

FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
May 9, 2023

**AGENDA**

- 9:30 Presentations
- 9:30 Board Adoption of the FY 2024 Budget Plan
- 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 – Brookside Drive (Mason District)
- 2 Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program – Valleyfield Drive (Springfield District)
- 3 Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program – Linway Terrace (Dranesville District)
- 4 Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program – Northedge Drive (Springfield District)
- 5 Authorization to Advertise a 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
- 6 Supplemental Appropriation Resolution AS 23196 for the Department of Family Services to Accept Grant Funding from the U.S. Department of Labor for the Community Project Funding Request Included in the Consolidated Appropriations Act, 2022

**ACTION ITEMS**

- 1 Resolution to Support the Abandonment of Route 4117 (Mount Vernon District)
- 2 Approval and Authorization to Execute a Revision to the Project Administration Agreement with the Virginia Department of Transportation for the Richmond Highway Corridor Improvements Project (Franconia and Mount Vernon Districts)

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**ACTION ITEMS  
(continued)**

3 Approval of Revisions to Fairfax County's Road Fund Guidelines (Braddock, Dranesville, Hunter Mill, Providence, Springfield, and Sully Districts)

4 Approval of the One-Year Action Plan for the Use of Community Development Block Grant (CDBG), HOME Investment Partnerships Program Funds (HOME), and Emergency Solutions Grant (ESG) in FY 2024

**INFORMATION  
ITEMS**

1 Fairfax-Falls Church Community Services Board Fee Schedule

**CLOSED SESSION**

Closed Session

**PUBLIC  
HEARINGS**

3:30 **To be Deferred to 6/6/23 at 3:30p.m.** Public Hearing on RZ 2022-SU-00010 (Matan Glorus Road, LLC) (Sully District)

3:30 **To be Deferred to 5/23/23 at 4:00p.m.** Public Hearing on PCA 80-S-008-02 (RZPA 2022-SU-00095) (Virginia Medical Transport, LLC) (Sully District)

4:00 **To be Deferred to 5/23/23 at 3:30p.m.** Public Hearing on RZ 2016-SP-033 (Merit Investment, LLC) (Springfield District)

4:00 **To be Deferred to 6/6/23 at 4:00p.m.** Public Hearing on a Proposal to Vacate a Portion of Barney Road (Sully District)

4:00 Public Hearing to Consider an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)

4:00 Public Hearing to Consider an Ordinance Establishing Parking Restrictions on Whittier Avenue (Dranesville District)

4:00 Public Hearing on a Proposal to Adopt an Ordinance Requesting an Increase in Frequency and/or Duration of Events of Specified Designated Outdoor Refreshment Area Licenses Under Va. Code § 4.1-206.3(D)(2)(c)





*Fairfax County, Virginia*  
**BOARD OF SUPERVISORS**  
**AGENDA**

**Tuesday**  
**May 9, 2023**

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9:30 a.m.

**PRESENTATIONS**

- RESOLUTION — To recognize the James Madison Girls Basketball Team for its wins in the Virginia High School Class 6A State Championship. Requested by Supervisors Alcorn, Palchik and Smith.
- RESOLUTION — To recognize the West Springfield High School wrestling team for their historic success at the first Virginia High School League Girls Wrestling Championship. Requested by Supervisors Herrity and Walkinshaw.
- PROCLAMATION — To designate the month of May 2023 as Stroke Smart Month. Requested by Chairman McKay and Supervisors Lusk and Palchik.
- PROCLAMATION — To designate the month of May 2023 as Lyme Disease Awareness Month. Requested by Supervisor Herrity.
- PROCLAMATION — To designate the month of May 2023 as Fight the Bite Awareness Month. Requested by Supervisor Herrity.

**STAFF:**

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



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9:30 a.m.

Board Adoption of the FY 2024 Budget Plan

ENCLOSED DOCUMENTS:

Attachment 1 – FY 2024 Budget package will be available online on Tuesday, May 9, 2023, at: <http://www.fairfaxcounty.gov/budget>

STAFF:

Bryan J. Hill, County Executive  
Christina Jackson, Chief Financial Officer  
Philip Hagen, Director, Department of Management and Budget  
Katie Horstman, Deputy Director, Department of Management and Budget  
Joe LaHait, Deputy Director, Department of Management and Budget

Board Agenda Item  
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10:00 a.m.

Matters Presented by Board Members

Board Agenda Item  
May 9, 2023

10:00 a.m.

Items Presented by the County Executive

Board Agenda Item  
May 9, 2023

ADMINISTRATIVE - 1

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

ISSUE:

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

RECOMMENDATION:

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

- Three speed humps on Brookside Drive (Mason District)

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

TIMING:

Board action is requested on May 9, 2023, to allow the proposed measure to be installed as soon as possible.

BACKGROUND:

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

On March 21, 2023, FCDOT received verification from the Mason District Supervisor's office confirming community support for the Brookside Drive traffic calming plan.

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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 Brookside Drive  
Attachment II: Traffic Calming Plan for Brookside Drive

STAFF:

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

**RESOLUTION**

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

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, May 9, 2023, at which a quorum was present and voting, the following resolution was adopted:

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

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

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

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

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

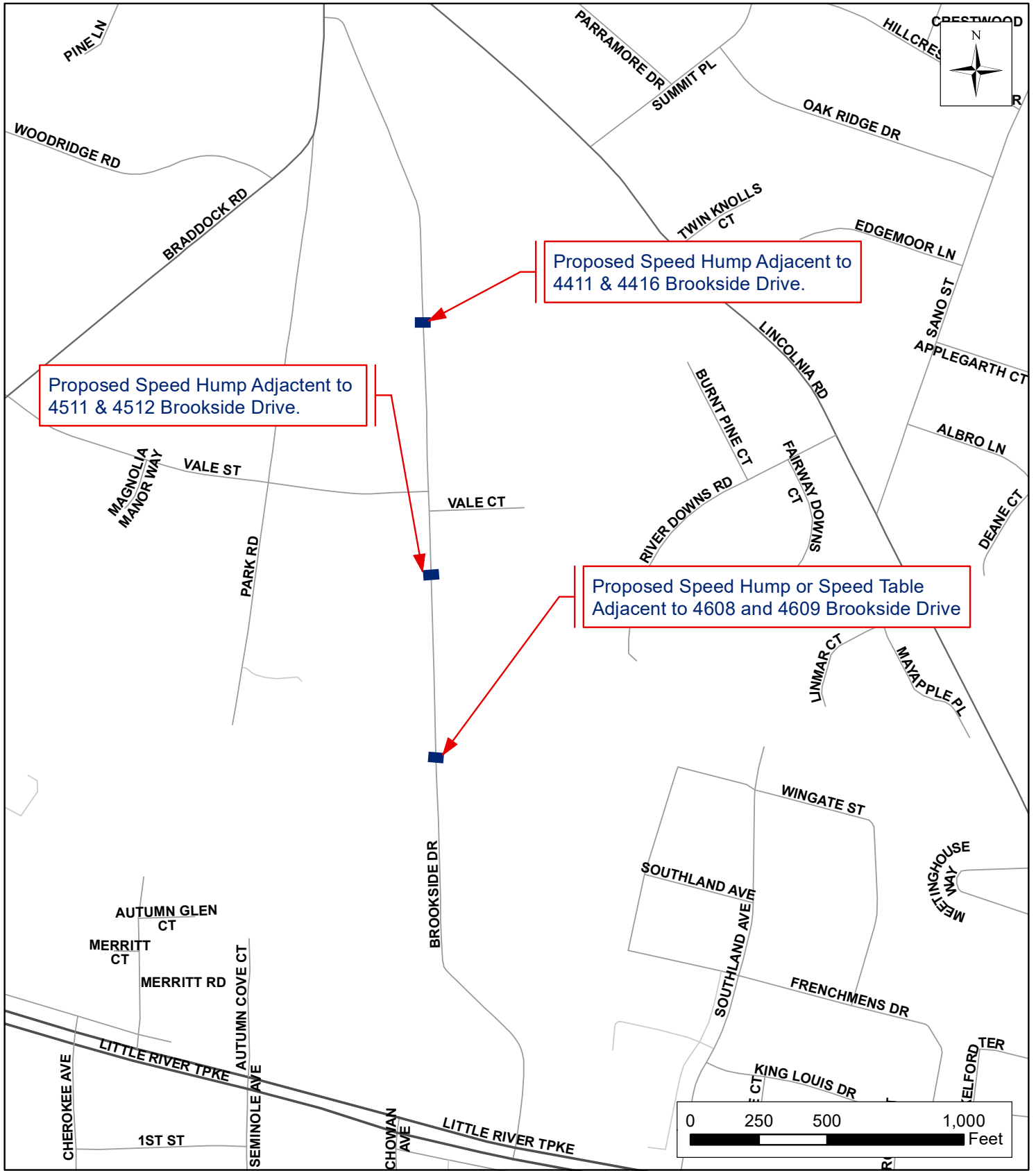
**NOW THEREFORE BE IT RESOLVED**, that the Board of Supervisors endorses the proposed Traffic Calming Plan and requests that the Virginia Department of Transportation review and approve the feasibility of implementing traffic calming measures on Brookside Drive as part of FCDOT's Residential Traffic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

**ADOPTED** this 9th day of May, 2023.

A Copy Teste:

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Jill G. Cooper  
Clerk for the Board of Supervisors



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

March, 2023

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



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ADMINISTRATIVE - 2

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

ISSUE:

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

RECOMMENDATION:

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

- Two “Watch for Children” signs on Valleyfield Drive (Springfield District)

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

TIMING:

Board action is requested on May 9, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

On March 7, 2023, FCDOT received verification from the Springfield District Supervisor’s Office confirming community support for two “Watch for Children” signs on Valleyfield Drive.

FISCAL IMPACT:

Funding in the amount of \$500 is available in Fund 300-C30050, Project 2G25-076-000, Traffic Calming Program.



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ENCLOSED DOCUMENTS:

None

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation FCDOT

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

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ADMINISTRATIVE - 3

Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program – Linway Terrace (Dranesville District)

ISSUE:

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

RECOMMENDATION:

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

- Two “Watch for Children” signs on Linway Terrace (Dranesville District)

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

TIMING:

Board action is requested on May 9, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

On March 10, 2023, FCDOT received verification from the Dranesville District Supervisor’s Office confirming community support for two “Watch for Children” signs on Linway Terrace.

FISCAL IMPACT:

Funding in the amount of \$500 is available in Fund 300-C30050, Project 2G25-076-000, Traffic Calming Program.

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May 9, 2023

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation FCDOT

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

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ADMINISTRATIVE - 4

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

ISSUE:

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

RECOMMENDATION:

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

- Two “Watch for Children” signs on Northedge Drive (Springfield District)

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

TIMING:

Board action is requested on May 9, 2023, to help facilitate a prompt installation of the proposed signage.

BACKGROUND:

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

On March 7, 2023, FCDOT received verification from the Springfield District Supervisor’s Office confirming community support for two “Watch for Children” signs on Northedge Drive.

FISCAL IMPACT:

Funding in the amount of \$400 is available in Fund 300-C30050, Project 2G25-076-000, Traffic Calming Program.

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ENCLOSED DOCUMENTS:

None

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation FCDOT

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

Nicole Machacuay, Transportation Planner, Traffic Engineering Section, FCDOT

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ADMINISTRATIVE - 5

Authorization to Advertise a 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:

Authorization to advertise a 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 that the Board authorize advertisement of a public hearing for June 6, 2023, at 4:00 p.m.

TIMING:

Board action is requested on May 9, 2023, to provide sufficient time to advertise the proposed public hearing on June 6, 2023, at 4:00 p.m.

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.

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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 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

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benefits to residents that include reduced utility costs and improved comfort, health and 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 Fees in  
 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 ~~pp~~Property 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 ~~kind~~category 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 Period*C-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 thresholds*Minimum and Maximum Aggregate Amounts. The minimum Loan  
 269 Amount~~dollar 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~~

~~(5) Template Program forms, including but not limited to, the program application, Property Owner Certification, and C-PACE Assignment.~~

~~(d) The Program Guidelines and any subsequent amendments thereto shall become effective only (1) to the extent that the Program Guidelines do not contravene this Ordinance, and (2) after review by the County Attorney and written approval by the Program Manager.~~

~~(e) The Program Administrator (1) will endeavor to conduct a competitive, open market Program, available to all pre-certified Capital Providers, contractors, engineers, and consultants who apply to provide services or funding for the Program, and (2) shall not grant any Capital Provider or service provider an exclusive right to provide services or funding for the Program. (f) The Program Administrator shall indemnify, defend, and hold the County harmless against any claim brought against the County or any liability imposed on the County as a result of any action or omission to act by the Program Administrator.~~

**ARTICLE 6. Limitation of Liability; Severability.**

**Section 127-62-14. Role of the County; Limitation of Liability.**

Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at their own risk. By executing the C-PACE Documents, including the a-C-PACE Program Agreement or any other C-PACE Document, or otherwise participating in the C-PACE Program and the Statewide Program, each Property Owner, Capital Provider, contractor or other party or participant hereby acknowledges and agrees, for the benefit of the County and as a condition ~~to the County's authorization of each C-PACE Loan~~ of participation in the C-PACE Program and the Statewide Program, that: (i)

~~(a) The County does not undertake any obligations under or in connection with the C-PACE Act, this Ordinance, the Program Guidelines, or any C-PACE Document~~ the C-PACE Program and the Statewide Program; except as expressly stated ~~therein or herein~~ or in the C-PACE Program Agreement, and no implied covenants or obligations of the County exist;

~~(ii) in the event of a default by a Property Owner, the County has no obligation to use County funds to make C-PACE Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to a Financing Agreement between the Property Owner and Capital Provider;~~

~~(b) (iii) The~~ no C-PACE Loan, C-PACE Lien, C-PACE Payments, ~~and/or~~ any other obligations arising from any C-PACE Document, the C-PACE Act, ~~and/or~~ this Ordinance chapter :

~~(1) Are not~~ is backed by ~~any~~ the credit of the County, the Commonwealth, or its political subdivisions, including without limitation or any County taxes or other County funds, taxing power, or governmental funds; ~~and~~ (iv) no C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from a C-PACE Document

~~(2) S~~ shall not constitute an indebtedness of the County within the meaning of any constitutional or statutory debt limitation or restriction; (v)

~~(c) The~~ County has not made any representations or warranties, financial or otherwise, ~~regarding~~ concerning the Property Owner, Eligible Property, the Capital Provider, ~~the Property, Project, or the Eligible Improvements~~ C-PACE Loan; (vi)

~~(d) The~~ County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE ~~Lien~~ Document, or any assignment or amendment thereof ; (vii)

~~(e) The~~ County assumes no responsibility or liability ~~for approved Eligible Improvements in regard 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.

- 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.

**ARTICLE 2. Program Structure**

**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 adaption;
  - 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:

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(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**

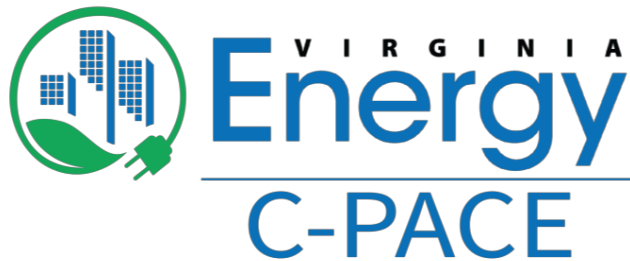
Virginia PACE Authority  
Alan B. Miller Entrepreneurship Center  
249 Richmond Road  
Williamsburg, VA 23185  
Attention: Abigail C. Johnson, Executive Director  
Tel: 415-307-7777  
[abby@virginiapace.com](mailto:abby@virginiapace.com)



**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](http://www.virginiapace.org)  
 Email: [info@virginiapace.org](mailto: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](http://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 CO<sub>2</sub> 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.

<b>Project Costs and Fees</b>	
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
<b>Hard and Soft Project Costs</b>	<b>\$3,236,200</b>
Recording fee (estimated)	\$115
Capital provider fee	\$53,780
Program Admin fee	\$37,646
Prepaid Capitalized interest	\$257,695
<b>Total financing and admin fees</b>	<b>\$349,236</b>
<b>TOTAL LIEN AMOUNT</b>	<b>\$3,585,436</b>

<b>Loan Assumptions</b>			
Interest rate	5.75%	Program admin fee	1.05%
Term (yrs.)	20	Cap Provider fee	1.50%
Amortization	20		
<b>Fee and Capitalized Interest Calculations</b>			
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%		
<b>Annual Lien Payments</b>			
C-PACE Payment	<b>\$306,280</b>		

## 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](http://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 <a href="#">Project Portal</a> . 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

ADMINISTRATIVE – 6

Supplemental Appropriation Resolution AS 23196 for the Department of Family Services to Accept Grant Funding from the U.S. Department of Labor for the Community Project Funding Request Included in the Consolidated Appropriations Act, 2022

ISSUE:

Board of Supervisors approval of Supplemental Appropriation Resolution AS 23196 for the Department of Family Services (DFS) to accept grant funding totaling \$400,000 from the U.S. Department of Labor (DOL) for funding received for the community project funding requests 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. The grant period is from April 1, 2023, through March 31, 2026. When grant funding expires, the County is under no obligation to continue funding. DFS received funding for the following project:

1. Workforce Innovation and Skills Hub Apprenticeship Readiness Training Program - \$400,000

Fairfax County launched a new skills development center to link immediate pandemic recovery efforts with long-term plans to grow employment opportunities for low-income communities and communities of color. This is a space where community members feel safe and comfortable exploring technology, design-thinking skill-building, and workforce development resources through skilled trades and professional development training. Goals of the innovation hub include to:

- Prepare low-income communities and communities of color that have been disproportionately impacted by the pandemic for in-demand careers;
- Create economic mobility pathways for youth, veterans, and displaced workers; and,
- Support community and economic development by developing a competitive local workforce.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 23196 from the U.S. Department of Labor in the amount of \$400,000 supporting a DFS project that was funded through the Consolidated Appropriations Act, 2022. No Local Cash Match is required.

Board Agenda Item  
May 9, 2023

TIMING:

Board approval is requested on May 9, 2023.

BACKGROUND:

As the Board may recall, last year the 117<sup>th</sup> 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.

The U.S. Department of Labor has released the funding for the following DFS project:

1. Workforce Innovation and Skills Hub Apprenticeship Readiness Training Program - \$400,000

Apprenticeship opportunities for local Fairfax County residents are significant to ensuring good careers for local workers and sustainable economic development for the County. The County will contract with a provider who has experience with apprenticeship and journeyman training centers. They will provide free earn-while-you-learn training for members in industry standard trades across a variety of construction crafts. Apprenticeship Readiness Programs (ARP) are a proven way to ensure that apprenticeship opportunities are available to

Board Agenda Item  
May 9, 2023

underrepresented minorities and women. This project would create an ARP for the Workforce Innovation and Skills Hub at Hybla Valley Community Center.

The contractor will operate five program cohorts over the life cycle of the grant. Each cohort will include approximately 20 to 25 participants. ARP instruction will be scheduled to mimic industry operating hours. Case management and wraparound services as well as soft/professional skills will also be provided as a companion to ARP Instruction. The contractor will also enroll participants in the program and manage performance data and support needs in their case management system, Efforts-to-Outcomes (ETO). Outreach and recruitment will be targeted to continue to increase pathways to registered apprentices among women, youth, individuals returning from incarceration or who have faced barriers to employment, veterans, and workers historically underrepresented in building and construction trades.

FISCAL IMPACT:

Funding in the amount of \$400,000 from the U.S. Department of Labor has been received for a community funding project for DFS, 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, DFS 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: Notice of Award # 23A60CP000030-01-00  
Attachment 3: Supplemental Appropriation Resolution AS 23196

STAFF:

Christopher A. Leonard, Deputy County Executive  
Michael A. Becketts, Director, Department of Family Services  
Marijke Hannam, Deputy Director, Department of Family Services

## Fairfax County Funded CPFR Projects

<b>Project Title</b>	<b>Funded Amount</b>	<b>Department Administering the Award</b>	<b>Status of Project Funding</b>
1. Homeownership: Down Payment and Closing Cost Assistance	\$1.03 million	Department of Housing and Community Development (HCD)	HCD staff is working with the federal agency to release funding.
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	Health Department staff is working with the federal agency to release funding.
4. Innovation Skills Hub: Apprenticeship Readiness Training Program	\$400,000	Department of Family Services	Funding has been released by the federal agency administering the award and budget appropriation is being requested as part of this Board item.
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.



Notice of Award

Award# 23A60CP000030-01-00

FAIN# 23A60CP000030

Federal Award Date: 03/23/2023

**Recipient Information**

**1. Recipient Name**

COUNTY OF FAIRFAX, VIRGINIA  
12000 Government Center Pkwy  
OFC - Head Start & Early Head Start  
Fairfax, VA 22035-0002  
703-324-8087

**2. Congressional District of Recipient**

11

**3. Payment System Identifier (ID)**

1540787833A9

**4. Employer Identification Number (EIN)**

540787833

**5. Data Universal Numbering System (DUNS)**

074837626

**6. Recipient's Unique Entity Identifier (UEI)**

W2ZUFMBDM378

**7. Project Director or Principal Investigator**

Mrs. Marijke Hannam  
Deputy Director  
marijke.hannam@fairfaxcounty.gov  
7033247895

**8. Authorized Official**

Mr. Naqeeb Paymaan  
Financial Specialist  
naqeeb.paymaan@fairfaxcounty.gov  
7033241842

**Federal Agency Information**

ETA Office of Grants Management

**9. Awarding Agency Contact Information**

Mr. Alexander Heron  
GMS  
Heron.Alexander.E@DOL.GOV  
202 693 3320

**10. Program Official Contact Information**

Ms. Janae L Gonzalez  
Federal Project Officer  
gonzalez.janae.l@dol.gov  
2155975173

**Federal Award Information**

**11. Award Number**

23A60CP000030-01-00

**12. Unique Federal Award Identification Number (FAIN)**

23A60CP000030

**13. Statutory Authority**

Workforce Innovation and Opportunity Act, P.L. 113-28, Section 169(c)

**14. Federal Award Project Title**

Community Projects/Congressionally Directed Spending

**15. Assistance Listing Number**

17.289

**16. Assistance Listing Program Title**

Community Project Funding/Congressionally Directed Spending

**17. Award Action Type**

New

**18. Is the Award R&D?**

No

**Summary Federal Award Financial Information**

**19. Budget Period Start Date** 04/01/2023 - **End Date** 03/31/2025

**20. Total Amount of Federal Funds Obligated by this Action** \$400,000.00

20a. Direct Cost Amount \$394,950.00

20b. Indirect Cost Amount \$5,050.00

**21. Authorized Carryover** \$0.00

**22. Offset** \$0.00

**23. Total Amount of Federal Funds Obligated this budget period** \$0.00

**24. Total Approved Cost Sharing or Matching, where applicable** \$0.00

**25. Total Federal and Non-Federal Approved this Budget Period** \$400,000.00

**26. Period of Performance Start Date** 04/01/2023 - **End Date** 03/31/2025

**27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Period of Performance** \$400,000.00

**28. Authorized Treatment of Program Income**

ADDITIONAL COSTS

**29. Grants Management Officer - Signature**

Ms. Aiyana Pucci  
Grant Officer

**30. Remarks**





Award# 23A60CP000030-01-00  
 FAIN# 23A60CP000030  
 Federal Award Date: 03/23/2023

<p><b>Recipient Information</b></p> <p><b>Recipient Name</b>          COUNTY OF FAIRFAX, VIRGINIA          12000 Government Center Pkwy          OFC - Head Start &amp; Early Head Start          Fairfax, VA 22035-0002          703-324-8087</p> <p><b>Congressional District of Recipient</b>          11</p> <p><b>Payment Account Number and Type</b>          1540787833A9</p> <p><b>Employer Identification Number (EIN) Data</b>          540787833</p> <p><b>Universal Numbering System (DUNS)</b>          074837626</p> <p><b>Recipient's Unique Entity Identifier (UEI)</b>          W2ZUFMBDM378</p>
<p><b>31. Assistance Type</b>          Discretionary Grant</p> <p><b>32. Type of Award</b>          Other</p>

<b>33. Approved Budget</b> (Excludes Direct Assistance)	
i. Financial Assistance from the Federal Awarding Agency Only	
ii. Total project costs including grant funds and all other financial participation	
a. Salaries and Wages	\$0.00
b. Fringe Benefits	\$0.00
c. Total Personnel Costs	\$0.00
d. Equipment	\$0.00
e. Supplies	\$0.00
f. Travel	\$0.00
g. Construction	\$0.00
h. Other	\$0.00
i. Contractual	\$394,950.00
<b>j. TOTAL DIRECT COSTS</b>	<b>\$394,950.00</b>
<b>k. INDIRECT COSTS</b>	<b>\$5,050.00</b>
<b>l. TOTAL APPROVED BUDGET</b>	<b>\$400,000.00</b>
<b>m. Federal Share</b>	<b>\$400,000.00</b>
<b>n. Non-Federal Share</b>	<b>\$0.00</b>

<b>34. Accounting Classification Codes</b>							
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	CFDA NO.	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION	
0501742223BD202301740026225CP000A0000AOFAM0AOFAM0	CP000030QF1	ETA	410023	17.289	\$400,000.00	01742223BD	



**35. Terms And Conditions**

**Project Abstract Summary**

1. **Project Title:** Workforce Innovation Skills Hub (WISH): Apprenticeship Readiness Program

**Funding Request:** \$400,000

**Congressional Sponsor(s):** Senator Tim Kaine and Congressman Gerry Connolly

**Requested Period of Performance:** 24 months from start, tentatively 3/1/2023-2/28/2025

**Project Location:** Hybla Valley community (Richmond Highway Corridor), Fairfax County, Virginia

**Project Purpose and Goals:** In response to the community needs, Fairfax County, launched a new skills development center to link immediate pandemic recovery efforts with long-term plans to grow employment opportunities for low-income and communities of color. The Workforce and Innovation Skills Hub (WISH) goals include:

- Prepare low-income communities and communities of color that have been disproportionately impacted by the pandemic for in-demand careers;
- Create economic mobility pathways for youth, veterans, and displaced workers; and,
- Support community and economic development by developing a competitive local workforce.

**Activities to be Performed:**

- Provide wraparound services to unemployed and underemployed residents that will address various barriers to employment and economic success.
- Create an Apprenticeship Readiness Program (ARP), a proven way to ensure that apprenticeship opportunities are available to underrepresented minorities and women, that will provide earn-while-you-learn training for members in industry-standard trades across a variety of construction crafts.
- Employment and on-the-job training will be provided for the registered apprentices on a wide variety of construction projects.

**Expected Outcomes:**

1. Enroll 100 unemployed and/or underemployed participants from the Greater Hybla Community in the BDCBT Apprenticeship Readiness Program.
2. Successfully graduate 80 percent of participants from the three-week Apprenticeship Readiness Program.
3. Successfully place 70 percent of the graduates into BDCBT local joint-managed registered apprenticeships that pay a wage of 60 percent to 70 percent of the average Journeyman salary.

**Intended Beneficiaries:** The WISH center focuses on underserved residents in South Fairfax County. The focus of this program will be on transitioning youth and adults in the Hybla Valley and surrounding communities, looking for opportunities in construction and skilled trades. Focus will be placed on



## Department of Labor

## Notice of Award

Award# 23A60CP000030-01-00

FAIN# 23A60CP000030

Federal Award Date: 03/23/2023

unemployed and underemployed residents and wraparound services addressing various barriers to employment and economic success will be provided. An estimated 100 residents will be served through 5 different cohorts (20-25 residents/cohort) over a 24-month period.

**Contractor Activities:** Wraparound services begin at the time of registration for the class. Melwood will do a career assessment with each person prior to the beginning of the pre-apprenticeship classes beginning. Melwood will provide the residents with the necessary follow-along supports and wraparound services (e.g., childcare and housing referrals, a transportation plan, job coaching, etc.) to ensure that they are successful in their job placement, with a goal of being prepared to continue to advance their careers. Workforce Specialists will check in regularly and continue to track the residents' progress at quarterly intervals, and as needed in between quarterly milestones. Residents will receive direct and indirect interventions to address progress toward their goals. Direct interventions are conducted face-to-face either at the center or in the community. Indirect interventions are conducted via telephone, email, or letters.

# AWARD ATTACHMENTS

COUNTY OF FAIRFAX, VIRGINIA

23A60CP000030-01-00

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1. Terms and Conditions

**Community Projects**  
**Fairfax County Government, CP-000030**  
**Conditions of Award**

As part of the Condition(s) of Award to receiving a Community Projects Grant, the U.S. Department of Labor (DOL), Employment and Training Administration (ETA) has identified the following area(s) that require further clarification and/or modification.

A response to all Conditions of Award must be submitted to your FPO within 45 days of receipt of this grant award package. Please note that submittal of the required document(s) does not constitute approval by DOL/ETA. A grant modification will need to be submitted and final approval must be given by the Grant Officer (GO). Your Federal Project Officer (FPO) will review the documentation and then submit it to the GO for formal approval as a modification to the grant agreement. Once approved, the revised document(s) will comprise the official modification to this grant agreement and the special conditions will be resolved. Any questions related to the below items must be submitted to your FPO.

**Condition 1 – Indirect Costs Clarification**

Your organization has incorporated indirect costs into the budget but has not submitted a Negotiated Indirect Cost Rate Agreement (NICRA). It is not clear whether your organization is claiming indirect costs under a NICRA or electing to use the 10 percent de minimis indirect cost rate if eligible.

To resolve, please either remove the indirect costs from the budget and request a budget realignment modification, submit a NICRA to confirm that the indirect costs were calculated accurately, or, if eligible, request the use of the 10 percent de minimis rate.

If your organization intends to claim indirect costs using the 10 percent de minimis rate, please confirm that your organization meets the requirements as described in 2 CFR Part 200.414(f). Clearly state that your organization does not have a current negotiated (including provisional) rate, and your organization is not one described in 2 CFR Part 200, Appendix VII of paragraph (D)(1)(b). Your organization must also clearly show how the de minimis base was calculated and which expenses are included in the base.

Applicants choosing to claim indirect costs using the de minimis rate must use Modified Total Direct Costs (see 2 CFR 200.1 below for definition) as their cost allocation base. Provide an explanation of which portion of each line item, along with the associated costs, are included in your cost allocation base. Note that there are various items not included in the calculation of Modified Total Direct Costs.

See the definitions below to assist in your organization's calculations.

- **2 CFR Part 200.1 Modified Total Direct Cost (MTDC)** means all direct salaries and wages, applicable fringe benefits, materials and supplies, services,

travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may be excluded only when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

The definition of MTDC in 2 CFR 200.1 no longer allows any sub-contracts to be included in the calculation. Please note that participant support costs are not included in modified total direct cost. Participant support costs are defined below.

• **2 CFR 200.1 Participant Support Cost** means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

## **Compliance Notification**

### **Grant Recipient Training**

Per TEGL 02-33, Appendix VIII, Community Project grant recipients are required to participate in all Employment and Training Administration training activities related to grant recipient orientation, financial management and reporting, performance reporting, product dissemination, and other technical assistance training as appropriate during the grant period.

### **Participate in a National Evaluation**

As a condition of grant award, grantees are required to participate in a national evaluation, if undertaken by DOL. See TEGL 03-22 Appendix VI Special Program Requirements for more information.

If DOL decides that a national evaluation is not necessary, at minimum, grantees will be required to attend roundtable discussion briefings on prior DOL evaluation studies focused on promising practices to deliver workforce education and training programs. The goal of these roundtable discussions is to provide Community Project grantees with researched-based evaluation studies on lessons learned from various employment and training programs to support the development, implementation, and sustainability of these grant projects.

**SUPPLEMENTAL APPROPRIATION RESOLUTION AS 23196**

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 May 9, 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:	G6767, Department of Family Services	
Grant:	1670110-2022, Apprenticeship Readiness Program	\$400,000

Reduce Appropriation to:

Agency:	G8787, Unclassified Admin	\$400,000
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Labor, \$400,000

A Copy - Teste:

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Jill G. Cooper  
Clerk for the Board of Supervisors



Board Agenda Item  
May 9, 2023

ACTION - 1

Resolution to Support the Abandonment of Route 4117 (Mount Vernon District)

ISSUE:

Board adoption of the attached resolution supporting the abandonment of Route 4117.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) supporting the abandonment of the designated Route 4117.

TIMING:

The Board should take action on May 9, 2023, so that the Virginia Department of Transportation (VDOT) has the support of the Board to finalize the abandonment and update the State maintenance inventory.

BACKGROUND:

The Fairfax County Department of Transportation (FCDOT) received a request from VDOT to abandon Route 4117 (see Attachments II, III and IV). The subject Route 4117 was removed from North Kings Highway to Huntington Avenue by VDOT Construction Plan project #0241-029-102 which realigned North Kings Highway (Route 241) and eliminated the need for Route 4117 (see Attachment III).

VDOT has requested the support of the County by a Board Resolution pursuant to Section 33.2-912 of the Code of Virginia to abandon Route 4117 which will allow the removal of the associated mileage of Route 4117 from the Virginia Highway System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Resolution  
Attachment II: VDOT Aerial Exhibits  
Attachment III: VDOT Construction Plat  
Attachment IV: VDOT AM-4.3 Inventory Form  
Attachment V: Vicinity Map

Board Agenda Item  
May 9, 2023

STAFF:

Rachel Flynn, Deputy County Executive

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

Jeff Hermann, Division Chief, Site Analysis & Transportation Planning Division, FCDOT

Gregory Fuller, Jr., Section Chief, Site Analysis Section (SAS), FCDOT

Brittany Nixon, Transportation Planner IV, SAS, FCDOT

Jeffrey Edmondson, Transportation Planner III, SAS, FCDOT

ASSIGNED COUNSEL:

Randall T. Greehan, Assistant County Attorney

**RESOLUTION**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, May 9, 2023, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the completion of the Virginia Department of Transportation (VDOT) construction project #0241-029-102 that realigned North Kings Highway (Route 241) and removed Route 4117 from North Kings Highway to Huntington Avenue as shown on Attachments II, III and IV; and

**WHEREAS**, VDOT is abandoning Route 4117 pursuant to §33.2-912 of the Code of Virginia; and

**WHEREAS**, the subject Route 4117 was no longer necessary and was removed from the Virginia Department of Transportation’s Secondary System of Highways,

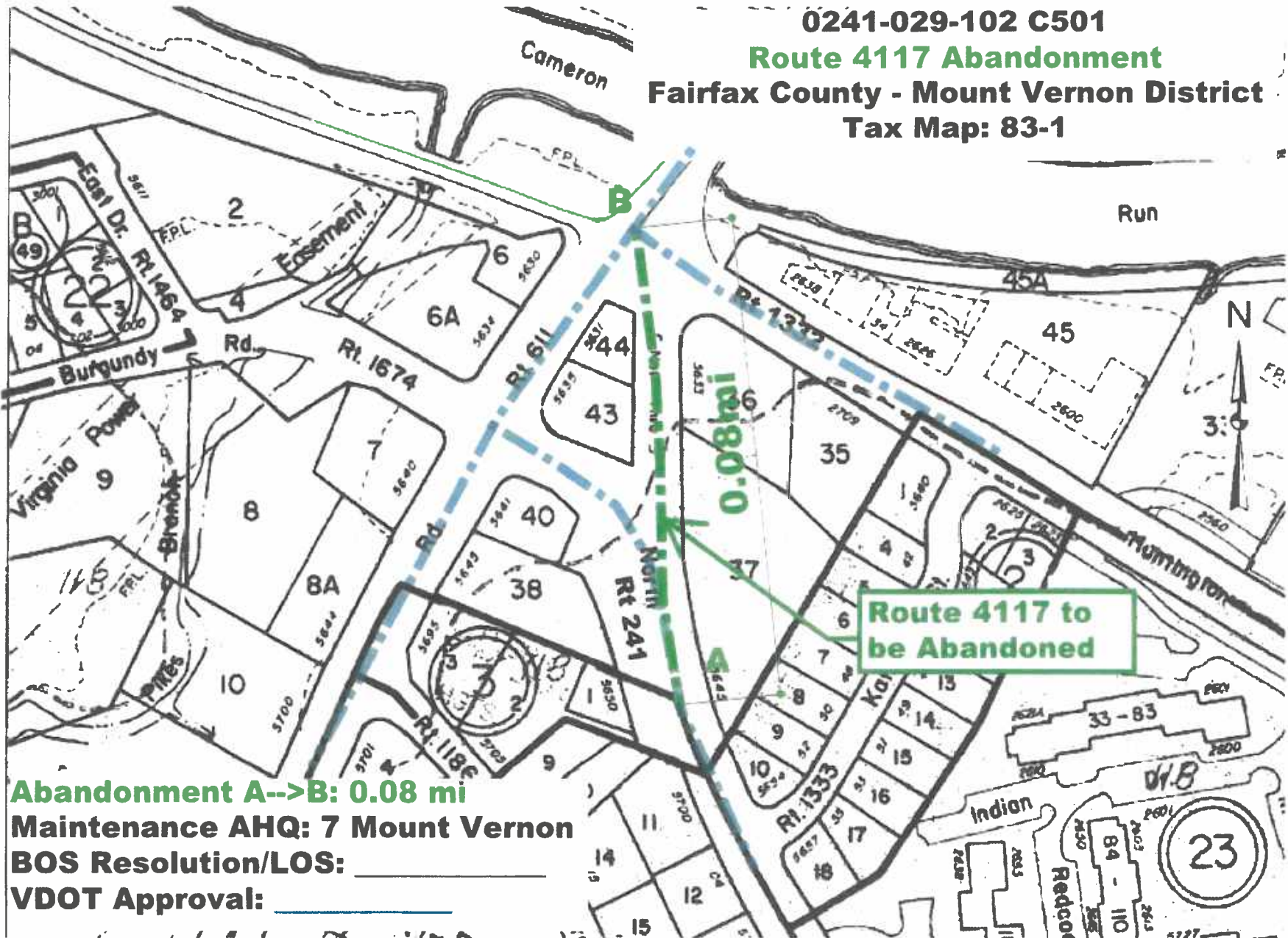
**NOW THEREFORE, BE IT RESOLVED**, that this Board, supports the abandonment of the 0.08-mile segment of Route 4117 from the secondary system of state highways as indicated on Attachments II and IV.

A Copy Teste:

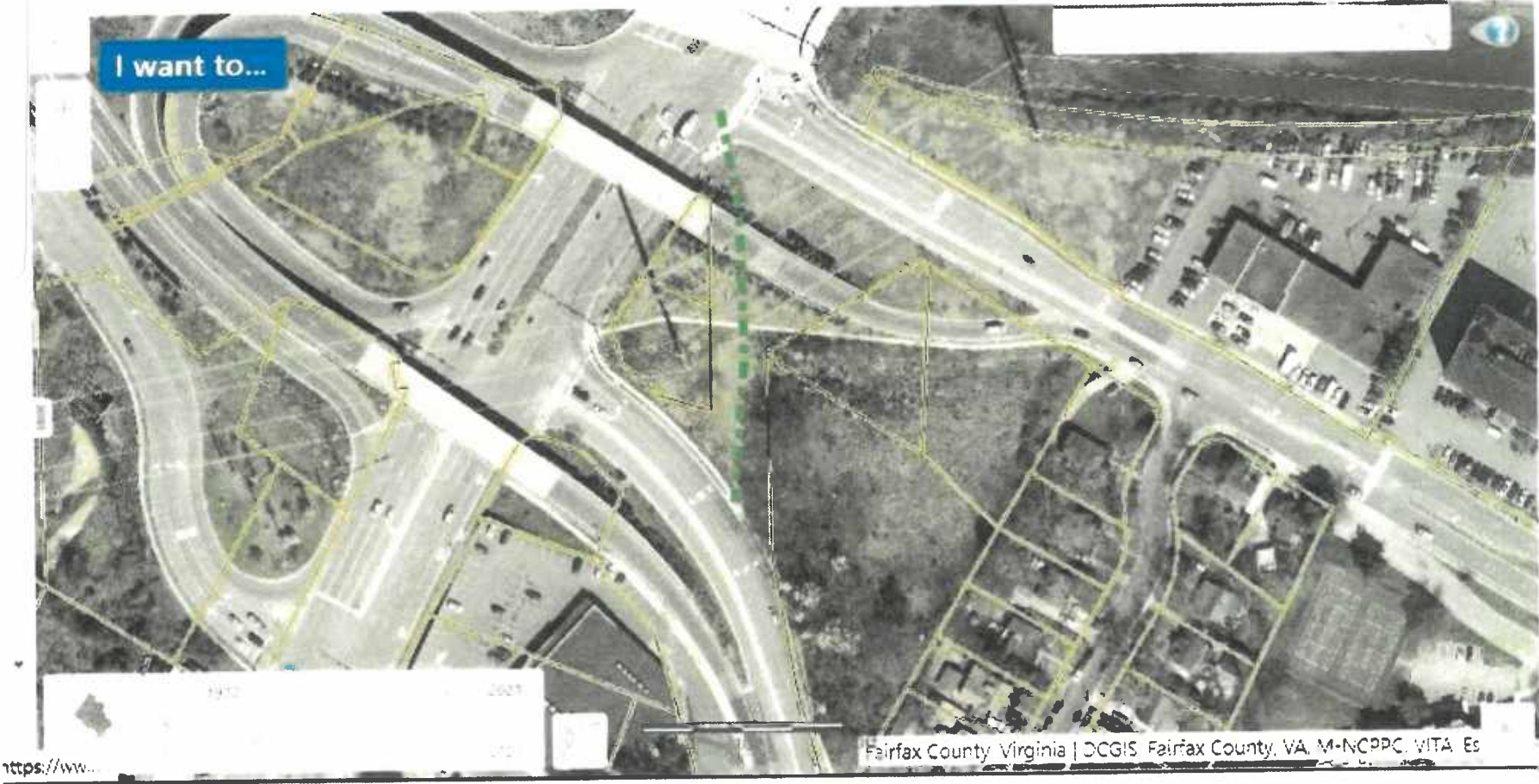
\_\_\_\_\_  
Jill G. Cooper  
Clerk for the Board of Supervisors

ATTACHMENT II

0241-029-102 C501  
Route 4117 Abandonment  
Fairfax County - Mount Vernon District  
Tax Map: 83-1



Abandonment A-->B: 0.08 mi  
 Maintenance AHQ: 7 Mount Vernon  
 BOS Resolution/LOS: \_\_\_\_\_  
 VDOT Approval: \_\_\_\_\_





ATTACHMENT III

INDEX OF SHEETS

327-85A

SHEET NO.	TITLE SHEET	STA. TO STA.
1	TITLE SHEET	285+00.00 TO 285+00.00
2	LOCATION SHEET, PLAN & PROFILE SHEETS	285+00.00 TO 285+00.00
3	PLAN & PROFILE SHEETS	285+00.00 TO 285+00.00
4	3C	285+00.00 TO 285+00.00
5	3A	285+00.00 TO 285+00.00
6	3B	285+00.00 TO 285+00.00
7	3D	285+00.00 TO 285+00.00
8	3E	285+00.00 TO 285+00.00
9	3F	285+00.00 TO 285+00.00
10	3G	285+00.00 TO 285+00.00
11	3H	285+00.00 TO 285+00.00
12	3I	285+00.00 TO 285+00.00
13	3J	285+00.00 TO 285+00.00
14	3K	285+00.00 TO 285+00.00
15	3L	285+00.00 TO 285+00.00
16	3M	285+00.00 TO 285+00.00
17	3N	285+00.00 TO 285+00.00
18	3O	285+00.00 TO 285+00.00
19	3P	285+00.00 TO 285+00.00
20	3Q	285+00.00 TO 285+00.00
21	3R	285+00.00 TO 285+00.00
22	3S	285+00.00 TO 285+00.00
23	3T	285+00.00 TO 285+00.00
24	3U	285+00.00 TO 285+00.00
25	3V	285+00.00 TO 285+00.00
26	3W	285+00.00 TO 285+00.00
27	3X	285+00.00 TO 285+00.00
28	3Y	285+00.00 TO 285+00.00
29	3Z	285+00.00 TO 285+00.00

SEE SHEETS CROSS SECTIONS

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

PLAN AND PROFILE OF PROPOSED

STATE HIGHWAY

FAIRFAX COUNTY

FROM: INT. RTE. 1

TO: INT. RTE. 611

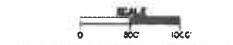
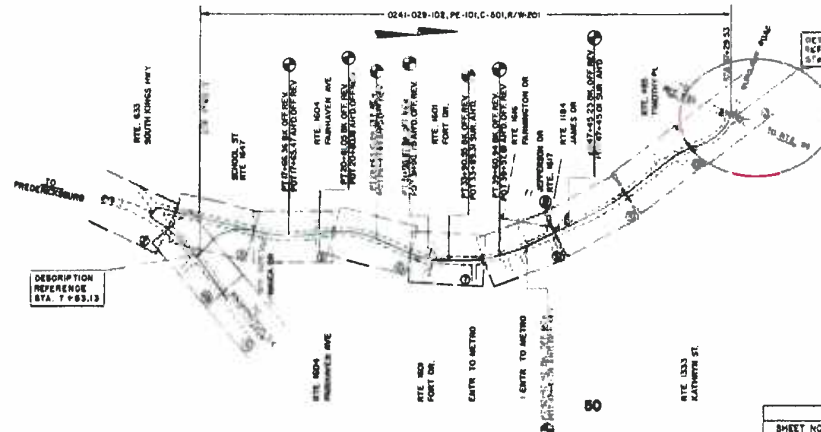
(NORTH KINGS HIGHWAY)

PR 534 DATA 3H606

FEDERAL AID	STATE	PROJECT	DATE	PROJECT	SHEET NO.	TOTAL SHEETS
3	VA.	M-540(1) 3	241	0241-029-102		

FOR COMPLETE PROJECT SEE TABULATION BELOW

FUNCTIONAL CLASSIFICATION	
URBAN MINOR ARTERIAL	
R. RTE. 1	
SCL ALEXANDRIA	
ADT(1984)	23,800
ADT(2000)	30,200
DMV	3020
D (%)	85-35
T (%)	2 AXLES (8 TIRES) 5% 3 AXLES OR MORE 1%
V (MPH)	40
EXCEPTIONS TO MAINLINE DESIGN SPEED	
STA. TO STA.	DES. SPEED REASON FOR EXCEPTION
8+74.53-13+80.00	31 HORIZONTAL ALIGN (SUPERELEVATION)
63+48.60-67+29.63	33 (SUPERELEVATION)
10+00-12+50	HORIZONTAL SIGHT DIST (220')
48+00-48+00	CREST VERT CURVE (200' VIS. SIGHT DIST.)
JAMAICA DR	INTERSECTION SIGHT DIST



APPROVED FOR APPROVAL FOR RIGHT OF WAY ACQUISITION

*[Signature]*

APPROVED FOR RIGHT OF WAY ACQUISITION

*[Signature]*

RECOMMENDED FOR APPROVAL FOR CONSTRUCTION

*[Signature]*

Geometric design standards for the project, including exceptions, are approved by the Federal Highway Administration on an interim basis by letter dated December 15, 1982.

Design features relating to construction or to regulation and control of traffic may be subject to change as deemed necessary by the Department.

This project is to be constructed in accordance with Virginia Department of Highways and Transportation Road and Bridge Specifications, Dated July 1, 1982, and Road Design and Standards, Dated July 1, 1982, as amended by contract provisions and those pending.

All curves are to be superelevated, transitioned and widened as shown on plan sheets.

CONVENTIONAL SIGNS

STATE	FEDERAL AID	EQUALITIES	LEW	H INCL BRIDGES	LENGTH	EXCL BRIDGES	TYPE	DESCRIPTION	TYPE CODE
VA	3	1	1	1	1	1	1	1	1

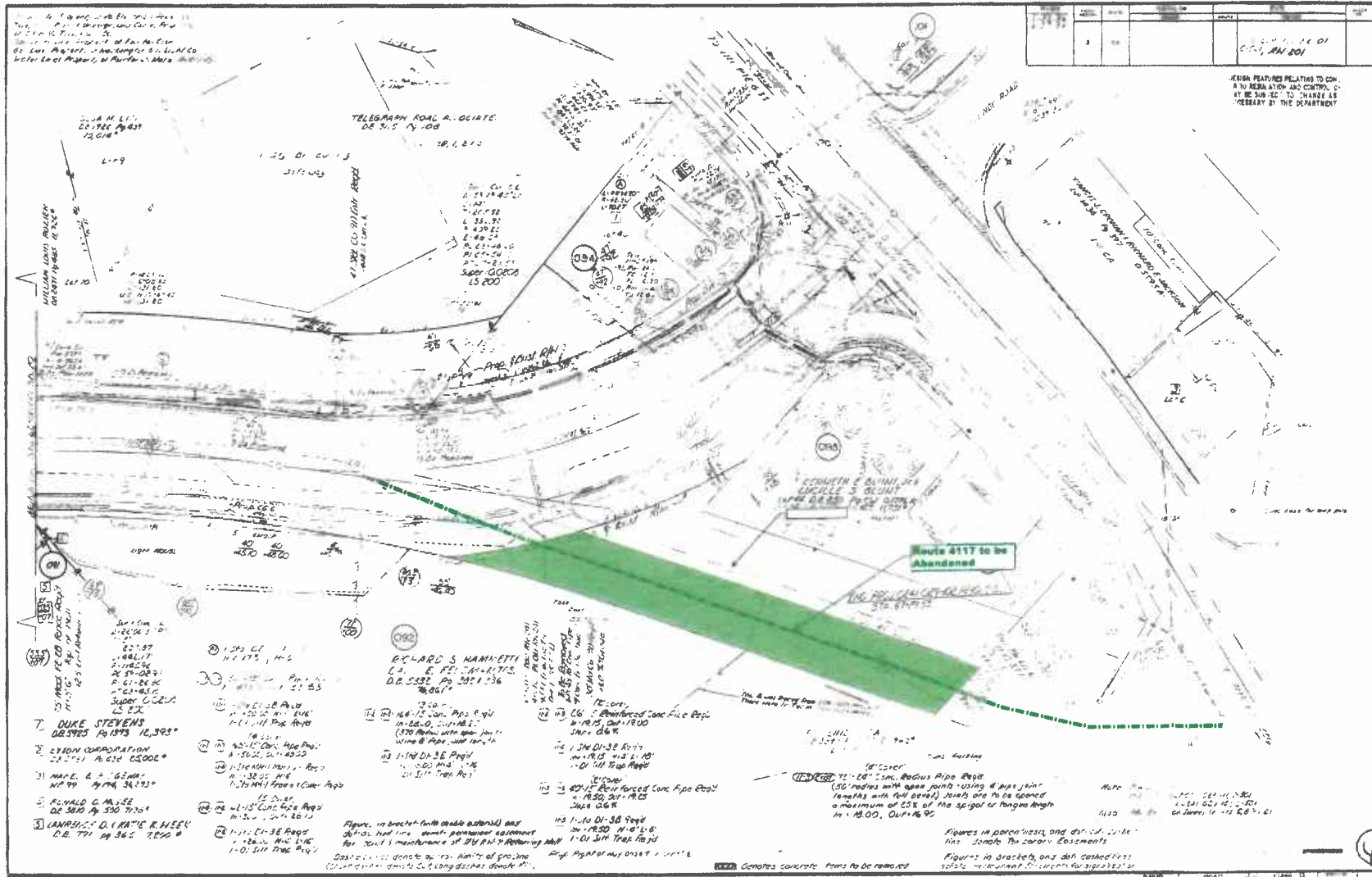
STATE	FEDERAL AID	EQUALITIES	LEW	H INCL BRIDGES	LENGTH	EXCL BRIDGES	TYPE	DESCRIPTION	TYPE CODE
VA	3	1	1	1	1	1	1	1	1

SHEET NO.	DATE	SHEET NO.	REVISION
327-85A	11/1/83	327-85A	1
327-85A	11/1/83	327-85A	2
327-85A	11/1/83	327-85A	3

CODE NO 8010

A 215 72

0241-029-102-80



In Fairfax County

37951446

by Resolution of the governing body adopted

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): \_\_\_\_\_

Report of Changes in the Secondary System of State Highways

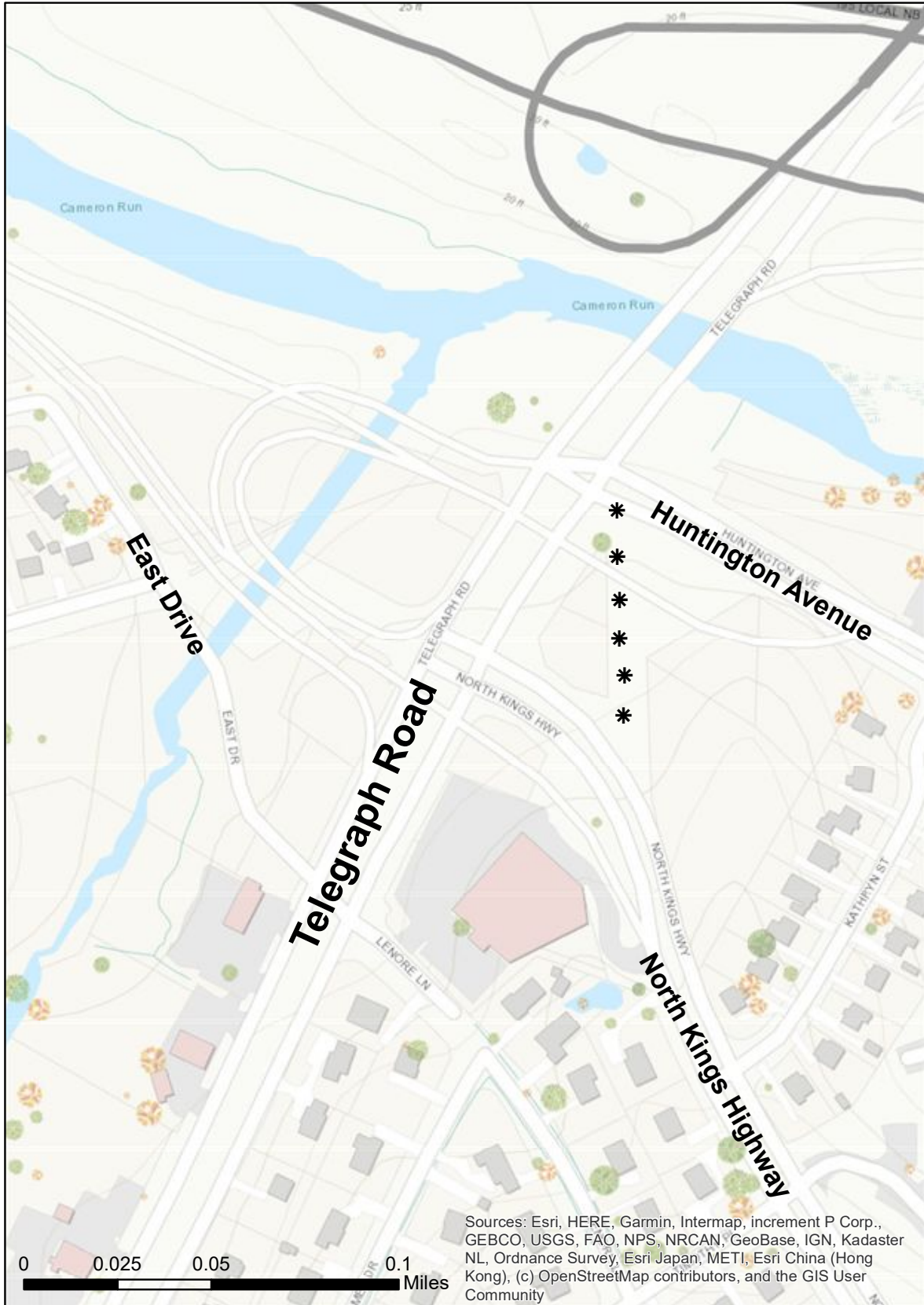
Project/Subdivision: 0241-029-102 C501-Route 4117 Abandonment

Abandonment - Project by VDOT §33.2-912

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
4117	Old Route 241	CL North Kings Hwy, Rte 241 (A)	0.08mi NE to CL Telegraph Rd, Rte 611 (B)	0.08			



# Abandonment of a Portion of Route 4117 Mount Vernon District



Tax Map 83-1

\* Denotes Areas to be Abandoned



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May 9, 2023

The original agreement with VDOT for the design of the Richmond Highway Corridor Improvement Project was approved by the Board of Supervisors on September 22, 2015, and executed on November 2, 2015. The revision to the agreement (Attachment 2) will modify the current agreement to include total funding for Phase I of the project with a project estimate of approximately \$259 million.

