing Service Office, FY 2023 Community Policing Development Microgrants Program

ISSUE:

Board of Supervisors authorization is requested for the Fairfax County Police Department (FCPD) to apply for and accept grant funding, if received, from the U.S. Department of Justice, Community Oriented Policing Service (COPS) Office, FY 2023 Community Policing Development (CPD) Microgrants Program in the amount of \$175,000. Funds from this grant will be used to better support the FCPD's 30x30 Initiative which aims to increase the representation of women in the police force to 30 percent by 2030. This includes the purchase of two mobile workout trailers to provide better access to fitness equipment and the expansion of the Women's Self Defense program to help with recruitment, retention, and the advancement of women in the FCPD. The grant period is October 2, 2023, to October 1, 2024. No Local Cash Match is required. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the FCPD to apply for and accept funding, if received, from the U.S. Department of Justice, COPS Office, FY 2023 CPD Microgrants Program in the amount of \$175,000. FCPD will use the funding to expand the Women's Self Defense program and add two mobile workout trailers. No new positions will be created, and no Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive, and/or designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
June 6, 2023

TIMING:

Board action is requested on June 6, 2023. Due to an application deadline of May 11, 2023, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email of the department's intent to apply for this grant prior to the application due date.

BACKGROUND:

The Fiscal Year 2023 Community Policing Development (CPD) Microgrants Program funds will be used to develop law enforcement's capacity to implement community policing strategies by providing funding to local, state, tribal, and territorial law enforcement agencies. When properly applied, community policing improves the identification and prioritization of community problems; builds trust and relationships between law enforcement and the communities they serve; and enables an agency to build a culture toward accountability, transparency, open communication, and mutual trust.

The COPS Office seeks demonstration or pilot projects with creative methods for recruitment, retention, and the advancement of diverse representation within law enforcement that include quantitative measures of success to better reflect the diversity of the community or to meet the standards of the 30x30 Initiative.

The 30x30 Initiative is a national effort to advance the representation and experiences of women in all ranks of policing with the goal to increase the representation of women in police recruit classes to 30 percent by 2030. According to the U.S. Department of Justice, women make up only 12 percent of sworn officers and 3 percent of police leadership in the United States. In 2021, approximately 16.5 percent of FCPD's sworn officers are now female, which is ahead of the national average of 12 percent.

Funding is being requested to better support the FCPD 30x30 program. FCPD is working to improve the culture to ensure women are supported, leading to increased retention and new recruiting opportunities. The CPD Microgrants Program will support the purchase of two mobile workout trailers to provide better access to fitness equipment. These trailers will be used to bring classes to the district stations. Each trailer will be staffed with female officers who are Peer Fitness Trainers. Specialized classes, clinics, and seminars will be developed to create comfortable spaces for female officers. The Women's Self Defense program will also be expanded with additional sworn female officers as instructors. This not only better serves the community, but helps build relationships, trust, and leads to recruiting opportunities. It is hoped that these initiatives will help create an environment where sworn female officers have better access to fitness equipment and programs that will enhance their overall health and job satisfaction.

Board Agenda Item
June 6, 2023

FISCAL IMPACT:

Grant funding in the amount of \$175,000 is being requested to better meet standards of the 30x30 Initiative for the Fairfax County Police Department. No Local Cash Match is required. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Police Department has elected to omit the inclusion of indirect costs to maximize the proposal's competitive position. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards.

CREATION OF NEW POSITIONS:

No positions will be created by this grant award.

ENCLOSED DOCUMENTS:

Attachment 1 – Grant Application Abstract

STAFF:

Thomas Arnold, Deputy County Executive for Public Safety
Kevin Davis, Chief of Police, Police Department

GRANT APPLICATION ABSTRACT**COPS MICROGRANT FOCUS AREA****Officer Recruitment, Retention and Workforce Diversification**

The COPS Office seeks demonstration or pilot projects with creative methods for recruitment, retention, and the advancement of diverse representation within law enforcement that include quantitative measures of success to better reflect the diversity of the community or to meet the standards of the 30x30 initiative. Applicants should identify a list of activities and strategies based on prior research and best or promising practices. Applicants should clearly source each activity and strategy in the project narrative. A variety of objectives can be proposed to achieve the project goal(s) and may involve agency personnel and resources as well as community partners.

Police departments, across the country, are facing significant staffing shortages and recruiting challenges. The Fairfax County Police Department (FCPD) is averaging a sworn officer shortage of 200 officers due to retirements and resignations. We continuously seek new and innovative ways to recruit and retain sworn police officers. One of these initiatives is the 30x30 program. The FCPD is fully committed to the 30x30 Initiative. We are working to improve the culture of the FCPD to ensure women are supported, leading to increased retention and new recruiting opportunities. FCPD is applying for the COPS microgrant to support several creative ideas for recruitment, retention, and the advancement of women in the FCPD.

We believe the creative methods and programs discussed below will help accomplish the goals of the 30x30 Initiative and create an environment where sworn female officers will have better access to fitness equipment and programs that will enhance their overall health and job satisfaction. Expanding our Women's Self-Defense program, with additional sworn female officers as instructors, not only better serves the community, but helps build relationships, trust, and leads to recruiting opportunities.

In 2022, the FCPD partnered with the Fire and Rescue Department (FRD) to create a fitness program, Wellfit, and the Wellfit Performance Center. The Wellfit Performance Center has a dedicated professional staff, including strength and conditioning coaches and a registered dietician. In a county of four hundred square miles, the location of the Wellfit facility and duty schedules makes it extremely difficult for many sworn officers, from the eight district stations, to access the facility, especially our sworn female officers. Enhancing the FCPD Wellfit program, with an emphasis on making it more accessible and inviting to our female officers, while also using it as a recruiting tool, demonstrates our commitment to increasing our female applicants, recruits and sworn officers. Additionally, based on feedback, women have asked for women-specific strength and conditioning classes, seminars, and specialized equipment.

Gyms can be an intimidating environment and the perspective of a woman walking into a majority male facility may not be the most comfortable situation. The intimidation of walking into a new facility or starting a new exercise program is real and we need to change this stigma. Specifically, strength training is one of the most beneficial things a female officer can do to increase their work performance, but more importantly their quality of life during and post-career, along with the stereotypes that come with gyms. Exercise selection itself is something that can lead to anxiety. Often exercises are chosen from what individuals have performed in the past or from the latest social media trend.

As we implement the expansion of these programs, we will collect data and measure the success of each program and adjust, as needed.

Board Agenda Item
June 6, 2023

ADMINISTRATIVE - 12

Authorization for the Department of Public Works and Environmental Services to Apply for and Accept Grant Funding from the United States Department of Agriculture Forest Service to Plant Street Trees to Address Heat Islands in Vulnerable Communities

ISSUE:

Board of Supervisors authorization is requested for the Department of Public Works and Environmental Services (DPWES) to apply for and accept grant funding, if received, from the United States Department of Agriculture (USDA) Forest Service Inflation Reduction Act Urban and Community Forestry (UCF) grant in the amount of \$11,500,000. Grant funds will be used to establish a street tree planting program in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. The grant period is five years from the award date which is anticipated to be October 2023. No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize DPWES to apply for and accept \$11,500,000 in grant funding, if awarded, from the USDA Forest Service UCF grant. Grant funds will be used to establish a street tree planting program in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. No positions are requested; no Local Cash Match is required since this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive, or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
June 6, 2023

TIMING:

Board action is requested on June 6, 2023. Due to a grant application deadline of June 1, 2023, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email on May 24, 2023, of the department's intent to apply for this grant prior to the application due date.

BACKGROUND:

On April 12, 2023, the USDA Forest Service announced a Notice of Funding Opportunity for the UCF Program. Under the Inflation Reduction Act, the UCF Program received \$1.5 billion to support urban tree planting, urban forest planning and management, and related activities, particularly in vulnerable communities. The UCF strategic focus areas align with the Fairfax County Countywide Strategic Plan "Environment and Energy" and "Healthy Communities" outcome areas through the promotion of urban and community forestry's role in providing biodiversity for long-term resilience and contributing to human health and wellness. The Resilient Fairfax Plan notes that 91 percent of vulnerable households are in areas identified as having a significantly high urban heat island effect and that vulnerable populations are more likely to be impacted by extreme heat. Tree canopy coverage is one of the most effective heat island mitigation strategies. The installation of street trees within these vulnerable communities will help the County meet both its One Fairfax policy and climate mitigation and resiliency goals.

Grant funds will be used to establish a street tree planting program in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. The street tree planting program will partner with VDOT, nonprofit organizations, Fairfax County Park Authority, and Fairfax County Public Schools to promote tree planting to: (1) expand equitable access to tree canopy and its many environmental and social benefits prioritizing areas of highest vulnerability on the Fairfax County Vulnerability Index; and (2) broaden community awareness and engagement on the benefits of tree planting. Specific funding activities include: identifying areas in the County that are heat vulnerable low tree canopy and/or areas where green infrastructure would provide additional community and resilience benefits; planting and maintaining up to 5,000 native and/or climate-resilient street trees over five years in neighborhoods and within the right-of-way and on public property; educating and engaging the public on the benefits of green spaces and trees; and expansion of a green workforce to maintain existing and new street trees.

Board Agenda Item
June 6, 2023

EQUITY IMPACT:

This item has a positive equity impact. Forest enhancement activities will occur in communities that have a high or very high score on the Fairfax County Vulnerability Index, and staff will utilize County guidance and the DPWES Inclusive Community Engagement Framework to ensure equitable and inclusive community involvement in the development and implementation of projects associated with these grant funds.

FISCAL IMPACT:

Grant funding in the amount of \$11,500,000 is available from the USDA Forest Service UCF grant. These funds will be used to establish a street tree planting program to mitigate the effects of heat islands in vulnerable communities. No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. If funding is awarded, formal budget appropriation will be requested at a quarterly review once the grant agreement has been fully executed. This grant does allow the recovery of indirect costs; however, DPWES has elected to omit inclusion of indirect costs to maximize funding in support of the program.

CREATION OF POSITIONS:

There will be no new grant positions created with this grant funding.

ENCLOSED DOCUMENTS:

Attachment 1- Summary of Proposed Grant Funding

STAFF:

Rachel Flynn, Deputy County Executive

Christopher Herrington, Director, Department of Works and Environmental Services (DPWES)

Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Divisions

Craig Carinci, Director, DPWES, Stormwater Planning Division

Brian Keightley, Director, DPWES, Urban Forest Management Division

URBAN AND COMMUNITY FORESTRY GRANT SUMMARY OF PROPOSED GRANT FUNDING

Grant Title:	Inflation Reduction Act- Urban and Community Forestry – Street Trees
Funding Agency:	United States Department of Agriculture Forest Service Urban and Community Forestry Program
Applicant:	Department of Public Works and Environmental Services, Urban Forest Management Division
Partners:	Virginia Department of Transportation granting access for the installation and maintenance of street trees in their right-of-way, assistance from the non-profit organization Casey Trees in providing planting material, planting on Fairfax County Park Authority and Fairfax County Public Schools property, and community organizations supporting outreach and engagement within the proposed street tree planting areas
Purpose of Grant:	To establish a street tree planting program to reduce urban heat islands
Funding Amount:	\$11,500,000. No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100% of the funding/program benefits to vulnerable communities
Proposed Use of Funds:	<p>Increase tree canopy coverage by establishing a street tree planting program. Funding activities include:</p> <ul style="list-style-type: none"> • the installation and maintenance of up to 5,000 street trees over five years in vulnerable neighborhoods within the right-of-way and on public property to reduce heat island effects, • community engagement, • and the expansion of a green workforce to maintain existing and new street trees.
Target Population:	Communities that have a high or very high score on the Fairfax County Vulnerability Index
Performance Measures:	<p>The success of this project will be based on the:</p> <ul style="list-style-type: none"> • Number of street trees planted per year; • Number of street trees maintained per year;
Grant Period:	Five years from the award date (anticipated October 2023)

ADMINISTRATIVE - 13

Authorization for the Department of Public Works and Environmental Services to Apply for and Accept Grant Funding from the United States Department of Agriculture Forest Service to Grow and Sustain Urban Forests to Achieve Environmental Equity

ISSUE:

Board of Supervisors authorization is requested for the Department of Public Works and Environmental Services (DPWES) to apply for and accept grant funding, if received, from the United States Department of Agriculture (USDA) Forest Service Inflation Reduction Act Urban and Community Forestry (UCF) grant in the amount of \$10,700,000. Grant funds will be used to support the establishment of an urban forest management program for Fairfax County Government, Fairfax County Park Authority, and Fairfax County Public Schools' properties in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. The grant period is five years from the award date (anticipated October 2023). No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize DPWES to apply for and accept \$10,700,000 in grant funding, if awarded, from the USDA Forest Service UCF grant. Grant funds will be used to support the establishment of an urban forest management program for Fairfax County Government, Fairfax County Park Authority, and Fairfax County Public Schools' properties in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. There are no positions associated with this funding; no Local Cash Match is required since this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive, or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
June 6, 2023

TIMING:

Board action is requested on June 6, 2023. Due to a grant application deadline of June 1, 2023, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email on May 24, 2023, of the department's intent to apply for this grant prior to the application due date.

BACKGROUND:

On April 12, 2023, the USDA Forest Service announced a Notice of Funding Opportunity for the UCF Program. Under the Inflation Reduction Act, the UCF Program received \$1.5 billion to support urban tree planting, urban forest planning and management, and related activities, particularly in disadvantaged communities. The urban forest must be actively managed over time to reduce stresses on trees and forests and promote native plants that support natural habitat, human health, and quality of life. The UCF strategic focus areas promote urban and community forestry's role in providing biodiversity for long-term resilience and contributing to human health and wellness, which aligns with the Fairfax County Countywide Strategic Plan "Environment and Energy" and "Healthy Communities" outcomes. The active forest management program also helps meet the Resilient Fairfax Plan (Strategy AE.1b), the County's Tree Action Plan, and the Community-Wide Energy and Climate Action Plan's tree canopy goals.

Grant funds will be used to support the establishment of an urban forest management program for Fairfax County Government, Fairfax County Park Authority, and Fairfax County Public Schools' properties in areas of the County that are vulnerable per the Fairfax County Vulnerability Index. The urban forest management program will be a partnership between Fairfax County Government, the Fairfax County Park Authority, and Fairfax County Public Schools to preserve, protect, restore, and expand urban forests, natural systems, and green spaces that enhance resilience to climate change and provide social and environmental benefits to the vulnerable community. Specific funding activities include invasive species management, forest stand restoration and improvement, reforestation of up to 300 acres over five years, educating and engaging the public on the benefits of the urban forest, expansion of a green workforce to maintain existing and new urban forest management areas, and expansion of the existing tree nursery at the Noman M. Cole Jr. Pollution Control Plant to support County reforestation activities.

Board Agenda Item
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EQUITY IMPACT:

This item has a positive equity impact. Forest enhancement activities will occur in communities that have a high or very high score on the Fairfax County Vulnerability Index, and staff will utilize County guidance and the DPWES Inclusive Community Engagement Framework to ensure equitable and inclusive community involvement in the development and implementation of projects associated with these grant funds.

FISCAL IMPACT:

Grant funding in the amount of \$10,700,000 is available from the USDA Forest Service UCF grant. These funds will be used to establish an active urban forest management program on Fairfax County owned properties in vulnerable communities. If funding is awarded, formal budget appropriation will be requested at a quarterly review once the grant agreement has been fully executed. No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities. This grant does allow the recovery of indirect costs; however, DPWES has elected to omit inclusion of indirect costs to maximize funding in support of the program.

CREATION OF POSITIONS:

There will be no new grant positions created with this grant funding.

ENCLOSURE DOCUMENTS:

Attachment 1 – Summary of Proposed Grant Funding

STAFF:

Rachel Flynn, Deputy County Executive

Christopher Herrington, Director, Department of Works and Environmental Services (DPWES)

Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Divisions

Craig Carinci, Director, DPWES, Stormwater Planning Division

Brian Keightley, Director, DPWES, Urban Forest Management Division

URBAN AND COMMUNITY FORESTRY GRANT SUMMARY OF PROPOSED GRANT FUNDING

Grant Title:	Inflation Reduction Act- Urban and Community Forestry – Urban Forest
Funding Agency:	United States Department of Agriculture Forest Service Urban and Community Forestry Program
Applicant:	Department of Public Works and Environmental Services, Urban Forest Management Division
Partners:	Fairfax County Park Authority support of active forest management on parkland, Fairfax County Public Schools support of active forest management on school property, and assistance from community organizations with outreach and engagement near the proposed active forest management areas
Purpose of Grant:	To establish an active urban forest management program on Fairfax County controlled properties in vulnerable communities.
Funding Amount:	\$10,700,000. No Local Cash Match is required as this grant is eligible for a match-waiver because the proposal will deliver 100 percent of the funding and program benefits to vulnerable communities.
Proposed Use of Funds:	<p>To grow and sustain urban forests to achieve environmental equity. Funding activities include:</p> <ul style="list-style-type: none"> • invasive species management, forest stand improvement, and reforestation on up to 300 acres of Fairfax County owned property, • community engagement, and • and expansion of a green workforce to maintain existing and new urban forest management areas and expand the existing test tree nursery at the Noman M. Cole Jr. Pollution Control Plant.
Target Population:	Communities that have a high or very high score on the Fairfax County Vulnerability Index.
Performance Measures:	<p>The success of this project will be based on the:</p> <ul style="list-style-type: none"> • Number of acres of forest actively managed each year, and • Number of additional plants grown at the County nursery.
Grant Period:	Five years from the award date (anticipated October 2023).

ADMINISTRATIVE - 14

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Virginia Early Childhood Foundation to Support Mixed Delivery Slot Reimbursement and Required Mixed Delivery Coordination for Ready Region

ISSUE:

Board of Supervisors authorization is requested for the Department of Neighborhood and Community Services (NCS) to apply for and accept grant funding, if received, from the Virginia Early Childhood Foundation (VECF) in the amount of \$1,377,680. Funding will be used to coordinate services between Fairfax County and The Campagna Center to provide Mixed Delivery slot reimbursement in the City of Alexandria as part of the transition to the Ready Region model. During FY 2023, The Campagna Center was the grantee for the Mixed Delivery grant in the City of Alexandria. As Mixed Delivery transitions into the Ready Region Capital Area (RRCA) in FY 2024, Fairfax County will have the responsibilities of oversight and coordination of Mixed Delivery as the RRCA lead agency. This funding will support the continuation of Mixed Delivery reimbursement in the City of Alexandria for 66 existing slots as well as 1/1.0 FTE new grant position.

The grant period is July 1, 2023, through June 30, 2024, with annual renewal periods in subsequent years. No Local Cash Match is required. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize NCS to apply for and accept grant funding, if received, from VECF. Funding in the amount of \$1,377,680 will be used to coordinate services between Fairfax County and The Campagna Center to provide Mixed Delivery reimbursement in the City of Alexandria for 66 existing slots as part of the transition to the Ready Region model. There is 1/1.0 FTE new grant position associated with this funding; no Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

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TIMING:

Board action is requested on June 6, 2023. Due to a grant application deadline of May 15, 2023, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board was also notified via email on May 5, 2023, of the department's intent to apply for this grant prior to the application due date.

BACKGROUND:

VECF's Mixed Delivery program provides public funding for full-day, year-round early childhood care and education services (ECCE) for eligible infants, toddlers, and preschoolers, meeting growing demand for publicly-funded ECCE from private providers that meet the varied needs and preferences of families. Mixed Delivery uses the same eligibility and curriculum standards as the Virginia Preschool Initiative (VPI). Additionally, ECCE sites serving 3- and 4-year-olds through Mixed Delivery use the same child assessment standards as VPI.

NCS, the lead agency for the Ready Region Capital Area, will provide The Campagna Center, a subrecipient award to implement Mixed Delivery in the City of Alexandria for the FY 2024 Mixed Delivery grant cycle. The Campagna Center will continue to lead coordination of Mixed Delivery services within the City of Alexandria in collaboration and with oversight from the RRCA Mixed Delivery coordinator. The RRCA Mixed Delivery coordinator will convene regular meetings with the coordinating staff with The Campagna Center to provide support and ensure Mixed Delivery assurances are being met through ongoing monitoring.

Mixed Delivery coordination funding will support RRCA capacity to coordinate Mixed Delivery activities in the region to build a sustainable Mixed Delivery program that increases equitable access to early childhood education. A new 1/1.0 FTE grant position will manage the coordination of the Mixed Delivery system and ensure that program requirements are met.

FISCAL IMPACT:

Grant funding in the amount of \$1,377,680 is available from VECF and will be used to coordinate services between Fairfax County and The Campagna Center to provide Mixed Delivery reimbursement in the City of Alexandria for 66 existing slots as part of the transition to the Ready Region model. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated awards. No Local Cash Match is required. Recovery of Indirect Costs is not allowed.

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CREATION OF NEW POSITIONS:

There is 1/1.0 FTE new grant position associated with this funding. The County is under no obligation to continue this position once grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1 – Summary of Grant Proposal

STAFF:

Christopher Leonard, Deputy County Executive

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

Keisha Dotson, Deputy Director, NCS

Flor Philips, Division Director, NCS

READY REGIONS MIXED DELIVERY GRANT SUMMARY OF PROPOSED GRANT FUNDING

Grant Title:	Ready Regions Mixed Delivery
Funding Agency:	Virginia Early Childhood Foundation (VECF)
Applicant:	Department of Neighborhood and Community Services
Partners:	Community leaders and organizations supporting early childhood initiatives and publicly funded early childhood programs located in Ready Region Capital Area which includes Fairfax County, the City of Fairfax, the City of Falls Church, Arlington County, and the City of Alexandria. This grant will be coordinated in partnership with early childhood programs in the City of Alexandria, including The Campagna Center, which will be a subrecipient of the funds.
Purpose of Grant:	To support Mixed Delivery Slot Reimbursement and Mixed Delivery Coordination in Ready Region Capital Area.
Funding Amount:	\$1,377,680; there is no Local Cash Match associated with this award.
Proposed Use of Funds:	Funding will be used to coordinate services between Fairfax County and The Campagna Center to provide Mixed Delivery slot reimbursement in the City of Alexandria as part of the transition to the Ready Region model. During FY 2023, The Campagna Center was the grantee for the Mixed Delivery grant in the City of Alexandria. As Mixed Delivery transitions into the Ready Region Capital Area in FY 2024, Fairfax County will have the responsibilities of oversight and coordination of Mixed Delivery as the Ready Region Capital Area lead agency. This funding will support the continuation of Mixed Delivery reimbursement in the City of Alexandria for 66 existing slots. Funding will support 1/1.0 FTE new grant position to help coordinate the Mixed Delivery system and ensure compliance with program requirements.
Target Population:	Publicly funded early childhood programs located in centers, family child care homes, and public schools across City of Alexandria.
Performance Measures:	The success of this project will be based on participating in the VECF-guided evaluation to include ensuring early childhood providers submit data in the Mixed Delivery Data Portal; including but not limited to: <ul style="list-style-type: none"> • Site-level data • Teacher-level data • Child-level data • Fall and spring child assessment data (VKRP) • Participation in VQB5 and entering data in the LinkB5 Data Portal
Grant Period:	July 1, 2023, through June 30, 2024

Board Agenda Item
June 6, 2023

ACTION - 1

Approval of FY 2023 Year-End Processing

ISSUE:

Board approval to allow staff to process payment vouchers for items previously approved and appropriated in FY 2023.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to process payment vouchers for items previously approved and appropriated in FY 2023 for the interim period from July 1 until the Board approves the *FY 2023 Carryover Review*, which is scheduled for action on September 26, 2023.

TIMING:

Board approval is required on June 6, 2023, since the *FY 2023 Carryover Review* is not scheduled for Board action until September 26, 2023.

BACKGROUND:

The *FY 2023 Carryover Review* is scheduled for final action on September 26, 2023, following a public hearing. In the interim, Board approval is requested to allow staff to process payment vouchers for items previously approved and appropriated in FY 2023 such as capital construction projects and grant-funded programs for the period of July 1 to September 26, 2023, or until final action is taken on the *FY 2023 Carryover Review*. Similar action has been taken in prior years as part of the year-end closeout.

FISCAL IMPACT:

This item relates to funding for previously appropriated items approved in FY 2023 and carried forward to FY 2024 for payment.

ENCLOSED DOCUMENTS:

None.

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STAFF:

Christina Jackson, Chief Financial Officer

Philip Hagen, Director, Department of Management and Budget (DMB)

Katie Horstman, Deputy Director, DMB

Joe LaHait, Deputy Director, DMB

Board Agenda Item
June 6, 2023

ACTION – 2

Approval of the Memorandum of Agreement (MOA) Between the United States Department of Homeland Security Office of Intelligence and Analysis (DHS I&A), and the Fairfax County Police Department (FCPD), Regarding the Northern Virginia Regional Intelligence Center (NVRIC)

ISSUE:

Board approval of the MOA between the DHS I&A and the FCPD authorizing the FCPD, as the parent agency for the NVRIC, to provide office space, facilities, and reciprocal sharing of intelligence information to DHS I&A field personnel assigned to the NVRIC.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the agreement between the Department of Homeland Security Office of Intelligence and Analysis and the Fairfax County Police.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

The NVRIC was established by the FCPD in 2004. In 2010, the NVRIC was nationally recognized as a fusion center with the FCPD serving as the host agency. As a recognized fusion center, the NVRIC's mission is to collect, evaluate, analyze, and disseminate timely information and actionable intelligence to Northern Virginia partners, with a focus on prevention of mass attackers, terrorism, and cyber incidents. The NVRIC facility is located within Fairfax County and this agreement allows the DHS I&A to participate in the NVRIC and assign one or more DHS I&A personnel to the facility. Such DHS I&A personnel will facilitate DHS support in the exchange of relevant intelligence and information. This is the first MOA with the DHS I&A.

This intelligence and information sharing is done through a collaborative effort between all participating NVRIC agencies. This agreement sets forth the responsibilities of the parties. The FCPD, as the parent agency for the NVRIC, will provide office space within the Fairfax County facility and technical information required to perform the agreement duties. The agreement limits such information sharing by statute, regulations, executive orders, and the policies of the participating agencies.

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DHS will select and assign one or more DHS I&A field personnel to the NVRIC facility for intelligence analysis and information sharing on intelligence led policing. All such activities are required to be consistent with privacy and civil liberties policies. All such assigned personnel will remain employees of DHS and subject to the DHS regulations and management.

EQUITY IMPACT:

None.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Agreement between the Department of Homeland Security Office of Intelligence and Analysis and the Northern Virginia Regional Intelligence Center

STAFF:

Thomas Arnold, Deputy County Executive
Kevin Davis, Chief of Police
Major Thea Pirnat, Organized Crime and Intelligence Bureau

ASSIGNED COUNSEL:

Karen L. Gibbons, Deputy County Attorney

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MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF HOMELAND SECURITY
OFFICE OF INTELLIGENCE AND ANALYSIS
AND
NORTHERN VIRGINIA REGIONAL
INTELLIGENCE CENTER

I. PURPOSE. This Memorandum of Agreement (MOA) describes the partnership and responsibilities of the Department of Homeland Security (DHS), Office of Intelligence and Analysis (I&A) and the Northern Virginia Regional Intelligence Center (NVRIC) each individually, "Party," and collectively, "Parties," in an effort to:

- (1) Provide direct national-level intelligence support to the Host through the assignment of DHS I&A personnel to facilitate intelligence and information sharing consistent with any applicable laws;
- (2) Serve as an interface between the Host and the national Intelligence Community (IC) (as defined in 50 U.S.C. § 3003(4))
- (3) Manage, analyze, fuse, tailor and disseminate information in accordance with applicable laws, rules, regulations and authorities, and to facilitate the identification and prevention of threats within the scope of DHS's authority, as defined generally by the Homeland Security Act of 2002, as amended, and Executive Order 12333, as amended;
- (4) Provide DHS support and coordination to the principal officials of the designated Host fusion center, federal, state, local, tribal, and private sector homeland security officials, and the Homeland Security Advisor of that state, in accordance with section V of this MOU, 6 U.S.C. § 124h, and in addition to those specific functions assigned elsewhere in law to DHS/[I&A]; and
- (5) Improve communication and coordination among federal, state, local, tribal and private sector organizations and assist in developing methods to exchange relevant information in support of homeland security responsibilities of each organization.

II. AUTHORITY. This MOA is entered into by DHS pursuant to the Homeland Security Act of 2002, as amended, 6 U.S.C. §§ 121(d), 124h, 481, and 482; the Intelligence Reform and Terrorism Prevention Act of 2004, 6 U.S.C. § 485; Executive Order 13311, "Homeland Security Information Sharing," July 29, 2003; Executive Order 13388, "Further Strengthening the Sharing of Terrorism Information to Protect Americans," Oct. 25, 2005; and Executive Order 12333, "United States Intelligence Activities," Dec. 4, 1981, as amended.

III. DEFINITIONS. For purposes of this MOA, the following terms shall have the following meanings when used herein:

A. "Classified Information" has the meaning given that term in 50 U.S.C. § 3126(1), that is, information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

B. "Sensitive But Unclassified Information" shall refer generally to unclassified information in the possession of either Party to this MOU to which access controls or distribution limitations have been applied in accordance with applicable laws, policies, or regulations. It may include any locally-defined handling caveat or marking authorized for use by either party. It also includes unclassified information in the possession of the U.S. Government that may be exempt from public disclosure or subject to other controls.

C. "State and Major Urban Area Fusion Center" means a collaborative effort of two or more federal, state, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal, terrorist, or other activity related to homeland security.

D. "I&A Field Personnel" means employees of I&A assigned, detailed, or deployed to Federal, State, local, tribal, and territorial offices physically located outside of I&A Headquarters. These individuals will not perform duties as an employee or official representative of the Host.

E. "Homeland Security Information" has the meaning given that term in 6 U.S.C. § 482, that is, any information possessed by a federal, state, or local agency that (a) relates to the threat of terrorist activity; (b) relates to the ability to prevent, interdict, or disrupt terrorist activity; (c) would improve the identification or investigation of a suspected terrorist or terrorist organization; or (d) would improve the response to a terrorist act. Such information

may be "Classified Information" or "Sensitive but Unclassified Information."

F. "Joint-seal intelligence product" means a finished intelligence product in any format which is represented as the combined work product of both the Host and DHS. In some instances, such products may feature the seals or letterhead identifying both the Host and DHS as well as other partner agencies.

G. "Information Sharing Environment" means the information sharing environment established pursuant to section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004, 6 U.S.C. § 485.

H. "Homeland Security Data Network" means the classified wide-area network utilized by DHS, DHS Components and other partners, providing effective interconnections to the intelligence community and federal law enforcement resources.

I. "Homeland Security Information Network" means the trusted network for homeland security mission operations to share Sensitive But Unclassified (SBU) information. Federal, State, Local, Territorial, Tribal, International and Private Sector homeland security partners use HSIN to manage operations, analyze data, send alerts and notices, and in general, share the information they need to do their jobs.

J. "Intelligence-led policing" means the collection and analysis of information to produce an intelligence product designed to inform law enforcement decision making at the tactical and strategic levels.

K. "Terrorism information" has the meaning given that term in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004, 6 U.S.C. § 485, that is, all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to – (a) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism; (b) threats posed by such groups or individual to the United States, United States persons, or United States interests, or to those of other nations; (c) communications of or by such groups or individuals; or (d) groups or individuals reasonably believed to be assisting or associated with such groups or individuals; and includes weapons of mass destruction information.

L. "Personally Identifiable Information" (PII) means information which can be used to distinguish or trace the identity of a U.S. Citizen or lawful permanent resident, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

I. "Privacy Incident" means the suspected or actual loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users, and for an other than authorized purpose, have access or potential access to PII in usable form, whether physical or electronic.

IV. SCOPE.

A. Nothing in this MOA shall be construed as encroaching upon the sovereign rights, privileges, and immunities of either Party, by the other, in the conduct of inherently municipal, state or federal government operations, except as may be authorized pursuant to the U.S. Constitution. Nothing in this MOA is intended to conflict with current law, regulation, or the policies and directives of DHS or the Host. If a term or condition of this MOA is inconsistent with such authorities, the Parties agree to address and resolve the inconsistency in a timely and legally appropriate manner, unless the matter is incapable of timely resolution, in which case the inconsistent term shall be deemed invalid, but the remaining terms and conditions of this MOA shall remain in full-force and effect.

B. This MOA, in and of itself, does not result in the commitment, obligation, or transfer of funds or other financial obligations between the Parties. No provision of this MOA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Title 31 U.S.C. § 1341.

C. The following activities are specifically excluded from this MOA:

(1) Short-term (usually no more than 30 days) operational DHS support, including through temporary assignments of DHS personnel, to the Host.

(2) Assignments or intergovernmental details, per other formal agreements, which are based on cooperative joint training efforts in which training population drives instructor and support assignments for the training.

(3) Assignment of contractor personnel to the Host to perform contractor services in support of DHS.

V. RESPONSIBILITIES.

A. **DHS Responsibilities.** DHS I&A shall select and assign, on a non-reimbursable basis, one or more DHS Intelligence I&A Field Personnel to coordinate with and facilitate DHS support to the Host in the exchange of relevant intelligence and information consistent with applicable federal statutes, executive orders, Department regulations and policies. DHS

will:

(1) ensure that the assigned DHS I&A personnel is provided secure data and telecommunications systems capabilities in appropriately certified and secured space and facilities provided by the Host;

(2) ensure the assigned DHS I&A personnel is appropriately trained to perform intelligence analysis or information sharing, including training to support intelligence-led policing, privacy and civil liberties training that is developed, supported, or sponsored by the DHS Chief Privacy Officer and the DHS Officer for Civil Rights and Civil Liberties, and such other training as prescribed by the Under Secretary for I&A;

(3) ensure, to the extent practicable, any anticipated or expected absence of a DHS Officer which exceeds 30 consecutive days is physically or virtually covered by the temporary assignment of a DHS I&A personnel in a manner consistent with ensuring continuous support to the Host; and

(4) provide necessary personnel management/human capital support for DHS Intelligence I&A Field Personnel, in accordance with Office of Personnel Management (herein after "OPM") and DHS regulations and guidelines, including consideration for promotions, awards, and other administrative actions.

B. Host Responsibilities. The Host shall, consistent with applicable federal and state statutes, regulations, executive orders and policies:

(1) provide office space, parking, unclassified data and telecommunications systems, and any administrative office supplies necessary to perform the tasks under this MOA;

(2) provide access to all Host facilities, equipment, and technical information that are required to perform the duties outlined in this MOA;

(3) consistent with applicable authorities, policies and procedures of the Parties, provide access to Host databases, reports, investigations, and other information produced, retained, and/or controlled by the Host in order to review this information and assist the Host in identifying the types of information, including enforcement information, that may assist DHS or other entities with homeland security responsibilities;

(4) as appropriate, disseminate DHS and joint-seal intelligence products to local consumers consistent with dissemination guidance provided by DHS or in coordination with and following the concurrence of the DHS I&A personnel assigned to the Host;

(5) annually participate and provide data for DHS-led capability and performance assessments, consistent with the Federal Resource Allocation Criteria (RAC) Policy, and ensure compliance with all annual homeland security grant program (HSGP) requirements

for fusion centers and similar intelligence entities; and

(6) promptly notify DHS following a privacy incident involving information originating with DHS.

C. DHS Intelligence Officer Responsibilities. Consistent with their functional duties and responsibilities as designated by DHS, DHS Intelligence I&A Field Personnel will:

(1) provide information sharing; collection and reporting; and analysis expertise, advice, training, support and assistance;

(2) coordinate with the Host to identify information needs and transform them into information requirements and product requests;

(3) track information requests and the delivery of responsive information and intelligence products and provide feedback from the Host to the producers;

(4) create intelligence and other information products derived from Host and DHS information and other homeland security-relevant information;

(5) consistent with applicable authority, access relevant databases, reports, investigations, and other information produced, retained, and/or controlled by the Host in order to review this information and assist the Host in identifying the types of law enforcement information that may assist DHS or other entities protecting the United States;

(6) consistent with DHS authorities and DHS and Intelligence Community requirements, support efforts of the Host to report information that may assist DHS fulfill its mission, as well as support other entities protecting the United States;

(7) support efforts of the Host to participate in the information sharing environment;

(8) coordinate with other relevant federal entities engaged in homeland security-related activities;

(9) carry out such other duties as the Secretary of Homeland Security determines are appropriate;

(10) refrain from exercising any supervisory or disciplinary authority over personnel of the Host's facility or participating offices; and

(11) ensure that products intended to be issued and/or disseminated by the Host as joint- seal intelligence products have been reviewed and cleared by DHS according to established DHS procedures for disseminating finished intelligence products.

VI. INFORMATION SHARING AND HANDLING

A. Key Principles. The following key principles and standards apply to the sharing of information between the Parties in any form including verbal, paper, electronic, audio and visual:

- (1) sharing must always be in furtherance of the official duties undertaken by the Parties;
- (2) the originator of the information to be shared is considered to be the owner of that information and is accountable for deciding how information will be shared in a manner that will ensure the timely and efficient access by the Parties to all information necessary to discharge their official duties;
- (3) the Parties will ensure that information will be appropriately marked to indicate the presence of handling, safeguarding, or dissemination controls and is provided with the expectation that these controls will be preserved;
- (4) the sharing of personally identifiable information (PII) must be limited to that which is reasonably necessary for the intended recipient to understand, assess, or act on the information provided;
- (5) privacy policies and relevant privacy compliance documents, such as Privacy Act notices (including systems of records notices and "(e)(3)" or similar notices) will be issued, reviewed, and revised as appropriate to ensure that they properly describe the treatment of PII;
- (6) information sharing must comply with all applicable laws, regulations, or procedures and will incorporate protection mechanisms for handling of proprietary information;
- (7) the use of data by an employee of either Party in an unauthorized or illegal manner will result in a review of the factual circumstances by both Parties and potentially subject the employee to appropriate remedial actions;
- (8) to maintain data accuracy, where necessary, the Parties will be informed of any changes to the data they have received and also notify the source of any error they discover;
- (9) the Parties will ensure that all staff are educated to manage sensitive information appropriately consistent with these principles and organizational policy on the collection and uses of information during the performance of official duties;

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(10) the Parties will ensure that any third parties providing a service to them agree and abide by these principles by inclusion in contracts/agreements;

(11) dissemination of information from one Party to another shall not be considered a release of information to the public, nor shall it constitute a waiver of any exemption to the release of information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 or the Virginia State Code § 52-48.

(12) any Party in receipt of a request for information (whether pursuant to a FOIA, "sunshine," or discovery law) whose scope includes information shared by the other Party or documents developed jointly by the Parties, shall (a) consult with that Party prior to any disclosure, with the aim of developing a consensus view regarding an appropriate response, or
(b) refer the request to the originating Party for a direct response to the requester;

(13) information will be classified, marked, and accessed, as appropriate, pursuant to Executive Order 12958, as amended, and Executive Order 12968; and

(14) joint-seal intelligence products will be issued and/or disseminated in accordance with both parties' policies and clearance procedures.

B. Notwithstanding the paragraphs above, the Parties may use, disclose, reproduce, or retain, in accordance with the law of the state and applicable Host policy, any Party• provided data or information (except data or information properly classified in accordance with Executive Order 12958) that is or was:

(1) already in the public domain at the time or which thereafter enters the public domain without fault or breach of this MOU by the Party;

(2) already made known to or lawfully acquired from a third party by the Party;

(3) previously disclosed to the Party without restriction from the other Party; or

(4) provided or disclosed to, or independently acquired by, the Party without restrictions from its originating source.

C. Notwithstanding the paragraphs above, pursuant to 6 U.S.C. § 482, Homeland Security Information obtained by a state or local government from a federal agency shall remain under the control of the federal agency, and a state or local law authorizing or requiring such a government to disclose information shall not apply to such information. The state or local agency shall: (a) withhold such information from any response; (b) release such information only with the expressed approval of the federal agency; or (c) refer the request to the originating federal agency for a direct response to the requester.

VII. SECURITY REQUIREMENTS.

A. The DHS I&A Field Personnel, in order to meet his or her mission objectives, shall have appropriate access to all relevant federal databases and information systems, consistent with any applicable policies, guidelines, procedures, instructions, or standards established by the President of the United States or, the program manager of the information sharing environment for the implementation and management of that environment, or as otherwise limited by federal law. This shall require that at a minimum, the DHS I&A Field Personnel must have an active security clearance at the level of Top Secret, and be read-on to Sensitive Compartmented Information (SCI) accesses as required.

B. Host will provide the DHS Officer with any local clearance or access necessary to accomplish duties consistent with DHS's mission responsibilities.

C. Host will protect the identity and personal information of the DHS Officer from public disclosure and will refer all inquiries regarding the presence of the DHS Officer to the DHS Public Affairs Office.

For purposes of access to Host information, the DHS Officer shall be considered a federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be considered by Host as authorized to receive information from law enforcement agencies.

VIII. DISCIPLINE AND REMOVAL.

A. Federal employees are subject to the Ethics in Government Act of 1978, 5 C.F.R. part 735, which regulates employee responsibilities and conduct; the Federal Trade Secrets Act, 18 U.S.C. § 1905; as well as DHS-specific standards of conduct regulations;

B. The Host may not take disciplinary or other administrative action against a DHS Officer who commits a violation under similar Host procedures and regulations governing the conduct of Host employees. DHS however, will take such administrative or disciplinary action against the DHS Officer as may be appropriate under the specific circumstance; and

C. Host will coordinate with the DHS Intelligence Officer's chain of command regarding any issues requiring management oversight or discipline. DHS[I&A will address those issues and make every efforts to resolve them to the satisfaction of all parties to this MOA.

IX. DISPUTES.

A. Disputes arising under or relating to this MOA shall be resolved only through consultations between the Parties. The dispute shall not be referred to any outside Party or to any other forum for settlement without the consent of both Parties.

B. The Host will not pursue any claims against the U.S. Government or its employees, including, but not limited to claims for money, reimbursement of expenses, benefits or salaries paid to any of the Host's employees for its compliance with the responsibilities described within the terms of this MOA. This provision not to pursue any claims applies to past, present, and future compliance with the responsibilities described within the terms of this MOA and is retroactive to and includes claims for compliance with the responsibilities previously provided by the Host to DHS that are consistent with the responsibilities described within the terms of this MOU. This MOU does not waive remedies otherwise available to the Host under the Federal Tort Claims Act or other federal legislation expressly authorizing a private right of action for damages against the U.S. Government.

X. OTHER PROVISIONS.

A. Nothing in this MOA is intended to conflict with current law or regulation or the directives of either Party. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

B. Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, a review of this MOA may be conducted at any time. The Inspector General of the Department of Homeland Security, or any of his or her duly authorized representatives, shall have access to materials of the Parties, consistent with applicable authorities of the Parties, in order to perform audits, inspections, investigations, or other examinations of the DHS I&A Field Personnel, as authorized by law.

C. Any travel or training will be processed through travel orders with applicable reimbursement paid by the Party that requested and authorized the travel or training. All DHS Officer travel and training will be conducted in accordance with applicable DHS Management Directives and regulations, and the Federal Travel Regulations.

D. Nothing in this MOA shall, or is intended to confer any substantive or procedural right, and this MOA shall not be construed to create a private right of action for enforcement of any of its provisions or a defense to noncompliance with any independently applicable legal obligation.

XI. ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION.

A. All obligations of the Parties under this MOA shall be subject to the availability of properly authorized and appropriated funds for such purposes.

B. This MOA shall become effective upon signature by both Parties and shall remain in effect for an indefinite period.

C. This MOA may be amended by the written agreement of both Parties.

D. This MOA shall supersede any and all prior arrangements regarding DHS I&A Field Personnel entered into by the Parties or their respective organizations, units, or agencies.

E. This MOA may be terminated at will by any party upon ninety (90) days after written notification to the other Party.

F. This MOA may be signed in counterparts, each of which shall be considered to be an original. For the Department of Homeland Security:

Principal Deputy Under Secretary for Intelligence and Analysis

Date:

Chief Kevin Davis, Fairfax County Police Department, Parent Agency for the Northern Virginia Regional Intelligence Center

Date:

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ACTION – 3

Approval of the Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice Drug Enforcement Administration (DEA) for the High Intensity Drug Trafficking Area (HIDTA) Group 5 (12) and Enforcement Group 1 (14)

ISSUE:

Board approval of a Task Force Agreement between the FCPD and the DEA authorizing the assignment of one detective to the HIDTA Task Force Group 5 (12) and six detectives to Enforcement Group 1 (14). The detectives will be physically detailed to and work out of an FCPD office.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Provisional State and Local Task Force Agreement between the FCPD and the DEA dated March 1, 2023.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

DEA Group 5 (12) and Enforcement Group 1 (14) is a new agreement. Group 5 (12) allows for the federal investigation of illegal activities related to purchasing, distribution, and trafficking of illegal narcotics. Group 5 (12) is the federal version of the FCPD's Narcotics Unit. Being part of the Task Force allows the FCPD to pursue cases that originate in Fairfax on the federal level for prosecution. Additionally, it allows FCPD to identify suppliers outside of Fairfax County more easily, who are facilitating drugs being brought into the County. The FCPD's participation in the various DEA task forces ensures the health and general welfare of our community members.

Group 1(14) is assisting the FCPD Opioid Unit in many facets during the course of investigations into fatal and non-fatal overdoses as this particular group is specifically tasked with the opioid/diversion mission (i.e., Fentanyl). On the front end of these investigations, FCPD officers assigned to the Task Force can utilize DEA's administrative subpoena power in obtaining phone toll records that can then be used to make connections to known users/dealers. FCPD will also utilize DEA to facilitate federal prosecutions. Federal prosecutions allow for enhanced penalties when a death

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occurs from selling illicit narcotics. The current Virginia code does not have any similar provisions. The FCPD officers assigned to the DEA task force then work collaboratively with the U.S. Attorney's Office for the Eastern District of Virginia to ensure the necessary requirements are met for a successful prosecution.

One example of the FCPD's work in collaboration with the federal system is the overdoses in the Skyline area. Detectives were able to obtain federal warrants and a federal search warrant on the suspect's apartment in Prince William County which played a big part in the prosecution of his case as 60 grams of fentanyl was recovered in his apartment. The case was successfully prosecuted in Federal Court with the defendant sentenced to 30 years in prison.

Having this partnership with the DEA allows the FCPD to continue to work the cases when they inevitably cross county lines. It also allows the FCPD to keep with the core mission of the Opioid Unit by identifying and dismantling distribution networks within and tied to Fairfax County.

The assigned FCPD detectives will engage in specific, directed investigations and intelligence gathering designed to support the prosecution and disruption of narcotics crime in the Northern Virginia area. The detectives assigned to this task force will have the primary responsibility of investigating larger scale narcotic cases that have a nexus to Fairfax County.

EQUITY IMPACT:

None.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Provisional State and Local Task Force Agreement dated March 1, 2023

STAFF:

Thomas Arnold, Deputy County Executive
Kevin Davis, Chief of Police
Major Thea Pirnat, Organized Crime and Intelligence Bureau

ASSIGNED COUNSEL:

Karen L. Gibbons, Deputy County Attorney

PROVISIONAL STATE AND LOCAL TASK FORCE AGREEMENT

This agreement is made this 1st day of March 2023, between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Fairfax County Police Department ORI# VA0290100 (hereinafter "parent agency"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 USC § 873.

WHEREAS there is evidence that trafficking in narcotics and dangerous drugs exists in the Washington, DC area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of the Washington Metropolitan area, the parties hereto agree to the following:

- 1 The HIDTA Task Force Group 5 (12) and Enforcement Group 1 (14) will perform the activities and duties described below:
 - a. disrupt the illicit drug traffic in the area by immobilizing targeted violators and trafficking organizations;
 - b. gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
 - c. conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the District of Columbia.
- 2 To accomplish the objectives of the HIDTA Task Force Group 5 (12) and Enforcement Group 1 (14), the parent agency agrees to detail seven (7) experienced officers [one to HIDTA Task Force Group 5 (12) and six (6) to Enforcement Group 1 (14)] for a period of not less than two years. During this period of assignment, the parent agency officers will be under the direct supervision and control of DEA supervisory personnel assigned to the Task Force.
- 3 The parent agency officers assigned to the Task Force shall adhere to DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force. Officers assigned to the Task Force shall also remain subject to the policies, procedures, and regulations of their parent agency. Any conflict between DEA policies and procedures and those of the parent agency shall be resolved by the DEA Special Agent in Charge or his designee, and the chief law enforcement official(s) of the parent agency.
- 4 The parent agency officers assigned to the Task Force shall be deputized as Task Force Officers of DEA pursuant to 21 USC § 878.
- 5 To accomplish the objectives of the HIDTA Task Force Group 5 (12) and Enforcement Group 1 (14), DEA will assign four (4) Special Agents to the Task Force. DEA will also, subject to the availability of annually appropriated funds or any continuing resolution thereof, provide necessary funds and equipment to support the activities of the DEA

Special Agents and officers assigned to the Task Force. This support will include: office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training, and other support items.

- 6 The parent agency shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H and I.
- 7 The term of this agreement shall be effective from the date in paragraph number one until September 30, 2026. This agreement may be terminated by either party on thirty days' advance written notice. DEA's support to the Task Force is subject to the availability of funds on a fiscal year basis (October 1 through September 30 of the next year). Billing for all outstanding obligations must be received by DEA within 90 days of the end of each fiscal year or within 90 days of the date of termination of this agreement. DEA will be responsible only for obligations incurred during the term of this agreement on a fiscal year basis, subject to the availability of funds.

For the Drug Enforcement Administration:

Jarod A. Forget
Special Agent in Charge

Date: _____

For the Fairfax County Police Department:

Kevin Davis
Chief

Date: _____

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ACTION - 4

Approval of the High Intensity Drug Trafficking Area (HIDTA) State and Local Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice, Drug Enforcement Administration (DEA) for the Asset Removal Group HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) and the HIDTA Task Force Group 1(11) (Washington-Mass Transit)

ISSUE:

Board approval of a Task Force Agreement between the FCPD and the DEA authorizing the assignment of one detective to the HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) and one detective to the HIDTA Task Force Group 1(11) (Washington-Mass Transit). The detectives will continue to be physically detailed to and work out of the DEA's Northern Virginia area office.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the HIDTA State and Local Task Force Agreement between the DEA and the FCPD.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

The Asset Removal HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) allows for the federal investigation of illegal activities related to purchasing, distribution, and trafficking of illegal narcotics. Asset Removal HIDTA Group (13) is able to access reports on suspected violations of law or suspicious activity observed by financial institutions which can be instrumental in initiating or supplementing major criminal cases and ultimately disrupting the finances and cash flow of drug trafficking enterprises. Participating in the Task Force allows the FCPD to pursue cases that originate in Fairfax on the federal level for prosecution. Additionally, it allows FCPD to identify suppliers outside of Fairfax County who are facilitating drugs being brought into the county and disrupt their finances which are integral to their operations.

The HIDTA Task Force Group 1 (11) (Washington-Mass Transit) is an interdiction group for the Northern Virginia area that operates primarily out of the two major airports

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(Reagan and Dulles). This group locates large amounts of narcotics being brought into the area by individuals or through commercial shipping. They have close relationships with USPS, UPS, FedEx, and DHL. Once these packages containing illegal narcotics are identified, the group does controlled deliveries to identify the individuals the packages are being shipped to, who are usually dealers or middlemen in the Northern Virginia area. As a result, the group has seized significant amounts of controlled substances (cocaine, methamphetamine, heroin, fentanyl pills) which are moving into Fairfax County.

This group also allows for the civil seizure of U.S. currency directly related to the purchasing, distribution, and trafficking of illicit narcotics. In 2022, the group seized \$1,768,252. A percentage of this amount is returned to Fairfax County.

This federal partnership and FCPD Task Force Officers' (TFO) federal powers have allowed investigations to flow seamlessly from one neighboring jurisdiction into Fairfax County which allows for quicker results and harsher penalties in the federal system.

In supporting the regional effort towards intervention and suppression of trafficking in narcotics and dangerous drugs, the FCPD recognizes the need to continue to be a lead agency within the Task Force Group 1 (11) (Washington-Mass Transit) and the Asset Removal HIDTA Group (13) (Northern VA Financial Initiative/SAFRS Task Force). The current HIDTA Task Force Group 1 (11) MOU was approved by the Board on February 22, 2022, and it expires on September 30, 2023. The Asset Removal HIDTA Group (13) was created during a DEA reorganization of Asset Removal HIDTA Group (33). Group (13) performs similar asset removal functions as the previous Group (33). The Board approved the Asset Removal HIDTA Group (33) MOU on February 22, 2022. This new agreement expires on September 30, 2026.

Continuing to participate in a partnership with the Task Force allows the Department to recoup certain fixed expenses such as rental vehicles, radios, and some overtime. Under this agreement renewal, the DEA Task Force and the Fairfax County Police will work to facilitate sharing information to suppress and disrupt drug trafficking, gather, and report intelligence data relative to narcotics activities, and conduct undercover operations that are associated with the culture of illegal narcotics and drug trafficking.

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

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ENCLOSED DOCUMENTS:

Attachment 1: HIDTA State and Local Task Force Agreement between the DEA and the FCPD dated March 1, 2023

STAFF:

Thomas Arnold, Deputy County Executive

Kevin Davis, Chief of Police

Major Thea Pirnat, Organized Crime and Intelligence Bureau

ASSIGNED COUNSEL:

Karen L. Gibbons, Deputy County Attorney

HIDTA STATE AND LOCAL TASK FORCE AGREEMENT

This agreement is made this 1st day of March 2023, between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Fairfax County Police Department ORI# VA0290100 (hereinafter "parent agency"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 USC § 873.