EQUITY IMPACT:

The project is included in the Board's approved Transportation Priority Plan (TPP), and therefore not subject to an Equity Impact Analysis.

FISCAL IMPACT:

The total project estimate is \$259 million. This project is currently funded with \$205 million in Northern Virginia Transportation Authority regional funds, \$3.5 million in local funds, \$4 million in Revenue Sharing funds, and \$44.5 million in Regional Surface Transportation Program funds.

There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution to Execute a Revision to the Project Administration Agreement UPC 107187 with the Virginia Department of Transportation

Attachment 2: Revision to the Project Administration Agreement Appendix A and B for Richmond Highway Corridor Improvement Project UPC 107187

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

Noelle Dominguez, Chief, Coordination and Funding Division, FCDOT

Michael Guarino, Chief, Capital Projects Section, FCDOT

Ajmal 'AJ' Hamidi, Senior Transportation Planner, Capital Projects Section, FCDOT

Ray Johnson, Chief, Funding Section (FS), FCDOT

Smitha Chellappa, Senior Transportation Planner, FS, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

## Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held on Tuesday, May 9, 2023, at which meeting a quorum was present and voting, the following resolution was adopted:

### AGREEMENT EXECUTION RESOLUTION

A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF  
FAIRFAX, VIRGINIA  
FOR THE EXECUTION OF AN AGREEMENT FOR THE  
RICHMOND HIGHWAY CORRIDOR IMPROVEMENTS  
PROJECT

**WHEREAS**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the funding of the Richmond Highway Corridor Improvements Project (VDOT project # 0001-029-205, UPC 107187) (“Project”).

**BE IT FURTHER RESOLVED**, that the County of Fairfax hereby agrees to provide its share of the local contribution, in accordance with the Project Administration Agreement (“PAA”, attached) and associated financial documents (Appendix A and B), executed pursuant to this Resolution.

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County’s Department of Transportation to execute, on behalf of the County of Fairfax, the Revision to the PAA with the Virginia Department of Transportation, for the funding of the Project.

Adopted this 9<sup>th</sup> day of May 2023, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Jill G. Cooper  
Clerk for the Board of Supervisors

**VDOT Administered, Locally Funded Appendix A - Revision 1**

Date: 2/8/2023

Project Number: 0001-029-205 UPC: 107187 CFDA# 20.205 Locality: Fairfax County

Project Location ZIP+4: 22309-2344	Locality UEI #: W2ZUFMBDM378	Locality Address (incl ZIP+4): 4050 Legato Road, Suite 400 Fairfax, Virginia 22033-2867
Project Narrative		
Work Description: RICHMOND HIGHWAY CORRIDOR IMPROVEMENTS - Widen from 4-6 lanes and add bike and ped facilities.		
From: Jeff Todd Way		
To: 0.13 Miles North of Frye Road		
Locality Project Manager Contact info: Ajmal Hamidi 703-877-5828 Ajmal.Hamidi@fairfaxcounty.gov		
Department Project Manager Contact Info: Dan Reinhard 703-259-2599 Dan.Reinhard@vdot.virginia.gov		

Project Estimates	
Phase	Estimated Project Costs
Preliminary Engineering	\$22,150,000
Right of Way & Utilities	\$132,346,446
Construction	\$104,452,246
<b>Total Estimated Cost</b>	<b>\$258,948,692</b>

Project Cost				
Phase	Project Allocations	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	\$12,150,000	RSTP	0%	\$0
	\$10,000,000	Local Funds - NVTA	100%	\$10,000,000
	<b>Total PE</b>	<b>\$22,150,000</b>		<b>\$10,000,000</b>
Right of Way & Utilities	\$32,250,303	RSTP	0%	\$0
	\$2,241,406	Demo Repurpose	0%	\$0
	\$3,896,000	Revenue Sharing	50%	\$1,948,000
	\$3,500,000	Local Funds	100%	\$3,500,000
	\$90,458,737	Local Funds - NVTA	100%	\$90,458,737
<b>Total RW</b>	<b>\$132,346,446</b>			<b>\$95,906,737</b>
Construction	\$104,452,246	Local Funds - NVTA	100%	\$104,452,246
<b>Total CN</b>	<b>\$104,452,246</b>			<b>\$104,452,246</b>
<b>Total Estimated Cost</b>	<b>\$258,948,692</b>			<b>\$210,358,983</b>

<b>Total Maximum Reimbursement / Payment by Locality to VDOT</b>	<b>\$210,358,983</b>
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Project Financing						
Local Funds - NVTA	RSTP	Local Funds	Demo Repurpose	Revenue Sharing		Aggregate Allocations
				State Match	Local Match	
\$204,910,983	\$44,400,303	\$3,500,000	\$2,241,406	\$1,948,000	\$1,948,000	\$258,948,692

Payment Schedule			
FY 2023	FY 2024	FY 2025	FY 2026
\$22,500,000	\$26,000,000	\$42,937,824	\$35,468,913
FY 2027	FY 2028	FY 2029	
\$44,079,262	\$24,000,000	\$14,372,984	

Program and Project Specific Funding Requirements
<ul style="list-style-type: none"> <li>This is a limited funds project. The locality shall be responsible for any additional funding in excess of \$500,000.</li> <li>All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.</li> <li>VDOT has billed the LOCALITY \$1,000,000 for this project as of 2/7/2023.</li> <li>VDOT has received \$1,000,000 from the LOCALITY for this project as of 2/7/2023.</li> <li>This Project is funded with federal-aid Regional Surface Transportation Program (RSTP) funds. These funds must be obligated within 12 months of allocation and expended within 36 months of the obligation.</li> <li>This Appendix A supersedes all previous versions signed by VDOT and the LOCALITY.</li> </ul>

This attachment is certified and made an official attachment to this document by the parties to this agreement

\_\_\_\_\_  
Authorized Locality Official and Date

\_\_\_\_\_  
Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

**Appendix B Revision 1**

**Project Number: 0001-029-205 (UPC 107187 ) Locality: Fairfax County**

<b>Project Scope</b>	
<b>Work Description:</b>	RICHMOND HIGHWAY CORRIDOR IMPROVEMENTS - Widen from 4-6 lanes and add bike and ped facilities.
<b>From:</b>	Jeff Todd Way
<b>To:</b>	0.13 Miles North of Frye Road
Locality Project Manager Contact Info: Ajmal Hamidi 703-877-5828 Ajmal.Hamidi@fairfaxcounty.gov	
Department Project Coordinator Contact Info: Dan Reinhard 703-259-2599 Dan.Reinhard@vdot.virginia.gov	

<b>Detailed Scope of Services</b>
Widen from 4-6 lanes and add bike & pedestrian facilities between Jeff Todd Way and 0.13 miles north of Frye Rd.
The scope of the services includes:
1. Administer Preliminary Engineering including: Development of construction drawings, right-of-way, and utility plans;
2. Administer Right of Way Phase including: Acquire all land rights necessary to construct the project in accordance with applicable VDOT policy and procedures, relocate or provide for the relocation of utilities by others as required in accordance with applicable VDOT policy and procedures to facilitate project construction;
3. Compilation of final plans, specifications, and estimates for the intersection improvements features into a bid proposal package;
4. Bid proposal biddability review;
5. Administration and advertisement of proposal;
6. Administration of bidder questions;
7. Receipt of bids;
8. Administration of Contract award;
9. Administration and oversight of construction;
10. Construction engineering services;
11. Construction project close-out.

This attachment is certified and made an official attachment to this document by the parties of this agreement

\_\_\_\_\_  
Authorized Locality Official and date

\_\_\_\_\_  
Residency Administrator/PE Manager/District Construction Engineer  
Recommendation and date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

Board Agenda Item  
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ACTION - 3

Approval of Revisions to Fairfax County's Road Fund Guidelines (Braddock, Dranesville, Hunter Mill, Providence, Springfield, and Sully Districts)

ISSUE:

Approval of revisions to Fairfax Center Area, Centreville Area, Tysons, Tysons-wide, Tysons Grid of Streets, and Reston Road Fund guidelines.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve road fund guideline revision documents, substantially in the form of Attachment 1. Attachment 1 contains all currently approved road fund guidelines with recommended revisions shown in the content.

TIMING:

Board action is requested on May 9, 2023, so these updated guidelines can take effect immediately.

BACKGROUND:

One of the principles of the Comprehensive Plan for each of the road fund areas is that development above the baseline level established in the plan may be approved, if the developer mitigates the impact of such increased density or intensity by contributing to a fund for the provision of off-site road improvements. All road funds function in this manner.

The guideline documents are used to describe each fund's purpose and to direct the implementation and operation of each fund. There are currently six road funds administered by the County: Fairfax Center Area, Centreville Area, Tysons, Tysons-wide, Tysons Grid of Streets, and Reston. The Board adopted the most recent revisions of these guidelines (and adopted the Centreville Area guidelines) in March 2019. The 2019 updates corrected typographical errors, ensured that fund policies comply with current proffer legislation, and provided clarifications that reflect the actual intent and historical administration of each fund.

On August 2, 2022, the Board of Supervisors directed staff to provide the Board with revised guidelines that account for previous contributions to road funds and, when

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applicable, lower trip generation of new uses of the redevelopment (Attachment 2). In response, staff proposes that the language below be included in each of the road fund guidelines:

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines (“current assessment”).
2. If in-kind contributions against prior assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the “current assessment” for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.
  - b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the “eligible credit”.
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the “current assessment” exceeds the “eligible credit”, the “eligible credit” shall be subtracted from the “current assessment” and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the “eligible credit” exceeds the “current assessment”, the assessed contribution to this road fund with this development will be \$0.00. As



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the credits are only eligible on a site basis, the developer may not bank “eligible credits” that exceed the “current assessment.

The proposed revision allows for the escalation to present day dollars, of previous in-kind contributions made toward previous road fund contributions. Appendix A to each set of guidelines, a guide to calculating contributions, will also be revised to account for the process described above.

EQUITY IMPACT:

On August 2, 2022, the Board of Supervisors directed staff to provide the Board with revised guidelines that account for previous contributions to road funds and, when applicable, lower trip generation of new uses of the redevelopment. In response, staff proposes that road fund guidelines be revised to allow developers to escalate previously made in-kind contributions to present day dollars and use the present value as credit toward road fund obligations resulting from a current rezoning.

Staff conducted an Equity Impact Assessment and concluded that this action may negatively impact at-risk populations. While there is a realized benefit of allowing developers to reduce their development derived contribution toward County road funds, that benefit comes at the expense of reduced transportation funding. Although the at-risk populations in most road fund areas are primarily within the low to average vulnerability index, the Centreville area has populations that falls within the high to very high vulnerability index. Reduced funding in all areas, especially Centreville, may result in reduced transportation services for populations in need of additional accessibility and transportation options.

FISCAL IMPACT:

The proposed revisions to the road funds may result in reduced developer funds received for transportation projects. The reduction in contribution realized only if the developer meets the qualifying criteria outlined above. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Updates to Existing Guidelines  
Attachment 2: Board Matter August 2, 2022

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STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

Jeff Hermann, Chief, Site Analysis and Transportation Planning Division (STP), FCDOT

Noelle Dominguez, Chief, Coordination and Funding Division (CFD), FCDOT

Ray Johnson, Section Chief, Funding, CFD, FCDOT

Greg Fuller, Section Chief, Site Analysis, STP, FCDOT

Smitha Chellappa, Senior Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney

**GUIDELINES FOR THE CENTREVILLE AREA ROAD FUND, Adopted March 19, 2019, Amended through [Approval Date Pending]**

The following guidelines ~~shall~~are to be used to establish, implement, and operate the Centreville Area Road Fund. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for any proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

The fund is intended to collect monies in conjunction with an application for residential development that is within the Centreville Area and exempt from or otherwise not subject to the provisions of Va. Code § 15.2-2303.4 (“exempt residential development”) and to collect monies in conjunction with non-residential development of property within the Centreville Area. The boundaries of the Centreville Area are defined in the Fairfax County Comprehensive Plan, 2017 Edition, Area III - Centreville Area and Suburban Center, as amended (and as shown in the attached map).

The collection of money for the fund may occur, when permitted by law, as part of any rezoning, proffered condition amendment, Special Exception, or Special Permit application (collectively “Land Use Actions”) in this area that proposes a change in use, a change in zoning district, or an increase in intensity (amount of building square footage), and in limited circumstances an increase in density (number of dwelling units/acre).

The fund will be used to construct roadway improvements that cannot otherwise be built through private development in the Centreville Area. These improvements are considered off-site improvements. Projects constructed under the fund are expected to result in improvements that will enhance overall transportation capacity and functionality within the Centreville Area. The road improvements constructed using Centreville Area Road Fund monies will accommodate pedestrian and bicycle facilities in their design. The improvements will also accommodate transit use and facilities.

The Transportation Section of the Centreville Area and Suburban Center Plan includes roadway improvements within the planning boundary where these funds can be applied to improvement projects. These improvements, described within the Comprehensive Plan, are needed to provide convenient connections within the Centreville Area, distribute multi-modal traffic efficiently, and enhance the quality of the network for all modes of transportation. The Comprehensive Plan for the Centreville Area and Suburban Center recommends that the private sector be responsible for construction of roadway improvements that are within and immediately adjacent to properties to be redeveloped and also provide contributions to the Centreville Area Road Fund.

These guidelines were originally adopted by the Board of Supervisors on March 19, 2019.

**ROADWAY CONTRIBUTION FORMULA REVIEW PROCESS**

The cash contribution rate for the Centreville Area Road Fund is reviewed and adjusted annually by the annual rate of inflation, as calculated by referring to the Consumer Price Index For All Urban Consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, or Bureau of Labor Statistics. The adjusted rate is submitted to the Board of Supervisors for approval.

Changes to these guidelines, as appropriate, may be submitted with the annual adjustment.

## CONTRIBUTION FORMULA

The Contribution Formula is designed to represent the participation of the private sector in the funding and implementation of 'off-site' roadway projects and provision of land and facilities for 'transit-related' purposes to mitigate the impact of development above the baseline level established in the Comprehensive Plan. Off-site roadway projects are defined for the purposes of this document as construction of roadway improvements that cannot otherwise be built through private development in the Centreville Area and include projects such as the following:

- Those projects which include major improvements to non-interstate primary facilities such as Routes 29 and 28.
- Improvements to secondary roadways functioning as arterial roadways, including Braddock Road, New Braddock Road, and Stone Road.
- Bridges and interchanges on interstate and primary roadways.
- Traffic signals that are not otherwise required within the boundaries of or adjacent to sites subject to development.
- Those portions of roads internal to the Centreville Area which are not within the boundaries of or adjacent to sites subject to development.
- Dedication of land or right-of-way from the applicable site for road projects specifically that are not for site access and otherwise are not required to directly address the impact of site generated traffic.

This formula does not relate to the dedication of right-of-way for, or the construction of, local and collector roads traversing the Centreville Area where such roads lie within or adjacent to sites being developed. In addition, this formula does not apply to those improvements necessary for site access (i.e., turn lanes, traffic signals or service drives)<sup>1</sup>. It is expected that these improvements will be provided solely by the owner/developer of the site. These improvements are referred to as 'on-site' projects.

Transit-related purposes are defined as the following:

- Rail stations and facilities peripheral to their function.
- Park-n-ride lots.
- Bus transit transfer stations and facilities peripheral to their function.

The formula does not apply to facilities or activities designed to address site-specific needs to reduce the number of single-occupant vehicle (SOV) trips, such as construction of bus shelters and implementation of TDM programs.

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<sup>1</sup> Turning lanes and traffic signals provided on major arterials non-interstate primary facilities are considered to be off-site improvements.

The recommended contribution formula and associated rates approved by the Board of Supervisors at the initial adoption of these guidelines ~~is was~~ as follows<sup>2</sup>:

- For any application requesting a level of development above the baseline, the contribution will be \$6.80 per gross square foot (GSF) of building structure of the total proposed non-residential space and \$2,687 per dwelling unit of the total proposed exempt residential development.
- Up to one-third of the total recommended contribution can be credited by the dedication of right-of-way for off-site roadway projects or transit-related projects, if no density credits have been granted for the same right-of-way.
- The total recommended contribution can be provided in part or in total by the construction of major portions of off-site roadway projects or transit-related projects.

~~To interpret these guidelines, development “above the baseline” means any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action (rezoning, Special Exception, or other). For the purpose of interpreting these guidelines, development “above the baseline” shall is be construed to mean any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action.~~

The contribution formula does not apply to GSF of public facilities.

The need for a contribution for each application will be identified prior to development approval. The contribution rate at the time of development approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission will be used to identify the total recommended contribution. The total contribution will then be adjusted to reflect the deduction of any applicable credit and/or ‘in-kind’ contribution (collectively Creditable Improvements). In-kind contributions are defined as those commitments made by the private sector towards the provision, in part or in total, of the construction of off-site roadways, or transit-related purposes as defined previously.

Credit for land dedicated for the described purposes will be based upon the property's existing County assessment in effect at the time of site plan submission or final subdivision plan submission. The applicant will have the opportunity to receive credit, based upon right-of-way dedication, for either density of development or partial satisfaction of the total recommended contribution. Prior to development approval, the applicant should indicate its intent with regard to the credit opportunities for land dedicated in accordance with these guidelines. Dedication of land for site access improvements will not be eligible for consideration as Creditable Improvements.

If an applicant elects to construct or provide sufficient funds to construct a portion or portions of off-site roadway projects and/or transit-related projects, a cost estimate will be

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<sup>2</sup> Contribution amounts to the fund have subsequently been modified. ~~– The rate adjustment history is attached as Appendix C. Rates applied before these Road Fund Guidelines were adopted in 2019 were based on the rates under the Fairfax Center Area guidelines. A track of previous revisions since 2013 is provided at the end of the document.~~

provided by the applicant and reviewed by the Department of Land Development Services (LDS) consistent with bonding practice prior to plan or subdivision plat approval. These costs, once verified and accepted by LDS, will be applied against the applicant's total contribution with any applicable land credits as illustrated in Appendix A of these Guidelines. The roadway construction projects will be completed before the respective off-site roadway or transit-related project construction bonds are released.

For non-residential development, the applicant will be asked to contribute 10 percent of the total recommended financial contribution, less any Creditable Improvements, to be paid before or at the time of site plan approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is the subject of a rezoning, unless the applicant has proffered to make an earlier payment. The applicant will be asked to contribute the remaining 90 percent of the total financial contribution less applicable credits, to be paid before issuance of occupancy permits, subject to applicable provisions in the Virginia Code. This contribution approach is intended to facilitate the construction of Centreville Area transportation improvements.

For exempt residential development, when applicable, the applicant will be asked to contribute 100 percent of the total recommended financial contribution, less Creditable Improvements, to be paid before issuance of Residential Use Permits, subject to the provisions in Virginia Code § 15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

If the value of the Creditable Improvements is less than the total recommended contribution, the applicant will pay 10 percent of the difference before or at the time of site plan or subdivision plat approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is subject of a rezoning, unless the applicant has proffered to make an earlier payment. If the value of the Creditable Improvements meets or exceeds the projected contribution, then the applicant's commitment to the Centreville Area Road Fund has been met.

Right-of-way dedications or monetary contributions will not be conditioned on a specific roadway project or the completion of a project by a specified date.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines ("current assessment").
2. If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the "current assessment" for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.
  - b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.

3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the “eligible credit”.
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the “current assessment” exceeds the “eligible credit”, the “eligible credit” will be subtracted from the “current assessment” and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the “eligible credit” exceeds the “current assessment”, the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank “eligible credits” that exceed the “current assessment”.

#### **CENTREVILLE AREA ROAD FUND ACCOUNT**

A road fund account will be established and maintained by the County. Monies received for the Centreville Area Road Fund will be placed in the account. Interest on monies in the account will accrue to the account at the prevailing interest rate earned by the County less one-half of one percent for administration.

The monies in this account will be used to help fund and implement roadway projects in the Centreville Area.

Any monies from previous proffers and specified for off-site roadway improvements will go into the road fund account unless otherwise designated in the proffers.

APPENDIX A

A GUIDE TO CALCULATING CONTRIBUTIONS TO THE CENTREVILLE AREA ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON MARCH 19, 2019, AS AMENDED

STEP 1: Total Recommended Contribution:

# gsf (or # dwelling units) multiplied by the appropriate rate = total recommended contribution amount.

STEP 2: Anticipated Land Credits (If Applicable):

# sq. feet of land dedicated for off-site and/or transit-related projects multiplied by the per foot assessed value of the land at time of site plan submission or final subdivision plan submission\*.

STEP 3: Anticipated In-Kind Contributions:

Cost to construct a portion or portions of off-site roadway and/or transit-related projects consistent with bonding practices and verified and accepted by DPWES prior to plan or subdivision plat approval.

STEP 4: Previous Road Fund Contributions (If Applicable)

- o Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met. will will

STEP ~~5~~4: Total Recommended Contribution less Creditable Improvements

~~Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.) Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2 + 3) will result in the net contribution due the Centreville Area Road Fund. (Note: if the sum of Creditable Improvements meets or exceeds the value of Step 1, then the commitment to the fund is met with dedication of right-of way and in-kind construction.)~~

\*NOTE: This value cannot exceed one-third of the total contribution calculated in Step 1 and cannot include land for which density credits have been granted.



## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvement expenses. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit of project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed, and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

APPENDIX C

**CENTREVILLE ROAD FUND RATE ADJUSTMENT HISTORY\***

Effective Date	Percent Increase	Non-Residential Rate per Square Foot	Exempt Residential Rate per Dwelling Unit
January 1, 2013	2.88%	\$6.10	\$2,414
February 1, 2014	1.98%	\$6.22	\$2,462
February 1, 2015	2.18%	\$6.36	\$2,516
February 3, 2016	0.25%	\$6.38	\$2,522
March 1, 2017	2.04%	\$6.51	\$2,573
March 1, 2018	2.50%	\$6.67	\$2,637
April 1, 2019	1.90%	\$6.80	\$2,687
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$6.97</u>	<u>\$2,754</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$7.07</u>	<u>\$2,793</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$7.60</u>	<u>\$3,002</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$8.09</u>	<u>\$3,194</u>

\*For rates effective before January 1, 2013, please contact the Department of Transportation.

**GUIDELINES FOR THE FAIRFAX CENTER AREA ROAD FUND, Adopted November 22, 1982,  
Amended through ~~Approval Date Pending~~ ~~March 19, 2019~~**

**ANNUAL REVIEW PROCESS FOR THE FAIRFAX CENTER AREA**

The following guidelines ~~are to will~~ be used to establish, implement, and operate the Fairfax Center Area Road Fund. These procedures were adopted by the Board of Supervisors on November 22, 1982, and have been revised periodically since their adoption. Guidelines for the monitoring of development in the Area as well as a procedure for reviewing the roadway contribution formula are included herein. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for a proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

**A. MAINTENANCE / REVIEW OF LAND USE DATA**

It is the intent of the Board of Supervisors that the target or goal for development intensity of the Fairfax Center Area be Level B, as recommended by the Planning Commission. The annual review process will be utilized to assure the achievement of this goal. In addition, the Department of Planning and Development Zoning and the Department of Land Development Services will collect and maintain the following information with respect to land use development in the Fairfax Center Area:

- the development status of parcels, land development units and unit groups (including acreage, existing zoning, existing land use, planned land use, number and type of dwelling units, and amount and type of non-residential floor area); and
- the identification of activity in the development pipeline for each parcel, land development unit and unit group (including the following stages of development: rezonings pending, rezonings granted, site plans submitted, site plans approved, building permits issued, and projects under construction).

Staff will prepare an annual summary document of this information ~~for presentation to~~ present to the Board of Supervisors.

**B. ROADWAY CONTRIBUTION FORMULA REVIEW PROCESS**

The following excerpt from the Comprehensive Plan identifies the intention of the Board of Supervisors to review the method by which the private sector contributes to funding of roadway improvements in the Fairfax Center Area:

The proportional share of the transportation improvements provided by the private sector will be established by the Board of Supervisors and reviewed periodically through an established public process such as the Annual Plan Review.

The paragraphs that follow specify the review process to be undertaken by the Board and County staff. Clarification on the Contribution Formula, Roadway Improvements Prioritization, and the Road Fund Account are also provided.

An appraisal of funding and implementation of roadway improvements in the Fairfax Center Area will be made annually and presented to the Board. The appraisal will include but not be limited to the following items:

- identification of total funds contributed by the private sector and the funds contributed over the previous year(s);
- review of trends in roadway construction costs reflecting inflation (or deflation) rates;
- listing of right-of-way dedications, roadway construction, and other commitments/contributions provided in previous year(s);
- examination of the development pipeline toward re-assessment of programming of roadway projects; and
- discussion regarding the ability of current funding mechanisms to satisfactorily provide for necessary roadway improvements.

This annual appraisal will not be conducted as a full-scale traffic analysis and roadway needs study. Rather, it will evaluate the suitability of roadway project implementation with respect to specific site developments and the overall Fairfax Center Area development. In addition to these items, staff will make recommendations with respect to the prioritization of roadway projects. An examination of the funding formula will also be presented for reconsideration by the Board.

### C. CONTRIBUTION FORMULA

The Contribution Formula is designed to represent the participation of the private sector in the funding and implementation of ‘off-site’ roadway projects and provision of land and facilities for ‘transit-related’ purposes [to mitigate the impact of development above the baseline level established in the Comprehensive Plan](#). Off-site roadway projects are defined for the purposes of this document as:

- Those projects which include major improvements to non-interstate primary facilities such as Routes 29 and 50.
- Improvements to secondary roadways functioning as arterial roadways, including Fairfax County Parkway, Waples Mill Road, Shirley Gate Road, West Ox Road, Stringfellow Road, and Clifton Road.
- Bridges and interchanges on interstate and primary roadways.
- Traffic signals that are not otherwise required within the boundaries of or adjacent to sites subject to development.
- Those portions of roads internal to the Fairfax Center Area that are not within the boundaries of or adjacent to sites subject to development.

These off-site roadway improvements are identified in the next section titled "Prioritization of Roadway Improvements."

This formula does not relate to the dedication of right-of-way for, or the construction of, local and collector roads traversing the Fairfax Center Area where such roads lie within or adjacent to sites being developed. In addition, this formula does not apply to those

improvements necessary for site access (i.e., turn lanes, traffic signals or service drives)<sup>1</sup>. It is expected that these improvements will be provided solely by the owner/developer of the site. These improvements are referred to as 'on-site' projects.

Transit-related purposes are defined as the following:

- Rail stations and facilities peripheral to their function.
- Park-n-ride lots.
- Bus transit transfer stations and facilities peripheral to their function.

The formula does not apply to facilities or activities designed to address site-specific needs to reduce the number of single-occupant vehicle (SOV) trips, such as construction of bus shelters and implementation of TDM programs.

The recommended contribution formula [and associated rates](#) approved by the Board of Supervisors at the initial adoption of these guidelines is as follows<sup>2</sup>:

- For any application requesting a level of development above the baseline, the contribution will be \$2.50 per gross square foot (GSF) of building structure of the total proposed non-residential space and \$577 per dwelling unit of the total proposed residential uses.
- Up to one-third of the total recommended contribution can be credited by the dedication of right-of-way for off-site roadway projects or transit-related projects, if no density credits have been granted for the same right-of-way.
- The total recommended contribution can be provided in part or in total by the construction of major portions of off-site roadway projects or transit-related projects.

~~To interpret these guidelines, development “above the baseline” means any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action (rezoning, Special Exception, or other). For the purpose of interpreting these guidelines, development ‘above the baseline’ shall be construed to mean any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action (rezoning, Special Exception, or other).~~

The contribution formula does not apply to GSF of public facilities.

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<sup>1</sup> Turning lanes and traffic signals provided on non-interstate primary facilities (e.g. Route 29) are considered to be off-site improvements.

<sup>2</sup> ~~Contribution amounts to the fund have subsequently been modified. See Appendix C for the Fairfax Center Area rate adjustment history. Contribution amounts to the fund have subsequently been modified. A track record of previous revisions is provided at the end of the document.~~

The need for a contribution for each application will be identified prior to development approval. The contribution rate at the time of development approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission will be used to identify the total recommended contribution. The total contribution will then be adjusted to reflect the deduction of any applicable credit and/or 'in-kind' contribution (collectively Creditable Improvements). In-kind contributions are defined as those commitments made by the private sector towards the provision, in part or in total, of the construction of off-site roadways, or transit-related purposes as defined previously.

Credit for land dedicated for the described purposes will be based upon the property's existing County assessment in effect at the time of site plan submission or final subdivision plan submission. The applicant will have the opportunity to receive credit, based upon right-of-way dedication, for either density of development or partial satisfaction of the total recommended contribution. Prior to development approval, the applicant, should indicate its intent with regard to the credit opportunities for land dedicated in accordance with these guidelines. Dedication of land for site access improvements will not be eligible for consideration as Creditable Improvements.

If an applicant elects to construct or provide sufficient funds to construct a portion or portions of off-site roadway projects and/or transit-related projects, a cost estimate will be provided by the applicant and reviewed by the Department of Land Development Services (LDS) consistent with bonding practice prior to plan or subdivision plat approval. These costs, once verified and accepted by the LDS, will be applied against the applicant's total contribution with any applicable land credits as illustrated in Appendix A of these Guidelines. The roadway construction projects will be completed before the respective off-site roadway or transit-related project construction bonds are released.

For non-residential development, the applicant will be asked to contribute 10 percent of the total recommended financial contribution, less any Creditable Improvements, to be paid before or at the time of site plan approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is the subject of a rezoning, unless the applicant has proffered to make an earlier payment. The applicant will be asked to contribute the remaining 90 percent of the total financial contribution less applicable credits, to be paid before issuance of occupancy permits. This contribution approach is intended to facilitate the construction of Fairfax Center Area transportation improvements.

For residential development, the applicant will be asked to contribute 100 percent of the total recommended financial contribution, less Creditable Improvements, to be paid before issuance of Residential Use Permits, subject to the provisions in Virginia Code §15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

If the value of the Creditable Improvements is less than the total recommended contribution, the applicant will pay 10 percent of the difference before or at the time of site plan or subdivision plat approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is subject of a rezoning, unless the applicant has proffered to make an earlier payment. If the value of the Creditable Improvements meets or exceeds the projected contribution, then the applicant's commitment to the Fairfax Center Area Road Fund has been met.

As the Fairfax Center Area develops, a schedule of roadway improvements will be established. However, rights-of-way dedications or monetary contributions will not be conditioned on a specific roadway project or the completion of a project by a specified date.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site-, staff will calculate current Road Fund contribution amounts as follows:

- 1) Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines (“current assessment”).
- 2) If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the “current assessment” for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly -owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.
  - b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
- 3) Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
- 4) If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the “eligible credit”.
- 5) Staff will then assess the new development road fund contributions as follows:
  - a. If the “current assessment” exceeds the “eligible credit”, the “eligible credit” will be subtracted from the “current assessment” and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the “eligible credit” exceeds the “current assessment”, the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank “eligible credits” that exceed the “current assessment”.

#### **D. PRIORITIZATION OF ROADWAY IMPROVEMENTS**

The timing of the roadway improvements is crucial to the manner in which the Fairfax Center Area develops. The following improvements are considered as high priority and should be scheduled for implementation as closely as possible to the order in which they are listed. Physical, fiscal, and developmental constraints may shift the priorities of the projects as

identified through the annual analysis of road improvement needs. The improvement priorities were adopted by the Board of Supervisors on January 9, 2001. (Note: ~~strikeout~~ indicates completed project.)

- ~~Advanced right-of-way acquisition for:~~
  - ~~— Monument Drive west of Fields Brigade Road~~
  - ~~— Stringfellow Road relocation~~
  
- ~~At-grade improvements/construction:~~
  - ~~— West Ox Road / Route 29 at-grade improvements~~
  - ~~— Completion of Monument Drive west of Fields Brigade Road~~
  - ~~— Stringfellow Road widening between Fair Lakes Parkway to Route 29~~
  - ~~— Widen Route 50 to 6 lanes east of Stringfellow Road~~
  - ~~— Waples Mill Road / Route 50 at-grade improvements~~
  - ~~— Widening of Waples Mill Road to six lanes between Route 50 and Route 29~~
  - ~~— Widening of Rugby Road to four lanes between Fairfax County Parkway and Route 50~~
  - Widening of Route 50 to 8 lanes between Waples Mill Road and I-66
  - Construction of local and collector roads internal to the Fairfax Center Area which are not within the boundaries of or adjacent to sites under development
  
- ~~Interchanges:~~
  - ~~— Fairfax County Parkway / Route 29 / West Ox Road~~
  - ~~— Fairfax County Parkway / Route 50~~
  - Waples Mill Road / Route 50
  - ~~— Fairfax County Parkway / Fair Lakes Parkway / Monument Drive with widening of the Parkway to 6 lanes between I-66 and Route 50~~
  
- ~~Route 29 reconstruction:~~
  - East of West Ox Road, including interchanges at Shirley Gate Road Monument Drive, and Legato Road
  - West of West Ox Road, including an interchange at Clifton Road/Stringfellow Road
  
- ~~Fairfax County Parkway widening:~~
  - ~~— Construction of 4 lanes between Route 29 and Braddock Road~~
  - ~~— Widening to 6 lanes between I-66 and Route 50 in conjunction with the construction of an interchange at Fair Lakes Parkway / Monument Drive~~
  - Construction of 6 through lanes between I-66 and Route 29

This priority listing will change due to development and financial considerations. It is important that development not occur without the availability of sufficient roadway access and capacity. This is especially important in the development of those parcels that would utilize the sub-connectors traversing or adjoining their property.

Roadway construction and/or right-of-way dedication by either the private or public sector will not necessarily follow the aforementioned priority listing. However, construction of development projects by the private sector may be predicated upon the completion of adjacent roadways in order that the roadway system can satisfactorily accommodate the change in travel patterns resulting from additional development.



**E. ROAD FUND ACCOUNT**

A road fund account will be established and maintained by the County. Monies received for the Fairfax Center Area Road Fund, will be placed in the account. Interest on monies in the account will accrue to the account at the prevailing interest rate earned by the County less one-half of one percent for administration.

The monies in this account will be utilized to help fund and implement roadway projects in the Fairfax Center Area as closely as possible to the order in the aforementioned priority list. The widening of I-66 and the construction of sub-connector roads (unless included in the listing of priorities) will not be funded from this account.

Any monies from previous proffers and specified for off-site roadway improvements will go into the road fund account unless otherwise designated in the proffers.

APPENDIX A

A GUIDE TO CALCULATING CONTRIBUTIONS TO THE FAIRFAX CENTER AREA ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON NOVEMBER 22, 1982, AS AMENDED

STEP 1: Total Recommended Contribution:

# gsf (or # dwelling units) multiplied by the appropriate rate = total recommended contribution amount.

STEP 2: Anticipated Land Credits (If Applicable):

# sq. feet of land dedicated for off-site and/or transit-related projects multiplied by the per foot assessed value of the land at time of site plan submission or final subdivision plan submission\*.

STEP 3: Anticipated In-Kind Contributions:

Cost to construct a portion or portions of off-site roadway and/or transit-related projects consistent with bonding practices and verified and accepted by DPWES prior to plan or subdivision plat approval.

STEP 4: Previous Road Fund Contributions (If Applicable)

Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met.

STEP ~~5~~4: Total Contribution less Approved Creditable Improvements

Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.) Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2 + 3) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements meets or exceeds the value of Step 1, then the commitment to the fund is met with dedication of right-of-way and in-kind construction.)

\*NOTE: This value cannot exceed one-third of the total contribution calculated in Step 1 and cannot include land for which density credits have been granted.

## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvement expenses. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit of project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed, and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

APPENDIX C

FAIRFAX CENTER AREA RATE ADJUSTMENT HISTORY

Effective Date	Percent Increase	Non-Residential Rate per square foot	Residential Rate per unit
January 27, 1992	0	\$3.97	\$883
March 1, 1993	1.75	\$4.04	\$898
March 1, 1994	0.5	\$4.06	\$902
April 1, 1995	0.5	\$4.08	\$906
June 28, 1999	0	\$4.08	\$906
January 8, 2001	2.5	\$4.18	\$928
March 18, 2002	2	\$4.26	\$946
March 24, 2003	3	\$4.39	\$974
March 15, 2004	2	\$4.48	\$993
February 28, 2005	6	\$4.75	\$1,053
September 24, 2007	3.2	\$5.07	\$1,124
October 1, 2008	3.6	\$5.25	\$1,164
December 1, 2010	1.3	\$5.32	\$1,179
January 1, 2012	3.89	\$5.53	\$1,225
January 1, 2013	2.88	\$5.69	\$1,260
February 1, 2014	1.98	\$5.80	\$1,285
February 1, 2015	2.18	\$5.93	\$1,313
February 3, 2016	0.25	\$5.94	\$1,316
March 1, 2017	2.04	\$6.06	\$1,342
March 1, 2018	2.50	\$6.21	\$1,376
April 1, 2019	1.90	\$6.33	\$1,402
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$6.49</u>	<u>\$1,437</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$6.58</u>	<u>\$1,457</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$7.07</u>	<u>\$1,566</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$7.52</u>	<u>\$1,666</u>

**GUIDELINES FOR THE RESTON ROAD FUND, Adopted February 28, 2017, Amended through ~~[Approval Date Pending] March 19, 2019~~**

The following guidelines ~~will~~**are to** be used to establish, implement, and operate the Reston Road Fund. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for any proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

The Reston Road Fund is intended to collect monies in conjunction with residential and non-residential development of property within the Reston Transit Station Areas pursuant to any rezoning, proffered condition amendment, Special Exception, or Special Permit applications (collectively “Land Use Actions”) in these areas that proposes a change in use, or zoning district, or an increase in density (number of dwelling units) and/or intensity (amount of building square footage). The boundaries of the Reston TSAs are defined in the Fairfax County Comprehensive Plan, ~~2013 Edition~~, Area III - Reston, as Amended. Any Land Use Action that is subject to the provisions of Va. Code § 15.2-2303.4, as amended, must be dealt with on a case-by-case basis and not under these guidelines.

The funds will be used to construct sections of streets that cannot otherwise be built through private development in Reston. Projects constructed under the Reston Road Fund are expected to be street links that will enhance overall transportation capacity and functionality within Reston. The street sections constructed utilizing Reston Road Fund monies will accommodate pedestrian and bicycle facilities and include on-street parking in their design. The street sections will also accommodate transit use and facilities. Illustrations of the expected cross-sections for the Grid of Streets (“Grid”) are included with the Comprehensive Plan text and are further defined by Appendix B2 of the VDOT Road Design Manual and VDOT approved design standards for each of the Reston TSA areas.

The Grid described within the Comprehensive Plan is needed to provide convenient connections within Reston, distribute multi-modal traffic efficiently, and enhance the quality of the network through the implementation of a “complete streets” design. The Grid is generally comprised of the street network that provides site access and circulation within Reston. The Comprehensive Plan for the TSAs and the Reston Transportation Funding Plan recommend that the private sector be responsible for construction of the portions of the Grid network and intersection improvements that are within and immediately adjacent to properties to be redeveloped as well as for contributions to the Reston Road Fund to support the construction of off-site portions of the Grid.

These guidelines were originally adopted by the Board of Supervisors on February 28, 2017.

**RESTON ROAD FUND CONTRIBUTION FORMULA REVIEW PROCESS CRITERIA**

The cash contribution rate for the Reston Road Fund provided by the private sector has been established by the Board of Supervisors and will be reviewed and adjusted annually by the annual rate of inflation, as calculated by referring to the Consumer Price Index For All Urban Consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, or Bureau of Labor Statistics.<sup>1</sup> The paragraphs that follow discuss the process to be undertaken to administer the Fund.

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<sup>1</sup> [See Appendix C for the Reston Road Fund Rate Adjustment History.](#)

## CONTRIBUTION FORMULA

The recommended cash contribution rate approved by the Board of Supervisors at the initial adoption of these guidelines ~~in order to~~ fulfill the objectives of the Reston Transportation Funding Plan is as follows:

For any Land Use Action application proposing a change in use, change in zoning district, or increases in density and/or intensity, the contribution will be \$9.56 per gross square foot (“GSF”) of building structure of the total proposed new non-residential space and \$2,090 per unit of the proposed new residential uses.

The amount of the recommended financial contribution for each Land Use Action application will be identified prior to its approval. The contribution rate at the time of Land Use Action approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission, will be used to identify the total recommended contribution. Prior to approval of a Land Use Action or an approval of a site plan for the approved Land Use Action, the total financial contribution may be adjusted to reflect the deduction of any applicable credit and/or applicable “in-kind” contribution. Creditable improvements will be applicable to the entire Land Use Action application. In-kind contributions are defined as those commitments made by the private sector towards the provision, in part or in total, of the construction of “off-site” Grid projects as defined below.

An applicant may elect at Land Use Action to construct or to provide sufficient funds to construct a portion(s) of a qualifying off-site Grid transportation project(s). An applicant’s election is subject to approval by FCDOT and the approving authority for the land use action. If this is approved and the applicant requests credit against the contribution, the applicant will provide a cost estimate to FCDOT and Land Development Services (LDS) for review and comment consistent with bonding practice prior to site plan approval.

For non-residential development, the applicant will be asked to contribute 25% of the total recommended financial contribution, less applicable credits, to be paid prior to or upon site plan approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is the subject of a rezoning, unless the applicant has proffered to make an earlier payment. The applicant will be asked to contribute the remaining 75% of the total financial contribution, less applicable credits, to be paid before issuance of occupancy permits. This contribution approach is intended to facilitate the construction of the Reston Grid network before occupancy of the new development.

For residential development, the applicant will be asked to contribute 100% of the total recommended financial contribution, less applicable credits, to be paid before issuance of Residential Use Permits, subject to the provisions in Virginia Code §15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

To interpret these guidelines, development “above the baseline” means any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action (rezoning, Special Exception, or other). The contribution formula does not apply to public use facilities.

Applicants for Land Use Action in the Reston TSAs may receive credit against their contribution to the Reston Road Fund under specific circumstances (Creditable Improvements). Creditable Improvements will apply to the entire Land Use Action application. Creditable Improvements are defined as:

- Those portions of streets identified for construction in the Reston Comprehensive Plan, approved by the Board of Supervisors on February 11, 2014, as amended, internal to the Reston TSAs that are off-site from, not within or immediately adjacent to the boundaries of the development site.
- Construction of capacity and/or operational improvements to the Grid and/or intersection improvements that are not otherwise required to address the impact of site-generated traffic, as determined by a site-specific Traffic Impact Analysis (TIA) completed at the time of the Land Use Action AND are not within or immediately adjacent to the boundaries of the development site.
- Traffic signals for Grid intersections that are not otherwise required to address the impact of site generated traffic as determined by a site-specific TIA data at the time of the Land Use Action AND are not within the boundaries of or directly adjacent to the development site.
- Advanced Off-site land acquisition for construction of Grid and intersection improvements.
- Construction of on-site Grid sections in the first phase of a multi-phase development which are not necessary for first phase development access or traffic mitigation as approved by FCDOT prior to approval of a Lan Use Action.
- Dedication of land or right-of-way for off-site Grid projects for which density credit has not been granted for the land to be dedicated. Right-of-way will be valued based on the current County assessment. Alternatively, the applicant may elect to provide an appraisal in place of the assessment. In this circumstance the applicant must procure, at its own expense, a County approved, Virginia state board licensed MAI or SRA American Institute designated general appraiser.

Unless otherwise approved by the Board of Supervisors at the time of Land Use Action approval, several criteria, such as those above, are used to determine credit eligibility. Any single criterion or multiple criteria may apply to a development project and will be considered individually with each development proposal. Eligible Creditable Improvements may receive credits up to equal the value of the development’s contribution to the fund.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines (“current assessment”).
2. If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the “current assessment” for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.

- b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the "eligible credit".
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the "current assessment" exceeds the "eligible credit", the "eligible credit" will be subtracted from the "current assessment" and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the "eligible credit" exceeds the "current assessment", the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank "eligible credits" that exceed the "current assessment".

### **RESTON ROAD FUND ACCOUNT**

A road fund account will be established and maintained by the County. All monies received will be placed in the account. Interest on monies in the account will accrue to the account at the prevailing interest rate earned by the County, less up to one-half of one percent for administration. If accrued, any interest expended from the fund for administration will be reported annually to the Reston Service District Advisory Board (created April 4, 2017). The monies in this account will be used to help fund and implement Grid and intersection improvement projects in the Reston Transit Station Areas.

#### **Annual Review**

An annual review shall be conducted by the Department of Transportation and submitted to the Reston Service District Advisory Board for review of the Reston Road Fund, the Grid and intersection improvement projects, and the contribution rates subject to the following:

Review the pace and location of residential and commercial development within Reston, as well as the construction schedule, funding status, and the funding mechanisms for Reston's transportation improvements, in concurrence with other road fund area review processes, to ensure a sustainable balance between development and transportation infrastructure.

This review may result in adjustments to ensure that: the estimated funding levels for such improvements are coordinated with the anticipated construction spending and the timing of construction; the funding is being spent in an appropriate and efficient manner; and the pace of the transportation improvements and the pace of residential and non-residential development are proceeding substantially in tandem, as set forth in the Comprehensive Plan.

This review should be based on the most current data and information available at the time of the review, including whether the assumptions upon which the proposed funding mechanisms projects were based are still valid or whether they should be changed. The review should include a process that incorporates participation from all stakeholders.



Changes to these guidelines, as appropriate, may be submitted with the annual assessment.

**Sunset Provision**

The Reston Road Fund will be discontinued upon completion of construction of all Grid and intersection improvements identified in the Reston Phase I Comprehensive Plan Amendment approved by the Fairfax County Board of Supervisors on February 11, 2014.

## APPENDIX A

### A GUIDE TO CALCULATING CONTRIBUTIONS TO THE RESTON ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON February 28, 2017, AS AMENDED

**STEP 1:** Total Recommended Contribution:

Amount of Gross Square Footage (and/or # dwelling units) multiplied by the current Reston Road Fund rate = total recommended contribution amount.

**STEP 2:** Anticipated Creditable Improvements:

Cost to construct a portion or portions of off-site grid and intersection improvement projects, or costs associated with other Creditable Improvements as described in the Guidelines, consistent with bonding practices and verified and approved by FCDOT prior to site plan approval.

**STEP 3:** Previous Road Fund Contributions (If Applicable)

Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met.

**STEP ~~4~~3:** Total Recommended Contribution Less Creditable Improvements

Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.)

**STEP ~~5~~4:** Reconciliation of the Reston Road Fund Contribution and Actual Creditable Improvement Costs Associated with the Construction of Reston Road Projects

Upon completion of Reston Creditable Improvement projects, an applicant shall follow the Creditable Improvement Guide, contained in Appendix B, for final reconciliation of the Reston Road Fund Contribution (or applicable refund) and actual Creditable Improvement costs.

## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvements expenses. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit of project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed, and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

APPENDIX C

**Reston Road Fund Rate Adjustment History**

Effective Date	Percent Increase	Non-Residential Rate per Square Foot	Residential Rate per Dwelling Unit
March 1, 2017	Initial Rate	\$9.56	\$2,090
March 1, 2018	2.50%	\$9.80	\$2,142
April 1, 2019	1.90%	\$9.99	\$2,183
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$10.24</u>	<u>\$2,237</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$10.38</u>	<u>\$2,268</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$11.16</u>	<u>\$2,438</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$11.87</u>	<u>\$2,594</u>

**GUIDELINES FOR THE TYSONS GRID OF STREETS ROAD FUND (THE TYSONS GRID FUND),  
Adopted January 8, 2013, Amended through [\[Approval Date Pending\]March 29, 2019](#)**

The following guidelines ~~are to shall~~ be used to establish, implement and operate the Tysons Grid of Streets Road Fund. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for any proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

The Tysons Grid of Streets Road Fund is intended to collect monies in conjunction with residential and non-residential development of property within the Tysons Corner Urban Center pursuant to any Planned Tysons Corner Urban District (PTC) rezoning action in this area. In addition to such rezonings, this will also include Special Exception and Special Permit applications (collectively “Land Use Actions”) that result in an increase in building square footage. The boundary of the Tysons Corner Urban Center is defined in Area II of the 2010 Edition of the Tysons Corner Urban Center Comprehensive Plan (TCP), as amended.

The funds will be used to construct sections of streets that cannot otherwise be built through private development in Tysons. Projects constructed using these funds are expected to be street links that will enhance transportation service within Tysons. The street sections constructed utilizing Tysons Grid Fund monies will include pedestrian, bicycle, and on-street facilities in their design as recommended in the TCP.

Illustrations of the expected cross-sections for grid streets are available in the following documents:

- The Fairfax County Comprehensive Plan text;
- The Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia and the Commonwealth of Virginia, Department of Transportation for Design Standards and Related Responsibilities for Maintenance of Streets as outlined in the Transportation Design Standards for Tysons Corner Urban Center signed September 13, 2011, as amended;
- The Tysons Corner Urban Design Guidelines endorsed by the Board of Supervisors on January 24, 2012, as amended.

These guidelines were originally adopted by the Board of Supervisors on January 8, 2013.

**TYSONS GRID OF STREETS ROAD FUND CONTRIBUTION [FORMULA REVIEW PROCESSCRITERIA](#)**

The cash contribution rate for the Tysons Grid of Streets Road Fund provided by the private sector has been established by the Board of Supervisors and will be reviewed and adjusted annually by the annual rate of inflation, as calculated by referring to the Consumer Price Index For All Urban Consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, or Bureau of Labor Statistics, in conformance with Virginia Code Section 15.2-2303.3, Subsection B. The paragraphs that follow discuss the process to be undertaken to administer the fund.<sup>1</sup>

**CONTRIBUTION FORMULA**

The recommended cash contribution rate approved by the Board of Supervisors at the initial adoption of these guidelines is as follows:

For any zoning application proposing reconstruction of an improved site, construction on an unimproved site, or additional construction on an improved site, the contribution will be

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<sup>1</sup> [See Appendix C for the Tysons Grid of Streets Road Fund rate adjustment history.](#)

\$6.44 per gross square foot (“GSF”) of building structure of the total proposed new non-residential space and \$1,000 per unit of the proposed new residential uses. The contribution formula does not apply to the GSF for public use facilities.

The Grid of Streets described within the TCP is needed to provide convenient connections within Tysons, distribute multi-modal traffic efficiently, and enhance the quality of the network through the use of ‘complete streets’. The grid of streets is generally comprised of the street network that provides site access and circulation within Tysons. The TCP recommends that the private sector be responsible for on-site improvements, including construction of on-site portions of the grid, as well as for contributions to the Tysons Grid Fund to support the construction of off-site portions of the grid. The Tysons Grid Fund does not include the dedication of right-of-way for, or the construction of, streets traversing the Tysons Corner Urban Center when such roads lie within the site being developed.

The amount of the financial contribution for each application will be estimated before the Land Use Action approval. The contribution rate at the time of Land Use Action approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission, will be used to identify the total contribution amount. Site Traffic Impact Analysis, Consolidated Traffic Impact Analysis, and/or traffic operational analysis data will be used at the time of Land Use Action to determine if an improvement is eligible for credit and the amount of credit (in whole or in part based on the Applicant’s proportional impact on said improvement) as applicable. At site plan submittal, the total financial contribution will be adjusted to reflect the deduction of any applicable credit and/or in-kind contribution. In-kind Creditable Improvement contributions (Creditable Improvements) are defined as those commitments made by the private sector towards the provision, in part or in total, of the construction of off-site grid. Creditable improvements will be applicable to the entire rezoning application.

If an applicant elects at Land Use Action to construct or provide sufficient funds to construct a portion or portions of off-site Grid of Streets transportation project(s), and is requesting credit against the contribution, a cost estimate will be provided by the applicant and must be reviewed by FCDOT consistent with bonding practice prior to site plan approval. Copies of these documents shall also be submitted to Land Development Services (LDS) for review and comment at the time of site plan approval.

For non-residential development, the applicant will contribute 25 percent of the total recommended contribution amount based on the actual GSF, minus any approved applicable credits, to be paid before or at time of site plan approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is the subject of a rezoning, unless the applicant has proffered to make an earlier payment. The remaining 75 percent, less any further approved applicable credits, will be paid before occupancy permits are issued and will be assessed at the then current rate. This contribution approach is intended to facilitate the construction of Tysons Grid of Streets improvements prior to the occupancy of the new development.

For residential development, the applicant will contribute 100% of the total recommended contribution based on the actual number of units in each building, less applicable credits, to be paid before issuance of Residential Use Permits, subject to the provisions in Virginia Code §15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

Applicants seeking Land Use Action approvals in the Tysons Urban Center may receive credit against their contribution to the Tysons Grid of Streets Road Fund under one or more specific

circumstances (Creditable Improvements). Creditable improvements will apply to the entire rezoning application and include the following off-site street grid projects:

- Those portions of streets identified for construction in the TCP internal to the Tysons Corner Urban Center which are not within or adjacent to the boundaries of the area subject to the proposed development.
- Construction of capacity and/or operational improvements to grid streets which are not otherwise required to directly address the impact of site generated traffic, and are not within the boundaries of or adjacent to sites subject to the proposed development.
- Traffic signals for grid street connections which are not otherwise required to directly address the impact of site generated traffic, and are not within the boundaries of or adjacent to sites subject to the proposed development.
- Advance off-site land acquisition for construction of grid streets.
- Construction of on-site grid of streets sections in advance of the development timelines negotiated and approved by FCDOT.
- Dedication of land or right-of-way for off-site Grid of Streets projects, in which density credit has not been granted for the land to be dedicated. Right-of-way will be valued at the current County assessment. Alternatively, the applicant may elect to provide an appraisal in place of the assessment. In this circumstance the applicant must procure, at its own expense, a County approved Virginia State Board licensed, MAI or SRA American Institute designated general appraiser who uses standard appraisal techniques in preparing the appraisal.

Unless otherwise approved by the Board of Supervisors at the time of Land Use Action approval, several criteria, such as the above, are used to determine credit eligibility. Any single criterion or multiple criteria may apply to a development project and will be considered individually with each development proposal. Eligible Creditable Improvements may receive credits up to equal the value of the development's contribution to the fund.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines ("current assessment").
2. If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the "current assessment" for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.

- b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the "eligible credit".
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the "current assessment" exceeds the "eligible credit", the "eligible credit" will be subtracted from the "current assessment" and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the "eligible credit" exceeds the "current assessment", the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank "eligible credits" that exceed the "current assessment".

#### **TYSONS GRID OF STREETS ROAD FUND ACCOUNT**

A transportation fund account will be established and maintained by the County. All monies received will be placed in the account. Interest on monies in the account will accrue to the account and not the General Fund at the prevailing interest rate earned by the County, less up to one-half of one percent for administration. Any interest expended from the fund for administration will be reported annually to the Tysons Service District Advisory Board (created January, 8 2013). The monies in this account will be used to help fund and implement grid roadway projects in the Tysons Urban Center.

#### **Annual Review**

An annual review will be conducted by the Department of Transportation and submitted to the Tysons Service District Advisory Board for review of the Tysons Grid of Streets Fund, the Grid of Streets projects and the contribution rates subject to the following:

Review the pace and location of residential and commercial development within Tysons, as well as the construction schedule, funding status, and the funding mechanisms for Tysons' transportation improvements, in concurrence with other road fund area review processes, to ensure a sustainable balance between development and transportation infrastructure.

This review may result in adjustments to ensure that the estimated funding levels for such improvements are coordinated with the anticipated construction spending and the timing of construction; that the funding is being spent in an appropriate and efficient manner; and, that the pace of the transportation improvements and the pace of residential and non-residential development are proceeding substantially in tandem, as set forth in the Comprehensive Plan.

This review should be based on the most current data and information available at the time of the review, including whether the assumptions upon which the proposed funding



mechanisms projects were based are still valid or whether they should be changed. The review should include a process that incorporates participation from all stakeholders. This review will also consider any new funding sources (such as parking fees) that have been established.

Changes to these guidelines, as appropriate, may be submitted with the annual review to the Board of Supervisors.

## APPENDIX A

### A GUIDE TO CALCULATING CONTRIBUTIONS TO THE TYSONS GRID OF STREETS ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON JANUARY 8, 2013, AS AMENDED

**STEP 1:** Total Recommended Contribution:

Amount of GSF (and/or # dwelling units) multiplied by the current Tysons Grid of Streets Road Fund rate = total recommended contribution amount.

**STEP 2:** Anticipated Creditable Improvements:

Cost to construct a portion or portions of off-site grid street projects, or costs associated with other Creditable Improvements as described in the Guidelines, consistent with bonding practices and verified and approved by FCDOT prior to site plan approval.

**STEP 3:** Previous Road Fund Contributions (If Applicable)

Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met.

**STEP 4:** Total Recommended Contribution Less Creditable Improvements

Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.)

**STEP 5:** Reconciliation of the Tysons Grid of Streets Road Fund Contribution and Actual Creditable Improvement Costs Associated with the Construction of Tysons Grid of Streets Road Projects.

Dollar value in Step 1 minus the sum of Step 2 will result in the net contribution due the Tysons Grid of Streets Road Fund. (Note: if the sum of Step 2 is greater than the value of Step 1 then any additional credits may be applied to future Tysons Grid of Streets Road Fund obligations.)

**STEP 4:** Reconciliation of the Tysons Grid of Streets Road Fund Contribution and Actual Creditable Improvement Costs Associated with the Construction of Tysons Grid of Streets Projects

Upon completion of Grid of Streets Creditable Improvement projects, an applicant shall follow the Creditable Improvement Guide, contained herein, for final reconciliation of the Tysons Grid of Streets Road Fund Contribution (or applicable refund) and actual Creditable Improvement costs.

## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvement expenses. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit of project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed, and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

Appendix C

TYSONS GRID OF STREETS ROAD FUND RATE ADJUSTMENT HISTORY

Effective Date	Percent Increase	Non-Residential Rate per Square Foot	Residential Rate per Dwelling Unit
January 8, 2013	Initial Rate	\$6.44	\$1,000
February 1, 2014	1.98%	\$6.57	\$1,020
February 1, 2015	2.18%	\$6.71	\$1,042
February 3, 2016	0.25%	\$6.73	\$1,045
March 1, 2017	2.04%	\$6.87	\$1,066
March 1, 2018	2.5%	\$7.04	\$1,093
April 1, 2019	1.9%	\$7.17	\$1,114
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$7.35</u>	<u>\$1,141</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$7.45</u>	<u>\$1,157</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$8.01</u>	<u>\$1,244</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$8.52</u>	<u>\$1,324</u>

**GUIDELINES FOR THE TYSONS ROAD FUND, Adopted March 19, 2019, Amended through [Approval Date Pending]**

The following guidelines will be used to establish, implement, and operate the Tysons Road Fund. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for any proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

The fund is intended to collect monies in conjunction with residential and non-residential development of property within the Tysons Corner Urban Center Area. The boundaries of the Tysons Corner Urban Center are defined in the Fairfax County Comprehensive Plan, 2017 Edition, Area II - Tysons Corner Urban Center, as amended.

The collection of money for the fund may occur, when permitted by law, as part of any zoning application approved prior to the creation of the Planned Tysons Corner Urban District (PTC) on June 22, 2010, or any proffered condition amendment, Special Exception, or Special Permit application (collectively “Land Use Actions”) involving non-PTC zoned property that proposes an increase in density (number of dwelling units) and/or intensity (amount of building square footage).

The fund will be used to construct or implement road improvements, as described below, in the Tysons Corner Urban Center that cannot otherwise be built through private development in Tysons. These improvements are considered off-site improvements. Projects constructed under the fund are expected to be street links that will enhance transportation service within Tysons.

Road improvement projects constructed using Tysons Road Fund monies will include pedestrian, bicycle, and on-street parking facilities in their design as recommended in the Tysons Comprehensive Plan (TCP).

Illustrations of the expected cross-sections for road improvements and grid streets are available in the following documents:

- The Fairfax County Comprehensive Plan;
- The Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia and the Commonwealth of Virginia, Department of Transportation for Design Standards and Related Responsibilities for Maintenance of Streets in the Tysons Corner Urban Center, executed September 13, 2011, as amended;
- The Tysons Urban Design Guidelines endorsed by the Board of Supervisors on January 24, 2012, as amended.

These guidelines were originally adopted by the Board of Supervisors on March 19, 2019.

**ROADWAY CONTRIBUTION FORMULA REVIEW PROCESS**

The cash contribution rate for the Tysons Road Fund is reviewed and adjusted annually by the annual rate of inflation, as calculated by referring to the Consumer Price Index For All Urban Consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States

Department of Labor, or Bureau of Labor Statistics. The adjusted rate is submitted to the Board of Supervisors for approval.

Changes to these guidelines, as appropriate, may be submitted with the annual adjustment.

### **CONTRIBUTION FORMULA**

The Contribution Formula is designed to represent the participation of the private sector in the funding and implementation of 'off-site' roadway projects and provision of land and facilities for 'transit-related' purposes. Off-site roadway projects are defined for the purposes of this document as construction of roadway improvements that cannot otherwise be built through private development in the Tysons Corner Urban Center and include projects such as the following:

- o Those projects which include major improvements to interstate and non-interstate primary facilities.
- o Improvements to secondary roadways functioning as arterial roadways.
- o Bridges and interchanges on interstate and primary roadways.
- o Traffic signals that are not otherwise required within the boundaries of or adjacent to sites subject to development.
- o Those portions of roads identified for construction in the Tysons Comprehensive Plan internal to the Tysons Corner Urban Center that are not within the boundaries of or adjacent to sites subject to development.
- o Dedication of land or right-of-way from the applicable site for road projects specifically that are not for site access or otherwise are not required to directly address the impact of site generated traffic.

This formula does not relate to the dedication of right-of-way for, or the construction of, local and collector roads traversing the Tysons Corner Urban Center where such roads lie within or adjacent to sites being developed. In addition, this formula does not apply to those improvements necessary for site access (i.e., turn lanes, traffic signals or service drives)<sup>1</sup>. It is expected that these improvements will be provided solely by the owner/developer of the site. These improvements are referred to as 'on-site' projects.

Transit-related purposes are defined as the following:

- o Rail stations and facilities peripheral to their function.
- o Park-n-ride lots.
- o Bus transit transfer stations and facilities peripheral to their function.

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<sup>1</sup> Turning lanes and traffic signals provided on major arterials are considered to be off-site improvements.

The formula does not apply to facilities or activities designed to address site-specific needs to reduce the number of single-occupant vehicle (SOV) trips, such as construction of bus shelters and implementation of TDM programs.

The recommended contribution formula approved by the Board of Supervisors at the initial adoption of these guidelines was as follows<sup>2</sup>:

- o For any application requesting a level of development above the baseline, the contribution will be \$4.66 per gross square foot of building structure of the total proposed non-residential space and \$1,033 per unit of the total proposed residential uses.
- o Up to one-third of the total contribution required can be credited by the dedication of right-of-way for off-site roadway projects or transit-related projects provided no density credits have been granted for the same right-of-way.
- o The total contribution requirement can be provided in part or in total by the construction of major portions of off-site roadway projects or transit-related projects.

To interpret these guidelines, development “above the baseline” means any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action (rezoning, Special Exception, or other). ~~For the purpose of interpreting these guidelines, development ‘above the baseline’ shall be construed to mean any uses that generate peak-hour traffic volumes higher than those generated by baseline development levels, regardless of the type of Land Use Action.~~

The contribution formula does not apply to GSF of public facilities.

The need for a contribution for each application will be identified prior to development approval. The contribution rate at the time of development approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission will be used to identify the total recommended contribution. The total contribution will then be adjusted to reflect the deduction of any applicable credit and/or ‘in-kind’ contribution (collectively Creditable Improvements). In-kind contributions are defined as those commitments made by the private sector towards the provision, in part or in total, of the construction of off-site roadways, or transit-related purposes as defined previously.

Credit for land dedicated for the described purposes will be based upon the property's existing County assessment in effect at the time of site plan submission or final subdivision plan submission. The applicant will have the opportunity to receive credit, based upon right-of-way dedication, for either density of development or partial satisfaction of the total recommended contribution. Prior to development approval, the applicant should indicate its intent with regard to the credit opportunities for land dedicated in accordance with these guidelines. Dedication of land for site access improvements will not be eligible for consideration as Creditable Improvements.

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<sup>2</sup> Contribution amounts to the fund have subsequently been modified. A track of previous revisions since 2013 is provided at the end of the document.

If an applicant elects to construct or provide sufficient funds to construct a portion or portions of off-site roadway projects and/or transit-related projects, a cost estimate will be provided by the applicant and reviewed by the Department of Land Development Services (LDS) consistent with bonding practice prior to plan or subdivision plat approval. These costs, once verified and accepted by LDS, will be applied against the applicant's total contribution with any applicable land credits as illustrated in Appendix A of these Guidelines. The roadway construction projects will be completed before the respective off-site roadway or transit-related project construction bonds are released.

For non-residential development, the applicant will be asked to contribute 10 percent of the total recommended financial contribution, less any Creditable Improvements, to be paid before or at the time of site plan approval. No payments must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is the subject of a rezoning, unless the applicant has proffered to make an earlier payment. The applicant will be asked to contribute the remaining 90 percent of the total financial contribution less applicable credits, to be paid before issuance of occupancy permits. This contribution approach is intended to facilitate the construction of the Tysons transportation improvements prior to occupancy of the new development.

For residential development, the applicant will be asked to contribute 100 percent of the total recommended financial contribution, less Creditable Improvements, to be paid before issuance of Residential Use Permits, subject to the provisions in Virginia Code §15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

If the value of the Creditable Improvements is less than the total recommended contribution, the applicant will pay 10 percent of the difference before or at the time of site plan or subdivision plat approval. No payment must be made, however, until after the applicant pays any fees for the issuance of a building permit for construction on property that is subject of a rezoning, unless the applicant has proffered to make an earlier payment. If the value of the Creditable Improvements meets or exceeds the projected contribution, then the applicant's commitment to the Tysons Road Fund has been met.

Right-of-way dedications or monetary contributions will not be conditioned on a specific roadway project or the completion of a project by a specified date.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines ("current assessment").
2. If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the "current assessment" for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:
  - a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.



- b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the "eligible credit".
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the "current assessment" exceeds the "eligible credit," the "eligible credit" will be subtracted from the "current assessment" and the difference will constitute the assessed contribution to this road fund with this development.
  - b. If the "eligible credit" exceeds the "current assessment," the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank "eligible credits" that exceed the "current assessment."

#### **TYSONS ROAD FUND ACCOUNT**

A road fund account will be established and maintained by the County. Monies received for the Tysons Road Fund will be placed in the account. Interest on monies in the account will accrue to the account at the prevailing interest rate earned by the County less one-half of one percent for administration.

The monies in this account will be used to help fund and implement roadway projects in the Tysons Corner Urban Center.

Any monies from previous proffers and specified for off-site roadway improvements will go into the road fund account unless otherwise designated in the proffers.

APPENDIX A

A GUIDE TO CALCULATING CONTRIBUTIONS TO THE TYSONS ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON MARCH 19, 2019, AS AMENDED

STEP 1: Total Recommended Contribution:

# gsf (or # dwelling units) multiplied by the appropriate rate = total recommended contribution amount.

STEP 2: Anticipated Land Credits (If Applicable):

# sq. feet of land dedicated for off-site and/or transit-related projects multiplied by the per foot assessed value of the land at time of site plan submission or final subdivision plan submission\*.

STEP 3: Anticipated In-Kind Contributions:

Cost to construct a portion or portions of off-site roadway and/or transit-related projects consistent with bonding practices and verified and accepted by DPWES prior to plan or subdivision plat approval.

STEP 4: Previous Road Fund Contributions (If Applicable)

Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met. ~~and when other conditions set forth in these guidelines have been met~~

STEP 5: Total Recommended Contribution less Creditable Improvements

Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.)

~~Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2 + 3) will result in the net contribution due the Tysons Road Fund. (Note: if the sum of Creditable Improvements meets or exceeds the value of Step 1, then the commitment to the fund is met with dedication of right-of way and in-kind construction.)~~

\*NOTE: This value cannot exceed one-third of the total contribution calculated in Step 1 and cannot include land for which density credits have been granted.

## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvement expenditures. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit for project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

APPENDIX C

TYSONS ROAD FUND RATE ADJUSTMENT HISTORY\*

Effective Date	Percent Increase	Non-Residential Rate per Square Foot	Residential Rate per Dwelling Unit
January 1, 2013	2.88%	\$4.19	\$929
February 1, 2014	1.98%	\$4.27	\$947
February 1, 2015	2.18%	\$4.36	\$968
February 3, 2016	0.25%	\$4.37	\$970
March 1, 2017	2.04%	\$4.46	\$989 <del>.00</del>
March 1, 2018	2.50%	\$4.57	\$1,014
April 1, 2019	1.90%	\$4.66	\$1,033
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$4.77</u>	<u>\$1,059</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$4.84</u>	<u>\$1,073</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$5.20</u>	<u>\$1,154</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$5.54</u>	<u>\$1,228</u>

\*For rates effective before January 1, 2013, please contact the Department of Transportation.

**GUIDELINES FOR THE TYSONS-WIDE ROAD FUND (THE TYSONS-WIDE FUND), Adopted January 8, 2013, Amended through ~~Approval Date Pending~~ ~~March 19, 2019~~**

The following guidelines ~~are to shall~~ be used to establish, implement, and operate a fund for Tysons-wide road improvements listed in Table 7 of the Comprehensive Plan. Nothing in these guidelines is to be construed as a suggestion, request, or requirement for any proffer that may be deemed unreasonable under Va. Code § 15.2-2303.4, as amended.

The Tysons-wide Road Fund is intended to collect monies in conjunction with residential and non-residential development of property within the Tysons Corner Urban Center pursuant to any Planned Tysons Corner Urban District (PTC) rezoning action in this area. In addition to such rezonings, this will also include Special Exception and Special Permit applications (collectively with rezonings, “Land Use Actions”) that result in an increase in building square footage. The boundary of the Tysons Corner Urban Center is defined in Area II of the 2010 Edition of the Tysons Corner Urban Center Comprehensive Plan (TCP), as amended.

Commitments to provide monetary contributions to the fund are anticipated from Land Use Actions for land use changes that propose construction of new building square footage. The funds will be used to construct or implement transportation projects identified as “Tysons-wide” in Table 7.

The street sections constructed using Tysons-wide Road Fund monies will include pedestrian and bicycle facilities in their design as recommended in the TCP.

Illustrations of the expected cross-sections for road improvements are available in the following documents:

- The Fairfax County Comprehensive Plan text;
- The Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia, and Commonwealth of Virginia, Department of Transportation for design standards and related responsibilities for maintenance of streets as outlined in the Transportation Design Standards for Tysons Corner Urban Center signed September 13, 2011, as amended;
- The Tysons Corner Urban Design Guidelines endorsed by the Board of Supervisors on January 24, 2012, as amended.

These guidelines were originally adopted by the Board of Supervisors on January 8, 2013.

A number of improvements to the existing roadway and transportation infrastructure are necessary to improve access to, and within, the Tysons Corner Urban Center. These improvements are identified as “Tysons-wide Road Improvements” in Table 7 of the Comprehensive Plan and are listed in Appendix C of these guidelines. These projects include, but are not limited to, new access points from the Dulles Toll Road, and expanded capacity to interstate and arterial roads. The Tysons-wide Road Fund represents part of the private sector’s participation in the funding and implementation of road projects that serve a broader public transportation function.

**TYSONS-WIDE ROAD FUND CONTRIBUTION REVIEW PROCESS CRITERIA**

The cash contribution rate for the Tysons-wide Road Fund improvements, provided by the private sector, has been established by the Board of Supervisors and will be reviewed and adjusted annually by the annual rate of inflation, as calculated by referring to the Consumer Price Index For All Urban Consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, or Bureau of Labor Statistics, in

conformance with Virginia Code Section 15.2-2303.3, Subsection B. The paragraphs that follow discuss the process to administer the fund.

~~A number of improvements to the existing roadway and transportation infrastructure are necessary to improve access to, and within, the Tysons Corner Urban Center. These improvements are identified as “Tysons-wide Road Improvements” in Table 7 of the Comprehensive Plan and are listed in Appendix C of these guidelines. These projects include, but are not limited to, new access points from the Dulles Toll Road, and expanded capacity to interstate and arterial roads. The Tysons-wide Road Fund represents part of the private sector’s participation in the funding and implementation of road projects that serve a broader public transportation function.~~

### **CONTRIBUTION FORMULA**

The recommended cash contribution rate approved by the Board of Supervisors at the initial adoption of these guidelines is as follows:

For any zoning application proposing reconstruction of an improved site, construction on an unimproved site, or additional construction on an improved site, the contribution will be \$5.63 per gross square foot (“GSF”) of building structure of the total proposed new non-residential space and \$1,000 per unit of the proposed new residential uses. The contribution formula does not apply to the GSF for public use facilities.

The amount of the financial contribution anticipated from each Land Use Action application will be estimated prior to the Land Use Action approval. The contribution rate at the time of approval will remain effective for a period of 2 years. If a site plan or subdivision plan (i.e. preliminary or final plat) is not submitted within 2 years from the development approval date, the contribution rate in effect at the time of site plan submission or final subdivision plat submission, will be used to identify the total contribution amount. Site Traffic Impact Analysis, Consolidated Traffic Impact Analysis, and/or traffic operational analysis data will be used at the time of Land Use Action to determine if an improvement is eligible for credit and the amount of credit (in whole or in part based on the Applicant’s proportional impact on said improvement) as applicable. At site plan submittal, the total financial contribution will be adjusted to reflect the deduction of any applicable credit and/or in-kind contribution. In-kind Creditable Improvement contributions (Creditable Improvements) are defined as those commitments made by the private sector towards the provision, in part or in total, of the design and construction of qualifying Tysons-wide road projects.

Credit for land dedicated for the described purposes will be based upon the County’s assessed value in effect at the time of site plan submission, provided density credits have not been granted for the land to be dedicated. The applicant, prior to Land Use Action approval, must indicate its intent to either seek credit for a Tysons-wide dedication or density credit. Dedication of land for site access improvements (i.e., turn lanes at driveways) will not be eligible for credit toward the financial contribution.

If an applicant elects at Land Use Action approval to construct or provide sufficient funds to construct a portion or portions of Tysons-wide transportation project(s), beyond improvements identified and proffered in the zoning review as necessary to offset site-generated traffic, and is requesting credit against the contribution, a cost estimate will be provided by the applicant and will be reviewed and, if acceptable, approved by FCDOT consistent with bonding practice before site plan approval. Copies of these documents shall also be submitted to Land Development Services (LDS) for review and comment at the time of site plan approval.

The applicant will contribute 100 percent of the total recommended contribution amount for each building, less applicable credits, at the time non-residential use permits (Non-RUPs) or residential use permits (RUPs) are issued, based on the actual GSF and/or number of units in each building, subject to applicable provisions in the Virginia Code, including, without limitation, Virginia Code §15.2-2303.1:1 as it relates to cash proffers that are made on a per-dwelling-unit or per-home basis.

Applicants seeking Land Use Action approvals in the Tysons Urban Center may receive credit against their contribution to the Tysons-wide Road Fund under specific circumstances (Creditable Improvements). Creditable improvements will apply to the entire Land Use Action application and include the following:

- Construction of road projects specifically identified in Appendix C that are not otherwise required to address the impact of site generated traffic (construction credit)
- Dedication of land or right-of-way from the applicable site for road projects specifically identified in Appendix C (dedication credit) that are not for site access or otherwise are not required to address directly the impact of site generated traffic. Right-of-way will be based on the County's assessed value at the time of site plan submission. Alternatively, the applicant may elect to provide an appraisal in place of the assessment. In this circumstance the applicant must procure, at its own expense, a County approved Virginia state board licensed MAI or SRA American Institute designated general appraiser who uses standard appraisal techniques in preparing the appraisal
- Acquisition of off-site land for construction of road projects specifically identified in Appendix C. Land that receives acquisition credit is not eligible for dedication credit.
- Construction of road projects specifically identified in Appendix C in advance of the development timelines negotiated and approved by FCDOT.

Unless otherwise approved by the Board of Supervisors at the time of Land Use Action approval, several criteria, such as the above, are used for determining credit eligibility. Any single criterion or multiple criteria may apply to a development project and will be considered individually with each development proposal. Eligible Creditable Improvements may receive credits up to equal the value of the development's contribution to the fund.

When a site is subject to proffers, a contribution has been made to this Road Fund (Previous Road Fund Contribution) in accordance with those proffers, and an application has been made to redevelop the site, staff will calculate current Road Fund contribution amounts as follows:

1. Staff will calculate the road fund contribution for the proposed development as outlined in the current road fund guidelines ("current assessment").
2. If in-kind contributions against assessments toward this road fund were made through an approved proffer for this site, the applicant may request credit against the "current assessment" for any structure(s) slated for demolition and redevelopment as part of this application. In-kind improvements must be within publicly owned right-of-way and operational for public use. To request credits, the applicant must provide:

- a. A letter documenting any in-kind improvements made in lieu of contributions for these structures, including the value of these improvements at time of construction and the year they were open for use, and record of dedication.
  - b. A graphic and narrative demonstrating that demolition of the existing structure was necessary to accomplish proposed site redevelopment.
3. Staff will review this request and determine eligibility for credits. Total creditable in-kind contributions may not exceed the total amount of the previous road fund assessment for the structures to be demolished.
4. If staff finds that credits are available, the total eligible credit amount will be inflated to current value per the Consumer Price Index for Urban Consumers (CPI-U). This output is the “eligible credit”.
5. Staff will then assess the new development road fund contributions as follows:
  - a. If the “current assessment” exceeds the “eligible credit”, the “eligible credit” will be subtracted from the “current assessment” and the difference will constitute the assessed contribution to this road fund with this development.
  - a-b. If the “eligible credit” exceeds the “current assessment”, the assessed contribution to this road fund with this development will be \$0.00. As the credits are only eligible on a site basis, the developer may not bank “eligible credits” that exceed the “current assessment”.

### **TYSONS-WIDE ROAD FUND ACCOUNT**

A road fund account will be established and maintained by the County. All monies received will be placed in the account. Interest on monies in the account will accrue to the account and not to the General Fund at the prevailing interest rate earned by the County, less up to one-half of one percent for administration. Any interest expended from the fund for administration will be reported annually to the Tysons Service District Advisory Board (created January 8, 2013). The monies in this account will be used to help fund and implement Tysons-wide projects in the Tysons Area.

### **Annual Review**

An annual review will be conducted by the Department of Transportation and submitted to the Tysons Service District Advisory Board for review of the Tysons-wide Road Fund, Tysons-wide projects, and the contribution rates subject to the following:

Review the pace and location of residential and commercial development within Tysons, as well as the construction schedule, funding status, and the funding mechanisms for Tysons' transportation improvements, in concurrence with other road fund area review processes, to ensure a sustainable balance between development and transportation infrastructure.



This review may result in adjustments to ensure that the estimated funding levels for such improvements are coordinated with the anticipated construction spending and the timing of construction; the funding is being spent in an appropriate and efficient manner; and, that the pace of the transportation improvements and the pace of residential and non-residential development are proceeding substantially in tandem, as set forth in the Comprehensive Plan.

This review should be based on the most current data and information available at the time of the review, including whether the assumptions upon which the proposed funding mechanisms and projects were based are still valid or whether they should be changed. The review should include a process that incorporates participation from all stakeholders. If improvements beyond those identified in Table 7 are needed before 2050, and such are considered to be more effective in addressing traffic congestion, consideration could be given to substituting those improvements for projects currently included in Table 7, provided that such adjustments are consistent with and sustain the integrity of the recommended policies and overall allocation of funding responsibilities. This review will consider any new funding sources (such as parking fees) that have been established.

Changes to these guidelines, as appropriate, may be submitted with the annual review to the Board of Supervisors.

## APPENDIX A

### A GUIDE TO CALCULATING CONTRIBUTIONS TO THE TYSONS-WIDE ROAD FUND IN ACCORDANCE WITH THE GUIDELINES ORIGINALLY ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS ON JANUARY 8, 2013, AS AMENDED

**STEP 1:** Total Recommended Contribution:

Amount of GSF (and/or # dwelling units) multiplied by the current Tysons-Wide Road Fund rate = total recommended contribution amount.

**STEP 2:** Anticipated Creditable Improvements:

The cost to construct a portion or portions of off-site Tysons-wide projects, or costs associated with other Creditable Improvements, as described in the Guidelines, consistent with bonding practices and verified and approved by FCDOT prior to site approval. Plus, if applicable, the value of right-of-way to be dedicated according to the procedures in the guidelines.

**STEP 3:** Previous Road Fund Contributions (If Applicable)

Such credits will be available only upon demolition of the structure(s) slated for redevelopment for which a previous contribution was made and will be eligible only when directly related to site redevelopment and when other conditions set forth in these guidelines have been met.

**STEP 4:** Total Recommended Contribution Less Creditable Improvements

Dollar value in Step 1 minus the sum of Creditable Improvements (Steps 2, 3, and 4) will result in the net contribution due the Fairfax Center Area Road Fund. (Note: if the sum of Creditable Improvements and Previous Road Fund Contributions meets or exceeds the value of Step 1, then the commitment to the fund is met. If the sum of Creditable Improvements and Previous Road Fund Contributions does not meet or exceed the current contribution, the balance owed is the current contribution less the sum of Creditable Improvements and Previous Road Fund Contributions.)

~~Dollar value in Step 1 minus the sum of Step 2 will result in the net contribution due the Tysons-wide Road Fund. (Note: if the sum of Step 2 is greater than the value of Step 1 then any additional credits may be applied to future Tysons-wide Road Fund obligations.)~~

**STEP 54:** Reconciliation of the Tysons-wide Road Fund Contribution and Actual Creditable Improvement Costs Associated with the Construction of Tysons-wide Road Projects

Upon completion of Tysons-wide Creditable Improvement projects, an applicant shall follow the Creditable Improvements Guide, contained herein, for final reconciliation of the Tysons-wide Road Fund Contribution (or applicable refund) and actual Creditable Improvement costs.

## APPENDIX B

### A GUIDE TO APPLY FOR A REFUND/CREDIT FOR CREDITABLE IMPROVEMENTS

It is recommended that developers adhere to the following guidance to seek a credit or refund of road fund contributions for Creditable Improvement expenses. Upon completion of Creditable Improvement projects approved by FCDOT and LDS, the developer may submit documentation for reimbursement or credit of project expenditures. The package should be assembled according to the guidelines directly below and submitted to FCDOT.

The package should include the following:

- Cover Letter - This letter should be from the original applicant or legal entity acting on their behalf addressed to the FCDOT director. The letter should outline the nature of the request for refund and the work that has been completed.
- Site Plan - This should be the site plan used in the construction of this project. Other plans such as signal, signage and striping plans may be requested as the application is reviewed.
- Invoices - All invoices that are directly related to the construction of the approved Creditable Improvement project should be submitted. If construction is done simultaneously with other parts of the development, then the applicant must provide a separate accounting of the portion that applies to the Creditable Improvement project. FCDOT staff will review the invoices for relevance to the project.
- A copy of the approved Land Use Action case with approved Creditable Improvement project cost estimates and exhibits depicting the Creditable Improvement(s).
- Any documents recording the release of bond or acceptance of the project into the public right of way.

After submission, FCDOT staff will review the credit or refund request. When the review is completed and approved by the department director or his designee, the applicant will receive notification in writing. The applicant will be notified of the appropriate credit or receive the refund shortly after approval.

APPENDIX C

TYSONS-WIDE TRANSPORTATION COSTS: 2012-2051 (DECEMBER 4, 2012 ESTIMATE)

	Project	Estimate (2012)
1	Rt.7 Widening from Rt.123 to 1-495	\$22,000,000
2	Boone Blvd Extension west from Rt.123 to Ashgrove Lane	\$126,000,000
3	Extension of Jones Branch Connection to inside 1-495 (Jones Branch Connector to Route 123)	\$41,000,000
4	Rt.7 Widening from the Dulles Toll Road to Reston Avenue	\$300,000,000
5	Greensboro Drive Extension west from Spring Hill Road to Rt.7	\$58,000,000
6	Dulles Toll Road Ramp to Greensboro Drive Extension	\$28,000,000
7	Dulles Toll Road Westbound Collector Distributor	\$124,000,000
8	Dulles Toll Road Eastbound Collector Distributor	\$62,000,000
9	Dulles Toll Road Ramp to Boone Blvd Extension	\$79,000,000
10	Rt.123 Widening from Rt.7 to 1-495	\$20,000,000
11	Rt.123 Widening from Old Courthouse Road to Rt.7	\$8,000,000
12	Rt.7 Widening between 1-495 and 1-66	\$71,000,000
13	Widen Magarity Road from Lisle/Rt.7 to Great Falls Street	\$63,000,000
14	1-495 Overpass at Tysons Corner Center	\$18,000,000
15	Widen Gallows Road from Rt.7 to Prosperity Ave.	\$94,000,000
16	1-495 Additional Lane (Outer Loop between Rt. 7 and 1-66)	\$74,000,000
17	Ramps Connecting Dulles Toll Road to Jones Branch Drive	\$38,000,000
	<b>Total for road projects</b>	<b>\$1,226,000,000</b>

APPENDIX D

TYSONS-WIDE ROAD FUND RATE ADJUSTMENT HISTORY

Effective Date	Percent Increase	Non-Residential Rate per Square Foot	Residential Rate per Dwelling Unit
January 8, 2013	Initial Rate	\$5.63	\$1,000
February 1, 2014	1.98%	\$5.74	\$1,020
February 1, 2015	2.18%	\$5.87	\$1,042
February 3, 2016	0.25%	\$5.90	\$1,045
March 1, 2017	2.04%	\$6.02	\$1,066
March 1, 2018	2.50%	\$6.17	\$1,093
April 1, 2019	1.90%	\$6.29	\$1,114
<u>April 1, 2020</u>	<u>2.50%</u>	<u>\$6.44</u>	<u>\$1,141</u>
<u>April 1, 2021</u>	<u>1.40%</u>	<u>\$6.53</u>	<u>\$1,157</u>
<u>April 1, 2022</u>	<u>7.50%</u>	<u>\$7.02</u>	<u>\$1,244</u>
<u>April 1, 2023</u>	<u>6.40%</u>	<u>\$7.47</u>	<u>\$1,324</u>



JEFFREY C. MCKAY  
CHAIRMAN

COMMONWEALTH OF VIRGINIA  
**COUNTY OF FAIRFAX**  
BOARD OF SUPERVISORS  
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# Board Matter

**Chairman McKay**

**August 2, 2022**

As the Board of Supervisors (Board) is aware, Fairfax County has adopted Road Funds for several areas of the County. These areas include the Fairfax Center Area, Centreville, and Tysons. These funds are used to collect a proportional share from the private sector to be used for construction of road improvements within those specific geographical areas. The Board has also adopted guidelines for the administration of the Road Funds. These guidelines are updated periodically to adjust the amounts and take into account dynamic inputs such as inflation.

Recently, the County has been experiencing various forms of redevelopment, including repurposing buildings for different uses and the redevelopment of sites with new developments where other buildings had been rendered obsolete and torn down. This redevelopment is vital in keeping the County economy competitive, as well as resilient.

Some of this redevelopment has occurred within areas that are subject and have paid into the Road Fund when they were first constructed. However, the adopted guidelines do not anticipate how to handle the new reality we are experiencing. For

example, a project in Fair Lakes where an obsolete office building paid into the Road Fund in the 1980s is being replaced by townhomes. The townhomes will generate a lower trip rate than the office building. As such, and absent guidelines on how to address these instances, County staff was only able to give the developer credit for the previous contribution. However, that contribution was at a much lower square foot rate since it was made 40-years ago. Staff did not have the latitude to consider the lower trip generation rate, or how much the rates have increased over time when evaluating the Road Fund contribution.

To address this and to provide guidance to staff in similar circumstances, I move that the Board direct the Fairfax County Department of Transportation to provide the Board with revised guidelines for the various Road Funds. These revised guidelines should take into account redevelopment and other factors or changes since these Road Funds were established. I further move that, in relation to the aforementioned example in Fair Lakes, staff take into account the previous payment to the Road Fund and the lower trip generation of its new use when setting the amount of the contribution for that project.

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ACTION - 4

Approval of the One-Year Action Plan for the Use of Community Development Block Grant (CDBG), HOME Investment Partnerships Program Funds (HOME), and Emergency Solutions Grant (ESG) in FY 2024

ISSUE:

Final action by the Fairfax County Board of Supervisors (Board) on the One-Year Action Plan for FY 2024 (the Plan).

RECOMMENDATION:

The County Executive recommends the Board (1) adopt the Plan with funding allocations outlined below; (2) authorize signature of the Plan certifications and federal funding application forms (SF-424s); and (3) authorize submission of the Plan with the certifications and SF-424s by May 16, 2023, as required by the U.S. Department of Housing and Urban Development (HUD).

TIMING:

Board action is required on May 9, 2023, to maintain the schedule for the Annual Action Plan process, which is included in the Grantee Unique Appendices section of the Plan and to ensure timely submission of the Plan to HUD.

BACKGROUND:

The Plan contains the proposed uses of funding for three federal programs: Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and Emergency Solutions Grant (ESG) funds. In accordance with federal requirements, the Plan includes several certifications, including drug-free workplace, affirmatively furthering fair housing, prohibition of excessive force, and lobbying requirements. If the Board approves this item and the Plan, each of the certifications will be signed by the County Executive.

Funding levels previously described in the Plan and released for public comment were based on FY 2023 funding levels, because the County had not yet received notification from HUD of the actual grant levels at the time the Consolidated Community Funding Advisory Committee (CCFAC) released the document. HUD notified the County of the actual grant levels on February 28, 2023, and the funding levels incorporated into the Plan are based on the actual funding levels. The \$8,588,051 actual total entitlement



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funding recommended in this item for the three programs is \$317,241 less than estimated in the draft Plan when released for public comment. The \$5,682,469 actual CDBG funding is \$236,457 less than estimated; the \$2,385,371 actual HOME funding is \$85,860 less than estimated; and the \$520,211 actual ESG funding is \$5,076 more than estimated. The Plan also includes estimates of \$1,596,452 in CDBG program income and \$46,000 in HOME program income.

In accordance with the Board-adopted Citizen Participation Plan for the Consolidated Plan process, the draft Plan was made available and circulated for review and comment by residents, service providers, and other interested parties during the formal public comment period, which ended with a public hearing held by the Board on March 21, 2023. Following the public comment period, all comments were considered and summarized in the Plan. Pursuant to this item, the CCFAC now forwards the Plan to the Board with a recommendation for final approval on May 9, 2023.

EQUITY IMPACT:

The planned uses of federal funding to develop and preserve housing, as well as to provide community services in all regions of the county, concern the One Fairfax Policy goal to encourage all who want to live in Fairfax to be able do so by the provision of a full spectrum of housing opportunities across the county.

The data shows that there is a critical shortage of housing that is affordable to individuals and families with low incomes, have disabilities or are homeless. Low-income elderly households include both renters and homeowners. Although persons with disabilities are likely to need supportive services in addition to affordable housing, the data shows that the vast majority of low to moderate income renters and owners with disabilities also either spend more than 30 percent of their income for housing, live in overcrowded housing, or live in housing without full kitchens or bathrooms.

The Five-Year Consolidated Plan for FY 2022 – FY 2026 (the Consolidated Plan), which identifies the shortages of housing affordable to low-income, disabled, homeless and senior populations as priority needs. The One-Year Action Plan for FY 2024 implements the third year of the Consolidated Plan by funding programs and activities that address the priorities and thereby increase the housing opportunities for those priority individuals and families to live in the county. The Plans also promote the long-term economic health of the county by supporting the provision of an adequate supply of housing that is affordable to essential workers provide critical services to all residents.

HCD staff regularly monitors and submits a Consolidated Annual Performance Evaluation Report (CAPER) to HUD about the progress and accomplishments of each

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housing and human service activity funded with CDBG, HOME or ESG. In compliance with HUD requirements, the public is notified and provided with opportunities to provide input before the CAPER is submitted in September of each year.

FISCAL IMPACT:

Total anticipated entitlement funding of \$8,588,051 has been recommended in this item:

- \$5,682,469 in CDBG (Fund 50800, Community Development Block Grant)
- \$2,385,371 in HOME (Fund 50810, HOME Investment Partnerships Program)
- \$520,211 in ESG (Fund 50000, Federal-State Grant Fund)

As part of the *FY 2023 Carryover Review*, an estimated total of \$4,197,236, to include \$2,318,262 in CDBG (Fund 50800) and \$1,878,974 in HOME (Fund 50810) funds, will be recommended to be carried forward for ongoing CDBG and HOME activities, as well as previously programmed funding for ongoing capital projects.

An estimated \$1,642,452 in FY 2023 program income will be available for use in FY 2024, including \$1,596,452 in CDBG (Fund 50800) program income and \$46,000 in HOME (Fund 50810) program income.

STAFF IMPACT:

None. No positions will be added as a result of this action.

ENCLOSED DOCUMENTS:

Attachment 1: One-Year Action Plan for FY 2024 with Appendices  
(available online at <https://www.fairfaxcounty.gov/housing/data/consolidated-plan>.)

STAFF:

Christopher Leonard, Deputy County Executive  
Thomas Fleetwood, Director, Housing and Community Development (HCD)  
Thomas Barnett, Assistant Director, Office to Prevent and End Homelessness (OPEH), HCD  
Amy Ginger, Assistant Director, Housing and Communications, HCD  
Laura O. Lazo, Associate Director, Grants Management (GM), OPEH, HCD  
Beverly A. Moses, Senior Program Manager, GM, OPEH, HCD

ASSIGNED COUNSEL:

Ryan A. Wolf, Assistant County Attorney



# PROPOSED ONE-YEAR ACTION PLAN FOR COUNTY FY 2024 (FEDERAL FY 2023)

*Prepared with community participation and under the guidance of the Consolidated Community Funding Advisory Committee.*

FY 2024 One-Year Action Plan (Federal FY 2023)

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# Executive Summary

## AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

### 1. Introduction

The Executive Summary of this Fairfax County One-Year Action Plan for FY 2024 (FY 2024 One-Year Action Plan) is intended to help facilitate citizen review of the intended uses of Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME) and Emergency Solutions Grant (ESG) funds (collectively, the Federal Funds), as well as the housing and community development goals and priorities to be achieved during the period July 1, 2023 through June 30, 2024. FY 2024 will be the third year of the county's implementation of the Five-Year Consolidated Plan for FY 2022-FY 2026 (Consolidated Plan). This FY 2024 One-Year Action Plan describes how Fairfax County intends to use the Federal Funds to meet the needs established in the Consolidated Plan and is based on the goals and strategies established in the Consolidated Plan.

### 2. Summarize the objectives and outcomes identified in the Plan

The priority housing needs identified for this Action Plan are consistent with those identified in the [Consolidated Plan](#) and [Fairfax County's Communitywide Housing Strategic Plan](#). Other important plans and policy documents that support the creation of a sufficient supply of housing also guide the approaches discussed. These include the 2015 Strategic Plan to Facilitate the Economic Success of Fairfax County to shape a strong economic development strategy, 2017 [One Fairfax Policy](#) for racial and social equity to affirm county goals of inclusivity and shared prosperity for all county residents, as well as the 2017 Analysis of Impediments to Fair Housing Choice, will be updated by a new Regional Analysis of Impediments in 2023.

Fairfax County identifies those with the greatest need as follows:

- 1) individuals and families who are homeless;
- 2) persons with low- and extremely low incomes;
- 3) persons with disabilities; and
- 4) low-income seniors.

The identified affordable housing priorities respond to three critical elements of the affordable housing crisis in Fairfax County. The first critical element is the severity of need. The second is the limited and dwindling supply of affordable housing, in both the owner-occupied and renter-occupied sectors. The overall shortage of housing is making more units unaffordable through rent and price escalations. The third critical element is an increase in the number of households with low incomes who need affordable units. Households with low-moderate incomes are often unable to find affordable housing because the units are occupied by households with higher incomes.

The severity of the housing problem for people experiencing homelessness fuels a renewed vigor in providing basic shelter and warrants placing a high priority on meeting the needs of people experiencing homelessness. Low-income households, particularly those below 30 percent of AMI (i.e., extremely low income), are the most disadvantaged in finding and keeping housing in the current market. Economic downturns may put hard-working families at risk of homelessness as they

struggle with multiple jobs and uncertain income. Service providers and housing advocates are being challenged more than ever to prevent homelessness.

The elderly represent the fastest-growing age segment in Fairfax County and are projected to be 21.7 percent of the county's population by the year 2035. Elderly low-income households with housing problems (including cost burden) include a significant number of homeowners.

Persons with physical or mental disabilities require special attention as they are likely to need both services and housing. Over two-thirds of renters with disabilities and nearly two-thirds of owners with incomes less than 80 percent of AMI had at least one of the following housing problems: (1) greater than 30 percent cost burden, (2) over-crowdedness, or (3) the lack of a complete kitchen or bathroom facilities. In addition, the American Disabilities Act (ADA) and the Olmstead decision provide legal protections for persons with physical, intellectual, or mental disabilities that must be honored.

Finding ways to ensure that housing is affordable for all residents is essential to the long-term economic health of Fairfax County. An adequate supply of workforce housing (i.e., housing that is affordable to essential workers) is critical to meet the demands of projected job growth and to ensure that the county can keep workers who provide critical services to all residents.

### **3. Evaluation of past performance**

The Consolidated Annual Performance and Evaluation Report (CAPER) evaluates the county's use of CDBG, HOME, and ESG program funds during the immediately past fiscal year which ended on June 30, 2022. It provides a summary of accomplishments and an accounting of the allocation and expenditure of funds in FY 2022, in relation to funding and accomplishment goals established in the [Consolidated Plan for 2022-2026](#). The CAPER also reports on other key county efforts and funding that support affordable housing, community development and targeted public services activities.

Key funding uses and accomplishments reported in the FY 2022 CAPER include:

- The Fairfax County Board of Supervisors (Board) adopted the Communitywide Housing Strategic Plan in 2018 to establish priority areas and set 15-year affordable housing production, retention and financing goals.
- The Board adopted the [Countywide Strategic Plan](#) in October 2021 that identified Housing and Neighborhood Livability as a priority outcome area with eight strategies to expand housing affordability, five strategies to develop housing supportive policies, two strategies to end homelessness, three strategies to expand innovative funding opportunities, three strategies to create great places, and two strategies to improve mobility.
- The Board adopted a Comprehensive Plan Amendment to provide private developer incentives to include units for households with low- and moderate-incomes within their market-rate residential development projects.
- ESG funds, used to prevent homelessness and provide rapid re-housing to households experiencing homelessness, were supplemented by Emergency Solutions Grant – Coronavirus funds (ESG-CV) under the federal CARES Act to provide additional housing relocation and stabilization services, financial assistance and rapid re-housing, as well as to create temporary emergency shelter locations.

- Supplemental CDBG – Coronavirus (CDBG-CV) funding was primarily used to provide emergency rent and utility assistance to income-eligible households negatively impacted by the coronavirus pandemic.
- The Home Repair for the Elderly Program (HREP) completed 216 projects to provide services to 99 households.
- Veterans Affairs Supportive Housing Vouchers and Family Unification Program vouchers, as well as CDBG and HOME funds, were used by nonprofit partners to provide permanent housing for 34 formerly homeless households.
- Housing was provided to 17,456 individuals by using HCV or RAD-PBV rent subsidies, or FCRP units.
- Tenant Based Rental Assistance (TBRA) program provided rental assistance to 55 families.
- Total progress toward the goals to produce 10,000 new units affordable to households earning up to 60 percent of AMI by 2034, and to preserve existing units includes the production of 1,753 additional units that are in the pipeline, and the preservation of 868 units with 555 additional units in the pipeline. The reported units in the pipeline to be produced and preserved are based on “point-in-time” snapshots at the time of the reporting. The Board Chairman’s Task Force on Equity and Opportunity released the following recommendations that directly address housing and community development:
  - Implement policies to enable public safety personnel to live in and come from the communities they serve.
  - Aggressively pursue strategies to increase the amount of affordable housing and address the affordability of housing for low-income residents.
  - Promote the use of social impact funds or other investment opportunities to attract capital investment in the built environment to improve and expand housing stock and other neighborhood amenities to avoid displacement as neighborhoods change.
- The Affordable Housing Advisory Council (AHAC) was rechartered by the Fairfax County Board of Supervisors (Board) as an advisory Board, Authority or Commission (BAC) effective July 1, 2022. AHAC was established for the purpose of providing recommendations to the Board, consistent with the One Fairfax policy, regarding the implementation and achievement of the Communitywide Housing Strategic Plan, County resource requirements identified in the annual Budget Guidance, any additional adopted affordable housing development or preservation guidance, as well as recommendations on overarching policies and programs that support, promote and synthesize County efforts related to both ensuring housing affordability, accessibility and ending homelessness. During FY 2022, appointments to the 36-member body progressed resulting in 32 currently active members with four member vacancies. The Council meets quarterly. During this period, AHAC established By-Laws and an Executive Committee that meets monthly to guide its work. A fundamental accomplishment of AHAC was the development of a FY 2023 Workplan identifying strategies for implementation in the areas of legislation, policy, budget, and Housing in All Places.

#### **4. Summary of Citizen Participation Process and consultation process**

Fairfax County is committed to ensuring residents, advocacy groups, service providers, public and private agencies, community leaders, and stakeholders have opportunities to participate in the development and implementation of the Consolidated Plan. The Board adopted [Fairfax County’s Citizen Participation Plan](#) (hereafter, the “CPP”) on December 8, 1997 and most recently amended it on March 23, 2021. *A copy of the CPP may be found in the Grantee Unique Appendices.* The CPP is locally developed and sets forth policies and procedures for public input and participation during the Consolidated Plan process.



Per the CPP, the county encourages and provides opportunities for citizen participation from all sectors of the community. Emphasis is placed on participation by low- and moderate-income individuals; residents of areas in which federal funds are used or are proposed to be used; and minority and non-English-speaking residents as well as by persons with disabilities and other special needs. The county also works closely with the FCRHA to encourage participation by residents of public and assisted housing developments.

The Consolidated Community Funding Advisory Committee (CCFAC) is a citizen group established by the Board to monitor and advise the Board on the development and implementation of each Five-Year Consolidated Plan and One-Year Action Plan (hereafter, “the Plans”). CCFAC holds at least one annual public hearing (hereafter, “CCFAC Public Hearing”) to receive citizen input on current and needed housing, community development, and public services, as well as comments on the Plans submitted at or prior to the close of public hearings held by the Board (hereafter, “Board Public Hearings”). CCFAC is composed of representatives from human services provider groups, consumer and community organizations, and other boards, authorities, and commissions involved in human services.

Numerous county agencies and local groups were involved in developing the Plans, and the County consulted with state agencies, neighboring jurisdictions, and a variety of community-based organizations.

Citizens were notified of the opportunity to provide citizen input for the CCFAC Public Hearing on housing, community development and other human services needs, held on October 11, 2022. In addition, a Draft FY 2024 One-Year Action Plan was released and distributed on February 7, 2023 for public review and comment in writing or in person on or prior to March 21, 2023 hereafter, the “Public Comment Period”). The public was able to submit written comments on the Draft FY 2024 One-Year Action Plan to DHCD Grants Management at 3700 Pender Drive, Suite 329, Fairfax, VA 22030.

### **Summary of public comments**

Notices that the CCFAC Public Hearing would be held on October 11, 2022, were provided through newspaper publications with diverse circulations, as well as through the county website, a variety of social media platforms, social services agencies, nonprofit providers of affordable housing and human services, community networks, public libraries, and community and recreation centers.