Whereas there is evidence that trafficking in narcotics and dangerous drugs exists in the Washington, DC area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of the Washington Metropolitan area, the parties hereto agree to the following:

- 1 The Asset Removal HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) and the HIDTA Task Force Group 1 (11) (Washington-Mass Transit) will perform the activities and duties described below:
 - a. disrupt the illicit drug traffic in the Washington, DC area by immobilizing targeted violators and trafficking organizations;
 - b. gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
 - c. conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the task force's activities will result in effective prosecution before the courts of the United States and the District of Columbia.
- 2 To accomplish the objectives of the Asset Removal HIDTA Group (13) (Northern VA Financial Initiative/SARS Task Force) and the HIDTA Task Force Group 1 (11) (Washington-Mass Transit), the parent agency agrees to detail two (2) experienced officer(s) [one (1) to the Asset Removal HIDTA Group (Northern VA Financial Initiative Task Force) and one (1) to HIDTA Task Force 1 (11)] for a period of not less than two years. During this period of assignment, the parent agency officers will be under the direct supervision and control of DEA supervisory personnel assigned to the task force.
- 3 The parent agency officers assigned to the task force shall adhere to all DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force. Officers assigned to the Task Force shall also remain subject to the policies, procedures, and regulations of their parent agency. Any conflict between DEA policies and procedures and those of the parent agency shall be resolved by the DEA Special Agent in Charge or his designee, and the chief law enforcement official(s) of the parent agency.
- 4 The parent agency officers assigned to the task force shall be deputized as task force officers pursuant to 21 USC § 878.
- 5 To accomplish the objectives of the Asset Removal HIDTA Group (13) (Northern VA Financial Initiative Task Force) and the HIDTA Task Force Group 1 (11) (Washington-Mass Transit), DEA will assign three (3) Special Agents to the task force. The parties to

this agreement understand that financial reimbursement to participating organizations is subject to the budgeting, administrative and managerial decisions of the HIDTA Executive Board as well as the availability of HIDTA funding (from whatever source). Subject to this planning and budgeting guidance, the HIDTA will provide funding to support the activities of Federal Special Agents, Task Force Officers, and other specified employees (if any). This support will include: office space, office supplies travel funds, funds for the purchase of evidence and information, investigative equipment, training and other support items.

- 6 During the period of assignment to the Asset Removal HIDTA Group (33) (Northern VA Financial Initiative Task Force) and the HIDTA Task Force Group 1 (11) (Washington-Mass Transit), the parent agency will remain responsible for establishing the salaries and benefits, including overtime, of the parent agency officers assigned to the Task force and for making all payments due them. HIDTA will, subject to availability of annually appropriated funds, HIDTA funds may reimburse the parent agency for overtime payments incurred by its Task Force Officers in an amount not to exceed a sum equivalent to 25% of the salary of a GS-12, Step 1 of the general pay scale for the rest of the United States The parent agency will bill overtime as it is performed and no later than 90 days after the end of the quarter in which the overtime is performed. The invoice will identify each investigator who incurred overtime for the tasking during the invoiced period, the number of overtime hours incurred, the hourly regular and overtime rates in effect for each investigator, and the total cost for the invoiced period. ***Note: Task Force Officer's overtime "Shall not include any costs for benefits, such as retirement, FICA, and other expenses."***
- 7 In no event will the parent agency charge any indirect cost rate to DEA for the administration or implementation of this agreement.
- 8 The parent agency shall maintain on a current basis complete and accurate records and accounts of all obligations and expenditures of funds under this agreement in accordance with generally accepted accounting principles and instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.
- 9 The parent agency shall permit and have readily available for examination and auditing by DEA, the United States Department of Justice, the Comptroller General of the United States and any of their duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this agreement. The parent agency shall maintain all such reports and records until all audits and examinations are completed and resolved or for a period of six (6) years after termination of this agreement, whichever is later.
- 10 The parent agency shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H and I.

- 11 The parent agency agrees that an authorized officer or employee will execute and return to DEA the attached OJP Form 4061/6, Certification Regarding Lobbying; Debarment, suspension and Other Responsibility Matters; and drug-Free Workplace Requirements. The parent agency acknowledges that this agreement will not take effect and no federal funds will be awarded until the completed certification is received.
- 12 When issuing statements, press releases requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or part with federal money, the parent agency shall clearly state: (1) percentage of the total cost of the program or project which will be financed with federal money and (2) the dollar amount of federal funds for the program or project.
- 13 Vehicles may be provided by the parent agency or furnished by DEA subject to the availability and approval of HIDTA funding for vehicle leases. DEA may request that HIDTA fund installation and removal of mobile radios in Task Force vehicles and reimburse the parent agency for fuel, maintenance, and repair attributable to use of the vehicles for Task Force purposes. Accidents involving vehicles while in use for Task Force purposes shall be reported and investigated in accordance with the procedures of DEA and the parent agency.
14. While on duty and acting on Task Force business, the parent agency officers assigned to the HIDTA Task Force shall be subject to all DEA and federal government rules, regulations and procedures governing the use of OGV's for home to work transportation and for personal business. The parties acknowledge and understand that the United States of America is liable for the wrongful actions or inactions of Federal employees, including those Federal deputized as Task Force Officers, who are acting within the scope of their employment under the Federal Torts Claim Act (28 U.S.C §§ 2671 – 2680). This may extend to representation of the covered employee if in the best interests of the United States (28 C.F.R. § 50.15(a)(2)). A state or local employee participating in the Task Force may concurrently or separately be covered for the purposes of liability by their employer.
15. This agreement shall be effective from the date of the last signature of a party and will continue in effect until September 30, 2026. This agreement may be terminated by either party on 30 days advance written notice. Federal funding of the HIDTA Task Force is subject to the availability of annual appropriated funds for each federal fiscal year (October 1 through September 30 of the next year). Billing for all outstanding obligations must be received by DEA within 90 days of the end of each fiscal year or within 90 days of the date of termination of this agreement. DEA will be responsible only for obligations incurred by the parent agency during the term of this agreement on a fiscal year basis, subject to the availability of funds.

For the Drug Enforcement Administration:

Jarod A. Forget
Special Agent in Charge

Date: _____

For the Fairfax County Police Department:

Kevin Davis
Chief

Date: _____

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ACTION – 5

Approval of the Task Force Agreement Between the Fairfax County Police Department (FCPD) and the United States Department of Justice Drug Enforcement Administration (DEA) for the HIDTA (High Intensity Drug Trafficking Area) Group 5 (12)

ISSUE:

Board approval of a Task Force Agreement between the FCPD and the DEA authorizing the assignment of one detective to the HIDTA Task Force Group 5 (12). The detective will be physically detailed to and work out of the DEA's Northern Virginia area office.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Task Force Agreement between the FCPD and the DEA.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

In supporting the regional effort toward intervention and suppression of trafficking in narcotics and dangerous drugs, the FCPD recognizes the need to continue to be a lead agency within the DEA Task Force Group 5(12). A similar agreement was approved by the Board on February 22, 2022, and is effective until July 1, 2023. This agreement will be effective until September 30, 2026.

Group 5(12) allows for the federal investigation of illegal activities related to purchasing, distribution, and trafficking of illegal narcotics. Group 5(12) group is the federal version of our narcotics unit. Being part of the Task Force allows us to pursue cases that originate in Fairfax on the federal level for prosecution. Additionally, it allows FCPD to more easily identify suppliers outside of Fairfax County that are facilitating drugs being brought into the county, helping to ensure the health and general welfare of our community members.

- In 2022 this group seized approximately one million dollars and a percentage of that amount came back to Fairfax County (per the equitable sharing agreement)

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Continuing to participate in a partnership with HIDTA Task Force Group 5 (12) will allow the FCPD to recoup some fixed expenses such as rental vehicles, radios, and some overtime.

The assigned FCPD detective will be a full-time member of the DEA Task Force engaged in specific, directed investigations and intelligence gathering designed to support the prosecution and disruption of narcotics crime in the Northern Virginia area. The detective assigned to this task force will have the primary responsibility of investigating larger scale narcotic cases that have a nexus to Fairfax County.

EQUITY IMPACT:
None.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Program – Funded State and Local Task Force Agreement dated March 1, 2023

STAFF:
Thomas Arnold, Deputy County Executive
Kevin Davis, Chief of Police
Major Thea Pirnat, Organized Crime and Intelligence Bureau

ASSIGNED COUNSEL:
Karen L. Gibbons, Deputy County Attorney

PROGRAM - FUNDED STATE AND LOCAL TASK FORCE AGREEMENT

This agreement is made this 1st day of March 2023, between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Fairfax County Police Department ORI# VA0290100 (hereinafter "parent agency"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 USC § 873.

WHEREAS there is evidence that trafficking in narcotics and dangerous drugs exists in the Washington, DC area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of the Washington Metropolitan area, the parties hereto agree to the following:

- 1 The HIDTA Task Force Group 5 (12) will perform the activities and duties described below:
 - a. disrupt the illicit drug traffic in the Washington, DC area by immobilizing targeted violators and trafficking organizations;
 - b. gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
 - c. conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the District of Columbia.
- 2 To accomplish the objectives of the HIDTA Task Force Group 5 (12), the parent agency agrees to detail one (1) experienced officer for a period of not less than two years. During this period of assignment, the parent agency officers will be under the direct supervision and control of DEA supervisory personnel assigned to the Task Force.
- 3 The parent agency officers assigned to the Task Force shall adhere to DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force. Officers assigned to the Task Force shall also remain subject to the policies, procedures, and regulations of their parent agency. Any conflict between DEA policies and procedures and those of the parent agency shall be resolved by the DEA Special Agent in Charge or his designee, and the chief law enforcement official(s) of the parent agency.
- 4 The parent agency officer(s) assigned to the Task Force shall be deputized as Task Force Officers of DEA pursuant to 21 USC § 878.
- 5 To accomplish the objectives of the HIDTA Task Force Group 5 (12), DEA will assign four (4) Special Agents to the Task Force. The parent agency agrees to provide and maintain a vehicle for use for each of its assigned Task Force Officer(s). DEA will also, subject to the availability of annually appropriated funds or any continuing resolution thereof, provide necessary funds and equipment to support the activities of the DEA Special Agents and parent agency officers assigned to the Task Force. This support will

include: office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training, and other support items.

- 6 During the period of assignment to the HIDTA Task Force Group 5 (12), the parent agency will remain responsible for establishing the salary and benefits, including overtime, of the officers assigned to the Task Force, and for making all payments due them. DEA will, subject to availability of funds, reimburse the parent agency for overtime payments. Annual overtime for each state and local law enforcement officer is capped at the equivalent to 25% of the salary of a GS-12, step 1, of the general pay scale for the rest of the United States. Reimbursement for all types of qualified expenses shall be contingent upon availability of funds and submission of a proper request for reimbursement which shall be submitted monthly or quarterly on a fiscal year basis, and which provides the names of investigators who incurred overtime for DEA during invoiced period, the number of overtime hours incurred, the hourly regular and overtime rates in effect for each investigator, and the total cost for the invoiced period. The parent agency will bill overtime as it is performed and no later than 90 days after the end of each quarter in which the overtime is performed. ***Note: Task Force Officer's overtime "shall not include any costs for benefits, such as retirement, FICA, and other expenses."***
- 7 In no event will the parent agency charge any indirect cost rate to DEA for the administration or implementation of this agreement.
- 8 The parent agency shall maintain on a current basis complete and accurate records and accounts of all obligations and expenditures of funds under this agreement in accordance with generally accepted accounting principles and instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.
- 9 The parent agency shall permit and have readily available for examination and auditing by DEA, the United States Department of Justice, the Comptroller General of the United States, and any of their duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this agreement. The parent agency shall maintain all such reports and records until all audits and examinations are completed and resolved, or for a period of six (6) years after termination of this agreement, whichever is later.
- 10 The parent agency shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H and I.
- 11 The parent agency agrees that an authorized officer or employee will execute and return to DEA the attached OJP Form 4061/6, Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements. The parent agency acknowledges that this agreement will not take effect and no Federal funds will be awarded to the parent agency by DEA until the completed certification is received.

- 12 When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, the parent agency shall clearly state: (1) the percentage of the total cost of the program or project which will be financed with Federal money and (2) the dollar amount of Federal funds for the project or program.
- 13 The term of this agreement shall be effective from the date in paragraph number one until September 30, 2026. This agreement may be terminated by either party on thirty days' advance written notice. DEA's support to the Task force, including reimbursement of overtime, is subject to the availability of funds on a fiscal year basis (October 1 through September 30 of the next year). Billing for all outstanding obligations must be received by DEA within 90 days of the end of the fiscal year or within 90 days of the date of termination of this agreement. DEA will be responsible only for obligations incurred by parent agency during the term of this agreement on a fiscal year basis, subject to the availability of funds.

For the Drug Enforcement Administration:

Jarod A. Forget
Special Agent in Charge

Date: _____

For the Fairfax County Police Department:

Kevin Davis
Chief

Date: _____

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ACTION – 6

Approval of the Memorandum of Understanding (MOU) Between the Fairfax County Police Department (FCPD) and the Virginia State Police (VSP) for Establishing Governing Policies and Participation in the Northern Virginia Regional Intelligence Center (NVRIC)

ISSUE:

Board approval of the MOU between the FCPD and the VSP outlining the mission of the NVRIC, establish the policies to govern the activities of the agencies participating in the NVRIC, and formalize the relationship between the FCPD and the VSP and any other agencies that may join the NVRIC.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the MOU between the FCPD and VSP.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

The NVRIC was established by the FCPD in 2004. The VSP is responsible for operating the Virginia Fusion Center which was established in 2005 pursuant to Va. Code § 52-47 to “receive and integrate terrorist related intelligence and information. In 2010, the NVRIC was nationally recognized as a fusion center with the FCPD serving as the host agency. As a recognized fusion center, the NVRIC’s mission is to collect, evaluate, analyze, and disseminate timely information and actionable intelligence to Northern Virginia partners, with a focus on prevention of mass attackers, terrorism, and cyber incidents. This is done through a collaborative effort between the FCPD and VSP to provide strategic information and intelligence to law enforcement, fire services, emergency management, transportation, public health, and cyber security serving the Northern Virginia region. This will be the first MOU between the FCPD and VSP and will formalize the relationship.

The NVRIC serves as a collection point for suspicious activity reporting from law enforcement in the region. The information is assessed and coordinated with appropriate law enforcement partners to produce bulletins to inform regional partners.

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Other agencies are allowed to join and assign personnel to the NVRIC. All personnel remain employees of their respective agency and subject to their agency's policies and regulations.

This agreement establishes the NVRIC structure and management collaboratively between the FCPD and the VSP. The MOU calls for the FCPD to assign at least a Second Lieutenant to serve as the NVRIC Operations Manager and an analyst. The VSP will assign at least an Analytical Program Manager, a Special Agent, a Lead Analyst, and a Senior Analyst. Additionally, a VSP employee will hold the position of the NVRIC Director. The Chief of the FCPD shall be responsible for the operations of the NVRIC and the Chair of the NVRIC Advisory Board. The Advisory Board will consist of regional public safety representatives.

The NVRIC is comprised of an investigative unit to conduct criminal investigations in involved agencies respective jurisdictions and an analytical unit to focus on the collection, integration, and analysis of intelligence information. All such intelligence will remain consistent within each individual agency's policy. The analytical unit will coordinate with the Virginia Fusion Center and produce analysis under joint seals of the Virginia Fusion Center and the NVRIC.

EQUITY IMPACT:

None.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Understanding Northern Virginia Regional Intelligence Center between the Fairfax County Police Department and the Virginia State Police

STAFF:

Thomas Arnold, Deputy County Executive
Kevin Davis, Chief of Police
Major Thea Pirnat, Organized Crime and Intelligence Bureau

ASSIGNED COUNSEL:

Karen L. Gibbons, Deputy County Attorney

**MEMORANDUM OF UNDERSTANDING
NORTHERN VIRGINIA REGIONAL INTELLIGENCE CENTER Fairfax
County Police Department and Virginia State Police**

This Memorandum of Understanding (MOU) is entered into by the participating agencies listed in the signatory portion of this document.

I. Purpose

- A. The purpose of this MOU is to outline the mission of the Northern Virginia Regional Intelligence Center (NVRIC), establish the policies to govern the activities of the agencies participating in the NVRIC, and formalize the relationship between the Fairfax County Police Department (FCPD), Virginia State Police (VSP), and any other agencies that may join the NVRIC. The guidelines established herein will serve to maximize cooperation and to create a formal, effective partnership to detect and prevent terrorist attacks and criminal activity in the Northern Virginia region, the Commonwealth of Virginia, and the United States.

II. Mission

- A. The mission of the NVRIC is to collect, evaluate, analyze, and disseminate timely information and actionable intelligence to our Northern Virginia partners and decision makers, with a focus on prevention of mass attacks, terrorism, and cyber incidents. This is accomplished by the collection and promotion of information sharing between FCPD, VSP, and other law enforcement agencies that join the NVRIC.
- B. The NVRIC is a collaborative effort between FCPD and VSP to provide tactical, operational, and strategic information and intelligence to law enforcement, fire services, emergency management, transportation, public health, and cyber security serving the Northern Virginia region, as appropriate.

III. Structure

- A. The NVRIC is a component of the FCPD, Organized Crime and Intelligence Bureau that will be staffed by trained and cleared personnel from FCPD, VSP, and other agencies that join the NVRIC. To accomplish the NVRIC mission, personnel will have authorized access to classified information in secure space provided by a sponsoring federal agency.

NVRIC Memorandum of Understanding

Page 2 of 6

- B. The NVRIC will be managed collaboratively by a Director, Operations Manager, and Intelligence Resource Manager.
- C. The NVRIC will be comprised of an investigative and analytical unit.
 - i. The investigative unit will consist of experienced investigators detailed from local and state agencies in the region who are responsible for conducting criminal investigations, as it relates to their respective jurisdiction, which could have a potential terrorism or behavioral threats nexus. These criminal investigations will be conducted pursuant to the state or local policies, guidelines, or procedures applicable to that agency or department.
 - ii. The analytical unit will focus on the collection, integration, and analysis of intelligence information for support of criminal investigations, behavioral threat assessments, and key decision makers. This unit will prepare weekly, monthly, and ad hoc intelligence products to address key threat concerns at both the tactical and strategic level. The analytical unit will work closely with the investigative unit to ensure an efficient investigative process and cooperative information sharing. The activities of the analytical unit will be closely coordinated with the Virginia Fusion Center analysts. Intelligence products will contain joint seals for the Virginia Fusion Center and Northern Virginia Regional Intelligence Center.
- D. The NVRIC will serve as the collection point for suspicious activity reporting generated by FCPD, VSP, or other local law enforcement agencies in the region. The NVRIC will conduct an assessment of the suspicious activity through logical database checks and coordination with appropriate law enforcement partners. The NVRIC analysts will produce bulletins on suspicious activity reporting to inform regional partners.

IV. Personnel Support

- A. Except during periods of an operational emergency as determined by FCPD or VSP, FCPD agrees to assign at least: one Second Lieutenant to serve as Operations Manager and one analyst. FCPD will manage and assign the National Capital Region (NCR) Urban Areas Secure Initiative (UASI) grant-funded contract analysts to the NVRIC. VSP agrees to assign at least: one Analytical Program Manager, who will serve as Director; one Special Agent, one Lead Analyst, and one Senior Analyst. FCPD and VSP will collaborate on the appointment of the Director.
- B. For NVRIC operations, the VSP Analytical Program Manager (Director) will report directly to the FCPD Major for the Organized Crime & Intelligence Bureau (OCIB).

The Operations Manager will report to the Director. The Intelligence Resource Manager will report to the Director.

- C. Other agencies may agree to assign personnel on a full or part-time basis to the NVRIC. The continued assignment of NVRIC personnel will be based on performance and will be at the discretion of the NVRIC Director, NVRIC Operations Manager, Intelligence Resource Manager, and each agency's respective supervisor.

V. Supervision

- A. The Operations Manager will supervise the daily activities of the analysts assigned to the NVRIC, including scheduling and assignments. The Operations Manager will handle administrative tasks for the NVRIC, including grant reporting and acting as privacy officer. The Operations Manager will serve as the point of contact for NVRIC liaisons. The Operations Manager will also supervise any criminal or behavioral threat investigations initiated for the NVRIC.
- B. The Intelligence Resource Manager will handle administrative tasks for the NVRIC, including database access, office equipment, and acting as security officer. The Intelligence Resource Manager will conduct outreach with Fire Services partners and maintain a network of Fire Services liaisons in the region.
- C. The Director will oversee the overall management of the NVRIC and ensure the center meets all baseline capability and grant requirements. The Director will engage executives in the region, providing threat briefings and informing them of the NVRIC operations and capabilities as well as foster liaison partnerships. The Director will manage the intelligence production process and analytical training for all analysts assigned to the NVRIC. The Director will serve as the final reviewer for all finished intelligence products from the NVRIC. The Director will conduct outreach with executives and partners and serve as the point of contact for liaison supervisors who have assigned personnel from local jurisdictions.

VI. Direction of NVRIC and Advisory Board

- A. The Chief of Police for Fairfax County Police Department shall be responsible for the operations of the NVRIC. However, a multi-disciplined Advisory Board chaired by the Chief of Police or his designee will be tasked with reviewing operational processes and management of the NVRIC. The NVRIC Advisory Board shall consist of the following:
 - i. Fairfax County Chief of Police or designee (Chair)
 - ii. Superintendent of State Police or designee (Co-Chair)
 - iii. Representative from the Northern Virginia Police Chiefs
 - iv. Representative from the Northern Virginia Fire Chiefs
 - v. Representative from the Northern Virginia Emergency Managers

- vi. Representative from the Northern Virginia Chief Information Security Officers
- vii. Department of Homeland Security, Office of Intelligence and Analysis, Mid-Atlantic Director
- viii. Federal Bureau of Investigations, Washington Field Office representative
- ix. Other representatives as deemed appropriate by the Chair and Co-Chair

VII. Location and Facilities

- A. Subject to the continued availability of funding, FCPD will pay the costs associated with the office space, office equipment, utilities, and maintenance of the office space allocated to the NVRIC, located within a secure facility in Fairfax County, Virginia.
- B. FCPD agrees to provide internet connectivity to all personnel, which will allow personnel remote access to their agency's databases. VSP agrees to provide NVRIC personnel with access to the Virginia Intelligence Management System (VIMS) through the VSP network.

VIII. Clearances

- A. Personnel assigned to the NVRIC are required to have at least a Secret security clearance issued by a sponsoring federal agency for access to national security classified information. Additionally, all personnel are required to successfully complete the hiring process requirements of their respective agency, to include a fingerprint-based background check, in order to access law enforcement databases. The respective agency is responsible for providing these background checks prior to personnel being assigned to the NVRIC. Personnel who do not have the appropriate federal security clearance will be required to undergo a background investigation conducted by the sponsoring federal agency. Access to databases will be governed by the policies for each participating agency. All signatories agree to abide by originator controlled documents and third-party dissemination regulations. In view of the expense incurred in obtaining security clearances and the need for continuity of operations, NVRIC personnel should be expected to serve for a period of at least two (2) years.

IX. Discipline and Security

- A. All NVRIC personnel will be governed by the NVRIC policies and procedures. All personnel assigned to the NVRIC remain employees of their respective agency and are also subject to their agency's policies and regulations. All NVRIC personnel will be subject to their respective agency's internal investigations for any action or conduct affecting the security of the NVRIC and removal from the NVRIC at the discretion of the NVRIC Director.

- B. Problems or difficulties, which may arise during the operation of the NVRIC, will be mutually addressed to the principles and resolved as expeditiously as possible. Any personnel problems that cannot be resolved by the Director will be forwarded to the employee's agency for resolution. Designated supervisors for the participating agency will also be notified. It is agreed that resolution of any and all problems at the lowest possible administrative level are in the best interest of the NVRIC.

X. Information Sharing

- A. The FCPD and VSP agree to contribute timely information and intelligence to the NVRIC, as appropriate by each agency's policy and any applicable state laws. Permission will be sought from the originating agency prior to any information sharing. Information provided to the NVRIC by other entities will be considered NVRIC information and will be guided by NVRIC information sharing policies.

XI. Standard Operating Procedures

- A. The NVRIC maintains Standard Operating Procedures (SOP) that direct administrative, operational, and security matters, and all assigned personnel are expected to adhere to these SOPs. Any approved NVRIC SOPs will be communicated to all NVRIC personnel, and a copy of each approved SOP will be maintained by the Operations Manager. Any proposed NVRIC SOP must be approved by the Director of the NVRIC.

XII. Funding

- A. Except as outlined in this MOU, each agency will be expected to fund its own operations. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds. Even if one party has agreed to assume a particular financial responsibility, a written agreement must be obtained before incurring an expense expected to be assumed by another party. All obligations of and expenditures by the parties are subject to their respective budgetary and fiscal processes and availability of funds pursuant to all laws, regulations, and policies applicable thereto. The parties acknowledge that there is no intimation, promise, or guarantee that funds will be available in future years.

XIII. Release of Information

- A. All media releases will be mutually agreed upon and jointly handled consistent with existing participating agency guidelines. Any such release specifically involving information derived by the cooperative effort within the NVRIC must have the prior approval of the Fairfax County Chief of Police and Superintendent of the Virginia State Police.

NVRIC Memorandum of Understanding

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B. Any requests for release of information to the public, including Freedom of Information Act requests, will be handled through the established processes of the Fairfax County Police Department in compliance with Title 28, Part 23 of the Code of Federal Regulations – Criminal Intelligence Systems Operating Policies. Any NVRIC information released must have approval of the Fairfax County Chief of Police or his/her designee. Pursuant to Virginia Code § 52-48(A), any papers, records, documents, reports, materials, databases, or other evidence or information relative to criminal intelligence or any terrorism investigation that is in the possession of or received from the Virginia Fusion Intelligence Center, including co-sealed products and Virginia Fusion Intelligence Center emails, shall be confidential and are not subject to either the Virginia Freedom of Information Act or the Government Data Collection and Dissemination Practices Act. Pursuant to Virginia Code § 52-48(C), the NVRIC shall not release or disseminate information received from the Virginia Fusion Center without prior authorization of the Superintendent for the Virginia State Police or his/her designee.

XIV. Agreement Duration

This agreement may only be amended by the mutual consent of the participating agencies or by a subsequent MOU. The addition of new participating agencies to the NVRIC will not be considered a formal change to the MOU and therefore, will not require approval of each current member. The term of the MOU will be for an indefinite period. The MOU may be terminated at will by any party, provided written notice is provided to the other parties of not less than thirty (30) days. Upon termination of the MOU, all equipment will be returned to the supplying agency.

SIGNATORIES

Colonel Kevin Davis
Chief of Police
Fairfax County Police Department

Date

Colonel Gary T. Settle
Superintendent
Virginia State Police

Date

Board Agenda Item
June 6, 2023

ACTION - 7

Approval of a Parking Reduction for Seoul Plaza Located at 4231 Markham Street in the Annandale Commercial Revitalization District (Mason District)

ISSUE:

Board approval of a 20 percent reduction in required parking for the existing Seoul Plaza, a two-story strip-commercial shopping center located at 4231 Markham Street, [Tax Map Reference 071-1 ((20)) 0003] in the Annandale Commercial Revitalization District, Mason District.

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction of 20 percent for parcel 071-1 ((20)) 0003 pursuant to *Sect. 3102 3. E (2.b) of the Fairfax County Zoning Ordinance*, which allows the Board to reduce by up to twenty percent the minimum off-street parking requirement for non-residential uses, subject to conditions it deems appropriate.

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

The property is currently developed with a 54,480 gross square foot (SF), two-story shopping center. The remainder of the site is comprised of 210 surface parking spaces, of which 202 are standard spaces and eight are accessible parking spaces. The property is zoned to the C-6 Community Retail District and is located in the Annandale Commercial Revitalization District (CRD). As a commercial property in a CRD, the property owner is eligible for up to a twenty-percent parking reduction subject to Board approval.

The applicant seeks to restripe the parking lot to allow for two outdoor dining areas for an existing restaurant tenant. The outdoor dining area would total 494 square feet (SF) and accommodate 32 people, and would require the removal of nine regular parking spaces. In addition, one existing accessible parking space is being removed to better accommodate a new layout for trash dumpsters. Seven accessible parking spaces are required and are being provided. The conversion of these parking spaces would result in a total number of 200 parking spaces on-site, consisting of 193 standard spaces and seven accessible spaces.

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Under the Zoning Ordinance, Article 6, Table 6100.1, the parking requirement for shopping centers is 4.3 spaces per 1,000 SF of gross floor area if the shopping center has less than 100,000 SF of gross floor area. Uses such as office, restaurants, and hotel uses in which are located in a shopping center must comply with the standards in Table 6100.1. Because Seoul Plaza has less than 50,000 SF of gross floor area devoted to office use, its office uses may be parked at a rate of 3.6 spaces per 1,000 SF of gross floor area. Restaurants less than 5,000 SF of gross floor area in size are parked at the shopping center rate (4.3 per 1,000 SF of gross floor area) whereas any restaurant that exceeds 5,000 SF of gross floor area must be parked at a rate of 11 spaces per 1,000 SF of gross floor area. However, under Section 6100.4.D, parking rates established under former rezonings are grandfathered at the the rate at the time of approval. Only one restaurant in the shopping center exceeds 5,000 SF and it's parking rate is grandfathered by SPA 2011 MA-028, which parked the 7,170 SF restaurant at the shopping center rate of 4.3 spaces per 1,000 SF of gross floor area. This rate is reflected in the proposed Parking Tabulation, Attachment 4.

Based on the type and gross square footage of the uses in the Seoul Plaza, it is determined that a total of 250 parking spaces are required, seven of which must be accessible spaces. The applicant is seeking a twenty percent parking reduction, or 50 parking spaces, bringing the total provided parking spaces (including the seven accessible spaces) to 200.

Additionally, the applicant in redrawing and updating its parking layout and tabulation, has addressed all prior inconsistencies and instances of non-compliance with County codes regarding parking space dimensions, the width of travel aisles, and provision of loading spaces, and has demonstrated that they have a dumpster layout that meets current non-residential waste calculations.

The requested twenty percent parking reduction is pursuant to Sect. 3102 3. E (2.b) of the Fairfax County Zoning Ordinance, which states that "the minimum off-street parking requirement for non-residential uses may be reduced by 20 percent by the Board, subject to conditions it deems appropriate. The applicant must demonstrate to the Board that the reduction furthers the goals of the CRD as set-forth in the Comprehensive Plan, including economic vitality, appearance, and function."

The CRD establishes a unique set of regulations, which promotes private sector investment by providing flexibility in the development or redevelopment of properties located within the CRD. Commercial reinvestment and redevelopment is critical to the continued viability of these areas. Under the CRD, a parking reduction of up to twenty percent of non-residential uses may be permitted. This regulation allows for older, site-constrained commercial development to be able to respond more flexibly to changing market conditions. In this instance, an existing shopping center with restaurant use

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could greatly benefit by allowing an existing restaurant to have outdoor dining. Outdoor dining allows the restaurant to better cater to their customers and makes them more competitive with other restaurants that have outdoor dining. This shopping center already has a number of vacant tenant spaces so the continued viability of its existing tenants is imperative to the shopping center's continued economic viability.

The Plan for the Annandale Community Business Center (CBC) envisions a vibrant mix of land uses that significantly enhances the quality of life for its own and neighboring residents, while enabling businesses to prosper and actively contribute to the economic and social vitality of Annandale. An objective of the Comprehensive Plan for the Annandale CBC is to improve the economic vitality and attractiveness within and around this area, to improve pedestrian and vehicular circulation throughout the area, and to maintain the community-serving function of the commercial area. Designation of the Annandale CBC as a CRD was in furtherance of the county's commitment to revitalization.

The requested 20 percent parking reduction, as currently proposed, would support the Comprehensive Plan objective of retaining and enhancing businesses serving the community. Also, the parking reduction would support the Comprehensive Plan objective of improving the economic climate in the CRD and encouraging private and public investment and reinvestment in such areas. In conclusion, the twenty percent parking reduction would bring the site into compliance with the intended uses of the site and is consistent with Comprehensive Plan objectives and policies.

EQUITY IMPACT:

The parking reduction at 4231 Markham Street will provide an opportunity for one of the existing restaurants to have year-round outdoor dining. As we have seen with the Covid pandemic, allowing outdoor dining has sometimes been the difference between surviving and thriving for restaurants. While the pandemic restrictions and state of emergency have been lifted, people have become accustomed to outdoor dining, and it has become a vital component to the dining experience. Increasing the economic viability of properties and tenants is in keeping with the goals for revitalization. As the Annandale CBC is a designated Commercial Revitalization District, it is even more important to be flexible in such areas to encourage reinvestment that can provide needed services and job opportunities to surrounding residents, especially lower-income residents. The parking reduction at 4231 Markham Street will increase opportunities for everyone to fully participate in the region's economic vitality and contribute to its readiness for the future.

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FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

- Attachment 1 – Aerial showing existing site
- Attachment 2 – Existing Site Parking Layout
- Attachment 3 – Proposed Redesignated Parking Layout
- Attachment 4 – Proposed Parking Tabulation Summary
- Attachment 5 - Existing site photographs

STAFF:

Rachel Flynn, Deputy County Executive
Tracy Strunk, Director, Department of Planning and Development (DPD)
William D.Hicks, Director, Department of Land Development Services
Elizabeth A. Hagg, Director, Community Revitalization Section, DPD

4231 Markham Street - Seoul Plaza Aerial Site ^{Attachment 1}



Notes:

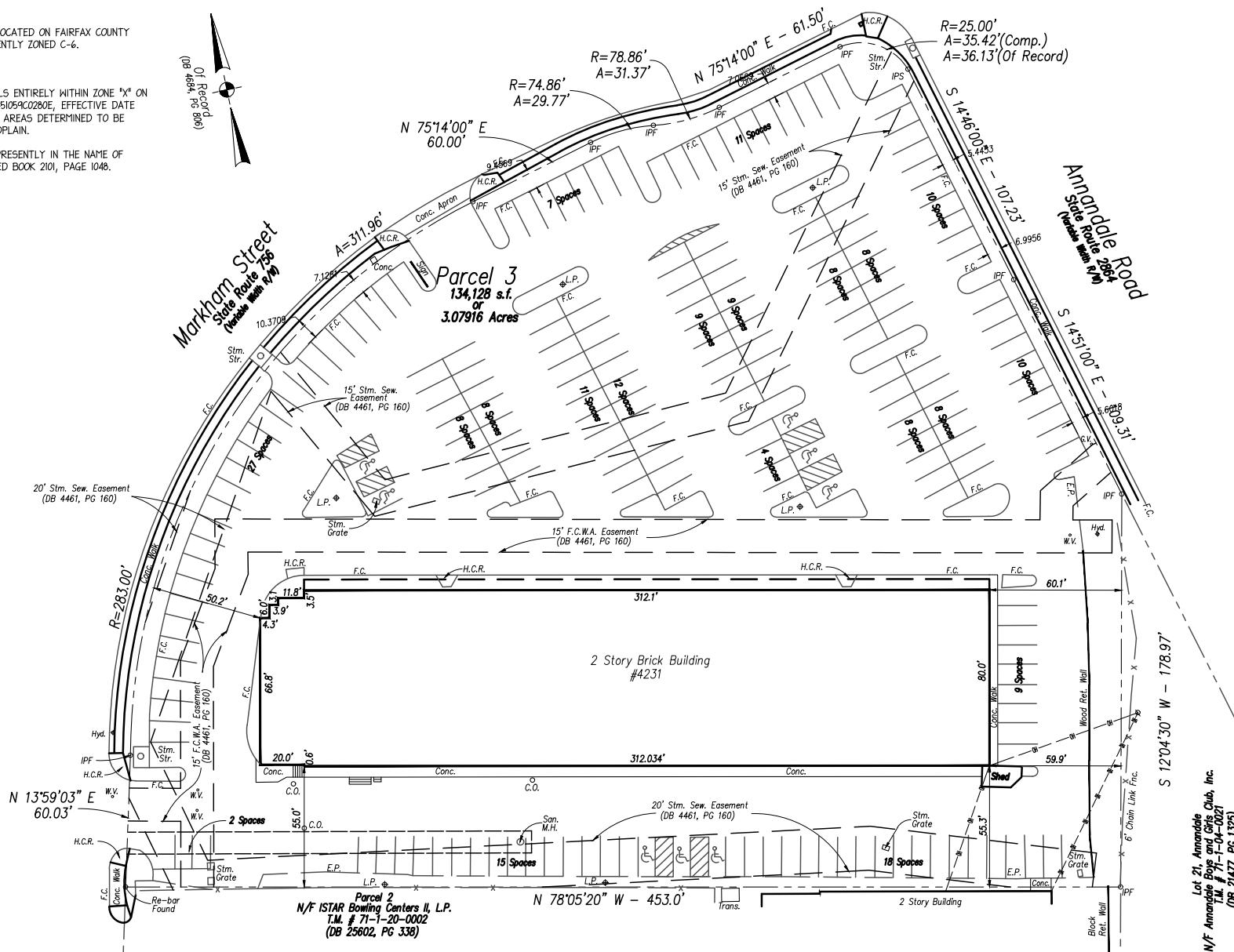
- 1) THE PROPERTY DELINEATED HEREON IS LOCATED ON FAIRFAX COUNTY TAX MAP NO. 71-1-20-0003 AND IS PRESENTLY ZONED C-6.
- 2) NO TITLE REPORT FURNISHED.
- 3) THE PROPERTY DELINEATED HEREON FALLS ENTIRELY WITHIN ZONE "X" ON FEMA-FIA FLOOD INSURANCE RATE MAP #51059C0280E, EFFECTIVE DATE SEPTEMBER 17, 2010. ZONE "X" INDICATES AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- 4) THE PROPERTY DELINEATED HEREON IS PRESENTLY IN THE NAME OF SANG YONG CHOI, LLC, RECORDED IN DEED BOOK 2101, PAGE 1048.

Legend

- IPF - Denotes Iron Pipe Found.
- IPS - Denotes Iron Pipe Set.
- F.C. - Denotes Face of Pavement.
- E.P. - Denotes Edge of Curb.
- ⊕ - Denotes Power Pole.
- ⊙ - Denotes Light Pole.
- Stm. Str. - Denotes Storm Structure.
- San. M.H. - Denotes Sanitary Sewer Manhole.
- C.O. - Denotes Sewer Cleanout.
- Hyd. - Denotes Fire Hydrant.
- W.V. - Denotes Water Valve.
- Trans. - Denotes Transformer.
- G.V. - Denotes Gas Valve.
- H.C.R. - Denotes Handicapped Ramp.
- ♿ - Denotes Handicapped Parking Space.

Parking Tabulation

- 202 Standard Parking Spaces
- 8 Handicapped Parking Spaces
- 210 Total Parking Spaces



Plat Showing
Improvement Survey
Parcel 3
Portion of the Property of
John C. Webb, Trustee

Mason District
Fairfax County, Virginia
August 5, 2021 - Scale: 1" = 30'

I, THOMAS W. KENDALL, A DULY LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THE PROPERTY DELINEATED HEREON IS CURRENTLY IN THE NAME OF SANG YONG CHOI, LLC, ACQUIRED IN DEED BOOK 2101, PAGE 1048 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

GIVEN UNDER MY HAND THIS 6th. DAY OF AUGUST, 2021.

THOMAS W. KENDALL, L.S.#1711

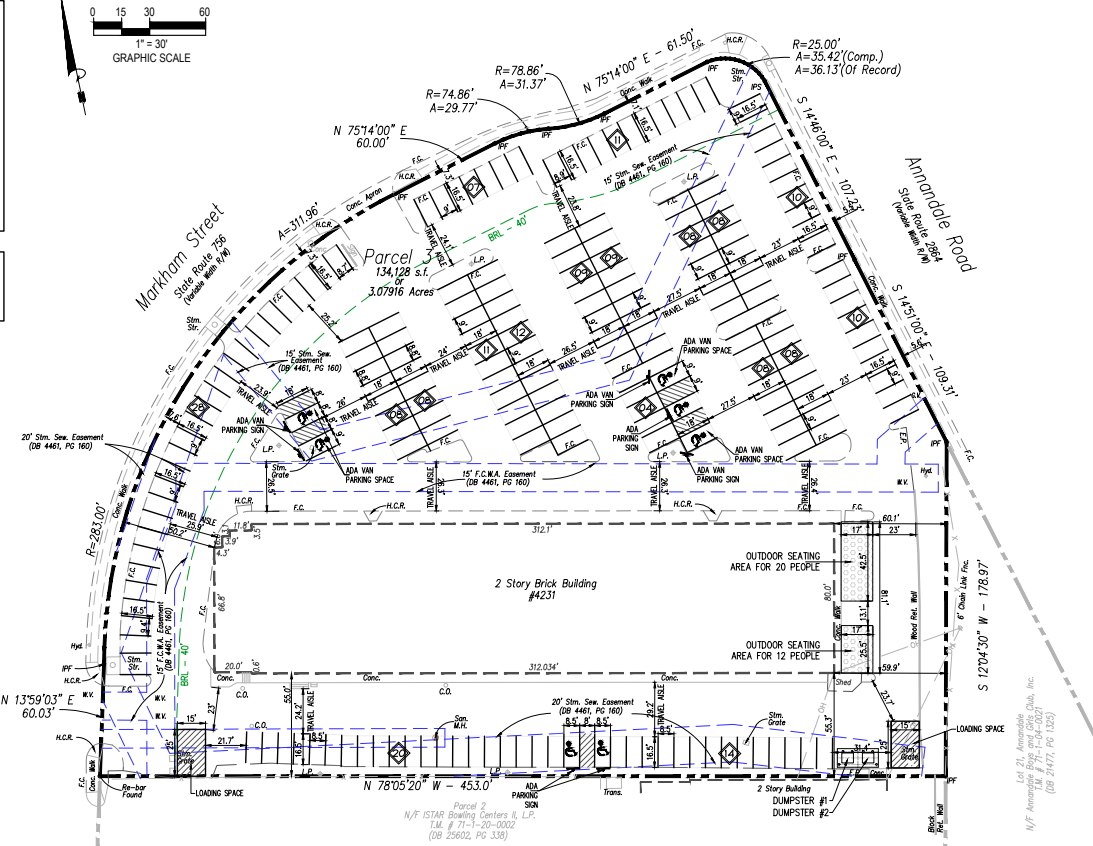
Kendall Consulting, Inc.

Lot 21, Annandale
 N/F Annandale Edge and Gris Club, Inc.
 T.M. # 71-1-04-0021
 (DB 21477, PG 1325)

- Legend**
- IPF - Denotes Iron Pipe Found.
 - IPS - Denotes Iron Pipe Set.
 - F.C. - Denotes Face of Curb.
 - E.P. - Denotes Edge of Pavement.
 - PS - Denotes Power Pole.
 - LP - Denotes Light Pole.
 - Stm. Str. - Denotes Storm Structure.
 - Son. M.H. - Denotes Sanitary Sewer Manhole.
 - C.O. - Denotes Sewer Cleanout.
 - Hyd. - Denotes Fire Hydrant.
 - W.V. - Denotes Water Valve.
 - Trans. - Denotes Transformer.
 - G.V. - Denotes Gas Valve.
 - H.C.R. - Denotes Handicapped Ramp.
 - ♿ - Denotes Handicapped Parking Space.
 - ♿ - Denotes ADA Parking Sign

Parking Tabulation

193 Standard Parking Spaces
 7 Handicapped Parking Spaces
 200 Total Parking Spaces



PROPERTY INFORMATION:

OWNER NAME : CHOI SANG Y L.C.
 PROPERTY ADDRESS : 4231 MARKHAM ST ANNANDALE VA 22003
 TAX MAP # : 0711 20 0003
 LAND AREA : 134,128 SF (3.079 AC)
 ZONING : C-6 (Community Retail)

LOADING SPACE REQUIREMENT:

LOADING SPACE CALCULATION			
USE	GFA	STD	
Bank- Financial Institute	3200	C	
Bank Loan office	2110	C	
Convenience Store	1660	B	
Office	9673	C	
Personal Service	800	B	
Restaurant- Dine In	15864	D	
Restaurant- Karaoke	2110	D	
Retail - General	900	B	
Vacant - (Retail)	8979	B	

STANDARD	GFA	RATE	TOTAL LOADING
B	12279	1/10,000 + (1/15,000 a+d)	1
C	14983	1/10,000 + (1/20,000 a+d)	1
D	23034	1/10,000 + (1/25,000 a+d)	2

Total Loading Required: 4

ANNUAL WASTE GEN. RATE BY BUILDING USE

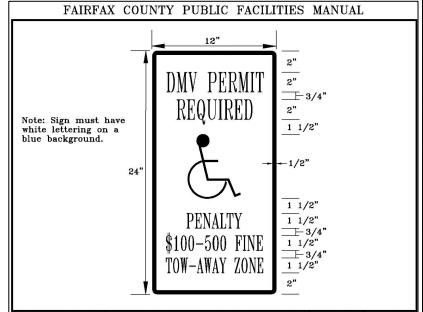
total office	3376	0.0013 tons/sf	12.19 tons
total retail	40268	0.0057 tons/sf	229.53 tons
Combined Annual Waste Stream			241.72 tons

CY Per Ton	4.44 CY
Min. Collections Annually	104 times
Min. Container number	2 Nos
Min. Storage Volume	5.16 CY

proposed storage volume	
length	6.2 ft
width	5.3 ft
height	6 ft
Total Volume Provided	7.90 CY OK

NOTE:

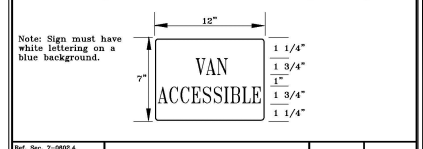
THE DISCREPANCY OF THE 10FT PERIPHERAL LANDSCAPING DUE TO RIGHT-OF WAY DEDICATION



Ref. Sec. 7-0602.4
 Sec. 1-06, 2011 Reprint, 2018 Reprint

ACCESSIBLE PARKING SIGNS

PLATE NO. 30A-7
 STD. NO.



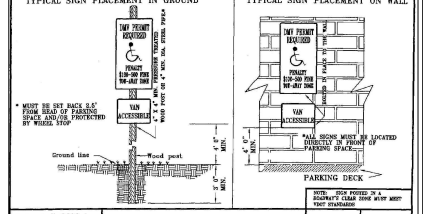
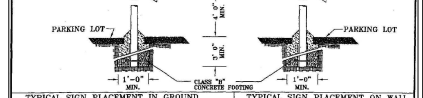
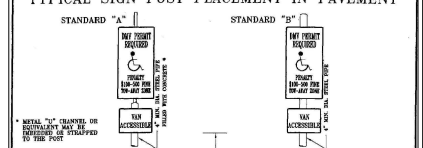
Ref. Sec. 7-0602.4
 Sec. 1-06, 2011 Reprint, 2018 Reprint

VAN ACCESSIBLE PARKING SIGNS

PLATE NO. 30B-7
 STD. NO.

FAIRFAX COUNTY PUBLIC FACILITIES MANUAL

TYPICAL SIGN POST PLACEMENT IN PAVEMENT



Ref. Sec. 7-0602.4
 Sec. 9-64 2014 Reprint

POSTING SIGNAGE FOR ACCESSIBLE PARKING

PLATE NO. 30C-7
 STD. NO.

REVISION

NO.	DATE	DESCRIPTION

CIVILAND, LLC

P.O. BOX 650028, STERLING, VIRGINIA 20165
 703-851-1262
 info@civiland.com

DESIGN BY: AM/JS
 DATE: SEP 2021

COMMONWEALTH OF VIRGINIA
 FARMING MORGAN
 Lic No 16944
 PROFESSIONAL ENGINEER

SCALE: AS SHOWN

PARKING RE-STRIPING PLAN
 PCL 3, LITTLE RIVER CENTER
 4231 MARKHAM STREET
 ANNANDALE, VIRGINIA
 FAIRFAX COUNTY, VIRGINIA

SHEET NO. 2 OF 2
 FILE NO. 20-21

Parking Tabulation Form

Plan Name _____ Submitter's Name _____
 Site Plan # _____ Address _____
 Tax Map # _____ Phone _____ Email _____

Zoning District _____ Rezoning Case/Special Exception/Special Permit # _____ PTC Rate: <1/8 mi. 1/8-1/4 mi. >1/4-1/2 mi. Non TOD NA
 Proffers: Yes No Conditions: Yes No Use Prohibitions & Limitations (See note 3) Yes No TSA Rate: <1/4 mi. ≥1/4 mi. NA
 Parking Reduction: Yes No Parking Reduction # _____ Type: Shared Mass Transit General TDM CRD Grandfathered Restaurant Uses: Yes No

APPROVED FOR PARKING ONLY

PLAN No. _____

APPROVED BY _____ DATE _____

County Reviewer

THIS APPROVAL IS NOT A COMMITMENT TO APPROVE ANY
BUILDING PERMITS OR SITE PLANS

REDESIGNATION PLAN ATTACHED: Yes No TOTAL GROSS FLOOR AREA _____ (SF)

TOTAL PARKING SPACES REQUIRED FOR ENTIRE SITE PLAN (NON-ACCESSIBLE + ACCESSIBLE SPACES) = _____

ACCESSIBLE SPACES REQUIRED: (_____ REGULAR ACCESSIBLE SPACES + _____ VAN ACCESSIBLE SPACES) = _____

ACCESSIBLE SPACES PROVIDED: (_____ REGULAR ACCESSIBLE SPACES + _____ VAN ACCESSIBLE SPACES) = _____

TOTAL PARKING SPACES PROVIDED (NON-ACCESSIBLE SPACES PROVIDED + ACCESSIBLE SPACES PROVIDED) = _____

* After applying the 20% Reduction

APPLICANT CERTIFICATION

Certification by signature and seal is taken to mean that the Applicant has performed an onsite inspection of the property to confirm that the number of parking spaces shown as being provided is actually available on the site; that the spaces meet the required dimensions and are useable (not occupied or blocked by dumpsters, air conditioners, incinerators, storage trailers, cart corrals, etc.); that all uses on the site have been included in the tabulation with the correct use types; that the requisite number of accessible spaces, signage and dimensions for compliance with USBC are provided; that the number of parking spaces is in conformance with the associated rezoning, special exception, special permit, variance or parking reduction; and that the Parking Plan provided matches the actual onsite conditions of the site. An Architect submitting a Parking Tabulation Form signs and seals the form with the acknowledgement that the form has been "Prepared in Accordance with § 54.1-401 of the Code of Virginia."

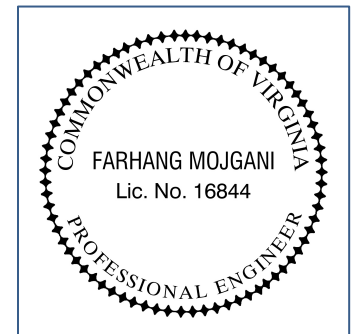
Engineer's/Surveyor's Name: _____ Signature: Farhang Mojjani Date: _____

Property Owner or Landlord concurrence with tabulation:

Name: _____ Signature: [Handwritten Signature] Date: _____

Condominium Association concurrence with tabulation (If Applicable):

Name: _____ Signature: _____ Date: _____



April 2018

Parking Tabulation Form

Plan Name _____ Site Plan #: _____ Tax Map #: _____

Check if		ADDRESS and Tenant / Business	LIST EACH FLOOR (include basement)	SUITE #	USE (See notes 5 & 6)	Check if use permitted by		GROSS FLOOR AREA (SF)	NET FLOOR AREA (SF)	# SEATS AND/OR STOOLS	# COMPANY VEHICLES	# SERVICE BAYS	# OF EMPLOYEES	# STUDENTS	OTHER	PARKING RATE REQUIRED PER CODE (See note 7)	TOTAL PARKING SPACES REQUIRED FOR THIS USE	
USE IS REVISED	PARKING IS GRANDFATHERED					SPECIAL PERMIT	SPECIAL EXCEPTION											
															2.1*			

TOTAL GROSS FLOOR AREA THIS SHEET _____ TOTAL PARKING SPACES REQUIRED FOR LAND USES ON THIS SHEET _____

* See restaurant worksheet

Parking Tabulation Form

Plan Name _____ Site Plan #: _____ Tax Map #: _____

Check if		ADDRESS and TENANT / BUSINESS	LIST EACH FLOOR (include basement)	SUITE #	USE (See notes 5 & 6)	Check if use permitted by		GROSS FLOOR AREA (SF)	NET FLOOR AREA (SF)	# SEATS AND/OR STOOLS	# COMPANY VEHICLES	# SERVICE BAYS	# OF EMPLOYEES	# STUDENTS	OTHER	PARKING RATE REQUIRED PER CODE (See note 7)	TOTAL PARKING SPACES REQUIRED FOR THIS USE	
USE IS REVISED	PARKING IS GRANDFATHERED					SPECIAL PERMIT	SPECIAL EXCEPTION											
	✓								100+14				6					
	✓								56				4					

TOTAL GROSS FLOOR AREA THIS SHEET _____ TOTAL PARKING SPACES REQUIRED FOR LAND USES ON THIS SHEET _____

April 2018

Parking Tabulation Form

Plan Name _____ Site Plan #: _____ Tax Map #: _____

Check if		ADDRESS and TENANT / BUSINESS	LIST EACH FLOOR (include basement)	SUITE #	USE (See notes 5 & 6)	Check if use permitted by		GROSS FLOOR AREA (SF)	NET FLOOR AREA (SF)	# SEATS AND/OR STOOLS	# COMPANY VEHICLES	# SERVICE BAYS	# OF EMPLOYEES	# STUDENTS	OTHER	PARKING RATE REQUIRED PER CODE (See note 7)	TOTAL PARKING SPACES REQUIRED FOR THIS USE		
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TOTAL GROSS FLOOR AREA THIS SHEET _____ TOTAL PARKING SPACES REQUIRED FOR LAND USES ON THIS SHEET _____

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TOTAL GROSS FLOOR AREA THIS SHEET _____ TOTAL PARKING SPACES REQUIRED FOR LAND USES ON THIS SHEET _____

April 2018

Parking Tabulation Form

Plan Name: _____ Site Plan #: _____ Tax Map # _____

RESTAURANT & RESTAURANT W/DRIVE-THROUGH WORK SHEET

1. ADDRESS AND TENANT / BUSINESS _____

2. GROSS FLOOR AREA (GFA) _____ (SF)

3. NUMBER OF OUTDOOR SEATS _____

(a) If the GFA is < 5,000 SF and more than 20 outdoor seats are proposed, determine the SF of the outdoor seating area for the number of seats in excess of 20 and enter it on line 4.