The CCFAC received testimonies at the public hearing from and on behalf of the following organizations:

- The ARC of Northern Virginia;
- Ayuda;
- Cornerstones, Inc.;
- The Literacy Council of Northern Virginia;
- The Long-Term Care Coordinating Council;
- Private Citizens;
- Rebuilding Together of Arlington- Fairfax-Falls Church;
- United Community Ministries, Inc.; and
- Western Fairfax Christian Ministries, Inc.

A summary of the testimony presented at the CCFAC Public Hearing may be found in the Citizens Participation Comments Appendix section.

The public was provided access to and opportunities to comment on the Draft FY 2024 One-Year Action Plan beginning on February 7, 2023 and ending on March 21, 2023 (Public Comment Period). The Public Comment Period ended at the conclusion of the Board Public Hearing held on March 21, 2023, at which the Board received testimony on the Draft FY 2024 One-Year Action Plan and the proposed uses of federal and local funding to advance affordable housing and human services countywide. Notices of the Public Comment Period, opportunities to participate and the Board Public Hearing were also provided through newspaper publications with diverse circulations, as well as through the county website, a variety of social media platforms, social services agencies, nonprofit providers of affordable housing and human services, community networks, public libraries, and community and recreation centers. DHCD staff also created and distributed a four-page *“Notice of Public Comment Opportunities for the F 2024 Annual Action Plan, Citizen’s Guide to the Consolidated planning Process & Summary of the Draft FY 2024 Annual Action Plan,”* which was delivered to each Fairfax County Public Library branch to be made available for public review with the Draft FY 2024 One-Year Action Plan. *A copy of the “Notice of Public Comment Opportunities for the F 2024 Annual Action Plan, Citizen’s Guide to the Consolidated planning Process & Summary of the Draft FY 2024 Annual Action Plan” may be found in the Grantee Unique Appendices.*

The Board received written and oral testimonies on behalf of the following organizations:

- The ARC of Northern Virginia;
- Ayuda;
- Herndon Harbor House;
- Little River Glen Senior Center;
- Little River Glen Residents;
- Murraygate Village Apartments;
- Rebuilding Together of Alexandria/Fairfax/Falls Church; and
- a Private Citizen.

A summary of the testimony presented at the Board Public Hearing may be found in the Citizens Participation Comments Appendix section.

#### **Summary of comments or views not accepted and the reasons for not accepting them**

All public comments presented before or during the CCFAC Public Hearing and the Board Public Hearing were accepted and included in the final draft of the FY 2024 One-Year Action Plan submitted to the Board for approval.

#### **5. Summary**

All comments received and concerns communicated at the CCFAC Public Hearing and the Board Public Hearing will be addressed by the Annual Goals and Objectives, described in AP-20 in the final draft of the FY 2024 One-Year Action Plan submitted for Board approval.

In response to testimonies received at the Board Public Hearing, the Board: 1) asked staff to identify actions needed to make critical home repairs for low-income families via nonprofit organizations; 2) proposed the Board consider the identification of additional funding to support critical home repairs for low-income homeowners; 3) agreed to meet with residents of Herndon Harbor House; and 4) proposed staff form a Little River Glen Advisory Council.

In response to concerns expressed about the parking plans for the Little River Glen Senior Center, the Board also agreed to meet with residents about their concerns.

## PR-05 Lead & Responsible Agencies – 91.200(b)

### 1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	Fairfax County	DHCD
HOME Administrator	Fairfax County	DHCD
ESG Administrator	Fairfax County	DHCD

**Table 1 – Responsible Agencies**

#### Narrative

Fairfax County's CDBG-, HOME- and ESG-funded affordable housing and community development programs are administered by DHCD. In addition to its role as a department of county government reporting to the County Executive and the Board, DHCD also serves as staff of the Fairfax County Redevelopment and Housing Authority (FCRHA). FCRHA is a separate political body whose members are appointed by the Board, and which possesses specific powers granted by the Code of Virginia.

Every five years, the Board adopts a Consolidated Plan describing the county's needs, gaps in service and priorities for affordable housing, community service, homeless assistance, community development, neighborhood preservation and revitalization, and employment and economic opportunity services, as well as the resources and strategies to be used to meet the identified needs. Each year, the Board also approves a One-Year Action Plan which sets forth how the county will utilize Federal Funds to meet the needs and priorities identified in the Consolidated Plan. The Consolidated Plans and One-Year Action Plans are prepared by DHCD staff through an intensive citizen participation process under the leadership of CCFAC. Annually, a CAPER is submitted to HUD detailing how Federal Funds were spent and the accomplishments achieved.

#### Consolidated Plan Public Contact Information

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Fairfax, Virginia 22030  
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## **AP-10 Consultation – 91.100, 91.200(b), 91.215(l)**

### **1. Introduction**

**Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))**

The county worked closely with DHCD and FCRHA staff to solicit the input of area housing and service providers through a variety of means. Examples include:

- **Moving to Work (MTW)**: FCRHA works directly with its MTW Resident Advisory Committee on the development and implementation of activities related to FCRHA's Moving to Work designation.
- **Consolidated Community Funding Pool (CCFP)**: CDBG Targeted Public Services funds are combined with Community Services Block Grant funds (CSBG) and local county funds to support programs funded through the competitive Consolidated Community Funding Pool (CCFP) request for proposal (RFP) process. Department of Procurement and Material Management staff work closely with CCFAC, DHCD and other county agencies in all aspects of the administration of CCFP and the competitive funding process. In response to direction by the Board, the CCFP competitive funding process was bifurcated to ensure continued and uninterrupted support for emergency food and housing services. CCFP funding is awarded under two RFPs. One RFP awards funding for services to achieve the priority outcomes identified for the funding cycle. For the FY 2023-FY 2024 cycle, \$8.8 million was awarded to support the following outcomes: build self-sufficiency; provide health services; assist with financial stability; encourage positive behaviors; or build strong social networks. The second RFP awarded \$5 million to provide emergency food or housing assistance in all areas of the county.
- **Affordable Housing Advisory Council (AHAC)**: AHAC is comprised of 36 representatives of diverse sources of housing advocacy and was established to advise the Board on matters related to the preservation of affordable housing and development opportunities for the benefit of a broad range of households and supportive service needs. With the administrative support of FCRHA staff, AHAC makes recommendations about the allocation of resources, and the implementation of policies and programs to facilitate the achievement of Communitywide Housing Strategic Plan goals.

**Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.**

The DHCD Office to Prevent and End Homelessness (OPEH) manages, coordinates, and monitors day-to-day implementation of the community’s strategic plans to prevent and end homelessness. OPEH also provides staff support to the CoC Committee of AHAC, which serves as the CoC Board pursuant to 24 CFR 578.5(b). As part of this responsibility, OPEH assures coordinated execution of the work of the CoC with ESG-funded projects.

OPEH collaborates with an array of providers, including professional staff and volunteers from government, nonprofits and faith communities to address the specific needs of families and individuals experiencing homelessness, such as those who chronically experience homelessness, families with children, veterans and unaccompanied youth. Significant recently implemented initiatives include the coordinated response to the COVID-19 pandemic to establish non-congregate shelters, the ongoing enhancement of the Coordinated Entry policies and procedures, and the launch of a cross-jurisdictional effort to develop a more racially equitable approach to ending homelessness

**Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS**

OPEH manages, coordinates, and monitors day-to-day implementation of the plan to end homelessness and provides staff support to the local CoC Board. As part of this responsibility, OPEH assures coordinated execution of the work of the [CoC](#) and leads collaborative decision-making efforts in the use of federal homeless assistance funding, including the Emergency Solutions Grant (ESG). Important partners in the process of using ESG funds include several community-based nonprofit organizations that provide emergency shelter, homelessness prevention and rapid rehousing assistance. Through collaborative discussions, this partnership makes important decisions about the type of programs to be supported, the organizations that will utilize the funding, and the policies and procedures that must be developed in line with federal regulations to ensure effective and efficient use of ESG funding. OPEH develops performance standards and evaluation outcomes with community partners to support and complement homeless system performance measures as defined by HUD. OPEH also serves as the HMIS Lead for the local CoC and coordinates the HMIS Super Users, a collaborative decision-making body, in developing policies and procedures for the operation and administration of HMIS. As HMIS Lead, OPEH also manages payments for HMIS vendor’s services and licenses for HMIS users.

**2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction’s consultations with housing, social service agencies and other entities**

**Table 2 – Agencies, groups, organizations who participated**

<b>1</b>	<b>Agency/Group/Organization</b>	<b>Fairfax County Redevelopment and Housing Authority</b>
	<b>Agency/Group/Organization Type</b>	PHA

	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Public Housing Needs Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Economic Development Anti-poverty Strategy Unaccompanied youth
2	<b>Agency/Group/Organization</b>	<b>Consolidated Community Funding Advisory Committee</b>
	<b>Agency/Group/Organization Type</b>	Housing Human Services Advocacy Groups Business and Civic Leaders
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Lead-based Paint Strategy Public Housing Needs Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Non-Homeless Special Needs Economic Development Market Analysis Anti-poverty Strategy
3	<b>Agency/Group/Organization</b>	<b>Fairfax County Affordable Housing Advisory Committee</b>
	<b>Agency/Group/Organization Type</b>	Housing Regional organization
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Public Housing Needs Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
4	<b>Agency/Group/Organization</b>	<b>Fairfax-Falls Church Community Partnership on Ending Homelessness</b>

	<b>Agency/Group/Organization Type</b>	Housing Services - Housing Services-homeless
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy
5	<b>Agency/Group/Organization</b>	<b>FCRHA Move To Work Advisory Committee</b>
	<b>Agency/Group/Organization Type</b>	Housing Services - Housing
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Public Housing Needs Homelessness Strategy Homeless Needs – Chronically homeless Homeless Needs – Families with children Homelessness Needs – Veterans Homelessness Needs – Unaccompanied youth

**Other local/regional/state/federal planning efforts considered when preparing the Plan**

<b>Name of Plan</b>	<b>Lead Organization</b>	<b>How do the goals of your Strategic Plan overlap with the goals of each plan?</b>
Continuum of Care	Department of Housing and Community Development	The metrics set forth in the county's homelessness strategies are tied to the Communitywide Housing Strategic Plan and are reflected in the FY 2024 One-Year Action Plan.
<a href="#">Moving to Work</a> (federal)	FCRHA/Department of Housing and Community Development	The Strategic Plan is consistent with the FCRHA's Moving to Work program.
<a href="#">FCRHA Strategic Plan/Action Plan</a> (local)	FCRHA/Department of Housing and Community Development	The activities described in the Annual FCRHA Strategic Plan serve as a yearly work plan for the agency.



Communitywide Housing Strategic Plan (local)	Department of Housing and Community Development	Under the direction of the Board, the Communitywide Housing Strategic Plan is a comprehensive effort to preserve and create affordable housing options by both identifying near term goals that can be accomplished with currently available resources and identifying the resources necessary to meet needs by 2034.
<a href="#">Fairfax County Comprehensive Plan/Zoning Ordinance</a>	Fairfax County Department of Planning and Development	The <a href="#">Comprehensive Plan</a> and <a href="#">Zoning Ordinance</a> provide the land use policy and regulatory framework for the preservation and creation of affordable housing, as described in this FY 2024 One-Year Action Plan. This includes elements such as the Affordable Dwelling Unit and Workforce Housing programs.
<a href="#">One Fairfax Policy</a>	Fairfax County Equity Officer	The <a href="#">One Fairfax Policy</a> , adopted by the Board on November 21, 2017, and by the FCRHA on March 7, 2019, defines expectations for consideration of racial and social equity, and, meaningful community involvement when planning, developing and implementing policies, practices and initiatives. The policy provides a framework to advance equity in alignment with the stated vision and priorities of the county and the FCRHA. The policy informs all other county policies and applies to all publicly delivered services in Fairfax County Government, the FCRHA and Fairfax County Public Schools.

**Table 3 – Other local / regional / federal planning efforts**

## **AP-12 Participation – 91.105, 91.200(c)**

### **1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal setting**

The Board adopted a [Citizen Participation Plan](#) on December 8, 1997 (hereafter, “CPP”), and it was most recently amended in 2021. The CPP guides public input and participation in the consolidated planning process. A summary of the citizen participation process is provided at AP-05, paragraph 4. *The full text of the CPP may be found in the Grantee Unique Appendices section.*

**Citizen Participation Outreach**

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Public Hearing	<p>Minorities</p> <p>Non-English Speaking - Specify other language: Chinese, Spanish, Vietnamese</p> <p>Persons with disabilities</p> <p>Nontargeted/broad community</p> <p>Residents of Public and Assisted Housing</p> <p>Persons with incomes at or below the poverty level</p>	<p>Representatives of CCFAC, FCRHA and the public attended the CCFAC Public Hearing on October 11, 2022. All oral and written citizen comments submitted at the CCFAC Public Hearing were accepted and included in the Draft FY 2024 One-Year Action Plan. The needs identified and discussed at the CCFAC Public Hearing are addressed by the Annual Goals and Objectives described in AP-20.</p>	<p><i>All public comments received at or for the CCFAC Public Hearing are summarized in "Citizen Participation Comments" found in the Grantee Unique Appendices section.</i></p>	<p>N/A</p>	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
2	Public Hearing	<p>Minorities</p> <p>Non-English Speaking - Specify other language: Spanish, Vietnamese</p> <p>Persons with disabilities</p> <p>Nontargeted/broad community</p> <p>Persons with incomes at or below the poverty level</p>	<p>The Board provided an opportunity for public comments at the Board Public Hearing on March 21, 2023. All public comments received during the Public Comment Period about needs and programs addressed in the Draft FY 2024 One-Year Action Plan are addressed by the Annual Goals and Objectives described in AP-20.</p>	<p><i>All public comments submitted for the Board Public Hearing at any time during the Public Comment Period are summarized in the "Citizen Participation Comments" found in the Grantee Unique Appendices section.</i></p>	N/A	

**Table 4 – Citizen Participation Outreach**

## Expected Resources

### AP-15 Expected Resources – 91.220(c)(1,2)

#### Introduction

The recommended allocations of CDBG, ESG, and HOME funding (Federal Funding) and income earned from prior uses of Federal Funding (Program Income) used in the Draft FY 2024 One-Year Action Plan are based on estimates. CCFAC adopted and recommended a contingency plan to provide instructions for adjusting the recommended allocations when the actual amounts of Federal Funding and Program Income are determined. *The WAG Contingency Plan may be found in the Grantee Unique Appendices section.*

Notification of the actual awards for FY 2024 was received on February 28, 2023.

**Anticipated Resources**

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 3				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	5,682,469	1,596,452	2,318,262	9, 597,183	16,364,978	Notification of the actual awards for FY 2024 was received on February 28, 2023. The Program Income allocation is based on projections from current activities.
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab	2,385,371	46,000	1,878,974	4,310,345	4,770,742	Notification of the actual awards for FY 2024 was received on February 28, 2023. The Program Income allocation is based on projections from current activities.

		New construction for ownership TBRA							
Program	Source of Funds	Uses of Funds	Expected Amount Available Year 3				Expected Amount Available Remainder of ConPlan \$	Narrative Description	
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$			
ESG	public - federal	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid re-housing (rental assistance) Rental Assistance Services Transitional housing	520,211	0	0	520,211	1,040,422	Notification of the actual awards for FY 2024 was received on February 28, 2023.	

**Table 5 - Expected Resources – Priority Table**

**Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied.**

Fairfax County leverages federal CDBG, HOME and ESG funds with a variety of local resources, including private investments, donations and other county funds.

CDBG-funded targeted public services activities are supported by private cash and in-kind donations, as well as other county, state and federal funds. The gaps between CDBG funding for non-profit sponsored affordable housing capital projects and the total acquisition, renovation and leasing costs are funded by equity investments, private financing and/or other local funds, as well as by private cash, services and material donations.

Fairfax County meets and exceeds its HOME Match requirement through non-federal cash resources contributed to fund the Rental Subsidy and Services Program, the activities of which are eligible for HOME funding.

Additionally, the county created a Housing Trust Fund (HTF) in FY 1990, which is used to encourage and support the acquisition, preservation, development and redevelopment of affordable housing by the FCRHA, non-profit sponsors and private developers. The majority of all units developed with HTF financing are HOME eligible. Housing Trust Fund awards are anticipated in FY 2024. HOME and CHDO funds invested in nonprofit sponsored capital projects are also leveraged by equity investments, private financing and/or other local funds, as well as by private cash, services and material donations.

The Affordable Housing Development and Investment fund, (formerly known as the Penny for Affordable Housing Fund), was established in FY 2006, as a major financial commitment by the county to preserving and creating new affordable housing opportunities specifically for affordable housing at 80 percent of AMI and below. The Affordable Housing Development and Investment fund (AHD) is a flexible source of local funding primarily from a portion of the real estate tax for affordable housing. The AHD also includes a portion of the cash flow and housing loan repayments for properties owned by the FCRHA. The county leverages the AHD with non-county resources at a ratio of 4:1 to deliver new affordable units through private affordable developers or preserve existing market affordable units.

Fairfax County invests local General Funds to provide a one-to-one match for the ESG funding. The local matching funds are appropriated on an annual basis as a part of the normal Fairfax County budget cycle, typically in April or May.



**If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

Fairfax County and the FCRHA have a long and successful track record of utilizing public land for the development of housing to meet a continuum of needs identified in this FY 2024 One-Year Action Plan. Projects expected to be completed, under construction or in planning during the time covered by this FY 2024 One-Year Action Plan include the following:

**Residences at North Hill:** The development will create 216 multifamily affordable housing units and 63 affordable senior housing units on one third of the 34-acre site located at the intersection of Dart Drive and Richmond Highway. The second third of the site was sold to a market-rate developer to construct 175 market-rate townhouses. The sale proceeds will fund the site infrastructure for the affordable housing development. The final third of the site is to be used to create a public park. The project was awarded Low Income Housing Tax Credits (LIHTC) by Virginia Housing (VH) in May 2017. The FCRHA closed on the deal in June 2020 and began immediately began construction. The project is scheduled to be completed in the second quarter of 2023.

**Oakwood Senior Housing:** The FCHRA has partnered with the Arlington Partnership for Affordable Housing to develop 150 affordable independent senior housing units on FCRHA property located at the intersection of South Van Dorn Street and Oakwood Road. Project construction began in October 2021. VH awarded LIHTC for the project in June 2020. Project completion is anticipated to be in May 2024.

**One University Redevelopment:** The FCRHA has partnered with Stratford Capital Group and Rise Real Estate Company to redevelop FCRHA property located proximate to George Mason University to create 333 student housing units, 120 affordable housing units and 120 senior housing units. VH awarded LIHTC for the project in June 2020. The development financial closing and construction began in December 2021. The project completion is anticipated to be May 2024.

**Autumn Willow Senior Housing:** The FCRHA solicited development proposals to create up to 150 senior housing units on FCRHA property located at the intersection of Stringfellow Road and Autumn Willow Drive. The Michael's Development Company was selected as the development partner. VH awarded LIHTC for the project in June 2021. The FCRHA expects to complete the permitting process in time to begin construction by the end of fiscal year 2023.

**Little River Glen Redevelopment/New Construction:** The FCRHA is undertaking the combined rehabilitation of 120 units of affordable senior rental housing at the Little River Glen, Phase I community, as well as the new construction of 60 additional senior units on the site to be known as Little River Glen, Phase IV community. Staff has selected the LIHTC syndicator/investor, construction and permanent lenders, and

design/development consultant for the project. The FCRHA will bid out the general contractor services for the rehabilitation and new construction projects in the summer of 2023, and anticipates issuing a notice to proceed with construction by the end of 2023.

**Stonegate Village Apartments Renovation:** The development project will renovate 234 affordable housing units located in Reston near the intersection of Reston Parkway and Glade Drive. The renovation scope includes site improvements and a comprehensive interior rehabilitation, such as kitchen and bathroom modernization, flooring, painting, window replacement and accessibility upgrades. The property condition needs assessment was completed in October 2020, and the design phase was initiated in December 2020. The FCRHA is projecting that the LIHTC application will be submitted in 2024, with the financial closing expected by late 2024.

**Housing at Route 50/West Ox Road:** The Board of Supervisors has transferred ownership of the property to the FCRHA to create affordable housing for persons with special needs. The FCRHA received an unsolicited developer proposal to design, develop, construct, own and operate up to 34 units specially designed for single individuals needing permanent, secure, well-designed, and sustainable housing. The FCRHA solicited competing proposals for the development and the original proposal from Cornerstones Housing Corporation was selected in September 2021. The developer has begun land use planning for the project.

**Residences at the Government Center II:** The Board of Supervisors has transferred ownership of two parking lots on the Government Center campus to the FCRHA to create affordable housing. The FCRHA solicited proposals to design, develop, construct, own, and operate an affordable multi-family residential community of approximately 275 low- to moderate-income units pursuant to a long-term, nominal fee ground lease with the FCRHA. Lincoln Avenue Capital was selected as the developer in February 2022. Land use planning for the project continues.

**Franconia Governmental Center:** The Board of Supervisors transferred ownership of the Franconia Governmental Center site to the FCRHA for redevelopment of affordable housing. The FCRHA is currently soliciting proposals to design, develop, construct, own, and operate an affordable multi-family residential community of up to 120 low- to moderate-income units pursuant to a long-term, nominal fee ground lease with the FCRHA. The proposed 120-unit development will include some units designated for the County's Magnet Housing program, serving qualified professionals such as teachers, first-responders, and healthcare workers.

**Future affordable housing sites:** The Board of Supervisors has set the precedent of transferring county-owned properties to the FCRHA to create affordable housing. Oakwood and Autumn Willow (mentioned previously) are two recent examples of leveraging county-owned land to address the affordable housing needs identified in the Consolidated Plan. The staff has identified several other county-owned properties for creating additional affordable housing. Due diligence is underway to determine the feasibility of the future development of other county-owned sites.

## Annual Goals and Objectives

### AP-20 Annual Goals and Objectives

#### Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Homelessness	FY 2024	FY 2024	Affordable Housing  Homeless	Countywide	Homelessness Prevention and Rapid Re-Housing Affordable Rental Housing Community Services	CDBG: \$115,000 HOME: \$480,000 ESG: \$520,211	Homelessness Prevention: 180 households Rapid Rehousing: 450 households Rental Units Constructed: 2
2	Special Needs	FY 2024	FY 2024	Affordable Housing  Non-Homeless Special Needs	Countywide	Affordable Rental Housing Homeownership Access and Rehabilitation Community Services	CDBG: \$115,000 HOME: \$1,231,000 ESG: \$0	Tenant-Based Rental Assistance: 50 Households Rental Units Constructed: 2
3	Low-Income Working Families	FY 2024	FY 2024	Affordable Housing	Countywide	Affordable Rental Housing Homeownership Access and Rehabilitation Community Services	CDBG: \$2,815,000 HOME: \$480,000 ESG: \$0	Rental Units Constructed: 28
4	Moderate-Income Workforce Housing	FY 2024	FY 2024	Affordable Housing	Countywide	Affordable Rental Housing Homeownership Access and Rehabilitation	CDBG: \$1,759,000 HOME: \$0 ESG: \$0	Homeowner Housing Rehabilitated: 255 Direct Financial Assistance to Homebuyers: 54

<b>5</b>	Human Service System	FY 2024	FY 2024	Public Services	Countywide	Community Services Administration and Planning	CDBG: \$425,000 HOME: \$0 ESG: \$0	Public Services Activities Other Than Low/Moderate Income Housing Benefit: 3,018
<b>6</b>	Poverty Reduction/Self Sufficiency	FY 2024	FY 2024	Affordable Housing  Public Services	Countywide	Community Services	CDBG: \$425,000 HOME: \$0 ESG: \$0	Public Service Activities Other Than Low/Moderate Income Housing Benefit: 614 Public Service Activities for Low/Moderate Income Housing Benefit: 186
<b>7</b>	Reinvestment	FY 2024	FY 2024	Non-Housing Community Development	Countywide	Administration and Planning	CDBG: \$150,000 HOME: \$0 ESG: \$0	Other: 1 Other
<b>8</b>	Community Input	FY 2024	FY 2024	Other	Countywide	Administration and Planning	CDBG: \$150,000 HOME: \$150,000 ESG: \$0	Other: 1 Other

**Table 6 – Goals Summary**

**Goal Descriptions**

1	<b>Goal Name</b>	Homelessness
	<b>Goal Description</b>	Prevent and end homelessness through a variety of county programs and activities.
2	<b>Goal Name</b>	Special Needs
	<b>Goal Description</b>	Provide affordable housing options in several ways to special-needs populations, including households with low- to extremely low-income, seniors, and persons with physical or mental disabilities.
3	<b>Goal Name</b>	Low-Income Working Households
	<b>Goal Description</b>	Increase affordable housing for low-income working households through creative partnerships and public policy.
4	<b>Goal Name</b>	Moderate-Income Working Households
	<b>Goal Description</b>	Increase affordable housing for moderate-income working households through creative partnerships and public policy.
5	<b>Goal Name</b>	Human Service System

	<b>Goal Description</b>	Maintain and strengthen a safe, healthy and vibrant community through a human service system that is responsive to all populations and their diverse needs including children, the elderly, persons with disabilities, or those with other special needs, with emphasis on benefiting low- and moderate-income persons and households. The county will: <ul style="list-style-type: none"> <li>• identify gaps and strategies to meet current and emerging service needs;</li> <li>• encourage and support a coordinated public and private network of community services that fosters stability and maximizes independence for individuals and families; and</li> <li>• encourage best practices, sensitivity to cultural differences and enhanced performances in service delivery to ensure residents receive high quality services, as needed.</li> </ul>
6	<b>Goal Name</b>	Poverty Reduction/Self Sufficiency
	<b>Goal Description</b>	Reduce poverty and foster self-sufficiency for program participants by using public and private resources to provide essential training and support services, and by encouraging employment opportunities.
7	<b>Goal Name</b>	Reinvestment
	<b>Goal Description</b>	In commercial and residential areas that are vulnerable to instability, facilitate reinvestment, encourage business development, promote public and private investment and reinvestment, preserve affordable housing and prevent or eliminate the negative effects of disinvestment. The county will continue to implement the Strategic Plan to Facilitate Economic Success of Fairfax County, which focuses on four fundamentals – people, places, employment and governance. In terms of places, Fairfax County will focus on infrastructure, mobility, redevelopment and fostering the retail industrial and other emerging uses.
8	<b>Goal Name</b>	Community Input
	<b>Goal Description</b>	Ensure broad community input throughout the development and implementation of the Consolidated Plan and One-Year Action Plans, build public/private partnerships to implement the Plans, and monitor and evaluate the goals, strategies and program outcomes. The county will implement the <a href="#">Citizen Participation Plan</a> and evaluate the effectiveness of community outreach and citizen participation.

## Projects

### AP-35 Projects – 91.220(d)

#### Introduction

All Federal Funds and any subsequent leveraging of local and private resources for FY 2024 will be invested in the following 13 projects. Project #6-Targeted Public Services (CCFP TPS) also receives an allocation of local general and CSBG funds totaling approximately \$12.5 million.

#### Projects

#	Project Name
1	Section 108 Loan Payments
2	Fair Housing
3	Planning
4	General Administration (CDBG)
5	HOME Administration
6	Targeted Public Services (CCFP TPS)
7	Home Repair for the Elderly & Community Rehabilitation Programs
8	Tenant Based Rental Assistance (TBRA) and Other Rental Assistance
9	FCRHA and Fairfax County Properties- Rehabilitation or Acquisition
10	Homeownership Program
11	CHDO Set-Aside
12	Emergency Solutions Grant
13	CDBG/HOME Affordable Housing Request for Proposals

**Table 1 - Project Information**

**Describe the reasons for allocation priorities and any obstacles to addressing underserved needs**

The housing goals established in the Five-Year Consolidated Plan for FY 2022–2026 (Consolidated Plan) are as follows:

- Goal 1:** To address the challenge of homelessness
- Goal 2:** To provide affordable housing options to special-needs populations
- Goal 3:** To meet the affordable housing needs of low-income working households; and
- Goal 4:** To increase workforce housing through creative partnerships and public policy.

The Consolidated Plan reflects the overarching goals and is the product of the input received through the process of gathering county officials and staff, representatives from the nonprofit community and for-profit development sector, and the citizens of Fairfax County, supplemented by data compiled from local sources, HUD, and the U.S. Census Bureau. To accomplish these goals, Fairfax County is leveraging community and private sector resources through partnerships. The county will complete projects already in the pipeline as well as embark on new initiatives.

The philosophy driving the priority needs in the Consolidated Plan is that affordable housing is a continuum ranging from the needs of the homeless to those of first-time buyers. Included in this range are the diverse housing needs of hard-working but low-paid families; senior citizens; persons with physical or mental disabilities; and the workforce across Fairfax County.

The main obstacle faced by the county is the affordable housing gap for low- and moderate-income residents. The bulk of all proposed projects endeavor to combat the shortage of affordable units in the county.



## AP-38 Projects Summary

### Projects Summary Information

<b>1</b>	<b>Project Name</b>	Section 108 Loan Payments
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families
	<b>Needs Addressed</b>	Homelessness Prevention and Rapid Re-Housing Affordable Rental Housing Community Services
	<b>Funding</b>	CDBG: \$429,622
	<b>Description</b>	Funding will be used to make annual payments on one loan under Section 108 of the Housing and Community Development Act of 1974, as amended. Loan proceeds have been used by the FCRHA for affordable housing development and preservation; reconstruction of Washington Plaza in Reston and Olley Glen; and road and storm drainage improvements in five Conservation Areas (Bailey's, Fairhaven, Gum Springs, James Lee, and Jefferson Manor). The loan applications were approved by the Board, who pledged future CDBG funds for the payment

		of annual interest and principal premiums due on the notes.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	All beneficiary data related to each of the projects was reported in the CAPER for the year in which the project was completed.
	<b>Location Description</b>	Not applicable.
	<b>Planned Activities</b>	Matrix Code- 19F Planned Repayments of Section 108 Loans Matrix Code- 24A Payment of Interest on Section 108 Loans
<b>2</b>	<b>Project Name</b>	Fair Housing
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System
	<b>Needs Addressed</b>	Community Services Administration and Planning
	<b>Funding</b>	CDBG: \$215,350 HOME: \$25,116

	<b>Description</b>	Funding will be used by the Fairfax County Office of Human Rights and Equity Programs to support fair housing testing performed by contractors, to conduct fair housing outreach and education activities, and to investigate fair housing complaints. In addition, funds will be used in FY 2024 for activities that affirmatively further fair housing for county residents, including FCRHA clients and tenants.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	General fair housing outreach and education will be made available to all county residents, businesses and organizations. Beneficiary demographics will be tracked as activities are completed and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	Not applicable.
	<b>Planned Activities</b>	Matrix Code- 21D Fair Housing Activities (subject to Admin Cap)
<b>3</b>	<b>Project Name</b>	Planning
	<b>Target Area</b>	Countywide

<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System Reinvestment Community Input
<b>Needs Addressed</b>	Administration and Planning
<b>Funding</b>	CDBG: \$250,029
<b>Description</b>	Funding will support planning and implementation of the county's housing and community development programs. Funding supports activities required to meet CDBG and HOME regulations and local procedures, prepare and process the county's Consolidated Plan and related citizen participation and public input processes, prepare community plans, and implement housing and community development programs, and identify and pursue funding sources to match and leverage entitlement funding. Planning will include FCRHA activities to affirmatively further fair housing.
<b>Target Date</b>	6/30/2024
<b>Estimate the number and type of families that will benefit from the proposed activities</b>	Planning is a required administrative function of the CDBG entitlement that is not limited to a specific number and type of beneficiaries.

	<b>Location Description</b>	Not applicable.
	<b>Planned Activities</b>	Matrix Code- 20 Planning
4	<b>Project Name</b>	General Administration (CDBG)
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System Community Input
	<b>Needs Addressed</b>	Administration and Planning
	<b>Funding</b>	CDBG: \$1,315,890

	<b>Description</b>	Funding for the general administration of the county's CDBG and HOME-funded programs and projects, as well as projects funded under the Section 108 and Economic Development Initiative. Funding provides for administration of housing and community development programs and projects, including contract management for projects and programs funded through the CCFP, required local, state, and federal reports and preparation of documents, provision of technical assistance, financial management, and administrative and professional support to the CCFAC and various citizen participation processes. General Administration will include FCRHA activities that will affirmatively further fair housing. Funding provides for salaries and fringe benefits plus related operating and equipment costs.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	The required administrative function of the CDBG entitlement is not limited to a specific number and type of beneficiaries.
	<b>Location Description</b>	Not applicable.
	<b>Planned Activities</b>	Matrix Code- 21A General Program Administration
<b>5</b>	<b>Project Name</b>	HOME Administration
	<b>Target Area</b>	Countywide

	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Community Input
	<b>Needs Addressed</b>	Administration and Planning
	<b>Funding</b>	HOME: \$389,134
	<b>Description</b>	Funding will support the operation of the HOME Program and projects receiving HOME funding. The funding will be used to support salaries and fringe benefits, plus related operating and equipment costs.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	This is a required administrative function of the HOME entitlement that is not limited to a specific number and type of beneficiaries.
	<b>Location Description</b>	To be determined.
	<b>Planned Activities</b>	See Description.
6	<b>Project Name</b>	Targeted Public Services (CCFP TPS)
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System Poverty Reduction/Self Sufficiency

	<b>Needs Addressed</b>	Homelessness Prevention and Rapid Re-Housing Affordable Rental Housing Homeownership Access and Rehabilitation Community Services
	<b>Funding</b>	CDBG: \$852,370
	<b>Description</b>	Funding allocated to the CCFP for Targeted Public Services will be awarded to eligible nonprofit organizations for the delivery of public services in accordance with CDBG eligibility criteria and the CCFP priorities adopted by the Board. Funding for specific programs and activities is subject to appropriations by the Board.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	The number of families and individuals assisted will vary. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	To be determined.
	<b>Planned Activities</b>	Funding allocated to the CCFP for TPS will support programs provided in FY 2024. TPS programs typically provide a variety of services aimed at promoting stability and self-sufficiency, preventing homelessness and/or meeting basic needs, including case management, training in life skills, employment, financial management, ESOL and limited direct financial assistance and in-kind donations.



<b>7</b>	<b>Project Name</b>	Home Repair for the Elderly & Community Rehabilitation Programs
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System
	<b>Needs Addressed</b>	Homeownership Access and Rehabilitation
	<b>Funding</b>	CDBG: \$1,221,687
	<b>Description</b>	Funding will be used for affordable housing preservation services through HREP and other home repair programs in the City of Falls Church and the Town of Herndon, for the benefit of low to moderate homeowners. The CDBG funds for HREP are supplemented by county funds generated from the Elderly Housing Program budget. Funding also will be used to support other activities to preserve affordable housing for the benefit of low income households, including in the City of Falls Church and Town of Herndon. Services and materials provided under this activity may be used to assist in renovations needed to ensure the integrity of the exterior (roof, siding, windows, caulking, etc.), comply with local codes, install accessibility features and/or

		correct deficiencies necessary to preserve housing or prevent homelessness. HUD's <i>Uncapped Low and Moderate Income Summary Data for Exception CDBG Grantees</i> will be used to determine the eligible benefit areas in the City of Falls Church and the Town of Herndon.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	Approximately 100 elderly households are expected to be served by HREP. The numbers of households and individuals assisted in the City of Falls Church and the Town of Herndon, as well as mobile homeowners will vary depending on the requests for assistance and the specific activities. All program beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	To be determined.
	<b>Planned Activities</b>	Matrix Codes- 14A Rehab: Single-Unit Residential; 14B Rehab: Multi-Unit Residential; 14H Rehabilitation Administration.
<b>8</b>	<b>Project Name</b>	TBRA and Other Rental Assistance
	<b>Target Area</b>	Countywide

<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families
<b>Needs Addressed</b>	Homelessness Prevention and Rapid Re-Housing Affordable Rental Housing
<b>Funding</b>	HOME: \$1,283,575
<b>Description</b>	Funding will provide TBRA vouchers and other rental assistance to prevent families/individuals from becoming homeless, help families/individuals experiencing homelessness obtain permanent housing, support stable housing for persons with special needs, respond to reasonable accommodation requests, and subsidize units for clients of the Progress Center.
<b>Target Date</b>	6/30/2024
<b>Estimate the number and type of families that will benefit from the proposed activities</b>	Approximately 55 families or individuals are expected to receive TBRA vouchers. Other rental assistance will be provided to households and individuals in the City of Falls Church. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
<b>Location Description</b>	To be determined.
<b>Planned Activities</b>	Provision of TBRA vouchers and other rental assistance

<b>9</b>	<b>Project Name</b>	FCRHA and Fairfax County Properties – Rehabilitation or Acquisition
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families Human Service System
	<b>Needs Addressed</b>	Affordable Rental Housing Community Services
	<b>Funding</b>	CDBG: \$3,145,366
	<b>Description</b>	Funding will be used by the FCRHA/County to acquire properties to be used for affordable housing or public facilities, or to rehabilitate residential properties or public facilities owned by the FCRHA/County to maintain safety and quality of life. Funding also may be used to purchase ADUs or other properties for affordable housing.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	The number of families and individuals who will benefit from the activities will be determined by the projects. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	To be determined.

	<b>Planned Activities</b>	Matrix Codes – 3 Public Facilities and Improvements; 14D Rehab: Other Public-Owned Residential Buildings; 14G Rehab: Acquisition
<b>10</b>	<b>Project Name</b>	Homeownership Program
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Moderate-Income Working Families
	<b>Needs Addressed</b>	Homeownership Access and Rehabilitation
	<b>Funding</b>	CDBG: \$1,741,779
	<b>Description</b>	Funding will be used to provide activities related to the First-Time Homebuyer Program, including financial assistance to homebuyers when available. Uncapped income limits, as provided by HUD, will be used to qualify household eligibility for homebuyer assistance.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	This program is expected to benefit approximately 40 families who are currently housed but not on the certified eligible applicant waiting list and approximately 300 families who are on the waiting list. Approximately 7,000 requests for homeownership services will be received through orientations, information briefings, calls, emails and walk-in requests for assistance and marketing activities. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.

	<b>Location Description</b>	To be determined.
	<b>Planned Activities</b>	Matrix Code- 13A Housing Counseling for Homeownership Assistance; 13B Direct Homeownership, excluding Housing Counseling.
<b>11</b>	<b>Project Name</b>	CHDO Set-Aside
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families
	<b>Needs Addressed</b>	Affordable Rental Housing
	<b>Funding</b>	HOME: \$563,087
	<b>Description</b>	CHDO set-aside funding will be used to acquire and/or rehabilitate existing affordable housing or develop additional affordable housing units for homebuyers and renters.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	This project is dependent upon proposals received during DHCD's annual Request for Proposals process. It is expected to serve at least one household at or below 50% AMI. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	To be determined based on applications.

	<b>Planned Activities</b>	Typical CHDO projects in the past have included the acquisition and rehabilitation of housing units for use as affordable rental housing for persons with income at or below 50% AMI.
12	<b>Project Name</b>	Emergency Solutions Grant
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness
	<b>Needs Addressed</b>	Homelessness Prevention and Rapid Re-Housing
	<b>Funding</b>	ESG: \$520,211
	<b>Description</b>	Pursuant to the HEARTH Act, the Emergency Solutions Grant (ESG) will continue to be used to fund activities that have an emphasis on preventing homelessness and rapidly re-housing people experiencing homelessness.
	<b>Target Date</b>	6/30/2024
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	More than 629 individuals are estimated to benefit from the ESG funded programs in FY 2024. Beneficiary demographics will be tracked as services are provided and will be reported in the CAPER for FY 2024.
	<b>Location Description</b>	To be determined.
	<b>Planned Activities</b>	ESG funds will be used to support homelessness prevention and rapid rehousing assistance to persons who are at-risk of homelessness and those experiencing homelessness. Funded activities will provide housing relocation and stabilization services, as well as short-to

		medium-term rental assistance to help program participants regain stability in current permanent housing or move into other more suitable permanent housing in order to achieve stability. Services also will include case management for housing stability, housing search and placements, and financial assistance for rental application fees, security deposits, last month's rents, utility deposits and payments, and moving costs.
<b>13</b>	<b>Project Name</b>	CDBG/HOME Affordable Housing Request for Proposals
	<b>Target Area</b>	Countywide
	<b>Goals Supported</b>	Homelessness Special Needs Low-Income Working Families Moderate-Income Working Families
	<b>Needs Addressed</b>	Homelessness Prevention and Rapid Re-Housing Affordable Rental Housing
	<b>Funding</b>	CDBG: \$425,092 HOME: \$2,049,434
	<b>Description</b>	The FY 2024 CDBG/HOME Affordable Housing RFP will be used to fund the acquisition, preservation and/or rehabilitation of housing and the development of new affordable housing for income-eligible renters, homeowners or homebuyers. Notice of funding availability will coincide with CHDO funding availability for FY 2024.



<b>Target Date</b>	6/30/2024
<b>Estimate the number and type of families that will benefit from the proposed activities</b>	<p>The number and type of beneficiaries will be determined based on the activities completed by the non-profit recipients of the RFP funding. In most recent past RFPs, scoring preference was given to projects that could be completed in an expedited manner; provided beneficiaries with direct access to public transportation, community retail centers or supportive services; and served populations such as:</p> <ul style="list-style-type: none"> <li>• elderly persons ages 62 and older who are 60% AMI or below;</li> <li>• youth transitioning out of foster care who are 60% AMI or below;</li> <li>• homeless (or at risk of homelessness) who are 60% AMI or below;</li> <li>• persons with disabilities (physical, mental, intellectual, or sensory) who are 60% AMI or below;</li> <li>• veterans who are at 60% AMI or below; and</li> <li>• survivors of domestic violence who are at 80% AMI or below.</li> </ul> <p>Beneficiary demographics will be tracked as activities are completed and will be reported in the CAPER for FY 2024.</p>
<b>Location Description</b>	To be determined.

	<b>Planned Activities</b>	Typical projects funded through past RFPs have included the acquisitions and rehabilitation of housing units to be used to provide affordable rental housing for persons with income at or below 60% AMI.
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## AP-50 Geographic Distribution – 91.220(f)

### Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Consistent with the principles of the [One Fairfax Policy](#), Fairfax County is opportunity-driven in the allocation of affordable housing resources while working actively to promote the de-concentration of poverty, particularly in DHCD and FCRHA programs. The FCRHA finances the acquisition, preservation, and development of properties countywide and will continue to operate its program on a countywide basis.

### Geographic Distribution

Target Area	Percentage of Funds
Countywide	100

**Table 8 - Geographic Distribution**

### Rationale for the priorities for allocating investments geographically

Not applicable

## Affordable Housing

### AP-55 Affordable Housing – 91.220(g)

#### Introduction

*The goals represented below are in furtherance of the Communitywide Housing Strategic Plan. A copy of the Communitywide Housing Strategic Plan may be found in the Grantee Unique Appendices section.*

<b>One Year Goals for the Number of Households to be Supported</b>	
Homeless	348
Non-Homeless	858
Special-Needs	163
Total	1,369

**Table 9 - One Year Goals for Affordable Housing by Support Requirement**

<b>One Year Goals for the Number of Households Supported Through</b>	
Rental Assistance	806
The Production of New Units	400
Rehab of Existing Units	0
Acquisition of Existing Units	163
Total	1,369

**Table 10 - One Year Goals for Affordable Housing by Support Type**

## **AP-60 Public Housing – 91.220(h)**

### **Introduction**

#### **Actions planned during the next year to address the needs to public housing**

The county is planning the following projects to repair and maintain RAD properties, formerly public housing:

The Atrium - refurbishment of catwalks and garden area concrete, replacement of vanity cabinets and tub surrounds. Cost Estimate: \$89,733.

Colchester Towne - HVAC unit replacement. Cost Estimate: \$40,000.

Greenwood - exterior painting, replacement of asphalt roof shingles, kitchen cabinets and HVAC, resolve flooding issue at office. Cost Estimate: \$310,000.

Kingsley Park - replacement of bathroom flooring and entrance doors, installation of new laundry facilities. Cost Estimate: \$169,240

Ragan Oaks - replacement of sliding glass doors, painting exterior and balconies, restore deteriorated mechanical room floors and drains. Cost Estimate: \$156,838.

Rosedale - repairs to exterior walls and metal fence, replace building entry doors, replace balcony panels, paint stairways, install new trash enclosures. Cost Estimate: \$291,203.

The Park – vinyl siding replacement. Cost Estimate: \$27,104.

Water's Edge – replace soffit and fascia, sliding doors in units, and entry doors. Cost estimate: \$40,425.

Westford – replacement of refrigerators, vanities, and medicine cabinets. Cost Estimate: \$81,764.

Westglade – replacement of kitchen cabinets, countertops, roofing, and HVAC units. Cost Estimate: \$118,029.

Total planned FY 2024 capital funding expenditures is \$1,324,336.

**Actions to encourage public housing residents to become more involved in management and participate in homeownership**

The FCRHA coordinates a MTW Resident Advisory Committee, consisting of RAD-PBV and HCV participants. The committee meets approximately four times per year to advise the FCRHA about its MTW objectives and participates in development of policy for annual MTW Plans.

The Fairfax County Homeownership and Relocation Division (HRD) conducts intake and counseling for RAD-funded residents who are aspiring homeowners. The FCRHA's homeownership preference policy provides one point for each year of uninterrupted, unduplicated time in an FCRHA or FCRHA-managed rental program, including HCV, RAD, or FCRHA self-sufficiency programs. The policy allows for a maximum of three points and is an equivalency for families on the First-Time Homebuyers (FTHB) program eligibility list. The policy helps residents in these programs have an equal opportunity to purchase a home through the FTHB and Workforce Dwelling Unit (WDU) programs. Residents moving from these FCRHA rental programs to homeownership will get the best long-term benefit if they are able to purchase a unit provided through the FTHB or WDU program.

Since FY 2019, FCRHA has implemented a down-payment assistance program for very low-income families purchasing FTHB units. One hundred families were served through this program in fiscal years 2021 and 2022. Participants are required to set and achieve goals towards economic self-sufficiency, including completing financial literacy courses, budgeting, establishing savings, paying down debts, and increasing credit scores. Completing these steps, along with the benefits of accessing escrow on program completion, positions program graduates to successfully achieve homeownership and maintain their homes.

## **AP-65 Homeless and Other Special Needs Activities – 91.220(i)**

Fairfax County is committed to ensuring every family and individual has an affordable, stable place to call home. This commitment is reflected in the Fairfax County Board of Supervisors' adoption of the local Blueprint for Success: Strategic Directions for the Plan to Prevent and End Homelessness in 2008. The following strategies are established by the Blueprint: preventing homelessness as a result of economic crisis and disability; preserving and increasing the supply of affordable housing to prevent and end homelessness; delivering appropriate support services to obtain and maintain stable housing; and creating a management system in collaboration with the public and private sectors to implement a plan that ensures adequate financial resources and accountability.

The Communitywide Strategic Plan to make Fairfax County a place where all people live in communities that foster safe, enjoyable, and affordable living expenses was presented to the Board of Supervisors by the County Executive in early 2020. After being deferred due to the COVID-19 pandemic, the plan was adopted by the Board of Supervisors on October 5, 2021. The Communitywide Strategic Plan identifies nine priority areas, including housing and neighborhood livability. The housing and neighborhood livability priority area includes the following strategies for ending homelessness:

1. Expand the availability of permanent supportive housing units and services for people experiencing homelessness, including both individuals and families.
2. Provide incentives to encourage nonprofit and for-profit housing developers, and landlords to set aside units for people experiencing homelessness.

Federal housing programs, such as the Continuum of Care (CoC) and the Emergency Solutions Grant (ESG), are essential resources for local efforts to end homelessness. Fairfax County therefore strives to utilize these resources in the most effective and efficient way possible.

### **Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs**

Building on the Countywide Strategic Plan, an update of CoC strategies to address homelessness is expected to be completed in FY 2024. As part of this process, the CoC Board is expected to be expanded to include more individuals who have lived the experience of homelessness and new priorities are expected to be established for its collaborative work. Part of the strategic planning process will include identifying ways to address unsheltered homelessness in the community specifically. Over the past five years, the number of people experiencing unsheltered homelessness decreased from 108 individuals in 2017 to 57 individuals in 2022. However, the concern among community members about unsheltered homelessness has increased with the increased visibility of encampments and a higher number of people who are panhandling.

Fairfax County will also improve upon its strong history of reaching out to people experiencing homelessness through its partnership of street outreach providers, mental health care, daytime drop-in centers, and the Homeless Healthcare Program. One area that will be improved in FY 2024 is the response to heat emergencies and other extreme weather. The CoC will use a set of recommendations submitted in FY 2023 by a stakeholder workgroup about ways to improve communications with people

experiencing unsheltered homelessness. The expectation is that the implementing the recommendations will help individuals know how they can stay safe from the cold and heat.

To better assess the needs of families and individuals experiencing homelessness, the CoC has also established a Coordinated Entry System Steering Committee. The role of the steering committee is to analyze, evaluate, and provide recommendations for CoC's Coordinated Entry system improvements with respect to equitable, efficient, and effective outcomes for households experiencing homelessness or at-risk of homelessness. These activities will be focused specifically on access, assessment, prioritization, and referral to programs. The members of the committee will provide policy recommendations to the greater COC and governing bodies based on best practices, local data analysis, and community feedback, inclusive of feedback from those with lived experience. In FY 2024, the steering committee is expected to finalize a process for identifying a new assessment tool with which to equitably prioritize households for the limited housing resources dedicated to homelessness. The CoC is expected to end its use of the Vulnerability Index – Service Prioritization and Decision Assistance Tool (VI-SPDAT) at the same time.

### **Addressing the emergency shelter and transitional housing needs of homeless persons**

Using funding from a 2016 bond, three shelters are slated to be renovated or replaced in the coming years: Patrick Henry Family Shelter, Eleanor U. Kennedy Shelter, and Embry Rucker Community Shelter. These buildings are dated, lack accessibility and have major mechanical system deficiencies. They also lack sufficient space to provide a wide array of onsite services for guests of the shelters or unsheltered individuals that visit during the day to receive basic needs including food, showers and laundry. The improvements through redevelopment will increase safety at emergency shelters for people experiencing housing crises and support their return to stability.

The Patrick Henry Family Shelter will be replaced with permanent supportive housing. The facility is expected to be demolished in the fall of 2023, followed by completion of project design, zoning and permitting. The permanent supportive housing is expected to be completed and opened by early 2025. OPEH also is expected to publish a request for proposals in FY 2024, to solicit bids for the operation of its emergency shelters and the provision of homeless services, including street outreach, homelessness prevention, rapid rehousing, and permanent supportive housing. The contracts will establish clear outcomes for service providers in addressing the needs, including emergency shelter, of people experiencing homelessness.



**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again**

In support of the strategy established in the 2021 Countywide Strategic Plan, Fairfax County will continue to increase the number of permanent supportive housing units through the renovations or replacements of its emergency shelters. As with Mondloch Place and the Baileys Supportive Housing facilities, the redevelopment of three additional emergency shelters creates an opportunity to incorporate new permanent supportive housing units into new designs and construction. Fairfax County and the FCRHA also are supporting the development of permanent supportive housing facilities in new locations outside of the shelters. Currently over 80 permanent supportive housing units are in the development pipeline in partnership with local affordable housing and homeless service organizations. While the units are not expected to be delivered in FY 2024, it is expected that the year will be busy with securing complete financing for the projects.

Fairfax County also acknowledges the insufficiency of affordable housing alone for families and individuals to successfully transition from homelessness to stability. Therefore, FCRHA is authorizing the use of housing assistance payment reserves under Moving to Work flexibilities to fund supportive services for voucher recipients that were formerly homeless. By FY 2024, the additional services are expected to be fully operational and deliver successful outcomes.

**Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs**

Fairfax County recently added funding to the Diversion First Housing Program, which offers alternatives to incarceration for people with mental illness, developmental disability or substance use disorder who come into contact with the criminal justice system for low level offenses. The program is part of the larger Diversion First initiative, which is designed to prevent repeat encounters with the criminal justice system, improve public safety, promote a healthier community, and establish a more cost-effective and efficient use of public funding. In FY 2024, the County will work with its contractor to ensure that the program is expanded to maximize the use of the resources and continue delivering strong outcomes.

In FY 2024, Fairfax County will also build on the lessons learned from the COVID-19 pandemic regarding preventing evictions to help low-income families and individuals avoid homelessness. Although fewer emergency federal resources are expected to be available, the County has developed new processes and services that make the work more effective. For example, data from the Sheriff's Office is now being shared with county Human Services, who use it to target their client outreach for prevention services. Similarly, eviction data is used to track trends in eviction counts and is shared on a publicly available,

online dashboard. Another recent improvement is that County-contracted providers now go to landlord-tenant court, where they can engage families and individuals in the eviction process to help them access rental assistance provided by County government and community-based nonprofit organizations.

## **AP-75 Barriers to affordable housing – 91.220(j)**

**Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment**

The Fairfax County Board of Supervisors adopted the following affordable housing goals as part of the Housing goals in furtherance of the Communitywide Housing Strategic Plan:

**Goal 1:** Address the challenge of homelessness.

**Goal 2:** Provide affordable housing options to special-needs populations.

**Goal 3:** Meet the affordable housing needs of low-income working households.

**Goal 4:** Increase workforce housing through creative partnerships and public policy.

*A copy of the Communitywide Housing Strategic Plan may be found in the Grantee Unique Appendices section.*

The principles of the [One Fairfax Policy](#) are intended to be upheld through these goals, including ensuring that opportunities are available to all who live or work in Fairfax County to purchase or rent safe, decent, and affordable housing within their means. Affordable housing should be located as close as possible to employment opportunities without adversely affecting quality of life standards, a vital element in high density and mixed-use development communities, encouraged in revitalization areas, and promoted through flexible zoning wherever possible.

The following policies demonstrate the breadth and depth of the county's commitment to removing regulatory impediments and to creating affordable housing opportunities for its citizens (including those groups identified as having priority needs):

- Develop a minimum of 10,000 new units of housing affordable at 60% of AMI by 2034.
- Provide bonus densities in exchange for affordable housing via the ADU and WDU programs.
- Increase community understanding and desire to ensure sufficient housing affordability for all throughout the county.
- Do not approve residential rezoning above the low end of the Comprehensive Plan range unless an appropriate commitment of land, dwelling units, and/or a cash contribution to the HTF is provided.
- Capitalize the HTF and the Tysons HTF so that they can be used as a mechanism to fund the development of affordable housing throughout the county, specifically in the Tysons area.
- Encourage affordable housing as a development option for infill sites, particularly in commercial areas and near employment concentrations.
- Prioritize using county and other government-owned buildings and land as sites for the provision of affordable housing.

- Promote and facilitate innovative site design and construction techniques and encourage the use of manufactured housing and manufactured housing components to provide affordable housing.
- Support the efforts of the FCRHA in producing a portion of these affordable housing units through the use of county resources and the approval of suitable housing sites.

## **AP-85 Other Actions – 91.220(k)**

The following describes other actions to be taken as part of this FY 2024 One-Year Action Plan.

### **Actions planned to address obstacles to meeting underserved needs**

To increase the supply of housing available to special populations, including those with physical and mental disabilities, people experiencing homelessness, low-income seniors, and large families, the county employs the following policies:

- Locate housing resources for special populations in all parts of the county to improve accessibility to employment opportunities, county services, and cultural and recreational amenities.
- Facilitate the development of single-room occupancy residences and other types of permanent housing for persons and families experiencing homelessness as well as others in need of such housing options.
- Enforce fair housing laws and nondiscriminatory practices in the sale and rental of housing to all citizens.
- Promote housing that is conveniently located to public transportation, community services, and amenities for seniors and people with disabilities.
- Encourage the creation of accessible or easily modifiable housing units for use by persons with disabilities.
- Participate in Virginia Housing’s Virginia Housing Registry, which serves as an information clearinghouse for landlords with and persons searching for accessible housing (see accessibility).
- Redesign the Domestic Violence service system, making sheltering services community-based.

The county will use regional approaches to address the impact of government regulations on the overall housing supply. Fairfax County advocates “fair growth” within the region, which is a strategy that requires regional cooperation to assure that sufficient land is planned and zoned for residential development. The strategy also reduces the reliance on land use planning and rezoning as a technique to control development.

Predicted job growth through 2032 will continue to increase competition for the supply of housing in Fairfax County. The goal is to develop a minimum of 10,000 new units by 2034 to address this predicted growth by identifying opportunities for increased housing development despite a decreasing supply of developable land (i.e., vacant land suitable for development) owing to the continued build-out of the county.

As Fairfax County becomes increasingly built out, it is increasing the housing supply by promoting mixed-income, transit-oriented residential development and through mixed-use commercial redevelopment.

## **Actions planned to foster and maintain affordable housing**

The county is committed to encouraging the provision of affordable housing in all parts of the county. The following policies implement this objective:

- Expand housing opportunities in or near mixed-use centers to help persons employed in the county live near their jobs.
- Promote the development of multifamily housing in both mixed-use centers and existing residential areas to diversify the housing stock and expand lower-cost housing options (the Countywide Land Use policy adopted the Locational Guidelines for Multifamily Residential Development).
- Promote affordable housing opportunities throughout the county, particularly in areas where existing supply is low.
- Encourage the creation of affordable housing for persons with special needs via the zoning ordinance independent living provisions and voucher programs available for individuals with special needs.

Fairfax County strives to conserve stable neighborhoods and encourage rehabilitation and other initiatives that will help revitalize and promote the stability of older neighborhoods. Policies implementing this objective include the following:

- Ensure no net loss of affordable housing through market-affordable and committed affordable units by implementing the Affordable Housing Preservation Task Force Recommendations endorsed by the Board of Supervisors in April 2021.
- Help low- and moderate-income seniors and homeowners with disabilities stay in their homes via the Home Repair for the Elderly Program.
- Provide grants of up to \$10,000 to help low- and moderate-income households become first-time homebuyers.
- Encourage redevelopment through tax abatement (details on the tax-abatement revitalization program are provided later).
- Improve and maintain existing housing and neighborhood quality by upgrading substandard housing and improving physical community facilities (e.g., streets, sidewalks, and lighting) in existing neighborhoods.
- Maintain housing quality in existing neighborhoods and preserve neighborhood stability through the abatement of “spot” blight.
- Facilitate improvement and maintenance of existing neighborhoods by initiating community development programs with as little displacement as possible and by incorporating affordable housing units as part of all major housing rehabilitation efforts.
- Retain existing below-market-rental housing through acquisition and subsidies such as rehabilitation assistance.
- Facilitate the retention of existing mobile home and manufactured housing communities identified in the area plans as appropriate for mobile home and manufactured housing use (the Countywide Land Use policy adopted the Guidelines for Mobile Home Retention).

### **Actions planned to reduce lead-based paint hazards**

Fairfax County provides telephone consultation, literature, and private lead testing company referrals to citizens who seek information regarding lead-based paint or other potential environmental lead hazards in the community. The Fairfax County website displays a lead poisoning prevention page (<https://www.fairfaxcounty.gov/health/environment/lead>), which defines some of the major sources of lead in people's homes: dust from deteriorating lead-based paint primarily owing to opening and closing windows in pre-1978 homes, residual lead dust in residential soils, and lead pipes. In addition, the Fairfax County Health Department educates household members about reducing lead exposure. To reduce the risk of lead poisoning, the county recommends that residents remove peeling paint and chips from the home, not allow children to be present when scraping or cleaning up paint chips, minimize dust through frequent damp mopping of floors and using wet cloths to wipe down windows, and discourage children from playing in bare soil surrounding the home.

### **Actions planned to reduce the number of poverty-level families**

Fairfax County has one of the highest median household incomes in the nation (estimated \$127,866 in 2020); however, American Community Survey (ACS) data indicates that an estimated 67,085 persons were living below the poverty level in 2020. Providing sufficient housing affordability to all income levels is key to reducing the number of housings at or below the poverty level in the county. Therefore, creating a minimum of 10,000 units of affordable housing by 2034 and no net loss of affordability are key components to reducing poverty in the county.

The CAAB advises the Fairfax County Board of Supervisors on the needs, concerns, and aspirations of low-income persons and recommends policies that promote meaningful change. The following are goals established by CAAB:

- Identify, review, and develop policies for low-income residents.
- Support increases in programs and services providing the greatest support to low-income families and individuals as well as actions minimizing reductions to such programs.
- Maximize opportunities to provide input based on identified priority areas.
- Oversee the disposition of CSBG funds, including researching and assessing community needs; facilitating public hearings for public input on low-income families and individuals; allocating funds; approving programs and contracts with community organizations serving low-income persons; and educating the Board of Supervisors and other county officials, other agencies and civic groups, the low-income community, and Fairfax County citizens in support of the CAAB mission.

Mitigating challenges experienced by vulnerable residents to access and use services is an area of focus in the Countywide Strategic Plan. One of the strategies of the Plan is to increase integration and effectiveness of services by coordinating county efforts with state, regional, and community partners.

Fairfax County also administers certain Community Action Programs (CAPs) that help reduce the number of poverty-level families. CAPs receive core support from the Community Services Block Grant (CSBG) program through the Commonwealth of Virginia, with supplemental support from the Virginia General Assembly, to both help reduce the number of persons living in poverty and help increase their self-sufficiency. Fairfax County CAPs include the Housing Choice Voucher (HCV), Transitional Housing, Permanent Supportive Housing, and the Family Unification Programs.

The FCRHA's PROGRESS Center undertakes family self-sufficiency initiatives and links the FCRHA's residents with county resources to prevent eviction, assist with family crises, meet lease obligations, access mental health services, and participate in economic self-sufficiency programs.

In addition, the Fairfax County DHCD administers the Rental Subsidy and Services Program, a locally funded rental subsidy program operated through a consortium of nonprofit organizations. The collaborative provides rental subsidies and an array of supportive services to program participants. Rental Subsidy and Services Program is intended to be a gateway to the county's Housing Continuum as part of the FCRHA's Moving to Work program.

#### **Actions planned to develop institutional structure**

Gaps and strengths related to the institutional structure were identified in SP-40 of the Consolidated Plan for FY 2022-FY 2026. In addition to continued execution of the strategies identified in the annual action plans for FY 2022 and FY 2023, the county plans the following actions to address some of the gaps and weaknesses:

GAP: The availability of landlords who accept rental subsidy vouchers without additional requirements that create barriers to tenant occupancy is low.

Through MTW authority, the FCRHA also is planning to launch specific outreach efforts to increase landlord participation in the Housing Choice Voucher (HCV) program. Efforts will include developing videos and written materials that outline the benefits of landlord participating in the HCV program; conducting research to identify and develop strategies to address barriers to landlord participation; and potentially using MTW funding flexibilities to develop incentives to promote landlord participation. In



addition to outreach, the FCRHA will implement a new HCV subsidy payment standard. The new standards will use zip code-based rent estimates to better align HCV payments with the market rents in different parts of the county. As a result, HCV rent payments will be higher in neighborhoods where market rents are higher.

GAP: There are insufficient resources to meet all housing needs in the county.

The county is using the authority granted in FY 2021 to commit MTW funds to increase the number of affordable housing units. The county has set a goal to add 10,000 new affordable units by the year 2034. To date, the FCRHA has approved the use of MTW funds for the development of 60 units of housing as part of the North Hill project to be affordable to residents with household incomes at or below 60 percent of AMI.

GAP: As of July 1, 2020, the Virginia Fair Housing law made it illegal to discriminate against any renter or buyer because of any lawful source of income, including any assistance, benefit or subsidy.

The county is collaborating with neighboring jurisdiction on the development of a regional analysis of impediments to fair housing. The plan includes information that is both specific to each jurisdiction as well as regional goals and strategies. It is anticipated that the plan will be submitted to HUD by the end of 2023. The county continues to implement current Virginia Fair Housing Law, the strategies to address the impediments identified in the regional analysis will articulate the renewed commitments to continue promoting fair housing and working to reduce discrimination in both the county and the region.

- The Office of Human Rights and Equity Programs (OHREP) will continue to increase awareness of and accessibility to the fair housing complaint intake process. Language translation services are provided for parties upon request. OHREP staff analyze all responses to the Intake Satisfaction Questionnaire to identify ways to increase accessibility to fair housing services. An informational video that introduces residents to OHREP and the fair housing complaint process is regularly broadcast on the Fairfax Government community access Channel 16.
- OHREP continues efforts to increase the diversity of members of the Fair Housing Taskforce and Student Human Rights Commission (Commission). In alliance with the One Fairfax policy, the diversity of Commission membership promotes consideration and inclusion of diverse viewpoints in OHREP policies, programs and practices.

### **Actions planned to enhance coordination between public and private housing and social service agencies**

Human and social services agencies coordinate services in Fairfax County to help combat poverty and help low-income residents become self-sufficient. CCFP is a countywide grant process for funding private community-based human services programs that meet community-identified needs. Since 1997, CCFP has been leveraging Fairfax County General Fund dollars with CDBG and CSBG to support programs that provide affordable housing and public services to low-income households and residents with

special needs. CCFP provides funding for programs and services that meet Fairfax County priorities, were developed based on community input, and reflect the most critical needs for a continuum of services and opportunities for stability, connectedness, well-being, and self-sufficiency for individuals and families. Critical needs include housing, literacy, educational development, financial stability, and health and support networks. Programs funded through the CCFP with CSBG funds are specifically targeted toward households with incomes at or below the poverty level.

The FCRHA, DHCD, DFS, and CAAB share responsibilities in combating poverty. DHCD and DFS have entered into a cooperative agreement to make client referrals, share information about mutual clients (e.g., for determining rents), coordinate the provision of specific social and self-sufficiency services and programs to eligible families, and provide joint administration of programs.

## **Program Specific Requirements**

### **AP-90 Program Specific Requirements – 91.220(l)(1,2,4)**

#### **Introduction:**

The use of CDBG, HOME and ESG entitlement funds in Fairfax County are guided by the following Vision and Mission:

#### **Vision**

- A community that cares about its children, the elderly, persons with physical or mental disabilities, and those less able to meet their basic needs;
- A community that values creative endeavors, arts and diversity which creates a strong, diverse and vibrant community that cares about the strengths and needs of its residents, where all can live to the best of their abilities in thriving, supportive neighborhoods;
- A community that adequately supports its human services system to ensure optimal service delivery;
- A community that actively participates in the planning, needs assessment, priority setting and decision-making processes to allocate community resources to meet the needs of its citizens; and
- A community that addresses these needs by building dynamic, flexible partnerships among the public, private, and non-profit sectors, and community volunteers.

#### **Mission Statement**

The mission of the county is to maximize the effective and efficient use of resources in the Consolidated Plan through a citizen-driven, staff-supported process to develop and preserve affordable housing, promote healthy, thriving and safe neighborhoods, and provide quality, accessible human services that meet essential existing and emerging needs throughout Fairfax County.

A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70 percent of CDBG funds is used to benefit persons of low and moderate income. For CDBG, Fairfax County uses a three-year average to ensure compliance with the low moderate-income benefit. The three years to which this FY 2024 One-Year Action Plan is applicable are: 2022, 2023 and 2024.

The county program specific requirements for CDBG, HOME and ESG are listed below.

**Community Development Block Grant Program (CDBG) Reference 24 CFR 91.220(I)(1)**

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	1,596,452
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
<b>Total Program Income:</b>	<b>1,596,452</b>

**Other CDBG Requirements**

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income.	95.00%

Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70 percent of CDBG funds is used to benefit persons of low and moderate income.

**HOME Investment Partnership Program (HOME) Reference 24 CFR 91.220(I)(2)**

1. *A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:*

The county has no plan or required HUD approval to utilize other forms of investment not specifically eligible under Section 92.205.

2. *A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:*

The county has no plan to utilize HOME funding in FY 2024 for FCRHA direct homebuyer assistance activities under 92.254.

3. *A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:*

The county has no plan to utilize HOME funding in FY 2024 for FCRHA direct homebuyer assistance activities under 92.254.

4. *Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:*

Fairfax County does not currently utilize HOME funds to refinance existing debt.

#### **Emergency Solutions Grant (ESG) Reference 91.220(l)(4)**

1. *Include written standards for providing ESG assistance (may include as attachment)*

The Fairfax County CoC established a set of policies and procedures for the provision of financial and rental assistance that is funded by the federal ESG and other homeless assistance programs. These written standards were developed in collaboration for public and private partners from the CoC and are designed to follow the authorizing laws, regulations, and Federal Register Notices for the ESG program.

2. *If the Continuum of Care has established centralized or coordinated assessment system that meets HUD requirements, describe that centralized or coordinated assessment system.*

The Fairfax County CoC has established a coordinated assessment system described in detail in a document entitled "Coordinated Entry Policies & Procedures, 2nd Edition," which was published in March 2019. The manual details the written standards, policies, and procedures regarding the core elements of the CoC's Coordinated Entry System. It includes the standards for eligibility and the prioritization process for programs, policies for access and assessment, procedures for referrals and applications, tools, and requirements for filling vacancies. The system ensures that families and individuals who are experiencing or are at risk of homelessness can access the most appropriate assistance in a manner that is fair and efficient.

Most people seeking assistance contact a centralized, telephone-operated information and referral hotline operated by the Fairfax County Department of Neighborhood and Community Services' CSP office before being referred to emergency shelters or homelessness prevention and rapid rehousing assistance providers Homeless outreach services staffed by local nonprofit case managers, nurses from the Health Department, and mental health workers from the CSB work to engage unsheltered individuals. All homeless families and individuals are assessed in a manner that is consistent across programs using many standardized questions and tools, such as the VI-SPDAT. The assessments provide valuable information to homeless assistance providers and the system in making decisions as to where families and individuals should be referred to for assistance and who is prioritized for the most resource-intensive programs.

3. *Identify the process for making sub-awards and describe how the ESG allocation available to private nonprofit organizations (including community and faith-based organizations).*

ESG sub-awards to support Fairfax County contracts for emergency shelter, homelessness prevention, and rapid rehousing assistance were established through formal Fairfax County procurement processes. The allocations of ESG resources among the eligible program components is set by the CoC Collaborative Applicant in local government (i.e., the DHCD Office to Prevent and End Homelessness) in planning with the CoC membership and contracting nonprofit organizations.

4. *If the jurisdiction is unable to meet the homeless participation requirement in 24 CFR 576.405(a), the jurisdiction must specify its plan for reaching out to and consulting with homeless or formerly homeless individuals in considering policies and funding decisions regarding facilities and services funded under ESG.*

As required by federal regulations, the Fairfax County CoC includes formerly homeless individuals as members of the CoC board. The Office to Prevent and End Homelessness also created two part-time, time-limited positions that can be used to hire individuals who are, or recently were, experiencing homelessness to provide advice as a consumer of homeless services and insights based on their lived experience. As the County moves to update its strategies to address homelessness it is also planning for an inclusive community engagement process, which will engage consumers of homeless services and include representatives in decision making roles.

5. *Describe performance standards for evaluating ESG.*

ESG program funding is primarily used to support homelessness prevention and rapid rehousing assistance in the Fairfax County CoC. A web-based Homeless Management Information System database application is used to record, measure, and evaluate data related to ESG-funded programs. There are four primary performance standards used to evaluate ESG-supported programs: (1) the number of families and individuals served over the course of a fiscal year; (2) the length of time that services are provided; (3) the housing destination of families and individuals exiting the program; and (4) the number of people that return to homelessness after being assisted with rapid rehousing. To increase the effectiveness and efficiency of homeless assistance programs, the goal is to increase the number of people assisted each year, reduce the length of time that services are provided, increase the number of people exiting programs to permanent housing destinations, and reduce the number of people that return to homelessness each year.



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# GRANTEE UNIQUE APPENDICES & ATTACHMENTS

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## County of Fairfax, Virginia

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May 9, 2023

Mr. Clark Mercer, Executive Director  
Metropolitan Washington Council of Governments  
777 North Capitol Street, NE, Suite 300  
Washington, DC 20002

RE: Executive Order 12372 Compliance

Dear Mr. Mercer:

Pursuant to procedures outlined in Executive Order (E.O.) 12372 as issued by the U.S. Department of Housing and Urban Development (HUD), the Fairfax County Department of Housing and Community Development (HCD) is informing you that Fairfax County has no new public improvement projects, involving road and storm drainage system improvements, that it plans to implement under HUD's Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) awards and carryover funds for July 1, 2023 - June 30, 2024.

Attached is a copy of the Fairfax County Consolidated Plan One-Year Action Plan for FY 2024, which describes other activities the County plans to implement with CDBG and HOME funds.

Should you have any questions, please contact me at 703-246-5166.

Sincerely,

Laura O. Lazo  
Associate Director, Grants Management

cc: Michael D. Rose, Director, Community Planning and Development,  
District of Columbia Field Office, HUD



COUNTY OF FAIRFAX, VIRIGINA

CITIZEN PARTICIPATION PLAN FOR  
CONSOLIDATED PLANNING

Adopted by the Board of Supervisors December  
8, 1997

Last Amended by the Board of Supervisors  
March 23, 2021

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## 1. **Applicability**

As an Urban County, Fairfax County receives the following federal program funds provided through the U.S. Department of Housing and Urban Development (HUD):

- Community Development Block Grant (CDBG)
- Emergency Solutions Grants (ESG)
- HOME Investment Partnerships Program (HOME)

To receive these resources, federal regulations require the County to undergo a consolidated planning process, which includes the submission of documents that cover the planning, application and reporting of such resources. These consolidated documents include the: Five-Year Consolidated Plans, Annual Action Plans, Consolidated Annual Performance Evaluation Report (CAPER), and the Citizen Participation Plan (CPP). In accordance with the consolidated planning process, the County must adopt a CPP which sets forth the policies and procedures for citizen participation and consultation in the development, revision, implementation and amendment of these consolidated planning documents.

## 2. **Encouragement of Citizen Participation and Consultation**

Fairfax County's CPP provides guidance for reasonable and accessible public input and participation in the consolidated planning process, and encourages citizen participation in defining the housing, community development and public service needs in the community. This includes public services to be provided by community-based organizations, as well as funding priorities supported by funds provided through the County's Five-Year Consolidated Plan and Annual Action Plan ("Plans"). The CPP encourages participation by all residents and stakeholders during the development and implementation of the Plans, but especially by:

- members of low- and moderate-income households;
- residents of public/assisted housing, including resident boards/councils/corporations;
- minorities;
- persons who are non-English speakers;
- persons with disabilities;
- residents of predominantly low- and moderate-income neighborhoods;
- residents of designated revitalization and/or slum/blighted areas; and
- residents of areas where program funds are proposed to be used.

Additionally, the CPP encourages the participation of public and private agencies, such as:

- local and regional institutions;
- Continuums of Care;
- businesses and developers;

- public, private and nonprofit organization (including philanthropic, community-based and faith based organizations, public and assisted housing agencies, health services providers, social services providers);
- community- and regionally-based organizations that represent protected class members;
- organizations that enforce fair housing laws;
- other local governments and metropolitan planning organizations;
- broadband internet service providers and organizations engaged in narrowing the digital divide; and
- agencies primarily responsible for the management of flood prone areas and public land/water resources, and emergency management agencies.

Additionally, the County will consult with the Fairfax County Redevelopment and Housing Authority (FCRHA) to encourage the participation of residents of public and assisted housing and/or targeted revitalization areas during the consolidated planning process. Information on the housing and community development activities relevant to the FCRHA will be provided to the housing authority so that such information can be made available during the FCRHA annual public hearing.

### **3. Consolidated Community Funding Advisory Committee**

The Consolidated Community Funding Advisory Committee (CCFAC) is a citizen group established by the Fairfax County Board of Supervisors (Board) to monitor and advise the Board on the development and implementation of the Plans. CCFAC submits the Plans to the Board for review and approval. Additional roles of the CCFAC may include providing comments on the Consolidated Community Funding Pool (CCFP) RFP funding process and funding recommendations that are forwarded by the Selection Advisory Committee (SAC) to the Board, and coordinating with the Community Action Advisory Board (CAAB) in the Community Services Block Grant (CSBG) funding process.

CCFAC will receive citizen input on current and needed housing, community development, and public services, including housing and services to be provided by community-based organizations, annually at one or more public hearings to be held before the CCFAC. CCFAC will receive citizen input through written and oral comments presented at or prior to the close of the public hearing before the Board.

Members are appointed by the County Executive to serve for a term of three years. Membership may include representatives of human services provider groups, consumer and community organizations and other boards, authorities, and commissions, which are involved in human services, including, but not limited to, the FCRHA, the Human Services Council, the Community Action Advisory Board, the Fairfax-Falls Church Community Services Board, the Fairfax County Alliance for Human Services, and the schools community.

- **Information Available and Displacement**

The County will encourage citizen participation by providing the public with adequate information concerning the Plans: the amount of funds expected to be available; the proposed range of activities that may be undertaken with those funds, including the amount that will benefit members of very low- and low-income households; and the plans to minimize displacement and to assist any persons who are displaced, other important program requirements, and proposed and approved uses of funds.

Information on the Plans' public notice and public hearing(s) schedule will be disseminated to local agencies, community-based organizations and nonprofit organizations working with or in the interests of residents who are minority, non-English speaking, physically impaired, and/or the faith-based community in order to provide the opportunity for full citizen participation to as many people as possible.

## **5. Availability to the Public**

There are two types of documents available to the public, each with their own timeframes and requirements: Proposed Documents and Approved/Accepted Documents. The documents will be available to the public in one or more of the following ways:

- Online at: <https://www.fairfaxcounty.gov/housing/>
- At the Department of Housing and Community Development located at 3700 Pender Drive, Fairfax, Virginia 22030
- At the information desk of the County Government Center at 12000 Government Center Parkway, Fairfax Virginia 22035
- At the information desk of branches of the Fairfax County Public Library system.

### **a. Proposed Documents**

Prior to submission to HUD, citizens will have an opportunity to comment on proposed documents at public hearings, meetings, or by directly contacting the appropriate County agency staff, according to the advertised public notice. Proposed documents are available during their respective comment periods and upon adoption and/or acceptance by HUD, the final versions will be retained on file. During the comment periods listed in the Appendix, the following proposed documents will be available:

- Proposed Citizen Participation Plan
- Proposed Citizen Participation Plan substantial amendments
- Proposed Five-Year Consolidated Plan
- Proposed Five-Year Consolidated Plan substantial amendments
- Proposed Annual Action Plan
- Proposed Annual Action Plan substantial amendments
- Proposed Consolidated Annual Performance and Evaluation Report

## **b. Approved/Accepted Documents**

The County will provide residents, public agencies, and other interested parties with reasonable and timely access to records for the preceding five years. The documents available include:

- Citizen Participation Plan, as adopted
- Five-Year Consolidated Plans, as adopted
- Annual Action Plans, as adopted
- Consolidated Annual Performance and Evaluation Reports accepted by HUD

A reasonable number of free paper copies of the Plans will be available upon request. The Citizen Participation Plan may be provided in a format accessible to persons with disabilities and those with limited English proficiency, upon request. Any persons requesting such copies should contact the Fairfax County Department of Housing and Community Development (DHCD) at (703) 246-5101 or the TTY number 711.

## **6. Technical Assistance**

The County will provide technical assistance to groups representing members of very low- and low-income households, as well as to community-based organizations and interested residents, upon request for such assistance with the development and submission of proposals for funding under any federal or local funding sources covered by the Plans. Any persons requiring technical assistance should contact DHCD at (703) 246-5101 or the TTY number 711.

## **7. Public Notices**

Upon the publication of the proposed Plans, CAPER, CPP and any substantial amendments or revisions to these documents, a public notice with a summary of the proposed document will be advertised according to the table described in the Appendix.

For the Plans, a public notice with a summary of the proposed document will be advertised:

- online at [www.fairfaxcounty.gov/housing](http://www.fairfaxcounty.gov/housing);
- in the lobby of the Department of Housing and Community Development;
- at the information desk of the County Government Center;
- in a newspaper(s) of general circulation and in at least one non-English publication;
- in branches of the County Library system; and
- reasonable and timely efforts will be made to provide notice in County community centers and senior centers, as well as online through County-managed websites, social media and other communication platforms and e-mail distribution lists available to the County.

The summary provided with the public notice will describe the contents and purpose of the document, the duration of the public comment period, and a list of the locations where the entire document may be examined. Comments for each proposed document will be accepted according to the time frames described in the Appendix.

## **8. Public Hearings**

A minimum of two public hearings will be held prior to the submission of the Plans to HUD:

1. **CCFAC Public Needs Hearing on Proposed Plans:** Held by the CCFAC, this public needs hearing informs the development of the Plans prior to the beginning of the consolidated planning process and solicits public comments from the community regarding housing and community development needs, public service needs, proposed activities, and program performance. Community input may also be gathered by the CCFAC or County staff through a variety of means, such as internet-based citizen input.
2. **Board of Supervisors Public Hearing on Proposed Plans:** Prior to the submission of the Plans to HUD, a second public hearing will be held by the Board on the proposed Plans, as recommended by the CCFAC. Final approval of program priorities and funding recommendations included in the Plans will be made by the Board.

All public hearings will be held after adequate notice to the public (at least 15 calendar days prior to the date of the public hearing), at times and locations convenient to County citizens and organizations, as well as for potential and actual beneficiaries of the programs funded. These public hearings will also accommodate for persons with disabilities and residents who are non- English speaking, such as providing an interpreter whenever a significant number of persons who are non-English speaking are expected to participate.

## **9. Citizen Comments**

Comments received from citizens as a result of public hearings or other activities to gather community input will be given serious consideration in the preparation of the final Plan document, amendments to the Plans, or the CAPER.

The County will prepare a summary of written and verbal comments received from citizens, public hearings, focus groups, community meetings, and other methods when preparing the Plans or CAPER, and any amendments to these consolidated planning documents. This summary will be attached to the final Plans or CAPER.

## **10. Complaints**

Timely written responses to citizen complaints and grievances will be provided within 15 business days of the County's receipt, where practicable. If additional time is required, written notice will be provided.

## **11. Substantial Amendments and Revisions**

The Plans may be amended with the approval of the Fairfax County Board of Supervisors. The County will amend the approved Plans whenever it makes one of the following decisions representing a substantial change or adjustment to:

1. . carry out a project, using funds from any of the federal HUD programs covered by the Plans (including program income) not previously described in the Plans; or
2. eliminate a project from any of the federal programs covered by the Plans (including program income) for funds previously approved by the Board; or
3. the amount of program money for an activity such that the funding level of the activity would change by more than 10 percent.

A minor amendment is any change that does not meet the threshold of a Substantial Amendment and does not require public input and, in most circumstances, do not require Board approval.

### **a. Five-Year Consolidated Plan and Annual Action Plan Amendments**

In general, any substantial change or adjustment to a Plan’s project budget will be treated as an amendment subject to 30-day public notice, review, and comment through a County budget review process. Adjustments required to project budgets will be included in a budget review and will be subject to public comment during the public hearing process held on each of these reviews. In some circumstances, changes to the Plan program objectives may be addressed through the appropriation of funds outside of the budget review process for an activity not previously approved in the Plan. In such cases, public notice will be given before the Board is scheduled to take action on such an appropriation.

### **b. Citizen Participation Plan Amendments**

Proposed changes to the CPP will be advertised for public comment at least 30 calendar days prior to the adoption or amendment of the CPP by the Board. The proposed revisions to the CPP will become effective upon the date of the Board approval.

## **12. Performance Reports**

The County prepares an annual performance report called the Consolidated Annual Performance and Evaluation Report (CAPER), which requires the completion of a public participation process before the CAPER is submitted to HUD. Public participation includes reasonable public notice and the opportunity for public comment, as described in the Appendix.



### **13. Waivers; Public Emergencies**

All of the requirements in the CPP are subject to change in the event of guidance or waivers issued by HUD. During times of public emergencies, the County may establish expedited or revised procedures to draft, propose, or amend the Plans, CAPER and CPP.

For example, under expedited or revised procedures, where in the interest of public safety, in-person public hearings would not be held, hard copies of documents might not be placed in all physical locations, and Fairfax County may meet federal public notice and public meeting requirements virtually if:

1. the County's expedited and revised procedures adhere to, and comply with, HUD guidance and/or waivers;
2. national/local health authorities recommend social distancing and limiting public gatherings for public health reasons; and
3. virtual hearings provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

#### 14. Appendix - Summary of Notice, Comment and Hearing Timelines

	Public Notice	Comment Period (HUD may alter)	Public Hearing
Citizen Participation Plan (CPP)	Includes a summary of the contents, purpose, duration of public comment period, list of locations where document is available.	30 calendar day period prior to the adoption of the proposed CPP by the Board.	N/A.
CPP Amendments	Contains summary of the contents, purpose, duration of public comment period, list of locations where document is available.	30 calendar day period prior to the adoption of the proposed CPP amendment by the Board.	N/A
Five-Year Consolidated Plan/Annual Action Plans (“Plans”)	Includes summary of the contents, purposed duration of public comment period, list of locations where document is available, the amount of assistance expected, the range of activities undertaken, estimated amount that will benefit low/mod residents.	30 calendar day period prior to the submission of the Board-adopted Plan to HUD.	During the planning process to receive comments on housing, community development, and human services needs in the community. During the development of proposed activities to receive comments on the Proposed Plans.
Substantial Amendments to the Plans	Includes summary of the contents, purpose, duration of public comment period, list of locations where document is available.	30 calendar day period prior to the submission of the Board-adopted substantial amendment to HUD.	N/A
Consolidated Annual Performance and Evaluation Report (CAPER)	Includes summary of the contents, purpose, duration of public comment period, list of locations where document is available	15 calendar day period prior to the submission of the CAPER to HUD.	N/A

## **NOTICE OF PUBLIC COMMENT OPPORTUNITIES FOR THE FY 2024 ANNUAL ACTION PLAN, CITIZEN’S GUIDE TO THE CONSOLIDATED PLANNING PROCESS & SUMMARY OF THE DRAFT FY 2024 ANNUAL ACTION PLAN**

### **Public Comment Opportunities**

Fairfax County (the County) is seeking public comment on the One-Year Action Plan for FY 2024 (the Annual Action Plan). Public comments will be received until March 21, 2023, at 4:30 pm, at which time the Board of Supervisors (the Board) will hold a public hearing on the Annual Action Plan.

**Sign-up to speak at the March 21, 2023 public hearing at 4:30 pm by contacting:** the Department of Clerk Services at 703-324-3151, TTY 711. The public hearing will be held in the Board Room at 12000 Government Center Parkway, Fairfax, VA 22035.

#### **Submit written comment:**

- **by email to:** [Beverly.Moses@fairfaxcounty.gov](mailto:Beverly.Moses@fairfaxcounty.gov)
- **by mail to:** Department of Housing and Community Development, Grants Management, 3700 Pender Drive, Fairfax, VA 22030 Attention: Beverly Moses

### **Citizen’s Guide to the Consolidated Planning Process**

The County receives federal funding awards each year under the Community Development Block Grant program (CDBG), the Emergency Solutions Grant program (ESG) and the HOME Investment Partnerships Program (referred to as “HOME”). The term “federal funds” refers to the CDBG, ESG and HOME funds together. The Annual Action Plan is a report to County residents and the U.S. Department of Housing and Urban Development (HUD) of how the County plans to spend the federal funds during the period July 1, 2023 through June 30, 2024 (FY 2024).

The planned uses of the federal funds reported in the Annual Action Plan are intended to help achieve the housing and community development goals identified in the Five-Year Consolidated Plan for FY 2022 – FY 2026 (the Consolidated Plan), which was reported and adopted by the Board in 2021. The housing goals adopted in the Consolidated Plan are to:

- Goal 1:** address the challenge of homelessness;
- Goal 2:** provide affordable housing options to those with special needs;
- Goal 3:** meet the affordable housing needs of low-income working households; and
- Goal 4:** produce workforce housing sufficient to accommodate projected job growth.

### **Summary of the Draft FY 2024 Annual Action Plan**

The County plans to allocate the federal funds for FY 2024 to the 13 projects that are listed and described in the Annual Action Plan. The listed projects include programs that will help achieve the Consolidated Plan goals, some activities required by HUD and the administrative activities associated with managing the federal funds. It should be recognized that the federal funds allocated to many of the projects do not cover the total costs of the projects. In addition, HUD regulations limit the amounts of federal funds that can be used for those activities required by HUD as well as the administrative activities associated with managing the federal funds. Therefore, it is necessary to also use local and other funds each year to help pay for each of the projects and activities listed in the Annual Action Plan.

Section 108 Loan Payments. The \$429,622 planned allocation will be used to make the required annual payments on a loan that was previously taken to fund past affordable housing and community development activities.

Fair Housing. The \$244,828 planned allocation will fund activities that increase and monitor compliance with federal and local fair housing laws in the County, to investigate fair housing complaints, and to affirmatively further fair housing for residents.

CDBG Planning & General Administration (CDBG). The \$718,889 total planned allocations will be used to fund the planning and implementation activities required for the County's federal funding programs, as well as the administration of County housing, community and economic development activities.

HOME Administration. The \$222,007 planned allocation will be used for required administrative and project activities that are specifically related to the HOME Program.

Targeted Public Services (CCFP TPS). The \$887,838 planned allocation will be awarded to non-profit contractors through the Consolidated Community Funding Pool (referred to as "CCFP") for providing public services for low-income households, including services related to affordable housing, seniors, families, children, immigrants and persons facing homelessness.

Home Repair for the Elderly & Community Rehabilitation Program. The \$874,988 planned allocation will be used to help preserve housing for seniors, persons with disabilities and low-to-moderate income households in the County, the City of Falls Church and the Town of Herndon, as well as to help provide home repairs for mobile homeowners in the County.

TBRA and Other Rental Assistance. The \$777,600 planned allocation will be used to provide rental assistance for families and individuals, including those who are at risk of homelessness, experiencing homelessness, or have special needs.

FCRHA and Fairfax County Properties - Rehabilitation and Acquisitions. The \$1,993,000 planned allocation will be used to purchase or renovate properties for use as affordable housing or public facilities.

Homeownership Program. The \$1,792,662 planned allocation will be used to provide activities related to homeownership opportunities for first-time homebuyers, as well as financial assistance to homebuyers when available.

CHDO Set-Aside. The \$370,685 planned allocation is required by federal regulations and will be used to fund affordable housing activities by nonprofits that meet the federally-defined characteristics of a Community Housing Development Organization (referred to as a “CHDO”).

Emergency Solutions Grant. The \$515,135 planned allocation will be used to fund activities that are designed to prevent homelessness and rapidly re-house people who are experiencing homelessness.

CDBG/HOME Affordable Housing Request for Proposals. The \$1,489,187 planned allocation will be made available to nonprofits applicants to fund the acquisition or rehabilitation of existing properties or the development of new housing units for use as affordable rental housing or homeownership.

The planned allocations reported in the draft of the Annual Action Plan are based on estimates of the amount of federal funding that the County will receive for FY 2024. Estimated amounts of income from previously funded activities (referred to as Program Income) and projected amounts of unused FY 2023 funding allocations are also included in the planned allocations for FY 2024. The County estimates that there will be \$9,801,306 in federal funds available for FY 2024 which is based on the actual funding received for the current fiscal year, which included the following:

CDBG	\$5,918,926
ESG	\$515,135
HOME	\$2,471,231

The County has to begin planning for FY 2024 based on assumptions because HUD does not notify the County of the actual amounts of federal funds until after the draft Annual Action Plan has to be made available for public review and comment. The County expects to receive notice of the actual amounts of federal funding for FY 2024 in spring 2023. The planned allocations will be adjusted based on the Contingency Plan after the County receives the HUD notice of the actual amounts of federal funds to be received.

#### **Other Plans and Strategies Referenced in or Related to the Draft FY 2024 Annual Action Plan**

**CAPER** – refers to the **CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT** which evaluates the county’s use of CDBG, HOME, and ESG program funds.

**COMMUNITYWIDE HOUSING STRATEGIC PLAN** (sometimes also referred to as the **HOUSING STRATEGIC PLAN**) refers to ongoing planning that, so far, has been done in two phases. Phase one identified 25 short-term strategies to increase housing without having major policy or budgetary impacts. Phase two identified the 15-year affordable housing development goal and the no net loss market affordable housing goal.

**COMPREHENSIVE PLAN** refers to the **Fairfax County Comprehensive Plan Zoning Ordinance**.

**CONSOLIDATED PLAN** refers to the **FIVE-YEAR CONSOLIDATED PLAN FOR FY 2022-FY 2026**.

**CONTINGENCY PLAN** refers to the instructions provided in each draft Annual Action Plan for how the planned allocations of federal funds that are based on estimates will be adjusted after the County receives notice of the actual federal funds to be received for next year.

**FAIRFAX COUNTY CITIZEN PARTICIPATION PLAN** (sometimes referred to as the “**CCP**”) establishes policies and procedures for obtaining public input and participation during the development of the Consolidated Plan and Annual Action Plan.

**FAIRFAX COUNTY COUNTYWIDE STRATEGIC PLAN** refers to the countywide plan for how county staff will work together to address the 10 community outcome areas that represent most important issues to the community. The “Housing and Neighborhood Livability” section of the plan includes information about housing and affordability.

**FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) ANNUAL STRATEGIC PLAN** refers to the annual plans that outline the FCRHA strategies for five areas, including (1) affordable housing development, preservation and sustainability; (2) affordable rental housing, property management and maintenance; (3) tenant subsidies and resident services; (4) homeownership and relocation services; and (5) FCRHA/HCD program planning, development and management.

**ONE FAIRFAX** refers to the **One Fairfax Policy** adopted by the Board of Supervisors, the FCRHA and Fairfax County Public Schools to advance equity in all other policies that apply to publicly delivered services in Fairfax County Government, the FCRHA and Fairfax County Public Schools.

**PLAN TO PREVENT & END HOMELESSNESS** refers to the “*2008 Implementation Plan to Prevent and End Homelessness in The Fairfax-Falls Church Community*” and related documents, which lay out a vision, strategic approaches, actions to be taken, and targeted outcomes for the Fairfax County Continuum of Care. The Plan to Prevent & End Homelessness is being updated

by the Office to Prevent and End Homelessness and the Continuum of Care / Homelessness Governing Board.

# SUMMARY OF CITIZEN PARTICIPATION COMMENTS

## SUMMARY OF CCFAC PUBLIC HEARING OCTOBER 11, 2022

**Speaker #1 - Patti Klein, Executive Director, Rebuilding Together of Arlington/ Fairfax/Falls Church (RT-AFF)** testified about:

- new data from a Harvard study about the challenges facing low-income families in Northern Virginia;
- many residents lack finances to make critically needed home repairs for accessibility, health, safety and housing stability;
- financing the needed repairs and modifications can deplete any equity that low-income homeowner may have;
- which disproportionately impact people with disabilities, elderly, African Americans, people of color and those living in older homes;
- need for assistance has increased during the pandemic;
- tenants with disabilities have additional needs for accessibility modifications;
- the needed repairs and modifications are relatively low costs;
- 2 of the existing highly effective programs deliver accessibility modifications, but need increased funding;
- both public and private investments are needed, and
- urgency of the need to make critical repairs and accessibility modifications eligible uses of CDBG funding.



**Speaker #2 - Mark Heslep, RTFF Volunteer** testified about:

- began volunteering through his church that partnered with RTFF for more than 20 years;
- provides housing assessments and work plans;
- travels across county working on all types of homes;
- responsible for identifying and getting needed supplies;
- assessments typically identify more needed repairs than homeowners' original request;
- clients with disabilities have the most critical needs;
- most clients are seniors who want to age in place;
- many homeowners cannot exit or go upstairs without significant safety risks, including falls;
- recent AARP report state that 70% of seniors above 50 want to age in place but many will not be able to do so because of low-income;
- up to 80% AMI clients served, but must have incomes well below that maximum;
- many of the RTFF volunteers are skilled and experienced in construction and housing repairs;
- volunteers enable projects to be completed at relatively low costs; and
- RTFF has a backlog of applicants.

**Speaker #3 - Michael Mahrer, Senior Director of Advancement at the Literacy Council of Northern Virginia**, requested consideration of how the Consolidated Community Funding Pool can help address the following:

- advocating on behalf of those who understand little to no English;
- the county is very diverse with respect to languages spoken;

- of residents with limited English, 75% are above 18 and the lack of English proficiency stands as a barrier to participation in the economic vitality of the region, which is a matter of equity inclusion consistent with the One Fairfax Policy;
- the county Community Services Board reports that it is unable to reach and serve a significant portion of the population, which is largely because of the language barriers;
- English literacy is a key human services and survival skill;
- in this past funding years, it appears that nonprofits received less funding while experiencing higher costs; and
- number of persons in need of English language instruction is growing.

**Speaker #4 - Natela Chubinidze**, spoke as a county **resident and tenant** to request help for low-income households to find housing, including opportunities to purchase homes, stating:

- her struggle finding affordable housing in the past 2 years;
- having experienced a number of personal challenges during that period, including loss of transportation which led to loss of her job, inability to pay rent, and being at risk of homelessness;
- telephoned over 350 places seeking help and finally received help through a nonprofit;
- did not receive good customer service from county staff;
- still does not have permanent housing and the waiting lists are closed; and
- housing shortage is very serious problem in Northern Virginia and across the country.

**Speaker #5 - Sandra Benavente**, a grant writer for **Ayuda**, commented on the continuing human services needs in the county:

- growing need for increased provision of low-barrier human services for both adults and youth;
- request that the needs be included in the One Year Action Plan;
- Northern Virginia is one of the primary destinies of newly arriving immigrants to the United States;
- anticipate the number of immigrants arriving in northern Virginia to continue to rise because other states are transporting immigrants to this area;
- pandemic hit the immigrant population particularly hard, with many having their wages cut and lost their jobs, from which they have not recovered;
- the last census reported that immigrants made up 31% of the county population;
- the county also is home to a significant population of people who communicate primarily in languages other than English;
- foreign born community make up a larger portion of residents who are struggling economically;
- 14.4% of non-citizens speaking residents live below the poverty line compared to 5% of naturalized citizens and 4.2% of the native born population;
- culturally specific legal services needed, which will lead to greater access to education and safety net services for immigrant populations;
- FY 2023 Action Plan does not address the needs of immigrants;
- culturally specific programs, like Unida, need additional funding to address social, legal and language access needs of the growing immigrant community; and
- clearly identifying the low income immigrant population in the One Year Action Plan would be a meaningful first step in ensuring culturally specific service providers receive needed support,

service gaps are addressed, and the county's human services system is responsive to the needs of all residents.

**Speaker #6 – Yolonda Earl-Thompson**, Executive Director of Community Driven Lived Experience Housing Group at Lazera Ministries, spoke as a **Route 1 community member** about the importance of community:

- lives in Sequoia, where HOA fee is only \$200 less than her mortgage and many seniors are long-term residents who are being forced to choose between living and eating;
- housing grant programs help them but last only 2 years, because the seniors are not making economic progress;
- concerned about manufactured homeowners, who are at risk of losing their homes because they cannot afford the rising costs of land off of Route 1; and
- advocating that support be provided as “hand ups,” rather than “handouts” to help create economic mobility and close the racial wealth gap.

**Speaker #7 – Rose Risley of the Long-Term Care Coordinating Council** testified:

- Fairfax County Community Survey, estimated that there are more than 164,000 individuals who are age 65 and older;
- approximately 25% are disabled;
- more than 15% spend more than half of their incomes on housing, the percentage is greater for persons who are 80 or older;
- HUD has categorized those who spend more than 50% of their incomes toward housing as having worst case needs and at risk of

homelessness, which has been growing across the country among older adults;

- this data is a call to action for more affordable housing for senior adults and to make sure that planning and zoning provide for the growing need;
- Urban Institute projects a 1% increase in renters between 2020 and 2040, with above 90% increases among Black and Hispanic renters; and
- key solution is the investment in affordable housing that is connected to supportive services.

**Speaker #8 – Alison DeCoursey, President and CEO of United Community, spoke:**

- draw attention to written testimony sent by Kerrie Wilson, CEO of Cornerstones, on behalf of 4 nonprofits, including Cornerstones, United Community Ministries, FACETS and Western Fairfax Christian Ministries;
- written testimony presents critical data to be considered with respect to the housing needs to be included in the One Year Action Plan and the CCFP;
- the issues include economic stability, human services and nonprofit capacity;
- as affirmed by the deputy county executive, there is no human service response without the nonprofits;
- nonprofits are being stymied by some of the limitations that are imposed by the CCFP;
- the county has to look at the well-being of the workforce and the community partners that the county depends on;
- the number of people experiencing food insecurity has doubled since the pandemic;

- increase food distribution is being privately funded because of the limitations of the CCFP; and
- nonprofits want and welcome conversation with the county and the CCFAC.

In response to a request for more specifics about CCFP concerns,

**Alison DeCoursey** added:

- CCFP funding for service delivery costs is not adequate; and
- high overhead costs are dependent on fundraising, which is not reliable and competes against increasing political interests for donations.

**Speaker #9 – Kerrie Wilson, CEO of Cornerstones, Inc.,** spoke:

- other testimony tonight evidence that the pandemic has particularly hit the most vulnerable;
- recovery from the pandemic is going to be long and hard;
- important to look at how and where the needs are to be addressed, and the equity considerations; and
- as we consider planning for FY 2025 and beyond, what happens when the lifesaving services that the county has depended on are not funded under the CCFP for lack of resources and how will we ensure that those critical services are met while the CCFP is invested in other services.

**Speaker #10 – Harmonie Taddeo, CEO of Western Fairfax Christian Ministries,** also responded to the request for more specifics about the CCFP:

- by the time that CCFP funding is received the actual needs and costs are greater than those submitted in the CCFP applications;

- food and rent costs for clients have increased; and
- the needs are for longer than the CCFP funding covers.

**SUMMARY OF PUBLIC COMMENTS RECEIVED  
ON THE DRAFT ONE-YEAR ACTION PLAN FOR FY 2024  
DURING THE PUBLIC COMMENT PERIOD  
(FEBRUARY 7, 2023 THROUGH MARCH 21, 2023)**

**THE ARC OF NORTHERN VIRGINIA**

Lucy Beadnell posted comments on the HCD webpage on behalf of the organization to encourage the following:

- Funding for inclusive, accessible housing for example, by requiring that 10% of units developed with public funding be set aside for persons with developmental disabilities and that such persons have a preference for all accessible units in the building;
- Rental housing accessibility modifications for the benefit of adults with disabilities to support independent living;
- Funding or special supports for households that include children with developmental disabilities;
- Funding for households at the lowest end of the area median incomes; and
- Funding for additional HCD staff to process State Rental Assistance Program for people with developmental disabilities.

**AYUDA**

Ayuda Grant Writer Sandra Benevente submitted written testimony urging support for low-barrier human services for the benefit of immigrant residents. The essential points made in the testimony and other comments were:

- Due to the increasing arrival of immigrants, including unaccompanied youth, there is a critical rise in the need for low-barrier human services;



- The 2022 U.S. Census reports that 30% of the county’s population is foreign-born;
- A significant number of county residents communicate in languages other than English;
- Low-income immigrants have unique challenges accessing human services due to language barriers, misinformation, cultural confusion and fears of deportation;
- There is a particular need for culturally specific legal services to assist in immigration cases; and
- Ayuda provides culturally specific services that address the unique needs of immigrants.

### **HERNDON HARBOR HOUSE**

Resident Alexander Burke submitted written testimony and testified at the public hearing. The following is a summary of his four suggested uses of federal funds in FY 2024:

- Provide for a second full-time maintenance worker to assist with maintenance at Herndon Harbor House;
- Upgrade and level the exterior sidewalks and courtyards to eliminate current safety hazards;
- Upgrade and refresh the landscaping to beautify and make the property more green-friendly, sustainable and energy efficient; and
- Upgrade gutters and drain spouts, or install another method, to collect and reuse rainwater.

### **LITTLE RIVER GLEN SENIOR CENTER (LRGSC)**

Lois Ruckert, President LRGSC Council testified at the public hearing expressing concerns about the inadequacy of current and planned additional parking to meet the needs of LRGSC visitors. A summary of the testimony is as follows:

- The addition of 17 parking spaces planned based on zoning regulations is not enough when 60 more units to be added to LRG;
- Spaces that are more distant from LRG entry are not safely accessible for LRG residents;
- Covering the existing walkway to the center is not a desirable solution for the LRG residents because the currently underutilized walkway is sloped and at a significant distance from the center;
- Efforts to correspond with county staff were unsuccessful;
- Results of the parking study may not be reliable because of the impact of COVID on utilization of the center; and
- Solution to the parking problem is vital to the patrons of the center because the population is aging.

### **LITTLE RIVER GLEN (LRG)**

Sally Wild, LRG Resident, testified at the public hearing, also expressing concerns about the inadequacy of current and planned additional parking to meet the needs of LRG residents. A summary of the testimony is as follows:

- LRG residents are concerned that center visitors will park at LRG if there is not enough parking at the center;
- Although there were extra spaces at LRG during COVID, those vacancies no longer exist; and

- Parking at Olley Glen or Braddock Glen is not a good alternative for LRG residents because those properties are far away, slippery and not safe at night or during inclement weather.

### **MURRAYGATE VILLAGE APARTMENTS**

A Murraygate resident posted comments on the HCD webpage to recommend the addition of more units that are accessible for persons with disabilities. It also was requested that the transferal of Housing Choice Voucher rent subsidies from one property to another be made easier.

### **REBUILDING TOGETHER ARLINGTON/FAIRFAX/FALLS CHURCH (RTAFF)**

RTAFF Executive Director Patti Klein, supported by 35 written comments submitted to HCD staff, testified at the public hearing. The following summarizes requests made in the testimony and written comments:

- The County should allocate whatever funds are available to provide maximum help to low-income homeowners in need of critical home repairs;
- Helping low-income owners remain in their homes is a vital and highly cost-effective affordable housing strategy;
- Funding for the Home Repair for the Elderly and Community Rehabilitation Programs (HREP) should be increased substantially;
- The work needed by low-income homeowners is more extensive than the capacity of HREP;
- The cost-effective capacity of RTAFF to provide urgently needed critical home repairs and accessibility modifications for low-income homeowners through the use of skilled volunteer labor is unmatched;

- The need for low-income homeowner assistance with critical repairs and accessibility modifications is growing due to the aging of the population; and
- Fairfax County should make critical repairs and accessibility modifications eligible for direct grant funding under the annual DHCD CDBG Request for Proposals.

### **PRIVATE CITIZEN**

A private citizen posted comments on the HCD webpage to suggest the following strategies for addressing barriers to affordable housing identified in the FY 2024 Annual Action Plan:

- Increase the number of publicly owned developments in which rent is either affordable or subsidized with limited restrictions, i.e., credit/background checks;
- Allotment of more funding for emergency housing vouchers, such as funded under the CARES Act; and
- Create more permanent supportive housing while decreasing the eligibility requirements.

# **Countywide Housing Strategic Plan: Phase I**



# Communitywide Housing Strategic Plan



June 2018  
A Fairfax County, Va publication

## Executive Summary:

Fairfax County is a great place to live and to do business. However, a lack of housing options is putting the County's well-being and future prosperity at risk. One in five renters in the County pay more than 50 percent of their income for housing, requiring them to make difficult choices among what necessities they are able to afford. In the next 15 years, over 18,000 new housing units will be needed for households earning less than 80 percent of the Area Median Income. These are just two examples that illustrate the need for more price-appropriate housing in Fairfax County.