(b) If the GFA is ≥ 5,000 SF and more than 32 outdoor seats are proposed, determine the SF of the outdoor seating area for the number of seats in excess of 32 and enter it on line 4.

4. OUTSIDE SEATING AREA REQUIRED TO BE PARKED _____ (SF)

5. DRIVE THROUGH? Yes No

6. SHOPPING CENTER? Yes No SIZE: ≤ 100,000 SF (4.3 spaces/1,000 SF) > 100,000 - ≤ 400,000 SF (4.0 spaces/1,000 SF)
 > 400,000 - < 1,000,000 SF (4.8 spaces/1,000 SF) ≥ 1,000,000 SF (4.0 spaces/1,000 SF)

7. PARKING RATE

(a) If the restaurant or restaurant w/drive-through is located in a shopping center and the GFA (line #2) is ≤ 5,000 SF, use the shopping center rate.

(b) If the restaurant or restaurant w/drive-through is not located in a shopping center or the GFA (line #2) is > 5,000 SF, use one of the following rates:

Restaurant GFA < 5,000 SF (10 spaces/1,000 SF) Restaurant GFA ≥ 5,000 SF (11 spaces/1,000 SF) Restaurant w/drive-through (12 spaces/1,000 SF)

8. PARKING REQUIRED

	Rate					
GFA	_____ x _____	=	_____	spaces		
Outdoor Seating Area (line #4)	_____ x _____	=	_____	spaces		
			Total _____	spaces		

9. PARKING GRANDFATHERED Yes No Required parking shown on prior Parking Tabulation _____ spaces

Parking Tabulation Form

Plan Name: _____ Site Plan #: _____ Tax Map # _____

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1. ADDRESS AND TENANT / BUSINESS _____

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8. PARKING REQUIRED

	Rate	
GFA	x	= _____ spaces
Outdoor Seating Area (line #4)	x	= _____ spaces
		Total _____ spaces

9. PARKING GRANDFATHERED Yes No Required parking shown on prior Parking Tabulation _____ spaces

Parking Tabulation Form

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Rate

GFA _____ x _____ = _____ spaces

Outdoor Seating Area (line #4) _____ x _____ = _____ spaces

Total _____ spaces

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Parking Tabulation Form

Plan Name: _____ Site Plan #: _____ Tax Map # _____

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	Rate	
GFA	x	= _____ spaces
Outdoor Seating Area (line #4)	x	= _____ spaces
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Parking Tabulation Form

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Rate

GFA _____ x _____ = _____ spaces

Outdoor Seating Area (line #4) _____ x _____ = _____ spaces

Total _____ spaces

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Plan Name: _____ Site Plan #: _____ Tax Map # _____

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8. PARKING REQUIRED

	GFA	x	Rate		=		spaces
	_____		_____			_____	
	Outdoor Seating Area (line #4)	x	_____	=	_____	spaces	
				Total	_____	spaces	

9. PARKING GRANDFATHERED Yes No Required parking shown on prior Parking Tabulation _____ spaces

Parking Tabulation Form

Notes:

1. In accordance with § 17-104.8 of the Zoning Ordinance, an approved parking tabulation is required for accessory service uses and changes in use to a use which has a greater parking requirement than the previous use. The parking tabulation must demonstrate that the number of existing parking spaces on site meets the minimum off-street parking requirements for all uses.
2. In accordance with § 17-104.8 of the Zoning Ordinance, parking tabulations must be submitted on forms provided by the Director of LDS, certified by an engineer or land surveyor authorized by the State to practice as such and must include the written consent of the property owner. For condominiums, written consent shall be provided in accordance with the provisions of Sect. 2-518 of the Zoning Ordinance. Architects may prepare and certify parking tabulations if the work is incidental to what may be properly considered an architectural undertaking. The architect must include the following certification with his signature and seal: "Prepared in Accordance with § 54.1-401 of the Code of Virginia."
3. Attach proffered Rezoning/Special Exception/Special Permit prohibitions or limitations on allowable uses.
4. Attach a copy of any approved parking reduction. Reductions for non-residential uses in the Richmond Highway Community Revitalization District (CRD) may be approved with the parking tabulation.
5. In a building where one floor has more than one use (personal services, general office & retail), use a separate line for each use. The uses and parking rates must correspond to those identified in Article 11 of the Zoning Ordinance, or attach documentation of the Zoning Administration's determination in accordance with § 11-102.19.
6. Units which are vacant must be included. The intended use must be indicated and parking requirements allocated.
7. Include all of the information needed to determine the parking requirement. For example, where the amount of parking is based on the number of employees and/or company vehicles in addition to the gross floor area, the number of employees and/or company vehicles must be provided.
8. The developer should make an initial parking assignment for each unit on the site plan. If a developer, condominium association or landlord wishes to make changes to the assigned number of spaces after final site plan bond release, a minor site plan for reallocation of parking will be required. This form when properly completed and certified, is intended to be such a minor site plan.
9. New parking rates and definitions for restaurants (formerly eating establishments or fast food restaurants) were effective January 24, 2018. All parking tabulations must use the new nomenclature. Existing uses, special exceptions, rezonings and parking reductions approved prior to the effective date are grandfathered **if** application of the new parking rates would result in the requirement for additional parking. Certain plans in process were also grandfathered subject to due diligence requirements. See the grandfathering provisions included with the discussion of restaurant parking requirements on the Land Development Services (LDS) web page for Off-Street Parking. Use the Restaurant Work Sheet to determine the parking requirement for restaurants and transfer that requirement to the Parking Tabulation Form indicating which restaurants are using the grandfathered rates. Attach the Restaurant Work Sheet(s) to the parking Tabulation.
10. In the PTC district and TSAs, parking requirements for multi-family developments are based on the number of bedrooms in each unit. Use a separate line on the form for the number of units that have 0-1 bedroom, 2 bedrooms, and 3 or more bedrooms.
11. Fractions of a space up to the first decimal are permissible for individual uses. Fractions will be rounded up to the nearest whole number at the time the total number of required spaces for the site is determined.

Submit to: Land Development Services
Site Applications Center
12055 Government Center Parkway
Fairfax, VA 22035-5503

Number of Copies Required: One (1) original with seal, signature and date, plus four (4) copies

April 2018

4231 Markham Street

Annandale, VA 22003



Looking toward South at North side of front of the site, standing at the entrance of the site



Looking toward South at the North front corner of the building, standing on sidewalk along Markham Street

4231 Markham Street

Annandale, VA 22003



Looking toward West, at the Northeast front of the building, standing on Sidewalk along Markham Street



Looking toward West at the rear of the Building, standing in rear parking area of the site

4231 Markham Street

Annandale, VA 22003



Looking toward North at the rear entrance of the building standing the rear Parking area of the site.



Looking toward East at the West rear of the building standing at the entrance

4231 Markham Street

Annandale, VA 22003



Looking toward Southeast at the west front corner of the building standing in the parking area

Board Agenda Item
June 6, 2023

ACTION - 8

Authorization for the County Executive to Execute a Wastewater Conveyance Capacity Agreement Between the City of Alexandria and Fairfax County

ISSUE:

Authorization for the County Executive to execute a Wastewater Conveyance Capacity Agreement between the City of Alexandria (City) and the County of Fairfax (County) for conveyance of a portion of the County's wastewater flows through the City's wastewater system and vacation of an easement in the City which will no longer be needed because of this agreement.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) authorize the County Executive to execute the attached agreement.

TIMING:

Board action is requested on June 6, 2023, to finalize the execution of the attached wastewater conveyance capacity agreement.

BACKGROUND:

The County owns and operates a wastewater collection system and a wastewater treatment facility. A small portion of the County's collection system located in the City, but within County easements, conveys flow from the County to the City of Alexandria Sanitation Authority for treatment.

One existing 12-inch County-owned sewer within the City needs to be relocated and replaced to facilitate construction of a residential subdivision. County and the City staff agree that the City should own and maintain the new relocated sanitary sewers in order to simplify the ownership and maintenance responsibilities. The existing sanitary sewers upstream and downstream of the proposed townhouse development are and will be owned by the County.

The attached agreement guarantees that the County will have sufficient conveyance capacity within the newly constructed City-owned and operated sanitary sewer for the County's existing and future needs. Execution of this Wastewater Conveyance Capacity Agreement by the County Executive will eliminate the need for an existing

Board Agenda Item
June 6, 2023

sanitary sewer easement within the City of Alexandria and allow for its eventual vacation. The attached agreement has been executed by the City Manager of the City of Alexandria.

EQUITY IMPACT:

None. This Board action has no equity impact. This agreement ensures that the County will continue to have sufficient conveyance capacity within the newly constructed City sewer lines to maintain the level of service of the County's award-winning wastewater management program, which protects the public health and the environment. This project is located completely outside of the County. It is located 100% in the City and will reduce the County's operation and maintenance responsibility of some of the County sewer lines located in the City.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – City of Alexandria, Virginia, Memorandum, dated March 20, 2023
Attachment 2 - Wastewater Conveyance Capacity Agreement Between the City of Alexandria and Fairfax County

STAFF:

Rachel Flynn, Deputy County Executive
Christopher Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Eleanor Ku Coddling, Deputy Director, Stormwater and Wastewater Divisions, DPWES
Shahram Mohsenin, Director, Wastewater Planning and Monitoring Division, DPWES


ASSIGNED COUNSEL:


Marc Gori, Assistant County Attorney

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 20, 2023

TO: JIM PARAJON, CITY MANAGER 

FROM: ERIN BEVIS-CARVER, P.E., DIVISION CHIEF, SANITARY
INFRASTRUCTURE DIVISION, TRANSPORTATION AND ENVIRONMENTAL SERVICES 

THRU: JOANNA ANDERSON, CITY ATTORNEY

RECOMMENDATION: That the City Manager sign the attached agreement to assume ownership of the newly constructed 12-inch diameter sewers (located in the City) such that Fairfax County (County) can abandon their existing easement for the sewers that are being abandoned within the City limits. This agreement will also accommodate flows from the upstream County sewers and provides requirements for the County to pay for capacity improvements to serve future development in the County if needed.

BACKGROUND/DISCUSSION: The City of Alexandria (City) owns and operates a sanitary collection system comprising of over 240 miles of sanitary and combined sewers. There also exists other sanitary sewer infrastructure located within the City that is owned by either Alexandria Renew Enterprises (four trunk sewers) or Fairfax County (three trunk sewers and multiple smaller diameter sewers). The Fairfax County (County) sanitary sewers located in the City serve as joint use sewers which convey both City and County flows, where the upstream flows originate in the County and downstream flows with the City. The County sewers are located in the west end of the City in an area that the City annexed from the County. However, the County retained ownership of the trunk sewers and sanitary sewers that convey both City and County flows following the annexation.

As part of a redevelopment project located at 4901 Eisenhower Avenue (Tripointe/Winchester Homes), there is an existing 12-inch County sewer that has been abandoned and new sanitary sewers were constructed to serve the development project. Due to concerns about the County's ability to effectively operate and maintain the new sewer infrastructure, the City and County agreed that the City would assume ownership of the new sewers that have been constructed. Existing sewers located upstream and downstream of the project site would still be remain under County ownership. There are a number of benefits for the City assuming ownership of these sanitary sewers including the ability to more effectively respond to any potential resident

complaints (sewer odors, backups, etc). In order for the County to agree to vacate the existing sewer line easement, they require an agreement that the City will accept County flows in the newly constructed sewers.

The City is currently in discussions with the County regarding the transfer of ownership of the remaining smaller collector sewers located in the City, but belonging to the County. Benefits of assuming ownership include the division of clear maintenance responsibility (County responsible for sewers in the County and City responsible for sewers in the City) and provides the City with greater control when it comes to redevelopment in that the City will no longer be required to coordinate with the County on future development projects in the area and the City can require the County to make capacity upgrades to serve future development in the County. One of the issues that will need to be resolved is the current condition of the County sewers. It's possible that the City will require the County to rehabilitate (or replace, if required) their existing sewers if they are found to be in poor condition. However, since this current agreement involves new sewer construction, this is not an issue for this specific agreement.

ATTACHMENTS: Wastewater Conveyance Capacity Agreement

STAFF: Emily A. Baker, Deputy City Manager
Lindsay Dubin, Assistant City Attorney
Tarrence Moorner, Interim Director, TES
William Skrabak, Deputy Director, TES

WASTEWATER COVEYANCE CAPACITY AGREEMENT

THIS AGREEMENT, entered into this ___ day of _____, 2023 (hereinafter referred to as the “Agreement”), is by and between the Board of Supervisors of Fairfax County, Virginia, a political subdivision of the Commonwealth of Virginia (“Fairfax”) and the City Council of the City of Alexandria, Virginia, also a political subdivision of the Commonwealth of Virginia (“Alexandria”) (hereinafter Fairfax and Alexandria may be singularly referred to as a “Party” or jointly as the “Parties”).

RECITALS

WHEREAS, Fairfax owns and operates a wastewater interception and transmission system in the Holmes Run Sewershed within Alexandria so situated as to intercept and transmit wastewater from Fairfax for treatment and disposal at the Alexandria Renew Enterprises wastewater treatment facility, which is located in Alexandria; and

WHEREAS, Alexandria has approved a project to redevelop an existing parking lot in Alexandria located on the property more particularly described as 4901 Eisenhower Avenue in Alexandria, Virginia (Tax Map 068.04-22) and as shown on Attachment A (the “Property”) into a townhouse community and, in order to accommodate the layout of townhouse units on the site, the developer, who represents the Owner of the Property and is responsible for the redevelopment of the Property, is planning to replace an existing 12-inch Fairfax-owned and operated sewer pipe (082-1-392/082-1-012) with multiple 12-inch pipe segments; and

WHEREAS, the Fairfax sewer pipe located on the Property is in and subject to a Fairfax County easement, which Fairfax and the developer will vacate; and

WHEREAS, Fairfax desires to abandon ownership and operation of the existing 12-inch sewer pipe on the Property, and Alexandria desires to own, operate, and maintain the new 12-inch pipe segments to be installed by the developer of the project in order to address challenges in construction inspection services, sewer service connection administration, and emergency response coordination that may otherwise result from relocation of the existing pipe; and

WHEREAS, under the laws of the Commonwealth of Virginia, Fairfax and Alexandria have the power to contract with one another for the provision of wastewater service, and Fairfax and Alexandria desire to enter into an Agreement whereby Alexandria will reserve for Fairfax a portion of the total flow capacity of the new sewer facilities; and

NOW, THEREFORE, in consideration of the aforementioned premises, and of the mutual benefits to be derived therefrom, and of the respective undertakings, promises, and covenants of the Parties herein contained, and that the above recitals are true and correct and incorporated herein by reference, the Parties mutually covenant, undertake, promise, and agree as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions. The terms in this Section, for all purposes of this Agreement and any amendments or other changes thereto, shall have the following meanings:

- A. “Allocated Capacity” means 2 million gallons per day (“mgd”) peak flow capacity allocated to Fairfax County in the City Sewer.
- B. “ARenew” means Alexandria Renew Enterprises.

- C. “City Sewer” means certain 12-inch transmission pipe segments intended to replace the existing 12-inch Fairfax-owned sewer (082-1-392/082-1-012) on the Property in connection with City Development Special Use Permit DSUP2020-10035 as depicted in Attachment A to this Agreement.
- D. “Conveyance Capacity Percentage” means the Allocated Capacity expressed on a percentage basis that is calculated using Fairfax’s Allocated Capacity as the numerator and the total conveyance capacity of the City Sewer expressed on a mgd basis as the denominator.

ARTICLE II

GENERAL PROVISIONS

Section 201. Alexandria’s Obligations. Alexandria understands and agrees to the following obligations and commitments.

- A. Construction Inspection Services. Alexandria will provide construction inspection services, overseeing proper construction of the City Sewer in accordance with the approved plans and specifications until the infrastructure is accepted by Alexandria for ownership, operation, and maintenance.
- B. Conveyance During Construction. Alexandria will, directly or indirectly, provide for all needed accommodations to intercept and convey all flows in the abandoned 12" Fairfax sewer line to the existing downstream Fairfax-owned interceptor until the construction of the City Sewer is completed and put in operation. As between the Parties, Fairfax shall not bear the risk of any damage to persons or property or regulatory liabilities arising out of the design, construction, or installation of the City Sewer or any temporary facilities installed during the construction project. It

shall be the Alexandria's responsibility to require the developer to mitigate potential for risks as part of its own processes and for the developer to be responsible for any potential damage incurred.

- C. Allocation of Capacity. Upon service cut-over from the existing Fairfax-owned sewer to any temporary sewer line operated by the developer during construction activities and ultimately the City Sewer, Alexandria shall reserve the Allocated Capacity for the exclusive use of Fairfax. As between the Parties, the reservation of the Allocated Capacity is considered as being permanent in nature, giving Fairfax an exclusive entitlement right to its share of the flow capacity in the City Sewer, but Fairfax will not be the party responsible for operating, maintaining, administering, or replacing the City Sewer.

Section 202. Fairfax's Obligations. Fairfax understands and agrees to the following obligations and commitments.

- A. Wastewater from City Sewer. Fairfax agrees to continue to use its existing sewer infrastructure to intercept and convey wastewater flow delivered to the Fairfax transmission system from the City Sewer to ARenew for treatment and disposal.
- B. Conveyance Capital Charges. Fairfax agrees to pay Alexandria for its proportionate share of the cost of future improvements, enhancements, replacements, and renewals of the City Sewer. The amount to be paid by Fairfax to Alexandria pursuant to this Section 202(B) will be based on the Conveyance Capacity Percentage. Fairfax agrees to promptly pay such charge(s) when due, subject to annual appropriation by the Fairfax County Board of Supervisors.

Notwithstanding the above, if a capacity allocation increase is needed by a Party, the total cost of upsizing the pipe will be the sole responsibility of that Party. If a capacity allocation increase is needed by both Parties, the cost of upsizing the pipe will be shared between the Parties based on their proportionate capacity allocation in the upsized pipe.

- C. Allocated Capacity. It shall be the responsibility of Fairfax to ensure that peak flows that are conveyed into the City sewer remain below the Allocated Capacity. In the event that peak flows reach 90 percent of the Allocated Capacity, Fairfax shall notify Alexandria and shall cooperate in good faith with Alexandria to determine if the Allocated Capacity needs to be updated and if capacity improvements to the City Sewer are warranted. Any update to the Allocated Capacity will require a modification to this Agreement.

Section 203. Compliance with Law. Alexandria and Fairfax agree to comply with all applicable laws of the United States, the Commonwealth of Virginia, local law, and any other rules and regulations related to the subject matter of this Agreement. Alexandria further agrees to abide by such rules and regulations as ARenew may impose on Fairfax that are applicable to the wastewater delivered to the Fairfax transmission system from the City Sewer.

Section 204. Term. Subject to annual appropriations by the Fairfax County Board of Supervisors, this Agreement shall remain in effect and its terms shall continue in full force and effect unless superseded or otherwise modified by agreement of the Parties, terminated by mutual agreement, or unless otherwise provided by law.

Section 205. Entire Agreement. This Agreement embodies the entire wastewater conveyance capacity agreement between Alexandria and Fairfax and may be amended or supplemented only by an instrument in writing executed by the Parties.

Section 206. Severability. If any section, subsection, paragraph, clause, phrase, or other provision of this Agreement or their application is declared invalid, unlawful, or unenforceable by a Court of competent jurisdiction, the remaining provisions of this Agreement will remain in full force and effect.

Section 207. Limitation of Liability. Except as provided in this Agreement, neither Alexandria nor Fairfax assumes any responsibility for any facility not included in its respective sewerage system.

Section 208. Waiver. Failure of either Party to exercise any right hereunder shall not be deemed a waiver of such Party's right and shall not affect the right of such Party to exercise at some future time said right or rights or any other right it may have hereunder.

Section 209. Notices. All notices, demands, or requests which are required or permitted by this Agreement shall be sufficient if: 1) personally delivered; 2) sent prepaid for next business day delivery by a nationally recognized overnight courier service; or 3) sent by certified mail, return receipt required. Except as otherwise provided, any such notice or other document shall be addressed as follows:

If to Alexandria:
Director, Transportation and Environmental Services
301 King Street, Suite 3000
Alexandria, Virginia 22314

With Copies to:
City Attorney, City of Alexandria
301 King Street, Suite 1300
Alexandria, Virginia 22314

If to Fairfax:
Director, Department of Public Works and Environmental Services
12000 Government Center Parkway, Suite 448
Fairfax, Virginia 22035

With Copies to:
County Attorney
12000 Government Center Pkwy, Suite 549
Fairfax, Virginia 22035

Section 210. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.





Section 211. Further Assurance. The Parties hereto shall execute and deliver such further instruments and do further acts and things as may be required to carry out the intent and purposes of this Agreement as may be reasonably requested by either Party hereto.

Section 212. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

Section 213. Effective Date. This Agreement shall be effective upon execution by both Parties.

IN WITNESS WHEREOF, Alexandria and Fairfax have caused this Agreement to be restated, amended, and executed, and their respective seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.



LEGEND	
	Alexandria Sewer Line
	Fairfax County Sewer Line
	Sewer Lines to be Replaced
	Parcel Line

ATTACHMENT A

Board Agenda Item
June 6, 2023

ACTION – 9

Approval of the Continuum of Care (CoC) Board Charter

ISSUE:

Board approval of the charter for the Continuum of Care (CoC) Board.

RECOMMENDATION:

The County Executive recommends approval of the CoC Board charter.

TIMING:

Board action is requested on June 6, 2023, for the CoC Board charter to begin with Fiscal Year 2024.

BACKGROUND:

A CoC Board is required by the US Department of Housing and Urban Development (HUD) for homeless assistance funding. In 2008, the Governing Board was created through the 10-Year Plan to End Homelessness. The 10-Year Plan finished in 2018 and the Retrospective was published and presented in 2019. In 2020, the Office to Prevent and End Homelessness merged with the Department of Housing and Community Development. During the same year, the Governing Board chose to dissolve itself. In 2021, as a reflection of the merger of housing affordability and homelessness into one overarching agency, the updated Affordable Housing Advisory Council (AHAC) charter included a “CoC Committee” as part of its structure.

As part of the adoption of the 2021 AHAC charter, staff were instructed by the Board of Supervisors to evaluate the efficacy of the revised council and committee structure within three years. In 2022, as part of a larger homeless system review, staff recommended to the Board of Supervisors that the CoC Committee be re-chartered as a separate CoC Board with members appointed by the Board of Supervisors.

The CoC Board charter (Attachment 1) is intended to promote a common understanding as to the purpose, duties, and method of operation for the CoC Board. Notably, the CoC Board serves in compliance with Title 24 of the Code of Federal Regulations, Part 578, Subpart B, entitled “Establishing and Operating a Continuum of Care.”

The CoC Board will be comprised of a minimum of 21 members, with 10 seats and the chair appointed by the Board of Supervisors. Each CoC Board member will serve a two-year term on alternating annual fiscal year cycles.

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The CoC Board will meet on a quarterly basis, and additionally as needed. The CoC Board may establish subcommittees or working groups as needed to accomplish its goals. The CoC Board will develop and present regular reports to the Board of Supervisors and other related Boards, Authorities, and Commissions as needed to communicate progress in achieving the goal of preventing and ending homelessness.

EQUITY IMPACT:

The proposed CoC Board charter aligns with Fairfax County's One Fairfax policy. The CoC Board will support housing policies that foster the ability for all who want to live in Fairfax to be able to do so, including a full spectrum of housing opportunities across the county. The CoC Board will foster civil discourse and dialogue through community engagement to ensure that a breadth of interests, ideas, and values of all people are heard and considered. Consistent with the One Fairfax policy, the outreach and public participation process will be inclusive of diverse races, cultures, and ages, and other social statuses. People who have experienced homelessness are identified as required members of the CoC Board, ensuring that they are represented in the dialogue about homelessness. Advancing inclusive, equity-focused policy and programs will ensure that the Continuum of Care is delivering the support that every unhoused family and individual need to find housing stability. Given the complex and intersecting factors contributing to the problem of homelessness in Fairfax County, the CoC Board will also seek to inform countywide policies and programs regarding community and economic development, workforce development, education, community and public safety, food access, health and human services, a healthy and quality environment, transportation, and other areas of focus where they apply.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Continuum of Care Board Charter

Attachment 2 – Continuum of Care Membership

STAFF:

Christopher Leonard, Deputy County Executive

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

Thomas Barnett, Deputy Director, Office to Prevent and End Homelessness (OPEH), HCD

Stephen Knippler, Continuum of Care Manager, OPEH, HCD

**CHARTER
CONTINUUM OF CARE BOARD**

TITLE: Continuum of Care (CoC) Board

This charter is intended to promote a common understanding among the members of the CoC Board as to its purpose, duties, and method of operation.

DATE INITIATED: July 1, 2023

PURPOSE: The purpose of the CoC Board is to provide leadership in preventing and ending homelessness in the Fairfax-Falls Church community. The CoC Board acts on behalf of the “Continuum of Care”, which is a partnership of representatives from organizations in the Fairfax-Falls Church community with an interest and role serving people experiencing, or at-risk of, homelessness. The CoC Board serves in compliance with the federal “Continuum of Care Program” under the Code of Federal Regulations (CFR) Title 24, Part 578, Subpart B, entitled “Establishing and Operating a Continuum of Care”.

RESTRICTIONS: None

STAFF: Deputy Director, Office to Prevent and End Homelessness, Fairfax County Department of Housing and Community Development.

MEMBERSHIP: The membership of the CoC Board will consist of a minimum of 21 individuals, with one member appointed by each member of the Board of Supervisors, the CoC Board Chair appointed by the Chair of the Board of Supervisors, and the remaining members confirmed by the Board of Supervisors, which will include:

- One member appointed by the Mayor of the City of Fairfax.
- One member appointed by the Mayor of the City of Falls Church.
- One member appointed by the Superintendent of Fairfax County Public Schools.
- Two members that have experienced homelessness in Fairfax County and appointed by the director of the Department of Housing and Community Development.
- One member appointed by the director of the Fairfax-Falls Church Community Services Board.
- One member appointed by the director of the Department of Family Services.
- One member appointed by the director of the Department of Neighborhood and Community Services.
- One member appointed by the director of the Health Department.
- One member representative from each of the recipient, and subrecipient, organizations of federal Continuum of Care and Emergency Solutions Grant program funds.

TERM: Each CoC Board member will serve a two-year term on alternating annual fiscal year cycles.

DUTIES: The CoC Board acts on behalf of the Continuum of Care to fulfill the responsibilities described in detail in 24 CFR §578.7, including but not limited to:

- Hold semi-annual meetings of the full Continuum of Care membership.
- Adopt and follow a written process to select a Board to act on behalf of the Continuum of Care.
- Update annually a governance charter, including a code of conduct and recusal processes for its members and any person acting on behalf of the CoC Board.
- Consult with federal homeless assistance grant recipients and subrecipients to develop:
 - Performance targets appropriate for population and program type, with performance to be monitored, outcomes evaluated, and action taken against poor performers.
 - Written standards for evaluating eligibility, prioritization, and payment standards.
- Guide the operation of the coordinated assessment system to determine the needs of individuals and families for housing and services.
- Review, revise, and approve a privacy plan, security plan, and data quality plan for the Homeless Management Information System (HMIS).
- Coordinate the implementation of a housing and service system.
- Conduct an annual gaps analysis of the homeless needs and services available.
- Establish priorities for funding CoC projects in the geographic area.

METHOD OF OPERATIONS:

The CoC Board will meet on a quarterly basis and more frequently as needed. The CoC Board may establish committees or workgroups as needed to accomplish its goals. The CoC Board will develop and present regular reports to the Board of Supervisors regarding the Continuum of Care’s progress in preventing and ending homelessness.

**MEMBERSHIP
CONTINUUM OF CARE BOARD**

APPOINTMENT		TERM			
		July 1, 2023 – June 30, 2024	July 1, 2024 – June 30, 2025	July 1, 2025 – June 30, 2026	July 1, 2026 – June 30, 2027
		Even-year term	Even-year term		Even-year term
		Odd-year term		Odd-year term	
Appointed by the Board of Supervisors.					
1	Chair Appointed by Chairman	Four-Year Chair Term			
2	Braddock				
3	Dranesville				
4	Franconia				
5	Hunter Mill				
6	Lee				
7	Mason				
8	Mt. Vernon				
9	Providence				
10	Springfield				
11	Sully				
Confirmed by the Board of Supervisors					
12	Fairfax County Public Schools				
13	City of Fairfax				
14	City of Falls Church				
People who have experienced homelessness: Appointed by the Director, Dept. of Housing and Community Development; and confirmed by the Board of Supervisors.					
15	To be determined.				
16	To be determined.				
CoC & ESG grant recipients/subrecipients: Appointed by the Director, Dept. of Housing and Community Development; and confirmed by the Board of Supervisors. *					
17	Cornerstones (ESG)				
18	FACETS (COC & ESG)				
19	New Hope Housing (CoC & ESG)				
20	Northern Virginia Family Service (ESG)				
21	Pathway Homes (CoC)				
22	Second Story (CoC)				
23	Shelter House (CoC & ESG)				
Appointed by Department Directors and confirmed by the Board of Supervisors.					
24	Community Services Board				
25	Department of Family Services				
26	Health Department				
27	Department of Neighborhood and Community Services				

* The number of Continuum of Care (CoC) and Emergency Solutions Grant (ESG) recipients/subrecipients will vary depending on grant period awards and will include Virginia ESG funding recipients.

Board Agenda Item
June 6, 2023

CONSIDERATION - 1

Amendments to the Fairfax County Council to End Domestic Violence (CEDV) Bylaws

ISSUE:

Approval of Bylaws for the CEDV with proposed amendments.

TIMING:

Board consideration is requested on June 6, 2023, so that the Bylaws can become effective, as amended.

BACKGROUND:

The CEDV appointed a bylaws workgroup to draft amended bylaws and present the amendments to the CEDV. The amended bylaws were approved at the CEDV's quarterly meeting on April 20, 2023.

The intent of the changes to the bylaws were to: 1) Revise the structure of the CEDV so that it reflects Fairfax County's diverse communities; and 2) consider the composition of the CEDV and its leadership in alignment with One Fairfax; and 3) develop a process for community engagement as ongoing and integral to the decision-making of the CEDV. Specifically, the CEDV will be served by two officers: a Chairperson and a Vice-Chairperson, both of whom will serve three (3) year terms.

Under the proposed revisions, a member of the Fairfax County Board of Supervisors or a member of Fairfax County Senior Management will always serve as the Chair or Vice-Chair. The other leadership office shall be filled by a leader of a local nonprofit organization that works on domestic violence issues. At the end of each three-year term, the positions will rotate.

The proposed changes also include the creation of a Community Leader and Organizer seat to facilitate stronger engagement directly with community. For the Board's review, see attached the current bylaws of the CEDV for reference, a markup indicating the proposed changes based on the current bylaws' format, and finally a clean copy of the new, proposed bylaws for the Board's adoption, which have been reorganized and reformatted to conform with the model bylaws for County BACs.

FISCAL IMPACT:

None.

Board Agenda Item
June 6, 2023

ENCLOSED DOCUMENTS:

Attachment 1: Current Council to End Domestic Violence Bylaws

Attachment 2: Current Council to End Domestic Violence Bylaws (redlined with proposed changes)

Attachment 3: Proposed Council to End Domestic Violence Bylaws

STAFF:

Christopher Leonard, Deputy County Executive

Michael A. Becketts, Director, Department of Family Services (DFS)

Toni Zollicoffer, Director, Domestic and Sexual Violence Services, DFS

Stacy Ziebell, Countywide Program Manager, DFS

ASSIGNED COUNSEL:

John A. Dorsey, Assistant County Attorney

Council to End Domestic Violence

Bylaws

*First Enacted October 18, 2012
Board of Supervisors Approved January 8, 2013
Amended April 16, 2015
Amended October 8th, 2019*

Background

In June 2002, the Fairfax County Board of Supervisors formed a workgroup to examine the County's response to domestic violence and to identify best practices related to domestic violence issues, policy, and coordination. The workgroup included representatives from the County Executive's office, key County human service agencies, public safety, the judiciary, and community-based organizations.

After review of best practices in the region and around the nation, the workgroup concluded that the community's domestic violence response would benefit by bringing together top leadership of county and community organizations to form the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council ("Council"), to act as an advisory body to the Board of Supervisors and to lead the development of a coordinated response on domestic violence issues. The Council was established on February 10, 2003, by the Board of Supervisors.

In July 2012, an ad hoc charter workgroup was formed to strengthen the function and scope of responsibility of the Council. The charter and bylaws were adopted on January 8, 2013. The bylaws were most recently amended on October 8th, 2019, and the Council was renamed the Council to End Domestic Violence. The 2019 amendments arose out of a standard review to conform the document to the emerging interests of the Council.

Mission and Purpose

The mission of the Council to End Domestic Violence is to **unite** senior-level public officials and community leaders; to **advise** the Board of Supervisors on a range of domestic violence policy, legislative, and program issues; and to **guide** the development of a coordinated and collaborative community response to domestic violence in Fairfax County.

Council Membership

The Council shall be comprised of Government Members and Community Members representing governmental agencies, community organizations, and individuals. Community

Members shall be either “Standing Members” or “At Large Members,” as is further detailed below.

The Council recognizes that an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community are integral to the Council’s planning and response efforts.

Government Members

Government Members shall be Standing Members with unlimited terms, each with a designated alternate, and shall include:

- One member of the Fairfax County Board of Supervisors
- Chief Judge, Circuit Court
- Chief Judge, General District Court
- Chief Judge, Juvenile and Domestic Relations District Court
- Chief Magistrate
- Chief of Police, Fairfax City
- Chief of Police, Fairfax County
- Chief of Police, Town of Herndon
- Chief of Police, Town of Vienna
- Commonwealth's Attorney
- County Attorney
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- Director, Juvenile and Domestic Relations Court Services
- Director, Domestic and Sexual Violence Services
- Director, Health Department
- Director, Department of Neighborhood and Community Services
- Director, Department of Public Safety Communications
- Director, Department of Family Services
- Director, Office to Prevent and End Homelessness
- Executive Director, Fairfax-Falls Church Community Services Board
- Fire Chief, Department of Fire and Rescue
- Public Defender
- Representative, Fairfax County Commission for Women
- Sheriff, Fairfax County Sheriff’s Office
- Superintendent, Fairfax County Public Schools

Standing Community Members

Standing Community Members shall be Standing Members with unlimited terms. Standing Community Members shall designate a principal representative, with an alternate, to serve on the Council and shall inform Fairfax County Support Staff of the name and contact information

of those individuals. Standing Community Members continue their membership until they resign or are removed from the Council.

Standing Community Members shall include organizations designated as Standing Community Members by the Nominations Committee, as detailed below, and the following organizations:

- Fairfax Bar Association
- Faith Communities in Action Domestic Violence Prevention Task Force
- George Mason University
- Legal Services of Northern Virginia
- INOVA
- SANE program
- Northern Virginia Community College
- League of Women Voters of the Fairfax Area

At Large Community Members

At Large Community Members shall be either Individual or Organizational At Large Members with limited terms. Individual At Large Community Members may include representatives from the following non-exhaustive list:

- Representative, housing provider
- Representative, (minimum three), marginalized and/or underserved populations
- Representative, medical provider
- Representative from a certified Batterer Intervention program
- Representatives, up to 12 at-large
- Representative from a military installation
- Representative from survivor Community
- Representative from immigrant Community

Individual At Large Community Member Terms & Appointment

Individual At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms. Individual At Large Community Members will be nominated for appointment and reappointment by the Nominations Committee and confirmed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Individual At Large Community Members are not permitted to designate an alternate.

Organizational At Large Community Member Terms & Appointment

Organizations may apply to the Nominations Committee to become Organizational At Large Community Members of the Council, to be represented by the organization's executive director, or his or her alternate. Once approved by the Nominations Committee, Organizational At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms.

Designation of Organizational At Large Community Members as Standing Community Members

Any organization that has been an Organizational At Large Community Member for at least one three-year term may apply to be designated as a Standing Community Member.

Resignation & Removal of Members

In the event a Member is unable to fulfill his/her obligations, a Member may resign upon written notice to the Chairperson of the Council and the County-Wide Domestic Violence Coordinator. The Council may decide to appoint a replacement for the remainder of any applicable term. Members may be removed for cause, or for repeatedly failing to comply with membership obligations after multiple reminders to do so, by a majority vote of the Leadership Facilitation Group. The Council's authority to appoint or remove Members under these bylaws neither limits nor waives the Board of Supervisors' authority to remove Members as provided by law.

Member Obligations

All Members are expected to participate actively and consistently in the work of the Council, provide thoughtful input into discussions, focus on the best interests of the group rather than personal interests, and work towards accomplishment of agreed-upon goals. Members will focus on the best interests of those we serve, including people from diverse backgrounds with varying degrees of access to resources.

Members will:

- 1) attend as many Council meetings as possible; with either the Member or his or her alternate attending at least three meetings per year;
- 2) understand relevant issues in the community and have the ability to provide input on an issue or decision;
- 3) treat information shared at Council meetings and during Council activities with discretion;
- 4) actively participate in appointing a Chairperson and identifying new Council membership and other leadership; and
- 5) propose agenda items as appropriate in advance of Council meetings.

Members are expected to attend all Council meetings, and all meetings of Committees and Work Groups to which they are assigned. If a Member cannot attend a meeting, the Member will notify the primary County staff contact of the anticipated absence.

Designated Alternates

Government Members, Standing Community Members, and Organizational At Large Community Members may designate principal and alternate representatives in accordance with these bylaws. In the event a Member or Member's principal representative, as the case may be, cannot personally attend a meeting, the designated alternate may serve and vote in place of the principal Member or representative for that meeting.

Chairperson

Term & Appointment

The Council shall appoint a Chairperson to serve a three (3) year term. The Nominations Committee will bring forward names of candidates for Chairperson to the full Council for a vote. Nominees must be a resident of Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Chairperson will be elected by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

The three-year term can be extended for additional three-year terms by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

Membership Requirement

The Chairperson shall either be a current Council Member or will become a Council Member immediately upon appointment.

Duties

The Chairperson shall:

- 1) as directed by the Council, bring the actions and concerns of the Council to the Board of Supervisors;
- 2) as appropriate and as directed by the Council, communicate with elected officials, and others where a coordinated community response is needed to remedy a significant barrier to victim safety and services;
- 3) collaborate with staff and other appropriate partners in the development of Council meeting agendas;
- 4) lead all meetings of the Council in accordance with these bylaws;
- 5) partner with, and serve as a liaison to, the DV Network (the Chairperson may designate others to assist him or her with this task);
- 6) encourage active participation and consistent attendance by all Members; and
- 7) establish Committees and Work Groups as requested by the Council or Leadership Facilitation Group.

Vacancies

If the Chairperson's Office becomes vacant for any reason, it shall be filled by an election at the next regular meeting. The newly elected Chairperson shall complete the unexpired term of the Chairperson succeeded. Prior to the election of any replacement Chairperson, all Members shall be provided with notice of the proposed election before the meeting at which the replacement election will be held.

Meetings & Actions of Council

The Council meets four (4) times a year, typically in the months of January, April, July, and October.

The Council is not authorized to commit Fairfax County to any expenditure of funds or to the adoption of any specific policies or programs. However, the Council may take actions to guide the development of a coordinated and collaborative community response to domestic violence in Fairfax County. The Council may advise the Board of Supervisors on a range of proposed domestic violence policies, programs, and expenditures.

Compliance with the Freedom of Information Act

The Council, its Committees, Subcommittees, and Work Groups constitute public bodies under, and are therefore subject to, the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 *et seq.*, as amended ("VFOIA").

All meetings shall be open to the public except as provided under the VFOIA. Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Notice and Agenda

Notice and the agenda of all meetings shall be provided as required under VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to all Members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Voting

A quorum is necessary for a vote. One third of the Members shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Members present and voting. Upon the request of any Member, the vote of each member on any issue shall be recorded in the minutes. All votes shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct

Except as otherwise provided by Virginia law or by these Bylaws, all meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised, and except as specifically authorized by VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access

For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under VFOIA, all materials furnished to Members shall be made available for public inspection at the same time such documents are furnished to the Members. Pursuant to VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Council proceedings.

Fairfax County Staff Support of Council

Fairfax County Domestic and Sexual Violence Services will provide principal staff support for the Council through the County-Wide Domestic Violence Coordinator. Under the leadership of the Deputy County Executive, the Director of Family Services, and the County-Wide Domestic Violence Coordinator, staff from various County and community agencies will also provide technical and analytical support.

Records

Fairfax County Domestic and Sexual Violence Services support staff shall ensure that minutes of meetings are recorded as required under VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. Fairfax County Domestic and Sexual Violence Services shall provide staff support to review and approve records and minutes of the meeting.

Leadership Facilitation Group

A Leadership Facilitation Group comprised of Council and Community Members shall be formed and will serve as the executive leadership of the Council. The Leadership Facilitation Group is responsible for helping to facilitate the strategic direction of the Council and ensuring the work of Committees and Work Groups is ongoing. This body will maintain a stable composition with

additional Members participating as needed, at the invitation of the Group, depending on identified specific initiatives.

The Leadership Facilitation Group shall be comprised of the following:

- Chairperson
- Director Domestic and Sexual Violence Services
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- DV Network Chair
- DV Network Leader
- County Sheriff's Office
- Assistant Superintendent for Special Services, Fairfax County Public Schools
- Executive Director of Nonprofit
- Committee Chairs
- Representative from Survivor Community
- Representative from Immigrant Community

All meetings of the Leadership Facilitation Group shall comply with the notice, meeting, records, and other requirements of VFOIA.

Nominations Committee

Because of the central and ongoing importance of its work, the Nominations Committee is deemed to be a standing committee. The Nominations Committee shall be composed of three community members and two government members, appointed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Nominations Committee members shall serve for a three-year term and can be reappointed to additional terms without limitation.

The Nominations Committee shall comply with the notice, meeting, records, and other requirements of VFOIA. Nominations Committee meetings may be held at the call of the Nominations Committee Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Committees & Work Groups

Committees and Work Groups shall be tasked by the Council with advising the Council or performing specifically delegated functions of the Council, as required.

All Committees and Work Groups shall comply with the notice, meeting, records, and other requirements of VFOIA. To the extent practicable, any such Committees or Work Groups shall be composed of at least four members. Committee and Work Group meetings may be held at

the call of the Committee or Work Group Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Annual Report

The Council shall prepare an annual report to the Board of Supervisors that describes the actions of the Council and plans for future actions and activities. If written, this report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

Compliance with Law & County Policy

The Council shall comply with all Virginia laws, including but not limited to VFOIA, the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all applicable County policies. In case of a conflict between a provision of these Bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

Amendments

These Bylaws may be amended by the Council by adopting the proposed amendment or amendments and presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to these bylaws shall become effective upon approval by the Board of Supervisors.

Council to End Domestic Violence

Bylaws

First Enacted October 18, 2012

Board of Supervisors Approved January 8, 2013

Amended April 16, 2015

Amended October 8th, 2019

Background

The name of this organization is the Council to End Domestic Violence hereinafter referred to as the “CEDV or Council.”

The CEDV was formed in June 2002, by the Fairfax County Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia law formed as a workgroup for the purpose of examining to examine the County’s response to domestic violence and to identify best practices related to domestic violence issues, policy, and coordination. The workgroup included representatives from the County Executive's office, key County human service agencies, public safety, the judiciary, and community-based organizations.

After review of best practices in the region and around the nation, the workgroup concluded that the community’s domestic violence response would benefit by bringing together top leadership of county and community organizations to form the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (“Council”), to act as an advisory body to the Board of Supervisors and to lead the development of a coordinated response on domestic violence issues. The Council was formally established on February 10, 2003, by the Board of Supervisors.

In July 2012, an ad hoc charter workgroup was formed to strengthen the function and scope of responsibility of the Council. The charter and bylaws were adopted on January 8, 2013. The bylaws were most recently amended on October 8th, 2019, and the Council was renamed the Council to End Domestic Violence. The 2019 amendments arose out of a standard review to conform the document to the emerging interests of the Council.

Mission and Purpose

The mission of the Council to End Domestic Violence is to **unite** senior-level public officials and community leaders; to **advise** the Board of Supervisors on a range of domestic violence policy, legislative, and program issues; and to **guide** the development of a coordinated and collaborative community response to domestic violence in Fairfax County.

Council Membership

The Council shall be comprised of Government Members and Community Members representing governmental agencies, community organizations, and individuals. Community

Members shall be either “Standing Members” or “At Large Members,” as is further detailed below.

The Council recognizes that an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community are integral to the Council’s planning and response efforts.

[Membership and appointments to the Council are varied dependent upon categorization of membership as a Government Member, Standing Community Member, or an At Large Community Member.](#)

Government Members

Government Members shall be Standing Members with unlimited terms, each with a designated alternate, and shall include:

- One member of the Fairfax County Board of Supervisors
- Chief Judge, Circuit Court
- Chief Judge, General District Court
- Chief Judge, Juvenile and Domestic Relations District Court
- Chief Magistrate
- Chief of Police, Fairfax City
- Chief of Police, Fairfax County
- Chief of Police, Town of Herndon
- Chief of Police, Town of Vienna
- Commonwealth's Attorney
- County Attorney
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- Director, Juvenile and Domestic Relations Court Services
- Director, Domestic and Sexual Violence Services
- Director, Health Department
- Director, Department of Neighborhood and Community Services
- Director, Department of Public Safety Communications
- Director, Department of Family Services
- Director, Office to Prevent and End Homelessness
- Executive Director, Fairfax-Falls Church Community Services Board
- Fire Chief, Department of Fire and Rescue
- Public Defender
- Representative, Fairfax County Commission for Women
- Sheriff, Fairfax County Sheriff’s Office

- Superintendent, Fairfax County Public Schools

Standing Community Members

Standing Community Members shall be Standing Members with unlimited terms. Standing Community Members shall designate a principal representative, with an alternate, to serve on the Council and shall inform Fairfax County Support Staff of the name and contact information

of those individuals. Standing Community Members continue their membership until they resign or are removed from the Council.

Standing Community Members shall include organizations designated as Standing Community Members by the Nominations Committee, as detailed below, and the following organizations:

- Fairfax Bar Association
- Faith Communities in Action Domestic Violence Prevention Task Force
- George Mason University
- Legal Services of Northern Virginia
- INOVA
- SANE program
- Northern Virginia Community College
- League of Women Voters of the Fairfax Area

At Large Community Members

At Large Community Members shall be either Individual or Organizational At Large Members with limited terms. Individual At Large Community Members may include representatives from the following non-exhaustive list:

- Representative, housing provider
- Representative, (minimum three), marginalized and/or underserved populations
- Representative, medical provider
- Representative from a certified Batterer Intervention program
- Representatives, up to 12 at-large
- Representative from a military installation
- Representative from survivor Community
- Representative from immigrant Community

Individual At Large Community Member Terms & Appointment

Individual At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms. Individual At Large Community Members will be nominated for appointment and reappointment by the Nominations Committee and confirmed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Individual At Large Community Members are not permitted to designate an alternate.

Organizational At Large Community Member Terms & Appointment

Organizations may apply to the Nominations Committee to become Organizational At Large Community Members of the Council, to be represented by the organization's executive director, or his or her alternate. Once approved by the Nominations Committee, Organizational At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms.

Designation of Organizational At Large Community Members as Standing Community Members

Any organization that has been an Organizational At Large Community Member for at least one three-year term may apply to be designated as a Standing Community Member.

Resignation and Vacancies

Resignation & Removal of Members

In the event a member cannot serve or resigns as a member, then the Chairperson, or the County staff coordinator, shall advise the Chairperson of the Council and the Staffer to the Council of the vacancy in writing. Member is unable to fulfill his/her obligations, a Member may resign upon written notice to the Chairperson of the Council and the County Wide Domestic Violence Coordinator. The Council may decide to appoint a replacement for the remainder of any applicable term. Members may be removed for cause, or for repeatedly failing to comply with membership obligations after multiple reminders to do so, by a majority vote of the Leadership Facilitation Group. The Council's authority to appoint or remove Members under these bylaws ~~s~~ neither limits nor waives the Board of Supervisors' authority to remove Members as provided by law.

Holdovers.

In the event a member completes his or her term of office, remains qualified to serve as a member, and a successor member has not been appointed, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

Member Obligations

All Members are expected to participate actively and consistently in the work of the Council, provide thoughtful input into discussions, focus on the best interests of the group rather than personal interests, and work towards accomplishment of agreed-upon goals. Members will focus on the best interests of those we serve, including people from diverse backgrounds with varying degrees of access to resources.

Members will:

- 1) attend as many Council meetings as possible; with either the Member or his or her alternate attending at least three meetings per year;
- 2) understand relevant issues in the community and have the ability to provide input on an issue or decision;
- 3) treat information shared at Council meetings and during Council activities with discretion;
- 4) actively participate in appointing a Chairperson and identifying new Council

- membership and other leadership; and
- 5) propose agenda items as appropriate in advance of Council meetings.

Members are expected to attend all Council meetings, and all meetings of Committees and Work Groups to which they are assigned. If a Member cannot attend a meeting, the Member will notify the primary County staff contact of the anticipated absence.

Designated Alternates

Government Members, Standing Community Members, and Organizational At Large Community Members may designate principal and alternate representatives in accordance with these bylaws. In the event a Member or Member's principal representative, as the case may be, cannot personally attend a meeting, the designated alternate may serve and vote in place of the principal Member or representative for that meeting.

Chairperson

~~Term & Appointment~~

~~The Council shall appoint a Chairperson to serve a three (3) year term. The Nominations Committee will bring forward names of candidates for Chairperson to the full Council for a vote. Nominees must be a resident of Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Chairperson will be elected by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.~~

~~The three year term can be extended for additional three year terms by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.~~

~~Membership Requirement~~

~~The Chairperson shall either be a current Council Member or will become a Council Member immediately upon appointment.~~

~~Duties~~

~~The Chairperson shall:~~

- ~~1) as directed by the Council, bring the actions and concerns of the Council to the Board of Supervisors;~~
- ~~2) as appropriate and as directed by the Council, communicate with elected officials, and others where a coordinated community response is needed to remedy a significant barrier to victim safety and services;~~
- ~~3) collaborate with staff and other appropriate partners in the development of Council meeting agendas;~~
- ~~4) lead all meetings of the Council in accordance with these bylaws;~~
- ~~5) partner with, and serve as a liaison to, the DV Network (the Chairperson may designate others to assist him or her with this task);~~

- ~~6) encourage active participation and consistent attendance by all Members; and~~
- ~~7) establish Committees and Work Groups as requested by the Council or Leadership Facilitation Group.~~

Vacancies

~~If the Chairperson's Office becomes vacant for any reason, it shall be filled by an election at the next regular meeting. The newly elected Chairperson shall complete the unexpired term of the Chairperson succeeded. Prior to the election of any replacement Chairperson, all Members shall be provided with notice of the proposed election before the meeting at which the replacement election will be held.~~

Chairperson and Vice-Chair Person Officers and their Duties

Elections Term & Appointment

~~The Council shall appoint be served by two officers: a Chairperson (Chair) and a Vice-Chairperson (Vice-Chair) (hereinafter referred to collectively as the Leadership Roles), both of whom will serve three (3) year terms. The Nominations Committee will bring forward names of candidates for both roles to the full Council for a vote. Nominees must be a resident in or work in Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Chair and Vice-Chair will be confirmed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.~~

Membership Requirements

~~Either the Chair or Vice-Chair shall be a member of the Fairfax County Board of Supervisors or a member of Fairfax County Senior Management. During a term in which one of the two Leadership Roles is filled by a County leader, the other role shall be filled by a leader of a local nonprofit organization that works on domestic violence issues. At the end of one three-year term, the positions will rotate and the Leadership Role that had been filled by a County leader will be filled by a nonprofit leader and the position that had been filled by a nonprofit leader will be filled by a County leader. Any individual who is approved by a majority vote of the full CEDV may serve one term in one of the Leadership Roles. They then may serve an additional three-year term in the other Leadership Role if approved to do so by the full CEDV. No individual shall serve more than one term in either of the Leadership Roles. The successful candidates for both Leadership Roles shall either be current Council Members or will become Council Members immediately upon appointment.~~

Duties

~~The Chairperson shall perform the following duties and the Vice Chairperson shall assist the Chair in the performance of these duties:~~

- ~~1) as directed by the Council, bring the actions and concerns of the Council to the Board of Supervisors;~~

- 2) as appropriate and as directed by the Council, communicate with elected officials, and others where a coordinated community response is needed to remedy a significant barrier to victim safety and services;
- 3) collaborate with staff and other appropriate partners in the development of Council meeting agendas;
- 4) lead all meetings of the Council in accordance with these bylaws;
- 5) partner with, and serve as a liaison to, the DV Network (other CEDV members may be designated to assist with this task);
- 6) guide strategies and efforts to garner community participation and voice in determining the agenda and work of the CEDV;
- 7) encourage active participation and consistent attendance by all Members; and
- 8) establish Committees and Work Groups as requested by the Council or Leadership Facilitation Group.

Chairperson

The Chairperson presides over meetings of the Council and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Council members and to request assistance from the County Staff supporting the Council.

Vice-Chairperson

In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the Chairperson shall name a member or associated staff person to perform the duties and exercise the powers of the Chairperson for that meeting.

Replacement Officers

If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

Vacancies

If a person serving in one of the two Leadership Roles must resign at any time during their term, their role shall be filled at the next regular Council meeting before which an appropriate candidate has been identified by the Nominations Committee. The newly approved leader shall complete the unexpired term of the leader who they succeeded. Prior to the appointment of any replacement leader, all Members shall be provided with notice of the proposed appointment before the meeting at which the vote to appoint will be held.

Community Leader and Organizer

Term & Appointment

The Council shall appoint a Community Leader/Organizer to serve one three (3) year term. The Nominations Committee will present candidates to the Leadership Facilitation Group and bring forward candidates to the full Council for a vote.

Nominees must be a resident of Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Community Leader/Organizer will be approved by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

The three-year term can be extended for one additional three-year term by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. No Community Leader/Organizer can serve more than 2 consecutive terms.

Membership Requirement

The Community Leader/Organizer shall either be a current Council Member or will become a Council Member immediately upon appointment.

Duties

The Community Leader/Organizer will be expected to:

- 1) Provide strategic direction to the CEDV and supporting systems as appropriate where a coordinated community response is needed to remedy a significant barrier to victim safety and services.
- 2) Serve as a member of the Leadership Facilitation Group.
- 3) Serve as a visible advocate on issues related to victim safety and access within the various communities that the leader is a part of.
- 4) Garner resources (funding, people, advocacy, etc.) as available to address identified issues.
- 5) Provide varying perspectives from one's communities and able to garner diverse voices and representation of the issues, gaps, and bright spots related to the systems' response to interpersonal violence; able to bring forth current trends and efforts.
- 6) Garner community participation and voice in determining the agenda and work of the CEDV.

Considerations when recruiting for candidates:

The Community Leader/Organizer should be able to:

- 1) Have access to community voices and perspectives, have a good grasp of issues, concerns and opportunities related to the systems' response to interpersonal violence,

and be able to present issues from the perspective of someone engaged as a community organizer and advocate.

- 2) As needed, mobilize the community to address identified issues, implement changes and promote action aligned with the CEDV priorities and work plans.
- 3) Be committed to ending interpersonal violence in communities using best practice approaches including focusing on community healing practices and accountability for those that cause harm.
- 4) Be able to regularly attend Leadership Facilitation Group meetings and full body CEDV meetings, as scheduled.

Vacancies

If the Community Leader/Organizer must resign any time during their term, their role shall be filled by a majority vote at the next regular meeting. The newly appointed Community Leader/Organizer shall complete the unexpired term of the member who they succeeded. Prior to the appointment of any replacement Community Leader/Organizer, all Members shall be provided with notice of the proposed vote before the meeting at which the replacement appointment will be held. When possible, the Community Leader/Organizer should make recommendations to the Nominations Committee of interested candidates that may be able to complete their term.

Leadership Facilitation Group

A Leadership Facilitation Group comprised of Council and Community Members shall be formed and will serve as the executive leadership of the Council. The Leadership Facilitation Group is responsible for helping to facilitate the strategic direction of the Council, ensuring the work of Committees and Work Groups is ongoing and providing support to achieve the goals of the Council. The members of the Leadership Facilitation Group are responsible for supporting the strengthening and enhancement of the County's coordinated community response to domestic violence. The members are responsible for selecting and approving members of the Nominations Committee. This body will be facilitated by the Chair or Vice-Chair of the Council and will maintain a stable composition with additional Members participating as needed, at the invitation of the Group, depending on identified specific initiatives and especially if contributing to succession planning for the Council. This body meets quarterly and on an ad hoc basis as needed.

The Leadership Facilitation Group shall be comprised of the following:

- Chairperson
- Vice Chairperson
 - Previous Chairperson or Vice Chairperson (for the first year, if possible)
- Director, Domestic and Sexual Violence Services
- Director, Department of Family Services

- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- DV Network Leader
- Community Leader/Organizer
- Assistant Superintendent for Special Services, Fairfax County Public Schools
- X2The Executive Director of two Nonprofits
- Committee Chairs
- Representative from Survivor Community
- Representative from Immigrant Community

All meetings of the Leadership Facilitation Group shall comply with the notice, meeting, records, and other requirements of VFOIA.

Nominations Committee

The Nominations Committee is a part of the CEDV governance structure and has a key role in CEDV leadership effectiveness, recruitment, succession planning and CEDV governance. The Nominations Committee has influence on the mix of skills, expertise and diversity represented in the leadership positions. The primary responsibility of the Nominations Committee is to establish and carry out a transparent and formal process for filling leadership vacancies on the CEDV. Members work together to form the best process for recruitment and selection of key member positions.

The Leadership Facilitation Group will identify and approve members of the Nominations Committee. The Community Leader/Organizer, at least two government representatives and two representatives from non-profit leadership will comprise the committee. The committee will select the roles of Chair and Vice-chair among its members. Ideally, the committee will be comprised of representatives from a diverse mix of gender, age, race, etc.

Duties:

- 1) Develop a recruitment strategy and selection policy to fill vacancies on the Leadership Facilitation Group and the Chair and Vice-chair (s) based on established criteria and responsibilities;
- 2) Willing to exercise due diligence in recruitment process as to build a diverse leadership structure over time with a focus on encouraging candidacy from underrepresented groups;
- 3) Identify, recruit, screen and interview qualified candidates for CEDV Chair and Vice-Chair and leadership facilitation positions to ensure effectiveness and ability to meet CEDV goals and objectives;
- 4) Elect a Chair and Vice-chair of the Nominations Committee

5) Responsible for keeping a pulse on the membership make-up of the leadership facilitation group and filling vacant positions as needed with consideration for diversity in community/government representation, gender, race and ethnicity, **sexual orientation**, age, socio-economic status, etc. and with an eye towards succession planning. As appropriate, recommend mentorship opportunities between new members of the Leadership Facilitation Group and existing members.

Terms: 3 year term limit

The Nominations Committee shall comply with the notice, meeting, records, and other requirements of VFOIA. Nominations Committee meetings may be held at the call of the Nominations Committee Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Meetings & Actions of Council

Frequency

The Council ~~meets four (4) times a year~~ shall meet quarterly, typically in the months of January, April, July, and ~~October~~ or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Council's members, and at a place arranged by the staff of the supporting County department.

~~The Council is not authorized to commit Fairfax County to any expenditure of funds or to the adoption of any specific policies or programs. However, the Council may take actions to guide the development of a coordinated and collaborative community response to domestic violence in Fairfax County. The Council may advise the Board of Supervisors on a range of proposed domestic violence policies, programs, and expenditures.~~

Compliance with the Freedom of Information Act

~~The Council, its Committees, Subcommittees, and Work Groups constitute public bodies under, and are therefore subject to, the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 et seq., as amended ("VFOIA").~~

All meetings shall be open to the public except as provided under the ~~VFOIA~~ Virginia Freedom of Information Act. Pursuant to Virginia Code § 2.2-3700 et seq., as amended ("VFOIA"). ~~701~~, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant ~~to § 2.2-3708.2~~ the VFOIA or other applicable Virginia law, as a body or entity, or as an informal assemblage of (i) as many as three Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

[The CEDV may hold public hearings and report its findings to the Board of Supervisors on CEDV issues that affect the public interest.](#)

Notice and Agenda

Notice and the agenda of all meetings shall be provided as required under VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to ~~all~~ CEDV Members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the CountyWeb site. All in-person meetings shall be conducted in public places that are accessible to persons with disabilities. Public access via electronic communications must be provided for virtual meetings, including those held pursuant to the VFOIA.

Voting

A quorum is necessary for a vote. One third of the Members shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Council Members ~~members~~ present and voting. Upon the request of any ~~Member~~ member, the vote of each member on any issue shall be recorded in the minutes. All votes of Council members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct

Except as otherwise provided by Virginia law or by these Bylaws, all meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised, and except as specifically authorized by VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access

For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under VFOIA, all materials furnished to CEDV Members ~~members~~ shall be made available for public inspection at the same time such documents are furnished to the CEDV Members ~~members~~. Pursuant to VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Council CEDV proceedings.

Fairfax County Staff Support of Council

Fairfax County Domestic and Sexual Violence Services will provide principal staff support for the

Council through the County ~~Wide Domestic Violence Coordinator~~ Coordination Program Manager. Under the leadership of the Deputy County Executive, the Director of Family Services, and the County ~~Wide Domestic Violence Coordinator~~ Coordination Program Manager, staff from various County and community agencies will also provide technical and analytical support.

Records

~~Fairfax County Domestic and Sexual Violence Services support staff~~ The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. ~~The supporting County department Fairfax County Domestic and Sexual Violence Services~~ shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege.

Records containing legal advice from counsel to the CEDV, and advice provided in closed session by legal counsel to the CEDV, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Council to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the CEDV's legal counsel.

Attendance and Participation

Any CEDV member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the CEDV without good cause acceptable to a majority of the other CEDV members, may be subject to removal from the CEDV.

Removal

Any CEDV member(s) may be recommended to the Chair of the CEDV for removal from the CEDV for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the CEDV members. The members' authority to recommend removal under these bylaws neither limits nor waives the Chair's authority to remove members from the CEDV as provided by law.

~~Leadership Facilitation Group~~

~~A Leadership Facilitation Group comprised of Council and Community Members shall be formed and will serve as the executive leadership of the Council. The Leadership Facilitation Group is responsible for helping to facilitate the strategic direction of the Council and ensuring the work-~~

~~of Committees and Work Groups is ongoing. This body will maintain a stable composition with additional Members participating as needed, at the invitation of the Group, depending on identified specific initiatives.~~

~~The Leadership Facilitation Group shall be comprised of the following:~~

- ~~• Chairperson~~
- ~~• Director Domestic and Sexual Violence Services~~
- ~~• Deputy County Executive, Health and Human Services~~
- ~~• Deputy County Executive, Public Safety~~
- ~~• DV Network Chair~~
- ~~• DV Network Leader~~
- ~~• County Sheriff's Office~~
- ~~• Assistant Superintendent for Special Services, Fairfax County Public Schools~~
- ~~• Executive Director of Nonprofit~~
- ~~• Committee Chairs~~
- ~~• Representative from Survivor Community~~
- ~~• Representative from Immigrant Community~~

~~All meetings of the Leadership Facilitation Group shall comply with the notice, meeting, records, and other requirements of VFOIA.~~

~~Nominations Committee~~

~~Because of the central and ongoing importance of its work, the Nominations Committee is deemed to be a standing committee. The Nominations Committee shall be composed of three community members and two government members, appointed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Nominations Committee members shall serve for a three-year term and can be reappointed to additional terms without limitation.~~

~~The Nominations Committee shall comply with the notice, meeting, records, and other requirements of VFOIA. Nominations Committee meetings may be held at the call of the Nominations Committee Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.~~

~~Committees & Work Groups~~

~~Committees and Work Groups shall be tasked by the Council with advising the Council or performing specifically delegated functions of the Council, as required.~~

~~Standing~~

The Chairperson may appoint standing committees and a chairperson for each with the consent of a majority of the CEDV members present and voting.

Special

The Chairperson may appoint special or ad hoc committees and workgroups and a chairperson for each with the consent of a majority of the CEDV members present and voting.

All ~~Committees and Work Groups~~ meetings of any such committees shall comply with the notice, ~~meeting records,~~ and other requirements of VFOIA. To the extent practicable, any such Committees ~~or Work Groups~~ shall be composed of at least four members. Committee ~~and Work Group~~ meetings may be held at the call of the Chairperson, or at the request of two Members, with notice to all Members.

~~the call of the Committee or Work Group Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.~~

Annual Report

The ~~Council CEDV~~ shall prepare an annual written report ~~to the Board of Supervisors~~ that describes the actions of the ~~Council CEDV~~ and plans for future actions and activities. ~~If written, this~~ The report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

Compliance with Law & County Policy

The ~~Council CEDV~~ shall comply with all Virginia laws, including but not limited to VFOIA, the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all ~~applicable~~ County policies. In case of a conflict between a provision of these Bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

Amendments

These Bylaws may be amended by the ~~Council CEDV~~ by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to these bylaws shall become effective upon approval by the Board of Supervisors.

1 **BYLAWS OF THE COUNCIL TO END DOMESTIC VIOLENCE**

2
3 *First Enacted October 18, 2012*

4 *Board of Supervisors Approved*

5 *January 8, 2013*

6 *Amended April 16, 2015*

7 *Amended October 8, 2019*

8 *Amended April 20, 2023*

9
10
11 **ARTICLE I – NAME**

12
13 The name of this organization is the Council to End Domestic Violence hereinafter
14 referred to as the “CEDV or Council.”

15
16 **ARTICLE II – PURPOSE**

17
18 The CEDV was formed in June 2002 by the Board of Supervisors of Fairfax County,
19 Virginia (“Board of Supervisors”), pursuant to Virginia law as a workgroup for the
20 purpose of examining the County’s response to domestic violence and to identify best
21 practices related to domestic violence issues, policy, and coordination. The workgroup
22 included representatives from the County Executive's office, key County human service
23 agencies, public safety, the judiciary, and community-based organizations.

24
25 After review of best practices in the region and around the nation, the workgroup
26 concluded that the community’s domestic violence response would benefit by bringing
27 together top leadership of county and community organizations to form the Fairfax
28 County Domestic Violence Prevention, Policy and Coordinating Council, to act as an
29 advisory body to the Board of Supervisors and to lead the development of a coordinated
30 response on domestic violence issues. The Council was formally established on February
31 10, 2003, by the Board of Supervisors.

32
33 In July 2012, an ad hoc charter workgroup was formed to strengthen the function and
34 scope of responsibility of the Council. The charter and bylaws were adopted on January
35 8, 2013. The bylaws were most recently amended on October 8, 2019, and the Council
36 was renamed the Council to End Domestic Violence. The 2019 amendments arose out of
37 a standard review to conform the document to the emerging interests of the Council.

38
39 The mission of the Council to End Domestic Violence is to: unite senior-level public
40 officials and community leaders; advise the Board of Supervisors on a range of domestic
41 violence policy, legislative and program issues; and guide the development of a
42 coordinated and collaborative community response to domestic violence in Fairfax
43 County.

44
45 These bylaws replace and supersede the CEDV bylaws adopted on October 8, 2019 and
46 are effective as of June 6th, 2023.

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ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments.

The Council shall be comprised of Government Members and Community Members representing governmental agencies, community organizations, and individuals. Community Members shall be either “Standing Members” or “At Large Members,” as is further detailed below.

The Council recognizes that an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community are integral to the Council’s planning and response efforts.

Membership and appointments to the Council are varied dependent upon categorization of membership as a Government Member, Standing Community Member, or an At Large Community Member.

Government Members

Government Members shall be Standing Members with unlimited terms, each with a designated alternate, and shall include:

- One member of the Fairfax County Board of Supervisors
- Chief Judge, Circuit Court
- Chief Judge, General District Court
- Chief Judge, Juvenile and Domestic Relations District Court
- Chief Magistrate
- Chief of Police, Fairfax City
- Chief of Police, Fairfax County
- Chief of Police, Town of Herndon
- Chief of Police, Town of Vienna
- Commonwealth's Attorney
- County Attorney
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- Director, Juvenile and Domestic Relations Court Services
- Director, Domestic and Sexual Violence Services
- Director, Health Department
- Director, Department of Neighborhood and Community Services
- Director, Department of Public Safety Communications
- Director, Department of Family Services
- Director, Office to Prevent and End Homelessness
- Executive Director, Fairfax-Falls Church Community Services Board
- Fire Chief, Department of Fire and Rescue

- 93 • Public Defender
- 94 • Representative, Fairfax County Commission for Women
- 95 • Sheriff, Fairfax County Sheriff's Office
- 96 • Superintendent, Fairfax County Public Schools

97

98 Standing Community Members

99

100 Standing Community Members shall be Standing Members with unlimited terms.
101 Standing Community Members shall designate a principal representative, with an
102 alternate, to serve on the Council and shall inform Fairfax County support staff of the
103 name and contact information of those individuals. Standing Community Members
104 continue their membership until they resign or are removed from the Council.

105

106 Standing Community Members shall include organizations designated as Standing
107 Community Members by the Nominations Committee, as detailed below, and the
108 following organizations:

109

- 110 • Fairfax Bar Association
- 111 • Faith Communities in Action Domestic Violence Prevention Task Force
- 112 • George Mason University
- 113 • Legal Services of Northern Virginia
- 114 • INOVA
- 115 • SANE program
- 116 • Northern Virginia Community College
- 117 • League of Women Voters of the Fairfax Area

118

119 At Large Community Members

120

121 At Large Community Members shall be either Individual or Organizational At Large
122 Members with limited terms. Individual At Large Community Members may include
123 representatives from the following non-exhaustive list:

124

- 125 • Representative, housing provider
- 126 • Representative, (minimum three), marginalized and/or underserved populations
- 127 • Representative, medical provider
- 128 • Representative from a certified Batterer Intervention Program
- 129 • Representatives, up to 12 at large
- 130 • Representative from a military installation
- 131 • Representative from survivor community
- 132 • Representative from immigrant community

133

134 Individual At Large Community Member Terms & Appointment:

135 Individual At Large Community Members will serve a three (3) year term and may be
136 reappointed to the Council for an unlimited number of terms. Individual At Large
137 Community Members will be nominated for appointment and reappointment by the
138 Nominations Committee and confirmed by a majority vote of the Members in attendance

139 at a regularly scheduled meeting of the Council. Individual At Large Community
140 Members are not permitted to designate an alternate.

141

142 **Organizational At Large Community Member Terms & Appointment:**

143 Organizations may apply to the Nominations Committee to become Organizational At
144 Large Community Members of the Council, to be represented by the organization's
145 executive director, or his or her alternate. Once approved by the Nominations Committee,
146 Organizational At Large Community Members will serve a three (3) year term and may
147 be reappointed to the Council for an unlimited number of terms.

148

149 **Designation of Organizational At Large Community Members as Standing Community
150 Members:**

151 Any organization that has been an Organizational At Large Community Member for at
152 least one (1) three-year term may apply to be designated as a Standing Community
153 Member.

154

155 Resignations and Vacancies.

156 In the event a member cannot serve or resigns as a member, then the Chairperson, or the
157 County staff coordinator, shall advise the Chairperson of the Council and the Staffer to
158 the Council of the vacancy in writing. The Council may decide to appoint a replacement
159 for the remainder of any applicable term. Members may be removed for cause, or for
160 repeatedly failing to comply with membership obligations after multiple reminders to do
161 so, by a majority vote of the Leadership Facilitation Group. The Council's authority to
162 appoint or remove Members under these bylaws neither limits nor waives the Board of
163 Supervisors' authority to remove Members as provided by law.

164

165 Holdovers.

166 In the event a member completes his or her term of office, remains qualified to serve as a
167 member, and a successor member has not been appointed, then that person may continue
168 to serve until such time as the member is reappointed or a successor member is
169 appointed.

170

171 Member Obligations.

172 All Members are expected to participate actively and consistently in the work of the
173 Council, provide thoughtful input into discussions, focus on the best interests of the
174 group rather than personal interests, and work towards accomplishment of agreed-upon
175 goals. Members will focus on the best interests of those we serve, including people from
176 diverse backgrounds with varying degrees of access to resources.

177

178 **Members will:**

- 179 1) attend as many Council meetings as possible; with either the Member or his or
180 her alternate attending at least three meetings per year;
- 181 2) understand relevant issues in the community and have the ability to provide
182 input on an issue or decision;
- 183 3) treat information shared at Council meetings and during Council activities with
184 discretion;

185 4) actively participate in appointing a Chairperson and identifying new Council
186 membership and other leadership; and
187 5) propose agenda items as appropriate in advance of Council meetings.
188

189 Members are expected to attend all Council meetings, and all meetings of Committees
190 and Work Groups to which they are assigned. If a Member cannot attend a meeting, the
191 Member will notify the primary County staff contact of the anticipated absence.
192

193 Designated Alternates.

194 Government Members, Standing Community Members, and Organizational At Large
195 Community Members may designate principal and alternate representatives in
196 accordance with these bylaws. In the event a Member or Member's principal
197 representative, as the case may be, cannot personally attend a meeting, the designated
198 alternate may serve and vote in place of the principal Member or representative for that
199 meeting.
200

201
202 **ARTICLE IV – OFFICERS AND THEIR DUTIES**
203

204 Elections.

205 The Council shall be served by two officers: a Chairperson and a Vice-Chairperson. The
206 Council shall appoint a Chairperson (Chair) and a Vice-Chairperson (Vice-Chair)
207 (hereinafter referred to collectively as the Leadership Roles), both of whom will serve
208 three (3) year terms. The Nominations Committee will bring forward names of candidates
209 for both roles to the full Council for a vote. Nominees must be a resident in or work in
210 Fairfax County and possess the necessary experience individually and in the community
211 to fulfill the duties listed below. The Chair and Vice-Chair will be confirmed by a
212 majority vote of the Members in attendance at a regularly scheduled meeting of the
213 Council.
214

215 Membership Requirements
216

217 Either the Chair or Vice-Chair shall be a member of the Fairfax County Board of
218 Supervisors or a member of Fairfax County Senior Management. During a term in which
219 one of the two Leadership Roles is filled by a County leader, the other role shall be filled
220 by a leader of a local nonprofit organization that works on domestic violence issues. At
221 the end of one (1) three-year term, the positions will rotate and the Leadership Role that
222 had been filled by a County leader will be filled by a nonprofit leader and the position
223 that had been filled by a nonprofit leader will be filled by a County leader. Any
224 individual who is approved by a majority vote of the full CEDV may serve one term in
225 one of the Leadership Roles. They then may serve an additional three-year term in the
226 other Leadership Role if approved to do so by the full CEDV. No individual shall serve
227 more than one term in either of the Leadership Roles. The successful candidates for both

228 Leadership Roles shall either be current Council Members or will become Council
229 Members immediately upon appointment.

230
231 Duties

232
233 The Chairperson shall perform the following duties and the Vice Chairperson shall assist
234 the Chair in the performance of these duties:

- 235 1) as directed by the Council, bring the actions and concerns of the Council to the
236 Board of Supervisors;
- 237 2) as appropriate and as directed by the Council, communicate with elected
238 officials and others, where a coordinated community response is needed to
239 remedy a significant barrier to victim safety and services;
- 240 3) collaborate with staff and other appropriate partners in the development of
241 Council meeting agendas;
- 242 4) lead all meetings of the Council in accordance with these bylaws;
- 243 5) partner with, and serve as a liaison to, the DV Network (other CEDV members
244 may be designated to assist with this task);
- 245 6) guide strategies and efforts to garner community participation and voice in
246 determining the agenda and work of the CEDV;
- 247 7) encourage active participation and consistent attendance by all Members; and
248 8) establish Committees and Work Groups as requested by the Council or
249 Leadership Facilitation Group.

250
251 Chairperson.

252 The Chairperson presides over meetings of the Council and is eligible to vote at all times.
253 The Chairperson has the authority to delegate appropriate functions to Council members
254 and to request assistance from the County staff supporting the Council.

255
256 Vice-Chairperson.

257 In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the
258 duties and exercise the powers of the Chairperson. In the event that neither the
259 Chairperson nor the Vice-Chairperson is available, the Chairperson shall name a member
260 or associated staff person to perform the duties and exercise the powers of the
261 Chairperson for that meeting.

262
263 Replacement Officers.

264 If an office becomes vacant for any reason, it shall be filled by an election at the next
265 regular meeting having a majority of members present. The newly elected officer shall
266 complete the unexpired term of the officer succeeded. Prior to the election of any

267 replacement officer, all members shall be provided with notice of the proposed election
268 before the meeting at which the replacement is elected.

269
270 Community Leader and Organizer

271
272 Term and Appointment

273
274 The Council shall appoint a Community Leader/Organizer to serve one three-year term.
275 The Nominations Committee will present candidates to the Leadership Facilitation Group
276 and bring forward candidates to the full Council for a vote.

277
278 Nominees must be a resident of Fairfax County and possess the necessary experience
279 individually and in the community to fulfill the duties listed below. The Community
280 Leader/Organizer will be approved by a majority vote of the Members in attendance at a
281 regularly scheduled meeting of the Council.

282
283 The three-year term can be extended for one additional three-year term by a majority vote
284 of the Members in attendance at a regularly scheduled meeting of the Council. No
285 Community Leader/Organizer can serve more than two consecutive terms.

286
287 Membership Requirement

288
289 The Community Leader/Organizer shall either be a current Council Member or will
290 become a Council Member immediately upon appointment.

291
292 Duties

293
294 The Community Leader/Organizer will be expected to:
295 1) provide strategic direction to the CEDV and supporting systems as appropriate
296 where a coordinated community response is needed to remedy a significant
297 barrier to victim safety and services;
298 2) serve as a member of the Leadership Facilitation Group;
299 3) serve as a visible advocate on issues related to victim safety and access within
300 the various communities that the leader is a part of;
301 4) garner resources (funding, people, advocacy, etc.) as available to address
302 identified issues;
303 5) provide varying perspectives from one's communities and able to garner
304 diverse voices and representation of the issues, gaps, and bright spots related to

305 the systems' response to interpersonal violence, and able to bring forth current
306 trends and efforts: and
307 6) garner community participation and voice in determining the agenda and work
308 of the CEDV.

309

310 Considerations When Recruiting for Candidates

311

312 The Community Leader/Organizer should be able to:

- 313 1) have access to community voices and perspectives, have a good grasp of
- 314 issues, concerns and opportunities related to the systems' response to
- 315 interpersonal violence, and be able to present issues from the perspective of
- 316 someone engaged as a community organizer and advocate;
- 317 2) as needed, mobilize the community to address identified issues, implement
- 318 changes, and promote action aligned with the CEDV priorities and work plans;
- 319 3) be committed to ending interpersonal violence in communities using best
- 320 practice approaches, including focusing on community healing practices and
- 321 accountability for those that cause harm; and
- 322 4) be able to regularly attend Leadership Facilitation Group meetings and full
- 323 body CEDV meetings, as scheduled.

324

325 Vacancies

326

327 If the Community Leader/Organizer must resign any time during their term, their role
328 shall be filled by a majority vote at the next regular meeting. The newly appointed
329 Community Leader/Organizer shall complete the unexpired term of the member who they
330 succeeded. Prior to the appointment of any replacement Community Leader/Organizer,
331 all Members shall be provided with notice of the proposed vote before the meeting at
332 which the replacement appointment will be held. When possible, the Community
333 Leader/Organizer should make recommendations to the Nominations Committee of
334 interested candidates who may be able to complete their term.

335

336

337 **ARTICLE V – MEETINGS**

338

339 VFOIA.

340 All meetings shall be open to the public except as provided under the Virginia Freedom
341 of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA").
342 "Meeting" or "meetings" means the meetings including work sessions, when sitting
343 physically, or through electronic communication means pursuant to the VFOIA or other
344 applicable Virginia law, as a body or entity, or as an informal assemblage of (i) as many
345 as three members or (ii) a quorum, if less than three, of the constituent membership,
346 wherever held, with or without minutes being taken, whether or not votes are cast, of any
347 public body. The CEDV may hold public hearings and report its findings to the Board of
348 Supervisors on CEDV issues that affect the public interest.

349

350 Notice and Agenda.

351 Notice and the agenda of all meetings shall be provided as required under the VFOIA. All
352 meetings shall be preceded by properly posted notice stating the date, time, and location
353 of each meeting. Notice of a meeting shall be given at least three working days prior to
354 the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be
355 given contemporaneously with the notice provided to CEDV members. Notices of all
356 meetings shall be provided to the Office of Public Affairs for posting at the Government
357 Center and on the County website. All in-person meetings shall be conducted in public
358 places that are accessible to persons with disabilities. Public access via electronic
359 communications must be provided for virtual meetings, including those held pursuant to
360 the VFOIA.

361

362 Frequency.

363 The Council shall meet quarterly, typically in the months of January, April, July, and
364 October, or as determined by the Chairperson. Meetings shall be held at a time agreed to
365 by a majority of the Council's members, and at a place arranged by the staff of the
366 supporting County department.

367

368 Voting.

369 A quorum is necessary for a vote. One-third the membership of the Council shall
370 constitute a quorum. In making any recommendations, adopting any plan, or approving
371 any proposal, action shall be taken by a majority vote of Council members present and
372 voting. Upon the request of any member, the vote of each member on any issue shall be
373 recorded in the minutes. All votes of Council members shall be taken during a public
374 meeting, and no vote shall be taken by secret or written ballot or by proxy.

375

376 Conduct.

377 Except as otherwise provided by Virginia law or these bylaws, all meetings shall be
378 conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as
379 specifically authorized by the VFOIA, no meeting shall be conducted through telephonic,
380 video, electronic, or other communication means where the members are not all
381 physically assembled to discuss or transact public business.

382

383 Public Access.

384 For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt
385 under the VFOIA, all materials furnished to CEDV members shall be made available for
386 public inspection at the same time such documents are furnished to the CEDV members.
387 Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce
388 any portion of a meeting required to be open, but such actions may not interfere with any
389 CEDV proceedings.

390

391 Fairfax County Staff Support of Council.

392 Fairfax County Domestic and Sexual Violence Services will provide principal staff
393 support for the Council through the Countywide Coordination Program Manager. Under
394 the leadership of the Deputy County Executive, the Director of Family Services, and the
395 County-Wide Coordination Program Manager, staff from various County and community
396 agencies will also provide technical and analytical support.

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Records.

The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege.

Records containing legal advice from counsel to the CEDV, and advice provided in closed session by legal counsel to the CEDV, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Council to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the CEDV’s legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any CEDV member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the CEDV without good cause acceptable to a majority of the other CEDV members, may be subject to removal from the CEDV.

ARTICLE VII - REMOVAL

Any CEDV member(s) may be recommended to the Chair of the CEDV for removal from the CEDV for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the CEDV members. The members’ authority to recommend removal under these bylaws neither limits nor waives the Chair’s authority to remove members from the CEDV as provided by law.

ARTICLE VIII – COMMITTEES

Standing.

The Chairperson may appoint standing committees and a chairperson for each with the consent of a majority of the CEDV members present and voting.

Special.

441 The Chairperson may appoint special or ad hoc committees and workgroups and a
442 chairperson for each with the consent of a majority of the CEDV members present and
443 voting.
444

445 All meetings of any such committees shall comply with the notice and other requirements
446 of the VFOIA. To the extent practicable, any such committees shall be composed of at
447 least four members. Committee meetings may be held at the call of the Chairperson or at
448 the request of two members, with notice to all members.
449

450 Leadership Facilitation Group.

451 A Leadership Facilitation Group comprised of Council and Community Members shall
452 be formed and will serve as the executive leadership of the Council. The Leadership
453 Facilitation Group is responsible for helping to facilitate the strategic direction of the
454 Council, ensuring the work of Committees and Work Groups is ongoing, and providing
455 support to achieve the goals of the Council. The members of the Leadership Facilitation
456 Group are responsible for supporting the strengthening and enhancement of the County's
457 coordinated community response to domestic violence. The members are responsible for
458 selecting and approving members of the Nominations Committee. This body will be
459 facilitated by the Chair or Vice-Chair of the Council and will maintain a stable
460 composition with additional Members participating as needed, at the invitation of the
461 Group, depending on identified specific initiatives and especially if contributing to
462 succession planning for the Council. This body meets quarterly and on an ad hoc basis as
463 needed.
464

465 The Leadership Facilitation Group shall be comprised of the following:
466

- 467 • Chairperson
- 468 • Vice-Chairperson
- 469 • Previous Chairperson or Vice-Chairperson (for the first year, if possible)
- 470 • Director, Domestic and Sexual Violence Services
- 471 • Director, Department of Family Services
- 472 • Deputy County Executive, Health and Human Services
- 473 • Deputy County Executive, Public Safety
- 474 • DV Network Leader
- 475 • Community Leader/Organizer
- 476 • Assistant Superintendent for Special Services, Fairfax County Public Schools
- 477 • The Executive Directors of two nonprofits
- 478 • Committee Chairs
- 479 • Representative from Survivor community
- 480 • Representative from Immigrant community

481
482 All meetings of the Leadership Facilitation Group shall comply with the notice, meeting,
483 records, and other requirements of VFOIA.
484

485 The Nominations Committee.

486 The Nominations Committee is a part of the CEDV governance structure and has a key
487 role in CEDV leadership effectiveness, recruitment, succession planning, and CEDV
488 governance. The Nominations Committee has influence on the mix of skills, expertise
489 and diversity represented in the leadership positions. The primary responsibility of the
490 Nominations Committee is to establish and carry out a transparent and formal process for
491 filling leadership vacancies on the CEDV. Members work together to form the best
492 process for recruitment and selection of key member positions.

493
494 The leadership facilitation group will identify and approve members of the Nominations
495 Committee. The Community Leader/Organizer, at least two government representatives
496 and two representatives from non-profit leadership will comprise the Committee. The
497 committee will select the roles of Chair and vice-chair among its members. Ideally, the
498 committee will be comprised of representatives from a diverse mix of gender, age, race,
499 etc.

500
501 The Nominations Committee shall comply with the notice, meeting, records, and other
502 requirements of VFOIA. Nominations Committee meetings may be held at the call of the
503 Nominations Committee Chair, the Council Chairperson, or at the request of two
504 Members, with notice to all Members.

505 506 Duties

- 507
- 508 1) Develop a recruitment strategy and selection policy to fill vacancies on the
509 leadership facilitation group and the Chair and Vice-chair (s) based on established
510 criteria and responsibilities;
 - 511 2) Willing to exercise due diligence in recruitment process as to build a diverse
512 leadership structure over time with a focus on encouraging candidacy from
513 underrepresented groups;
 - 514 3) Identify, recruit, screen and interview qualified candidates for CEDV Chair and
515 Vice-Chair and leadership facilitation positions to ensure effectiveness and ability
516 to meet CEDV goals and objectives;
 - 517 4) Elect a chair and vice-chair of the Nominations Committee
 - 518 5) Responsible for keeping a pulse on the membership make-up of the leadership
519 facilitation group and filling vacant positions as needed with consideration for
520 diversity in community/government representation, gender, race and ethnicity,
521 sexual orientation, age, socio-economic status, etc. and with an eye towards
522 succession planning. As appropriate, recommend mentorship opportunities
523 between new members of the leadership facilitation group and existing members.

524
525 Terms: Three-year term limit

526 527 528 **ARTICLE IX – ANNUAL REPORT**

529
530 The CEDV shall prepare an annual written report that describes the actions of the CEDV
531 and plans for future actions and activities. This report shall be provided to the Clerk to

532 the Board of Supervisors for distribution to the members of the Board of Supervisors and
533 to the County Executive.

534

535

536 **ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY**

537

538 The CEDV shall comply with all Virginia laws, including, but not limited to, the VFOIA,
539 and the Virginia State and Local Government Conflict of Interests Act, Virginia Code
540 § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies
541 concerning the activities of its boards, authorities, and commissions. In case of a conflict
542 between a provision of these bylaws and any applicable ordinance or law, the provisions
543 of the applicable ordinance or law, as the case may be, shall control.

544

545

546 **ARTICLE XI – AMENDMENT OF BYLAWS**

547

548 These bylaws may be amended by the CEDV by adopting the proposed amendment or
549 amendments and by presenting those proposed changes for approval to the Board of
550 Supervisors. Any such amendments to bylaws shall become effective upon approval by
551 the Board of Supervisors.

Board Agenda Item
June 6, 2023

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, as identified below, where discussion in an open session would adversely affect the negotiating or litigating posture of the public body, as well as consultation with legal counsel regarding specific legal matters listed below requiring the provision of legal advice by such counsel, all as permitted by Virginia Code § 2.2-3711(A) (7) and (8).

1. *AM Worldgate Owner LLC v. Board of Supervisors*, Case No. CL-2023-0003050 (Fx. Co. Cir. Ct.) (Dranesville District)
2. *Anthony Lamont Gardner, Jr. v. Kenyatta Momon, Thomas Armel, Kevin Davis, Fairfax County Police Department, and County of Fairfax*, Case No. 1:23-cv-610 (E.D. Va.)
3. *Michelle Evans v. Fairfax County Board of Supervisors et. al*, Case No. CL-2022-0008631 (Fx. Co. Cir. Ct.)
4. *Abdolreza Rezanazhad v. Anthony Shobe, Fairfax County Sheriff's Office, and Fairfax County*, Case No. GV22-019962 (Fx. Co. Gen. Dist. Ct.)
5. *Oscar Franco v. Keith Haydu and Fairfax County Government*, Case No. GV23-007386 (Fx. Co. Gen. Dist. Ct.)
6. *Jay Riat, Building Official for Fairfax County, Virginia v. Jaime Alberto Velis and Edmar A. Martinez*, Case No. GV23-08514 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
7. *Jay Riat, Building Official for Fairfax County, Virginia v. Arciel Paz Munoz and Nardy Silas Sejas*, Case No. GV23-08512 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
8. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia, v. Elaine N. Oliver Trust*, Case No. GV22-017119 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

9. *Jay Riat, Building Official for Fairfax County, Virginia v. Radosvet Grudev and Dzhait Pachedzhi a/k/a Jimmy Pach*, Case No. CL-2023-0001818 (Fx. Co. Cir. Ct.) (Mason District)
10. *Jay Riat, Building Official for Fairfax County, Virginia v. William K. Cameron, Jr.*, Case No. CL-2023-007545 (Fx. Co. Cir. Ct.) (Mason District)
11. *Jay Riat, Building Official for Fairfax County, Virginia v. Jose Ernesto Pinto Sejas, Martha Cecilia Morales, and Juan Carlos Morales Escobar*, Case No. GV23-008515 (Fx. Co. Gen. Dist. Ct.) (Mason District)
12. *Jay Riat, Building Official for Fairfax County, Virginia v. Armstrong Green and Embrey, Inc.*, Case No. CL-2022-0004793 (Fx. Co. Cir. Ct.) (Mount Vernon District)
13. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia, v. Keith Elliott, Jr.*, Case No. GV22-016107 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Keith Elliott, Jr.*, Case No. GV22-016109 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. LZ Rentals, LLC*, Case No. CL-2021-012482 (Fx. Co. Cir. Ct.) (Providence District)
16. *Gabriel M. Zakkak, Property Maintenance Code Official for Fairfax County, Virginia, v. Gregg Riddiford*, Case No. CL-2013-0015905 (Fx. Co. Cir. Ct.) (Providence District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sidney Tobias Harris*, Case No. CL-2021-0008931 (Fx. Co. Cir. Ct.) (Springfield District)

Board Agenda Item
June 6, 2023

3:30 p.m.

Public Hearing on PCA 2002-HM-043-005/CDPA 2002-HM-043-004 (RZPA 2022-DR-00058) (Arrowbrook Centre, LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2002-HM-043, Previously Approved for the PDC District, to Permit Mixed Use Development and Associated Modifications to Proffers and Site Design Modifications at a Density of 35.63 Dwelling Units Per Acre (du/ac) (Overall Development --16.81 du/ac) and Max Floor Area Ratio (FAR) of 3.04 (Overall Development -- 0.99 FAR), Located on Approximately 9.68 Acres of Land (Dranesville District)

This property is located on the W. side of Centreville Rd., N. of Fairfield Ridge Ave., and S. of the Dulles Airport Access Rd. Tax Map 16-3 ((20)) 1A2 (pt.), 5, 6 and 7C (pt.); 16-3 ((27)) 11 (pt.).

PLANNING COMMISSION RECOMMENDATION:

On May 24, 2023, at the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of the following:

- PCA 2002-HM-043-005 and CDPA 2002-HM-043-004, subject to the execution of proffered conditions consistent with those dated May 8, 2023;
- Modification to allow a parapet wall, cornice or similar projection to exceed the established height limit by more than three (3) feet;
- Modification of the use limitation in the PDC District to allow the residential GFA (secondary use) to exceed 50 percent of principal uses in the development in accordance with that shown on the CDPA and the proffers;
- Modification of the minimum number of loading spaces;
- Waiver of the 600-foot maximum length for a private street in favor of what is shown on the CDPA;
- Waiver of the transitional screening and barrier requirements between uses within the Property and to uses adjacent to the north as well as between uses within the development;

Board Agenda Item
June 6, 2023

- Waiver of the interior parking lot landscaping and peripheral parking lot landscaping requirements for temporary, interim surface parking lots prior to construction of permanent parking garages and buildings;
- Modification to allow a trellis or vegetated arbor to satisfy the interior parking lot landscaping and/or 10-year canopy tree cover requirements for above-ground parking structures; and
- Modification of minimum 200-foot setback from DAAR for residential buildings to a minimum of 71 feet, as shown on the CDPA.

In a related action, the Planning Commission voted 12-0 to approve FDPA 2002-HM-043-007, subject to the development conditions dated May 10, 2023, and subject to the Board of Supervisors' approval of the concurrent PCA and CDPA applications.

ENCLOSED DOCUMENTS:

Additional information available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

Planning Commission Meetings Video Archive available online at:

<https://www.fairfaxcounty.gov/cableconsumer/channel-16/planning-commission-meetings-video-archives>

STAFF:

Suzanne L. Wright, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Tabatha Cole, Planner, DPD

Board Agenda Item
June 6, 2023

**To be Deferred to
6/27/2023 at 3:30 p.m.**

3:30 p.m.

Public Hearing on RZ 2022-PR-00017 (Madison Investment Portfolio LLC) to Rezone From I-5 to PDC to Repurpose Existing Buildings for Mixed Use with an Overall Intensity of 0.90 Floor Area Ratio and Approval of the Conceptual Development Plan, Located on Approximately 8.53 Acres of Land (Providence District)

This property is located N. of Gatehouse Rd., approx. 600 ft. E. of intersection of Gatehouse Rd. and Gallows Rd. Tax Map 49-4 ((1)) 28B; 49-4 ((4)) 1B and 2.

PLANNING COMMISSION RECOMMENDATION:

On May 17, 2023, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to defer the public hearing on RZ/FDP 2022-PR-00017 to a date certain of June 7, 2023. The Planning Commission's recommendation will be forwarded upon decision.

ENCLOSED DOCUMENTS:

Additional information available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

Planning Commission Meetings Video Archive available online at:

<https://www.fairfaxcounty.gov/cableconsumer/channel-16/planning-commission-meetings-video-archives>

STAFF:

Suzanne L. Wright, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Zach Fountain, Planner, DPD

Board Agenda Item
June 6, 2023

3:30 p.m.

Public Hearing on RZ 2022-SU-00010 (Matan Glorus Road, LLC) to Rezone From I-3, I-4, WS and AN to I-4, WS and AN to Allow an Expansion of a Surface Parking Area Serving a Previously Approved Industrial Development Consisting of Office/Warehouse/Data Center Uses and an Overall Floor Area Ratio of 0.20, Located on Approximately 16.31 Acres of Land (Sully District)

This property is located at 14850 Thompson Rd., 3700 Barney Rd., and 3720 Barney Rd., Chantilly, 20151. Tax Map 33-2 ((2)) 9, 9A and 10D and a portion of the Barney Rd. public right-of-way to be vacated and/or abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public right-of-way for Barney Rd. to proceed).

PLANNING COMMISSION RECOMMENDATION:

On May 24, 2023, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of RZ 2022-SU-00010, subject to the execution of proffered conditions consistent with those dated January 23, 2023, and the Board's approval of a vacation and abandonment request to vacate portions of the public right-of-way for Barney Road.

ENCLOSED DOCUMENTS:

Additional information available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

Planning Commission Meetings Video Archive available online at:

<https://www.fairfaxcounty.gov/cableconsumer/channel-16/planning-commission-meetings-video-archives>

STAFF:

Suzanne L. Wright, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Damaris Martinez, Planner, DPD

Board Agenda Item
June 6, 2023

4:00 p.m.

Public Hearing on a Proposal to Vacate a Portion of Barney Road (Sully District)

ISSUE:

Public hearing on a proposal to vacate a portion of Barney Road.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached ordinance (Attachment III) for vacation of the subject right-of-way.

TIMING:

On December 6, 2022, the Board authorized the public hearing to consider the proposed vacation for March 21, 2023, at 4:00 p.m. The applicant has requested a deferral to allow time to resolve issues that a neighboring property owner has presented. The public hearing on a proposal to vacate a portion of Barney Road to be deferred to May 9, 2023, at 4:00 p.m. The public hearing on a proposal to vacate a portion of Barney Road to be further deferred to June 6, 2023, at 4:00 p.m.

BACKGROUND:

The applicant, Walsh Colucci Lubeley & Walsh PC, on behalf of their client, Matan Glorus Road, LLC, is requesting that a portion of Barney Road be vacated under §15.2-2272(2) of the Virginia Code. The applicant is seeking this request to support the consolidation and the development of their parcels (Tax Map Nos. 33-2 ((2))-0009, 33-2 ((2))-009A, and 33-2 ((2))-010D). The applicant has filed a rezoning (RZ-2022-SU-00010) for the expansion of a surface parking area that will serve an adjacent approved industrial development (approved RZ 2020-SU-002).

The subject portion of Barney Road, north of Thompson Road and south of Adkins Road, is unconstructed. The subject portion of Barney Road was dedicated as part of the "Fairwood Estates" (Deed Book 1099, Page 404) on the plat dated July 31, 1953. The subject portion of Barney Road is not in the VDOT Secondary System of Highways.

Traffic Circulation and Access

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

Vacation

The project manager has concluded that the vacation proposed meets Virginia Code 15.2-2272 criteria and will not cause irreparable damage to any lots.

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter of Justification

Attachment II: Notice of Intent to Vacate

Attachment III: Ordinance of Vacation

Attachment IV: Metes and Bounds

Attachment V: Vacation Plat

Attachment VI: Vicinity Map

STAFF:

Rachel Flynn, Deputy County Executive

Gregg Steverson, Deputy Director, Fairfax County Department of Transportation (FCDOT)

Jeff Hermann, Division Chief, FCDOT-Site Analysis & Transportation Planning Division

Greg Fuller, Section Chief, FCDOT-Site Analysis Section (SAS)

Michelle Guthrie, FCDOT-SAS

Jeffrey Edmondson, FCDOT-SAS

ASSIGNED COUNSEL:

Randall Greehan, Assistant County Attorney



**WALSH COLUCCI
LUBELEY & WALSH PC**

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

April 20, 2022

BY COURIER AND ELECTRONIC MAIL

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

Re: Request for Proposed Vacation of portions of Barney Road, Sully
District, Fairfax County, Virginia

Dear Gavin, Michelle and Jeffrey:

This letter constitutes a request and statement of justification to vacate portions of Barney Road, Fairfax County, Virginia. The four portions of Barney Road to be vacated are located in the Sully Magisterial District (hereinafter referred to as "**Vacation Area 1**", "**Vacation Area 2**", "**Vacation Area 3**", and "**Vacation Area 4**"; collectively, the "**Vacation Areas**"). This request is made on behalf of Matan Glorus Road, LLC, a Virginia limited liability company ("**Applicant**"). By way of background, the Applicant has recently filed a RZ-2022-SU-00010 and Proffered Condition Amendment Application RZPA-2022-SU-00049 for the proposed rezoning and proffered condition amendment to allow the expansion of a surface parking area that is currently being constructed to serve an industrial development that was approved by the Fairfax County Board of Supervisors in conjunction with RZ 2020-SU-002 (collectively, "**Rezoning/PCA Application**"). The Rezoning/PCA Application is filed on approximately 16.14 acres consisting of Tax Map Parcel #'s 33-2 ((2)) 9, 33-2 ((2)) 9A, 33-2 ((2)) 10D, and a portion of the Vacation Areas.

The Vacation Areas to be vacated are shown on the plat entitled "Plat Showing Vacation of Portions of Barney Road Fairwood Estates, Deed Book 1099 Page 404, Sully District, Fairfax County, Virginia" prepared by VIKA Virginia LLC, dated February 28, 2022, and revised as of March 18, 2022.

The parcels located adjacent to the Vacation Areas are Tax Map Parcel #'s 33-2 ((2)) 9, 33-2 ((2)) 9A, 33-2 ((2)) 10D, and 33-2 ((2)) 10A1. The Applicant is the owner of Tax Map Parcel #'s 33-2 ((2)) 9, 33-2 ((2)) 9A, and 33-2 ((2)) 10D. Stonecroft Lee LLC, which owns Tax Map Parcel # 33-2 ((2)) 10A1, is agreeable to the vacation.

The Vacation Areas were dedicated for public street purposes, by virtue of that certain Deed of Dedication recorded in Deed Book 1099 at Page 404, among the land records of Fairfax County, Virginia. In conjunction with the proposed Rezoning/PCA Application, the Applicant requests the vacation of the Vacation Areas, as the Vacation Areas consist of a "paper street" only, having never been constructed and unlikely to be constructed due to the presence of Resource Protection Area, floodplain, and environmentally sensitive areas to the north and west of the Vacation Areas. The Vacation Areas are not required for roadway purposes.

ATTORNEYS AT LAW

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

LOUDOUN 703 737 3633 ■ PRINCE WILLIAM 703 680 4664 ■ WINCHESTER 540 667 4912

{A1029781.DOC / 1 Justification Letter 004047 000026}

The vacation of the Vacation Areas is requested pursuant to Virginia Code Sections 15.2-2272.

The total area to be vacated is 41,722 square feet.

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

Very truly yours,
WALSH, COLUCCI, LUBELEY & WALSH, P.C.


H. Mark Goetzman

cc: Alysia Yi
Robert Brant
Frank Jenkins
Brian Morris

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

(Barney Road)

Sully District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on June 6, 2023, at 4:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, pursuant to Virginia Code Ann. § 15.2-2204 and §15.2-2272, vacating portions of Barney Road totaling approximately 42,021 square feet, which are part of the plats, recorded in Deed Book 1099, at Page 404, and in Deed Book 27323, at Page 459. The road is located adjacent to Tax Map Parcel Numbers 33-2 ((2)) 9, 33-2 ((2)) 9A, 33-2 ((2)) 10D, and 33-2 ((2)) 10A1, and is described and shown on the metes and bounds schedules dated March 10, 2022 and August 30, 2022 respectively, and on the plat dated February 28, 2022, revised as of March 18, 2022, and further revised as of August 30, 2022, each prepared by VIKA Virginia LLC, all of which are on file in the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number (703) 877-5600.

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

SULLY DISTRICT.

ATTACHMENT III

**ADOPTION OF AN ORDINANCE VACATING
PARTS OF A PLAT ON WHICH IS SHOWN**

(Barney Road)

Sully District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Governmental Center in Fairfax County, Virginia, on June 6, 2023, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. §15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia: that Parts of the Plats showing street dedication of Barney Road, recorded in Deed Book 1099 at Page 404 and in Deed Book 27323 at Page 459, on which is shown Barney Road, comprising a total area of 42,021 square feet, located adjacent to Tax Map Parcel Numbers 33-2 ((2)) 9, 33-2 ((2)) 9A, 33-2 ((2)) 10D, and 33-2 ((2)) 10A1, and described and shown on the metes and bounds schedules dated March 10, 2022, and August 30, 2022, respectively, and on the plat dated February 28, 2022, revised as of March 18, 2022, and further revised as of August 30, 2022, prepared by VIKA Virginia LLC, and attached hereto and incorporated herein, be and the same are hereby vacated, pursuant to Virginia Code Ann. §15.2-2272.

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

A Copy Teste:

Jill G. Cooper
Clerk to the Board of Supervisors

VIKA Virginia, LLC

8180 Greensboro Dr.

Suite 200

Tysons, VA 22102

703.442.7800

vika.com**VACATION AREA 1**

**MARCH 10, 2022
DESCRIPTION OF
A PORTION OF BARNEY ROAD
DEED BOOK 1099 PAGE 404
FAIRFAX COUNTY, VIRGINIA**

Being a portion of Barney Road, unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404, among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at an iron pipe found, said iron pipe marking the intersection of the westerly right-of-way line of Barney Road, unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404 and the northerly right-of-way line of Thompson Road, fifty-foot public right-of-way, as recorded in Deed Book 1099 at Page 404, all among the aforesaid Land Records, said point also being the southeast corner of Parcel 9A Fairwood Estates, as recorded in Deed Book 1099 at Page 404, among the aforesaid Land Records; thence running with the said westerly right-of-way line of Barney Road the following course and distance

1. North 32°34'17" East, 149.05 feet to an iron pipe found, said iron pipe marking the northeasterly most corner of said Parcel 9A and the southeasterly most corner of Parcel 9 Fairwood Estates, as recorded in Deed Book 1099 at Page 404, among the aforesaid Land Records; thence running so as to cross and include a portion of Barney Road the following two courses and distances:
2. South 58°49'22" East, 22.59 feet to the centerline of Barney Road; thence running with the said centerline of Barney Road the following course and distance
3. South 32°47'01" West, 142.38 feet to a point on the aforementioned northerly right-of-way line of Thompson Road; thence running with the said northerly right-of-way line of Thompson Road the following course and distance
4. North 75°33'10" West, 23.20 feet to the point of beginning and containing 3,250 square feet or 0.07461 acres of land more or less.

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VIKA Virginia, LLC
8180 Greensboro Dr.
Suite 200
Tysons, VA 22102
703.442.7800
vika.com

VACATION AREA 2

**MARCH 10, 2022
DESCRIPTION OF
A PORTION OF BARNEY ROAD
DEED BOOK 1099 PAGE 404
FAIRFAX COUNTY, VIRGINIA**

Being a portion of Barney Road, unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404, among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at an iron pipe found, said iron pipe being the northeasterly most corner of Parcel 9A and the southeasterly most corner of Parcel 9 Fairwood Estates, as recorded in Deed Book 1099 at Page 404, among the aforesaid Land Records; thence running with the said westerly right-of-way line of Barney Road the following course and distance

1. North 32°34'17" East, 724.34 feet to an iron pipe found on the southerly right-of-way line of Adkins Road, fifty-foot unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404, among the aforesaid Land Records said iron pipe also being the northeasterly corner of said Parcel 9; thence running with the said southerly right-of-way line of Adkins Road the following course and distance:
2. South 39°49'17" East, 26.47 feet to the centerline of Barney Road; thence running so as to cross and include a portion of Barney Road the following two courses and distances
3. South 32°47'01" West, 858.17 feet to a point; thence
4. North 58°49'22" West, 22.59 feet to the point of beginning and containing 17,218 square feet or 0.39527 acres of land more or less.

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VIKA Virginia, LLC

8180 Greensboro Dr.
 Suite 200
 Tysons, VA 22102
 703.442.7800

vika.com

VACATION AREA 3

**MARCH 10, 2022
 DESCRIPTION OF
 A PORTION OF BARNEY ROAD
 DEED BOOK 1099 PAGE 404
 FAIRFAX COUNTY, VIRGINIA**

Being a portion of Barney Road, unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404, among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at an iron pipe found, said iron pipe being the northwesterly most corner of Parcel 10C and the southwesterly most corner of Parcel 10 Fairwood Estates, as recorded in Deed Book 25992 at Page 283 and in Deed Book 1099 at Page 404, respectively, all among the aforesaid Land Records; thence running so as to cross and included a portion of Barney Road the following two courses and distances

1. North 89°44'05" West, 29.65 feet to point on the centerline of said Barney Road; thence
2. North 32°47'01" East, 374.50 feet to a point on the southerly right-of-way line of Adkins Road, unimproved fifty-foot public right-of-way, as recorded in Deed Book 1099, at Page 404, among the aforesaid Land Records; thence running with the said southerly right-of-way line of Adkins Road the following course and distance
3. South 39°49'17" East, 26.20 feet to an iron pipe found, said iron pipe marking the northwesterly most corner of aforesaid Parcel 10 Fairwood Estates and the easterly right-of-way line of Barney Road; thence running with the said easterly right-of-way line of Barney Road the following course and distance
4. South 32°47'00" West, 350.73 feet to the point of beginning and containing 9,066 square feet or 0.20813 acres of land more or less.