Without a sufficient supply of housing—affordable to individuals and families all along the income spectrum—Fairfax County will not be able to reach its full economic development potential and remain a first-class community. The Fairfax County community has come together in recent years to develop the *Strategic Plan to Facilitate the Economic Success of Fairfax County* to support a strong economic development strategy, and the *One Fairfax Policy* to support inclusivity and shared prosperity. This **Communitywide Housing Strategic Plan** (the Plan) marks a continuation of Fairfax County's emphasis on building and maintaining a vibrant, resilient community.

The Board of Supervisors requested the Plan and it was developed by the Department of Housing and Community Development (HCD) and the Affordable Housing Advisory Committee (AHAC) to address the significant need for price-appropriate housing options for current and projected residents of Fairfax County. **Phase 1** of the Plan identifies 25 short-term strategies that can be implemented without major policy changes or significant sources of new revenue to start the process of creating more housing options for future and current County residents and workers. **Phase 2** of the plan, to be developed subsequent to Board approval of Phase 1, will include longer-term strategies for developing new tools, policies, and resources to support the production, preservation and access to housing that is affordable to all who live and work in our community.

This document accomplishes Phase 1 of this communitywide effort – 25 strategies that represent near-term, measurable action items that will have a significant impact. They are organized under four broad categories:

- **Modernizing FCRHA / HCD Administration and Processes:** making existing processes more efficient, using existing resources more innovatively, and leveraging partnerships to support the development and preservation of the continuum of affordable housing
- **Land Use and Zoning Tools:** identifying ways to use land more creatively to build partnerships and expand housing options
- **Funding Sources and Uses:** deploying existing resources more efficiently and focusing existing efforts on those most in need
- **Housing for Vulnerable Populations:** ensuring the continuum of housing options through making affordable and accessible housing options available for persons with disabilities, seniors, and extremely low-income individuals and families, including those transitioning from homelessness

These strategies are immediate steps that can be taken to address the need for more price-appropriate housing in one to two years. It is clear, however, that Phase 2 of the Plan – a long-range implementation and resource plan – will be necessary to address the 62,184 new housing units that will be needed in Fairfax County in the next 15 years. The market, alone, will not produce the necessary housing options for Fairfax County's future.

The Fairfax County Department of Housing and Community Development and the Fairfax County Affordable Housing Advisory Committee are proud to share Phase 1 of the Fairfax County Communitywide Housing Strategic Plan.



## Why a Strategic Plan for Housing?

Fairfax County is an extraordinary community with an exceptionally strong local economy and high quality of life. The median income for a household of four is \$110,300, making it one of the highest-income areas in the country. However, in a county of approximately 1.2 million people, thousands and thousands of households are living paycheck-to-paycheck due in large part to severe lack of price-appropriate housing. "Price-appropriate housing" means housing that costs 30 percent of the household's annual gross income or less. In other words, all households in Fairfax County, regardless of income, should have a variety of housing options they can afford.

Fairfax County's reputation as an exceptional place to live, and its position as a place where businesses want to locate and stay, is threatened by the lack of price-appropriate housing for all of its residents and workers. When everyone has access to housing that is affordable for them:



Positive outcomes are more likely for families and children, including better educational outcomes for children and better health outcomes for people of all ages<sup>1</sup>

People have better prospects for upward economic mobility and self-sufficiency



Employers can hire workers who are able to live close to where they work, and there is less congestion on our roads

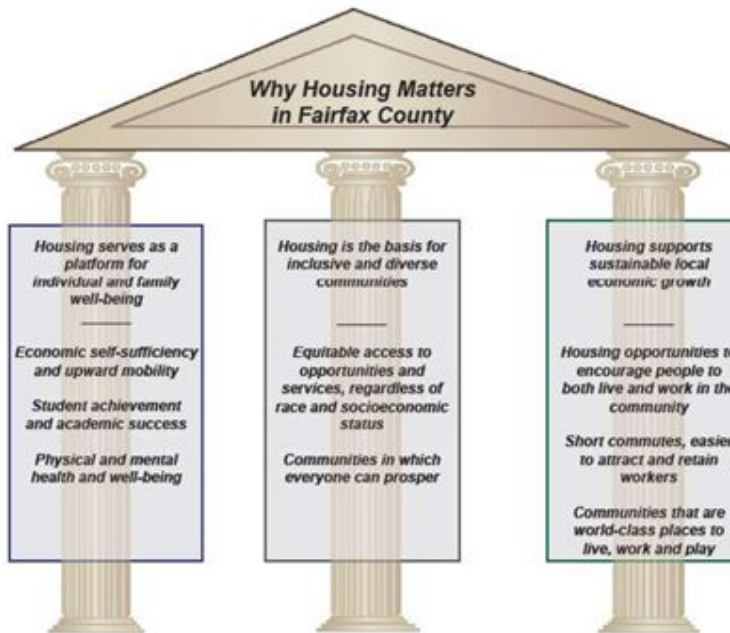
Persons with disabilities have access to housing that is appropriate for their needs and the elderly are more able to age in place



Simply put, Fairfax County is at a crossroads. Wage growth is not keeping pace with the cost of and demand for housing and families, particularly those that would be considered low- or moderate-income, are falling further and further behind. The economic viability of Fairfax County is at stake, as evidenced by Fairfax County's 2015 *Strategic Plan to Facilitate the Economic Success of Fairfax County*. Furthermore, the lack of a range of price-appropriate housing in the county hinders the full implementation of the county's *One Fairfax* policy, which calls for equitable access to communities of high-opportunity.

<sup>1</sup>See, for example, Brennan, Maya, Lisa Sturtevant and Patrick Reed. 2014. *The Impacts of Affordable Housing on Education*. Washington DC: National Housing Conference; and Viveiros, Janet, Mindy Ault and Nabihah Maqbool. 2015. *The Impacts of Affordable Housing on Health: A Research Summary*. Washington DC: National Housing Conference.





### How Housing Supports the County's Plan for Economic Success

Housing affordability is critically important for ensuring that businesses want to locate to Fairfax County and then stay here. The Economic Success plan lays out six broad goals to maintain, diversify, and enhance the strong and vital Fairfax County community in order to sustain and grow our economic prosperity:

1. Further Diversify our Economy
2. Create Places Where People Want to Be
3. Improve Speed, Consistency and Predictability of the Development Review Process
4. Invest in Natural and Physical Infrastructure
5. Achieve Economic Success through Education and Equity
6. Increase Agility of County Government

Housing is an important element in every single goal. When advocating as a community for more price-appropriate housing, we fail to effectively communicate why it is important. We fail to discuss its value; how it is the foundational element of economic resilience and competitiveness in local communities. How it improves the local tax base and stabilizes family units. How communities benefit from public investments; ensuring that opportunities for individuals and families of all income levels are available.



The Urban Land Institute reports that more than half of the large companies with more than 100 employees cite a lack of price-appropriate housing near their business as a significant challenge; and 58 percent of the companies claim to have lost employees due to burdensome commutes. By having housing that is affordable, employees are able to live where they work and support the local economy. In addition, having a larger pool of waged workers makes for a more attractive location for businesses to relocate, which in turn, improves the commercial tax base so that local government is less reliant on residential real estate property taxes. It's all connected.



It is time we start the conversation about the economic benefits of having price-appropriate housing in our communities. It is time to start showing that it is more than housing assistance; that it is a valuable economic resource that benefits us all. Price-appropriate housing is good for the local economy, improves the local tax base, stabilizes family units, allows workers to live where they work, and provides opportunities for individuals and families of all income levels. It is not just an issue for the lower-income and underserved populations - it benefits us all.

### How Housing Promotes Equity

In addition to the connection between housing and the county's economic success, price-appropriate housing is directly connected to the success of households at the individual level. National research bears out the correlations – having homes that are affordable correlates to better mental health, less stress for our children, more economic mobility; just to name a few examples. One connection that is particularly important in Fairfax County is the one between housing and the ability to ensure equitable access to communities of opportunity.



The Fairfax County Board of Supervisors and the Fairfax County School Board adopted the One Fairfax racial and social equity policy in 2017, to ensure all individuals in our community have an opportunity to reach their highest level of personal achievement. Stable, affordable and high-quality housing is the key to increasing access to opportunities and ensuring all residents can prosper.

As a community, we can agree that where a person lives – and the associated opportunities and services present in that neighborhood – should not be a leading determinant in the health of their family. In fact, a person's ZIP code is a stronger predictor of his or her overall health than other factors, including race and genetics. And it's not just life expectancy – access to care, access to health information, and quality of life are all affected by where one lives. Fairfax County policymakers, as well as affordable housing developers, have an opportunity to create a comprehensive and thoughtful approach to the planning for new housing that can play a role in driving socioeconomic integration, reversing racial disparity trends, eliminating institutional or structural racism, and ensuring that outcomes and opportunities for all people in our community are no longer predicted by where a person lives.

*In fact, a person's ZIP code is a stronger predictor of his or her overall health than other factors, including race and genetics. And it's not just life expectancy – access to care, access to health information, and quality of life are all affected by where one lives.<sup>2</sup>*

### Objectives of the Strategic Plan

The Fairfax County Board of Supervisors requested the development of the strategic plan for housing in 2016, and the Affordable Housing Advisory Committee (AHAC) took primary responsibility for overseeing the development of the plan. AHAC led a communitywide effort that benefited from input from residents and employers through numerous public meetings, one-on-one conversations, and an online survey. More than five thousand members of our community contributed their voices to the plan over the past year. As a result, the plan reflects the shared desire to maintain and grow our extraordinary community.

There were several objectives for this strategic planning process:

- To create a **shared community vision** of how housing supports local economic growth and community sustainability
- To **quantify the housing needed** to accommodate future growth and support the County's economic sustainability
- To develop **specific, measurable, and actionable strategies** for meeting Communitywide housing goals
- To identify the **program and policies, and specific funding sources**, that will be required to address housing needs in **5, 10, and 15 years even as we experience current housing shortages**



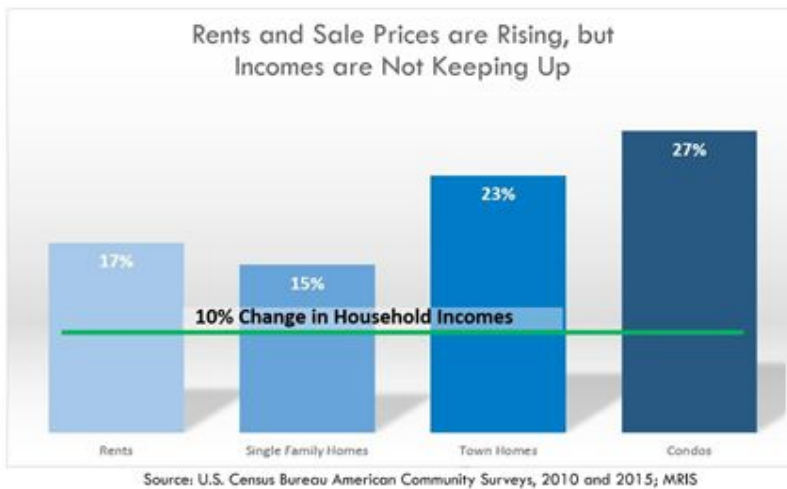
It is anticipated that this document will be the first step in a two-part process, identifying the need in our community, setting targets for housing production, and suggesting initial implementation steps that can be addressed in the next one to two years. The second, and more challenging step, will be identifying long-term implementation strategies, and the additional resources needed to carry out those strategies.

<sup>2</sup> Graham, Garth, Ostrowski, MaryLynn and Alyse Sabina. Defeating The ZIP Code Health Paradigm: Data, Technology, And Collaboration are Key.



## Housing Needs

More price-appropriate housing is needed in Fairfax County at a range of income levels, in both the rental and homeownership markets. The national post-recession recovery has been slow and has had a particularly strong impact on Fairfax County due to housing costs that have continued to rise even as incomes have stayed flat or risen moderately; and due to the region's dependence on federal government contracting. In fact, it has become increasingly difficult for many households to find housing they can afford in Fairfax County. Between 2010 and 2015, the average rent in Fairfax County has increased 17 percent and typical home prices for single-family homes, town homes and condominiums were up 15, 23 and 27 percent respectively. Over the same period, the average household income in the County increased by only 10 percent and for many low-wage workers incomes did not increase at all.

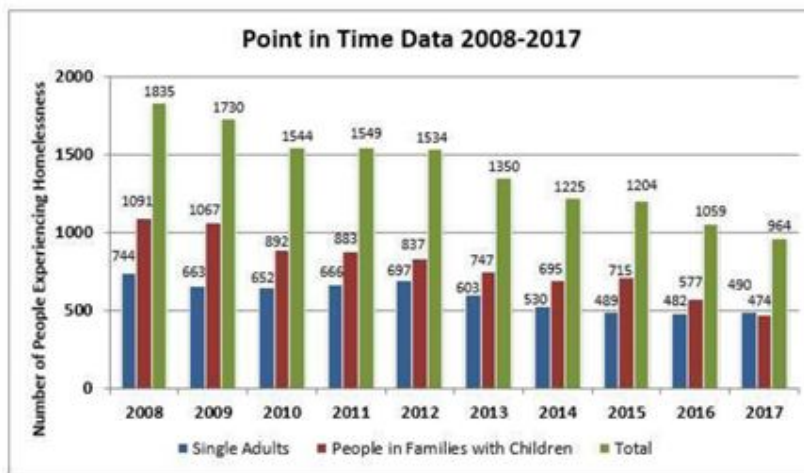


**There are more individuals in the County who are cost-burdened due to housing (115,000) than over 90 percent of the total populations of counties in the Commonwealth of Virginia.**

As housing costs, particularly rents, increase more than incomes, households find themselves more likely to be cost-burdened. The U.S. Department of Housing and Urban Development (HUD) defines "cost-burdened" as any household that spends more than 30 percent of household income for mortgage costs or gross rent. Households spending more than 50 percent are considered to be "severely cost-burdened." In Fairfax County, according to the most recent American Community Survey, 44.3 percent of renters (more than 55,000 households) and 22.9 percent of homeowners (more than 60,000 households) in Fairfax County spend more than 30 percent of their income on housing. This means that there are more people in the County who are cost-burdened (115,000) than over 90 percent of the total populations of counties in the Commonwealth of Virginia.

## Current Housing Needs for Vulnerable Households

While the cost-burden situation is problematic for any household that pays more than 30 percent of their income in housing costs, it can become a crisis for those households with extremely low-incomes or those with fixed incomes. For example, the lack of price-appropriate housing in the county has a direct connection to the cause of much of the homelessness in Fairfax County. The Fairfax County Board of Supervisors recognized this when they endorsed the "Blueprint for Success: Strategic Directions for the Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community" in 2007. Much progress has been made since then in reducing the overall number of homeless households in our community and yet our most vulnerable residents continue to be at risk of housing instability and homelessness. On the night of the January 2017 Point in Time count, nearly 1,000 people in Fairfax County were homeless<sup>3</sup>. Low incomes and expensive housing are the main reasons for homelessness.



In addition to those households that are experiencing homelessness, more than 70,000 Fairfax County residents have a disability. Data shows that individuals with disabilities are much more likely to have extremely low-incomes and often face a compounded problem - finding housing that is price-appropriate AND has the accessibility features they need to live comfortably in their homes. Similarly, our elderly neighbors, many of whom have worked in Fairfax County throughout their careers and have contributed to their communities and the local economy, are having difficulty affording their homes on fixed incomes. Compared to all households in Fairfax County, a larger proportion of households with at least one person who is 75 or older have very low-incomes. Elderly households present the second greatest need for more affordable housing, behind small family households and singles. As housing costs increase, more senior households will likely become cost burdened or more cost burdened, since many elderly households have relatively fixed incomes.



<sup>3</sup> Metropolitan Washington Council of Governments, 2017. Homelessness in Metropolitan Washington: Results and Analysis from the Annual Point-in-Time (PIT) Count of Homeless Persons

## Current Housing Needs for Low- and Moderate-Wage Workers

Individuals and families with the lowest incomes face the greatest challenges finding housing they can afford. These households include many workers who are essential to the Fairfax County community. For example, a typical retail salesperson in the County earns less than \$30,000 per year. Restaurant workers, housekeepers, childcare providers, home-health aides, bus drivers and security guards in Fairfax County also have an average income of around \$30,000<sup>4</sup>. Working households earning \$30,000 per year can only afford to pay \$750 per month for housing, but the average rent in Fairfax County is more than \$1,700<sup>5</sup>.

**Many public sector workers who serve the Fairfax County community cannot afford to live here.**

The average monthly rent in Fairfax County was \$1,764 in 2015. You need an income of at least \$70,560 to afford the typical rent.

	<b>Teacher Starting Salary - \$47,046</b> Would need to work 11 years before earning enough to rent the average one bedroom unit.
	<b>Police Officer Starting Salary - \$50,265</b> Would need to work 5 years before earning enough to rent the average one bedroom unit.
	<b>Public Health Nurse Starting Salary - \$51,254</b> Would need to work 6 years before earning enough to rent the average one bedroom unit.

Sources: U.S. Census Bureau, 2015 American Community Survey; Economic, Demographic and Statistical Research; Fairfax County Department of Neighborhood and Community Services

These workers are a critical component of our local economy and they deserve to have an opportunity to live and work in Fairfax County. What happens when working families earning low wages cannot find housing they can afford? In many cases, they live in overcrowded housing or commute to Fairfax County from other jurisdictions. Overcrowded housing continues to be a critical challenge in Fairfax County, with a total of 4,640 households overcrowded (1.01-1.5 people per room), and nearly 1,900 households severely overcrowded (more than 1.51 people per room). The majority of overcrowded households include at least one child and have incomes below 50 percent of Area Median Income (AMI). Given the prevalence of children in overcrowded households, families in our community may be “outgrowing” their housing units, but at the same time are unable to afford a larger home they can afford.

*The majority of overcrowded households include at least one child and have incomes below 50 percent of AMI.*

<sup>4</sup> National Housing Conference, Paycheck to Paycheck 2016  
<sup>5</sup> 2015 American Community Survey



## The Challenge of Homeownership

In addition to the difficulty in finding price-appropriate housing options in the rental market, increasingly, high housing costs in Fairfax County burden households with middle and higher incomes and put homeownership opportunities out of reach. Households with higher incomes occupy many of the homes that would be affordable to low-income households. For example, 67 percent of the owned or for-sale housing stock that would be affordable to very low-, low- and moderate-income households is occupied by households with income greater than is required to comfortably afford those units, indicating that homebuyers with lower incomes face intense competition for affordable homes from households with higher incomes.

Many workers, including Millennials and young families, find they are not able to afford to buy a home in our community. The ability of young households to purchase a home in Fairfax County has dropped precipitously over a ten-year period. In 2005, more than half of 25- to 34-year olds in Fairfax County (52.9 percent) were homeowners. In 2015, only 38 percent of young adults in their late 20s and early 30s living in Fairfax County own a home. Recent research has shown that the desire for homeownership among young adults is as strong now as it has ever been, but this cohort faces new obstacles—including rising debt and fewer affordable homeownership options—which are leading to delays in home buying<sup>6</sup>.



## Future Housing Needs

Our community already faces a deficit of more than 31,000 rental homes affordable to low-income individuals and families. Over time, the gap between the need and the supply will grow considerably without new approaches for expanded housing availability and affordability. Over the next 15 years, the County is expected to add more than 62,000 households, primarily working households<sup>7</sup>. These are household projections based on the County's analysis of recent growth and the capacity for residential development based on current land use and zoning. To support sustainable population growth and bolster our economy, it is important to think about how we plan for price-appropriate housing to address the current housing gap and to meet the needs of the growing workforce.

<sup>6</sup> See, for example, Thompson, Derek. 2016. Millennials: The Mobile and the Stuck. *The Atlantic* August 24.

<sup>7</sup> For background on the County's forecasts, see Demographics Reports 2016 County of Fairfax, Virginia, available online <https://www.fairfaxcounty.gov/demograph/demrpts/report/fullrpt.pdf>.

As our community grows—it will need to grow in order to ensure economic vitality and prosperity—the County will add workers and families all along the income spectrum. Based on projections from the County and George Mason University (GMU), over the next 15 years, the County is expected to add:

- **4,591 extremely low-income households (income <30% AMI)**
- **8,443 very low-income households (30-50% AMI)**
- **5,588 low-income households (50-80% AMI)**
- **9,048 moderate-income households (80-100% AMI)**
- **11,929 households with incomes between 100 and 120% of AMI**
- **22,585 households with incomes above 120% of AMI<sup>8</sup>**

While housing production has been on the rise since the Great Recession, Fairfax County is not producing enough housing to close the existing housing gap and will not be able to meet future housing needs. The County would need to add 4,146 new units each year for 15 years to meet the 2032 target above, but the County issued building permits for only 3,720 units in 2004 at the height of building in the 1992-2016 period, before heading into the housing bubble. Without incentives or other changes that reduce the cost of building or removal of disincentives for building, the opportunity for the County to deliver more than 3,720 units in a single year seems unlikely.

These forecasts also suggest that over the next 15 years, there will be demand for 18,622 homes affordable to households with incomes below 80 percent of AMI (29.9% of total new homes needed). Given housing market conditions in the Washington DC region and in Fairfax County, it is challenging to build new housing with rents or prices that are affordable to households at this income range without some form of subsidy. There are several reasons why lower-cost housing isn't produced in our community:

- High costs of land and construction make it difficult to provide sufficient housing at more moderate prices and rents;
- Federal, state and local regulations add to the cost of building housing, and these added costs are passed along to residents in the form of higher rents and prices; and
- Opposition to new construction or increased density from existing Fairfax County residents results in too little housing being built, limiting supply and putting upward pressure on prices and rents.

The private market meets the demand for housing for higher-income households; however, housing for low-income households is difficult and expensive to provide. In order to develop new housing—or often to preserve existing housing—at rents or prices that are affordable to our community's low- and moderate-income residents and workers, it is necessary for there to be some type of subsidy, either a financial subsidy provided in the form of a low-interest loan, grant or tax credit, a subsidy in the form of reduced land costs, an incentive in the form of an increase in the allowable density, a reduction in development approval requirements—or all of the above.

<sup>8</sup> See Appendix for details on methodology.



## Strategies to Expand Housing Options in Fairfax County

In order to ensure that our community remains vibrant and diverse, and that our economy is strong and resilient, we must take action to ensure that there is enough housing—of the right types and at rents and prices that are affordable—to support growth in the County’s workforce and broader community, and that current and anticipated housing needs are met.

Fairfax County’s Housing Blueprint was a first step in achieving this vision, as it has focused affordable housing policies and resources on serving those with the greatest need, including homeless families and individuals, persons with special needs, and households with extremely low-incomes. The overarching principle of the Blueprint is that home affordability refers to a continuum of income and ability. The research and outreach conducted as a part of this strategic plan has re-affirmed this principle and the four main goals of the Blueprint:

- 1. To end homelessness in ten years;**
- 2. To provide affordable housing options to special needs populations;**
- 3. To meet the affordable housing needs of low-income working families; and**
- 4. To increase workforce housing through creative partnerships and public policy**

To meet the full range of housing needs in our community, and particularly the housing needs of individuals and families who earn below 80 percent of AMI, it will be necessary for the County, the Fairfax County Redevelopment and Housing Authority (FCRHA), non-profits, the faith community, and local businesses and employers to come together to find ways to help fill the gap between what it costs to build housing in our community and the prices and rents that our workers, seniors, vulnerable populations and others can afford.

In Fairfax County there already exists a range of policies, programs and partnerships designed to address the community’s needs as identified in the County’s Housing Blueprint<sup>9</sup>, examples of which include:

The infographic consists of four stacked rectangular boxes, each with a title and a list of bullet points. The boxes are colored as follows: dark blue, light blue, medium blue, and teal.

- TO END HOMELESSNESS IN TEN YEARS**
  - ◆ Administering the Bridging Affordability Program
  - ◆ Providing a homeless preference in the FCRHA’s federal rental programs
- TO PROVIDE AFFORDABLE HOUSING OPTIONS TO SPECIAL NEEDS POPULATIONS**
  - ◆ Facilitating home repairs for older individuals to help them stay in their residences
  - ◆ Providing affordable adult housing and assisted living facilities
  - ◆ Providing state-funded rental assistance to persons with developmental disabilities
  - ◆ Owning and managing B1B senior and specialized housing units
- TO MEET THE AFFORDABLE HOUSING NEEDS OF LOW-INCOME WORKING FAMILIES**
  - ◆ Assisting individuals in crisis, to ensure they can maintain their housing assistance
  - ◆ Owning and managing over 3,000 affordable multifamily rental units
- TO INCREASE WORKFORCE HOUSING THROUGH CREATIVE PARTNERSHIPS AND PUBLIC POLICY**
  - ◆ Fostering the creation of affordable and workforce units by non-profit and for-profit developers
  - ◆ Administering the First-Time Homebuyers Program to assist low- and moderate-income prospective buyers with information on homeownership and opportunities to meet with lenders

<sup>9</sup> The Housing Blueprint was created in the wake of the 2007 recession to focus affordable housing policies and resources on serving those with the greatest need, including homeless families and individuals, persons with special needs, and households with extremely low-incomes.

Phase 1 of the Communitywide Housing Strategic Plan contains 25 specific strategies Fairfax County can take within one to two years and with no new additional public resources to begin to produce and preserve more affordable and workforce housing. However, it is clear that in the mid- and longer-term, new and substantial resources will be required to ensure that all County residents and workers who want to live in the County—including those with the lowest incomes and the most vulnerable economic situations—can have access to safe, stable and affordable housing. These Phase 1 strategies are intended to be adopted as a full package of actionable steps; will require inter-departmental coordination and participation from the business and non-profit communities; and will set the groundwork for longer-term, more comprehensive strategies that will be detailed in the forthcoming Phase 2 of the Plan.

## **A. Modernizing FCRHA/HCD Administration and Processes**

Within the Fairfax County Department of Housing and Community Development (HCD) and the Fairfax County Redevelopment and Housing Authority (FCRHA), there are opportunities to make existing processes more efficient and to use existing resources more innovatively to leverage partnerships, bringing non-local money to the County to support the development and preservation of housing. These recommendations involve modifications to existing procedures within HCD and the FCRHA, as well as a move towards re-positioning FCRHA assets to use them more efficiently.

### **A1. Streamline the Housing Blueprint Application Process to Better Align with the LIHTC Application Process.**

The Low Income Housing Tax Credit (LIHTC) program is the primary way that new affordable housing developments are financed and is a source of substantial non-local funding for new and preserved housing in Fairfax County. With small changes to its Housing Blueprint application process and with increased communication with the developer community, the County/FCRHA-supported projects can be better able to compete for LIHTC dollars to support the development of housing for low- and moderate-income working families in the County.

**A2. Maximize the Potential of FCRHA-Owned Properties.** The FCRHA has significant resources in terms of the land and properties it owns. While not all FCRHA assets can or should be re-positioned, the FCRHA should continue to evaluate which sites have the greatest potential for development/redevelopment at higher densities and with non-profit and for-profit developer partners. Potential redevelopment and expansion of FCRHA-owned properties offers opportunities for innovative public-private partnerships.

**A3. Plan for Reinvestment of Savings from the Refinancing and/or Maturing of Debt Service of Wedgewood and Crescent Properties.** As refinancing opportunities become available and/or the debt service on these properties is paid down, a strategy should be developed to determine how to reallocate eventual savings for other affordable housing priorities. Currently, nearly half of the amount in the County's Affordable Housing Fund ("Penny Fund") are allocated for debt service on Wedgewood and Crescent.

**A4. Develop a Plan to Expand Use of FCRHA Bonds.** The FCRHA has the authority to issue bonds to support the development and preservation of affordable housing. The FCRHA should create a more aggressive outreach program to better publicize FCRHA bond financing to support the goals of the community.

**A5. Examine the FCRHA's Deep Subsidy Programs to Better Align Resources to Serve Those Most in Need.** As federal resources remain constrained, it is important that the County is directing those resources to meet its overarching principles of ensuring a continuum of housing and to serve residents with the greatest needs. The FCRHA should review existing Federal housing preferences and evaluate how well existing programs meet residents' needs.

**A6. Incorporate the One Fairfax Policy into the FCRHA's Policymaking Process.** *One Fairfax* commits the County and Schools to intentionally consider equity when making policies or delivering programs and services. As part of the FCRHA's regular consideration of policy and funding decisions, develop an equity lens that enables staff to evaluate how its recommendations meet the vision of *One Fairfax*.



## **B. Land Use and Zoning Tools**

There are many ways in which changes to land use or zoning, or new approaches to uses on certain types of land, could significantly increase the supply and availability of housing affordable to the Fairfax County workforce. The County is currently undertaking a comprehensive update of its Zoning Ordinance and there are also planning efforts underway for particular neighborhoods in the County (e.g. the Route 1 corridor). These recommendations build off the County's current and recent land use and zoning studies, and go further to identify ways to use land more creatively to build partnerships and expand housing options.

### **B1. Update the Affordable Dwelling Unit (ADU) and Workforce Dwelling Unit (WDU)**

**Programs.** Both the ADU and WDU programs have been effective at generating new affordable housing in Fairfax County. However, there is a need for updating and revising both programs to respond to housing needs and current market conditions. As part of the Zoning Ordinance update, the County should work with a comprehensive group of stakeholders to make improvements to the ADU and WDU programs.

### **B2. Create Guidelines for Adaptive Reuse of Commercial Space for Affordable Housing.**

Housing created through the reuse of commercial buildings, or through the use of land currently zoned for commercial uses, can create more opportunities for mixed-income housing. The County should build off of the recommendations from the Office Building Repositioning and Repurposing Task Force and move forward to develop policy direction and a pilot for creating new housing options through adaptive reuse.

**B3. Develop a Preservation Strategy.** Preserving existing subsidized and "market affordable" housing is vital to meeting the needs of low- and moderate-income individuals and families. The County should develop a comprehensive strategy that includes principles and guidelines around affordable housing preservation.

### **B4. Streamline the Process for Public-Private Partnerships that Make Use of Publicly-Owned**

**Land.** Making vacant or underutilized publicly-owned land available for affordable and mixed-income housing is an important way to expand housing options without direct public financial subsidy. These public land projects necessarily involve public-private partnerships. The County should review the Public Private Education and Infrastructure Act (PPEA) framework and consider moving to a more streamlined process for public land projects that involve affordable housing.

### **B5. Incorporate Guidelines for Public Land into the Capital Improvement Program(CIP)**

**Process.** Co-locating housing with new and/or redeveloped public facilities is an effective way to create affordable housing options in mixed-use settings. The County's CIP process should be amended so an assessment of the appropriateness of co-locating housing is done in all projects involving building new public facilities or redeveloping existing facilities.

**B6. Modify the Accessory Dwelling Unit Policy.** Within the larger Zoning Ordinance update, the County should review the current requirements for creating accessory units. Working with a broad set of stakeholders, improve the accessory dwelling unit requirements to allow for the creation of more accessory units.

**B7. Explore Zoning Districts that Allow for “Missing Middle” Housing.** As part of the Zoning Ordinance update, identify zoning districts where flexibility in housing types would be appropriate. “Missing middle” refers to a range of multi-unit or clustered housing types (e.g., duplexes, triplexes, etc.) compatible in scale with single-family homes that help meet the growing demand for walkable urban living. Review other local jurisdictions’ policies on “missing middle” housing and explore options for Fairfax County.

**B8. Integration with the Zoning Ordinance Modernization Project.** In 2017 the Office of Community Revitalization and the Department of Planning and Zoning initiated an effort to modernize the County’s Zoning Ordinance to restructure it to make it more user friendly, and to prioritize key amendments for updating the Ordinance. Changes to the Ordinance might affect the ability to develop certain types of housing in specified areas of the County, and improvements to the Ordinance could enable more innovative housing preservation and development opportunities. The County should ensure that the preservation and development of affordable housing is considered during each relevant phase of the Zoning Ordinance Modernization process.

## C. Funding Sources and Uses

While the short-term strategies presented in this report do not include recommendations for dedicated funding for housing, it will be important in the mid- and longer-term to identify new resources to support housing development and preservation. In the short-term, there are ways the County and the FCRHA can deploy their existing resources more efficiently and to explore ways to shift certain resources to be used for those most in need. At the same time, the County should be planning for ways to identify new resources to support the development and preservation of affordable and workforce housing.

**C1. Preserve Existing Affordable Housing Resources.** Currently, Fairfax County has several resources that are dedicated to the acquisition and preservation of affordable housing, including the Housing Trust Fund and the Penny for Affordable Housing Fund. These are critical, local funding streams that allow Fairfax County to provide capital funding to private and nonprofit affordable housing developers. Given the expected demand for price-appropriate housing as the population of Fairfax County continues to increase, these resources must be maintained at current levels and should be considered for further expansion.

**C2. Create Guidelines for the Tysons Housing Fund.** The Tysons Plan recommended contributions from commercial development to a housing trust fund which would be dedicated to supporting affordable and workforce housing options in Tysons. The County should formalize guidelines for the use for these funds to ensure that they are used as efficiently as possible to serve low- and moderate-income workers in the Tysons area.

**C3. Assess a Commercial Contribution Policy.** The link between job growth and housing availability and affordability is clear. Commercial contributions to the Affordable Housing Fund can be an efficient way for employers to support housing development that benefits the workforce. The County should assess its current policy of commercial contributions and re-visit the countywide commercial linkage policy in transit-oriented development areas to determine whether a new commercial contribution policy should be adopted.

**C4. Explore Using Existing Tax Incremental Financing (TIF) Policies to Promote Housing Affordability.** TIF allocates future increases in property taxes from a designated area to pay for improvements within that area, which could include affordable housing. Explore the use of the county's existing authority to implement TIF and associated policies as a means to promote affordable housing development and preservation.

**C5. Dedicate Resources to Expand the Scope of Local Rental Housing Subsidy.** With the decline in Federal housing resources and, in particular, with insufficient Federal commitment to the Housing Choice Voucher program, Fairfax County needs to expand the scope of its local rental housing subsidy program, known as Bridging Affordability, to assist its lowest-income families find housing they can afford. The Bridging Affordability program should be re-focused on meeting the needs of people with disabilities and other special needs (including victims of domestic violence, and those experiencing homelessness) and should allow for "project basing" of subsidies in affordable rental units.

**C6. Provide Downpayment and Closing Cost Assistance.** Use proceeds from the sale of ADUs that are currently contributing to the Affordable Housing Fund to expand assistance to moderate-income first-time homebuyers in the County. In addition, look for ways to partner with County employers to expand employer downpayment assistance programs.

**C7. Review Options for Restructuring the County's Housing Trust Fund.** Evaluate the structure of the Housing Trust Fund in light of the processes, funding and procedures of local trust funds in neighboring and comparable communities. Develop a plan for moving forward on changes that will create an efficient and effective trust fund.

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## D. Housing for Vulnerable Populations

As part of its commitment to ensuring that Fairfax County has a continuum of housing options, the community will continue to work to make affordable and accessible housing options available for persons with disabilities, seniors, and extremely low-income individuals and families, including those at risk of or transitioning from homelessness.

**D1. Expand Access to Housing Options for Persons with Special Needs.** Finding affordable, appropriate housing is a particular challenge in Fairfax County for persons with special needs, many of whom are in some type of crisis (including victims of domestic violence, and those experiencing homelessness) or have a disability that prevents them from attaining full employment. The County should make efficient use of existing resources to create housing options, including transitional housing where appropriate, and should develop a plan with partners, such as the Governing Board of the Fairfax-Falls Church Partnership to Prevent and End Homelessness for connecting individuals with affordable and appropriate housing.

**D2. Support Aging in Place.** The vast majority of older adults would prefer to age in their homes. However, it can be increasingly challenging to maintain a home as mobility declines. Property taxes can also make staying in a home unaffordable. The County should support programs and services to help enable seniors to remain in their homes by providing education and outreach to residents and connecting residents with existing privately-run programs.

**D3. Facilitate Opportunities for Faith Communities to Develop Affordable Housing.** Houses of worship in Fairfax County—including churches, temples, synagogues and mosques—often have underutilized land that could be appropriate for housing, particularly housing for vulnerable populations. Working with regional partners, the County should increase education and awareness about opportunities for housing development on land owned by faith communities, and connect these communities with available technical and financial assistance.

**D4. Continue to Address the Efficiency of Fairfax County's Existing Homeless and Housing Supports Networks.** As the Office to Prevent and End Homelessness works with its Governing Board and community to establish new goals, and as the 10 Year Plan comes to an end, a broader focus on housing for all will be established in the Health and Human Services system. This focus will include housing for homeless, mental health and domestic violence. It is clear that additional housing resources are needed that provide solutions to some of our most vulnerable residents.



## FUTURE HOUSING NEEDS APPENDIX

### Estimates of Numeric Targets

A key component of the Communitywide Housing Strategic Plan is to develop short-term and long-term numeric targets for housing. These targets are designed to be consistent with the goals identified in the Housing Blueprint and the Strategic Plan for Economic Success, and build off of existing population, housing and employment forecasts that have been completed by the County and the George Mason University Center for Regional Analysis (GMU). The short-term (i.e. annual) numeric targets are intended to replace the annual targets that are part of the current Blueprint for Housing. As part of the Strategic Plan, specific and actionable strategies, along with funding sources, will be developed and will be tied directly to these numeric targets.

#### Overall Household Growth and Housing Needs

- Over the next 15 years, between 2017 and 2032, the County is expected to add 62,185 households, reflecting an annual growth rate of 1.0%. These are household projections based on the County's analysis of recent growth and the capacity for residential development based on current land use and zoning. Between 2000 and 2016, the County added households at an annual rate of 0.9% which means that the County is forecasting a slight acceleration in household growth over the next 15 years, with somewhat slower growth in the first five-year period and somewhat faster growth in the 10-year and 15-year period.
- Over the next 15 years, the County will add households all along the income spectrum. Based on forecasts of housing demand produced by GMU, between 2017 and 2032, the County is expected to add:
  - 4,591 extremely low income households (income <30% AMI)
  - 8,443 very low income households (30-50% AMI)
  - 5,588 low income households (50-80% AMI)
  - 9,048 moderate income households (80-100% AMI)
  - 11,929 households with incomes between 100 and 120% AMI
  - 22,585 households with incomes above 120% AMI
- These forecasts suggest that over the next 15 years, there will be demand for:
  - 18,622 homes affordable to households with incomes **below 80% AMI** (29.9% of total new homes needed)
  - 39,600 homes affordable to households with income **below 120% AMI** (63.7% of total new homes needed)



**5-10-15 Year Numeric Targets based on Household Income and Other Characteristics**

	2017 (est.)	2022	2027	2032
Total Households	405,161	420,917	444,266	467,346
Household Income				
ELI (<30% AMI)	34,741	35,782	37,589	39,332
VLI (30-50% AMI)	31,107	33,050	36,280	39,550
LI (50-80% AMI)	55,828	57,052	59,280	61,416
MI (80-100% AMI)	42,161	44,395	47,810	51,209
100-120% AMI	38,986	41,855	46,330	50,915
120+ % AMI	202,338	208,783	216,978	224,923

**1-Year Targets – Housing Needed to Serve Expected Households in 2017-2018**

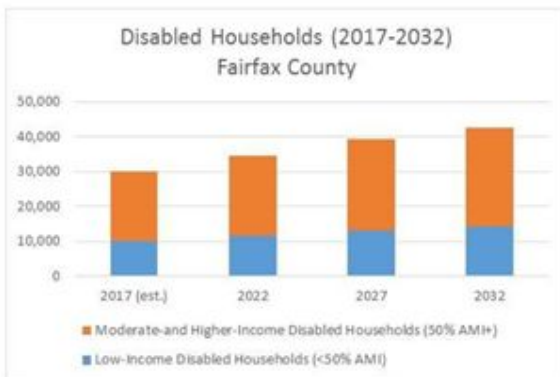
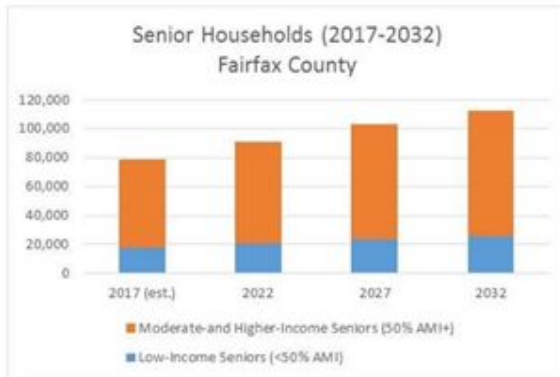
Total Housing Units to Accommodate Household Growth	3,151
Affordable to:	
ELI (<30% AMI)	208
VLI (30-50% AMI)	389
LI (50-80% AMI)	245
MI (80-100% AMI)	447
100-120% AMI	574
120+ % AMI	1,289

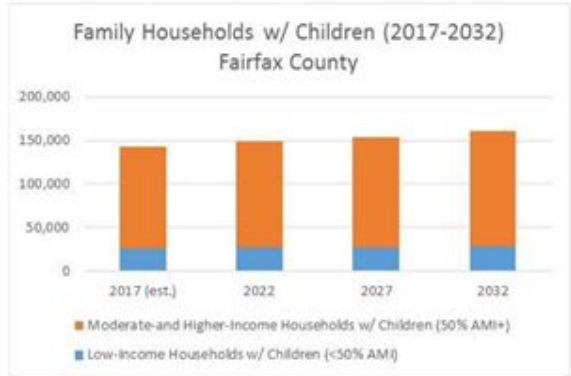
As a result of the growing population and changing demographics, the characteristics of households in Fairfax County—and their housing needs—will change over the 15-year period.

**Key Changes to Household Characteristics**

- In 2017, senior households (age 65+) make up an estimated 19.5 percent of all households in the County. By 2032, it is expected that 24.0 percent of households will be age 65 or older. It is estimated that 22.8 percent of senior households in Fairfax County will be low-income households.
- In 2017, households with a disabled member (including individuals with a physical or intellectual disability) make up an estimated 7.4 percent of all households. By 2032, it is expected that 9.1 percent of Fairfax County households will include a disabled individual.
- In 2017, it is estimated that families with children make up 35.4 percent of all households in the County. By 2032, it is expected that families with children will comprise 34.4 percent of County households.

[See charts below.]





### Methodology for Developing Numeric Targets

1. The overall 2017, 2022, 2027 and 2032 household counts are from the County's January 2016 population and household forecasts obtained from Anne Cahill.

2. The estimates of household income for 2017 are estimated based on our analysis of the 2012-2014 American Community Survey public use microdata (PUMS). Using income data from the ACS microdata along with income limits from HUD, we estimated that percentage of households in 2012-2014 that would fall in the income categories specified. We then applied those percentages to the 2017 total household figure, assuming that the income distribution was unchanged between 2012/2014 and 2017.

The forecasts of households by income group for 2022, 2027 and 2032 are based loosely on the [recent housing demand forecasts](#) produced by GMU. The GMU forecasts include estimates of household growth between 2011 and 2023 by income group. These forecasts are based on an analysis of regional employment growth, wage distribution, workers per household, trends in the non-working population, among other factors. For these numeric targets, we examined GMU's expected annual percentage change in households by income groups for Fairfax County between 2011 and 2023. We adjusted GMU's annual percent changes based on the County's overall forecasts. The County's forecasts suggest overall households will grow at an average annual rate of 1.0% between 2017 and 2022, while GMU is forecasting an annual percent change of 0.8%. Therefore, we adjust slightly upward the growth rates for each of the income categories to reflect that slightly faster growth.

GMU only forecasts out to 2023. We assume the same annual growth rates for the 2022-2027 and 2027-2032 periods, as a simplifying assumption.

3. The 2017 senior households are based on analysis of the 2015 American Community Survey data. In 2015, the ACS estimates that 19.5% of households in Fairfax County are headed by someone age 65 or older. We assume that 19.5% of the 2017 total households are therefore headed by someone age 65 or older.

The data on lower income senior households (<60% AMI) are based on analysis of the 2012-2014 ACS microdata. We assumed that the share of senior households that have incomes below 60% AMI is the same in 2017 that it was in 2012/2014.

The forecasts of senior households are based on the County's forecasts of *population* by age. We examined the annual percent change in the 65+ population between 2016-2020, 2020-2025, 2025-2030, and 2030-2035. We used these annual percent changes in the population age 65+ to estimate the number of senior households in 2022, 2027 and 2032. We assume the same share of senior households would have incomes below 60% AMI in the future as they do in 2017, as a simplifying assumption.

4. The 2017 disabled households are based on estimates from the 2015 ACS of the percentage of the total population that is disabled. In 2015, 7.4% of the Fairfax County population had at least one disability. We assumed that 7.4% of all households in 2017 had a person with a disability. This may understate the number of households with a person with a disability if disabled persons are more likely to live alone. We used data from the 2012-2014 ACS microdata to estimate the share of disabled persons living in households with incomes less than 60% AMI and applied that share to the 2017 households.

To forecast the number of households with a disabled person, we assume the same growth rates that we used for the senior household forecasts. The aging of the population is a primary driver of the growth of the disabled population and seemed like a reasonable approach to estimating the growth of the disabled household population.

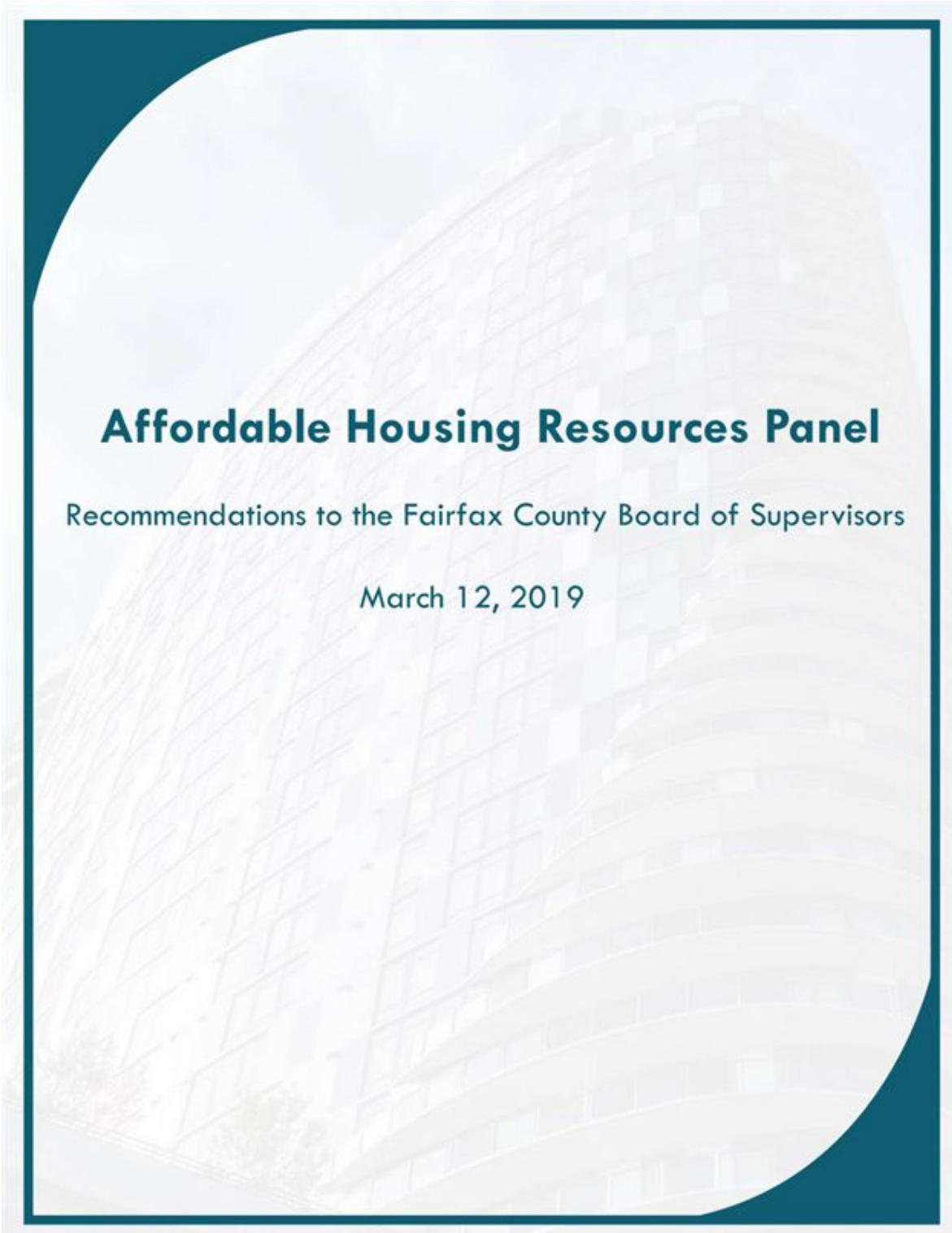
5. The number of families with children is actually the total number of households with related children, by definition in the ACS. We used data from the 2015 ACS to estimate the share of households that included related children and we applied that share to the 2017 households. So, according to the 2015 ACS, 35.4% of all households in Fairfax County included children. We assumed that 35.4% of 2017 households would also be households with children.

To forecast the number of households with children, we used the County's forecasts by age and assumed that the number of households with children would increase at the same rate as the under 15 population. This method could overstate/understate the growth in the number of households with children if family sizes increase/decrease notably over time.

6. Finally, the number of homeless individuals in 2017 is based on the 2016 point in time (PIT) count. The 2017 PIT count should be available, so we can update this data with new information. The target related to homelessness is based on the target specified in the FY2017 Blueprint.

# **Countywide Housing Strategic Plan:**

## **Phase II**





## Affordable Housing Resources Panel

**Co-chairs:**

Kevin Greenlief  
C. Melissa Jonas

**Members:**

Tom Bash  
David Bowers  
John Boylan  
Carol Bradley  
Mark Carrier  
Karen Corbett Sanders  
Sharron Dreyer  
Bailey Edelson  
Jim Edmondson  
Rick Edson  
Sol Glasner  
Verdia Haywood  
Edythe Kelleher  
Stanley Koussis  
Michelle Krockner  
Rodney Lusk  
Kamilah McAfee  
Ava Nguyen  
Mary Paden  
Adam Parnes  
John Payne  
Soledad Portilla  
Carmen Romero  
Phil Rosenthal  
Robert Schwaninger  
Nancy Scott  
Tim Thompson  
Mark Viani  
Kerrie Wilson



**RECOMMENDATIONS OF THE AFFORDABLE HOUSING RESOURCES PANEL**  
**Presented to the Board of Supervisors' Budget Committee on March 12, 2019**

**OVERVIEW**

In 2016, the Fairfax County Board of Supervisors (the Board) requested the development of a strategic plan for housing that would reflect the needs of the community, identify ways to meet future demand, and support economic growth. Based on this charge, the Communitywide Housing Strategic Plan (the Plan) was developed in two phases. Phase 1, created with oversight from the Affordable Housing Advisory Committee, identifies 25 specific strategies that can be implemented in the near future to strengthen the production and preservation of affordable and workforce housing (see Appendix 1). Phase 2 of the Plan, launched in the fall of 2018 and summarized in this document, outlines goals and long-term implementation strategies to build and preserve affordable housing which rely on additional resources for implementation.

To help guide the development of Phase 2 of the Plan, the Board appointed members to the Affordable Housing Resources Panel (AHRP). The AHRP was comprised of representatives from the nonprofit, private and public sectors and was charged with: 1) identifying a numeric goal of the number of housing units, affordable to households earning 60 percent or less of the Area Median Income (AMI), that should be preserved and developed over the next 15 years; and 2) developing recommendations on the resource investments needed to meet this numeric housing goal. The AHRP met monthly from October 2018 to February 2019 and was asked to submit recommendations to the Board in time for consideration of the Fiscal Year 2020 budget cycle, as part of the budget guidance.

Recommendations developed by the AHRP are organized under five strategic categories:

- Need, new production goals, and resources
- Preservation of affordable housing units
- Land use policies and regulations
- Institutional capacity
- Community awareness and legislative priorities

It is important to recognize that recommendations included in Phase 2 of the Plan were developed in conjunction with other community-led initiatives, including the Embark Richmond Highway Housing Advisory Group and the recommendations included in Phase 1 of the Plan. Of critical importance to achieving the housing goal recommended by the AHRP is the implementation of the One Fairfax policy, an overarching approach to ensure an inclusive community for all residents, and inclusion of affordable housing as a core component in Fairfax County's upcoming Countywide Strategic Plan. While the AHRP was not specifically charged with reviewing land use policies and regulations, these topics were discussed and are included in the Phase 2 recommendations as they are fundamental to addressing the shortage of affordable housing units in Fairfax County over the long term.

Finally, this report is born of the recognition that housing – affordable, inclusive housing – must truly be a top priority for Fairfax County, along with education, public safety and transportation. Like these other essential priorities, a healthy and inclusive housing market in Fairfax County will require sustained investment of public and private resources, innovation, and strong community engagement.