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VIKA Virginia, LLC

8180 Greensboro Dr.
Suite 200
Tysons, VA 22102
703.442.7800

vika.com

VACATION AREA 4

**MARCH 10, 2022
DESCRIPTION OF
A PORTION OF BARNEY ROAD
DEED BOOK 1099 PAGE 404
FAIRFAX COUNTY, VIRGINIA**

Being a portion of Barney Road, unimproved public right-of-way, as recorded in Deed Book 1099 at Page 404, among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at an iron pipe found on the northerly right-of-way line of Thompson Road fifty-foot public right-of-way, as recorded in Deed Book 1099 at Page 404, and in Deed Book 25992 at Page 283, all among the aforesaid Land Records; thence running with the said northerly right-of-way line of Thompson Road the following course and distance

1. North 75°33'10" West, 26.34 feet to point on the centerline of said Barney Road; thence running so as to cross and include a portion of Barney Road the following two courses and distances
2. North 32°47'01" East, 483.67 feet to a point; thence
3. South 89°44'05' East, 29.65 feet to an iron pipe found, said iron pipe marking the southwesterly most corner of aforesaid Parcel 10 Fairwood Estates and the northwesterly most corner of aforesaid Parcel 10C; thence running with the said easterly right-of-way line of Barney Road the following course and distance
4. South 32°47'00" West, 491.32 feet to the point of beginning and containing 12,188 square feet or 0.27980 acres of land more or less.

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VIKA Virginia, LLC

8180 Greensboro Dr.
Suite 200
Tysons, VA 22102
703.442.7800

vika.com

AREA 5

**AUGUST 30, 2022
DESCRIPTION OF
A PORTION OF BARNEY ROAD
DEED BOOK 27323 PAGE 459
FAIRFAX COUNTY, VIRGINIA**

Being a portion of Barney Road, unimproved public right-of-way, as recorded in Deed Book 27323 at Page 459, among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

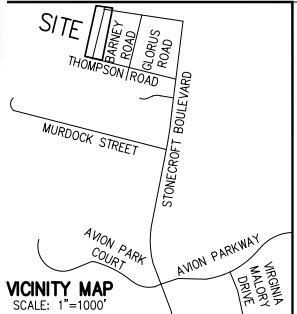
Beginning at an iron pipe found on the northerly right-of-way line of Thompson Road fifty-foot public right-of-way, as recorded in Deed Book 1099 at Page 404, and in Deed Book 25992 at Page 283, all among the aforesaid Land Records; thence running with the easterly right-of-way line of Barney Road the following course and distance

1. North 32° 47' 00" East, 28.70 feet to point, said point being the southwesterly most corner of Parcel 10C Fairwood Estates, as recorded in Deed Book 27323, at Page 459, among the aforesaid Land Records; thence running so as to cross and include a portion of Barney Road the following two courses and distances
2. South 11° 13' 09" East, 30.04 feet to a point on the aforementioned northerly right-of-way line of Thompson Road; thence
3. North 75° 59' 07" West, 22.04 feet to the point of beginning and containing 299 square feet or 0.00686 acres of land more or less.



NOTES:

1. THE ADJACENT PROPERTIES SHOWN HEREON ARE IDENTIFIED ON FAIRFAX COUNTY TAX ASSESSMENT MAP NO. 033-2-02-0009, 033-2-02-0009A, 033-2-02-0010A1, 033-2-02-0010D AND ARE ZONED I-4 AND I-3.
2. THE SUBJECT PROPERTIES ARE LOCATED IN ZONE "AE" (BASE FLOOD ELEVATIONS DETERMINED) AND ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP (FIRM) NUMBER 51059C0115E, COMMUNITY NUMBER 515525 0115 E, FOR FAIRFAX COUNTY VIRGINIA, DATED SEPTEMBER 17, 2010. ZONE "AE" IS IDENTIFIED AS A SPECIAL FLOOD HAZARD ZONE AREA. ZONE "X" IS NOT IDENTIFIED AS A SPECIAL FLOOD HAZARD ZONE AREA.
3. THIS PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE HORIZONTAL DATUM OF VIRGINIA STATE GRID NORTH 1983 (VCS 83)
4. THE HORIZONTAL CLOSURE AND ACCURACY OF THE SURVEY CONTROL USED TO PERFORM THIS SURVEY IS 1:125,422 WHICH EXCEEDS THE MINIMUM PRECISION OF 1:20,000 WITH THE ATTENDANT ANGULAR CLOSURE WHICH SUSTAINS THE ERROR OF CLOSURE.
5. THE BOUNDARY INFORMATION SHOWN HEREON IS A COMPILATION OF A FIELD RUN BOUNDARY SURVEY PERFORMED BY VIKI VIRGINIA, LLC AND FROM INFORMATION OF RECORD DEEDS AND/OR PLATS.
6. ALL KNOWN PLOTTABLE EASEMENTS OF RECORD ARE SHOWN HEREON. ALL PREVIOUSLY RECORDED R/W, EASEMENTS OR OTHER INTEREST OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN ON THIS PLAT.
7. NO USE SHALL BE MADE OF, NOR SHALL ANY IMPROVEMENTS BE MADE IN THE FLOOD PLAIN EASEMENT WITHOUT THE SPECIFIC AUTHORIZATION FROM FAIRFAX COUNTY.
8. ANY FUTURE EASEMENT OR AUTHORIZATION FOR ELECTRIC, CABLE, TELEPHONE OR GAS SERVICE TO BE FURNISHED TO THE PROPERTY SHOWN ON THIS PLAT SHALL COMPLY WITH THE PROVISIONS OF VIRGINIA CODE 15.2-2241(6).
9. CONSERVATION EASEMENT(S) AS SHOWN, IS/ARE FOR BMP CREDITS, AND IS A WATER QUALITY MANAGEMENT AREA; NO USE SHALL BE MADE OF, NOR SHALL ANY IMPROVEMENTS BE MADE IN, NOR SHALL ANY DISTURBANCE OCCUR IN THE CONSERVATION EASEMENT WITHOUT SPECIFIC AUTHORIZATION FROM FAIRFAX COUNTY.
10. FLOODPLAIN AND STORM DRAINAGE EASEMENT AS SHOWN; NO USE OR IMPROVEMENTS SHALL BE MADE, WITHOUT SPECIFIC AUTHORIZATION FROM FAIRFAX COUNTY.



THE INFORMATION, DESIGN, AND CONTENT OF THESE DRAWINGS AND/OR DOCUMENTS HERETO ARE PROPRIETARY TO VIKI VIRGINIA, L.L.C. AND CONSTITUTE ITS PROPRIETARY INTELLECTUAL PROPERTY. THESE DRAWINGS AND/OR DOCUMENTS MUST NOT BE DIGITALLY FORWARDED, SHARED OR COPIED, DIGITALLY CONVERTED, MODIFIED, OR USED FOR ANY PURPOSE, IN ANY FORMAT, WITHOUT PRIOR WRITTEN AUTHORIZATION FROM VIKI VIRGINIA, L.L.C. VIOLATIONS MAY RESULT IN PROSECUTION, ONLY APPROVED, SIGNED AND SEALED PLANS OR DRAWINGS MAY BE UTILIZED FOR CONSTRUCTION PURPOSES. © 2019 VIKI VIRGINIA, LLC

VACATION AREA TABULATION:

EXISTING BARNEY ROAD (PORTIONS VACATED)		
VACATION AREA 1.....	3,250 SF	OR 0.07461 ACRES
VACATION AREA 2.....	17,218 SF	OR 0.39527 ACRES
VACATION AREA 3.....	9,066 SF	OR 0.20813 ACRES
VACATION AREA 4.....	12,188 SF	OR 0.27980 ACRES
VACATION AREA 5.....	299 SF	OR 0.00686 ACRES
TOTAL AREA VACATED.....	42,021 SF	OR 0.96467 ACRES

SURVEYOR'S CERTIFICATE:

I, FRANKLIN E. JENKINS, A LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED THE PROPERTY DELINEATED ON THIS PLAT OF RIGHT-OF-WAY VACATION AND THAT IT IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

I FURTHER CERTIFY THAT THE LAND EMBRACED BY THIS PLAT OF RIGHT-OF-WAY VACATION LIES ENTIRELY WITHIN THE BOUNDS OF THE ORIGINAL TRACT, THAT THIS PLAT REPRESENTS AN ACCURATE SURVEY OF THE SAME AND THAT THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 (VCS '83), SEE NOTE 3.

FRANKLIN E. JENKINS
LICENSED LAND SURVEYOR
VIRGINIA # 2061



DATED _____

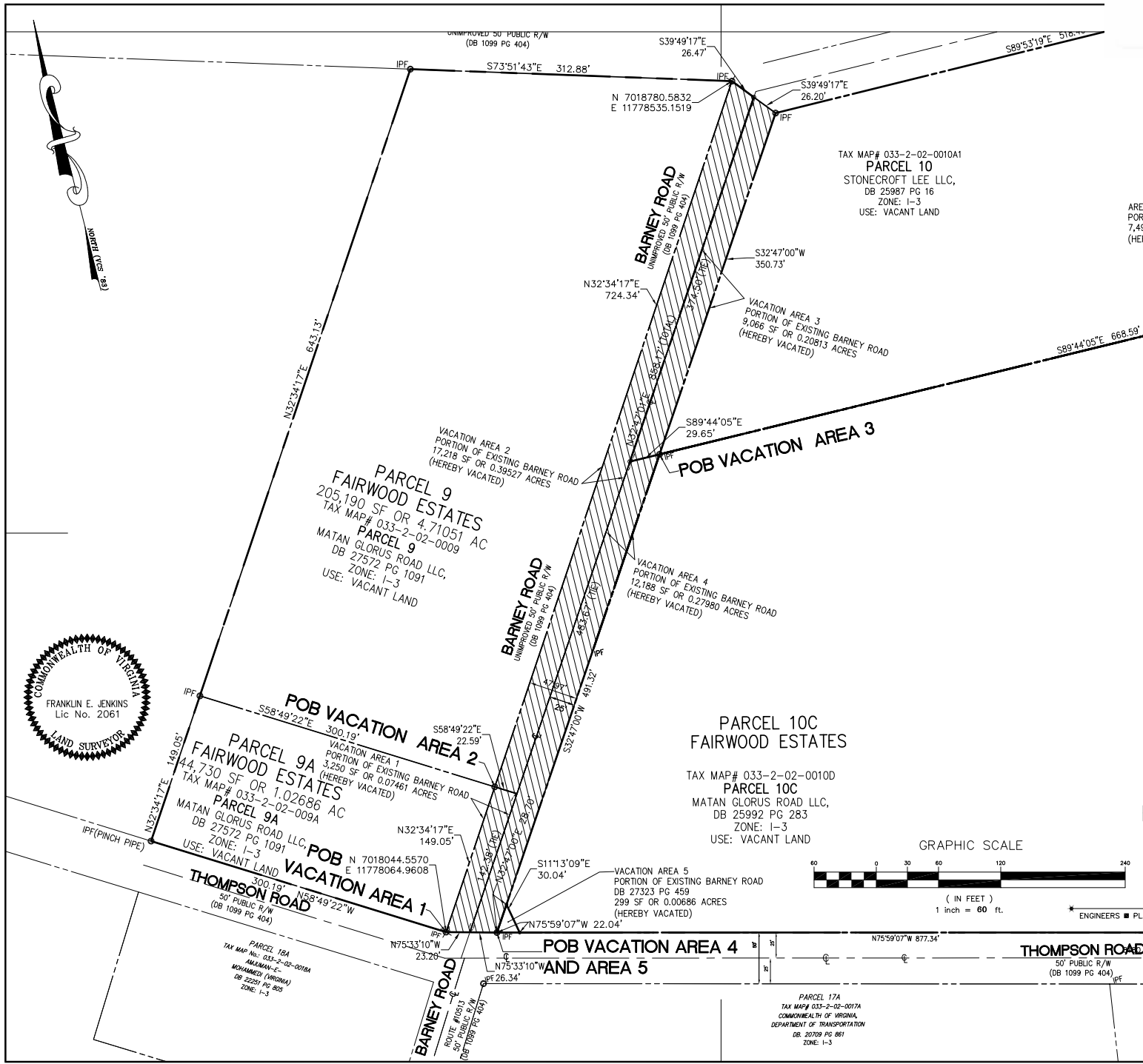
PLAT SHOWING
**VACATION OF
 PORTIONS OF
 BARNEY ROAD
 FAIRWOOD ESTATES**
 DEED BOOK 1099 PAGE 404
 SULLY DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 SCALE: AS SHOWN DATE: 02/28/2022
 REV: MARCH 18, 2022
 AUG 30, 2022
 SHEET 1 OF 2



* ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GEOMATICS
 VIKI VIRGINIA LLC
 8180 GREENSBORO DRIVE SUITE 200 ■ TYSONS, VIRGINIA 22102
 (703) 442-7800 ■ FAX (703) 761-2787
 WWW.VIKI.A.C.O.M

RP

RECORDATION: 7137-SP-002
 7137-RP-
 FILE: Q:\Projects\8136\8136E\CADD\SURVEYS\PLATS\8136E RPT ROW VACATION.dwg USER: Jenkins DATE: Aug. 30 2022 TIME: 03:25 pm



TAX MAP# 033-2-02-0010A1
PARCEL 10
STONECROFT LEE LLC,
DB 25987 PG 16
ZONE: I-3
USE: VACANT LAND

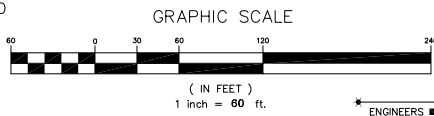
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PARCEL 9
FAIRWOOD ESTATES
205,190 SF OR 4.71051 AC
TAX MAP# 033-2-02-0009
PARCEL 9
MATAN GLORUS ROAD LLC,
DB 27572 PG 1091
ZONE: I-3
USE: VACANT LAND

PARCEL 9A
FAIRWOOD ESTATES
44,730 SF OR 1.02686 AC
TAX MAP# 033-2-02-009A
PARCEL 9A
MATAN GLORUS ROAD LLC,
DB 27572 PG 1091
ZONE: I-3
USE: VACANT LAND

PARCEL 10C
FAIRWOOD ESTATES
TAX MAP# 033-2-02-0010D
PARCEL 10C
MATAN GLORUS ROAD LLC,
DB 25992 PG 283
ZONE: I-3
USE: VACANT LAND

PLAT SHOWING
VACATION OF
PORTIONS OF
BARNEY ROAD
FAIRWOOD ESTATES
DEED BOOK 1099 PAGE 404
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"=60' DATE: 02/28/2022
REV: MARCH 18, 2022
AUG 30, 2022
SHEET 2 OF 2



ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GEOMATICS

V I K A
V I K A VIRGINIA LLC
GREENSBORO DRIVE SUITE 200 ■ TYSONS, VIRGINIA 22102
(703) 442-7800 ■ FAX (703) 761-2787
WWW.VIKA.COM

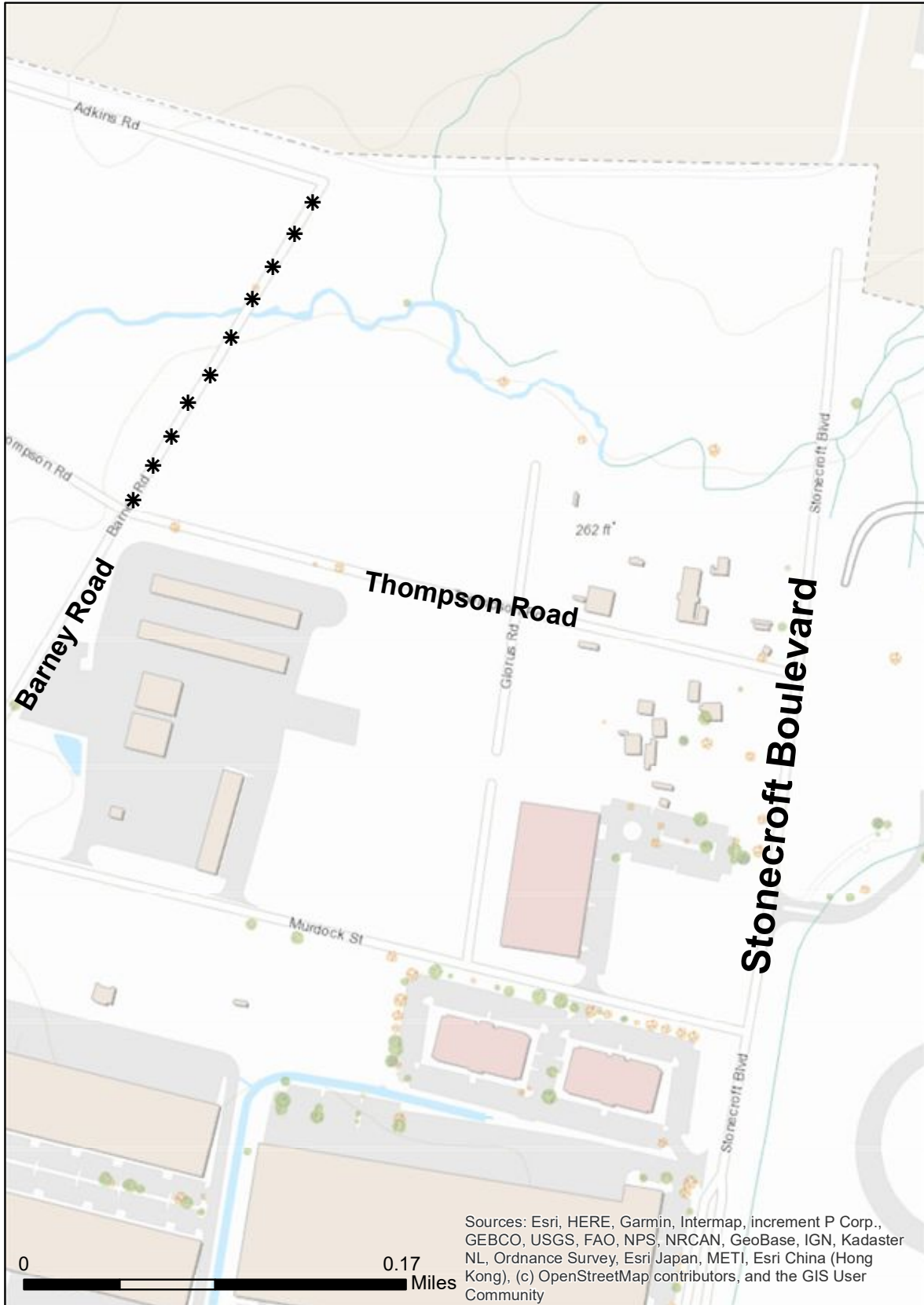
PARCEL 15A
TAX MAP# 033-2-02-0010A
ALLAN-C-
MOHAMMED (AROMA)
DB 22251 PG 808
ZONE: I-3

PARCEL 17A
TAX MAP# 033-2-02-0017A
COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF TRANSPORTATION
DB 20729 PG 861
ZONE: I-3

THOMPSON ROAD
50' PUBLIC R/W
(DB 1099 PG 404)

Barney Road Vacation

Sully District



Tax Map 33-2

* Denotes Areas to be Vacated

Board Agenda Item
June 6, 2023

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2021-IV-S2, Villa Park Road, Located South of Villa Park Road and West of the Ramp Between Backlick Road and Westbound Franconia-Springfield Parkway (Franconia District)

ISSUE:

Plan Amendment (PA) 2021-IV-S2 [PLUS number PA-2021-00013] considers an amendment to Recommendation Area #3 of the S4 Springvale Community Planning Sector of the Comprehensive Plan for Tax Map Parcels 90-2 ((4)) 19 and 20. The property is currently planned for residential uses at a density of 4-5 dwelling units per acre (du/ac) and is currently undeveloped. The amendment considers residential uses at a density of 5-8 du/ac to facilitate development of the site with up to 46 townhouses.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on this amendment on May 10, 2023, and voted to defer the decision until May 24, 2023. On May 24, 2023, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the adoption of PA 2021-IV-S2.

RECOMMENDATION:

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

TIMING:

Board action is requested on June 6, 2023.

BACKGROUND:

On March 23, 2021, the Board of Supervisors (Board) authorized Plan Amendment (PA) 2021-IV-S21 for Tax Map Parcels 90-2 ((4)) 19 and 20, to consider an option for residential use up to an overall density of 8.5 dwelling units per acre (du/ac), consisting of townhouse residential units. Through the review of the Plan amendment, staff determined that a planned density of 5-8 du/ac is more appropriate for the site in order to meet tree preservation and open space goals. The amendment includes specific considerations for vehicular access, site layout, pedestrian circulation, noise mitigation, usable open space, tree preservation, topography constraints, and the compatibility with the adjacent communities.

Board Agenda Item
June 6, 2023

The review of the Plan amendment is concurrent with rezoning application RZ 2021-LE-00019, Towns at Villa Park. The concurrent application proposes to rezone the property from R-1 to R-8 to accommodate up to 42 dwelling units at a density of 7.2 du/ac. Public hearings for the concurrent zoning application have not been scheduled at this time. Any recommendation for the subject Plan amendment should not be construed as a favorable recommendation by the Board, the Planning Commission, or staff on the proposed zoning application and does not relieve the applicant from compliance with the provisions of all applicable ordinances, regulations, and adopted standards. Staff supports adoption of the proposed Plan amendment.

EQUITY IMPACT:

The Plan amendment supports One Fairfax policy initiative #2 “Housing policies that encourage all who want to live in Fairfax to be able to do so, and the provision of a full spectrum of housing opportunities across the county...” by providing the option for a new townhouse community. The Plan amendment was reviewed by the community at two community meetings, which were well attended and provided opportunities for residents and neighbors to engage in the land use process.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

The Planning Commission Meetings Video Archive is available online at:

https://video.fairfaxcounty.gov/ViewPublisher.php?view_id=10

The Staff Report dated March 29, 2023, has been previously furnished and is available online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/villa-park-rd/2021-iv-s2-staff-report.pdf>

STAFF:

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

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

Graham Owen, Branch Chief, Policy and Plan Development Branch, PD, DPD

Sophia Fisher, Planner II, Environment and Development Review Branch, PD, DPD

Board Agenda Item
June 6, 2023

4:00 p.m.

Public Hearing to Amend and Readopt Chapter 127 of The Code of the County of Fairfax, Virginia, Relating to the Commercial Property Assessed Clean Energy and Resiliency Program

ISSUE:

Public hearing to consider an ordinance to amend and readopt Chapter 127 of the Code of the County of Fairfax, Virginia (Fairfax County Code), Commercial Property Assessed Clean Energy and Resiliency Program (hereinafter C-PACE). The proposed amendment will allow the county to opt into the statewide C-PACE program. The proposed amendment also will align the county's C-PACE ordinance and program with §15.2-958.3 of the Code of Virginia (C-PACE Act), as amended in recent years.

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On May 9, 2023, the Board authorized a public hearing to be held on June 6, 2023, at 4:00 p.m. to consider the proposed ordinance.

BACKGROUND:

Pursuant to §15.2-958.3, Virginia local governments are authorized to create a Commercial Property Assessed Clean Energy program to facilitate, through C-PACE financing, the installation of energy efficiency, renewable energy, water efficiency, resiliency, and stormwater management improvements to eligible properties. C-PACE allows private capital providers to fund certain property improvements or new construction, or to reimburse or refinance eligible projects, by issuing a C-PACE loan secured by a voluntary special assessment lien against the property subject to the loan.

On March 19, 2019, the Board of Supervisors (Board) approved an ordinance establishing the Fairfax County C-PACE Program, codified at Chapter 127 of the Fairfax County Code. On November 14, 2019, the county contracted with the Virginia PACE Authority (VPA) to administer its C-PACE Program. Despite outreach, no C-PACE contracts have yet been executed under the county program.

In 2020, the Virginia Department of Energy (DOE, formerly the Department of Mines, Minerals and Energy) was authorized to create and sponsor a statewide C-PACE

Board Agenda Item
June 6, 2023

program. In late 2021, the DOE contracted with VPA to create and administer the program. In 2022, state code was amended to clarify that localities seeking to opt into the statewide program could do so either by adoption or amendment of a local C-PACE ordinance. The DOE launched the statewide program in September 2022.

The proposed ordinance states that the county intends to opt into the statewide program and also restructures and revises the county's ordinance to conform with the statewide program's model ordinance for localities. Opting into the statewide program offers localities like Fairfax County two key benefits. First, it reduces costs by relieving localities of responsibilities associated with competitive procurement or a program administrator and contract management. Under the statewide program, the DOE is solely responsible for the solicitation of bids, selection of a program administrator, and contract administration. Second, and perhaps more importantly, it strengthens the C-PACE program by allowing the program administrator to standardize C-PACE programs, messaging and engagement with property owners across the state, something that is not currently possible with jurisdiction-specific C-PACE programs.

Additionally, the proposed C-PACE ordinance expands the definition of eligible resiliency improvements, consistent with legislative action since adoption of the county's C-PACE ordinance in 2019. These include improvements related to flooding and stormwater management adopted in 2019 and improvements related to environmental remediation and electric vehicle (EV) infrastructure adopted in 2022. Though these improvements are not expressly included in the county's existing ordinance, they have been eligible for C-PACE financing because the county's existing ordinance has empowered the program administrator to approve the financing of improvements authorized under state law. The revised ordinance also incorporates a two-year lookback period adopted in 2021 that authorizes project refinancing or reimbursement.

EQUITY IMPACT:

This action supports a quality built and natural environment, a One Fairfax area of focus. C-PACE advances two of the County's strategic outcome areas: economic development and environment.

The C-PACE program promotes economic development by encouraging direct private investment in the community and providing financing opportunities for commercial property owners, including those that own multifamily buildings such as apartment complexes and senior and assisted living facilities that serve vulnerable populations. Tenants in these types of commercial properties often do not have the financial means or legal authority to make improvements to their units. With C-PACE financing, however, the property owners can access the funding necessary to make eligible energy, water, stormwater, and resiliency enhancements to their properties, yielding benefits to residents that include reduced utility costs and improved comfort, health, and

Board Agenda Item
June 6, 2023

safety. Other potential C-PACE beneficiaries include places of worship and community-owned properties, as owners of these types of properties may lack the financial resources needed to undertake the improvements eligible for C-PACE financing.

C-PACE also promotes county environmental objectives. It supports measures that allow property owners and the community both to reduce the greenhouse gas emissions responsible for a warming environment and to prepare for and respond to the effects of changing climate conditions such as extreme heat, severe storms, and flooding. C-PACE is specifically discussed in the county's climate mitigation plan, *Community-wide Energy and Climate Action Plan* (CECAP), and in *Resilient Fairfax*, the county's climate adaptation and resilience plan.

To date, the C-PACE program has been underutilized by the community. Opting into the statewide program will enhance promotion of the program; this may lead to an increase in participation. The county, in partnership with VPA, will make a particular effort to serve commercial properties located in vulnerable areas including those owned by non-profit or religious organizations. These locations will be identified using the county's Communities of Opportunity framework and through direct program outreach. Communities of Opportunity are of particular interest to the county due to the historic barriers to financing in these areas.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Va. Code §15.2-958.3

Attachment 2 – Proposed Ordinance (redline)

Attachment 3 – Proposed Ordinance (clean) with Appendices A and B, C-PACE Program Agreement, and Locality C-PACE Agreement, respectively

STAFF:

Rachel Flynn, Deputy County Executive

John Morrill, Acting Director, Office of Environmental and Energy Coordination (OEEC)

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

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

ASSIGNED COUNSEL:

Emily Smith, Assistant County Attorney

Code of Virginia
 Title 15.2. Counties, Cities and Towns
 Subtitle II. Powers of Local Government
 Chapter 9. General Powers of Local Governments
 Article 5. Additional Powers

§ 15.2-958.3. Commercial Property Assessed Clean Energy (C-PACE) financing programs

A. As used in this section:

"Eligible improvements" means any of the following improvements made to eligible properties:

1. Energy efficiency improvements;
2. Water efficiency and safe drinking water improvements;
3. Renewable energy improvements;
4. Resiliency improvements;
5. Stormwater management improvements;
6. Environmental remediation improvements; and
7. Electric vehicle infrastructure improvements.

A program administrator may include in its C-PACE loan program guide or other administrative documentation definitions, interpretations, and examples of these categories of eligible improvements.

"Eligible properties" means all assessable commercial real estate located within the Commonwealth, with all buildings located or to be located thereon, whether vacant or occupied, whether improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the locality, other than a residential dwelling with fewer than five dwelling units or a condominium as defined in § 55.1-2000 used for residential purposes. Common areas of real estate owned by a cooperative or a property owners' association described in Subtitle IV (§ 55.1-1800 et seq.) of Title 55.1 that have a separate real property tax identification number are eligible properties. Eligible properties shall be eligible to participate in the C-PACE loan program.

"Program administrator" means a third party that is contracted for professional services to administer a C-PACE loan program.

"Resiliency improvement" means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

1. Flood mitigation or the mitigation of the impacts of flooding;
2. Inundation adaptation;
3. Natural or nature-based features and living shorelines, as defined in § 28.2-104.1;
4. Enhancement of fire or wind resistance;

5. Microgrids;
6. Energy storage; and
7. Enhancement of the resilience capacity of a natural system, structure, or infrastructure.

B. Any locality may, by ordinance, authorize contracts to provide C-PACE loans (loans) for the initial acquisition, installation, and refinancing of eligible improvements located on eligible properties by free and willing property owners of such eligible properties. The ordinance may refer to the mode of financing as Commercial Property Assessed Clean Energy (C-PACE) financing and shall include but not be limited to the following:

1. The kinds of eligible improvements that qualify for loans;
2. The proposed arrangement for such C-PACE loan program (loan program), including (i) a statement concerning the source of funding for the C-PACE loan; (ii) the time period during which contracting property owners would repay the C-PACE loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the c-pace loan among the parties to the C-PACE transaction;
3. (i) A minimum dollar amount that may be financed with respect to an eligible property; (ii) if a locality or other public body is originating the loans, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body, and (iii) provisions that the loan program may approve a loan application submitted within two years of the locality's issuance of a certificate of occupancy or other evidence that eligible improvements comply substantially with the plans and specifications previously approved by the locality and that such loan may refinance or reimburse the property owner for the total costs of such eligible improvements;
4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from owners of eligible properties for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from owners of eligible properties who meet established income or assessed property value eligibility requirements;
5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a program administrator to administer such loan program;
6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as a program fee paid by the property owner requesting to participate in the program; and
7. A draft contract specifying the terms and conditions proposed by the locality.

C. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has

given its consent by duly adopted resolution or ordinance. The locality may, either by ordinance or its program guide, delegate the billing; collection, including enforcement; and remittance of C-PACE loan payments to a third party.

D. The locality shall offer private lending institutions the opportunity to participate in local C-PACE loan programs established pursuant to this section.

E. In order to secure the loan authorized pursuant to this section, the locality shall place a voluntary special assessment lien equal in value to the loan against any property where such eligible improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans. The placement of a voluntary special assessment lien shall not require a new assessment on the value of the real property that is being improved under the loan program.

F. A voluntary special assessment lien imposed on real property under this section:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforced by the local government in the same manner that a property tax lien against real property is enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

G. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

H. The Department of Energy shall serve as a statewide sponsor for a loan program that meets the requirements of this section. The Department of Energy shall engage a private program administrator through a competitive selection process to develop the statewide loan program. A locality, in its adoption or amendment of its C-PACE ordinance described in subsection B, may opt into the statewide C-PACE loan program sponsored by the Department of Energy, and such action shall not require the locality to undertake any competitive procurement process.

2009, c. 773;2010, c. 141;2015, cc. 389, 427;2019, cc. 564, 753;2020, c. 664;2021, c. 6;2021, Sp.

Sess. I, c. [532](#);2022, c. [402](#).

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

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**AN ORDINANCE AMENDING
CHAPTER 127 OF THE FAIRFAX COUNTY CODE,
RELATING TO THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND
RESILIENCY PROGRAM**

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Chapter 127, relating to the Commercial Property Assessed Clean Energy and Resiliency Program.

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

1. That Chapter 127 of the Fairfax County Code is amended and readopted as follows:

ARTICLE 1. General Provisions.

Section 127-1-1. Short Title.

This ordinance shall be known as the Fairfax County C-PACE Ordinance.

Section 127-1-2. Purpose and Authority.

Pursuant to the authority granted in *Virginia Code* § 15.2-958.3, as amended, any Virginia locality may enact an ordinance authorizing contracts to provide loans for the initial acquisition, ~~and~~ installation, ~~and~~ refinancing of eligible ~~clean energy~~ improvements with free and willing property owners of both existing properties and new construction. Subject to the limitations set forth in this chapter, the C-PACE Act, or other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will ~~Such loans may be~~ secured by the placement of a voluntary special assessment lien against the property ~~that is the subject of the loan~~. After due consideration, the Board of Supervisors hereby determines that a commercial property assessed clean energy financing program will facilitate and encourage the renovation of existing buildings and foster the construction of new buildings ~~with energy or water efficient features or renewable energy facilities with a variety of efficient features~~, improving the general welfare of, and promoting economic growth in, the County. Further, the Board of Supervisors hereby authorizes the County C-PACE Program to operate in coordination with the statewide C-PACE program, all in accordance with the C-PACE Act.

Section 127-1-3. Definitions.

- (a) Assessment Payment Schedule means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which shall be attached to the C-PACE Program Agreement.
- (b) Board of Supervisors means the Board of Supervisors of the County of Fairfax, Virginia.
- (c) C-PACE means Commercial Property Assessed Clean Energy.
- (~~bd~~) C-PACE Act means Virginia's ~~clean energy financing~~ "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at Virginia Code § 15.2-958.3, as amended.
- (~~c~~) C-PACE Agreement means the C-PACE Program Agreement among Property Owner, Capital Provider, and the County, which establishes the terms, conditions, party responsibilities, and repayment obligations related to the C-PACE Assessment and Lien.

- 38 (e) C-PACE Amendment means an amendment of the C-PACE Lien executed by the Capital Provider, the Property
 39 Owner and the Program Manager, as permitted in the C-PACE Documents, which C-PACE Amendment shall
 40 be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.
- 41 ~~(d) C-PACE Assessment means a voluntary special assessment levied against a Property, at a Property Owner's~~
 42 ~~request, to secure repayment of the C-PACE Loan, including but not limited to any prepayment premiums,~~
 43 ~~delinquent principal, interest, penalties, and fees accrued and related to a C-PACE Loan benefitting the~~
 44 ~~Property.~~
- 45 (ef) C-PACE Assignment (CP) means a written assignment executed by one Capital Provider from time to time
 46 without need of consent from Property Owner, which shall be recorded in the Clerk's Office to evidence
 47 Capital Provider's assignment of the C-PACE Loan, to another Capital Provider of the C-PACE Payments
 48 and/or C-PACE Lien pursuant to the terms of the assignment document.
- 49 (g) C-PACE Assignment (Locality) means a written assignment by the County to the Capital Provider to whom the
 50 C-PACE Loan is then due, wherein the County relinquishes and assigns its right to enforce the C-PACE Lien to
 51 the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.
- 52 ~~(f) C-PACE Certificate means a Certificate of Levy and Lien of C-PACE Assessment, which shall (1) be executed by~~
 53 ~~Property Owner, Capital Provider, and the Director of the County's Department of Tax Administration or his~~
 54 ~~designee, (2) include an amortization schedule of C-PACE Payments necessary to repay the C-PACE Loan,~~
 55 ~~including any Program Fees, (3) include a certification by the County that it has received an executed~~
 56 ~~Property Owner Certification that satisfies the requirements of the C-PACE Act, and (4) be recorded among~~
 57 ~~the land records in the Clerk's Office to evidence the C-PACE Lien, a form of which C-PACE Certificate is~~
 58 ~~attached to the C-PACE Agreement.~~
- 59 (gh) C-PACE Documents means the C-PACE Program Agreement, C-PACE Loan Agreement Financing Agreement,
 60 C-PACE Lien Certificate, C-PACE Assignment (CP) (if any), C-PACE Assignment (Locality) (if any), and C-PACE
 61 Amendment (if any) Program Guidelines, and any other document, agreement, or instrument executed in
 62 connection with a C-PACE Loan.
- 63 (hi) C-PACE Lien or Lien means the voluntary special assessment lien levied against the property as security for
 64 the C-PACE Loan that the County is authorized to place against a Property in order to secure a C-PACE Loan,
 65 as further described in Article 5 of this Chapter and evidenced by the C-PACE Certificate.
- 66 (j) C-PACE Lien Certificate means the voluntary special assessment lien document duly recorded among the
 67 Land Records against an Eligible Property to secure a C-PACE Loan.
- 68 (ik) C-PACE Loan or Loan means a loan made under the Program by a Capital Provider to a Property Owner to
 69 finance a pProject in accordance with the C-PACE Act, this Ordinance, and the C-PACE Documents Program
 70 Guidelines.
- 71 ~~(j) C-PACE Loan Agreement means the written agreement executed by a Property Owner and a Capital Provider~~
 72 ~~that sets forth the terms and conditions pursuant to which the Capital Provider has agreed to extend, and~~
 73 ~~the Property Owner has agreed to accept and repay, a C-PACE Loan, and any and all authorized~~
 74 ~~modifications, restructurings, extensions, consolidations, amendments and/or assignments thereof.~~
- 75 (kl) C-PACE Payment means the periodic installment payments of the C-PACE Loan, due and payable by Property
 76 Owner, due and payable to the Capital Provider or Program Administrator as permitted by the C-PACE Act to
 77 repay the C-PACE Loan in such amounts and at such times as described in the C-PACE Agreement Assessment
 78 Payment Schedule.
- 79 (m) C-PACE Program means the program established by the County through this chapter, in accordance with the
 80 C-PACE Act, that in coordination with the Statewide Program facilitates the financing of Eligible
 81 Improvements and provides for a C-PACE Lien to be levied and recorded against the Eligible Property to
 82 secure the C-PACE Loan.
- 83 (n) C-PACE Program Agreement means the agreement executed among the Property Owner, the County, and
 84 the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for

85 participation in the C-PACE Program and the Property Owner’s acknowledgment and consent for the County
 86 to impose a voluntary special assessment, record a C-PACE Lien Certificate against the Property Owner’s
 87 Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE
 88 Lien Certificate to the Capital Provider. The C-PACE Program Agreement must be substantially in the form
 89 attached hereto as Appendix A.

90 ~~(lo)~~ Capital Provider means (1) a third-party individual or entity a private lending institution that has been
 91 approved by the Program Administrator in accordance with the Program Guidelines to originate ~~or fund~~ a
 92 C-PACE Loan; ~~or (2) the and its successors and or assigns; to the original Capital Provider of a C-PACE Loan or~~
 93 (2) the current holder of a C-PACE Loan.

94 (p) County means the County of Fairfax, Virginia.

95 ~~(mq)~~ Clerk’s Office means the Clerk’s Office of the Clerk of the Circuit Court of the Fairfax County of Fairfax,
 96 Virginia.

97 (r) Commonwealth means the Commonwealth of Virginia.

98 ~~(n) DMME means the Virginia Department of Mines, Minerals and Energy.~~

99 ~~(e) DMME Guidelines means the Uniform Statewide Financial Underwriting Guidelines for C-PACE Loans, issued~~
 100 ~~by the PACE Stakeholder Committee organized by DMME on December 1, 2015, as they may be amended~~
 101 ~~from time to time.~~

102 ~~(ps)~~ Delinquent Payment means any C-PACE Payment not paid when due according to the amortization schedule
 103 set forth in the C-PACE Agreement and C-PACE Loan Agreement, by a Property Owner in accordance with the
 104 C-PACE Documents.

105 ~~(qt)~~ Eligible Improvement means the initial acquisition and installation of any of the following improvements
 106 made to Eligible Properties:

107 (1) Energy efficiency improvements;

108 (2) Water efficiency and safe drinking water improvements;

109 (3) Renewable energy improvements;

110 (4) Resiliency improvements;

111 (5) Stormwater management improvements;

112 (6) Environmental remediation improvements; and

113 (7) Electric vehicle infrastructure improvements.

114 Eligible Improvements may be made to both existing Properties and new construction, as further prescribed
 115 in this chapter and the Program Guidelines. Eligible Improvements shall include types of authorized
 116 improvements added by the General Assembly to the C-PACE Act after the date of adoption of this chapter,
 117 without need for a conforming amendment of this chapter. In addition to the elaboration on the types of
 118 Eligible Improvements provided in Sec. 127-2-1, below, a Program Administrator may include in its Program
 119 Guidelines or other administrative documentation definitions, interpretations, and examples of these
 120 categories of Eligible Improvements, an improvement, renovation, addition, construction, installation, or
 121 modification of or to a Property or a building located on a Property, listed in Section 127-2-1.

122 ~~(fu)~~ Eligible Property means all assessable commercial real property estate, located within the County, with all
 123 buildings located or to be located thereon, whether vacant or occupied, improved or unimproved, and
 124 regardless of whether such real estate is currently subject to taxation by the County, excluding (1) a
 125 residential condominium project as defined in Virginia Code §55-79.2-55.1-2000 or (2) a residential dwelling
 126 with fewer than five dwelling units. Common areas of real estate owned by a cooperative or a property
 127 owners’ association described in Va. Code Title 55.1, Subtitle IV (§55.1-1800 et seq.), that have a separate

- 128 real property tax identification number are Eligible Properties. Eligible Properties shall be eligible to
 129 participate in the C-PACE Program.
- 130 (v) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from
 131 time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension
 132 and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain
 133 any lawful terms agreed to by the Capital Provider and the Property Owner.
- 134 (w) *Land Records* means the Land Records of the Clerk's Office.
- 135 (sx) *Lender Consent* means a written subordination agreement, in a form and substance acceptable to each prior
 136 lienholder in its sole and exclusive discretion, executed by each mortgage or deed of trust lienholder with a
 137 lien on the property that is the subject of a C-PACE Loan, which allows the C-PACE Lien to have senior priority
 138 over the mortgage or deed of trust liens.the holder of each mortgage or deed of trust lien on the Property
 139 and recorded in the Clerk's Office to evidence each senior lender's consent to the C-PACE Loan and to
 140 subordinate senior lender's lien on the Property to the C-PACE Payments (as and when each C-PACE Payment
 141 becomes due and payable) during the term of the C-PACE Loan.
- 142 (y) *Loan Amount* means the original principal amount of a C-PACE Loan.
- 143 (z) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy
 144 Agreement between Virginia Energy and the County pursuant to which the County elects to participate in the
 145 Statewide Program. The Locality Agreement shall be substantially in the form attached hereto as Appendix B.
- 146 ~~(t) *Program* means the County C-PACE financing program established to authorize C-PACE Loans to Property~~
 147 ~~Owners in accordance with C-PACE Act, this Ordinance, and the C-PACE Documents.~~
- 148 (uaa) *Program Administrator* means (1) an independent private third party ~~(authorized by written contract with the~~
 149 County), retained by Virginia Energy to provide professional services ~~which possesses the authority to~~
 150 administer the Statewide Program as provided by in accordance with the requirements of the C-PACE Act,
 151 this Ordinance~~chapter~~, the Locality Agreement, and the Program Guidelines.
- 152 (vbb) *Program Fee(s)* means the fee(s) authorized by the C-PACE Act and charged to participating Property Owners
 153 to cover the costs to design and administer the Statewide Program, including, without limitation,
 154 compensation of the Program Administrator. While Capital Providers are required to service their C-PACE
 155 Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing
 156 responsibility and charges a servicing fee, the servicing fee shall also be included among the Program Feesin
 157 accordance with Section 127-3-2 of this Ordinance.
- 158 (wcc) *Program Guidelines* means a comprehensive document setting forth those procedures, eligibility rules,
 159 disclosures, and restrictions, Program Fee(s), responsibilities, and other requirements promulgated for the
 160 governance and administration of the Statewide Program.
- 161 (xdd) *Program Manager* means the Fairfax County Executive or such person designated in writing by the Fairfax
 162 County Executive to ~~run the Program~~ (1) supervise the County's C-PACE Program and participation in the
 163 Statewide Program, (2) ~~and~~ act as liaison with the Program Administrator, and (3) advise the Program
 164 Administrator as to who will sign the C-PACE Documents to which the County is a party on the County's
 165 behalf. If the employee of the County who customarily signs agreements for the County is not the person
 166 designated as Program Manager, then references in this Ordinance and in the C-PACE Documents to the
 167 Program Manager signing certain C-PACE Documents on behalf of the County shall be construed to also
 168 authorize such customary signatory for the County to execute such C-PACE Documents.
- 169 (ee) *Project* means the construction or installation of Eligible Improvements on Eligible Property.
- 170 ~~(y) *Property* refers to an Eligible Property for which a C-PACE Loan is applied for or received.~~
- 171 (zff) *Property Owner* means (1) the owner(s) of Eligible Property that voluntarily obtain(s) a C-PACE Loan under
 172 the Program, resulting in a C-PACE Assessment and C-PACE Lien on that Property from a Capital Provider in

173 accordance with the Program Guidelines; or (2) a successor in title to the Property Owner~~a person meeting~~
 174 ~~the definition in (1).~~

175 (aagg) *Property Owner Certification* means a notarized certificate from a Property Owner, certifying that (1) the
 176 Property Owner is current on all loan payments secured by a mortgage or deed of trust lien on the ~~P~~property
 177 and on real estate tax payments, ~~(2) the Property Owner is current on all federal, state, and local taxes and~~
 178 ~~there is no federal income tax lien, judgment lien, or other involuntary lien against the Property, and (3) the~~
 179 Property Owner is not insolvent or in bankruptcy ~~or foreclosure~~ proceedings, and (3) that the title of the
 180 Property is not in dispute, as evidenced by a title report or title insurance commitment from a licensed title
 181 insurance company acceptable to the Program Administrator and Capital Provider.

182 (hh) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy,
 183 established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this ordinance,
 184 the Locality Agreement, the C-PACE Documents, and the Program Guidelines.

185 (bb) ~~Total C-PACE Loan Amount~~ means the total amount of the loan principal, plus all interest, penalties, fees,
 186 ~~costs, and other amounts accrued or accruing thereon under the C-PACE Documents.~~

187 (ii) *Useful Life* means the normal operating life of the fixed asset.

188 (jj) *Virginia Code or Va. Code* means the Code of Virginia of 1950, as amended.

189 (kk) *Virginia Energy* means the Virginia Department of Energy.

190 **ARTICLE 2. Eligible Improvements, Program Structure**

191 **Section 127-2-1. - C-PACE Program; Eligible Improvements under the C-PACE Program.**

192 (a) *C-PACE Program.* The C-PACE Program shall be available throughout the County, provided that the ~~P~~property
 193 ~~Owner, the property, and the financed proposed Eligible Improvements, the Capital Provider and the~~
 194 principal contractors all qualify for the Statewide Program. The following types of improvements constitute
 195 Eligible Improvements, which may be financed with a C-PACE Loan:

196 (1) Renewable energy production and distribution facilities (e.g., solar photovoltaic, fiber optic solar, solar
 197 thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel
 198 cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the
 199 energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power
 200 purchase agreement with a non-utility purchaser);

201 (2) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation
 202 and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems,
 203 building shell or envelope improvements, reflective roof, cool roof or green roof systems, and/or
 204 weather-stripping), or other capital improvements or systems which result in the reduction of
 205 consumption of energy over a baseline established in accordance with the Program Guidelines;

206 (3) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling,
 207 and other forms of water conservation), or other capital improvements or systems which result in the
 208 reduction of consumption of water over a baseline established in accordance with the Program
 209 Guidelines;

210 (4) Resiliency improvements which increase the capacity of a structure of infrastructure to withstand or
 211 recover from natural disasters, the effects of climate change, and attacks and accidents, including, but
 212 not limited to:

213 i. Flood mitigation or the mitigation of the impacts of flooding;

214 ii. Inundation adaption;

- 215 iii. Natural or nature-based features and living shorelines, as defined in Va. Code § 28.2-104.1;
- 216 iv. Enhancement of fire or wind resistance, including but not limited to reinforcement and
- 217 insulation of a building envelope to reduce the impacts of excessive heat or wind;
- 218 v. Microgrids;
- 219 vi. Energy storage; and
- 220 vii. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;
- 221 (5) Stormwater management improvements that reduce onsite stormwater runoff into a stormwater
- 222 system, such as reduction in the quantity of impervious surfaces or providing for the onsite filtering of
- 223 stormwater;
- 224 (6) Environmental remediation improvements, including but not limited to:
- 225 i. Improvements that promote indoor air and water quality;
- 226 ii. Asbestos remediation;
- 227 iii. Lead paint removal; and
- 228 iv. Mold remediation;
- 229 (7) Soil or groundwater remediation;
- 230 (8) Electric vehicle infrastructure improvements, such as charging stations;
- 231 (49) Construction, renovation, or retrofitting of an Eligible pProperty directly related to the accomplishment
- 232 of any purpose listed in subsections (1), ~~(2) or (3)~~ (8), above, whether such Eligible Improvement was
- 233 erected or installed in or on a building or on the ground, it being the express intention of the County to
- 234 allow Eligible Improvements that constitute, or are part of, the construction of a new structure or
- 235 building to be financed with a C-PACE Loan; ~~or and;~~
- 236 (510) Any other kindcategory of renewable energy production and distribution facility, energy or water
- 237 efficiency improvement, or other improvement (i) approved by the Program Administrator with
- 238 consent of the Program Manager as qualifying for financing under the C-PACE Act (including
- 239 amendments thereto which authorize additional types of Eligible Improvements) and the Statewide
- 240 Program, or (ii) added by the General Assembly to the C-PACE Act after the date of adoption of this
- 241 Ordinance, without need for a conforming amendment of this chapter. In addition, a Program
- 242 Administrator may include in its Program Guidelines or other administrative documentation
- 243 definitions, interpretations, and examples of these categories of Eligible Improvements.
- 244 (b) Use of C-PACE Loan Proceeds. The proceeds of a C-PACE Loan may be used to pay construction, development
- 245 and consulting costs directly related to an Eligible Improvement Project, including without limitation, the
- 246 cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting
- 247 services (e.g., architectural, engineering, energy, financial and legal), Program Fees, C-PACE Loan fees,
- 248 capitalized interest, interest reserves, and transaction underwriting and closing costs.
- 249 (c) Program applications; prioritization. The Program Administrator shall make available the Statewide
- 250 Program’s program application process, to provide for the review and approval of proposed Eligible
- 251 Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in
- 252 accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

253
254

~~ARTICLE 3. Program Arrangements; Funding.~~

255 **Section 127-~~32-12~~. C-PACE Loan requirements; Program Fees; reporting; Program**
 256 **Administrator; Program Guidelines.C-PACE Loans.**

- 257 (a) Source of Funding Loans. C-PACE Loans shall be ~~financed~~originated by Capital Providers. The County and/or
 258 its respective governmental entities ~~has~~have no obligation to originate any C-PACE Loans. The County shall
 259 not ~~make or~~ guaranty any C-PACE Loans.
- 260 (b) C-PACE Loan Interest Rate. The interest rate of a C-PACE Loan shall be the rate or rates ~~determined by~~
 261 mutual agreement of the Property Owner and Capital Provider set forth in the C-PACE Documents.
- 262 (c) Loan Repayment PeriodC-PACE Loan Term. The ~~time period during which term of~~ a C-PACE Loan ~~must be~~
 263 ~~repaid will be determined by mutual agreement of the Property Owner and Capital Provider, but~~ may not
 264 exceed the ~~later of the~~ weighted average of the Useful Life of the approved Eligible Improvements, ~~or~~
 265 thirty years, as determined by the Program Administrator.
- 266 (d) Apportionment of Costs. All of the costs incidental to the financing, administration, ~~and~~ collection, and/or
 267 enforcement of the C-PACE Loan shall be borne by the Property Owner.
- 268 (e) C-PACE Loan Amount thresholdsMinimum and Maximum Aggregate Amounts. The minimum Loan
 269 Amountdollar amount that may be financed with respect to a Property Project is fifty thousand dollars
 270 (\$50,000.00). The maximum aggregate dollar amount that may be financed with respect to a Property is \$50
 271 million or 30 percent of the market value of the Property after it reaches stabilized occupancy as evidenced
 272 by an appraisal, whichever is greater. ~~The maximum aggregate dollar amount that may be financed under~~
 273 ~~the Program is \$2.5 billion. There is no maximum aggregate amount that may be financed with respect to an~~
 274 Eligible Property, except as stipulated in the Program Guidelines. There is no limit on the total value of all
 275 C-PACE Loans issued under the C-PACE Program.
- 276 ~~(f) Application Priority. In the event that requests for approval of loans under the Program appear likely to~~
 277 ~~exceed the maximum aggregate dollar amount that may be financed, priority shall be given to those requests~~
 278 ~~from Property Owners who meet established income or assessed property value eligibility requirements, if~~
 279 ~~any, set forth in the Program Guidelines.~~
- 280 ~~(g) Use of C-PACE Loan Proceeds. The proceeds of a C-PACE Loan may be used to pay construction, development~~
 281 ~~and consulting costs directly related to an Eligible Improvement Project, including without limitation, the~~
 282 ~~cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting~~
 283 ~~services (e.g., architectural, engineering, energy, financial and legal), Program Fees, C-PACE Loan fees,~~
 284 ~~capitalized interest, interest reserves, and transaction underwriting and closing costs. The Proceeds of a C-~~
 285 ~~PACE Loan may also be used to finance Eligible Improvements not yet completed.~~
- 286 (f) C-PACE Loan Refinancing or Reimbursement. The Program Administrator may approve a Loan application
 287 submitted within two years of the County's issuance of a certificate of occupancy or other evidence that the
 288 Eligible Improvements comply substantially with the plans and specifications previously approved by the
 289 County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible
 290 Improvements.
- 291
- 292 (g) Financing Agreements. Capital Providers may use their own Financing Agreements for C-PACE Loans, but the
 293 Financing Agreement may not conflict with the provisions of this chapter, the C-PACE Act, or the C-PACE
 294 Program Agreement. To the extent of any conflict, this chapter, the C-PACE Act, and the C-PACE Program
 295 Agreement shall prevail.
- 296 (h) C-PACE Program Agreement. In order to participate in the C-PACE Program, Property Owner and Capital
 297 Provider shall enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for
 298 participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and
 299 execute the C-PACE Program Agreement on behalf of the County without further action by the Board of
 300 Supervisors. The C-PACE Program Agreement is binding upon the parties thereto and their respective

301 successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the
 302 C-PACE Program Agreement as necessary to further the Statewide Program's purpose and to encourage
 303 Program participation, so long as such modifications do not conflict with the Program Guidelines, this
 304 chapter, the Locality Agreement or the C-PACE Act.

305 (i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property
 306 Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment
 307 Payment Schedule, the C-PACE Documents and Program Guidelines. The Capital Provider shall be
 308 responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other
 309 C-PACE Documents, for the servicing of the C-PACE Loans and the collection of C-PACE Payments. If a Capital
 310 Provider fails to service a C-PACE Loan, such C-PACE Loan shall be serviced by the Program Administrator.
 311 Nothing herein shall prevent the Capital Provider or the Program Administrator from directly billing and
 312 collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other
 313 applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default
 314 thereunder is governed by Section 127-2-3.

315
 316 ~~(h) *Transferability of C-PACE Loan.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider in~~
 317 ~~accordance with the C-PACE Loan Agreement; provided that Capital Provider shall (1) record a C-PACE~~
 318 ~~Assignment in the Clerk's Office, and (2) deliver a copy of the recorded C-PACE Assignment to the County.~~
 319 ~~Recordation of the C-PACE Assignment shall constitute an assumption by the new Capital Provider of the~~
 320 ~~Capital Provider's C-PACE rights and obligations contained in the C-PACE Documents.~~

321 (j) *C-PACE Loan assumed.* A party which acquires a property which is subject to a C-PACE Lien, whether it
 322 obtained ownership of the property voluntarily or involuntarily, becomes the Property Owner under the
 323 C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay
 324 all remaining unpaid C-PACE Payments which are due and which accrue during such successor Property
 325 Owner's period of ownership. Only the current C-PACE Payment and any Delinquent Payments, together
 326 with any penalties, fees and costs of collection, shall be payable at the settlement of a property upon sale or
 327 transfer, unless otherwise agreed to by the Capital Provider.

328 (k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to
 329 another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider
 330 shall (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of
 331 the next C-PACE Payment due (and within thirty (30) days if the C-PACE Loan is serviced by the Program
 332 Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the
 333 recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator.
 334 Recordation of the C-PACE Assignment (CP) shall constitute an assumption by the new Capital Provider of the
 335 rights and obligations of the original Capital Provider contained in the C-PACE Documents.

336 337 **Section 127-3-2. Program Fees.**

338 ~~(a) *Imposition of Program Fees.* The Statewide Program will be~~ self-financed through Program Fees charged to
 339 ~~participating Property Owners, together with any funds budgeted by the General Assembly to support the~~
 340 ~~Statewide Program. The Program Fees are established to cover the actual and reasonable costs to design and~~
 341 ~~administer the Statewide Program, including, without limitation, the compensation of a third-party Program~~
 342 ~~Administrator. Program Fees will be assessed as a percentage fee of the C-PACE Loan paid at closing. The~~
 343 ~~amount(s) of the Program Fees shall be set forth in the Program Guidelines. Program Fees may be changed~~
 344 ~~by the Program Manager/Administrator from time to time and shall only apply to C-PACE Loans executed~~
 345 ~~after the date the revised Fees are adopted.~~

346 (m) *Locality Agreement.* The County will opt into the Statewide Program by entering into the Locality Agreement,
 347 adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act,
 348 opting into the C-PACE Program shall not require the County to conduct a competitive procurement process.

349 The Program Manager is authorized to execute the Locality Agreement on behalf of the County without
 350 further action by the Board of Supervisors.

351 (n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia
 352 Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program.
 353 The Program Administrator may modify the Program Guidelines from time to time, provided such
 354 amendments are (i) consistent with the C-PACE Act and (ii) approved by Virginia Energy before taking effect.

355 (o) *Indemnification.* The Program Administrator shall indemnify, defend and hold the County harmless against
 356 any claim brought against the County or any liability imposed on the County as a result of any action or
 357 omission to act by the Program Administrator.

358 **Section 127-3-3. C PACE Agreement.**

359 ~~(a) Local Official Authorized to Enter Into Contracts on Behalf of the County. The Program Manager is authorized~~
 360 ~~to execute C-PACE Documents on behalf of the County.~~

361 ~~(b) Draft Contract. A draft C-PACE Program Agreement is included as Appendix A to this Ordinance. The Program~~
 362 ~~Administrator may approve modifications to the form of the C-PACE Agreement in Appendix A that it deems~~
 363 ~~to be insubstantial; any proposed modifications to the form that the Program Administrator deems to be~~
 364 ~~substantial shall be referred to the Program Manager, who shall have final authority to approve such~~
 365 ~~modifications.~~

366 ~~(c) Loan Agreements; Order of Precedence. Capital Providers may use their own form of loan financing~~
 367 ~~documents as and for the C-PACE Loan Agreement, but the provisions of the C-PACE Loan Agreement may~~
 368 ~~not conflict with the provisions of this Ordinance.~~

369 ~~(d) Amendments. After a C-PACE Loan has closed, the C-PACE Agreement, C-PACE Loan Agreement, and C-PACE~~
 370 ~~Certificate may not be amended without the written consent of either the Program Manager or Program~~
 371 ~~Administrator, which consent will not be unreasonably withheld. A transfer, assignment, or sale of a C-PACE~~
 372 ~~Loan in accordance with the C-PACE Loan Agreement executed by a Property Owner and a Capital Provider is~~
 373 ~~not considered an amendment within the scope of this subparagraph.~~

374 **ARTICLE 4. Voluntary Assessment and Lien; Enforcement.**

375 **Section 127-42-13. Levy of assessment; recordation; priority; amendment; enforcement and**
 376 **collection costs. C-PACE Voluntary Special Assessment Lien.**

377 (a) Levy of voluntary special assessment lien. Each C-PACE Loan made under the C-PACE Program shall be
 378 secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each
 379 property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien shall be
 380 in the Loan Amount, but shall secure not only the principal of the C-PACE Loan, but also all interest,
 381 delinquent interest, late fees, penalties, Program Fees and collection costs (including attorneys' fees and
 382 costs) payable in connection therewith. At the request of a Property Owner as evidenced by Property
 383 Owner's execution of a C-PACE Agreement, the County will place a C-PACE Lien against the Property
 384 identified in the C-PACE Agreement. The amount of the C-PACE Lien will be equal to the Total C-PACE Loan
 385 Amount.

386 (b) Recordation of C-PACE Lien Certificate. ~~The~~ Each C-PACE Lien will be evidenced by the recordation of a C-
 387 PACE Certificate in the Clerk's Office, in the Loan Amount, but shall also expressly state that it also secures all
 388 interest, delinquent interest, late fees, other types of fees, penalties, and collection costs (including
 389 attorneys' fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule
 390 shall be attached thereto as an exhibit. The Program Manager is hereby authorized to, and shall promptly,
 391 execute the C-PACE Certificate on behalf of the County and deliver it to the Capital Provider, without any
 392 further action by the Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of

- 393 the C-PACE Loan, the Capital Provider shall cause the recordation of the C-PACE Certificate in the Land
 394 Records.
- 395 (c) Priority. A recorded C-PACE Lien shall have the same priority ~~status~~ as a real property tax lien against real
 396 property, except that it shall have priority over any previously recorded mortgage or deed of trust lien only if
 397 prior to the recording of the ~~special assessment lien~~ C-PACE Lien (i) Property Owner has obtained ~~any~~
 398 necessary a written Lender Consent, in a form and substance acceptable to the holder of such prior
 399 mortgage or deed of trust in its sole and exclusive discretion, executed by such lienholder and recorded with
 400 the C-PACE Certificate in the Land Records, and (ii) prior to the recording of the C-PACE Certificate, the
 401 Property Owner has delivered an executed Property Owner Certification to the County in connection with
 402 the C-PACE Loan closing.
- 403 ~~(d)~~ Only the current and delinquent C-PACE Payments, together with all due but unpaid interest, late fees and
 404 penalties, of a C-PACE Assessment shall constitute a first lien on the ~~p~~Property, on par with real property tax
 405 liens.
- 406 ~~(e)~~ The C-PACE Lien shall run with the land and that portion of the C-PACE Assessment under the C-PACE
 407 Program Agreement that has not yet become due shall not be eliminated by foreclosure of a real property
 408 tax lien.
- 409 ~~(fd)~~ Amendment of Lien. Upon written request by a Capital Provider in accordance with the Program Guidelines,
 410 the Program Manager, without any further action by the Board of Supervisors, shall join with the Capital
 411 Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien
 412 after the closing of the C-PACE Loan. The C-PACE Amendment must be recorded in the Clerk's Office.
- 413 ~~(e)~~ Enforcement and collection costs. In the event of Property Owner's default under the terms of the C-PACE
 414 Documents, the County may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees,
 415 penalties, interest, and any costs of collection in the same manner that a property tax lien against real
 416 property may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. If the County elects
 417 not to enforce the C-PACE Lien, which election shall be made within thirty (30) days of receipt by the County
 418 from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE
 419 Documents, then the County will, within fifteen (15) days of the County's determination not to enforce the
 420 C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE
 421 Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and delivering such
 422 instrument to the Capital Provider for recordation in the Land Records. The preceding sentence
 423 notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term
 424 of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in
 425 default. Upon such assignment and recordation, the Capital Provider is authorized to, and shall, enforce the
 426 C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien
 427 against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, including the
 428 institution of suit in the name of the County, and this right to enforce expressly includes authorization for the
 429 Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such
 430 enforcement. Such legal counsel, being authorized to institute suit in the name of the County, shall have the
 431 status of "Special Counsel to the County" and an "attorney employed by the governing body," and possess all
 432 the rights and powers of an attorney employed under Va. Code §§ 58.1-3966 and 58.1-3969, with the
 433 express authority to exercise for the benefit of the Capital Provider every power granted to a local
 434 government and/or its Treasurer and its or their attorneys for the enforcement of a property tax lien under,
 435 or in connection with, any provision contained in Title 58.1, Chapter 39, Article 4 of the Virginia Code. The
 436 County waives its right to require such legal counsel to post the optional bond described in Va. Code
 437 § 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late
 438 fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and
 439 consistent with the C-PACE Act and the Virginia Code, will (i) be added to the Delinquent Payments being
 440 collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan,
 441 and (iv) be secured by the C-PACE Lien. Nothing herein shall prevent the Capital Provider to which the
 442 C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE

443 Documents, the C-PACE Act or general law. The Property Owner of a property being sold to pay Delinquent
444 Payments, or other interested party, may redeem the property at any time prior to the property's sale, in
445 accordance with Va. Code §§ 58.1-3974 and 58.1-3975.

446 **~~Section 127-4-2. Enforcement by County.~~**

447 ~~(a) Delinquent C-PACE Payments may be subject to penalties and interest, in such amounts agreed to by~~
448 ~~Property Owner and Capital Provider in a C-PACE Loan Agreement. Penalties and interest on delinquent C-~~
449 ~~PACE Payments shall accrue in the same manner as delinquent real property taxes.~~

450 ~~(b) In the event a Property Owner fails to make any C-PACE Payment when due in accordance with the C-PACE~~
451 ~~Certificate, the C-PACE Loan Agreement or related documents, the County will enforce the C-PACE Lien for~~
452 ~~the amount of the delinquent C-PACE Payment(s), including all penalties, interest, and any costs of collection~~
453 ~~accrued thereon in the same manner that a property tax lien against real property may be enforced. All~~
454 ~~collection and enforcement costs, expenses, interest, and penalties incurred by the County or Capital~~
455 ~~Provider, as applicable and consistent with the Act, will (1) be added to the delinquent C-PACE Payments~~
456 ~~being collected, (2) become part of the aggregate amount sued for and collected, (3) be added to the C-PACE~~
457 ~~Loan, and (4) be secured by the C-PACE Lien. Notwithstanding the foregoing, nothing herein shall prevent the~~
458 ~~Capital Provider from enforcing the C-PACE Lien to the extent permitted by the Act or general law. The~~
459 ~~County shall remit to the Capital Provider all amounts due to the Capital Provider and collected pursuant to~~
460 ~~the enforcement of a delinquent C-PACE Payment, less actual costs incurred by the County to enforce the C-~~
461 ~~PACE Lien.~~

462 **~~ARTICLE 5. Program Administrator.~~**

463 **~~Section 127-5-1. Program Administrator; Program Guidelines.~~**

464 ~~(a) The County will enter into a written contract with a third party Program Administrator pursuant to the~~
465 ~~County's procurement process.~~

466 ~~(b) The principal duties of the Program Administrator may include (without limitation) the following: (i) creating~~
467 ~~the Program Guidelines and modifying the Program Guidelines as necessary; (ii) processing C-PACE~~
468 ~~applications to determine eligibility for a C-PACE Loan and related Eligible Improvements; (iii) promoting the~~
469 ~~Program; and (iv) certifying that prospective C-PACE service providers and Capital Providers are eligible to~~
470 ~~participate in the Program.~~

471 ~~(c) Program Guidelines shall be developed by the Program Administrator under the direction of, and in~~
472 ~~consultation with the Program Manager. The Program Administrator may modify the Program Guidelines~~
473 ~~from time to time, subject to the approval of the Program Manager and in accordance with the intent and~~
474 ~~purpose of the C-PACE Program as approved by the Board. The Program Guidelines shall include, but not be~~
475 ~~limited to the following:~~

476 ~~(1) Disclosures about C-PACE Program Fees, requirements and procedures;~~

477 ~~(2) Eligibility requirements for participation in the Program by Property Owners, Capital Providers,~~
478 ~~contractors, and others. Eligibility of Property Owners shall be contingent upon submission of a~~
479 ~~Property Owner Certification and any necessary Lender Consents;~~

480 ~~(3) Technical assessment requirements, which may be based on the size and type of the building and the~~
481 ~~size and scope of the proposed Eligible Improvements;~~

482 ~~(4) DMME Guidelines or other appropriate underwriting guidelines consistent with this type of Program;~~
483 ~~and~~

- 484 ~~(5) — Template Program forms, including but not limited to, the program application, Property Owner~~
 485 ~~Certification, and C-PACE Assignment.~~
- 486 ~~(d) — The Program Guidelines and any subsequent amendments thereto shall become effective only (1) to the~~
 487 ~~extent that the Program Guidelines do not contravene this Ordinance, and (2) after review by the County~~
 488 ~~Attorney and written approval by the Program Manager.~~
- 489 ~~(e) — The Program Administrator (1) will endeavor to conduct a competitive, open market Program, available to all~~
 490 ~~pre-certified Capital Providers, contractors, engineers, and consultants who apply to provide services or~~
 491 ~~funding for the Program, and (2) shall not grant any Capital Provider or service provider an exclusive right to~~
 492 ~~provide services or funding for the Program. (f) The Program Administrator shall indemnify, defend, and hold~~
 493 ~~the County harmless against any claim brought against the County or any liability imposed on the County as a~~
 494 ~~result of any action or omission to act by the Program Administrator.~~
 495

496 **ARTICLE 6. Limitation of Liability; Severability.**

497 **Section 127-62-14. Role of the County; Limitation of Liability.**

498 Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at
 499 their own risk. By executing the C-PACE Documents, including the a-C-PACE Program Agreement or any other C-
 500 PACE Document, or otherwise participating in the C-PACE Program and the Statewide Program, each Property
 501 Owner, Capital Provider, contractor or other party or participant hereby acknowledges and agrees, for the benefit
 502 of the County and as a condition ~~to the County's authorization of each C-PACE Loan of participation in the C-PACE~~
 503 Program and the Statewide Program, that: (i)

504 ~~(a) — T~~the County does not undertake any obligations under ~~or in connection with the C-PACE Act, this~~
 505 ~~Ordinance, the Program Guidelines, or any C-PACE Document~~the C-PACE Program and the Statewide Program;
 506 except as expressly stated ~~therein or herein~~ or in the C-PACE Program Agreement, and no implied covenants or
 507 obligations of the County exist;

508 (ii) in the event of a default by a Property Owner, the County has no obligation to use County funds to
 509 make C-PACE Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges
 510 and penalties, pursuant to a Financing Agreement between the Property Owner and Capital Provider;

511 ~~(b) — (iii) The~~no C-PACE Loan, C-PACE Lien, C-PACE Payments, ~~and/or~~ any other obligations arising from
 512 any C-PACE Document, the C-PACE Act, ~~and/or~~ this ~~Ordinance~~chapter :

513 ~~(1) — Are not~~is backed by ~~any~~the credit of the County, the Commonwealth, or its political subdivisions,
 514 including without limitation or any County taxes or other County funds, taxing power, or governmental funds;
 515 and (iv) no C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from a C-PACE Document

516 ~~(2) — S~~shall ~~not~~ constitute an indebtedness of the County within the meaning of any constitutional or
 517 statutory debt limitation or restriction; (v)

518 ~~(c) — T~~the County has not made any representations or warranties, financial or otherwise,
 519 regarding concerning the Property Owner, Eligible Property, the Capital Provider, the Property, Project, or the
 520 Eligible Improvements C-PACE Loan; (vi)

521 ~~(d) — T~~the County makes no representation or warranty as to, and assumes no responsibility with
 522 respect to, the accuracy or completeness of any C-PACE ~~Lien Document, or any assignment or amendment thereof~~
 523 ; (vii)

524 ~~(e) — T~~the County assumes no responsibility or liability for approved Eligible Improvements in regard
 525 to any Project, or the planning, construction or operation thereof; ~~and~~ (viii)

526 each Property Owner or Capital Provider shall, upon request, provide the County with any information
527 associated with a Project or C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan
528 satisfies the requirements of the Program Guidelines; and (ix)

529 ~~(f) — Each Property Owner, Capital Provider, contractor and or~~ other C-PACE participant in the
530 Program shall comply with all applicable requirements of the ~~C-PACE Act, this Ordinance, and the C-PACE~~
531 ~~Documents Program Guidelines.~~

532 **Section 127-2-5. Severability.**

533 As provided by Section 1-1-11 of this Code, the provisions of this chapter are severable. If a court of
534 competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other
535 provision is invalid, or that the application of any part of the chapter or provision to any person or circumstance is
536 invalid, the remaining provisions of this chapter shall not be affected by that decision and continue in full force and
537 effect.

538
539 **2. That the provisions of the chapter are effective upon adoption.**

540
541 GIVEN under my hand this _____ day of _____, 2023

542
543
544 _____
545 Jill G. Cooper,
546 Clerk for the Board of Supervisors

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**AN ORDINANCE AMENDING
CHAPTER 127 OF THE FAIRFAX COUNTY CODE,
RELATING TO THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND
RESILIENCY PROGRAM**

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Chapter 127, relating to the Commercial Property Assessed Clean Energy and Resiliency Program.

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

- 1. That Chapter 127 of the Fairfax County Code is amended and readopted as follows:

ARTICLE 1. General Provisions.

Section 127-1-1. Short Title.

This ordinance shall be known as the Fairfax County C-PACE Ordinance.

Section 127-1-2. Purpose and Authority.

Pursuant to the authority granted in *Virginia Code* § 15.2-958.3, as amended, any Virginia locality may enact an ordinance authorizing contracts to provide loans for the initial acquisition, installation, and refinancing of eligible improvements with free and willing property owners of both existing properties and new construction. Subject to the limitations set forth in this chapter, the C-PACE Act, or other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by the placement of a voluntary special assessment lien against the property that is the subject of the loan. After due consideration, the Board of Supervisors hereby determines that a commercial property assessed clean energy financing program will facilitate and encourage the renovation of existing buildings and foster the construction of new buildings with a variety of efficient features, improving the general welfare of, and promoting economic growth in, the County. Further, the Board of Supervisors hereby authorizes the County C-PACE Program to operate in coordination with the statewide C-PACE program, all in accordance with the C-PACE Act.

Section 127-1-3. Definitions.

- (a) *Assessment Payment Schedule* means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which shall be attached to the C-PACE Program Agreement.
- (b) *Board of Supervisors* means the Board of Supervisors of the County of Fairfax, Virginia.
- (c) *C-PACE* means Commercial Property Assessed Clean Energy.
- (d) *C-PACE Act* means Virginia's "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at *Virginia Code* § 15.2-958.3, as amended.
- (e) *C-PACE Amendment* means an amendment of the C-PACE Lien executed by the Capital Provider, the Property Owner and the Program Manager, as permitted in the C-PACE Documents, which C-PACE Amendment shall be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.
- (f) *C-PACE Assignment (CP)* means a written assignment by one Capital Provider to another Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of the assignment document.

Attachment 3

- 39 (g) *C-PACE Assignment (Locality)* means a written assignment by the County to the Capital Provider to whom the
40 C-PACE Loan is then due, wherein the County relinquishes and assigns its right to enforce the C-PACE Lien to
41 the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.
- 42 (h) *C-PACE Documents* means the C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-
43 PACE Assignment (CP) (if any), C-PACE Assignment (Locality) (if any), C-PACE Amendment (if any), and any
44 other document, agreement, or instrument executed in connection with a C-PACE Loan.
- 45 (i) *C-PACE Lien or Lien* means the voluntary special assessment lien levied against the property as security for
46 the C-PACE Loan.
- 47 (j) *C-PACE Lien Certificate* means the voluntary special assessment lien document duly recorded among the
48 Land Records against an Eligible Property to secure a C-PACE Loan.
- 49 (k) *C-PACE Loan or Loan* means a loan made under the Program by a Capital Provider to a Property Owner to
50 finance a Project in accordance with the Program Guidelines.
- 51 (l) *C-PACE Payment* means the periodic installment payments of the C-PACE Loan, due and payable by Property
52 Owner, due and payable to the Capital Provider or Program Administrator as permitted by the C-PACE Act in
53 such amounts and at such times as described in the Assessment Payment Schedule.
- 54 (m) *C-PACE Program* means the program established by the County through this chapter, in accordance with the
55 C-PACE Act, that in coordination with the Statewide Program facilitates the financing of Eligible
56 Improvements and provides for a C-PACE Lien to be levied and recorded against the Eligible Property to
57 secure the C-PACE Loan.
- 58 (n) *C-PACE Program Agreement* means the agreement executed among the Property Owner, the County, and
59 the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for
60 participation in the C-PACE Program and the Property Owner's acknowledgment and consent for the County
61 to impose a voluntary special assessment, record a C-PACE Lien Certificate against the Property Owner's
62 Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE
63 Lien Certificate to the Capital Provider. The C-PACE Program Agreement must be substantially in the form
64 attached hereto as Appendix A.
- 65 (o) *Capital Provider* means (1) a private lending institution that has been approved by the Program
66 Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and its successors and
67 assigns; or (2) the current holder of a C-PACE Loan.
- 68 (p) *County* means the County of Fairfax, Virginia.
- 69 (q) *Clerk's Office* means the Office of the Clerk of the Circuit Court of the County of Fairfax, Virginia.
- 70 (r) *Commonwealth* means the Commonwealth of Virginia.
- 71 (s) *Delinquent Payment* means any C-PACE Payment not paid by a Property Owner in accordance with the C-
72 PACE Documents.
- 73 (t) *Eligible Improvement* means the initial acquisition and installation of any of the following improvements
74 made to Eligible Properties:
- 75 (1) Energy efficiency improvements;
- 76 (2) Water efficiency and safe drinking water improvements;
- 77 (3) Renewable energy improvements;
- 78 (4) Resiliency improvements;
- 79 (5) Stormwater management improvements;
- 80 (6) Environmental remediation improvements; and
- 81 (7) Electric vehicle infrastructure improvements.

- 82 Eligible Improvements may be made to both existing Properties and new construction, as further prescribed
 83 in this chapter and the Program Guidelines. Eligible Improvements shall include types of authorized
 84 improvements added by the General Assembly to the C-PACE Act after the date of adoption of this chapter,
 85 without need for a conforming amendment of this chapter. In addition to the elaboration on the types of
 86 Eligible Improvements provided in Sec. 127-2-1, below, a Program Administrator may include in its Program
 87 Guidelines or other administrative documentation definitions, interpretations, and examples of these
 88 categories of Eligible Improvements..
- 89 (u) *Eligible Property* means all assessable commercial real estate, located within the County, with all buildings
 90 located or to be located thereon, whether vacant or occupied, improved or unimproved, and regardless of
 91 whether such real estate is currently subject to taxation by the County, excluding (1) a residential
 92 condominium as defined in *Virginia Code* § 55.1-2000 or (2) a residential dwelling with fewer than five
 93 dwelling units. Common areas of real estate owned by a cooperative or a property owners' association
 94 described in Va. Code Title 55.1, Subtitle IV (§55.1-1800 et seq.), that have a separate real property tax
 95 identification number are Eligible Properties. Eligible Properties shall be eligible to participate in the C-PACE
 96 Program.
- 97 (v) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from
 98 time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension
 99 and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain
 100 any lawful terms agreed to by the Capital Provider and the Property Owner.
- 101 (w) *Land Records* means the Land Records of the Clerk's Office.
- 102 (x) *Lender Consent* means a written subordination agreement, in a form and substance acceptable to each prior
 103 lienholder in its sole and exclusive discretion, executed by each mortgage or deed of trust lienholder with a
 104 lien on the property that is the subject of a C-PACE Loan, which allows the C-PACE Lien to have senior priority
 105 over the mortgage or deed of trust liens.
- 106 (y) *Loan Amount* means the original principal amount of a C-PACE Loan.
- 107 (z) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy
 108 Agreement between Virginia Energy and the County pursuant to which the County elects to participate in the
 109 Statewide Program. The Locality Agreement shall be substantially in the form attached hereto as Appendix B.
- 110 (aa) *Program Administrator* means a private third party retained by Virginia Energy to provide professional
 111 services to administer the Statewide Program in accordance with the requirements of the C-PACE Act, this
 112 chapter, the Locality Agreement, and the Program Guidelines.
- 113 (bb) *Program Fee(s)* means the fee(s) authorized by the C-PACE Act and charged to participating Property Owners
 114 to cover the costs to design and administer the Statewide Program, including, without limitation,
 115 compensation of the Program Administrator. While Capital Providers are required to service their C-PACE
 116 Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing
 117 responsibility and charges a servicing fee, the servicing fee shall also be included among the Program Fees.
- 118 (cc) *Program Guidelines* means a comprehensive document setting forth those procedures, eligibility rules,
 119 restrictions, Program Fee(s), responsibilities, and other requirements promulgated for the governance and
 120 administration of the Statewide Program.
- 121 (dd) *Program Manager* means the Fairfax County Executive or such person designated in writing by the Fairfax
 122 County Executive to (1) supervise the County's C-PACE Program and participation in the Statewide Program,
 123 (2) act as liaison with the Program Administrator, and (3) advise the Program Administrator as to who will
 124 sign the C-PACE Documents to which the County is a party on the County's behalf. If the employee of the
 125 County who customarily signs agreements for the County is not the person designated as Program Manager,
 126 then references in this Ordinance and in the C-PACE Documents to the Program Manager signing certain
 127 C-PACE Documents on behalf of the County shall be construed to also authorize such customary signatory for
 128 the County to execute such C-PACE Documents.

- 129 (ee) *Project* means the construction or installation of Eligible Improvements on Eligible Property.
- 130 (ff) *Property Owner* means (1) the owner(s) of Eligible Property that voluntarily obtain(s) a C-PACE Loan from a
131 Capital Provider in accordance with the Program Guidelines; or (2) a successor in title to the Property Owner.
- 132 (gg) *Property Owner Certification* means a notarized certificate from a Property Owner, certifying that (1) the
133 Property Owner is current on all loan payments secured by a mortgage or deed of trust lien on the property
134 and on real estate tax payments, (2) the Property Owner is not insolvent or in bankruptcy proceedings, and
135 (3) that the title of the property is not in dispute, as evidenced by a title report or title insurance
136 commitment from a licensed title insurance company acceptable to the Program Administrator and Capital
137 Provider.
- 138 (hh) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy,
139 established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this ordinance,
140 the Locality Agreement, the C-PACE Documents, and the Program Guidelines.
- 141 (ii) *Useful Life* means the normal operating life of the fixed asset.
- 142 (jj) *Virginia Code or Va. Code* means the Code of Virginia of 1950, as amended.
- 143 (kk) *Virginia Energy* means the Virginia Department of Energy.

144 **ARTICLE 2. Program Structure**

145 **Section 127-2-1. - C-PACE Program; Eligible Improvements.**

- 146 (a) *C-PACE Program*. The C-PACE Program shall be available throughout the County, provided that the Property
147 Owner, the property, the proposed Eligible Improvements, the Capital Provider and the principal contractors
148 all qualify for the Statewide Program. The following types of improvements constitute Eligible
149 Improvements, which may be financed with a C-PACE Loan:
- 150 (1) Renewable energy production and distribution facilities (e.g., solar photovoltaic, fiber optic solar, solar
151 thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel
152 cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the
153 energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power
154 purchase agreement with a non-utility purchaser);
- 155 (2) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation
156 and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems,
157 building shell or envelope improvements, reflective roof, cool roof or green roof systems, and/or
158 weather-stripping), or other capital improvements or systems which result in the reduction of
159 consumption of energy over a baseline established in accordance with the Program Guidelines;
- 160 (3) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling,
161 and other forms of water conservation), or other capital improvements or systems which result in the
162 reduction of consumption of water over a baseline established in accordance with the Program
163 Guidelines;
- 164 (4) Resiliency improvements which increase the capacity of a structure of infrastructure to withstand or
165 recover from natural disasters, the effects of climate change, and attacks and accidents, including, but
166 not limited to:
- 167 i. Flood mitigation or the mitigation of the impacts of flooding;
- 168 ii. Inundation adaptation;
- 169 iii. Natural or nature-based features and living shorelines, as defined in Va. Code § 28.2-104.1;

- 170 iv. Enhancement of fire or wind resistance, including but not limited to reinforcement and
171 insulation of a building envelope to reduce the impacts of excessive heat or wind;
- 172 v. Microgrids;
- 173 vi. Energy storage; and
- 174 vii. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;
- 175 (5) Stormwater management improvements that reduce onsite stormwater runoff into a stormwater
176 system, such as reduction in the quantity of impervious surfaces or providing for the onsite filtering of
177 stormwater;
- 178 (6) Environmental remediation improvements, including but not limited to:
 - 179 i. Improvements that promote indoor air and water quality;
 - 180 ii. Asbestos remediation;
 - 181 iii. Lead paint removal; and
 - 182 iv. Mold remediation;
- 183 (7) Soil or groundwater remediation;
- 184 (8) Electric vehicle infrastructure improvements, such as charging stations;
- 185 (9) Construction, renovation, or retrofitting of an Eligible Property directly related to the accomplishment
186 of any purpose listed in subsections (1)–(8), above, whether such Eligible Improvement was erected or
187 installed in or on a building or on the ground, it being the express intention of the County to allow
188 Eligible Improvements that constitute, or are part of, the construction of a new structure or building to
189 be financed with a C-PACE Loan; and
- 190 (10) Any other category of improvement (i) approved by the Program Administrator with consent of the
191 Program Manager as qualifying for financing under the C-PACE Act (including amendments thereto
192 which authorize additional types of Eligible Improvements) and the Statewide Program, or (ii) added by
193 the General Assembly to the C-PACE Act after the date of adoption of this Ordinance, without need for
194 a conforming amendment of this chapter. In addition, a Program Administrator may include in its
195 Program Guidelines or other administrative documentation definitions, interpretations, and examples
196 of these categories of Eligible Improvements.
- 197 (b) *Use of C-PACE Loan Proceeds.* The proceeds of a C-PACE Loan may be used to pay construction, development
198 and consulting costs directly related to an Eligible Improvement Project, including without limitation, the
199 cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting
200 services (e.g., architectural, engineering, energy, financial and legal), Program Fees, C-PACE Loan fees,
201 capitalized interest, interest reserves, and transaction underwriting and closing costs.
- 202 (c) *Program applications; prioritization.* The Program Administrator shall make available the Statewide
203 Program’s program application process, to provide for the review and approval of proposed Eligible
204 Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in
205 accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

206 **Section 127-2-2. C-PACE Loan requirements; Program Fees; reporting; Program**
207 **Administrator; Program Guidelines.**

- 208 (a) *Source of Loans.* C-PACE Loans shall be originated by Capital Providers. The County and/or its respective
209 governmental entities have no obligation to originate any C-PACE Loans. The County shall not guaranty any
210 C-PACE Loans.
- 211 (b) *C-PACE Loan Interest Rate.* The interest rate of a C-PACE Loan shall be the rate or rates set forth in the C-
212 PACE Documents.

- 213 (c) *C-PACE Loan Term.* The term of a C-PACE Loan may not exceed the weighted average of the Useful Life of the
 214 approved Eligible Improvements, as determined by the Program Administrator.
- 215 (d) *Apportionment of Costs.* All of the costs incidental to the financing, administration, collection, and/or
 216 enforcement of the C-PACE Loan shall be borne by the Property Owner.
- 217 (e) *C-PACE Loan Amount thresholds.* The minimum Loan Amount that may be financed with respect to a Project
 218 is fifty thousand dollars (\$50,000.00). There is no maximum aggregate amount that may be financed with
 219 respect to an Eligible Property, except as stipulated in the Program Guidelines. There is no limit on the total
 220 value of all C-PACE Loans issued under the C-PACE Program.
- 221 (f) *C-PACE Loan Refinancing or Reimbursement.* The Program Administrator may approve a Loan application
 222 submitted within two years of the County’s issuance of a certificate of occupancy or other evidence that the
 223 Eligible Improvements comply substantially with the plans and specifications previously approved by the
 224 County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible
 225 Improvements.
- 226 (g) *Financing Agreements.* Capital Providers may use their own Financing Agreements for C-PACE Loans, but the
 227 Financing Agreement may not conflict with the provisions of this chapter, the C-PACE Act, or the C-PACE
 228 Program Agreement. To the extent of any conflict, this chapter, the C-PACE Act, and the C-PACE Program
 229 Agreement shall prevail.
- 230 (h) *C-PACE Program Agreement.* In order to participate in the C-PACE Program, Property Owner and Capital
 231 Provider shall enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for
 232 participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and
 233 execute the C-PACE Program Agreement on behalf of the County without further action by the Board of
 234 Supervisors. The C-PACE Program Agreement is binding upon the parties thereto and their respective
 235 successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the
 236 C-PACE Program Agreement as necessary to further the Statewide Program’s purpose and to encourage
 237 Program participation, so long as such modifications do not conflict with the Program Guidelines, this
 238 chapter, the Locality Agreement or the C-PACE Act.
- 239 (i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property
 240 Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment
 241 Payment Schedule, the C-PACE Documents and Program Guidelines. The Capital Provider shall be
 242 responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other
 243 C-PACE Documents, for the servicing of the C-PACE Loans and the collection of C-PACE Payments. If a Capital
 244 Provider fails to service a C-PACE Loan, such C-PACE Loan shall be serviced by the Program Administrator.
 245 Nothing herein shall prevent the Capital Provider or the Program Administrator from directly billing and
 246 collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other
 247 applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default
 248 thereunder is governed by Section 127-2-3.
- 249 (j) *C-PACE Loan assumed.* A party which acquires a property which is subject to a C-PACE Lien, whether it
 250 obtained ownership of the property voluntarily or involuntarily, becomes the Property Owner under the
 251 C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay
 252 all remaining unpaid C-PACE Payments which are due and which accrue during such successor Property
 253 Owner’s period of ownership. Only the current C-PACE Payment and any Delinquent Payments, together
 254 with any penalties, fees and costs of collection, shall be payable at the settlement of a property upon sale or
 255 transfer, unless otherwise agreed to by the Capital Provider.
- 256 (k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to
 257 another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider
 258 shall (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of
 259 the next C-PACE Payment due (and within thirty (30) days if the C-PACE Loan is serviced by the Program
 260 Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the
 261 recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator.

262 Recordation of the C-PACE Assignment (CP) shall constitute an assumption by the new Capital Provider of the
263 rights and obligations of the original Capital Provider contained in the C-PACE Documents.

264 (l) *Program Fees.* The Statewide Program is self-financed through Program Fees charged to participating
265 Property Owners, together with any funds budgeted by the General Assembly to support the Statewide
266 Program. The Program Fees are established to cover the actual and reasonable costs to design and
267 administer the Statewide Program, including, without limitation, the compensation of a third-party Program
268 Administrator. The amount(s) of the Program Fees shall be set forth in the Program Guidelines. Program Fees
269 may be changed by the Program Administrator from time to time and shall only apply to C-PACE Loans
270 executed after the date the revised Fees are adopted.

271 (m) *Locality Agreement.* The County will opt into the Statewide Program by entering into the Locality Agreement,
272 adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act,
273 opting into the C-PACE Program shall not require the County to conduct a competitive procurement process.
274 The Program Manager is authorized to execute the Locality Agreement on behalf of the County without
275 further action by the Board of Supervisors.

276 (n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia
277 Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program.
278 The Program Administrator may modify the Program Guidelines from time to time, provided such
279 amendments are (i) consistent with the C-PACE Act and (ii) approved by Virginia Energy before taking effect.

280 (o) *Indemnification.* The Program Administrator shall indemnify, defend and hold the County harmless against
281 any claim brought against the County or any liability imposed on the County as a result of any action or
282 omission to act by the Program Administrator.

283 **Section 127-2-3. Levy of assessment; recordation; priority; amendment; enforcement and**
284 **collection costs.**

285 (a) *Levy of voluntary special assessment lien.* Each C-PACE Loan made under the C-PACE Program shall be
286 secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each
287 property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien shall be
288 in the Loan Amount, but shall secure not only the principal of the C-PACE Loan, but also all interest,
289 delinquent interest, late fees, penalties, Program Fees and collection costs (including attorneys' fees and
290 costs) payable in connection therewith.

291 (b) *Recordation of C-PACE Lien Certificate.* Each C-PACE Lien will be evidenced by the recordation of a C-PACE
292 Certificate in the Loan Amount, but shall also expressly state that it also secures all interest, delinquent
293 interest, late fees, other types of fees, penalties, and collection costs (including attorneys' fees and costs)
294 payable in connection therewith, and a copy of the Assessment Payment Schedule shall be attached thereto
295 as an exhibit. The Program Manager is hereby authorized to, and shall promptly, execute the C-PACE
296 Certificate on behalf of the County and deliver it to the Capital Provider, without any further action by the
297 Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the
298 Capital Provider shall cause the recordation of the C-PACE Certificate in the Land Records.

299 (c) *Priority.* A recorded C-PACE Lien shall have the same priority as a real property tax lien against real property,
300 except that it shall have priority over any previously recorded mortgage or deed of trust lien only if prior to
301 the recording of the C-PACE Lien (i) Property Owner has obtained a written Lender Consent, in a form and
302 substance acceptable to the holder of such prior mortgage or deed of trust in its sole and exclusive
303 discretion, executed by such lienholder and recorded with the C-PACE Certificate in the Land Records, and (ii)
304 prior to the recording of the C-PACE Certificate, the Property Owner has delivered an executed Property
305 Owner Certification to the County in connection with the C-PACE Loan closing. Only the current and
306 delinquent C-PACE Payments, together with all due but unpaid interest, late fees and penalties, of a C-PACE
307 Assessment shall constitute a first lien on the property, on par with real property tax liens. The C-PACE Lien
308 shall run with the land and that portion of the C-PACE Assessment under the C-PACE Program Agreement
309 that has not yet become due shall not be eliminated by foreclosure of a real property tax lien.

- 310 (d) *Amendment of Lien.* Upon written request by a Capital Provider in accordance with the Program Guidelines,
 311 the Program Manager, without any further action by the Board of Supervisors, shall join with the Capital
 312 Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien
 313 after the closing of the C-PACE Loan. The C-PACE Amendment must be recorded in the Clerk's Office.
- 314 (e) *Enforcement and collection costs.* In the event of Property Owner's default under the terms of the C-PACE
 315 Documents, the County may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees,
 316 penalties, interest, and any costs of collection in the same manner that a property tax lien against real
 317 property may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. If the County elects
 318 not to enforce the C-PACE Lien, which election shall be made within thirty (30) days of receipt by the County
 319 from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE
 320 Documents, then the County will, within fifteen (15) days of the County's determination not to enforce the
 321 C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE
 322 Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and delivering such
 323 instrument to the Capital Provider for recordation in the Land Records. The preceding sentence
 324 notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term
 325 of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in
 326 default. Upon such assignment and recordation, the Capital Provider is authorized to, and shall, enforce the
 327 C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien
 328 against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, including the
 329 institution of suit in the name of the County, and this right to enforce expressly includes authorization for the
 330 Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such
 331 enforcement. Such legal counsel, being authorized to institute suit in the name of the County, shall have the
 332 status of "Special Counsel to the County" and an "attorney employed by the governing body," and possess all
 333 the rights and powers of an attorney employed under Va. Code §§ 58.1-3966 and 58.1-3969, with the
 334 express authority to exercise for the benefit of the Capital Provider every power granted to a local
 335 government and/or its Treasurer and its or their attorneys for the enforcement of a property tax lien under,
 336 or in connection with, any provision contained in Title 58.1, Chapter 39, Article 4 of the Virginia Code. The
 337 County waives its right to require such legal counsel to post the optional bond described in Va. Code
 338 § 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late
 339 fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and
 340 consistent with the C-PACE Act and the Virginia Code, will (i) be added to the Delinquent Payments being
 341 collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan,
 342 and (iv) be secured by the C-PACE Lien. Nothing herein shall prevent the Capital Provider to which the
 343 C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE
 344 Documents, the C-PACE Act or general law. The Property Owner of a property being sold to pay Delinquent
 345 Payments, or other interested party, may redeem the property at any time prior to the property's sale, in
 346 accordance with Va. Code §§ 58.1-3974 and 58.1-3975.

347 **Section 127-2-4. Role of the County; Limitation of Liability.**

348 Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at
 349 their own risk. By executing the C-PACE Documents, including the C-PACE Program Agreement, or otherwise
 350 participating in the C-PACE Program and the Statewide Program, each Property Owner, Capital Provider,
 351 contractor or other party or participant hereby acknowledges and agrees, for the benefit of the County and as a
 352 condition of participation in the C-PACE Program and the Statewide Program, that: (i) the County does not
 353 undertake any obligations under the C-PACE Program and the Statewide Program except as expressly stated herein
 354 or in the C-PACE Program Agreement, and no implied covenants or obligations of the County exist; (ii) in the event
 355 of a default by a Property Owner, the County has no obligation to use County funds to make C-PACE Payments to
 356 any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to
 357 a Financing Agreement between the Property Owner and Capital Provider; (iii) no C-PACE Loan, C-PACE Lien,
 358 C-PACE Payments, or any other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter is
 359 backed by the credit of the County, the Commonwealth, or its political subdivisions, including without limitation

360 County taxes or other County funds; (iv) no C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising
361 from a C-PACE Document shall constitute an indebtedness of the County within the meaning of any constitutional
362 or statutory debt limitation or restriction; (v) the County has not made any representations or warranties, financial
363 or otherwise, concerning a Property Owner, Eligible Property, Capital Provider, Project, or C-PACE Loan; (vi) the
364 County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or
365 completeness of any C-PACE Document, or any assignment or amendment thereof; (vii) the County assumes no
366 responsibility or liability in regard to any Project, or the planning, construction or operation thereof; (viii) each
367 Property Owner or Capital Provider shall, upon request, provide the County with any information associated with a
368 Project or C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan satisfies the
369 requirements of the Program Guidelines; and (ix) each Property Owner, Capital Provider, or other C-PACE
370 participant in the Program shall comply with all applicable requirements of the Program Guidelines.

371 **Section 127-2-5. Severability.**

372 As provided by Section 1-1-11 of this Code, the provisions of this chapter are severable. If a court of
373 competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other
374 provision is invalid, or that the application of any part of the chapter or provision to any person or circumstance is
375 invalid, the remaining provisions of this chapter shall not be affected by that decision and continue in full force and
376 effect.

377
378 **2. That the provisions of the chapter are effective upon adoption.**

379
380 GIVEN under my hand this _____ day of _____, 2023

381
382
383 _____
384 Jill G. Cooper,
385 Clerk for the Board of Supervisors

**COMMERICAL PROPERTY ASSESSED
CLEAN ENERGY (C-PACE) FINANCING PROGRAM**

C-PACE PROGRAM AGREEMENT

THIS C-PACE PROGRAM AGREEMENT (the “Agreement”) is made and entered into as of the date it is fully executed (the “Effective Date”), by and among the **COUNTY OF FAIRFAX, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “County”); _____, a [*state of organization*] [*type of business entity*] (the “Property Owner”); and _____, a [*state of organization*] [*type of business entity*] (the “Capital Provider”), and their respective successors and assigns (collectively, the “Parties”).

RECITALS:

WHEREAS, §15.2-958.3 of the Virginia Code (the “C-PACE Act”), authorizes the creation of a statewide Commercial Property Assessed Clean Energy (“C-PACE”) Program (the “Statewide Program”), sponsored by Virginia Energy and managed by the Virginia PACE Authority, its selected program administrator (the “Program Administrator”), and authorizes Virginia localities to opt into the Statewide Program instead of establishing a stand-alone C-PACE Program for the locality; and

WHEREAS, the Statewide Program facilitates Capital Providers making C-PACE Loans to Property Owners to enable the Property Owners to make Eligible Improvements to Eligible Properties; and

WHEREAS, each C-PACE Loan is secured by a Property Owner’s voluntary grant of a C-PACE Lien on an Eligible Property to the locality in which the Eligible Property is located; and

WHEREAS, the County has determined to enable Property Owners to obtain C-PACE Loans for Eligible Improvements located on Eligible Properties in the County by causing the County to opt into the Statewide Program, adopting the Statewide Program as the County’s own C-PACE Program, and to implement such determination, the Board of Supervisors of the County has adopted Chapter 127 of the Code of the County (the “Ordinance”); and

WHEREAS, pursuant to the C-PACE Act, the Ordinance, a Locality Agreement between Virginia Energy and the County and the Program Guidelines, the Parties are required to enter into a written agreement specifying the terms and conditions for participating in the Statewide Program;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and to implement the purposes of the C-PACE Act and the Ordinance, the Parties hereby agree as follows:

Section 1 - Definitions.

Unless otherwise defined herein, capitalized terms in this Agreement shall have the meanings given them in the Ordinance.

Section 2 – Representations and Covenants.

(a) Property Owner represents and covenants that it is the fee simple record owner of the Eligible Property more particularly described in Exhibit A hereto (the “Property”).

(b) Property Owner represents and covenants that (i) it has applied to participate in the Statewide Program, (ii) the Program Administrator has given notice to the County of its approval of Property Owner’s application for C-PACE financing and (iii) desires to obtain a C-PACE Loan to construct or install certain Eligible Improvements on the Property.

(c) Property Owner represents and covenants that it has entered or will enter into a Financing Agreement with the Capital Provider that sets forth the terms of the C-PACE Loan. The Assessment Payment Schedule for the C-PACE Loan is set forth in Exhibit B hereto. Property Owner and Capital Provider acknowledge and agree that the Financing Agreement shall include only those costs and fees (including Program Fees) for which a C-PACE Lien may be imposed under the C-PACE Act and the Ordinance.

(d) The Parties acknowledge and agree that should Property Owner default on the C-PACE Loan, the County may enforce the C-PACE Lien for the benefit of Capital Provider according to the C-PACE Documents, the C-PACE Act, the Locality Agreement and the Ordinance. If the County determines not to enforce the C-PACE Lien, which determination shall be made within thirty (30) days of receipt by the County from the Capital Provider of notice of the Property Owner’s default under the terms of the C-PACE Documents, then the County shall, within fifteen (15) days of the County’s determination not to enforce the C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and deliver such instrument to the Capital Provider for recordation in the Land Records. The preceding sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term of the C-PACE Loan, including at the C-PACE Loan’s closing, regardless of whether the C-PACE Loan is then in default.

(e) Property Owner and Capital Provider confirm that they have obtained Lender Consents for each deed of trust or mortgage lien against the Property.

Section 3 – Program Terms and Conditions.

(a) C-PACE Loan. The Capital Provider will provide financing for the Property Owner’s Eligible Improvements in accordance with the C-PACE Documents.

(b) Program Fee(s): Property Owner agrees that Program Fee(s) will be [paid directly by Property Owner to the Program Administrator][deducted from C-PACE Loan proceeds at funding and remitted by Capital Provider to the Program Administrator][deducted from C-PACE Payments and remitted by Capital Provider to the Program Administrator] in accordance with the C-PACE Documents and the Program Guidelines and in the amount of \$_____, as follows:

(c) Imposition of C-PACE Lien. In consideration for the C-PACE Loan provided to Property Owner under the Program, Property Owner hereby requests and authorizes the County to levy a C-PACE Lien against the Property in the Loan Amount, together with all interest, delinquent interest, late fees, other types of fees, penalties and collection costs (including attorneys' fees and costs) payable in connection therewith. To evidence the C-PACE Lien, Property Owner requests that the County execute a C-PACE Lien Certificate that will be recorded in the Land Records of the County, which C-PACE Lien Certificate shall state that it secures both the Loan Amount and also all interest, delinquent interest, late fees, other types of fees, penalties, Program Fees and collection costs (including attorneys' fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule shall be attached thereto as an exhibit.

(d) C-PACE Payments. The C-PACE Loan is due and payable to the Capital Provider [or the County for the benefit of the Capital Provider] as set forth in the Assessment Payment Schedule and remitted as follows: _____

_____.

Once the C-PACE Loan, including all accrued interest (both current and delinquent), late fees, other types of fees, penalties, collection costs and Program Fees, has been satisfied and paid in full, Capital Provider and the County, acting at the request and direction of Capital Provider (which shall certify such payment in full to the County), shall execute a joint release of the C-PACE Lien Certificate, and the Capital Provider shall record the release in the Land Records and deliver a copy of the recorded release to Property Owner and the County.

(e) Remittance of C-PACE Payments to Capital Provider: The C-PACE Loan shall be serviced by the Capital Provider, and Property Owner's C-PACE Payments shall be paid directly to its Capital Provider. The foregoing notwithstanding, if for any reason Property Owner's C-PACE Payments are payable to the Program Administrator or the County, then the party receiving such C-PACE Payments shall remit all such payments to the Capital Provider within thirty (30) days of receipt, subject, if applicable, to the deduction and remittance of the Program Fees to the Program Administrator as set forth in Section 3(b), above, the C-PACE Documents and the Program Guidelines.

(f) Maintenance of Assessment. The County agrees to maintain and continue the C-PACE Lien on the Property for the benefit of Capital Provider until the C-PACE Loan, including all principal, interest, fees, other types of fees, penalties, collection costs and Program Fees and other sums due, is paid in full.

(g) Assignment. Capital Provider shall have the right to assign the C-PACE Loan and C-PACE Lien to a successor Capital Provider by the execution, delivery and recordation of a C-PACE Assignment (CP) in the Land Records, provided all of the following conditions are met:

- (1) The C-PACE Assignment (CP) is made pursuant to the requirements of the Ordinance and the Program Guidelines;

- (2) The Program Administrator and Property Owner are notified in writing of the assignment or transfer and provided the address where future C-PACE Payments should be mailed, either at closing, if the assignment occurs then, or at least thirty (30) days before the next Payment is due according to the Assessment Payment Schedule; and
- (3) The assignee or transferee, by operation of the C-PACE Assignment (CP) or otherwise, assumes Capital Provider's obligations under the C-PACE Documents.
- (4) If for any reason C-PACE Payments are being paid to the County, neither of them shall be obligated to remit C-PACE Payments to a new Capital Provider to which the C-PACE Loan is being assigned until a recorded copy of the C-PACE Assignment (CP) has been provided to the County at the following addresses:

Office of Environmental and Energy Coordination
C/O: C-PACE Program Manager
12000 Government Center Pkwy.
Suite 533
Fairfax, VA 22035

Department of Tax Administration
C/O: Revenue Collection Division Director
12000 Government Center Pkwy.
Suite 223
Fairfax, VA 22035

Upon written notice to the Program Administrator and Property Owner of an assignment or transfer of the right to receive the C-PACE Payments that meets all of these conditions, the assignor shall be released of all of the obligations of the Capital Provider under the C-PACE Documents accruing after the date of the assignment. Any attempt to assign or transfer the C-PACE Loan or C-PACE Lien that does not meet all of these conditions is void.

(h) Lien Priority and Enforcement. Pursuant to the C-PACE Act, the Ordinance and the Program Guidelines:

- (1) Delinquent Payments on the C-PACE Loan will incur interest and penalties as set forth in the C-PACE Documents.
- (2) The C-PACE Lien, together with any penalties and interest thereon:
 - (i) has the same priority status as a lien for County real estate taxes;
 - (ii) has superior lien status to all subordinated liens against the Property from the date on which the C-PACE Lien Certificate is filed in the Land Records until the financing secured by the C-PACE Lien and

any penalties and interest are paid in full;

- (iii) shall run with the land, and notwithstanding Va. Code Sec. 58.1-3967, any portion of the C-PACE Lien that has not yet become due under the C-PACE Documents is not eliminated by the foreclosure of: (i) a County property tax lien, or (ii) the lien for any past due portion of the C-PACE Loan.
- (iv) In the event of a sale or transfer of the Property by Property Owner, the obligation for the C-PACE Lien and Property Owner's obligations under the C-PACE Documents will be assumed by and transferred to the succeeding owner.