## THE RECOMMENDATIONS

### STRATEGIC CATEGORY ONE: NEED, NEW PRODUCTION GOALS, AND RESOURCES

#### The Headlines

- AHRP recommends a goal of producing a minimum of 5,000 new homes, as a floor, affordable to households earning up to 60 percent of the Area Median Income (AMI) over the next fifteen years
- AHRP recommends that the Board of Supervisors commit the equivalent of an additional penny on the real estate tax rate to support this production, starting in FY 2021

**Behind the headlines:** Phase I of the Communitywide Housing Strategic Plan identified the need for approximately 15,000 additional homes, affordable to households earning up to 60 percent of the Area Median Income (AMI) over the next 15 years, based on projected job and population growth in the county. Since its inception in the fall of 2018, the AHRP worked on strategies to address this need. Given the high cost of housing production in the county and recognizing the fiscal constraints, the AHRP agreed to recommend a goal of 5,000 new units, affordable to those at 60 percent or less of AMI, over the next 15 years. The AHRP also agreed that this goal is a “floor, not a ceiling” to be supplemented with additional financing mechanisms and tools to potentially increase the new production of affordable units above the goal of 5,000 units, with the aspiration of fulfilling the demand of 15,000 units.

The AHRP makes the following recommendations regarding resourcing and producing at least 5,000 new units, affordable at 60 percent or less of AMI, over the next 15 years (“5k by 15”):

- **Primary Recommendation:** *Increase the “Penny for Affordable Housing Fund” by the equivalent of one additional cent on the real estate tax rate (in addition to the current half penny).*  
Currently, the Board dedicates revenue commensurate with the value of one-half cent from the Real Estate tax rate to the fund, which equates to \$12.2 million in FY 2019. If enacted, the additional full penny would equate to approximately \$24.4 million (in current dollars) on an annual basis for the development of new affordable housing. The AHRP recommends the following conditions on the use of this revenue:
  - Funds must be used for capital purposes to support the creation of new homes that are affordable
  - Funds should be used primarily as Fairfax County Redevelopment and Housing Authority (FCRHA) loans for the private sector (for profit/nonprofit organizations), similar to how loans are made through the current Housing Blueprint funding process through the Affordable Housing Partnership Program (AHPP) platform.
  - Projects funded with these resources will be consistent with the goals of the Housing Blueprint; priority should be given to projects that incorporate housing opportunities for individuals emerging from homelessness and/or people with other special needs. Realizing that serving these categories requires more deeply subsidized units, opportunities to pair new development with project-based subsidies, such as federal Housing Choice Vouchers will be pursued.

- Funds will only be used directly by the FCRHA, for FCRHA projects, under the following conditions:
  - For acquisition/new construction housing for seniors and persons with special needs.
  - For acquisition of land for the purposes of facilitating a public/private partnership project such as North Hill, Residences at the Government Center, and The Fallstead.
  - For housing projects that are identified as a priority by the Board of Supervisors
- **Other critical recommendations:**
  - **Proactively identify opportunities to co-locate affordable housing with bond-funded county capital facilities:** The County should identify further opportunities, similar to the new Bailey’s shelter, to co-locate affordable housing with bond-funded county capital facilities. As with the Bailey’s shelter example, such opportunities are important to provide housing for vulnerable populations requiring permanent supportive housing. Opportunities for co-location with Fairfax County facilities should also be explored.
  - **Consider a countywide proffer policy on commercial contributions that are used for affordable housing production.** This recommendation prioritizes Strategy C3 in Phase 1 of the Communitywide Housing Strategic Plan, which calls for Fairfax County to assess its current policy for commercial contributions and re-visit the issue of a countywide commercial linkage policy. The AHRP recommends that staff explore a commercial linkage policy on a countywide basis, and that such policy consider and account for the unique investment needs of the county’s revitalization areas.
  - **Consider a policy directing the buyouts from ADUs and WDUs be used to support the production of new affordable housing units.** This recommendation identifies an opportunity to ensure that any developer buyouts from Affordable Dwelling Units and Workforce Dwelling Unit obligations, which currently go into the Housing Trust Fund, be specifically directed to new housing production. Currently, proceeds from any buyouts may be used for a variety of eligible capital activities, including preservation and renovation of affordable housing properties, including those owned by the FCRHA. Consider changes to the baseline requirements in the ADU program, relative to applicability.
  - **Redirect funds from the Housing Trust Fund into new production.** This recommendation prioritizes Strategy C7 in Phase 1 of the Communitywide Housing Strategic Plan, which calls for Fairfax County to review option for restructuring the Housing Trust Fund (HTF). Currently, the HTF prioritizes several different types of projects; this recommendation calls for the Board to focus this funding entirely on the production of new affordable housing.

- Consider using the County's Economic Development Support Fund/Economic Opportunity Reserve to finance fees related to regulatory requirements and possibly other pre-development activities. In FY 2016, the Board directed staff to develop an Economic Development Support Fund (EDSF) to facilitate investments from the Economic Opportunity Reserve. It is recommended that the Board consider allowing the EDSF to provide loans through the FCRHA to finance development fees and other predevelopment costs which may prevent the county's development partners from pursuing an otherwise attractive affordable housing development opportunity. These funds could be made available through the FCRHA's already-existing Affordable Housing Partnership Program (AHPP) apparatus established by the FCRHA for the use of the Penny for Affordable Housing fund. The AHPP has the capacity to provide predevelopment loans, but has not had a source of capital to do so for several years. The EDSF presents such an opportunity.
- Proactively attract private capital for the development of affordable housing. As opportunities arise, the county should take advantage of programs or mechanisms for attracting private capital for affordable housing development, such as Opportunity Zones and tax-credit equity.
- Explore nonprofit developer tax relief from real estate taxes. Nonprofit developers, when assessing the practicalities of individual affordable housing projects, must account for real estate taxes. The county should explore the possibility of relief from these taxes for nonprofit developers and potentially their partners, so they can use those savings to provide for a higher number of affordable units per project.

**STRATEGIC CATEGORY TWO: PRESERVATION OF EXISTING AFFORDABLE UNITS**

**The Headlines**

- ***The AHRP recommends aspiring to achieve no net loss of "market affordable" rental apartments***
- ***The AHRP recommends committing the existing "half penny" with a priority for preservation projects***

**Behind the headlines:** According to research conducted by the Virginia Center for Housing Research at Virginia Tech, as of December 2018, there are approximately 9,500 housing units in Fairfax County that are considered "market affordable." For the purpose of this document, "market affordable" means apartments in rental complexes that are affordable to households earning 60 percent of AMI and below, and which are not subsidized or otherwise subject to rent restrictions.

The AHRP makes the following recommendations regarding the preservation of existing units that are affordable to households earning 60 percent or less of AMI:

- Reaffirm the commitment to no net loss of existing market affordable units in Fairfax County.  
The county's stock of "market affordable" rental homes is facing three critical pressures:

- 1) Redevelopment of older apartment complexes;
- 2) The renovation and/or "repositioning" of previously affordable properties, and, most significantly,
- 3) Incomes are not able to keep pace with the increases in rent.

It is recommended that the Board adopt a principle that, to the extent feasible, there should be **no net loss of market affordable housing units in the county**, recognizing that the preservation of these resources can take many forms that commit them as affordable. Preservation can include: the preservation and renovation of an existing development, the provision of replacement units, and other options. The Board should commit to preserving or replacing as many of the 9,500 market affordable units as is feasible, and direct staff to track the status of the county's market affordable rental complexes and report to the Board on a regular basis.

- Prioritize the current funding of a "half penny" in the Penny for Affordable Housing Fund to support preservation. As previously described, the Board currently dedicates revenue commensurate with the value of one-half cent from the Real Estate tax rate to the Penny for Affordable Housing Fund. The Board should commit that this revenue, currently valued at approximately \$12.5 million per year, will be used to support efforts to preserve affordable housing similar to how the FCRHA preserved units at the Parkwood and Huntington Gardens projects. These funds would be provided in the form of loans through the FCRHA. The use of this funding should be opportunity driven and made available on a "rolling" basis through the AHPP platform, as was the case with the original allocations of the Penny for Affordable Housing fund.

### STRATEGIC CATEGORY THREE: LAND USE POLICIES AND REGULATIONS

#### The Headlines

- ***AHRP recommends that the development of a package of innovative land use policies be developed to further facilitate the development of affordable housing beyond the "floor" of 5,000 units***
- ***The land use package should be a top priority of the new Deputy County Executive for Planning and Development***
- ***AHRP-developed menu of land use options recommended for consideration by staff***

**Behind the headlines:** Although it was not charged by the Board to provide recommendations on land use policies and regulations, the AHRP strongly feels that affordable housing should be considered a top

priority relative to land use planning. **AHRP recommends that the Board direct county staff to develop a package of innovative land use policies to further facilitate the development of affordable housing beyond the stated goal of 5,000 units.** The Board should further identify as a top priority of the new Deputy County Executive (overseeing land development services and planning and zoning) the development and implementation of a package of such policies. Implementation of some of these policies could be effectuated through a concerted effort, led by the new Deputy County Executive, to modernize the Housing Policy Plan in Fairfax County’s Comprehensive Plan. The suggested menu of options for consideration includes:

- A regulatory toolbox, including items such as flexibility in parking regulations, decreased processing time, moderation and/or bonding of development fees.
- A land use toolbox, including items such as:
  - *Recommendations of the Affordable Housing Advisory Committee’s (AHAC) Land Use Work Group* – In March 2017, AHAC’s Land Use Work Group issued high-level recommendations that are intended to assist the county in meeting the needs for affordable housing opportunities (see Appendix 2).
  - *Exploring a transfer of development rights program to facilitate the preservation and development of new affordable housing* – Transferable development rights are those which can be voluntarily transferred or sold by respective landowners from their land to any other developer who can use these rights to increase the density of development at another agreed upon location.
  - *Bonus density and height exceptions* – Incentives such as density bonuses and height exceptions have been successful regulatory and policy tools. Staff should evaluate existing density bonus provisions and pursue identifying potential new programs to account for the replacement of affordable housing to potentially include discounting such housing from density calculations that are near Metro stations.
  - *Decreased parking expectations for affordable housing developments* – The county should explore reduced parking for affordable housing developments, or providing an incentive to produce more affordable housing in exchange for parking reductions. As an alternative, the county may wish to consider a sliding scale depending on a development’s proximity to a Metro station.
  - *Tax Increment Financing to offset infrastructure and other development costs* – Tax Increment Financing allocates future increases in property taxes from a designated area to pay for public improvements within that area. These improvements could include affordable housing as part of a larger development effort.
  - *Partnerships with houses of worship* – Houses of worship often have underutilized land that could be appropriate for housing, particularly housing for vulnerable populations. Working with regional partners, the county should increase education and awareness about opportunities for housing development on land owned by faith communities, and connect these communities with available technical and financial assistance.

#### STRATEGIC CATEGORY FOUR: INSTITUTIONAL CAPACITY

##### The Headlines

- ***The AHRP recommends that the Board evaluate the personnel capacity of the county's regulatory agencies relative to affordable housing, and make specific new investments in the Department of Housing and Community Development***

**Behind the headlines:** The AHRP recognizes that more institutional capacity is needed within the county's agencies that support the creation of affordable housing at the level required to meet and exceed the recommended goal of 5,000 new units in fifteen years. This will be particularly true if the county increases the Penny for Affordable Housing Fund. **The AHRP makes the following recommendations regarding institutional capacity within the county's workforce:**

- *Evaluate the need for additional investment in the personnel capacity of the county's regulatory agencies to assist affordable housing land use policy and regulatory issues.*
- *Commit to an investment in personnel capacity in the Department of Housing and Community Development (HCD) to provide funding for at least three positions that will provide additional coordination, expertise/capacity in development, preservation and sustainability.* Positions would be supported by General Funds at approximately \$375,000 per year. These resources would establish 1) a "housing in all policies" manager to coordinate with the county's planning and regulatory/development agencies in a manner similar to the Health In All Policies manager at the Health Department, and 2) create additional staff capacity within HCD to administer existing programs. These dedicated resources are especially important given the expectation of new production, the complexity of the issues and the types of skills necessary to achieve the goals.

#### STRATEGIC CATEGORY FIVE: COMMUNITY AWARENESS AND LEGISLATIVE PRIORITIES

##### The Headlines

- ***The AHRP recommends that the Board ensure that affordable housing has a prominent place in its annual legislative program, and continues to be a focus of the county's federal legislative efforts***
- ***The AHRP also recognizes that community awareness of and support for housing affordability is essential to sustained success***

**Behind the headlines:** As evidenced by the development of the Communitywide Housing Strategic Plan, the Board has demonstrated its commitment and understanding that affordable housing is critical to economic development, family self-sufficiency, and the success of all children in Fairfax County. The AHRP calls for the Board to continue to elevate this issue – legislatively, economically, and across all industry sectors. For example, legislation that promotes affordable housing (e.g., exploring the implementation of authorizing legislation relative to development fees) should be a key focus of the

Board of Supervisors, as should actively pursuing affordable housing funding opportunities and supporting legislation opportunities that preserve or enhance the Board's local land use authority. The Virginia General Assembly should be encouraged to make efforts to provide more funding (e.g., increasing its allocation to the Housing Trust Fund) and allow local jurisdictions more revenue authority and flexibility in order to better address critical needs such as affordable housing. Therefore, affordable housing should be even more prominently featured as a priority in the Board's annual state legislative program.

We, as a community, also learned during the recent federal shutdown that our ability to deliver housing supports to the most vulnerable individuals and families in the county are deeply dependent on the continued availability of federal housing resources. The county should continually emphasize the importance of the federal programs that we use so effectively in our community with our federal elected officials, and help them advocate for more resources. These federal programs, including but not limited to Housing Choice Vouchers, the Continuum of Care, Emergency Solutions Grant, Community Development Block Grant, and HOME, all help make our community more livable for the most vulnerable among us.

The Board must also ensure that that the progress on these issues is tracked and reported regularly, to ensure continued community engagement in this issue. The AHRP recommends that staff develop a "dashboard" that provides a high-level summary of progress on these recommendations. The dashboard should also be used for the 25 strategies that were developed in Phase 1 of the Communitywide Housing Strategic Plan, which must not be forgotten (The Phase 1 Report is included as an Appendix to this document). It is also recommended that the Affordable Housing Advisory Committee (AHAC) be reconstituted and charged with monitoring progress and providing advice as these issues move forward, and that the AHRP (or a group like it) be reconvened in five years to reassess the recommendations in this report.

Finally, the AHRP recognizes that local government cannot solve this issue on its own. Our residents, and the business, faith, and nonprofit communities must come together to meet and exceed the "5k by 15" goal. Concerted efforts must be undertaken to bring all parties to the table. By adopting the recommendations made by the AHRP, Fairfax County is leading the way. The Board must ensure that we are leveraging current investments, helping our taxpayers and the business community understand the economic development advantages of affordable housing development, and working hand-in-hand with nonprofit partners to create an environment where all households can live and work in Fairfax County.



## APPENDIX 2

### The Affordable Housing Advisory Committee Land Use Work Group Recommendations

May 12, 2017

The Affordable Housing Advisory Committee Land Use Work Group (Work Group) was charged by Co-Chair of the Affordable Housing Advisory Committee (AHAC), Kerrie Wilson, and by the Director of the Fairfax County Department of Housing and Community Development (HCD), Thomas Fleetwood, to identify high-level land use recommendations that would assist the county in meeting its needs for the provision of affordable housing opportunities that contribute to its quality of life and the needs of its future workforce.

The Work Group's recommendations below are high-level and intended to provide focus for future work by AHAC, HCD, and the Department of Planning and Zoning (DPZ). Implementation of many of the recommendations will require changes in the Comprehensive Plan, the Zoning Ordinance and/or County policy guidance. It is anticipated that the Board of Supervisors' Housing Committee will review the recommendations and determine which to pursue and include in the Countywide Housing Strategic Plan.

Except where otherwise specified below, the Work Group's recommendations seek to promote mixed-income communities with a higher proportion of affordable and workforce housing than currently established by existing requirements and expectations. It will be necessary for the County to establish quantifiable thresholds for these new requirements and expectations.

These recommendations are reality-based and were crafted to support important community goals such as protecting stable residential neighborhoods and enforcement of existing regulations. The work group also recognized the critical role of partnerships among Fairfax County, non-profit housing corporations and private developers in achieving the County's housing goals.

Finally the Work Group encourages the County to undertake a clear communication strategy directed toward informing the public on how the implementation of the Countywide Housing Strategic Plan benefits the county as a whole and acts as a positive force on other issues such as overcrowding, neighborhood improvement and achieving a better quality of life for all. This communication strategy should also include a clear definition and explanation of what the term "affordable housing" means in the Fairfax County context.

#### **Recommendations:**

- 1. Incorporate residential developments into office, commercial and industrial areas where appropriate. Specific strategies include:**
  - Use undeveloped or under-developed land that is currently zoned for commercial or industrial uses for residential developments that include significant <sup>1</sup>affordable housing.

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<sup>1</sup> For example, while certain terms throughout this document still need to be quantified in this case the term "affordable" housing would be targeted toward the utilization of financing programs for affordable housing available at the time such as the Low Income Housing Tax Credit Program, Tax Exempt Multifamily Bonds, local, state, and federal housing trust funds and/or similar programs..]

- Consider offering incentives to developers, particularly for land that allows for affordable housing that is close to amenities and transit.
- Focus efforts on areas of the county that are more amenable to residential development and avoid areas with heavy industrial uses and those characterized by a high degree of truck traffic such as warehousing.
- Develop a list of preferred characteristics of commercial and industrial areas that seek to be mixed income/affordable housing development, such as areas zoned for uses that will minimize land use conflicts with residential use, and areas adjacent to residential, etc.
- Add mixed income affordable housing to older commercial and retail sites while ensuring that the affordable housing will be well-integrated with the existing development.
- Look for opportunities to allow extraordinary affordable housing projects by-right in certain non-residential zoning districts or provide a streamlined approval process in certain circumstances (see criteria TBD above) to encourage through faster approval processes, mixed-income housing with a significant affordable component that would not reduce existing commercial/industrial use potential
  - Perhaps create a special exception for affordable housing in such circumstances so that a rezoning is not required.
  - Perhaps make small-scale affordable housing development by-right; consider a size threshold.
- Support efforts of the Fairfax County Building Repositioning Workgroup to promote adaptive reuse of vacant or underutilized commercial buildings, including their use for affordable housing serving a spectrum of income levels

**2. Use Publicly Owned Land for Mixed-Use Communities**

- Consider use of County-owned property for projects that provide a significant amount of affordable housing.
- Identify and provide opportunities to use or trade County land for significant or extraordinary affordable housing commitments, such as the recent workforce housing project at the County Government Center.
- Develop a policy that establishes a minimum percentage of affordable housing on any County-owned land that is traded or used for residential development. For example see the "The Disposition of District Land for Affordable Housing Amendment Act" from Washington, D.C.
- Include language in various County policies and procedures associated with the Capital Improvement Program process to encourage the inclusion and co-location of affordable housing with future development or redevelopment of public facilities such as fire stations, community centers, and libraries.

**3. Preserve Existing Market-Rate Affordable Housing**

- Develop an inventory of existing market-based affordable housing. Document affordability based on rents and the percentage of Area Median Income being served.

*Fairfax County Redevelopment and Housing Authority  
and  
Department of Housing and Community  
Development*

Strategic Plan for FY 2023

Adopted February 24, 2022



<http://www.fairfaxcounty.gov/housing/data/strategic-plan>  
A publication of Fairfax County



Fairfax County is committed to a policy of nondiscrimination in all County programs, services and activities and will provide reasonable accommodations upon request. Please call 703.246.5101 or TTY 711.

**Fairfax County Redevelopment and Housing Authority Commissioners**

*(As of February 2022)*

- C. Melissa McKenna, Chair
- Lenore Stanton, Vice Chair
- Staci Alexander
- Broderick Dunn
- Kenneth Feng
- Richard J. Kennedy
- Elisabeth Lardner
- Roderick Maribojoc
- Nicholas McCoy
- Kristen Robinson
- Rod Solomon

**Department of Housing and Community Development**

- Thomas Fleetwood, Director
- Amy Ginger, Deputy Director, Operations
- Tom Barnett, Deputy Director, Office to Prevent and End Homelessness
- Seema Ajrawat
- Mark Buenavista
- Judith Cabelli
- Marta Cruz
- Carol Erhard
- Margaret Gregory
- Margaret Johnson
- Vincent Rogers
- Ryan Sherriff

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## Fairfax County Vision: Core Purpose and Elements

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



**Maintaining Safe and Caring Communities:** The needs of a diverse and growing community are met through innovative public safety, health care, housing, educational, recreational, and volunteer opportunities. As a result, residents feel safe and secure, capable of accessing the range of services and opportunities they need and are willing and able to give back to their community.



**Practicing Environmental Stewardship:** Local government, businesses, community organizations, and residents seek ways to use all resources wisely and to protect and enhance the County's natural environment and open space. As a result, residents feel good about their quality of life and embrace environmental stewardship as a personal and shared responsibility.



**Building Livable Spaces:** Distinctive and accessible town centers, neighborhoods, streets, walkways, and open spaces create a sense of place -- reflecting the character, history, and natural environment of the community. As a result, people throughout the community feel they have unique and desirable places to live, work, shop, play, and connect with others.



**Maintaining Healthy Economies:** Investments in the work force, jobs, institutions, and community infrastructure support a diverse and thriving economy. As a result, individuals are able to meet their needs and have the opportunity to grow and develop their talent and income according to their potential.



**Connecting People and Places:** Transportation, technology, information, and partnerships effectively and efficiently connect people and ideas. As a result, people feel a part of their community and have the ability to access places and resources in a timely, safe, and convenient manner.



**Creating a Culture of Engagement:** Individuals enhance community life by participating in and supporting civic groups, discussion groups, public-private partnerships, and other activities that seek to understand and address community needs and opportunities. As a result, residents feel they can make a difference and work in partnership with others to understand and address pressing public issues.



**Corporate Stewardship:** Fairfax County Government is accessible, responsible and accountable. As a result, actions are responsive, providing superior customer service and reflecting sound management of County resources and assets.

## Fairfax County Redevelopment and Housing Authority Mission Statement

The mission of the Fairfax County Redevelopment and Housing Authority is to initiate and provide opportunities for Fairfax County residents to live in safe, affordable housing and to help develop, preserve, and revitalize communities through fiscally responsible and open processes.

## Fairfax County Redevelopment and Housing Authority Values

*Adopted December 10, 2009 (amended January 20, 2011 and March 7, 2019)*

**We, the Commissioners of the Fairfax County Redevelopment and Housing Authority (FCRHA), value:**

- Community involvement in decision-making.
- Partnering with the community, individuals, and public and private entities, particularly including the FCRHA's non-profit partners.
- Promoting, developing, encouraging and being responsive to community initiatives.
- Our responsibility as Commissioners is to establish FCRHA policies and to ensure that the Department of Housing and Community Development (HCD) staff will implement those policies in an open and professional manner.
- Maintaining and enhancing the professionalism of Housing and Community Development staff supporting the FCRHA mission. Providing the best management, maintenance and operational support for all projects and programs.
- Integrity as the foundation of our work to ensure that all transactions are rooted in ethical principles.
- Communication that is open, honest, and respectful of other points of view.
- Empowering the residents of FCRHA properties with the means to become as self-sufficient as possible, encouraging and facilitating movement toward financial independence beyond the need for FCRHA services, while recognizing the needs and limitations of persons with disabilities, the elderly, and others with special needs.
- Fiscal responsibility in our role as stewards of resources that belong to the community.
- Innovation as we envision and carry out our mission.
- Strategic thinking as we anticipate community needs and challenges.
- Social and racial equity as represented in the Fairfax County One Fairfax resolution.

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## Fairfax County Redevelopment and Housing Authority Goals Statements: FY 2023

- To preserve, expand and facilitate affordable housing opportunities in Fairfax County.
- To support revitalization and entrepreneurial initiatives that benefit the communities and residents of Fairfax County.
- To facilitate the self-sufficiency of Fairfax County Redevelopment and Housing Authority (FCRHA) residents as they move toward financial independence, while recognizing the needs of special populations.
- To generate and increase opportunities for homeownership as one means to self-sufficiency, asset growth, neighborhood stability and allow those who work in Fairfax County to live in the County.
- To provide opportunities for those who work in Fairfax County to live in Fairfax County.
- To assure the continued excellent reputation of the FCRHA through fiscally responsible policies, sound business practices, and well-maintained properties that meet the high community standards of Fairfax County.
- To support the quality work and professionalism of the HCD staff to assure highly effective programs.
- To incorporate and maintain up-to-date Information Technology solutions in FCRHA/HCD business and communication functions.
- To give citizens a sense of ownership in policies and programs, through open and two-way communication of ideas and information about housing and community development challenges and opportunities.
- To commit to a strong and cooperative relationship with other Fairfax County boards, commissions and authorities, businesses, and the broader community.
- To commit to strategic and innovative solutions for meeting changing community needs and challenges.



## Fairfax County Redevelopment and Housing Authority Strategic Planning Principles

*Adopted December 10, 2009*

- Preserving, renovating, and maintaining Fairfax County Redevelopment and Housing Authority (FCRHA)-owned properties is a high priority and resources should be allocated regularly for this purpose.
- The FCRHA should invest its financial resources, and use the housing units it owns and operates, to serve low and moderate-income households earning 80 percent of the Area Median Income (AMI) and below.
- To serve the current and future housing needs of Fairfax County's low- and moderate-income workforce, the FCRHA should foster the private development of sufficient workforce housing and encourage tools to facilitate its development (density, financing, etc.) through policy and advocacy efforts such as the Fairfax County Workforce Housing Policy.

## Housing Blueprint Goals

Goals	Housing Continuum
<p><b>Goal:</b> To address the challenge of <b>homelessness</b></p>	<p><b>Tier One:</b> Through the Gateway to Affordable Housing</p> <p style="text-align: center;"><i><u>Blueprint Goals addressed:</u></i> <i>Homelessness; Special Needs</i></p>
<p><b>Goal:</b> To provide affordable housing options to <b>special needs</b> populations</p>	<p><b>Tier Two:</b> Addressing Sustainable Housing</p> <p style="text-align: center;"><i><u>Blueprint Goals addressed:</u></i> <i>Special Needs; Low-Income Working Families</i></p>
<p><b>Goal:</b> To meet the affordable housing needs of <b>low-income working families</b></p>	<p><b>Tier Three:</b> Toward Self-Sufficiency</p> <p style="text-align: center;"><i><u>Blueprint Goals addressed:</u></i> <i>Low-Income Working Families; Workforce</i></p>
<p><b>Goal:</b> To increase <b>workforce</b> housing through creative partnerships and public policy</p>	

## Strategies for FY 2023

### Affordable Housing Development, Preservation and Sustainability

#### Affordable Housing Production

In 2019, the county adopted the goal of producing a minimum of 5,000 new homes by the year 2034 that are affordable to households earning 60 percent of the Area Median Income and below. This is intended to be supplemented with additional financing mechanisms and tools to produce affordable homes above this level. To promote the production of affordable housing, the Housing Blueprint Loan Program is the gateway to FCRHA funds for developers of affordable housing. The FCRHA continues to identify and pursue opportunities to maximize leveraging of county funds for development, with a focus on achieving Housing Blueprint goals. In addition, the FCRHA uses a variety of other tools, such as tax-exempt bond financing, to leverage third-party funding sources, including Low Income Housing Tax Credits (LIHTC). Finally, as an owner and operator of over 3,000 units, the FCRHA also directs the rehabilitation and expansion of existing affordable housing portfolio.

#### **Estimated Outcomes for FY 2023:**

- **Planned Number of New Units Produced that are Affordable to Households at 60% AMI or Below in FY 2023:**  
Construction is underway in FY 2023 on 540 units for the following projects, which received approval for Housing Blueprint funds and tax-exempt bond issuances in FY 2022:
  - Oakwood Apartments (Lee District) – 150 senior units - \$5.3 million Housing Blueprint Loan (HBL); \$12.6 million FCRHA bonds
  - One University (Braddock District) – 120 multifamily units; 120 senior units - \$6.5 million HBL; \$19.7 million FCRHA bonds
  - The Lodge at Autumn Willow (Springfield District) – 150 senior units; \$4.5 million HBL; \$17.0 million FCRHA bonds
  - The Residences at North Hill (Mt. Vernon District) – 216 multifamily units; 63 senior units - \$ 3.0 million in HBL
  - Arrowbrook (Dranesville District) – 274 units; \$7.74 million in HBL; \$22.5 million FCRHA bonds
  - The Arden (Mt. Vernon District) – 126 units; \$7.4 million in HBL
- **Planned New Development Activities in FY 2023, Including the Use of County-Owned Land and Facilities:**
  - Closing on the financing for the combination rehabilitation and new construction on the FCRHA-owned Little River Glen (Braddock District) is anticipated for the second quarter of FY 2023. This project includes both the rehabilitation of 120 existing senior units and the new construction of 60 senior units on existing vacant land. This project will also involve the use of multiple financing sources and the issuance of FCRHA bonds.
  - Predevelopment activities are planned throughout FY 2023 for the land acquisition and development of Dominion Square West Phase I (Hunter Mill District), in partnership with the Arlington Partnership for Affordable Housing (APAH). This unprecedented project will involve the purchase of the underlying land by the FCRHA and the development of 175 multifamily units by APAH.
  - Predevelopment activities are anticipated throughout FY 2023 to create permanent supportive housing at the FCRHA-owned Route 50/West Ox Road site (Sully District). Cornerstones has partnered with the FCRHA to provide 34 units of supportive housing for individuals with low incomes.
  - Predevelopment activities are expected to occur throughout FY 2023 for the redevelopment of the G and H parking lots at the Fairfax County Government Center (Braddock District). This project is anticipated to provide approximately 275 units of housing for low-and-moderate-income households and will be developed through a public-private partnership between the FCRHA and a developer.
  - Predevelopment activities are projected to occur throughout FY 2023 for the redevelopment of the Franconia Governmental Center located at 6121 Franconia Road, Alexandria (Lee District). This project is anticipated to provide approximately 120 units of housing for low-and-moderate-income households and will be developed through a public-private partnership between the FCRHA and a developer.

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#### **Preservation of Affordable Units**

The county adopted a goal of no net loss of affordable housing, with the preservation of affordable housing in both market affordable and committed affordable rental communities and scattered sites. To meet this goal, the FCRHA assists private partners in financing the acquisition of units to preserve the existing affordability and continue to serve a range of incomes, from extremely low-income (30 percent AMI and below) through moderate income levels (above 80 percent of AMI).

#### **Estimated Outcomes for FY 2023:**

- **Planned Number of Units Preserved that are Affordable to Households at 60% AMI or Below in FY 2023:**  
It is anticipated that approximately 240 units will be preserved at 60% AMI and below.
- **Planned New Preservation Activities in FY 2023:**  
Efforts with developers will continue throughout FY 2023 to ensure no net loss of existing affordability.

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#### **Addressing Homelessness in the Community**

The Office to Prevent and End Homelessness (OPEH) continues to manage and coordinate services to help people experiencing homelessness. The agency serves as the lead for the Continuum of Care and collaborates with other county agencies and organizations to end homelessness. OPEH continues to identify opportunities to link affordable housing preservation activities with the countywide homelessness plan.

#### **Estimated Outcomes for FY 2023:**

- **Estimated Number of Formerly Homeless Households Who Will Receive Permanent Housing in FY 2023:**  
Approximately 1,800 households will either receive or maintain permanent housing in FY 2023 through the Continuum of Care. Of this number, 54 percent are referred from street outreach and 46 percent are referred from emergency shelter, transitional housing, and rapid rehousing.
- **Planned Activities in FY 2023:** In the Fall of 2022, the emergency family shelter in human services region 2 will undergo renovations to become a permanent supporting housing program with 16 apartments. The program will serve families with the highest housing barriers who require a deep subsidy and support services to maintain housing stability.

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#### **Affordable Dwelling Units and Workforce Dwelling Units**

The FCHRA facilitates the development of Affordable Dwelling Units (ADUs) and Workforce Dwelling Units (WDUs) that are affordable to families with a range of low and moderate incomes. The FCRHA takes an active advocacy and educational role in promoting ADUs and WDUs and works jointly in these efforts with the Planning Commission. The FCRHA also works with the Department of Planning and Development to facilitate the delivery of affordable and workforce housing units in Tysons, Reston, Merrifield, and all areas of the county as development proposals are submitted, per the Comprehensive Plan and negotiated proffers. In 2021, changes were adopted to the Workforce Dwelling Unit Policy which offer developers a density bonus for commitments of rental WDUs at 60%, 70% and 80% AMI.

#### **Estimated Outcomes for FY 2023:**

- **Estimated Number of Affordable Dwelling Units (rental and for-sale) constructed in FY 2023:** 13 For-Sale; 25 Rental
  - **Estimated Number of Workforce Dwelling Units (rental and for-sale) constructed in FY 2023:** 14 For-Sale; 200 Rental
-

**County-Owned Land and Facilities for Affordable Housing**

To further produce and acquire affordable housing, Fairfax County and the FCRHA encourage public-private partnerships to develop workforce/affordable housing on surplus or underutilized county-owned land and facilities, particularly for special needs populations.

**Estimated Outcomes for FY 2023:**

This is an ongoing strategic priority for the FCRHA, and thus there are no specific anticipated outcomes for FY 2023.

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**Rental Housing Compliance**

Staff and the FCRHA monitor owner compliance with regulations governing rental units provided through the ADU and WDU programs. In addition, staff monitor units supported by the Housing Blueprint Loan Program, tax-exempt bond financing, and other special affordable housing programs, such as special needs unit acquisitions supported by federal funds administered through HCD.

**Estimated Outcomes for FY 2023:**

This is an ongoing strategic priority for the FCRHA, and thus there are no specific anticipated outcomes for FY 2023.



## Affordable Rental Housing, Property Management and Maintenance

### Fairfax County Rental Program

The Fairfax County Rental Program (FCRP) includes rental property owned by the FCRHA and developed with funds other than RAD-Project Based Voucher or Housing Choice Voucher (HCV) funds. FCRP generally serves working households with incomes that are slightly higher than those served in the RAD-Project Based Voucher or HCV programs. Housing managed under the FCRP includes 2,018 units of multifamily housing, 317 units of specialized housing, and 482 units of senior independent housing. The FCRP serves a range of households with incomes from the low teens up to 80% of AMI, depending on the program component and the property.

#### **Estimated Outcomes for FY 2023:**

- Estimated Occupancy Rate of FCRP Properties in FY 2023: 98%

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### Rental Assistance Demonstration Program

The Rental Assistance Demonstration (RAD) program allowed the FCRHA to convert all 1,060 Public Housing units to federal Section 8 project based subsidies, providing significant benefits for both residents and the housing authority. All Public Housing units were converted to RAD in FY 2017 and FY 2018 and now operate under the Project Based Voucher (PBV) platform. Staff pro-actively ensure that RAD-PBV residents are living in the most appropriately sized unit, with the goal of maximizing unit utilization and moving larger families off the waiting list.

#### **Estimated Outcomes for FY 2023:**

- Estimated Occupancy Rate of RAD-PBV Properties in FY 2023: 98%
- Estimated Average Income Served as a Percentage of AMI in FY 2023: Approximately 13% AMI for a household of four or approximately \$16,519

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### Asset Management

Staff and the FCRHA continue to focus on financial performance, overall condition, capital improvements and accountability of all properties, using a private-sector model. As of FY 2022, HCD has moved to full third-party management for all FCRP, RAD and Senior communities, except Coan Pond Residences and Woodley Hills Estates. HCD's Asset Management Division continues to oversee all FCRHA properties.

#### **Estimated Outcomes for FY 2023:**

This is an ongoing strategic priority for the FCRHA, and thus there are no specific anticipated outcomes for FY 2023.

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### Rehabilitation and Modernization of FCRHA Properties

Through fiscally responsible processes, identified residential properties and group homes are rehabilitated to maintain their safety and quality. The rehabilitation of FCRHA properties is performed using set aside capital reserves to ensure the high quality of FCRHA properties. Importantly, staff continue to incorporate universal design in all new projects and in rehabilitation projects to the greatest extent possible to increase the number of affordable accessible units.

#### **Estimated Outcomes for FY 2023:**

- Planned Rehabilitation and Modernization Projects in FY 2023: Two communities are in the process for rehabilitation as follows:
  - Little River Glen, a FCRP independent senior living community of 120 units, will be undergoing a full renovation in FY 2023. This property has one bedroom and studio units, of which Project Based Vouchers will be added. This renovation will add an additional newly constructed building, Little River Glen IV, with 60

newly constructed one-bedroom Low Income Housing Tax Credit (LIHTC) units. All units will feature upgraded flooring, upgraded kitchens with energy rated appliances and upgraded bathrooms.

- Stonegate Village Apartments is a LIHTC property with 240 units. This property has a mix of one-, two-, three- and four-bedroom apartments consisting of 194 LIHTC units, 46 HUD subsidized units and 6 Project Based Voucher units. All units will be fully renovated with new flooring, upgraded kitchens with energy rated appliances, upgraded bathrooms, and newly added energy rated washers and dryers in every unit.

## Tenant Subsidies and Resident Services

### **Tenant and Project Based Subsidies**

The Housing Choice Voucher (HCV) Program and Rental Assistance Demonstration-Project Based Voucher (RAD-PBV) Program are two of the FCRHA's major tenant subsidy programs. Participants receive financial assistance to rent privately-owned and FCRHA-owned housing units. There are 1,060 FCRHA units in the RAD-PBV program, although 46 are not available due to the One University redevelopment project. There are also an additional 4,308 vouchers authorized by the U.S. Department of Housing and Urban Development (HUD) for a total of 5,368 federally subsidized units, including 169 Emergency Housing Vouchers authorized in May 2021.

### **Estimated Outcomes for FY 2023:**

- Estimated Number of federally subsidized units occupied in FY 2023: 5,100 (95%)
- Estimated average income of households served as a percentage of AMI in FY 2023 (both HCV and RAD-PBV households): Approximately \$18,000 for average household size of 3 persons (less than 30% of AMI).

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### **Subsidies for Populations with Special Needs**

The Department of Housing and Community Development (HCD) administers tenant subsidies directed toward specific populations through the following programs:

- Veterans Affairs Supportive Housing (VASH) Program: The U.S. Department of Veterans Affairs awarded the FCRHA VASH housing vouchers for homeless veterans. The FCRHA conducts income certifications; case management is provided by Veterans Affairs.
- Rental Subsidy and Services Program (RSSP): HCD staff administers RSSP (formerly called Bridging Affordability). RSSP funds are provided to non-profits via a competitive process to provide rental subsidies and acquire units to serve homeless individuals and families, victims of domestic violence, and individuals with physical and/or sensory disabilities.
- Tenant Based Rental Assistance Program (TBRA): HCD uses federal HOME-funded vouchers to serve homeless populations and persons with special needs.
- Family Unification Program (FUP): HCD uses special federal FUP vouchers for families that, due to inadequate housing, would 1) have the family's children placed in out-of-home care; or 2) have the discharge of children from out-of-home care delayed.
- Mainstream Housing Choice Vouchers: When the opportunity arises, HCD applies for vouchers for non-elderly disabled persons, including persons at-risk of institutionalization due to their housing situation or those in institutions wishing to live in their community.
- State Rental Assistance Program (SRAP): Participants with intellectual and other developmental disabilities receive financial assistance to rent privately-owned housing units.

### **Estimated Outcomes for FY 2023:**

- Estimated Number of households served in FY 2023 under the VASH, RSSP, TBRA, FUP, Mainstream and SRAP programs: 773 vouchers

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### **Resident Services**

*The PROGRESS Center* - Important rental services are provided through the HCD PROGRESS Center, which plays a significant role in promoting economic growth and self-sufficiency among FCRHA program participants. The PROGRESS Center focuses on interventions to prevent and address crises as well as collaborate with sister human service agencies to coordinate services and provide residents facing eviction with opportunities to resolve their issues.

*Moving to Work* - The FCRHA is designated as a Moving to Work (MTW) agency which allows the creation of a housing continuum that seamlessly joins together the County's housing programs and establishes goals to help



residents move toward self-sufficiency. MTW authority also helps to reduce the burden both on staff and residents related to administrative issues and provides flexibilities in the use of federal funds.

*Emergency Solutions Grants* - In addition to identifying opportunities to provide specialized rental housing for those who are homeless, HCD utilizes the County's Emergency Solutions Grants awards to provide partial support of prevention and rapid re-housing activities for homeless individuals and families.

**Estimated Outcomes for FY 2023:**

- Estimated Number of participants served under Family Self-Sufficiency Program in FY 2023: 125 participants
- Estimated Number of persons moved from homelessness to permanent housing in FY 2023 using Emergency Solutions Grants: 330 persons
- Estimated dollar amount of Emergency Solutions Grant funds used for homelessness prevention assistance in FY 2023: Based on previous fiscal years, approximately \$407,000 is anticipated for FY 2023.

## Homeownership and Relocation Services

### First-Time Homebuyers Program

The First-Time Homebuyers Program (FTHB) includes Affordable Dwelling Units through inclusionary zoning that provide new first-time homebuyer opportunities through private, for-sale developments. The program serves buyers with incomes up to 70% AMI with HCD ensuring potential purchasers receive homeownership education and meet program underwriting criteria and other eligibility requirements. HCD also monitors refinancing of FTHB units by owners and works with owners to prevent foreclosure. Compliance monitoring is undertaken to ensure the FCRHA receives the required equity share contribution to the Housing Trust Fund.

#### **Estimated Outcomes for FY 2023:**

- Estimated Number of new first-time homebuyers in FY 2023: 40
- Estimated Number of requests to refinance FTHB units in FY 2023: 40
- Estimated Number of FTHB units sold in the Extended Control Period in FY 2023: 10

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### Housing Choice Voucher Homeownership Program

This program allows households participating in the Housing Choice Voucher (HCV) Program to use their voucher to purchase a home and receive monthly assistance in meeting homeownership expenses. Twenty-five HCVs are allocated to the HCV Homeownership Program.

#### **Estimated Outcome for FY 2023:**

- Estimated Number of families participating in the HCV Homeownership Program in FY 2023: 25

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### Workforce Housing

The WDU Policy is a proffer-based incentive to encourage housing in mixed-use centers that is affordable to a variety of household income levels. HCD staff work in coordination with the Department of Planning and Zoning to implement and monitor the WDU policy.

#### **Estimated Outcomes for FY 2023:**

- Estimated Number of new Workforce Dwelling Units sold in FY 2023: 25

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### Moderate Income Direct Sales (MIDS) Program

Under the MIDS program, units were sold to families with moderate income levels by providing second trust loans to reduce the cost of homeownership for households. Resale prices of units is limited and the FCRHA has the first right of refusal when the home is resold. HCD staff monitor the expiration of the control period and/or recapture of any remaining loan balance.

#### **Estimated Outcomes for FY 2023:**

- Planned Number of MIDS Units in Program for Monitoring in FY 2023: 59
-

**Relocation Program**

Staff at HCD provide technical relocation assistance for the development community on tenant relocation issues as well as conduct relocation for FCRHA-owned properties under redevelopment or major renovation.

**Estimated Outcomes for FY 2023:**

This is an ongoing strategic priority for the FCRHA, and thus there are no specific anticipated outcomes for FY 2023.

## FCRHA/HCD Program Planning, Development and Management

The FCRHA and HCD pursue a wide range of planning, management, and compliance activities to ensure efficient and effective operations. These activities also support the mission, values, and goal statements of the FCRHA. Below are descriptions of several strategic priorities underway for the FCRHA for FY 2023.

- **Communitywide Housing Strategic Plan**

In 2018, the Fairfax County Communitywide Housing Strategic Plan was adopted to help address the community's growing housing needs. The Plan was created in two phases: 1) Phase 1 identified 25 short-term strategies to encourage the production of affordable housing in the county; 2) Phase 2 provided longer-term strategies that would boost the production and preservation of affordable housing and would require resources to implement. The FCRHA and HCD continue to lead the implementation of priorities identified under the Communitywide Housing Strategic Plan, include the goal to develop at least 5,000 new units of affordable housing by the year 2034 and to strive towards no net loss of market affordable housing.

- **Affordable Housing Advisory Council**

In June 2021, the Fairfax County Board of Supervisors approved the re-chartering of the Affordable Housing Advisory Council (AHAC) (formerly the Affordable Housing Advisory Committee) to include a new Continuum of Care (CoC) Committee of the Council and redefine the purpose, structure, and duties of both AHAC and CoC members. Among the updated duties of AHAC are to monitor and provide advice regarding the Communitywide Housing Strategic Plan, recommend preservation and creation priorities, and monitor affordable housing funds. CoC duties including developing, monitoring, and updating the CoC plan, tracking progress of ending homelessness, and exercising stewardship of pooled funding.

- **Grants Compliance**

HCD continues to evaluate the use of federal Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) funds to maximize the effectiveness of investments in programs and activities. Staff provide technical assistance and monitoring of CDBG and HOME activities to ensure program compliance and successful outcomes. In addition, staff monitor activities and outcomes of HCD and FCRHA awardees, including funds granted via the Consolidated Community Funding Pool process.

- **Maximizing Organizational Effectiveness**

HCD staff will continue to strengthen organizational effectiveness and adapt to changes due to the ongoing COVID-19 pandemic. In FY 2022, HCD transitioned to a third-party management model which resulted in structures, procedures, staffing and funding alignments to the new model. Staff will continue to adjust to the model as needed. HCD will also look to further streamline business processes as a follow-up to the third-party management realignment, merger with the Office to Prevent and End Homelessness, and other business needs.

- **Strategic Communications**

The FCRHA and HCD work to continuously advance the efficiency and usability of web content and increase the use of videos in telling the story of affordable housing. Both the FCRHA and HCD websites will continue with video and graphical portrayals of information and the incorporation of enhanced language accessibility tools on the Fairfax County website. A social and racial equity focus will be embedded in all communications.

- **Human Capital Development**

HCD continues to promote participation in mentorship programs, leadership training curriculum, and other development opportunities. Staff are also encouraged to participate in professional conferences, within budgetary constraints. HCD will continue to emphasize training and educational opportunities for staff on topics of equity, diversity, and inclusion to further the advancement of One Fairfax.

- **Advancement of One Fairfax**

HCD and the FCRHA continue to advance the equity principles of the One Fairfax Policy through training, education, inclusive community engagement strategies, and data analysis. HCD has adopted six equity goal areas including voucher programs; affordable housing development; training, human resources, and communications; equitable service delivery; policy and procedures; and homelessness. Work on these areas will continue in FY 2023 as the agency makes specific advances in the implementation of the agency Equity Impact Plan.

**FY 2023 Department of Housing and Community  
Development/Fairfax County Redevelopment and Housing  
Authority Advertised Budget**

<b>Fund #</b>	<b>Fund Name</b>	<b>Advertised Revenues FY 2023</b>	<b>Advertised Expenditures FY 2023</b>
10001	<b>General Fund - HCD</b>	\$10,846,428	\$10,846,428
10001	<b>General Fund - OPEH</b>	\$18,040,114	\$18,040,114
30300	<b>Affordable Housing Development and Investment</b>	\$25,386,000	\$25,386,000
40300	<b>Housing Trust Fund</b>	\$3,667,191	\$3,667,191
50800	<b>CDBG</b>	\$6,128,149	\$6,128,149
50810	<b>HOME</b>	\$2,175,471	\$2,175,471
81000	<b>FCRHA General Operating</b>	\$3,280,256	\$4,721,804
81060	<b>FCRHA Internal Service Fund</b>	\$1,854,925	\$1,854,925
81400	<b>FCHRA Asset Management Fund</b>	\$727,194	\$727,194
81500	<b>Housing Grants</b>	\$2,648,990	\$2,634,912
81510	<b>Section 8/HCV</b>	\$82,143,978	\$81,922,415
	Subtotal	<b>\$ 156,898,696</b>	<b>\$ 158,104,603</b>
81060	Less Internal Service Fund (ISF)	<b>\$ 1,854,925</b>	<b>\$ 1,854,925</b>
	<b>Total Advertised Budget Less ISF (All Housing Funds)</b>	<b>\$ 155,043,771</b>	<b>\$ 156,249,678</b>

**Contingency Plan for FY 2024**  
*(Adopted by the WAG on November 15, 2022)*  
*(Adopted by the CCFAC on 1-10-23)*

**Federal Funding Allocations for FY 2024**

The recommended allocations of FY 2024 CDBG, ESG and HOME funding (Federal Funding) and program income earned from prior uses of Federal Funding (Program Income) were based on estimates. If there is greater than a 10 percent difference between the estimated and actual CDBG, ESG and/or HOME funding awarded for FY 2024, the County's Board of Supervisors reserves the right to reconsider the proposed funding allocations. If there is no more than a 10 percent (10%) difference between the estimated and the actual funding awarded, Fairfax County will utilize the following contingency provision governing the use of the Federal Funds:

**CDBG**

- A. If the actual CDBG funding amount is lower than the estimated funding, all CDBG-funded activities are to be proportionally decreased from the estimated funding levels to match the actual CDBG award amount, with the following exceptions:
- The Section 108 Loan Payment will remain as represented in the plan.
  - The total allocation for General Administration, Planning, Fair Housing, and Homeownership Administration will be capped at 20 percent (20%) of the CDBG award based on HUD limits.
  - The Targeted Public Services (CCFP TPS) allocation will be capped at 15 percent (15%) of the CDBG award based on HUD limits.
  - Funding allocations for Section 108 Loan, General Administration, Planning, Fair Housing, Homeownership Administration and CCFP TPS will be made prior to any other proportional adjustments to the remaining CDBG-funded activities.
- B. If the actual CDBG funding amount is greater than the estimated funding, all CDBG-funded activities are to be funded as represented in the plan, with the following exceptions:
- The total allocation for General Administration, Planning, Fair Housing, and Homeownership Administration will be capped at 20 percent (20%) of the CDBG award based on HUD limits.
  - The CCFP TPS allocation will be increased to an amount that is capped at 15% of the actual CDBG award.

- The unallocated balance of the CDBG funding available as a result of the funding increase will be allocated as follows:
  - 30% to the RFP; and
  - 70% to FCRHA and Fairfax County Rehabilitation and Acquisitions

**HOME**

- A. If the actual HOME funding amount is lower than the estimated funding, all HOME-funded activities are to be proportionally decreased from the estimated funding levels to match the actual HOME award amount, with the following exceptions:
- The total allocation for HOME Administration and Fair Housing will be capped at 10% of the HOME award based on HUD limits.
  - Federal regulations require that jurisdictions set-aside a minimum of 15% of the HOME award each year for Community Housing Development Organization (CHDO) investment. The CHDO set-aside will be 15% of the actual HOME award.
  - Funding allocations for HOME Administration, Fair Housing and CHDO are to be made prior to all other proportional adjustments to the remaining HOME funded activities.
- B. If the actual HOME funding amount is greater than the estimated funding, all HOME-funded activities are to be funded as represented in the plan, with the following exceptions:
- The total allocation for HOME Administration and Fair Housing will be capped at 10% of the HOME award based on HUD limits.
  - The CHDO set-aside will be 15% of the actual HOME award.
  - The unallocated balance of the HOME funding available as a result of the funding increase will be allocated to the RFP.

**ESG**

All ESG-funded activities are proportionally increased or decreased from the estimated funding levels to match the actual ESG award amount.



**Program Income Available for Use in FY 2024**

All Program Income received from activities funded with CDBG and/or HOME in excess of the estimates for FY 2024 is to be allocated as follows:

- Program Income (i.e., net operating income) received from FCRHA-owned properties that were acquired as part of the Affordable Dwelling Units (ADU) program will be allocated to FCRHA and Fairfax County Rehabilitations and Acquisitions.
- All excess CDBG Program Income will be allocated to FCRHA and Fairfax County Rehabilitations and Acquisitions or other priority program needs.
- All excess HOME Program Income will be allocated to the RFP.

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INFORMATION - 1

Fairfax-Falls Church Community Services Board Fee Schedule

Since its establishment in 1969, the Fairfax-Falls Church Community Services Board (CSB) has complied with *Section 37.2-504 (A) (7) of the Code of Virginia*, which states the CSB shall prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the CSB Board and establish procedures for the collection of the same.

The CSB ensures compliance with the Code of Virginia by: (1) conducting a review of fee-related materials by CSB staff, in consultation with CSB Board Members; (2) reviewing publicly during CSB Board meetings and accepting written comments regarding proposed changes; and (3) accepting comments during multiple public CSB Board meeting. In accordance with the CSB's Memorandum of Agreement with the Board of Supervisors as well as State regulations, on March 22, 2023, the CSB Board approved a Fee Schedule with revisions to selected service charges.

The services on the Fee Schedule include outpatient, residential, and ancillary services. Fees for Virginia Medicaid State Plan Option services are set at the Medicaid reimbursement rate. Fees for outpatient services are traditionally cost-based and recorded in increments that are consistent with Current Procedural Terminology (CPT) maintained by the American Medical Association to uniformly describe medical (including psychiatric), surgical, and diagnostic services. Fees for residential services are based on Medicaid set rates, and in some cases income-based due to the extended length of stay for residential treatment or the permanency of a community-living setting for individuals with an intellectual disability. Ancillary charges include usual and customary fees such as those to cover administrative costs such as copying records or returned checks and as prescribed by Fairfax County Code and/or the Code of Virginia.

The current proposed changes to the CSB Fee Schedule are primarily attributable to revising Medicaid and Medicare reimbursement rates for services.

Unless otherwise directed by the Board of Supervisors, the County Executive will direct staff to proceed with the implementation of the revised Fee Schedule. Sufficient advance notice of fee changes must be given to consumers.

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FISCAL IMPACT:

The fee related documents provide the CSB with uniform mechanisms to maximize revenues from clients, Medicaid, Medicare, and other health insurance plans. The FY 2023 Revised Budget Plan for the CSB includes \$21 million in estimated fee revenues.