(3) In the event of Property Owner's default under the terms of the C-PACE Documents, the County may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and any costs of collection in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. Capital Provider agrees to cooperate with the County and its Treasurer in its enforcement of the C-PACE Lien by providing all necessary documents and information concerning the delinquent C-PACE Loan as requested by the County Attorney's Office. If the County determines not to enforce the C-PACE Lien itself, which determination shall be made within thirty (30) days of receipt by the County from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE Documents, then the County shall, within fifteen (15) days of the County's determination not to enforce the C-PACE lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and deliver such instrument to the Capital Provider for recordation in the Land Records. The preceding sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in default. Upon such assignment and recordation, the Capital Provider is authorized to, and shall, enforce the C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, including the institution of suit in the name of the County and this right to enforce expressly includes authorization for the Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such enforcement. Such legal counsel, being authorized to institute suit in the name of the County shall have the status of "Special Counsel to the County" and an "attorney employed by the governing body," and possess all the rights and powers of an attorney employed under Va. Code Secs. 58.1-3966 and 58.1-3969, with the express authority to exercise for the benefit of the Capital Provider every power granted to a local government or its Treasurer and its or their attorneys for the enforcement of a property tax lien under, or in connection with, any provision contained in

Title 58.1, Chapter 39, Article 4 of the Virginia Code. The County waives its right to require such legal counsel to post the optional bond described in Va. Code Sec. 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and consistent with the C-PACE Act and the Virginia Code, shall (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein shall prevent the Capital Provider to which the C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act or general law. The Property Owner of a Property being sold to pay Delinquent Payments, or other interested party, may redeem the Property at any time prior to the Property's sale, in accordance with Va. Code Secs. 58.1-3974 and 58.1-3975.

(4) In a bill in equity for sale of a Property to collect Delinquent Payments, the County will be entitled to recover the Delinquent Payments, late fees, other types of fees, penalties, Program Fees, interest due, and the costs and expenses of collection, including attorney's fees and costs, all as set forth in the C-PACE Documents.

(i) Property Owner's Waiver of Certain Defenses; Confession of Judgment: By executing this Agreement, Property Owner acknowledges and agrees as follows:

- (1) After the C-PACE Lien Certificate is recorded, Property Owner waives the right to contest the Lien on the basis that the improvements funded with the C-PACE Loan are not Eligible Improvements;
- (2) Property Owner waives all defenses, affirmative or otherwise, to any enforcement or collection action brought as a result of Property Owner's default in the payment of the C-PACE Payments due pursuant to the C-PACE Documents;
- (3) To the extent permitted by the Financing Agreement, Property Owner waives all defenses to the imposition of personal liability for corporate officers as permitted under Section 58.1-3965(F) of the Virginia Code;
- (4) Property Owner shall provide a confession of judgment if requested by the Capital Provider.

(j) Written Contract Required by the C-PACE Act and Ordinance. This C-PACE Program Agreement constitutes the written contract specifying the terms and conditions for C-PACE Program participation as required by §15.2-958.3(B)(7) of the C-PACE Act.

(k) Transfer of C-PACE Funded Improvements. Property Owner agrees that all Improvements purchased, constructed, or installed through financing obtained pursuant to the C-PACE Program shall be permanently affixed to the Property and will transfer with the Property to

the transferee in the event of and sale or assignment of the Property; provided, however, that if Improvements become obsolete or the Property Owner otherwise determines they need to be replaced with other Improvements of equal or greater value, such Improvements may be removed and other Improvements of equal or greater value installed.

(l) No Cost to County. No provision of this Agreement requires the County to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

(m) Term of the Agreement. The term of this Agreement shall commence upon the Effective Date and shall be in full force and effect until the C-PACE Loan has been irrevocably paid in full.

Section 4 - Indemnification.

Without limiting any other obligation or liability of the Property Owner, or any right or remedy of the Capital Provider or the County, Property Owner agrees to indemnify and hold harmless the Capital Provider and the County, its supervisors, directors, officers, employees, agents, subsidiaries, and affiliates (each, an “Indemnified Party”), from and against all damages, losses, settlement payments, obligations, liabilities, claims, suits, penalties, assessments, citations, directives, demands, judgments, actions or causes of action, whether created by statute or common law, including all costs and expenses, including attorneys’ fees, arising from or associated with this C-PACE Loan transaction. This section shall survive the expiration of the Term of this Agreement.

Section 5 - Miscellaneous Provisions.

(a) Construction. This Agreement is to be construed in accordance with and with reference to the C-PACE Act, the Ordinance, the Locality Agreement and the Program Guidelines.

(b) Further Assurances. Property Owner further covenants and agrees to do, execute and deliver, or cause to be done, executed and delivered all such further acts for implementing the intention of this Agreement as may be reasonably necessary or required.

(c) Severability. If the C-PACE Act, the Ordinance, the Locality Agreement or any clause, provision, or section of this Agreement, is challenged and held by a court of competent jurisdiction to be unenforceable by the County or Capital Provider, Property Owner agrees to continue to make the C-PACE Payments required under the C-PACE Documents and agrees to execute any and all documentation to perfect and enforce the C-PACE Loan as required by the County or Capital Provider. The invalidity of any clause, provision, or section of this Agreement shall not affect any remaining clauses, provisions, or sections of this Agreement, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision, or section had not been included herein.

(d) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one

and the same instrument. Electronically transmitted and digitally signed signatures shall have the same force and effect as, and shall be treated as, a “wet ink” original signature.

(e) Notices. All notices, requests, consents and other communications (collectively, “Notices”) shall be in writing and shall be delivered, mailed by first class mail, postage prepaid, or overnight delivery service, to the Parties, as follows:

If to the County:

Office of Environmental and Energy Coordination
C/O: C-PACE Program Manager
12000 Government Center Pkwy.
Suite 533
Fairfax, VA 22035

Department of Tax Administration
C/O: Revenue Collection Division Director
12000 Government Center Pkwy.
Suite 223
Fairfax, VA 22035

If to the Property Owner:

[Address]

If to the Capital Provider:

[Address]

If to the Program Administrator:

[Address]

Notice by e-mail under this paragraph is only permitted if each party listed above has furnished its respective e-mail address as part of its notice address above. By doing so, each such party agrees, for itself and its successors and assigns, to supply to each of the other Parties any replacement e-mail address within two (2) business days of its adoption, by a permitted means other than e-mail. All Notices are effective when received.

(f) Amendment and Waivers. Except as otherwise set forth in this Agreement, any amendment to or waiver of any provision of this Agreement must be in writing and mutually agreed by the Parties.

(g) Applicable Law and Venue. This Agreement and its provisions shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. In any action, in equity or at law, with respect to the enforcement or interpretation of this Agreement, venue shall

be in the County.

(h) Successors and Assigns. This Agreement is binding upon and made for the benefit of the Property Owner, the Capital Provider, the County, and their respective successors and permitted assigns.

(i) Entire Agreement. This instrument constitutes the entire agreement between the Parties and supersedes all previous discussions, understandings and agreements between the Parties relating to the subject matter of this Agreement.

(j) Headings. The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the County, the Property Owner and the Capital Provider have each caused this Agreement to be executed on the date(s) entered below:

COUNTY OF FAIRFAX, VIRGINIA

By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES CONTINUE ON NEXT PAGE]

[PROPERTY OWNER'S SIGNATURE PAGE TO C-PACE PROGRAM AGREEMENT]

PROPERTY OWNER:

[insert Property Owner's name]

By: _____
Name: _____
Title: _____
Date: _____

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES CONTINUE ON NEXT PAGE]

[CAPITAL PROVIDER'S SIGNATURE PAGE TO C-PACE PROGRAM AGREEMENT]

CAPITAL PROVIDER:

[insert Capital Provider's name]

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Property Description

Exhibit B
Assessment Payment Schedule

(100508678.8)

**VIRGINIA ENERGY – LOCALITY
COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AGREEMENT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, between the County of Fairfax, Virginia, a political subdivision of the Commonwealth of Virginia (the “Locality”), and the Virginia Department of Energy (“Virginia Energy”), a public agency of the Commonwealth of Virginia.

RECITALS

1. Pursuant to § 15.2-958.3. of the Code of Virginia, entitled “Financing clean energy, resiliency, and stormwater management programs” (“C-PACE Act”), Locality has exercised its right to authorize contracts to provide C-PACE loans through the adoption of a C-PACE ordinance (“Ordinance”), attached hereto as Exhibit 1.
2. Pursuant to the C-PACE Act and Ordinance, Locality has agreed to opt into the statewide C-PACE loan program sponsored by Virginia Energy (“Virginia C-PACE Program”) and administered by a competitively selected private program administrator (“Program Administrator”). The current Program Administrator and its contact information are set forth on Exhibit 2 attached hereto.
3. The Virginia C-PACE Program provides the Locality with a uniform process for the application, approval, closing and servicing of C-PACE loans and with outreach and training support to promote the program to property owners. A Locality participating in the Virginia C-PACE Program agrees to adopt the set of legal and administrative documents and to abide by the requirements of the statewide C-PACE Program Guidelines (“Program Guidelines”) attached hereto as Exhibit 3.

NOW THEREFORE, to implement the local C-PACE Ordinance, the Locality hereby opts into the Virginia C-PACE Program sponsored by Virginia Energy and managed and operated by Virginia Energy’s Program Administrator, on the terms set forth hereinbelow and in accordance with the program design detailed in the Program Guidelines.

ARTICLE 1

(a) Term. The term of this Agreement shall commence upon the date the last party executes the Agreement. This Agreement shall remain in full force and effect until either Virginia Energy terminates the Virginia C-PACE Program or the Locality opts out of the Virginia C-PACE Program. Either party may terminate this Agreement at any time upon ninety (90) days’ advance written notice to the other party, provided that the collection of C-PACE Lien payments for C-PACE loans made prior to the termination date shall continue until all C-PACE Lien payments (including the interest, penalties, and fees thereon) have been collected and all such C-PACE loans have been paid in full.

(b) Servicing of C-PACE Loans. C-PACE Loans shall be serviced by their respective capital provider, in accordance with the Ordinance and the Program Guidelines.

(c) Enforcement of C-PACE Liens. The Locality has agreed to **decide whether to enforce or delegate on a project-by-project basis** in accordance with the C-PACE Act, the obligations of which are described in the Ordinance and the Program Guidelines.

(d) Cooperation in Operating C-PACE Program. The Locality shall cooperate with the Program Administrator in the latter's operation of the C-PACE Program in the Locality. This cooperation shall include, but not be limited to the Locality:

(i) designating (A) an employee of the Locality to serve as Program Manager, and if the Program Manager wishes to delegate some or all of the duties assigned to the Program Manager, identifying the Program Manager's designee and promptly communicating the contact information for the Program Manager and any designee to the Program Administrator and (B) which employee(s) of the Locality will sign documents requiring the Locality's signature for C-PACE Loan closings;

(ii) complying with the review and other periods of time prescribed for the Locality to take a required action specified in the Program Guidelines;

(iii) taking reasonable steps to procure the timely participation of the Locality's Treasurer (or comparable official if the Locality has abolished the office of Treasurer or the Locality's Treasurer is not responsible for the collection of real property taxes) in the processes and procedures described in the Program Guidelines and the Ordinance as involving the Treasurer, it being understood that such processes and procedures are based on the collection of C-PACE Payments in the same manner as real property taxes; and

(iv) in the discretion of the Locality, providing reasonable assistance in jointly promoting the Locality's C-PACE Program to lenders, contractors and businesses located in, or considering locating in, the Locality.

ARTICLE 2

MISCELLANEOUS PROVISIONS

(a) Model Ordinance. The Locality represents and warrants to Virginia Energy and its Program Administrator that the Ordinance substantially conforms to model ordinance adopted by the Program Administrator for use in the Virginia C-PACE Program and furnished to the Locality.

(b) Non-Assignability. The Locality may not assign or transfer its rights or obligations under this Agreement without prior written consent of Virginia Energy; provided, however, that this paragraph shall not be construed to apply to, or restrict, the assignment of C-PACE Liens in accordance with the Locality's Ordinance and related C-PACE Documents.

(c) Locality Acknowledgments. The Locality acknowledges and agrees that: (i) Virginia Energy has employed the Program Administrator to carry out Virginia Energy's

obligations under this Agreement and the Virginia C-PACE Program generally; (ii) if Virginia Energy replaces the Program Administrator listed on Exhibit 2, then the successor Program Administrator will succeed to the rights, duties and obligations of the Program Administrator, except to the extent specified in Virginia Energy's agreements with such Program Administrators; (iii) for purposes of this Agreement and the Locality's C-PACE program, the Program Administrator shall speak and act for Virginia Energy and that any notices required under the terms of this Agreement to be sent to Virginia Energy shall also be sent to the Program Administrator; (iv) the Program Administrator is made a third party beneficiary of this Agreement, and by accepting the benefits of such status, shall be deemed to have covenanted with the Locality to adhere to and comply with its obligations under the Program Guidelines in administering the Locality's C-PACE Program; and (v) the Program Administrator is entitled to be paid by Property Owners (the Locality having no liability therefor) the Program Fees set forth from time in the Program Guidelines.

(d) Non-waiver; Amendment. Any waiver of any provision of this Agreement must be in writing and mutually agreed to by Virginia Energy and the Locality. Except for a specific provision of this Agreement which is amended, this Agreement shall remain in full force and effect after such amendment and is subject to the same laws, obligations, conditions, provisions, rules, and regulations as it was before the amendment.

(e) Severability. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

(f) Counterparts; Scanned and Digital Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument. Scanned signatures (e.g., a "PDF" document) and digital signatures (e.g., DocuSign) shall have the same force, effect and validity as an original signature.

(g) Notices. All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by first class mail, postage prepaid, hand delivered, or overnight delivery service, to the parties, as follows:

If to the Locality:

Office of Environmental and Energy Coordination
C/O: C-PACE Program Manager
12000 Government Center Pkwy.
Suite 533
Fairfax, VA 22035

Department of Tax Administration
C/O: Revenue Collection Division Director
12000 Government Center Pkwy.
Suite 223

Fairfax, VA 22035

If to Virginia Energy:

817 Washington Building
1100 Bank Street
Richmond, Virginia 23219
Attention: Energy Efficiency and Financing Programs Manager

With a copy to the Program Administrator at the address on Exhibit 2.

Any party may change its notice address by providing the new notice address to the other parties in accordance with this paragraph (g).

(h) Jurisdiction and Venue. This Agreement shall be construed, interpreted, and enforced according to the laws of the Commonwealth of Virginia. Any claim brought in connection with this Agreement must be brought in the Circuit Court of the City of Richmond and the parties consent to its jurisdiction.

(i) Definitions and Captions. Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Ordinance attached hereto in Exhibit A. The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement, and do not affect its meaning or construction.

(j) Integration. This Agreement constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement.

(j) No Joint Venture, etc. Nothing in this Agreement, and no act of the Locality, Virginia Energy or the Program Administrator, shall be deemed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any other relationship between the Locality and Virginia Energy.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the Locality and Virginia Energy have each caused this Agreement to be executed and delivered as of the date set forth above:

**COUNTY OF FAIRFAX,
VIRGINIA**

By: _____
Name: _____
Title : _____
Date: _____

*[Remainder of the page intentionally left blank;
Signature pages continue]*

[VIRGINIA ENERGY – LOCALITY AGREEMENT
SIGNATURE PAGE FOR VIRGINIA DEPARTMENT OF ENERGY]

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENERGY**

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT 1

COPY OF LOCALITY ORDINANCE

(See attached)

EXHIBIT 2

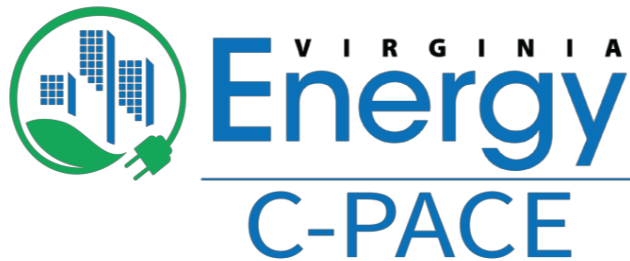
NAME AND ADDRESS OF PROGRAM ADMINISTRATOR

Virginia PACE Authority
Gather Newport News
700 Tech Center Pkwy., Ste. 200
Newport News, VA 23606
Attention: Abigail C. Johnson, Executive Director
Tel: 415-307-7777
abby@virginiapace.com

EXHIBIT 3
PROGRAM GUIDE
(See attached)

(100508661.7)

September 2022



VIRGINIA C-PACE PROGRAM GUIDELINES

Virginia's C-PACE Program (VA C-PACE) is sponsored by the Virginia Department of Energy and administered by the Virginia PACE Authority

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Note for Reader

All capitalized terms used in these **VA C-PACE Program Guidelines** that are not specifically defined shall have the meanings set forth in Appendix A (Glossary of Terms) of these Program Guidelines. All Glossary terms are bolded when first referenced in these **Program Guidelines**.

Executive Summary

The **Virginia C-PACE Program** or **VA C-PACE** is offered through the Virginia Department of Energy (“**VE**” and “**Sponsor**”) and its program administrator, **Virginia PACE Authority** (“**VPA**” and “**Program Administrator**”). The VA C-PACE Program provides a range of services to local governments looking to establish C-PACE in their jurisdiction as well as assists property owners in using C-PACE to upgrade their buildings. The VA C-PACE Program is a public private partnership between local governments, private property owners and private capital providers. The rules, regulations, and guidance of the VA C-PACE Program are established through these VA C-PACE Program Guidelines.

Background on Commercial Property Assessed Clean Energy (C-PACE) Financing

C-PACE financing is an innovative loan program that provides private building owners a low-cost way to install a wide range of sustainable and cost-efficient measures to both new and existing commercial buildings (“**Eligible Property**”). The loan (“**C-PACE Loan**”) is privately financed and secured as a special assessment lien (“**C-PACE Lien**” or “**Lien**”) with the equivalent senior lien status of a real property tax assessment and enforced by the local government. This hybrid loan structure allows for loan terms that would otherwise be unavailable to many property owners.

C-PACE was developed as a financing mechanism to facilitate clean energy and resiliency property upgrades. The principal underlying concept of C-PACE is that these improvements have a public benefit, like a sewer or road extension, and therefore can be secured and repaid in the same manner as other government-secured liens.

C-PACE in Virginia

Through the C-PACE Act (§15.2-958.3 of the Code of Virginia), Virginia local governments are authorized to create C-PACE programs through adoption of an ordinance (“**Ordinance**”) and opt into a statewide C-PACE financing program sponsored by the Virginia Department of Energy (“**VA C-PACE Program** or **VA C-PACE**”) for which VPA is the **C-PACE Program Administrator**.

In Virginia, a C-PACE Loan can finance a wide variety of **Projects** on energy efficiency, water efficiency, renewable energy, resiliency, and environmental remediation (“**Eligible Improvements**”) for private existing buildings and new developments. A C-PACE Loan is secured by a voluntary special assessment on the Eligible Property. Like property taxes, C-PACE Loans transfer to the next property owner if the Eligible Property is sold during the term of the C-PACE Loan. The remaining balance of the C-PACE Loan is repaid by the subsequent property owners, who continue to receive the benefits of the Eligible Improvements. Moreover, any current or past due **C-PACE Payments** can be collected each year while future C-PACE Payments stay with the property in the event of sale or default. For private lenders, C-PACE Loans provide greater security than conventional loans because payments are tied to the Eligible Property, thus enabling low interest capital to be raised from the private capital markets with no government financing required.

Property Owners benefit from long, fixed rate terms that are based on the useful life of a single improvement or the weighted average life of multiple installed improvements. Long-term C-PACE Loans lead directly to major property upgrades such as:

- Energy-efficient boilers
- Upgraded insulation
- Flood mitigation
- Solar installations

The Term for a C-PACE Loan may not exceed the **Weighted Average Expected Useful Life** of the Eligible Improvements or Expected Useful Life (EUL) of a single Improvement. Examples of benefits from a C-PACE Loan include improved business cash flow due to lower energy and water costs, a reduction in costs related to business interruption and storm/flood damage, less required owner equity, an increase in the value of the improved Eligible Property, and achievement of sustainability or environmental, social and governance (ESG) goals.

The C-PACE Loan process requires that a **Property Owner** develop Eligible Improvements with a **Registered Contractor** and arrange project financing with a qualified C-PACE Capital Provider ("**Capital Provider**"). Eligible Improvements include: energy efficiency, water efficiency and safe drinking water, renewable energy, resiliency, stormwater management, electric vehicle infrastructure, and environmental remediation. The Property Owner and/or Capital Provider then applies online through the project center to qualify the Eligible Improvements for a C-PACE Loan according to the criteria in the Guidelines. If the Project is approved, the jurisdiction ("**Locality**"), Property Owner, and Capital Provider enter into an agreement known as the **C-PACE Program Agreement** that memorializes the obligations of the parties. The Property Owner and Capital Provider will also execute a separate **Financing Agreement** that defines the terms and conditions of the C-PACE Loan. Transactional documents can be found in Appendix E: Program Documents.

The Program relies on private financial institutions to provide capital to fund C-PACE Loans. The Program is open to any Capital Provider interested in participating. Interested financial institutions should contact the C-PACE Program Administrator to become qualified Capital Providers.

1.0 Purpose of Program Guidelines

The purpose of the Program Guidelines is to establish and describe the rules governing the VA C-PACE program.

In this document you can find information about:

- Statutory and programmatic eligibility requirements for Eligible Properties in Virginia
- List of participating localities in VA C-PACE

- Approval, closing, recording, and servicing process of C-PACE Loans
- Process to become a Registered Contractor or Capital Provider
- Common Eligible Improvements
- VA C-PACE Checklist
- Links for all required documentations

2.0 Program Administration

The VA C-PACE Program is sponsored by the Virginia Department of Energy and administered by Virginia PACE Authority. VA C-PACE is a turnkey, open-market C-PACE program offered statewide available at no cost to localities that choose to participate. A major benefit to having a program offered statewide is that it allows localities, property owners, contractors, and lenders that are participants in the C-PACE market to adhere to a standardized set of rules across locality lines that enables scale and lower administrative costs. Participating localities in the VA C-PACE Program have passed an Ordinance and opted into VA C-PACE through entering an agreement with VE.

2.1 Virginia Energy

VA C-PACE is sponsored by Virginia Energy (VE), a Department within the Commonwealth of Virginia's state government and formally known as the Department of Mines, Minerals, and Energy. The mission of VE is to advance the adoption of clean energy solutions along with energy efficiency products, services, and technologies.

2.2 Virginia PACE Authority

Through a competitive procurement process, VE selected the Virginia PACE Authority (VPA) to administer the Program. VPA, a nonprofit 501(c)(3) organization whose mission is to educate, promote, and facilitate clean energy and resilient solutions through the administration of C-PACE financing programs in the Commonwealth. As the administrator for the VA C-PACE Program, VPA ensures that Improvements are eligible for a C-PACE Loan under the C-PACE Act, the local Ordinances, and these Guidelines and submits each C-PACE Project to the Locality for final approval.

VPA works with Virginia localities to:

- Pass enabling legislation for C-PACE financing
- Intake, review, and approve applications
- Facilitate closing of C-PACE Loans
- Register, qualify and train contractors and capital providers
- Provide marketing, outreach, and education on the Program
- Facilitate billing, collections, and remittance of C-PACE Payments, if required

VPA is supported by Slipstream in the application submittal, review, and approval process. Slipstream is a 501(c)(3) nonprofit organization providing program administration services in a number of states.

2.3 Contact information

Website: www.virginiapace.org
 Email: info@virginiapace.org
 Phone: 757-603-3555

2.4 Key Billing and Collection Dates

The Capital Provider will be responsible for billing and collecting the C-PACE Payments from Property Owners over the Loan Term known as Servicing described in Section 7. Often, Capital Providers prefer to align Servicing with the real property tax cycle. Although billing and collection due dates can vary, typically, real property tax due dates are in June or July and in December, collected on an annual or semi-annual basis.

2.5 Key Responsibilities by Stakeholder

Property Owner

- Provide all information in the VA C-PACE Checklist (See Appendix D: VA C-PACE Checklist) to the Program Administrator including signing/executing the following:
 - Execute the C-PACE Program Agreement and **C-PACE Lien Certificate** with the Capital Provider and the Locality
 - Execute the Financing Agreement with the Capital Provider
 - Sign the **Final Application**
 - Sign the **Project Information Request**
 - Sign the **Capital Provider & VPA Disclosures and Risks**
 - Sign the **Property Owner Affidavit**
 - Sign the **C-PACE Program Completion Certificate** when the Project is complete

Capital Provider

- Assist Property Owner in gathering information in VA C-PACE Checklist and execute the following documents:
 - Execute the **Capital Provider-VPA Agreement** with VPA once for the VA C-PACE Program
 - Execute the C-PACE Program Agreement with the Property Owner and the applicable Locality for each transaction
 - Execute the C-PACE Lien Certificate with the Property Owner and the applicable Locality for each transaction
 - Service the C-PACE loan
 - Execute a Financing Agreement with the Property Owner

Locality

- Adopt enabling Ordinance to join the VA C-PACE Program or amend existing Ordinance that complies with the VA C-PACE Program
- Execute the **Virginia Energy-Locality C-PACE Agreement**
- Execute the C-PACE Program Agreement and the C-PACE Lien Certificate for each transaction with the Property Owner and the Capital Provider
- At its discretion, collaborate with VPA and VE in promotion of C-PACE

VE (Sponsor)

- Execute the Virginia Energy-Locality C-PACE Agreement with Localities
- Liaison with Localities for onboarding and strategic outreach and execute the following documents:

VPA (Program Administrator)

- Execute the Capital Provider-VPA Agreement with Capital Providers once for the VA C-PACE Program
- Provide all key program administration functions listed under Section 2.2 including:
 - Liaison with Localities to work to pass enabling ordinances and onboarding Localities
 - Collaborate with Localities on economic development opportunities
 - Intake, review, and approve C-PACE Loan applications
 - Facilitate closing of C-PACE Loans
 - Register and train contractors and capital providers
 - Provide marketing, outreach, and education on the Program to stakeholders
 - Service the C-PACE Loans including facilitate billing, collections, and remittance of C-PACE Loan Payments (only if a Capital Provider will not service a C-PACE Loan)

Please note that the above referenced documents including **Programmatic** and **Transactional Documents** are found in [Appendix E: VA C-PACE Program Documents](#).

3.0 Eligibility Requirements

3.1 State Statutory Requirements

The Virginia C-PACE statute requires that interested localities pass enabling legislation to enable C-PACE in their jurisdiction. Full text for the legislation is here:

<https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-958.3/>

3.2 Local Statutory Requirements

Localities must pass an Ordinance substantially similar to a form of the **C-PACE Program Model Ordinance** (See [Appendix E: VA C-PACE Program Documents](#)) to implement the VA C-PACE Program. To be eligible to participate in the Program, a locality must also execute the Virginia C-PACE-Locality

C-PACE Agreement with Virginia Energy. Once a participating jurisdiction, VPA will be responsible for ensuring that all C-PACE applications meet the local statutory requirements for project eligibility as set forth in an Ordinance.

3.3 Eligible Property

3.3.1 Property Types

C-PACE Financing is available to all types of commercial properties that meet the definitions as defined in § 15.2-958.3. Eligible property types include, but are not limited to: office, industrial, retail, multifamily properties with more than four single family dwelling units, hospitality, healthcare, agricultural and other specialty commercial uses. Properties such as nonprofits that are otherwise exempt from real estate taxation are eligible to participate, as long as they have a real estate assessment. Common areas of real estate owned by a cooperative or a property owners' association described in Subtitle IV (§ 55.1-1800 et seq.) of Title 55.1 that have a separate real property tax identification number are eligible. Commercial condominiums are eligible for a C-PACE Loan.

The Program does not authorize the placement of C-PACE Liens on a property owned by a local, state, or federal government.

3.3.2 Property Location

To be eligible, the property to be improved must be assessable **Real Property** located within the territorial limits of the Locality and must have a property tax or assessment identification number. Assessable real property includes both currently improved (with a building or structure) and unimproved real property.

3.3.3 Multiple Parcels

Properties with multiple tax maps or parcel identification numbers are eligible if all the lots, blocks, tracts, and parcels of land are located within an area enabled in the VA C-PACE Program. If a Project extends across multiple parcels, the Lien will be apportioned across those parcels according to square footage. The following application materials must be submitted separately for each parcel:

- Tax history
- Title report or commitment if a single title report or commitment is not able to clarify property history for each parcel
- Any other application document if the property addresses or owners differ per parcel

The Program Administrator reserves the right to deny applications for properties with multiple parcel identification numbers if any of the parcels is ineligible to participate in the Program.

3.4 Eligible Improvements

3.4.1 Construction Status

C-PACE Loans are available for improvements to both existing buildings, adaptive reuse, and new construction projects.

3.4.2 Real Property

Eligible Improvements must be permanently affixed to the Real Property and remain permanently affixed to the Real Property per the terms and conditions of the Financing Agreement.

3.4.3 Loan Underwriting Parameters

VA C-PACE has established general loan underwriting parameters for the Program. Any deviations from these parameters for local programs which have not yet joined the state are delineated in the VA C-PACE Locality Matrix ([See Appendix F: Supplemental information](#)). This matrix will be updated on an ongoing basis as Localities opt into the VA C-PACE Program.

3.4.3.1 C-PACE Loan Amount

A C-PACE Loan must be equal to or less than the amount of the **Eligible Project Costs**.

3.4.3.2 C-PACE Loan Amount Thresholds

There is no minimum or maximum loan amount per the state statute. The minimum C-PACE Loan amount established by the Program is \$50,000 with no maximum threshold other than stipulated under 3.4.3.3 below.

3.4.3.3 C-PACE Loan to Value Thresholds

The C-PACE Loan Amount, when combined with existing mortgage and other lien obligations, shall not exceed a 100% combined loan-to-value (CLTV) ratio to the assessed or market value of the Property, whichever is greater. Exceptions to CLTV limits shall be considered on a case-by-case basis by the Program Administrator. There is no maximum C-PACE only loan-to-value ratio requirement.

3.4.3.4 Determination of Value

The Property value must be determined for both taxable and tax-exempt properties. Determination of property value is a requirement of the Program Administrator and typically a requirement of the Capital Provider. There are four ways to calculate value of a property acceptable by the Program Administrator:

1. Assessed value as determined by the **Land Records**
2. Appraisal prepared by an independent real estate appraisal firm within 18 months of submission of the Final Application unless exception is granted by the Program Administrator
3. Automate Valuation Method
4. Insurance value (typically used for smaller projects)

Supporting documentation should be provided for all four valuation methods.

3.4.3.5 Project Term

C-PACE Loan Terms must not exceed the Weighted Average EUL of the proposed Eligible Improvements or the EUL of a single Eligible Improvement as described in [Section 4: Project Analysis Process and Requirements](#). For the purposes of this calculation, Eligible Improvements that have a useful life that is difficult to determine according to standard professional methods by the Technical Reviewer will be assumed to have a useful life of 20 years. For the purposes of this calculation, the Weighted Average EUL for all Eligible Improvements will be capped at 35 years with exceptions made on a case-by-case basis.

The Term of the C-PACE Loan begins upon receipt of the Certificate of Occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the Locality.

3.4.3.6 Interest Rates

Both fixed-rate and fixed rates adjusted at periodic intervals are eligible in the Program.

3.4.3.7 Capitalized Interest Periods

C-PACE Loans may be structured to include up to 36 months of capitalized interest payments. Exceptions to this limit will be considered on a case-by-case basis and at the discretion of the Program Administrator.

3.4.3.8 Interest Only Periods

There is no limit on Interest only periods set by the Program Administrator.

3.4.3.9 Loan Amortization

C-PACE Loans must be fully amortized at maturity.

3.4.4 Retroactive C-PACE

Completed installations of certain C-PACE Improvements are eligible for refinancing using C-PACE. Retroactive C-PACE are C-PACE Loans that close after the Property Owner completes the installation of the Eligible Improvements. Retroactive C-PACE must occur within 24 months of the time elapsed between the completion of the installation and approval of the application for a C-PACE Loan. Retroactive C-PACE Projects must satisfy the same requirements as other C-PACE Projects in terms of eligibility in most cases. See [4.4 Retroactive C-PACE](#) for more details.

3.4.5 Lender Consent

To receive a C-PACE Loan, the Property Owner must obtain written **Lender Consent** of the C-PACE Loan by the holder of each mortgage or deed of trust lien on the Property prior to **Final Approval** by the Program Administrator. See [Section 8.0 Lender Consent](#) for more detail.

3.5 Eligible Project Costs

Eligible Projects Costs or **Project Costs** include all **Hard Costs, Ancillary Costs**; and **s**. Costs to acquire an Eligible Property are not Eligible Project Costs.

3.5.1 Hard Costs

All direct installation/construction contract costs (materials, labor, and overhead) associated with the Project.

3.5.2 Ancillary Costs

Construction costs that are necessary to install an Eligible Improvement. Examples include roof structural improvements necessary to support a roof mounted solar PV array or building electrical upgrades necessary to support an energy efficient HVAC system.

Note: The Project documentation should demonstrate that the Ancillary Costs are necessary for installation of the Eligible Improvement(s).

3.5.3 Soft Costs

Soft costs are indirect costs that are not considered direct construction costs but are necessary to complete the Project. Examples include but are not limited to:

- Project management
- Closing Fees (program administration fees)
- Title reports and credit checks
- Financial services (e.g., Capital Provider fee, **Project Developer** fee)
- Legal services (e.g., Property Owner legal, Capital Provider legal)
- Recording taxes and fees, and escrow disbursement fees
- Architectural and engineering costs related to the Project
- Consulting reports (e.g., Project Analysis, energy audit, commissioning reports, measurement and verification, feasibility studies, financial projections, and surveys)
- Due diligence reports (e.g., appraisal, environmental, and physical condition assessments)
- Energy savings performance guaranty or insurance
- Building accreditation(s)
- Permitting fees
- Interest reserves
- Capitalized interest
- Any other closing costs or fees required to complete the Project

If an indirect cost cannot be allocated directly to the installation of an Eligible Improvement (e.g., Mechanical/Engineering/Plumbing (M/E/P) plans that include plans for installation of new lighting fixtures), then the Eligible Soft Cost would be calculated in the same proportion as the proportion of Project Costs to the total construction budget.

M/E/P plans: \$50,000

Eligible Improvements: HVAC and LED lighting (materials, labor, and overhead): \$100,000

Total construction budget: \$500,000

Percentage of Project to total construction budget: 20%

Eligible Soft Costs: \$10,000 (20%)

The Program Administrator has final discretion on Eligible Project Costs.

3.6 Eligible Improvements

Eligible Improvements for a Project are energy efficiency, water efficiency and safe drinking water, renewable energy, resiliency, stormwater management, electric vehicle infrastructure, and environmental remediation. A compendium of Common Eligible Improvements is found in [Appendix B: Common Eligible Improvements](#) as well as on the Virginia PACE Authority [website](#).

3.6.1 Energy Efficiency

Any measure that results in reduction of consumption of energy over a baseline such as:

- High efficiency lighting
- Heating ventilation air conditioning (HVAC) upgrades
- High efficiency hot water heating systems
- Building shell or envelope improvements including fenestration
- Building energy management systems
- Process equipment upgrades

3.6.2 Water Efficiency and safe drinking water

Any measure that results in reduction of consumption of water over a baseline established such as:

- Stormwater runoff mitigation and improved drainage systems
- Water efficiency devices, measures, or systems
- Replacement of lead pipes that serve potable water supply

3.6.3 Renewable Energy

Any system using renewable resources such as sunlight, wind, or biomass to generate energy to supply such as:

- On-site demand of the Eligible Property
- Export of electricity to a utility provider
- Sale of the electricity using a Power Purchase Agreement (or similar approved agreement)
- A combination of the above three options
- Production of clean heat or power by use of a renewable energy resource

Types of renewable energy systems may include but are not limited to:

- Solar photovoltaic power
- Fiber optic solar
- Solar thermal
- Small wind microturbines
- Geothermal heat pump
- Fuel cells

Note: The Program Administrator may approve other types of renewable energy not listed in the Program Guidelines at its discretion.

3.6.4 Resiliency

Per the state statute, **Resiliency Improvements** means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including but not limited to:

- Flood mitigation or the mitigation of the impacts of flooding
- Inundation adaptation
- Natural or nature-based features and living shorelines, as defined in §28.2-104.1
- Enhancement of fire or wind resistance
- Microgrids
- Energy storage
- Enhancement of the resilience capacity of a natural system, structure, or infrastructure

3.6.5 Stormwater management project

- Green roofs
- Blue roofs
- Pervious pavement/pavers
- Rainwater capturing systems

3.6.6 Electric Vehicle Infrastructure

- Charging stations
- Electrical upgrades necessary to install EV charging stations

3.6.7 Environmental Remediation

A project intended to remove environmental or health hazards including but not limited to:

- Soil and groundwater remediation
- Indoor air quality
- Indoor water quality
- Asbestos remediation
- Lead paint removal
- Mold remediation

3.7 Property Owners

The Program is voluntary and available to Property Owners with Eligible Properties located within a Locality. Only a Property Owner who voluntarily participates in the Program and owns a property upon which a Lien has been levied will have a secured lien imposed against its Eligible Property.

3.7.1 Statutory Requirements

The state law in Virginia also requires that a Locality to give due regard to a property owner's ability to repay C-PACE financing under §15.2-958.3 of the Code of Virginia.

3.7.2 Programmatic Requirements

- Be 100% title holder of the Eligible Property (as reflected in the Land Records) or the holder of an eligible long-term leasehold interest. The Property Owner or the Property Owner's legally authorized representative must sign the Final Application
- Submit evidence that the title of the Eligible Property is not in dispute prior to recording the C-PACE Lien Certificate, as evidenced by a title report certifying the condition of the title, performed, and signed by a title examiner who has been certified by the Virginia Land Title Association or a title insurance commitment from a title insurance company acceptable to the Capital Provider and the Program Administrator
- Be current in the payment of all obligations secured by the Eligible Property, including loans secured by mortgages or deed of trust liens on the Eligible Property, real property taxes, special assessments (including C-PACE Liens), special taxes, other tax liens, and/or water or sewer charges;
- Have no judgement lien, or other involuntary liens against the Eligible Property, including, but not limited to, construction or mechanics liens, judgments against the Property Owner, or eminent domain proceedings
- Have no notices of default or delinquency on property-based debt that have not been cured

The Program Administrator and the Capital Provider may review public records to verify compliance with this requirement.

Note: The [VA C-PACE Checklist](#) contains required documentation and process for approval.

3.8 Capital Providers

The Program is an open market, which means Property Owners have the flexibility to select their preferred Capital Provider for a Project. A Capital Provider is a lender that finances a C-PACE Loan. The open market model gives Property Owner's access to a range of private Capital Providers who offer competitive rates and financing terms and conditions. No exclusivity will be provided to Capital Providers, and Property Owners will retain the right to choose the provider of financing who best suits

their business needs. C-PACE Loans are currently financed exclusively by private lenders or financial institutions.

Private lenders and/or financial institutions interested in offering C-PACE Loans can apply by submitting a **RFQ (Request for Qualifications)**, including the Capital Provider-VPA Agreement. As part of the Capital Provider-VPA Agreement, applicants will provide a copy of the Capital Provider's Financing Agreement that it will execute with a Property Owner so that the Program Administrator can confirm that the Financing Agreement is consistent with the state and local enabling C-PACE laws and the Capital Provider Agreement

Upon approval by the Program Administrator, the applicant will be considered qualified in the Program as a Capital Provider and will be listed on the VPA website.

Property Owners may pre-select their preferred lender for the Project. However, prior to the closing of the applicable C-PACE Loan, the Program Administrator must approve the private lender or financial institution as a Capital Provider as outlined above.

Responsibilities of a Capital Provider include the following:

- Making the C-PACE Loan
- Recording the C-PACE Lien Certificate and any **C-PACE Amendment** to the Lien in the Land Records and notifying the Program Administrator and Locality
- Notifying the Locality and the Program Administrator of any changes to the C-PACE Payments, including recording any updated **Assessment Payment Schedules** in the Land Records
- Notifying the Locality and the Program Administrator whenever a **C-PACE Assignment** or a C-PACE Amendment to a C-PACE Loan takes place

3.9 Registered Contractors

All Improvements financed through the Program must be installed by a business that has been approved by the C-PACE Program Administrator known as a Registered Contractor. Examples include an energy auditor, licensed engineer, HVAC company, or solar installer. The process includes completing a one page online [form](#) and agreeing to the terms of conditions of the C-PACE Program. The registration process does not evaluate the contractor's competence or the status of its licensure.

It should be noted that a Property Owner may hire a company that is not initially a Registered Contractor as long as the company is approved prior to approval of a Final Application. If a general contractor is responsible for the work of all subcontractors, then only the general contractor would be required to become a Registered Contractor.

To be eligible for a C-PACE Loan, work associated with the installation of an Eligible Improvement that requires a license must be installed by a Registered Contractor that holds the appropriate license.

Registered Contractors are responsible for ensuring that all subcontractors hold the appropriate licenses. Furthermore, it is the responsibility of the Property Owner to ensure that qualified, reputable contractors are chosen to perform the work on the Project according to the requirements set forth in the Program Guidelines.

3.10 Qualified Professionals

A Registered Contractor may perform a Project Analysis if they become a **Qualified Professional**. A Qualified Professional must hold one or more of the following credentials or certifications unless they are approved by the Program Administrator on a case-by-case basis:

3.10.1 Credentials

3.10.1.1 Energy and Water Efficiency

- Registered Architect (RA)
- Professional Engineer (PE)
- Certified Building Energy Assessment Professional (BEAP) offered by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
- Certified Energy Auditor (CEA) offered by the Association of Energy Engineers (AEE)
- Certified Energy Manager (CEM) offered by AEE
- Certified High-Performance Building Design Professional (HBDP) offered by ASHRAE
- Certified Measurement and Verification Professional (CMVP) offered by AEE and Efficiency Valuation Organization
- LEED Accredited Professional (LEED AP) with documented experience as determined by the Program Administrator

3.10.1.2 Renewable Energy

- Solar PV
 - Professional Engineer (PE)
 - Individuals with IBEW-NECA Solar PV Certification
 - Individuals with North American Board of Certified Energy Practitioners (NABCEP) certifications
 - PV Specialist
 - PV Installation Professional
 - Provide proof of the following:
 - 35 hours of solar PV training, pass the NABCEP entry-Level PV exam, and provide proof that they have installed at least two solar PV systems- both using a minimum of 1 kWDC and inverter
 - Either hold a letter from NABCEP stating they are qualified to sit for the NABCEP PV Installer Certification Exam (you must apply to NABCEP to sit for this exam or hold a certificate verifying they have passed the NABCEP PV Installer Certification Exam

- Solar Thermal
 - Professional Engineer (PE)
 - NABCEP Solar Heating Installer certifications
- Other Renewable Systems
 - Professional Engineer (PE)

3.10.1.3 Resiliency

Qualifications for reviewing a resiliency Project vary based on the underlying Project scope, type, and complexity. For review of a report providing a broad range of potential resiliency improvements, a generalist may be approved as a Qualified Professional if they have expertise sufficient to comment on the condition or expected performance of a property relevant to the hazards(s) of concern. For this level of analysis, one or more of the following credentials typically suffice:

- Professional Engineer (PE)
- Registered Architect (RA)
- Professional Geologist (PG)

For specific hazards such as flood, wind or coastal erosion, a Qualified Professional with specialized experience and education should be retained depending on the hazards and level of risk identified. For example, for severe weather hazards including hurricanes, tropical and convective storms, a Qualified Professional could include a Certified FORTIFIED Commercial™ Evaluator for light commercial and multifamily properties.

3.10.1.4 Stormwater Management

For most stormwater management projects, a Qualified Professional should be a Professional Engineer licensed to practice civil engineering and/or stormwater management and have 5+ years of general civil engineering of properties, including 2+ years of experience in stormwater management or drainage calculation analysis.

For review of energy storage or alternative vehicle charging stations, a Qualified Professional should be a Professional Engineer with at least 5+ years of relevant experience.

3.10.1.5 Environmental Remediation and Safe Drinking Water

For most environmental remediation projects, a Qualified Professional will be an Environmental Professional as defined in the EPA All Appropriate Inquiry (AAI) 40 CFR §312.21 (Results of Inquiry by an Environmental Professional) as follows:

- Bachelor's degree or higher from an accredited institution of higher education in a relevant discipline of science or engineering and 5+ years of full-time relevant work experience
- State or tribal issued certification or license and 3+ years of full-time work experience
- 10+ more years of relevant, full-time work experience

For Indoor Air Quality (IAQ) projects, a Qualified Professional should have documented expertise in IAQ including one of the following professional qualifications:

- Professional Engineer (PE)
- Registered Architect (RA)
- IAQ Certified Industrial Hygienist (CIH)
- WELL AP with documented expertise
- LEED AP with documented expertise

For Safe Drinking Water (SDW) projects, a Qualified Professional should have documented expertise in SDW including one or more of the following professional qualifications:

- Professional Engineer (PE)
- Registered Architect (RA)
- Water Quality Association Professional Certification
- Environmental Professional

3.10.1.6 Electric Vehicle Infrastructure

- Professional Engineer (PE)

3.10.2 Selection of Qualified Professional

Property owners can select an individual or firm to perform the Project Analysis if they are approved by the Program Administrator or work with a preapproved firm for the Program. A list of pre-approved firms can be found at viriniapace.org.

4.0 Project Analysis Process and Requirements

For a Project to be approved, the Property Owner or Capital Provider must submit sufficient supporting documentation to the Technical Reviewer confirming that the project meets the Program requirements.

4.1 Project Analysis Approval Process

1. Property Owner and/or Capital Provider engages contractor or consultant to develop the Project Analysis
2. Capital Provider or Property Owner submits completed Project Analysis for review by the Program Administrator
3. Program Administrator reviews and approves the Project or requests clarification/modification of Project Analysis

Resiliency and Environmental Improvements are new to the Program. As a result, requirements for Project Analysis for resiliency and environmental remediation projects should be discussed in advance with the Program Administrator.

Note: Although not anticipated nor common, the Program Administrator does have the authority to reject the recommendations of Project Analysis if the project does not meet the requirements of the Program Guidelines.

4.2 Project Analysis for Existing Building Improvements

4.2.1 Energy and/or Water Efficiency Improvements

At a minimum, proposed project analysis should include the following:

- Description of the proposed project including each individual Eligible Improvement that will be funded with the C-PACE Loan
- Expected annual energy savings (kWh, BTUs, or therms) over energy baseline usage; water savings (gallons or ccf) over water baseline usage; annual per unit energy and/or water cost savings (\$)
 - Optional annual demand savings (KW)
 - Optional operational savings (\$)
- Clear and logical documentation of assumptions for the calculations of savings
- Estimate of the EUL of each Eligible Improvement and documentation supporting the EUL
- Calculation of maximum eligible Term for the C-PACE Loan based on the Weighted Average EUL of the Eligible Improvements or EUL of a single Eligible Improvement (or Locality Term limit where applicable in a local program; see Existing Local Program Matrix in [Appendix F](#))
- If an EUL cannot be reasonably determined, the maximum EUL for that improvement would be 20 years
- Cost required for each Eligible Improvement or for combined Eligible Improvements if interactive effects between the Eligible Improvements make itemized costs impractical
- Copy of relevant calculations, equipment specs, data sheets, etc.

If renewable energy measures are under consideration, please refer to Section 4.2.2 Renewable Energy Improvements.

The Program recommends, but does not require, that the Project Analysis be based on one of the following:

- ASHRAE Energy Audit standards as defined by ANSI/ASHRAE/ACCA Standard 211-2018
- Pacific Northwest National Laboratory, A Guide to Energy Audits, PNNL-20956
- Investor Ready Energy Efficiency (IREE) Certification Protocol
- ASHRAE Standard 100
- ASHRAE Standard 90.1 Appendix G

- Methods in accordance with the Virginia Energy Conservation Code

Property Owners are encouraged to obtain all applicable government, utility provider, and/or manufacturer rebates where available.

Note: The Program Administrator does not guarantee that any savings estimates provided by a Registered Contractor, Capital Provider, and/or Property Owner.

4.2.2 Renewable Energy Improvements

The energy generation baseline for all renewable energy improvements is assumed to be zero energy generation unless it is a replacement for an existing renewable energy system, in which case the project analysis must establish the baseline of the existing system using performance and/or nameplate rating which is the official power production rating given to the equipment.

At a minimum, project analysis should include the following:

- Description of proposed renewable energy system including production capacity and type (e.g., roof or ground mount solar PV)
- Description of the site's ambient conditions (e.g., shading analysis)
- Location of the renewable energy system
- Utility consumption profile of the site, including the site's historic energy use and cost (modeled energy consumption may be used in the case of new construction or adaptive reuse projects)
- Expected annual energy production (kWh), electrical demand reduction (kW), annual per unit energy production savings (\$) and operational, maintenance, and insurance cost savings (\$)
- Assumptions affecting the cost savings
 - Weighted cost of energy saved and generated by the Project
 - Cost savings to be realized from time-of-use and demand charge reductions, as applicable
 - Utility tariff to be applied to the site and/or system following installation
 - Utility escalation rate assumptions
 - Tax benefits and other incentives, as applicable
 - EUL of the renewable energy system
 - Maintenance expenses, as applicable
- Assessment of Eligible Project Costs and interconnection issues, including an analysis of the impacts of surplus energy generation by the renewable energy system (e.g., description of utility tariff, if any, to be applied to system production that exceeds consumption)
- Plans to monitor the system and maintain optimized system performance
- Verification of the availability of net metering if the system generates excess power that is delivered to the utility grid at any time

Note: At its discretion, the Program Administrator may waive one or more of the above required components.

4.2.3 Resiliency Improvements

Per the state statute, Resiliency Improvements means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including but not limited to:

- Flood mitigation or the mitigation of the impacts of flooding
- Inundation adaptation
- Natural or nature-based features and living shorelines, as defined in §28.2-104.1
- Enhancement of fire or wind resistance
- Microgrids
- Energy storage
- Enhancement of the resilience capacity of a natural system, structure, or infrastructure

Please note that although Electric Vehicle (EV) Charging Infrastructure is specifically defined in the C-PACE Act, the Program considers EV Charging infrastructure to be a Resiliency Improvement for purposes of developing the Project Analysis.

4.2.3.1 General Resiliency Analysis and Approach

For determining a broad scope of potential resiliency improvements related to potential hazards, the following approach should be followed:

1. Identify and confirm the hazard(s) related to the Eligible Property
 - a) Review regional hazard data from public or commercial risk modeling/mapping sources
 - b) Based on results, perform site specific analysis
2. Identify and quantify site specific vulnerability (risk) associated with the hazard
3. Identify customized resilience improvements that mitigate the risk or provide adaptation strategies

4.2.3.2 Eligible Hazards

Hazards that qualify under the Program include but are not limited to:

- Precipitation
 - Heavy Rainfall
 - Lack of Rainfall (this covers drought), contributing to water stress
 - Wind-driven Rain
 - Freezing Rain (icing)
 - Freeze-thaw
- Flood
 - Storm Surge
 - Coastal Repetitive Flood (includes sea level rise)
 - Riverine (fluvial) Flood (includes ice-jamming)
 - Surface (pluvial) Flash Flood

- Wind
 - Tropical Cyclone
 - Winter Storms such as Ice storms
 - Severe Thunderstorm and Tornado
 - Localized Wind (includes Downslope Windstorm, Downbursts)
- Wildfire
 - Direct Physical Impacts
 - Air Quality
 - Water Quality
- Extreme Temperature and Snow/Hail
 - Extreme Temperature
 - Cold
 - Heat/Heat Stress
 - Extreme Precipitation
 - Heavy Snow
 - Hail
- Geologic Phenomenon
 - Subsidence
 - Landslide/Mudslide Coastal Erosion
 - Seismic

4.2.3.3 Standards and Resources

Project analysis for both new construction and existing buildings may follow standards issued by The National Institute of Building Sciences. The benefit/cost ratio of Resiliency Improvements can also be calculated by using resources such as the FEMA BCA toolkit. Other potential resources in identifying potential projects include: American Institute of Architects (AIA) Disaster Assistance Handbook, Enterprise Green Communities strategies for Multifamily Building Resilience, and RELi Design.

Virginia specific resources include:

- Virginia Department of Emergency Management
- <https://www.dhcd.virginia.gov/resiliency>
- <https://resilientvirginia.org/>

4.2.3.4 Eligible Savings

Eligible savings can include but are not limited to:

- Reduced insurance premiums
- Avoided incremental insurance expenses
- Avoidance of business interruption
- Uninterrupted power
- Calculated from a benefit/cost ratio > 1

- Other demonstrable savings that can qualify on a case-by-case basis

4.2.3.5 Project Analysis

The Project Analysis must include a narrative description of the Resiliency Project and include technical documentation to support any assumptions and calculations. Examples of supporting technical project analysis include: narrative description, engineering calculations and models, quote or affidavit from insurance provider demonstrating decrease in or avoidance of insurance costs due to increased building resiliency, and schematics demonstrating raising of building above 100-year floodplain. The report should consider any data from a local climate action plan, where applicable. The report should include the expected useful life for each measure that is documented by manufacturer information or other sources. In addition, the Project Analysis should also incorporate any requirements from local or state laws or resilient related building codes and plans.

As resiliency is an emerging field, the Guidelines also include a Resiliency Compendium in Appendix E with resiliency related definitions and references to assist in Project development including additional tools to help qualify a Project. The Program Administrator anticipates that there will be regular updates over the next 12 to 24 months as property-specific resiliency standards are published that will be included in Appendix F.

4.2.4 Stormwater Management Improvements

Stormwater Management is defined as a measure that reduces onsite stormwater runoff into the stormwater system such as reduction in the quantity of impervious surfaces or onsite retention and/or filtering of stormwater. A Project Analysis for Stormwater Management Improvements must demonstrate that the Eligible Improvements result in a reduction in onsite stormwater runoff into the local stormwater systems, and/or provides reduction of stormwater runoff pollutants. These reductions must meet or exceed the requirements of Locality for stormwater management when constructing a new building. For existing buildings, the analysis must demonstrate that the improvement(s) will reduce the quantity of stormwater runoff and/or the pollutant load of existing runoff and bring the system to be code compliant at a minimum.

If an EUL cannot be reasonably determined, the maximum EUL for that improvement would be 20 years. The Program Administrator retains the right to limit the EUL of improvement(s) if sufficient supporting documentation cannot be provided or is unavailable.

4.2.5 Environmental Remediation

4.2.4.1 Asbestos, Lead Paint Removal, and Mold Remediation

Environmental remediation generally refers to the clean-up of land or buildings in response to a Phase 2 Environmental Site Assessment (ESA), Weatherization type analysis, and/or outlined in a Voluntary Remediation Plan that has been reviewed by the Virginia Department of the Environment. Per the C-PACE Act, the types of Eligible Improvements include:

- Asbestos Remediation

- Lead Paint Removal
- Mold Remediation

The estimated cost for each remediation action for the Project, including an ESA Phase 1 and Phase 2 ESA costs (e.g., soil sampling) can be included in the C-PACE Loan amount.

4.2.4.2 Indoor Air Quality

An Indoor Air Quality (IAQ) Project can be defined as improving the rated performance in indoor air quality by reducing exposure to indoor airborne contaminants.

Permanently affixed measures that exceed the minimum standards of indoor air quality required by law for retrofit or ground up construction will typically be considered eligible. For existing buildings, Qualified Professionals may also establish a baseline model of building-wide CO₂ or oxygen levels and develop an “as complete” model incorporating proposed air quality measures to demonstrate improvements over the baseline. Examples of supporting technical project analysis include Equipment cutsheets, building models, etc. The following reference can provide guidance when developing an IAQ project: <https://www.epa.gov/indoor-air-quality-iaq/clean-air-buildings-challenge>.

4.2.4.3 Safe Drinking Water

For Safe Drinking Water (SDW) projects, the Project analysis/supporting documentation would demonstrate that contaminants in the potable water provided to a building had been removed such as replacement of lead-based piping with CPVC or copper piping. The following reference can provide guidance when developing an SDW project: <https://www.epa.gov/ground-water-and-drinking-water>.

Please note that supplemental information on IAQ and SDW may be provided in a future Appendix.

4.3 New Construction and Substantial Renovation/Adaptive Reuse

The Program is available for the construction of new buildings as well as the substantial renovation of existing buildings or the adaptive reuse of vacant buildings.

4.3.1 Baseline: New Construction

New construction projects, unlike existing-building retrofits, do not provide a baseline to compare potential savings from Eligible Improvements. Therefore, the baseline for new construction projects is taken from construction standards denoted in the 2018 version of the Virginia Uniform State Building Code (USBC) including the. The USBC denotes the Virginia applicable building codes and standards that in turn are governed by other international and domestic building codes including the latest version of the Virginia Energy Conservation Code. For any new construction project, the Project must demonstrate through the appropriate Project Analysis that the Project exceeds the applicable code. The Qualified Professional should also verify local building code compliance with the applicable local government department for the purposes of the energy and/or water savings calculations prepared in the Project Analysis.

The Project Analysis should summarize that the building's total anticipated performance exceeds the building code (baseline) with a summary percentage of performance above the code baseline. To qualify for C-PACE Financing on a new construction Project, the Project must achieve energy and/or water savings that exceed the applicable building code. One hundred percent (100%) of the C-PACE Project Costs of all water or energy related measures in new construction projects that demonstrate a whole-building summary performance above the minimum code baseline are financeable through C-PACE.

A new construction project that only involves renewable energy installed on a new building is not subject to the additional requirements and should follow the Project Analysis requirements for renewable energy systems to existing buildings as described in [4.2.2 Renewable Energy Improvements](#).

4.3.2 Baseline: Substantial Renovation/Adaptive Reuse

The baseline utilized for establishing energy/water consumption for a substantial renovation or adaptive reuse project will be based on a number of factors such as availability of historic utility bills, type of equipment to be installed, and change of use or occupancy type. The Qualified Professional will make the determination if the energy or water savings for a Project should be determined under the Existing Building or New Construction methodology.

4.3.3 Methodologies for Determining Savings

A Project Analysis for a new construction project may demonstrate expected energy or water savings over this baseline in one of two methods:

- Method 1: Itemization of individual Eligible Improvements (Prescriptive Path): Itemization of individual Eligible Improvements in the Project whose efficiency specifications exceed the baseline requirements as outlined in the appropriate building code. The project analysis/supporting documentation must describe the characteristics of each Eligible Improvement and provide supporting documentation showing that each Eligible Improvement exceeds minimum baseline requirements. Examples of supporting documentation include but are not limited to: contract certificates, permits, equipment cutsheets, COMcheck certificates, building plans. 100% of the cost of each Eligible Improvement that exceeds minimum code requirements may be included in the C-PACE Loan amount.
- Method 2: Demonstration of total savings above applicable building code on a whole building basis: Estimated whole building energy and/or water savings above minimum baseline should be calculated using U.S. Department of Energy approved building energy modeling software or detailed engineering calculations, following one of the two allowable pathways in the applicable International Energy Conservation Code (IECC). Savings calculations for the whole building must state the building's total anticipated performance and specify the summary percentage of energy and/or water performance over code minimum. One hundred percent

(100%) of the energy and water-related measures included in the whole building model may be considered Eligible Improvements.

4.4 Retroactive C-PACE

4.4.1 Qualifications

Completed installations of certain C-PACE Projects are eligible for Retroactive C-PACE financing. Retroactive C-PACE are C-PACE Loans that close after the Property Owner completes the installation of the Eligible Improvements. Retroactive C-PACE Projects must satisfy the same requirements as other C-PACE Projects in terms of eligibility.

Per the C-PACE Act, Retroactive C-PACE must occur within 24 months of the time elapsed between the completion of the installation and approval of the application for a C-PACE Loan. Completion of installation is the date that the Certificate of Occupancy was issued or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the Locality. For example, for an existing building, completion of installation could be determined based on information shown in the applicable invoice(s) or the date the installation was approved by a building inspector. The total costs of Eligible Improvements can be refinanced or reimbursed with C-PACE.

Typical scenarios include:

- Replacing an existing C-PACE loan with a new C-PACE Loan if the original C-PACE loan is paid off in its entirety from the proceeds of the new C-PACE loan
- Place a new C-PACE Loan on improvements that would have been eligible for C-PACE at the time of installation
- Refinancing a part of the entirety of a conventional loan with a C-PACE Loan
- Amending an existing C-PACE Loan

Other than increasing proceeds on an already approved C-PACE Loan amount, C-PACE Project Refinancing requires all application, approval and recording requirements like a new C-PACE Loan.

4.4.2 Lookback Period and C-PACE Loan Term

The C-PACE Loan Term would be based on the remaining Weighted Average EUL of the Eligible Improvements based on the time elapsed between the time of installation and closing of the new C-PACE Loan. For example, if an approved C-PACE Loan is funded one year after installation of the Eligible Improvements, the term of the C-PACE Loan would be one year less than if it had been funded at the time of completion.

4.4.3 Required Documentation

Verification is required to establish prior conditions (baseline) and describe the new Eligible Improvement(s) installed in the Retroactive C-PACE Project. The Project Analysis must include additional documentation that provides evidence of installation of the Eligible Improvements:

- Completion Date for the Eligible Improvement(s) subject to the Project
- Description of the baseline code that was used for project design and permit approval;
 - Most jurisdictions in Virginia have now adopted the 2018 Uniform Statewide Building Code including the 2018 Virginia Energy Conservation Code which corresponds to ASHRAE 90.1 2016 that became effective as of July 1, 2021.
 - If the Retroactive C-PACE Project was approved under a prior code requirement, the Project's Eligible Improvement(s) must exceed the 2015 USBC or ASHRAE 90.1 2013 at a minimum to be eligible
- Make and model of equipment replaced, if applicable
- Photos supported by descriptions, which provide evidence of installation of new Eligible Improvement(s)
- Certifications of the Registered Contractor
- Certifications of the Qualified Professional

5.0 Program Fees

5.1 Program Administration Fees

The Program Administrator provides a wide variety of services at no upfront cost and is only paid upon closing of C-PACE Loans. These services include, at a minimum, processing ,and approving C-PACE applications, assisting in closing and servicing of C-PACE Loans, providing marketing, education and training of Program participants and stakeholders, reporting to local government sponsors, and maintenance and upgrade of program documents, materials, and web resources on an ongoing basis.

5.1.1 Application Fee

There is no fee to apply for a C-PACE Loan.

5.1.2 Closing Fee

The Closing Fee is a one-time processing fee of the C-PACE Loan based on the Lien Amount. This fee may be capitalized into the Lien Amount for the Project. There is a minimum Closing Fee to cover the costs of review if the project does not close. This fee is paid out of the proceeds of the C-PACE Loan at closing. The fee schedule is found in [Appendix C](#).

5.1.3 Servicing Fee

Servicing refers to the billing, collection, and remittance of C-PACE Payments on an annual or semi-annual basis. The C-PACE Act gives Localities the option of outsourcing Servicing of C-PACE Payments to the Capital Providers who have total discretion over the fee charged to the Property Owner. Alternatively, if a Capital Provider is not able to service the C-PACE Payments, then the Program Administrator will act in this capacity and charge a market rate fee based on a percentage of the C-PACE Payments paid annually.

The Property Owner will pay the C-PACE Payment to the Capital Provider, the amount of which is included in the Assessment Payment Schedule of the C-PACE Program Agreement.

5.1.4 Out of Scope Expenses

Closing and Servicing Fees cover the regular costs of the administration of the Program. These costs and expenses do not include any specialized optional professional services that may be necessary for a particular Project either prior or post-closing. Examples include but are not limited to:

- Requesting substantial assistance in developing the Project scope
- Obtaining Lender Consent on behalf of the Property Owner or Capital Provider
- Time-intensive negotiation of any Program documents
- Extensive review of a Project beyond the Program Administrator's standard scope of work
- Review of non-standardized Program documents
- Obtaining a legal opinion for the Capital Provider
- Assistance in amending a C-PACE Payment on behalf of a Capital Provider
- Assistance related to curing a delinquency on behalf of the Capital Provider

Expenses incurred prior to the closing of the C-PACE Loan can be added to the C-PACE Lien Amount if desired. Like the Closing Fee, these expenses can be paid out of proceeds at closing. Fees may be modified from time to time at the sole discretion of the Program Administrator.

5.2 Locality Fees

Although not typical, some Localities may charge fees to process the C-PACE Loan. Please contact the Program Administrator for more information.

5.3 Capital Provider Fee

Capital Providers and Project Developers may charge an origination fee to cover the costs of arranging the C-PACE Loan, which is agreed upon in the Financing Agreement. This is in addition to any fees for servicing the C-PACE Loan.

5.4 Sample Project Costs

Eligible Project Costs vary based on a number of factors such as the asset type, complexity of the Eligible Improvements, market, Locality requirements, and ownership structure. This sample Project provides an example of how the total C-PACE Lien Amount and annual C-PACE Payments are calculated based on typical Loan terms such as interest rate, amortization period, term and capitalized interest period.

Project Costs and Fees	
Hard Costs	\$3,000,000
Project analysis	\$7,000
Appraisal, other 3rd party	\$5,000
Related A/E costs	\$210,000
Title report, credit check	\$200
Other lender expenses	\$4,000
Owner legal	\$10,000
Hard and Soft Project Costs	\$3,236,200
Recording fee (estimated)	\$115
Capital provider fee	\$53,780
Program Admin fee	\$37,646
Prepaid Capitalized interest	\$257,695
Total financing and admin fees	\$349,236
TOTAL LIEN AMOUNT	\$3,585,436

Loan Assumptions			
Interest rate	5.75%	Program admin fee	1.05%
Term (yrs.)	20	Cap Provider fee	1.50%
Amortization	20		
Fee and Capitalized Interest Calculations			
Closing day	6/30/22	Admin fee	\$37,646
First payment	9/30/23	Capital Provider fee	\$53,780
Days	450	Est. Lien Amount	\$3,585,321
Daily rate	0.016%	Capitalized interest	\$257,695
Contingency	7.19%		
Annual Lien Payments			
C-PACE Payment	\$306,280		

6.0 Loan Application Process

The application process includes application management, approval, and completion of the Project. Repayment of the C-PACE Loan is described in [Section 7.0 C-PACE Loan Administration](#). To proceed with funding a C-PACE Project, a Property Owner must complete the application process, which has two phases, Pre-Application and Final Application.

6.1 Determine Eligibility and Complete Pre-Application

The applicant should review the VA C-PACE Checklist to understand the documentation requirement of obtaining a C-PACE Loan, found in [Appendix D](#).

The Pre-Application gives an applicant the opportunity to establish project eligibility before investing in significant project development. The information collected in this step of the process will be used by the Program Administrator to verify that the property is qualified, and that the proposed Project falls generally within the parameters established in this Program Guidelines.

To begin the process, a Property Owner completes the online Pre-Application form available in the [Project Center](#). The Project Center contains all documents, applications, and instructions required for a project to be approved for a C-PACE Loan. An applicant will be prompted to establish a username and password which will be used to submit information to the Project Center. The information collected on the Pre-Application includes:

- Property address (including jurisdiction with taxing authority)
- Property tax Identification number
- Point of contact for the Application
- Name of the Property Owner
- Approximate value of the Property
- Approximate C-PACE Loan Amount

Once a Pre-Application is submitted, the Program Administrator will conduct a preliminary review to determine if the project is eligible for enrollment in the Program. This review will typically be completed within 1-2 business days after receipt of a completed Pre-Application. The Program Administrator's approval of a Pre-Application is required prior to submitting the Final Application.

6.2 Select Capital Provider and Develop Project

If the Pre-Application is approved, the Property Owner moves forward with the project development phase.

6.2.1 Project Analysis

The Property Owner must complete a project analysis, as described in [Section 4.0 Project Analysis Process and Requirements](#). Following the project analysis, a Property Owner or their representatives will develop the final scope, Project Costs, and schedule in conjunction with a Registered Contractor and/or Project Developer.

6.2.2 Lender Consent

If the Eligible Property has existing deeds of trust and/or mortgages, the Property Owner must obtain the written consent of all existing lienholders as a condition of closing the C-PACE Loan. Given that this process can take some time, the Program Administrator recommends that the Property Owner contact these lienholders early in the scoping process to gauge the likelihood that consent will be granted (See [Section 8.0 Lender Consent](#)).

During this phase, the Property Owner should also contact Capital Providers to secure acceptable C-PACE Loan terms and conditions. For more information, see [Section 3.8 Capital Providers](#). The Capital Provider may conduct its own underwriting review of the Project.

6.3 Submit Final Application with Supporting Documentation

When the pre-development work for the project is complete, a Property Owner will complete the Final Application. The Final Application can be started upon approval of the Pre-Application and is accessible through the [Project Center](#). The Property Owner will also receive an email with a link to the Final Application within the Project Center. The Program Administrator's approval of the Final Application is a requirement to closing the C-PACE Loan.

The Final Application contains a section available to the Property Owner to upload all supporting documents. The Program Administrator will only accept documents uploaded to the Project Center. At a minimum, the following supporting documentation must be provided:

1. Final Application completed and signed by the Property Owner
2. Owner tax history: Documents must be provided verifying the Property Owner is current on property taxes
3. Project Analysis
4. Installation contract(s) from the Registered Contractor(s) for the Project that includes the cost of the work, the scope of work, specifications for the equipment, and the schedule for the installation of the Eligible Improvement(s) identified in the Project Analysis
5. Capital Provider's offer to fund/term sheet. The Property Owner must provide documentation that indicates that a Capital Provider has offered to provide a C-PACE Loan for the Project. Such documentation may be evidenced by a signed term sheet, commitment letter, or other documentation satisfactory to the Program Administrator
6. Title Report or Commitment prepared by a Title Insurance company disclosing all current lienholders on the Eligible Property and confirming that there are no involuntary liens on the

Eligible Property. The title report should be issued no more than 30 days prior to recording the Lien in the Land Records to avoid any intervening title matters appearing of record. The Property Owner and Capital Provider are responsible for obtaining the title report

7. Property value determination. The Property value must be determined for both taxable and tax-exempt properties using either the assessed value or an appraisal. The appraisal or real estate evaluation completed within 18 months of the submission of Final Application and prepared by an independent real estate appraisal firm. The appraisal or other acceptable forms of valuation must be completed within 18 months of the submission of the Final Application; however, exceptions can be granted at the discretion of the Program Administrator. Please note that the Capital Provider may have different and/or more stringent appraisal requirements than the Program
8. Lender Consent. Executed Lender Consent and Subordination to C-PACE Special Assessment and Lien agreement for the proposed Project from each existing lienholder that has a deed of trust on the Eligible Property, if applicable. Requests for Lender Consent should be delivered to lienholders well in advance (e.g., 30 days) of the anticipated C-PACE Loan closing date. This is signed by an existing lender
9. Documentation of Mortgage release(s) (if applicable)
10. Mortgage balance or commitment or other loan balance(s) (if applicable). Copies of the most recent mortgage loan statement(s) for all loans outstanding or commitment for mortgage on the Eligible Property must be included to determine the current loan-to-value ratio
11. Capital Provider and VPA Disclosures & Risks: This document link can be found in Appendix E under the Transactional Documents folder. It is signed by the Property Owner
12. Property Owner Affidavit: Signed by the Property Owner
13. Project Information Request: Property Owner grants permission to the VA C-PACE Program to market publicly certain project specific information at Loan closing or in the future.

Once a complete Final Application is received, the Program Administrator will review it for completeness, accuracy, and compliance with this Program Guidelines. The Program Administrator may provide exceptions to a Final Application and allow certain documents to be provided prior to closing versus prior to project approval, which is communicated via a letter of Conditional Approval. The Program Administrator will provide the Property Owner a Conditional Approval Letter or request more information within five business days after submission of a completed Final Application. A letter of Final Approval will be issued once all of the documents known as the Transactional Documents have been reviewed by the Program Administrator typically within five business days and ten business days, respectively of receipt. A Capital Provider may require additional documentation as part of its financing due diligence and closing requirements.

6.4 Close C-PACE Loan and Initiate Project Construction

6.4.1 Overview

Upon the Final Approval letter has been submitted to the parties, the Property Owner may proceed with closing the C-PACE Loan. The Property Owner must submit to the Program Administrator:

- Executable copy of the C-PACE Program Agreement
- Executive copy of the C-PACE Lien Certificate
- Executable copy of the Financing Agreement

A form of the C-PACE Program Agreement is included in this Program Guidelines in [Appendix E](#). The Program Administrator will send the C-PACE Program Agreement, C-PACE Lien Certificate, Financing Agreement, and the Final Approval Letter to the Locality for review. Following the execution of these documents, payment of all applicable fees, and consummation of the C-PACE Loan closing, the Capital Provider will record the fully executed C-PACE Lien Certificate with exhibits in the Land Records. If required, the Capital Provider will obtain all wet signatures from the jurisdiction, the Property Owner, and the Capital Provider and appropriate checks/wiring information for jurisdictions that may charge fees. The Program Administrator will assist the Capital Provider in this process as needed. Upon receipt of recorded documents, the Capital Provider will send copies to the Program Administrator. Per the terms of the Financing Agreement, the first C-PACE Payment due may not be the year that the C-PACE Loan closes. The C-PACE Loan proceeds will be disbursed by the Capital Provider according to mutually agreeable terms between the Capital Provider and Property Owner in accordance with the Financing Agreement.

6.4.2 Simultaneous Close of C-PACE and Transfer of Property Owner

If C-PACE financing is closing alongside a transfer of property ownership, then the Program Administrator must receive a substantively final copy of the deed or similar instrument that will be recorded at close as part of the application package. On the day of recording, the deed or similar instrument must be submitted to the Land Records office prior to submission of the C-PACE Lien Certificate.

6.4.3 Simultaneous Close of C-PACE and Mortgage or Deed of Trust

If C-PACE financing is closing alongside a mortgage or deed of trust or other similar instrument, then the Program Administrator must receive a substantively final copy of the mortgage or deed of trust or similar instrument that will be recorded at close as part of the application package. On the day of recording, the mortgage or deed of trust or similar instrument must be submitted to the Land Records Office prior to submission of the C-PACE Lien Certificate.

6.4.4 Simultaneous Close of C-PACE and Mortgage Release

If C-PACE financing is closing alongside a mortgage release instrument, then the Program Administrator must receive a substantively final copy of the mortgage release instrument that will be recorded at close as part of the application package. On the day of recording, the mortgage release instrument must be submitted to the Land Records office prior to submission of the C-PACE Lien Certificate. In this situation, Lender Consent is not required for the mortgage being released at close.

6.4.5 Closing and Lender Consent

In cases where existing secured lienholder(s) will not be lienholders on the Eligible Property as of financial close of the C-PACE Loan and/or when the Eligible Property will have new senior lender(s) as of financial close of the C-PACE Loan (e.g., a simultaneous acquisition and refinancing of the

Property), the Property Owner must provide the Program Administrator with a letter prior to the closing that describes any and all mortgage transactions taking place on the property prior to or simultaneous with closing the C-PACE Loan. All parties that have a mortgage on the property as of the close of the C-PACE Loan must provide consent in accordance with the C-PACE Act. Secured lienholder(s) not providing consent must provide a letter stating agreement to being paid out in full. The Property Owner must attach the applicable consents, copies of payoff letter(s) from existing mortgage provider(s), and a closing letter containing instructions for fund distribution as of financial close.

On the day of close, the Property Owner must provide confirmation of the escrow agent's receipt of funds and request that the Program Administrator authorize the release of signatures simultaneous to all other parties to the transaction releasing their signatures. Upon the release of signatures by other parties, the title company must follow the list of instructions outlined in the closing letter (including releasing funds to the appropriate parties and recording documents in the order outlined in the closing letter).

6.5 Project Completion

When the Project is complete, the Property Owner will forward evidence of completion to the C-PACE Program Administrator by submittal of a C-PACE Program Completion Certificate, which can be found in [Appendix E](#). It is the responsibility of the Property Owner to ensure that the Project has been successfully completed, including completion and compliance with any necessary approvals of local building codes or standards as issued by Locality building officials or other Locality agencies.

7.0 C-PACE Loan Administration

7.1 C-PACE Lien

The C-PACE Payments that are due, and any interest or penalties accrued thereon, constitute a first and prior lien against the Eligible Property from the date that the C-PACE Lien Certificate is recorded with the Locality until the C-PACE Loan and all interest and penalties are paid in full and the Lien has been released of record.

The Lien is attached to the land and no portion of the C-PACE Loan shall be eliminated by a foreclosure sale. The C-PACE Loan cannot be accelerated, and the Lien cannot be extinguished until the C-PACE Loan is fully repaid. The Lien will be enforced by the Locality in a similar manner as the Locality enforces delinquent real estate taxes, as specifically provided in the Ordinance and the C-PACE Lien Certificate. A C-PACE Loan transfers to the new property owner upon a sale or transfer of the Eligible Property during the Term.

7.2 Repayment of the C-PACE Loan

Repayment of the C-PACE Loan will commence according to the terms of the C-PACE Documents. The first repayment date for the C-PACE Loan will be due in accordance with the Assessment Payment Schedule. Although not a statutory or programmatic requirement, it is recommended that the Assessment Payment Schedule for the proposed C-PACE financing must match the applicant's property tax schedule: e.g., if the Property Owner owes property tax payments in semi-annual installments, then the C-PACE Payments would be due in semi-annual installments. Interest only periods are determined by the terms dictated in the Financing Agreement. Capitalized Interest is capped at 36 months unless an exception is made at the discretion of the Program Administrator.

C-PACE Payments will be billed and collected by the Capital Provider. Pursuant to the C-PACE Lien Certificate, C-PACE Program Agreement, and the Financing Agreement, each C-PACE Payment must be paid in full by the relevant due date reflected on the Assessment Payment Schedule, or the C-PACE Payment will be considered delinquent. Further discussion is under Section 5.1.3 Servicing fees and in Section 7.5 Servicing of C-PACE Payments.

Pre-payment of a C-PACE Loan is permissible per the terms and conditions laid out in the Financing Agreement. Nothing in the Program Guidelines may supersede or alter the terms and conditions contained in the C-PACE Lien Certificate, C-PACE Program Agreement, and the Financing Agreement.

7.3 Delinquent Payments and Enforcement Remedy

If the Property Owner defaults for failing to pay the C-PACE Payments on time, then the Lien will be enforced by the Locality in a similar manner as the Locality enforces delinquent real estate taxes, including enforcement through a tax lien sale or assignment of these rights to the Capital Provider. If the Locality elects to not enforce the C-PACE Lien, the Locality must relinquish and assign its right to enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate found in Appendix E. It should be noted that the outstanding balance of the C-PACE Loan will not be accelerated, and the Lien will not be extinguished by any collection remedies.

Delinquent Payments are subject to interest, penalties, and/or other fees in accordance with the executed documents with the Capital Provider and the applicable Locality.

Localities are entitled to recover costs and expenses, including attorneys' fees, in a suit to collect Delinquent Payments, in a similar manner as in a suit to collect delinquent real estate taxes, including utilizing any administrative remedies provided by Virginia law. The costs and expenses recovered by the Locality would be in addition to any costs, expenses, interest, or other amounts due and owing to Capital Provider in accordance with the executed documents.

7.4 Amendment of Lien and Payment Schedule

7.4.1 Overview

The Capital Provider can amend the Lien and/or Payment Schedule per the C-PACE Documents during the Term of the C-PACE Loan. This process could be to amend the Assessment Payment Schedule to reflect interest charges related to late payments, or to amend and restate the C-PACE Documents to increase the C-PACE Loan proceeds if the project qualifies. Please see [Appendix E](#) for a form of C-PACE Amendment.

7.4.2 Process

The Capital Provider must use the form of C-PACE Amendment linked in [Exhibit E](#) and submit to the Program Administrator for review. Once reviewed, the Capital Provider will submit this Amendment to the Locality that reflects the adjustment and file the Amendment in the Land Records. The Locality will sign the C-PACE Amendment and the Capital Provider will record the C-PACE Amendment in the Land Records. The Capital Provider will provide advance notification of the pending amendment and a copy of the executed C-PACE Amendment to the Program Administrator.

In all scenarios, the Capital Provider should communicate the reasons for the Amendment to the Program Administrator to understand the process and any associated incremental costs for the facilitation of this process.

7.5 Release of the C-PACE Lien

Once the C-PACE Loan is repaid in full according to the terms of the C-PACE Documents, the Capital Provider will record a release of the C-PACE Lien in the Land Records.

7.6 Servicing of C-PACE Payments

The Capital Provider will bill and collect the C-PACE Payments. The Capital Provider will also provide the C-PACE Program Administrator with information on an annual basis to confirm payment, prepayment, delinquent payment, etc. of C-PACE Payments. The Capital Provider will notify the C-PACE Program Administrator and the Locality immediately of any delinquencies, repayments, or lien releases, and related actions required of the local government, as applicable.

If the Capital Provider is not able to service the loan, the Program Administrator will service it, upon request. The Program Administrator will issue a bill to the Property Owner instructing that payment be made to the Capital Provider. The Capital Provider will confirm receipt of the payment with the Program Administrator immediately, pursuant to the terms of the C-PACE Loan Documents and any other Project servicing agreement that is required by the Program Administrator. Each C-PACE

Payment that is serviced by the Program Administrator will include a Servicing Fee, as described in [Section 5.3 Servicing Fee](#).

8.0 Lender Consent

8.1 Overview

Per the C-PACE Act, a Property Owner must obtain the written consent of all existing mortgage or deed of trust lienholders of record encumbering the Eligible Property prior to closing the C-PACE Loan. Lender Consent must be in the form approved by each existing lienholder. The purpose of Lender Consent is for all existing secured lienholders with interest in the Eligible Property to consent to the due and unpaid C-PACE Payments having a lien status senior to their position. When an existing secured lienholder will not consent to C-PACE, the mortgage or deed of trust must be prepaid in full prior to or simultaneous to the closing of the C-PACE Loan.

The Lender Consent document will achieve the following:

- Request confirmation from the secured lienholder(s) that the levy of the Lien, subject to the C-PACE Documents will not trigger an event of default nor the exercise of any remedies under the mortgage loan documents or other security documents held by the lienholder
- Advise the secured lienholder(s) that the C-PACE Lien will be repaid in installments collected pursuant to the terms of the C-PACE Documents and subject to the same penalties, remedies, and lien priorities as a special assessment. Additionally, provide notification that the secured lienholder's lien will be junior to the payments of the C-PACE Lien as they come due and that the C-PACE Lien does not accelerate
- Advise the secured lienholder(s) of the terms of the C-PACE Loan that describe the maximum Lien Amount, the maximum Term based on the Weighted Average EUL, and the amount financed cannot exceed the Eligible Project
- Advise the secured lienholder(s) that the Locality will enforce the Lien in the same manner as property taxes and other special assessment charges or assign rights of enforcement to the Capital Provider.

The Capital Provider may provide financing for up to 110% of the financing amount requested without obtaining additional Lender Consent. In addition, the amounts of the individual components of the total C-PACE Loan requested may change from the amounts listed above, if the C-PACE Loan requested will not increase by more than 10% of the total C-PACE Loan amount.

The Program Administrator recommends that the Property Owner consult with its chosen Capital Provider or Project Developer before approaching any existing lienholders of the Eligible Property. Many traditional lenders are not familiar with C-PACE and may not understand how the Program works. In seeking consent, the Property Owner may find it helpful to inform secured lienholders that if there is a C-PACE Loan default and tax foreclosure, the C-PACE Loan will not accelerate, and only

current and Delinquent Payments enjoy senior lien status over existing secured liens. Further, a Property Owner should emphasize that a C-PACE Loan typically increases the value of the lienholder's collateral.

A form of the Lender Consent agreement is provided in [Appendix E](#) in the Transactional Documents folder.

9.0 Change Orders

All change orders that result in an alteration of the anticipated savings attributed to the Project must be pre-approved by the Program Administrator to ensure that the changes to the Project remain consistent with the Program requirements. The Property Owner must provide documentation of the following:

- Any substantive change in Project scope with a description of the changes
- Revised Project budget to account for changes in Project Costs
- Revised Project Analysis documentation confirming new savings estimates
- Approval of the change by the Capital Provider.

A Property Owner who requires a change order is required to complete a summary of the above changes and submit the same to the Program Administrator for approval.

10.0 Marketing and Outreach

The VA C-PACE Program provides stakeholders with a variety of resources that can be used to promote the Program. Resources such as fact sheets for different stakeholders and case studies by property type. The majority of these resources can be found on the Program's website at www.virginiapace.org.

Marketing, Outreach and Training (MOT) is key to successfully launching and sustaining an accelerated growth of C-PACE in the Virginia marketplace. MOT leverages the Program brand utilizing various channels including the website, public relations, email communications, and outreach efforts to educate stakeholders and channel partners. Providing the benefits of C-PACE with a focus on energy and equity goals provides economic development tools to promote Virginia Localities.

C-PACE is a complex program to implement because of the different stakeholder groups that are part of the customer acquisition process. There are five major groups of C-PACE stakeholders that the Program targets through direct outreach or through channel partnerships including:

- Property owners of existing properties

- Developers of new projects
- Contractors and service providers with focus on small, minority and veteran businesses
- Localities
- National and community-based capital providers and lending institutions

The Program Administrator conducts education and outreach programming tailored to each stakeholder group around the benefits of C-PACE financing and posts online training modules to assist contractors and Capital Providers on the benefits and mechanics of utilizing C-PACE. The Program Administrator also establishes specific marketing channels to conduct outreach and education to minority, women, and veteran partners.

C-PACE has evolved from being primarily a small retrofit financing tool to a gap financing product that replaces equity or mezzanine debt in the capital stack. The market has shifted because the Capital Providers – who originate most of the transactions nationwide – recognized the need to generate a minimal level of fee income and to increase the certainty of close. Continued outreach and marketing to lenders to register and participate in the Virginia C-PACE Program is a key strategy in bringing new construction and retrofit Improvements.

Appendix A: Glossary of Terms

Ancillary Costs - Costs necessary to install an Eligible Improvement. Examples include roof structural improvements necessary to support a roof-mounted solar PV array or building electrical upgrades necessary to support an energy efficient HVAC system.

Assessment Payment Schedule - Schedule of C-PACE Payments necessary to repay the C-PACE Loan over the C-PACE Term, which is attached to and incorporated into the C-PACE Program Agreement and certain other C-PACE Documents, including the C-PACE Lien Certificate. C-PACE Loans must be fully amortized. Interest only periods are not limited but the Term of the C-PACE Loan begins upon receipt of the Certificate of Occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the Locality.

Capital Provider - 1) Private lending institution that has been approved by the Program Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and its successors and assigns or 2) Current holder of a C-PACE Loan.

Capital Provider and VPA Disclosures and Risks - Property Owner written acknowledgement of the disclosures and risks associated with the Property Owner's obtaining a C-PACE Loan through the VA C-PACE Program.

Capital Provider - VPA Agreement - Document executed by the Program Administrator and Capital Provider that defines the terms in which the Program Administrator designates the private lender or financial institution as a Capital Provider qualified to lend in the Program.

Clerk's Office - The Clerk's Office of the Circuit Court of State of Virginia.

Closing Fee - One-time fee paid to the Program Administrator at loan closing.

Combined Loan to Value (LTV) - All secured debt like mortgages plus all C-PACE assessments.

Commonwealth - The state of Virginia.

Conditional Approval - Letter provided to the Property Owner or Capital Provider by the Program Administrator indicating that the documents associated with the Pre- and Final-Application have been completed.

C-PACE - Commercial Property Assessed Clean Energy.

C-PACE Act - Virginia's Commercial Property Assessed Clean Energy (C-PACE) financing program, codified in [§15.2-958.3](#).

C-PACE Amendment - Amendment to the C-PACE Lien Certificate executed by the local government, Capital Provider, and Property Owner, which is recorded in the Land Records against the Property by the Capital Provider to evidence each amendment to the C-PACE Loan and C-PACE Lien.

C-PACE Assignment (CP to CP) - Written assignment by one Capital Provider to another Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of the assignment document.

C-PACE Assignment (Locality) - Written assignment by the Locality to the Capital Provider to whom the C-PACE Loan is then due, wherein the Locality relinquishes and assigns its right to enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.

C-PACE Documents - C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-PACE Assignment (CP to CP) (if any), C-PACE Assignment (Locality) (if any), C-PACE Amendment (if any), and any other document, agreement, or instrument executed in connection with a C-PACE Loan.

C-PACE Lien or Lien - Charge levied by the Locality against the Eligible Property and for the benefit of the Eligible Property at the request of the Property Owner.

C-PACE Lien Certificate - Voluntary special assessment document signed by the Capital Provider, Property Owner and the Locality that is recorded in the Land Records against an Eligible Property to secure the C-PACE Loan.

C-PACE Loan - Loan from a Capital Provider to a Property Owner to finance a Project in accordance with the Program Guidelines. Per the C-PACE Act, a C-PACE Loan is available for commercial buildings. Residential properties with fewer than five (5) single family dwelling units are not eligible.

C-PACE Loan Amount - Total amount of the loan principal, plus all interest, penalties, fees, costs, and other amounts accrued as outlined in the C-PACE Documents and resulting Lien levied against the Eligible Property.

C-PACE Model Ordinance or Ordinance - Piece of legislation enacted by a locality establishing C-PACE in that jurisdiction.

C-PACE Payment - Periodic installment payments of the C-PACE Loan by a Property Owner, due and payable to the Capital Provider as permitted by the C-PACE Act in such amounts and at such times as described in the C-PACE Lien Certificate, C-PACE Program Agreement, and Financing Agreement.

C-PACE Program Administrator - Virginia PACE Authority, Inc. (VPA) which has a contract with Virginia Energy to provide program administrative services for the Virginia C-PACE Program.

C-PACE Program Agreement - Agreement between the Property Owner, Locality, and Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the Program; the Property Owner's acknowledgment and consent for the Locality to impose a voluntary special assessment and record a C-PACE Lien Certificate against the Property Owner's Eligible Property; and a summary of the terms of the C-PACE Loan.

C-PACE Program Completion Certificate - Certificate of completion completed by the Property Owner and signed by the Property Owner and the Capital Provider.

Delinquent Payment - Any C-PACE Loan payment that was not paid by the Property Owner in accordance with the C-PACE Documents and the Amortization Schedule.

Eligible Improvement(s) - A specific improvement or multiple improvements installed as part of an Eligible Project on an Eligible Property including the following categories:

- Energy efficiency improvements
- Water efficiency and safe drinking water improvements
- Renewable energy improvements
- Resiliency improvements
- Stormwater management improvement
- Environmental remediation improvements, and
- Electric vehicle infrastructure improvements

Eligible Project Cost or Project Cost - A cost necessary to install an Eligible Improvement to complete an Eligible Project which consists of Hard, Soft and Ancillary Costs.

Eligible Project or Project - A project that is approved by the Program Administrator containing Eligible Improvements.

Eligible Property - All assessable commercial real estate located within the Commonwealth, with all buildings located or to be located thereon, whether vacant or occupied, whether improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the locality, other than a residential dwelling with fewer than five (5) dwelling units or a condominium as defined in § 55.1-1901 used for residential purposes. Common areas of real estate owned by a cooperative or a property owners' association described in Subtitle IV (§ 55.1-1800 et seq.) of Title 55.1 that have a separate real property tax identification number are eligible properties.

Expected Useful Life (EUL) - Estimated lifespan of an asset during which it is in good enough condition to function properly and be used.

Final Application - Full application to participate in the Program and receive the C-PACE Loan that is approved by the Program Administrator and that confirms that the Property Owner has met all the

requirements set forth in the Program Guidelines. Approval of the Final Application by the Program Administrator is a condition to closing the C-PACE Loan.

Final Approval - Letter provided by the Program Administrator that signifies that the Final Application is complete and has been approved. Following receipt of this notice, the Property Owner may close the C-PACE Loan.

Financing Agreement - Document executed by the Property Owner and Capital Provider that defines the terms of the C-PACE Loan, which comply with the requirements of the Program, and which are mutually agreed upon by the Property Owner and Capital Provider.

Hard Costs - All direct installation/construction contract costs (materials, labor, and overhead) associated with the Project.

Land Records - Means the land records of the Clerk of the local jurisdiction of Virginia Circuit Court.

Lender Consent - Written consent and subordination agreement executed by the holder of each existing lien, mortgage, or deed of trust on an Eligible Property that is the subject of a C-PACE Loan, which allows the C-PACE Lien to have senior priority over any existing lien, mortgage, or deed of trust, other than real property taxes.

Locality - Means all Cities, Counties, and Incorporated Towns within the Commonwealth of Virginia.

Pre-Application - Initial application completed by a Property Owner by which the Program Administrator can determine whether the proposed Project is located on an Eligible Property and that the prospective Property Owner is aware of the Program requirements. Approval of a Pre-Application is required prior to submittal of the Final Application.

Program Administrator - Virginia PACE Authority (VPA).

Program Manager - The Locality Point of Contact or such person designated in writing by the Locality to supervise the Program and act as liaison with the Program Administrator.

Program Sponsor - Virginia Energy (VE).

Programmatic Documents - Documents that are not specific to a specific transaction including the C-PACE Program Model Ordinance, Capital Provider-VPA Agreement, VA C-PACE Program Guidelines, and Virginia Energy-Locality C-PACE Agreement.

Project Analysis - an analysis of the Eligible Improvements proposed for the Project conducted by the Registered Contractor or Qualified Professional in compliance with Section 4.0 Energy and Resiliency Analysis Requirements.

Project Center - A web portal containing all documents, applications, and instructions required to be approved for C-PACE Loans offered through the Program Administrator.

Project Developer - An individual or company that assists the Property owner in developing the scope of the Project and/or assisting in arranging C-PACE Loans.

Property Owner - Owner of Eligible Property who obtains a C-PACE Loan from a Capital Provider under the Program in accordance with the Program Guidelines or the successor in title to the original Property Owner.

Property Owner Affidavit or Property Owner Certification - Notarized certificate from Property Owner, certifying that (1) Property Owner is current on payments on loans secured by a mortgage or deed of trust lien on the Property and on real estate tax payments, (2) that the Property Owner is not insolvent or in bankruptcy proceedings, and (3) that the title of the Property is not in dispute, as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the Program Administrator and Capital Provider

Qualified Professional - A professional meeting the criteria to perform the Energy and/or Resiliency Analysis and that has registered as Contractor in the Virginia PACE Program.

Real Property - One or more defined interests, benefits, or rights inherent in the ownership of real estate.

Registered Contractor - A business or organization that has registered with the Program to provide services to Property Owners. Examples of Registered Contractors include general contractors, HVAC installers, lighting contractors, solar developers and installers, energy engineering firms, commissioning agents, and licensed engineers and architects.

Retroactive C-PACE - Completed installations of certain C-PACE Projects are eligible for Retroactive C-PACE financing. Retroactive C-PACE are C-PACE Loans that close after the Property Owner completes the installation of the Eligible Improvements. Retroactive C-PACE must occur within 24 months of the time elapsed between the completion of the installation and approval of the application for a C-PACE Loan. Retroactive C-PACE Projects must satisfy the same requirements as other C-PACE Projects in terms of eligibility.

RFQ - Request for Qualifications provided to lenders who want to be Capital Providers in the Program.

Servicing Fee - Fee that is collected annually with the C-PACE Payment over the term of the C-PACE Loan if the C-PACE Program Administrator services the C-PACE Payments. (See [Section 5.0 Program Fees](#) for further details).

Soft Costs - Indirect costs that are not considered direct construction costs but are necessary to complete the Project.

Term - Period beginning on the effective date of the C-PACE Documents and ending on the date on which the C-PACE Loan and any other amounts owed pursuant to the C-PACE Documents have been repaid in full in accordance with the C-PACE Documents and Amortization Schedule.

Transactional Documents - Suite of documents and forms necessary to apply for and close a C-PACE Loan.

VA C-PACE Checklist - List of documents and information required for each C-PACE transaction.

Virginia C-PACE Program or VA C-PACE - C-PACE financing program established in the State of Virginia which facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be levied and recorded against the Property to secure the C- PACE Loan.

VA C-PACE Program Guidelines or Program Guidelines - Document that outlines the requirements of the VA C-PACE Program.

Virginia Code - The Code of Virginia Annotated (1950), as amended.

Virginia Energy - The state energy department sponsoring the VA C-PACE Program.

Virginia Energy-Locality C-PACE Agreement - Agreement between Virginia Energy and the Locality to which the Locality elects to participate in the Virginia C-PACE Program.

Virginia C-PACE Program - The VA C-PACE Program.

Virginia PACE Authority, LLC ("VPA") - Tax-exempt 501(c)3 nonprofit entity that administers the VA C-PACE Program on behalf of Virginia Energy and for Localities that sponsor a local C-PACE program.

Weighted Average Expected Useful Life (EUL) - Weighted average of the estimated lifespan of the Eligible Improvements.

Appendix B: Common Eligible Improvements

Eligible Improvements for the expanded VA C-PACE Program include energy efficiency, water efficiency and safe drinking water, renewable energy, resiliency, stormwater management, EV infrastructure, and environmental remediation measures installed as part of an Eligible Project. Any deviations from these Eligible Improvements legislated through local C-PACE programs are delineated in the Existing Local Program Matrix in [Appendix F: Supplemental information](#).

Energy Efficient Improvements

The following list of predominant, long-standing, proven energy efficiency technologies, water conservation technologies, and renewable energy generation systems is intended as a reference list and can change at any time. If not included on this list, the Program Administrator will review proposed Eligible Improvements and accept them on a case-by-case basis.

- High efficiency lighting
- Heating ventilation air conditioning (HVAC) upgrades
- New automated building and HVAC controls
- Variable speed drives (VSDs) on motors fans and pumps
- High efficiency chillers
- High efficiency boilers and furnaces
- High efficiency hot water heating systems
- Combustion and burner upgrades
- Fuel switching resulting in an overall reduction in the number of BTUs required to achieve a given end use
- Heat recovery, including air, water, or steam condensate heat or energy recovery
- Steam traps
- Building enclosure/envelope improvements
- Building automation (energy management) systems

The following end-use savings technologies are more applicable to industrial facilities:

- New automated process controls
- Heat recovery from process air and water
- Cogeneration used for peak shaving
- Process equipment upgrades
- Process changes

Shown below are key aspects of some of the most applied technologies listed above, with their typical simple payback range. These payback ranges are only provided for informational purposes and should not be construed as a guarantee of performance or requirement for C-PACE Financing eligibility.

Automated Building and HVAC Controls

- New electronic controls which are more precise and reliable when compared to old controls that may still be pneumatic systems based on compressed air
- Automated lighting, chiller, boiler, and HVAC operation including
 - Load management, including load shedding, scheduling, and other building-to-grid interactive features;
 - Optimal start/stop/warm up
 - Ventilation control
- Whole-building energy management systems, which may come with other advanced control technologies, such as:
 - Security, fire, and life safety
 - Alarm monitoring and report generation
 - Preventive maintenance scheduling
- Remote monitoring/metering capabilities
- Plug-load controls

Boilers

- Replacement of steam with hot water boilers for hot water heating loads; including heat pump water heaters
- Improved maintenance
- Optimized operation/staging in multiple boiler plants
- Optimized boiler controls
- Tuning or replacement of burners
- Addition of small “pony” boilers for low loads, which result in
 - Reduced fuel consumption/energy costs
 - Reduced emissions
 - Reduced maintenance costs
 - Higher reliability

Building Shell and Fenestration

- Roof insulation, which, when combined with reflective roof coatings in warm climates, reduces energy consumption
- R review of building pressurization for proper ventilation
 - Balance exhaust and intake air quantities
 - Add weather-stripping on doors and windows
 - Seal cracks and unnecessary openings
- Window films to reduce solar heat gain and/or heat loss
- Replacement windows with more energy efficient glazing
- Present value of the embodied energy in the building envelope

Chillers

- New chiller models, which can be up to 30-40 percent more efficient than existing equipment
- Upgrades of lead chiller(s) (base load) to high efficiency
- Management of chiller and condenser settings to minimize compressor energy
- Optimization of pumping energy for the distribution of chilled water
- Optimization of HVAC operation to
 - Improve temperature/humidity control
 - Eliminate unnecessary cooling loads
- CFC reclamation program/inventory
 - Chiller replacement may achieve both CFC management and energy efficiency objectives

Heat Recovery

- Heat recovery devices to capture waste heat from water, process heat and exhaust air to re-use it for preheating of
 - Building intake air, including energy recovery units, heat pipes, enthalpy wheels or similar
 - Boiler combustion air
 - Boiler feedwater
 - Inlet water for domestic hot water

HVAC

- New packaged units for increased efficiency and indoor comfort
- Heat pumps
- Proper sizing of HVAC equipment
 - Full-load operation is more efficient than part load operation
 - consider fan capacity reduction or staging of two (2) smaller units rather than partial loading of one large unit
- Installation of VSDs on HVAC motors
- The balancing of air and water supply systems (by installing economizers and direct digital controls) which removes trouble spots demanding inefficient system operation
- Improves maintenance and eliminates simultaneous heating and cooling
- Variable air volume conversions, which differ significantly from constant air flow
- Ventilation reduction (when possible and not below ventilation rates required by USBC)
- Unoccupied shutdown or temperature setback/setup (controls)
- Combined heat and power

Lighting

- Daylight controls and natural daylighting designed to reduce energy and improve visual comfort
- Upgrades for existing fluorescent fixtures including electronic ballasts, T8 lamps, reflectors, and the installation of LED bulbs and fixtures
- Timers and occupancy sensors for meeting rooms and other intermittently occupied spaces
- Smaller impact opportunities including security lighting, stairwell lighting, exterior night-time security lighting, and exit signs

Motors

- High efficiency electric motor replacements
 - The cost premium over standard motors normally can be recovered in less than two (2) years
- Motor sizing to the actual load profile to improve efficiency and control electrical power factor

Refrigeration

- Improvements to refrigerated cases and walk-in coolers to improve efficiency and decrease waste
 - Additional insulation, anti-sweat heater controls, auto-closers for cooler/freezer doors, case-lighting controls, improved defrost controls, suction line insulation, etc.
- Thermal Storage Systems (for load shifting)
- Compressors (VFD and controls, heat recovery, mechanical sub-cooling, evaporative condensers)

Variable Speed Drives

- VSDs applied to motors, pumps, and fans
 - Matches motor use to variable operating load
 - Can save up to 40 percent in power consumption
 - Can be packaged with controls
 - Extends motor life

Water Efficiency and Safe Drinking Water Improvements

- Replacement of toilets, urinals, and other bathroom fixtures which can greatly impact domestic water use
- Replacement of pre-rinse valves, dishwashers, and icemakers in commercial kitchens, which can save water
- Upgraded laundry equipment in commercial properties and Laundromats
- Installation of cooling towers, condensers, and steam boilers HVAC systems, which can reduce water consumption
- Installation of new equipment in car washes to achieve 80-100% recycled water use or utilization of applicable gray water sources, film and x-ray processing, and high-tech manufacturing which can reduce industrial water consumption
- Replacement of lead pipes that serve potable water supply

Renewable Energy Improvements

- Solar photovoltaic power
- Solar thermal
- Wind power
- Geothermal energy
- Fuel cell

- Green Hydrogen (hydrogen produced by splitting water into hydrogen and oxygen using renewable electricity)
- Combined heat and power
- Solar battery storage
- Voltage optimization devices: Savings may be achieved by reducing energy lost during the transmission and transformation processes

Resiliency Improvements

- Stormwater management systems
 - Green roofs
 - Blue roofs
 - Pervious pavement/pavers
 - French drains
 - Rainwater capturing systems and other stormwater management systems as approved by the Virginia Best Management Practices (BMP) Clearinghouse, or the Chesapeake Bay Basin wide BMP Verification Program
- Wind
 - Wind resistant felt underlayment
 - Existing roof-structural-framing-member-to-wall connections (e.g., hurricane straps)
 - Commercial doors including roll-up, overhead, and sectionals
 - Reinforced gutters and downspouts
 - Hurricane shutters
 - Wind resistant shingles
 - Secondary water barrier
- Flood mitigation/inundation adaptation
 - Relocation of HVAC, plumbing, servers, electrical rooms, backup generators, and other critical infrastructure above the height of expected flood levels
 - Dry flood protection such as flood gates, walls, or doors, inflatable barriers
 - Direct Costs to build > 3 feet above base flood elevation
 - Infrastructure to raise equipment above 3-foot freeboard
 - Site Perimeter floodproofing
 - Flood vents
 - Floating foundations
 - Thermal protection/insulation
 - Sump Pumps (permanent)
 - Backwater Valves
 - Waterproof or water-resistant materials for flooring, foundation etc.
 - Windows and doors on ground level to be watertight
 - Elevators to include water detectors that stop the elevator above flood inundation levels;
 - Elevating sites
 - Sea walls

- Energy Storage systems
- Stormwater management project
 - green roofs
 - blue roofs
 - pervious pavement/pavers
 - rainwater capturing systems

Environmental Remediation Improvements

- Soil and groundwater remediation
- Asbestos remediation in tiles, ceilings, and other interior building areas
- Mold remediation of walls and ceilings
- Removal of lead paint in building interiors
- Protect water piping from contamination due to flooding
- Ultra-violet lamp systems in air handling units or hospital rooms

Electric Vehicle Infrastructure

- Electric vehicle charging stations
- Electrical upgrades necessary to install EV charging stations

Non-Eligible Improvements

- Improvements that are not permanently installed and can be easily removed
- Any measure that cannot be explained in terms of industry-standard engineering or scientific principles

Appendix C: Program Fees

Closing Fee

- 1.05% of Lien Amount
- Minimum Fee: \$3,300

Servicing Fee (if provided by Program Administrator)

- 1.5% of Annual Loan Amount
- Minimum Fee: \$300
- Maximum Fee: \$2,000

Appendix D: VA C-PACE Checklist

APPLICATION	
Pre-Application for C-PACE financing	Create credentials in Project Portal . Pre-approval will be confirmed via email and logged into system. Program Administrator (PA) will contact Property Owner if there are issues with Pre-Application
Final Application for C-PACE financing	Complete in Project Portal. Documentation must be uploaded at this time.
Property information detail	PA will confirm property information detail including verification of property address.
Property Owner tax history (3 years)	Documents verifying Property Owner is current on property taxes.
Project Analysis	Project Analysis report with supporting documentation and calculations
Signed installation contract(s)	Must include estimated costs
Capital Provider (CP) offer to fund	Term sheet or similar
Title Report or Commitment	Must be current within 30 days of project approval
Property value determination	Appraisal, assessed value, other as listed in Program Guidelines
Lender Consent	Obtain written Lender Consent from all lienholders, if applicable
Documentation of Mortgage Release	Evidence that existing mortgage(s) has been released, if applicable
Documentation of Mortgage Balance(s)	Copies of most recent mortgage loan statement(s) for all existing loans or mortgage commitment on Property to determine LTV ratio
CP and PA Disclosures and Risks	Property Owner signs
Property Owner Affidavit	Property Owner and Capital Provider sign
Project Information Request	Property Owner signs
PA Conditional Approval Letter	PA indicates that Final Application is complete, and CP can initiate closing
CLOSING	
Capital Provider-VPA Agreement	CP executes with PA if first project in Program.
C-PACE Program Agreement and C-PACE Lien Certificate	CP sends documents to PA for review; PA sends back if modifications required
PA Final Approval Letter	Indicates Project is ready to close. PA sends Letter to Locality with CP and Property Owner signatures on Program Agreement, Financing Agreement, and C-PACE Lien Certificate.
C-PACE Program Agreement and C-PACE Lien Certificate	PA sends Program Agreement and C-PACE Lien Certificate to Locality. Locality executes and returns to all parties. CP closes and disburses funds.
Closing Fee Paid to PA and any other fees	Wire addressed to Virginia PACE Authority. Payment and wiring information will be provided in an invoice/notification from VPA.
C-PACE Lien recordation	CP records C-PACE Lien Certificate in Land Records and provides copy to PA
POST-CLOSING	
C-PACE Program Completion Certificate	Property Owner or CP provides to PA at Project completion

Appendix E: VA C-PACE Program Documents

To access the documents, either click the links below or go to <http://virginiapace.org>

[Programmatic Documents](#)

[Transactional Documents](#)

Appendix F: Supplemental Information

- State Statute
- Resiliency Compendium
- Existing Local Program Matrix