ENCLOSED DOCUMENTS:

Attachment 1 – CSB Fee Schedule

Attachment 2 – Summary of Changes to CSB 2023-2024 Fee Schedule

STAFF:

Christopher Leonard, Deputy County Executive

Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board (CSB)

Sebastian Tezna, Director of Behavioral Health Operations, Fairfax-Falls Church CSB

Michelle Gonsalves, Contracts and Credentialing Manager, Fairfax-Falls Church CSB

FY24 Final Fee Schedule

Service	Service Code	Revenue Code (Facility Billing Only)	Subject to Ability to Pay Scale	Previous Rate	New Rate	Unit	Change
Initial Evaluation/Assessment	90791		Yes	\$197.19	\$191.78	per event	(\$5.41)
Psychiatric Evaluation, Medical Services	90792		Yes	\$221.80	\$216.44	per event	(\$5.36)
Individual Therapy/Counseling (16 to 37 minutes)	90832		Yes	\$85.67	\$82.66	per event	(\$3.01)
Individual Therapy/Counseling (38 to 52 minutes)	90834		Yes	\$113.11	\$109.40	per event	(\$3.71)
Individual Therapy/Counseling (53 minutes or greater)	90837		Yes	\$165.87	\$160.87	per event	(\$5.00)
Crisis Intervention - non-Medicaid	90839		Yes	\$158.89	\$154.85	per hour	(\$4.04)
Crisis Intervention - Addl 30 Min	90840		Yes	\$79.74	\$77.17	each add't 30 min	(\$2.57)
Family Therapy w/out client (50 minutes)	90846		Yes	\$106.54	\$103.20	per event	(\$3.34)
Family Therapy w/ client (50 minutes)	90847		Yes	\$110.19	\$107.60	per event	(\$2.59)
Group Therapy/Counseling (per group, per person)	90853		Yes	\$30.12	\$29.35	per event	(\$0.77)
Injection Procedure	96372		Yes	\$16.91	\$16.37	per event	(\$0.54)
Urine Collection & Drug Screen- Retests Only (Specimen Handling)	99000		Yes	\$3.68	\$3.68	per event	\$0.00
Nursing Subsequent Care - Established Patient	99211		Yes	\$27.97	\$27.43	per event	(\$0.54)
Office Outpatient Established 10-19 Min	99212		Yes	\$66.74	\$65.40	per event	(\$1.34)
Psychiatric Evaluation & Management Low Complexity - Established Patient 20-29 Min	99213		Yes	\$105.79	\$103.35	per event	(\$2.44)
Psychiatric Evaluation & Management Moderate Complexity - Established Patient 30-39 Min	99214		Yes	\$148.55	\$145.72	per event	(\$2.83)
Office Outpatient Established High 40-54 min	99215		Yes	\$209.06	\$203.57	per event	(\$5.49)
Case Management - SA	H0006		Yes	\$273.38	\$243.00	per month	(\$30.38)
Residential Treatment	H0010 - HB	Revenue Code(s) 1002, and DRG(s) 894-897	Yes	\$423.32	\$376.46	per day	(\$46.86)
Intensive Outpatient - SA	H0015	Revenue Code 905 or 906	Yes	\$281.25	\$250.00	per day	(\$31.25)
Behavioral Health Outreach Service (Case Management - MH)	H0023		Yes	\$367.31	\$367.31	per month	\$0.00
ACT - Base Large Team	H0040		Yes	\$172.13	\$178.76	per diem	\$6.63
ACT - Base Medium Team	H0040 - U1		Yes	New	\$190.50	per diem	\$190.50
ACT - Base Small Team	H0040 - U2		Yes	New	\$219.60	per diem	\$219.60
ACT - High Fidelity Large Team	H0040 - U3		Yes	New	\$213.84	per diem	\$213.84
ACT - High Fidelity Medium Team	H0040 - U4		Yes	New	\$232.47	per diem	\$232.47
ACT - High Fidelity Small Team	H0040 - U5		Yes	New	\$275.95	per diem	\$275.95
Mobile Crisis (1:1 Licensed)/(1:1 Prescreener)/(Non-Emergency 1:1 Prescreener Licensed)	H2011 - HO/32/HK		Yes	\$31.06	\$71.08	per 15 min	\$40.02
Mobile Crisis (2:1 MA/PEER)	H2011 - HT, HM		Yes	New	\$113.85	per 15 min	\$113.85
Mobile Crisis (2:1 Licensed/PEER)	H2011 - HT, HO		Yes	New	\$121.51	per 15 min	\$121.51
Mobile Crisis (2:1 MA/MA)	H2011 - HT, HN		Yes	New	\$124.27	per 15 min	\$124.27
Mobile Crisis (2:1 Licensed, MA)	H2011 - HT		Yes	New	\$131.93	per 15 min	\$131.93
Therapeutic Behavioral Services	H2018		Yes	\$100.13	\$100.13	per 15 min	\$0.00
Crisis Stabilization - Adult Residential (Therapeutic Behavioral Services)	H2018	Revenue Code(s) 1001, and DRG(s) 876, 880-887	Yes	\$583 (Facility only)	\$583 (Facility only)	per day	None
Detoxification, Medical, Residential-setting	H2036 - HB	Revenue Code(s) 1002, and DRG(s) 894-897	Yes	\$423.32	\$518.86	per day	\$95.54
Detoxification, Social, Residential-setting	H2036 - HB	Revenue Code(s) 1002, and DRG(s) 894-897	Yes	\$423.32	\$518.86	per day	\$95.54
Drop-In Support Services, ID	None		Yes	Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour.	Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour.	per hour	None
Late Cancellation or No Show (commercial insurance coverage only)	None		Yes	\$25.00	\$25.00	per appointment	\$0.00
Residential Fee ID Community Living Services	None		No	75%	75%	of monthly gross income	0%
Residential Fee MH/SA Community Living Services	None		No	30%	30%	of monthly gross income	0%
Returned Check (due to insufficient funds or closed account)	None		No	\$50.00	\$50.00	per check	\$0.00
Transportation	None		No	\$100.00	\$100.00	per month	\$0.00
23-Hour Crisis Stabilization	S9485 - 32/HK		Yes	New	\$920.06	per diem	\$920.06
Release of Information: Research	S9981		No	\$10.00	\$10.00	per event	\$0.00
Release of Information: Per Page	S9982		No	\$.37 per pg up to 50 pgs; \$.18 per pg >= 51 pgs; \$6.00 per CD	\$.37 per pg up to 50 pgs; \$.18 per pg >= 51 pgs; \$6.00 per CD	per pages/CD	Varies

## Summary of Changes to CSB 2023-2024 Fee Schedule

### Fee Schedule

- The CSB has adopted the use of the national standard for rate development used by Medicare to determine reimbursement rates. The following structure has been adopted to allow for the Schedule to be updated annually with a standard methodology that can be validated with transparency.
  - First, use of CMS Medicare code/rate structure for Fairfax County
  - Second, if code/rate not available, use Virginia Department of Medical Assistance (DMAS) Fee Schedule
  - Third, if code/rate not available, use CSB negotiated rate with payers
- Added codes that were included in the VA DMAS service update.
- Removed codes no longer being billed to clients per the Revenue Management Team.

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. *Approval of Memorandum of Understanding between the Fairfax County Police Department (FCPD) and the Federal Bureau of Investigation (FBI) regarding the Northern Virginia Regional Intelligence Center (NVRIC)*
  - 2. *Jacob Austin Schneider v. Fairfax County Department of Public Works and Environmental Services, Case No. 1:22-cv-0871 (E.D.Va.); Appeal No. 23-1303 (4<sup>th</sup> Cir.)*
  - 3. *Courtney Graves v. Fairfax County, John Doe, a/k/a Jordy A. Anderson, Nicole Loren Campero Zamba, Michael J. Weaver, Camille Marie Lewandowski, Kimberlie M. England, Kathleen A. Prucnal and Kevin Davis, Greystar GP II LLC, GS Tyson's Corner Project Owner LLC, Nouvelle (Fairfax County), GREP Atlantic LLC, CAV, Record No. 1997-22-4 (Ct. App. Va.)*
  - 4. *Amazon Data Services, Inc. v. Board of Supervisors of Fairfax County, Virginia, Case No. CL-2022-0017489 (Fx. Co. Cir. Ct.)*
  - 5. *Jeremy D. Nickens v. May Shallal and Patrick Anderson, Case No. GV22-018316, (Fx. Co. Gen. Dist. Ct.)*
  - 6. *Jose M. Cedeno v. Commonwealth of Virginia, et al, Case No. CL- 2022-0004816 (Fx. Co. Cir. Ct.)*
  - 7. *April Michelle Marshall, a.k.a. April Norwood v. Alicia A. Adkins, et al., Case No. CL-2021-0004405 (Fx. Co. Cir. Ct.)*

8. *Ho Chul Sihh v. Syed Ahmed and Fairfax County Police Department; Case No. CL-2022-0001100 (Fx. Co. Cir. Ct.)*
9. *State Farm Mutual Automobile Insurance Company as Subrogee of Joyce Frank v. Paul Schafer; Case No. GV22-020163 (Fx. Co. Gen. Dist. Ct.)*
10. *Claudette Gama-Salazar v. Katharine M. Follot Layton, Case No. GV23-000660(Fx. Co. Gen. Dist. Ct.)*
11. *David Berry, Carol A. Hawn, Helen H. Webb, and Adrienne A. Whyte v. Board of Supervisors of Fairfax County, Record No. 211143 (Va. Sup. Ct.)*
12. *Leslie B. Johnson, Fairfax County Zoning Administrator and Gabriel M. Zakkak, Property Maintenance Code Official for Fairfax County, Virginia, v. John M. Winbery, Case No. CL-2023-0005556 (Fx. Co. Cir. Ct.) (Braddock District)*
13. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia v. Mark Steven Moratzka and Pamela J. Moratzka, Case No. GV22-001884 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
14. *Jay Riat, Building Official for Fairfax County, Virginia v. Pushpa Patar, Case No. GV22-019068 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
15. *Leslie B. Johnson, Fairfax County Zoning Administrator and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia, v. Laurence Putnam Wheeler and Susie A. Wheeler, Case No. CL-2019-0005794 (Fx. Co. Cir. Ct.) (Dranesville District)*
16. *Gabriel M. Zakkak, Property Maintenance Code Official for Fairfax County, Virginia, v. Stephen Patrick MacManus, Case No. CL-2023-0001059 (Fx. Co. Cir. Ct.) (Dranesville District)*
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Walter S. Bowman and Issa Maria Bowman, Case No. GV22-016114 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Santos Hernandez Romero, Case No. GV23-004708 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
19. *Jay Riat, Building Official for Fairfax County, Virginia v. Santos Hernandez Romero, Case No. GV23-006715 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)*
20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Keun Hoon Lee and Yong Ja Lee, Case No. CL-2019-0000700 (Fx. Co. Cir. Ct.) (Franconia District)*

21. *Jay Riat, Building Official for Fairfax County, Virginia v. Keun Hoon Lee and Yong Ja Lee*, Case No. CL-2022-0001105 (Fx. Co. Cir. Ct.) (Franconia District)
22. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sedaka A. Tomasto Tomateo, Juliana N. Lopez Mallqui and Jose L. Lopez La Rosa*, Case No. CL-2022-0013231 (Fx. Co. Cir. Ct.) (Franconia District)
23. *Jay Riat, Building Official for Fairfax County, Virginia v. Azmat Kham*, Case No. CL-2022-0008979 (Fx. Co. Cir. Ct.) (Franconia District)
24. *Jay Riat, Building Official for Fairfax County, Virginia v. Hever Joel Rosales and Margarita Rosales*, Case No. CL-2022-0006511 (Fx. Co. Cir. Ct.) (Franconia District)
25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Han S. Dong and Young N. Han*, Case No. CL-2023-0002456 (Fx. Co. Cir. Ct.) (Franconia District)
26. *Jay Riat, Building Official for Fairfax County, Virginia v. ALR Properties, LP, and Kamayan Fiesta Filipino Asian American Cuisine, LLC*, Case No. GV22-002850 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
27. *Jay Riat, Building Official for Fairfax County, Virginia v. Springfield Mart Limited Liability Company and Mr. Chicken LLC*, Case No. GV22-011610 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
28. *Jay Riat, Building Official for Fairfax County, Virginia v. Muhammad Khairullah, Noor Us Sabah Khairullah and Muhammad Maarijullah Khairullah*, Case No. GV22-013108 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
29. *Jay Riat, Building Official for Fairfax County, Virginia v. Wilder Montano*, Case No. GV23-002403 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
30. *Jay Riat, Building Official for Fairfax County, Virginia v. Endeavor Design & Build, Inc.*, Case No. GV23-003450 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
31. *Jay Riat, Building Official for Fairfax County, Virginia v. Maria Lenz*, Case No. GV23-005571 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
32. *Jay Riat, Building Official for Fairfax County, Virginia v. Analise Latoya Fagan*, Case No. GV23-007150 (Fx. Co. Gen. Dist. Ct.) (Franconia District)
33. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia, v. Ben Thomas*, Case No. CL-2020-0008874 (Fx. Co. Cir. Ct.) (Hunter Mill District)



34. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kyu Chong*, Case No. CL-2022-0147222 (Fx. Co. Cir. Ct.) (Hunter Mill District)
35. *Jay Riat, Building Official for Fairfax County, Virginia v. Kwangsoo Kim and Jeong Won Kim*, Case No. GV23-011073 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
36. *Jay Riat, Building Official for Fairfax County, Virginia v. Robert M. Fay and Kathryn Fay*, Case No. GV22-019335 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
37. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Md Bashed Molla and Lima Akter*, Case No. CL-2020-0011753 (Fx. Co. Cir. Ct.) (Mason District)
38. *Jay Riat, Building Official for Fairfax County, Virginia v. Salvador Gutarra Juarez and Aurora Mariela Gutarra*, Case No. CL-2022-0001863 (Fx. Co. Cir. Ct.) (Mason District)
39. *Jay Riat, Building Official for Fairfax County, Virginia v. Kyong S. Song*, Case No. CL-2022-0016159 (Fx. Co. Cir. Ct.) (Mason District)
40. *Jay Riat, Building Official for Fairfax County, Virginia v. Rosa E. Coreas*, Case No. CL-2022-0004588 (Fx. Co. Cir. Ct.) (Mason District)
41. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Leaders Properties, LLC*, Case No. CL-2023-0003804 (Fx. Co. Cir. Ct.) (Mason District)
42. *Jay Riat, Building Official for Fairfax County, Virginia v. Robert P. Beck*, Case No. CL-2023-0005409 (Fx. Co. Cir. Ct.) (Mason District)
43. *Jay Riat, Building Official for Fairfax County, Virginia v. Milton J. Aguilar Serrano and Lily M. Aguilar Serrano*, Case No. GV22-019062 (Fx. Co. Gen. Dist. Ct.) (Mason District)
44. *Leslie B. Johnson, Fairfax County Zoning Administrator v. David Guglielmi and Helen Guglielmi*, Case No. GV23-001539 (Fx. Co. Gen. Dist. Ct.) (Mason District)
45. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jose G. Chavez Caballero and Leslie Chavez*, Case No. GV23-000857 (Fx. Co. Gen. Dist. Ct.) (Mason District)
46. *Jay Riat, Building Official for Fairfax County, Virginia v. Burcin Kalender and Saadet Kalender*, Case No. GV23-002188 (Fx. Co. Gen. Dist. Ct.) (Mason District)

47. *Jay Riat, Building Official for Fairfax County, Virginia v. Lam T. Tran and Lynn Cheong*, Case No. GV23-003771 (Fx. Co. Gen. Dist. Ct.) (Mason District)
48. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Chase Elias Francis*, Case No. GV23-004343 (Fx. Co. Gen. Dist. Ct.) (Mason District)
49. *Jay Riat, Building Official for Fairfax County, Virginia v. Yun Investment, Inc.*, Case No. GV23-004608 (Fx. Co. Gen. Dist. Ct.) (Mason District)
50. *Jay Riat, Building Official for Fairfax County, Virginia v. Baileys I, LLC*, Case No. GV23-006554 (Fx. Co. Gen. Dist. Ct.) (Mason District)
51. *Jay Riat, Building Official for Fairfax County, Virginia v. Rafik Abdullahi and Semira Abdulkadir*, Case No. GV23-007151 (Fx. Co. Gen. Dist. Ct.) (Mason District)
52. *Jay Riat, Building Official for Fairfax County, Virginia v. Fahad Razzaq and Ruth Elizabeth Razzaq*, Case No. CL-2022-0001287 (Fx. Co. Cir. Ct.) (Mount Vernon District)
53. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Julia E. Freeman and Samuel H. King*, Case No. CL-2011-0005858 (Fx. Co. Cir. Ct.) (Mount Vernon District)
54. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mann Realty, Inc., and 495 Shipping, Inc.*, Case No. CL-2010-0005205 (Fx. Co. Cir. Ct.) (Mount Vernon District)
55. *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)
56. *Jay Riat, Building Official for Fairfax County, Virginia v. Viraj David*, Case No. GV23-002224 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
57. *Jay Riat, Building Official for Fairfax County, Virginia v. Anchinesh Ejigu*, Case No. GV23-003451 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
58. *Jay Riat, Building Official for Fairfax County, Virginia v. GC Retail L.C., Body and Soul, L.L.C.*, Case No. GV23-006557 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
59. *Jay Riat, Building Official for Fairfax County, Virginia v. Simple Changes Farm, L.L.C.*, Case No. GV23-006555 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

60. *Jay Riat, Building Official for Fairfax County, Virginia v. Gregory L. Schick and Deborah L. Schick*, Case No. GV23-006556 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
61. *Jay Riat, Building Official for Fairfax County, Virginia v. Susan Kay Mahon Revocable Trust*, Case No. GV23-007152 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
62. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jeffrey V. Reynolds, Mark J. Lane, Drainage & Erosion Solutions, LLC and Custom Stonescaping, LLC*, Case No. CL-2021-0002840 (Fx. Co. Cir. Ct.) (Providence District)
63. *Jay Riat, Building Official for Fairfax County, Virginia v. LZ Rentals, LLC*, Case No. CL-2022-05622 (Fx. Co. Cir. Ct.) (Providence District)
64. *Jay Riat, Building Official for Fairfax County, Virginia v. Daniel M. Heltzer and Alyssa Ripka Lubov*, Case No. GV23-017981 (Fx. Co. Gen. Dist. Ct.) (Providence District)
65. *Jay Riat, Building Official for Fairfax County, Virginia v. Dawn Marie Dangel*, Case No. GV23-018463 (Fx. Co. Gen. Dist. Ct.) (Providence District)
66. *Jay Riat, Building Official for Fairfax County, Virginia v. Tensen N. Khato and Nyima Y. Khato*, Case No. GV22-019069 (Fx. Co. Gen. Dist. Ct.) (Providence District)
67. *Jay Riat, Building Official for Fairfax County, Virginia v. Merrilee Station LLC*, Case No. GV23-005531 (Fx. Co. Gen. Dist. Ct.) (Providence District)
68. *Jay Riat, Building Official for Fairfax County, Virginia v. Carlos M. Banegas*, Case No. GV22-017980 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
69. *Jay Riat, Building Official for Fairfax County, Virginia v. Byong Kang and Susan Kang*, Case No. GV22-019236 (Fx. Co. Gen. Dist. Ct.) (Sully District)
70. *Leslie B. Johnson, Fairfax County Zoning Administrator v. G. Thomas Pendelton and Diana G. Pendelton*, Case No. GV22-020705 (Fx. Co. Gen. Dist. Ct.) (Sully District)
71. *Jack Weyant, Property Maintenance Code Official for Fairfax County, Virginia, v. G. Thomas Pendleton and Diana G. Pendleton*, Case No. GV22-020706 (Fx. Co. Gen. Dist. Ct.) (Sully District)
72. *Board of Supervisors of Fairfax County v. McGee Garden Center, LLC, and Gloria Carhuancho McGee*, Case No. GV23-003659 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

**To be Deferred to  
6/6/2023 at 3:30 p.m.**

Board Agenda Item  
May 9, 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 March 8, 2023, the Planning Commission voted 11-0 (Commissioner Jimenez was absent from the meeting) to defer the public hearing for RZ 2022-SU-00010 to a date certain of April 26, 2023.

On April 26, 2023, the Planning Commission voted 11-0 (Commissioner Lagana was absent from the meeting) to defer the public hearing for RZ 2022-SU-00010 to a date certain of May 24, 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)

Damaris Martinez, Planner, DPD

To be Deferred to  
05/23/2023 at 4:00p.m.

Board Agenda Item  
May 9, 2023

3:30 p.m.

Public Hearing on PCA 80-S-008-02 (RZPA 2022-SU-00095) (Virginia Medical Transport, LLC) to Amend the Proffers for RZ 80-S-008 Previously Approved for Industrial Development to Permit Vehicle Light and Major Service Establishment and Associated Modifications to Proffers and Site Design With an Overall Floor Area Ratio of 0.46, Located on Approximately 2.33 Acres of Land (Sully District)

This property is located at 13939 Willard Rd., Chantilly, 20151. Tax Map 44-2 ((11)) 1A.

PLANNING COMMISSION RECOMMENDATION:

On February 15, 2023, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval the following actions:

- Approval of PCA 80-S-008-02, subject to the execution of proffered conditions consistent with those dated January 26, 2023, and the inclusion of additional language stating that no services will be performed outside of the facility; and
- Approval of a modification of Section 4102.5.OO.3.B of the Zoning Ordinance to allow direct access to Willard 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)

Sharon Williams, Planner, DPD

To be Deferred to  
05/23/2023 at 3:30p.m.

Board Agenda Item  
May 9, 2023

4:00 p.m.

Public Hearing on RZ 2016-SP-033 (Merit Investment, LLC) to Rezone From R-1 to PDH-3 to Permit Residential Development With an Overall Density of 1.34 Dwelling Units per Acre, Located on Approximately 2.24 Acres of Land (Springfield District)

This property is located on the northeast side of Center Road, approximately 1,800 feet southwest of its intersection with Rolling Road. Tax Map 79-3 ((6)) 11.

PLANNING COMMISSION RECOMMENDATION:

On February 15, 2023, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of RZ 2016-SP-033 and its associated Conceptual Development Plan, subject to the execution of proffered conditions dated December 28, 2022.

In a related action, the Planning Commission voted 12-0 to approve FDP 2016-SP-033, subject to the Board of Supervisors' approval of the concurrent rezoning application.

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  
May 9, 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 requested a deferral to allow time to resolve issues that a neighboring property owner had presented. The public hearing on a proposal to vacate a portion of Barney Road was deferred to May 9, 2023, at 4:00 p.m. The applicant is requesting another deferral due to legal filings pertaining to the County's Zoning Ordinance. The public hearing on a proposal to vacate a portion of Barney Road will be 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.

Board Agenda Item  
May 9, 2023

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
- Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
- Jeff Hermann, Division Chief, FCDOT-Site Analysis & Transportation Planning Division
- Greg Fuller, Section Chief, FCDOT-Site Analysis Section (SAS)
- 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

REVISED

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 May 9, 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.

REVISED

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 May 9, 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](http://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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 Our Site Set on the Future.



**VIKA Virginia, LLC**  
 8180 Greensboro Dr.  
 Suite 200  
 Tysons, VA 22102  
 703.442.7800  
[vika.com](http://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](http://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](http://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](http://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.

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*Our Site Set on the Future.*



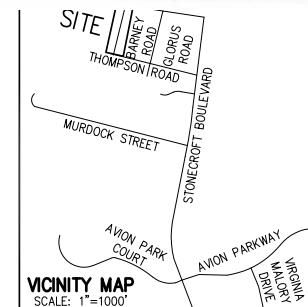
**NOTES:**

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.

**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
<b>TOTAL AREA VACATED.....</b>	<b>42,021 SF OR 0.96467 ACRES</b>



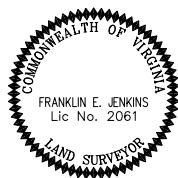
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**SURVEYOR'S CERTIFICATE:**

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

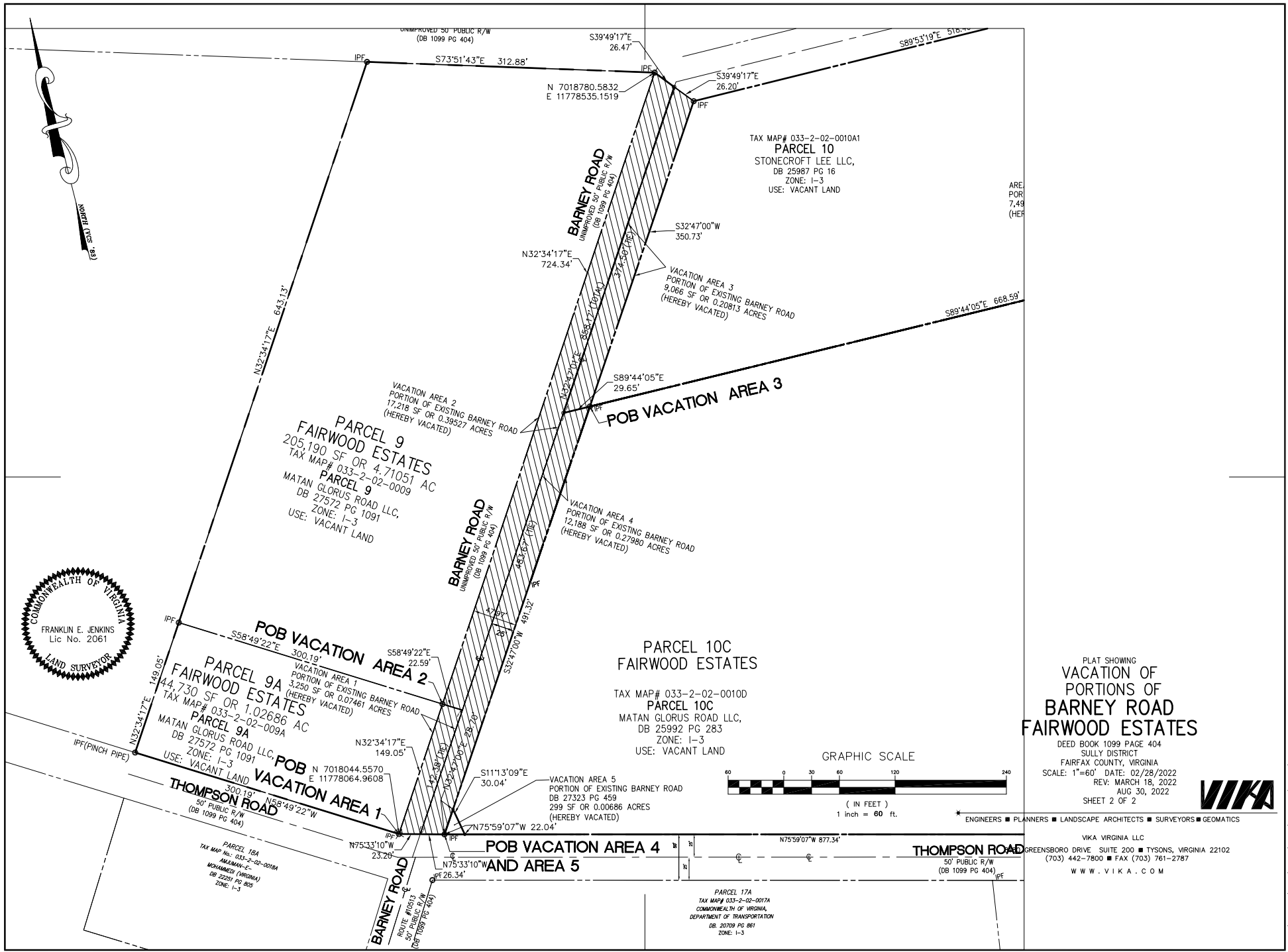


\* ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GEOMATICS

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-  
DATE: Aug. 30, 2022 TIME: 03:25 pm  
USER: Jenkins DATE: Aug. 30, 2022 TIME: 03:25 pm  
FILE: C:\Projects\8136\8136E\CADD\SURVEYS\PLATS\8136E RPT ROW VACATION.dwg



TAX MAP# 033-2-02-0010A1  
**PARCEL 10**  
 STONECROFT LEE LLC,  
 DB 25987 PG 16  
 ZONE: I-3  
 USE: VACANT LAND

ARE  
 POR  
 7.49  
 (HEF)

**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

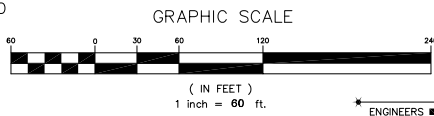
**PARCEL 9A**  
 FAIRWOOD ESTATES  
 44,730 SF OR 1.02686 AC  
 TAX MAP# 033-2-02-009A  
**PARCEL 9A**  
 MATAN GLORUS ROAD LLC,  
 DB 27572 PG 1091  
 ZONE: I-3  
 USE: VACANT LAND

**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

**PARCEL 17A**  
 TAX MAP# 033-2-02-0017A  
 ALLANAN-C-  
 MOHAMMED (ARMINA)  
 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

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

VIKA VIRGINIA LLC  
 GREENSBORO DRIVE SUITE 200 ■ TYSONS, VIRGINIA 22102  
 (703) 442-7800 ■ FAX (703) 761-2787  
 WWW.VIKA.COM

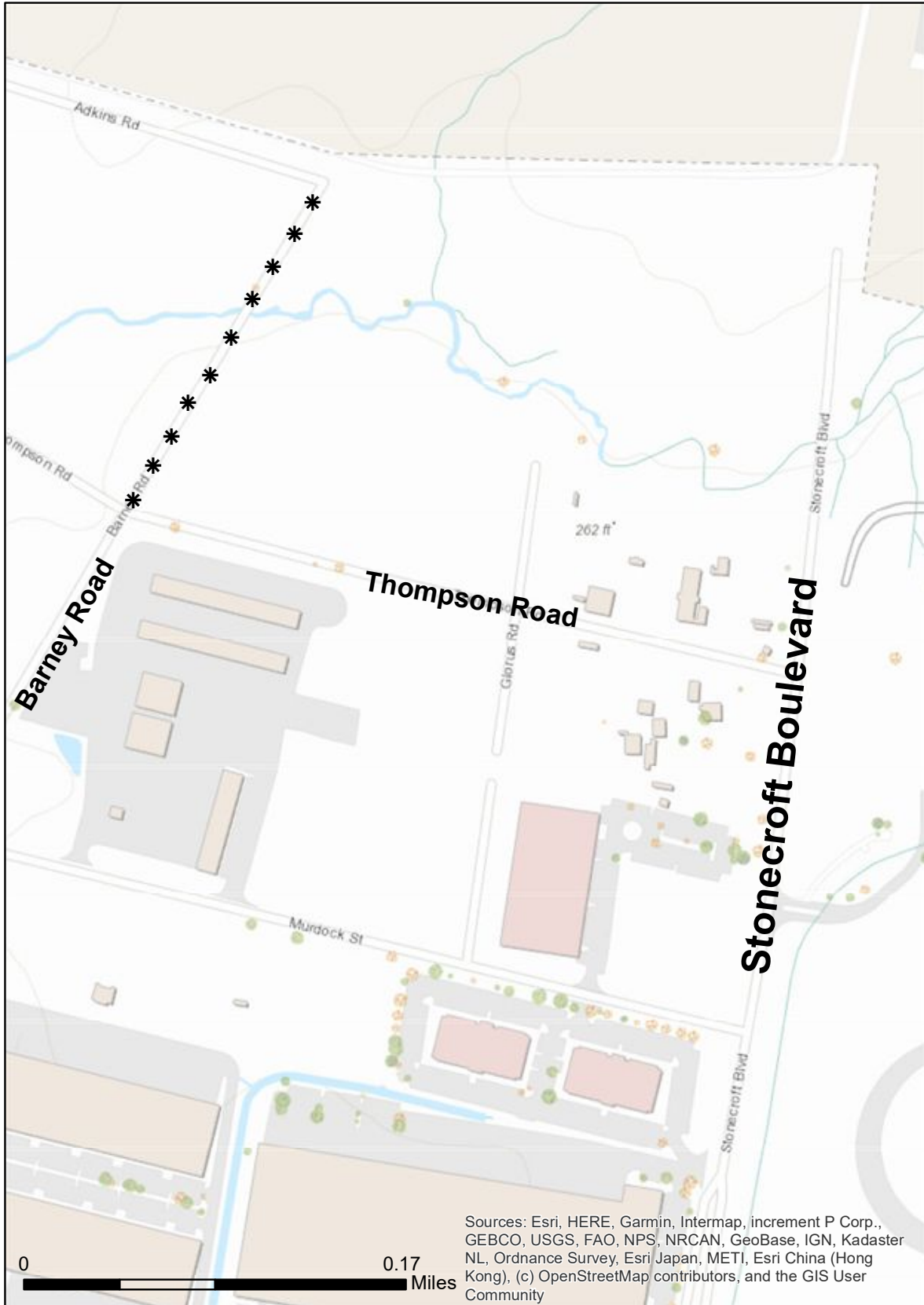


FILE: C:\Projects\19136\19136E\CADD\SURVEYS\PLATS\19136E RPT ROW VACATION.dwg USER: Jenkins DATE: Aug. 30 2022 TIME: 03:25 pm

RP

# Barney Road Vacation

## Sully District



Tax Map 33-2

\* Denotes Areas to be Vacated

Board Agenda Item  
May 9, 2023

4:00 p.m.

Public Hearing to Consider an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)

ISSUE:

Public hearing to consider a proposed amendment to Appendix G of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Culmore Residential Permit Parking District (RPPD), District 9, to include Wilkins Drive from Vista Drive to Knollwood Drive.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G of the Fairfax County Code to expand the Culmore RPPD, District 9.

TIMING:

On March 21, 2023, the Board authorized advertisement of a public hearing to consider the proposed amendment to Appendix G of the Fairfax County Code to take place on May 9, 2023, at 4:00 p.m.

BACKGROUND:

*Section 82-5A-4(b) of the Fairfax County Code* authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of \$10 per petitioning address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District. On December 13, 2022, a peak parking demand survey was conducted for the requested

Board Agenda Item  
May 9, 2023

area. The results of this survey verified that more than 75 percent of the total number of on-street parking spaces of the petitioned block faces were occupied by parked vehicles, and more than 50 percent of those occupied spaces were occupied by nonresidents of the petitioned blocks. All other requirements to expand the RPPD have been met.

FISCAL IMPACT:

Funding in the amount of approximately \$700 is required for signage and installation. Funds are currently available in Fairfax County Department of Transportation Fund 100-C10001, General Fund.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code  
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

Rachel Flynn, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Gregg Steverson, Deputy Director, FCDOT  
Lisa Witt, Chief, Administrative Services, FCDOT  
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT  
Neil Freschman, Chief, Traffic Engineering Section, FCDOT  
Henri Stein McCartney, Sr. Transportation Planner, FCDOT

ASSIGNED COUNSEL:

F. Hayden Codding, Assistant County Attorney

Proposed Amendment

Amend *The Code of the County of Fairfax, Virginia*, by modifying the following streets in Appendix G-9, Section (b)(2), Culmore Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

*Wilkins Drive (Route 1922):*

From Nevius Street to ~~Vista Drive~~ Knollwood Drive







Board Agenda Item  
May 9, 2023

4:00 p.m.

Public Hearing to Consider an Ordinance Establishing Parking Restrictions on Whittier Avenue (Dranesville District)

ISSUE:

Public hearing to consider a proposed amendment to Appendix R of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish parking restrictions on Whittier Avenue in the Dranesville District.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment to Appendix R of the Fairfax County Code (Attachment I) to prohibit commercial vehicles, recreational vehicles, and trailers as defined, respectively, in *Fairfax County Code §§ 82-5-7, 82-5B-1, and 82-1-2(a)(50)*, from parking on Whittier Avenue, from Old Dominion Drive to Laughlin Avenue, from 10:00 p.m. to 6:00 a.m., seven days a week.

TIMING:

On March 21, 2023, the Board authorized advertisement of a public hearing to consider the proposed amendment to Appendix R of the Fairfax County Code to take place on May 9, 2023, at 4:00 p.m.

BACKGROUND:

*Fairfax County Code Section 82-5-37(5)* authorizes the Board of Supervisors to designate restricted parking in non-residential areas where long term parking of vehicles diminishes the capacity of on-street parking for other uses.

Representatives of various businesses located on commercial parcels along Whittier Avenue contacted the Dranesville District office seeking assistance to restrict commercial vehicles, recreational vehicles, and trailers from parking on the unrestricted blocks of Whittier Avenue between Old Dominion Drive and Laughlin Avenue.

These blocks of Whittier Avenue have been reviewed multiple times by FCDOT staff over a period of 30 days. Staff has verified that long-term parking of commercial vehicles is occurring, thereby diminishing the capacity of on-street parking for other uses. Staff recommends a parking restriction for all commercial vehicles, recreational vehicles, and trailers along Whittier Avenue, from Old Dominion Drive to Laughlin Avenue, from 10:00 p.m. to 6:00 a.m., seven days a week.

Board Agenda Item  
May 9, 2023

FISCAL IMPACT:

Funding in the amount of approximately \$700 is required for signage and installation. Funds are currently available in Fairfax County Department of Transportation Fund 100-C10001, General Fund.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code, Appendix R (General Parking Restrictions)

Attachment II: Area Map of Proposed Parking Restriction

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

Lisa Witt, Chief, Administrative Services, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Henri Stein McCartney, Sr. Transportation Planner, FCDOT

ASSIGNED COUNSEL:

F. Hayden Coddling, Assistant County Attorney

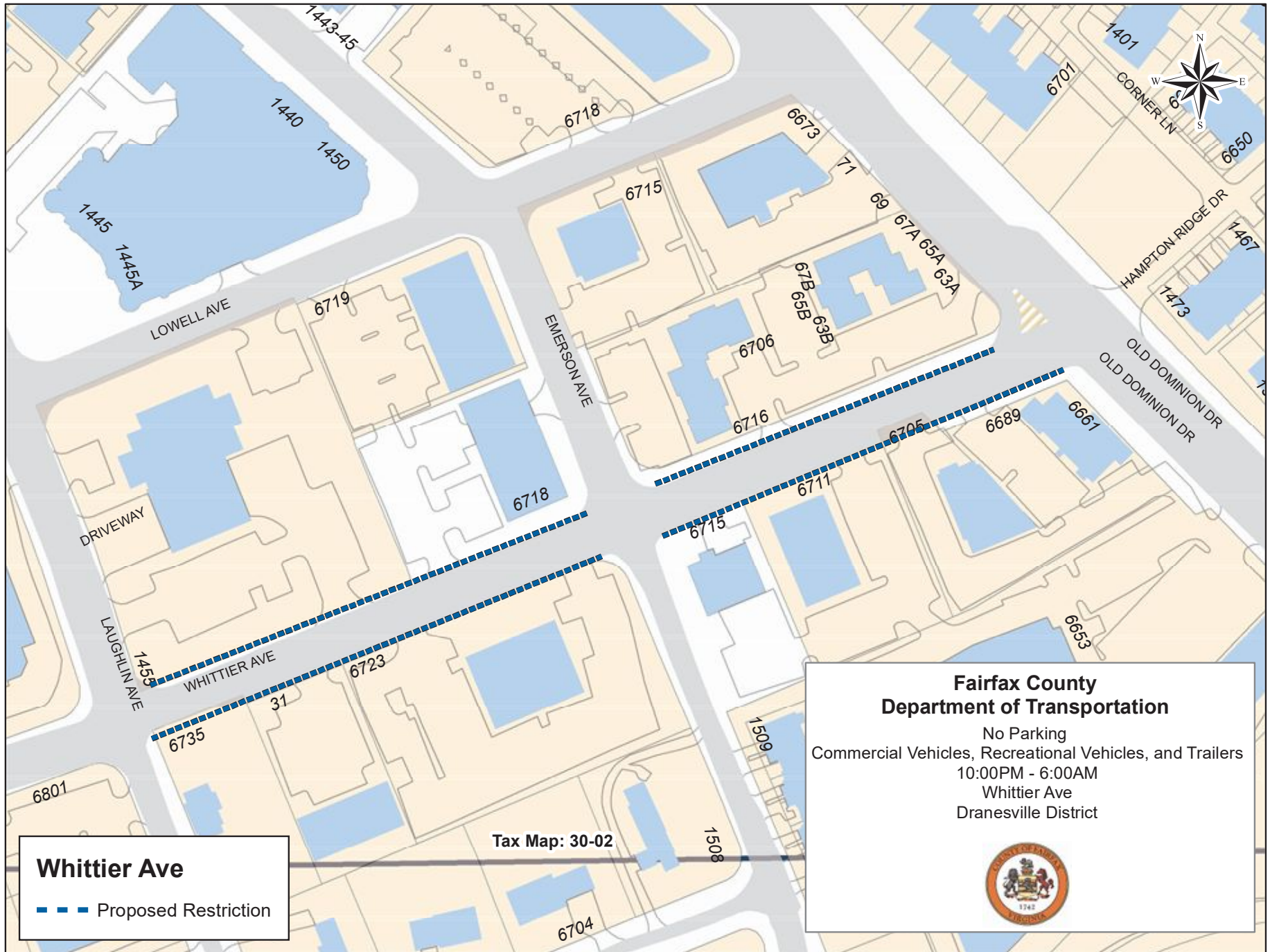
PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA  
APPENDIX R

Amend *The Code of the County of Fairfax, Virginia*, by adding the following to Appendix R, in accordance with Section 82-5-37:

Whittier Avenue (Route 1810).

Commercial vehicles, recreational vehicles, and trailers, as defined, respectively, in Fairfax County Code §§ 82-5-7, 82-5B-1, and 82-1-2(a)(50), shall be restricted from parking on Whittier Avenue, from Old Dominion Drive to Laughlin Avenue, from 10:00 p.m. to 6:00 a.m., seven days per week.



**Whittier Ave**

— — — Proposed Restriction

**Fairfax County**  
**Department of Transportation**  
No Parking  
Commercial Vehicles, Recreational Vehicles, and Trailers  
10:00PM - 6:00AM  
Whittier Ave  
Dranesville District



Board Agenda Item  
May 9, 2023

4:00 p.m.

Public Hearing on a Proposal to Adopt an Ordinance Requesting an Increase in Frequency and/or Duration of Events of Specified Designated Outdoor Refreshment Area Licenses Under Va. Code § 4.1-206.3(D)(2)(c)

ISSUE:

The Reston Town Center Association (RTCA) is a “designated outdoor refreshment area” (DORA) licensee under Virginia Code § 4.1-206.3(D)(2)(c) (see Attachment 1). It seeks to increase its event limit from 16 to 50 DORA events per year, following the requested adoption of an ordinance by the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends the Board amend the County Code by adopting the ordinance set forth in Attachment 2.

TIMING:

On April 11, 2023, the Board of Supervisors authorized advertisement of this proposed County Code amendment, and a public hearing before the Board of Supervisors was advertised to be held on May 9, 2023, at 4:00 p.m.

BACKGROUND:

In 2021, the General Assembly amended Virginia Code § 4.1-206.3(D)(2)(c) to create a “designated outdoor refreshment area” (DORA) license. By statute, a licensee is allowed up to 16 events, each of which may last no longer than three consecutive days. The Virginia Alcoholic Beverage Control Authority may increase the frequency and duration of events after a locality adopts an ordinance to request an increase. The ordinance must include the size and scope of the area in which the events will be held, a public safety plan, and any other considerations deemed necessary by the ABC Board. RTCA has asked the Board to adopt an ordinance to increase its event limit up to 50 events per year (see RTCA letter, Attachment 3). RTCA will reach its 16-event limit before July, so it asks the Board to adopt an ordinance before it reaches that limit. As the property would still be subject to zoning regulations, RTCA’s proposed events may require administrative permit(s) approval.

Board Agenda Item  
May 9, 2023

REGULATORY IMPACT:

The proposed ordinance would allow for an increase in the event limit for RTCA's DORA events. Future requests for an increase in event frequency and/or duration of other DORA licenses, if any, would also be codified in Appendix W, if adopted.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Virginia Code § 4.1-206.3(D)(2)(c)  
Attachment 2 – Proposed ordinance (new Appendix W to the County Code)  
Attachment 3 – RTCA's January 20, 2023, letter to Supervisor Alcorn

STAFF:

Rachel Flynn, Deputy County Executive  
Thomas G. Arnold, Deputy County Executive  
Tracy D. Strunk, Director, Department of Planning and Development  
Captain Robert Hines, Office of the Chief of Police, Planning & Research Bureau,  
Fairfax County Police Department

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney

Code of Virginia

Title 4.1. Alcoholic Beverage and Cannabis Control

Subtitle I. Alcoholic Beverage Control Act

Chapter 2. Administration of Licenses

Article 2. Licenses Granted by Board; Limitations; Revocation and Suspension

### § 4.1-206.3. (Effective until July 1, 2024) Retail licenses

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the

Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall



authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § [4.1-233.1](#).

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § [4.1-201](#).

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'

association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board.



Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

## 1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

## 2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.



b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas

approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply

with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

2020, cc. 15, 16, 32, 34, 400, 1009, 1113, 1114, 1179;2020, Sp. Sess. I, c. 34;2021, Sp. Sess. I, cc. 182, 390, 391;2022, cc. 78, 79, 589, 590.

This section has more than one version with varying effective dates. Scroll down to see all versions.

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.

## § 4.1-206.3. (Effective July 1, 2024) Retail licenses

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not

contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell

and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food



cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to §

#### 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant.



Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed

containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on

the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this

license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the

place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

## 2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not

licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to [§ 4.1-233.1](#).

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii)



exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § [4.1-209.1](#).

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § [4.1-209.1](#) and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § [13.1-313](#) with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ [13.1-312](#) et seq.), with a place of business located in the Commonwealth, in accordance with Board

regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

2020, cc. 15, 16, 32, 34, 400, 1009, 1113, 1114, 1179;2020, Sp. Sess. I, c. 34;2021, Sp. Sess. I, cc. 182, 390, 391;2022, cc. 78, 79, 589, 590.

This section has more than one version with varying effective dates. Scroll down to see all versions.

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.



1 AN ORDINANCE ADDING APPENDIX W TO THE FAIRFAX COUNTY CODE,  
2 RELATING TO DESIGNATED OUTDOOR REFRESHMENT AREA LICENSES

3  
4 AN ORDINANCE to amend the Fairfax County Code by adopting a new  
5 Appendix W relating to designated outdoor refreshment area licenses.

6  
7 Draft of May 9, 2023  
8

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

10 1. That a new Appendix W is adopted, as follows:  
11

12 Appendix W. – Designated Outdoor Refreshment Area Licenses.

13 This ordinance requests an increase in the frequency and/or duration of specified designated  
14 outdoor refreshment area (“DORA”) licenses under Virginia Code § 4.1-206.3(D)(2)(c).

15 Section 1: Reston Town Center Association DORA license

16 The Board of Supervisors requests that the DORA license for the Reston Town Center  
17 Association (“RTCA”), including any license renewals, be increased to allow fifty events per  
18 year. These events will be held on the streets, sidewalks, and public open areas (including Town  
19 Square Park, Mercury Fountain Plaza, Freedom Plaza, the Pavilion (ending at Democracy  
20 Street), and breezeways) within the area approved for RTCA’s DORA license, an area  
21 commonly referred to as the Reston Town Center Urban Core. The licensed streets comprise,  
22 east to west, Freedom Drive between Presidents and Explorer Streets, Market Street between  
23 Presidents and St. Francis Streets, Town Square Street, and Democracy Drive, and then north to  
24 south, St. Francis Street between Market and Town Square Streets, Explorer and Library Streets  
25 between Freedom and Democracy Drives, and Discovery Street. This request to increase the  
26 frequency of RTCA’s DORA license events is subject to the following public safety plan:

27 PUBLIC SAFETY PLAN

28 RTCA will host up to fifty DORA events at the Reston Town Center, each of which may last up  
29 to three days. All alcoholic beverage and ABC laws codified within Title 4.1 (Alcoholic  
30 Beverage and Cannabis Control) of the Code of Virginia remain in effect and will be enforced  
31 during DORA events.

32 Whenever a portion of the licensed area is used for any particular event, it will be barricaded at  
33 entry and exit points to mark the event perimeter. RTCA has contracted with an on-site security  
34 team to ensure that adequate security is patrolling the licensed area.

35 Consistent with RTCA’s regular security protocols, if an individual resists any of the DORA  
36 restrictions or defies on-site security, FCPD will be called. There will also be an information

37 center on site to help educate people about the rules for events. At the prescribed ending time of  
38 each DORA event, on-site private security officers (with the assistance of on-site off-duty  
39 officers when applicable) will clear the licensed area of individuals with alcohol.

40 **2. That the provisions of this ordinance shall take effect on May 9, 2023.**

41  
42  
43  
44  
45  
46  
47

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2023

---

Jill G. Cooper  
Clerk for the Board of Supervisors



January 20, 2023

**via email**

Hon. Walter Alcorn  
 Hunter Mill District Supervisor  
 1801 Cameron Glen Drive  
 Reston, VA 20190

**Re: Increase to RTCA's ABC DORA License**

Dear Sup. Alcorn:

I am writing to obtain your assistance in increasing the number of events RTCA may present under its recently obtained Designated Outdoor Refreshment Area (DORA) license. Although this is an ABC license, ABC has advised that an increase to the number of events allowed under the annual license (16) must be approved by the Board of Supervisors.

**Background**

Last August, RTCA was awarded a DORA license (attached) under which it may annually host up to sixteen "sip & stroll" events within the urban core of Reston Town Center (RTC). The license allows the public, at designated events and within the defined license area for the events, to purchase alcoholic beverages at participating RTC restaurants, which in turn will serve the beverage in a decaled plastic cup that can then be taken by the consumer onto the streets or into the park (if applicable) for consumption. We tested this new concept with ten events last year: three Second Saturdays in October, November, and December (where we activated the streets with a Kids Zone, Pet Zone, Game Zone, and other entertainment, all free on the streets) and a new (also free) Darden and Friends jazz series in Town Square Park in the fall on Thursday nights. Both were well received and RTCA intends to renew the license and expand our sip & stroll offerings.

Some places with similar licenses have the license activated 365 days a year. RTCA does not intend to do that. We will activate the license for select events where we think the addition of sip & stroll will enhance the RTC experience. For this year, our board of directors has approved moving forward with at least twelve Darden and Friends jazz events (spring and fall, done in partnership with the Reston Community Center), fourteen Reston Concerts on the Town (our renowned Pavilion concert series that is returning this year after a three-year hiatus due to covid and this past year's renovations of the Pavilion and Mercury Fountain Plaza), and six Second Saturdays. That would be 32 sip & stroll events, and there may be some odd others we add as we continue to build out the year's programming.



This would put us in excess of the 16-event DORA cap. Hence the request to increase the cap.

**Why does this require BOS action?**

Even though this is an ABC license, the ABC has explicitly advised us that any increase to a DORA cap must be approved by the relevant County board of supervisors (I assume because this is enforced by, in our case, the FCPD; indeed, for our Friday and Saturday evening events utilizing the license, we typically have off-duty FCPD officers on site as part of our security plan). I have copied on the email transmitting this letter the ABC Counsel and ABC Special Agent with whom we have been working.

I don't think there is any controversy here. ABC is aware that we would be seeking an increase to the cap. Last year's events were well-received and well-managed. You can see how we promote them on the [Sip & Stroll page](#) on the RTCA website. As we continue to search for ways to make Reston's downtown the most fulfilling experience it can be, we think having this option gives us the chance to provide alternative experiences and extend our reach to the widest possible audience.

To avoid having to return over and over for cap increases or renewals, what we are proposing is that the BOS approve up to fifty (50) events annually under the RTCA DORA license, and any renewal thereof (again, some places with similar licenses offer sip & stroll 365 days a year (I think Fairfax Corner is one such location), so we are talking a much-reduced paradigm comparatively). That will hopefully allow us enough flexibility to address this one time and not have to return any time soon to add to the BOS's business. I'd be happy to work with your office and BOS or County counsel to prepare whatever resolution or legislation the BOS needs to enact to achieve this purpose (I asked ABC for a template and was told there is none). Our current license expires July 31. We have six more events remaining under that license (which we will renew), and we will use those up before July 31. So we need to act before then.

RTCA very much appreciates your attention to and assistance in this matter. Look forward to hearing from you or your office.

Regards,



Robert Goudie  
Executive Director

attachment

Board Agenda Item  
May 9, 2023

4:30 p.m.

Public Hearing to Consider the Creation of a Community Development Authority for  
Huntington Central (Mount Vernon District)

STAFF:

Christina Jackson, Chief Financial Officer

Philip Hagen, Director, Department of Management and Budget

Joseph LaHait, Deputy Director, Department of Management and Budget

ASSIGNED COUNSEL:

Emily Smith, Assistant County Attorney

Board Agenda Item  
May 9, 2023

4:30 p.m.

Public Hearing on the Readoption of the Zoning Ordinance as Amended through  
March 22, 2023

ISSUE:

On March 23, 2023, the Supreme Court of Virginia issued an opinion in *Berry v. Board of Supervisors* (Record No. 211143) reversing the Fairfax County Circuit Court and finding the County's 2021 Zoning Ordinance, adopted in March 2021 and commonly referred to as zMOD, void *ab initio*. According to the Supreme Court's opinion, the Board of Supervisors (Board) erred in relying on state legislation, adopted at the outset of the COVID-19 pandemic in 2020, that expanded the ability of public bodies statewide (including the General Assembly) to conduct business via electronic meetings. For meetings that met its requirements, the 2020 legislation overrode conflicting open meeting provisions of the Virginia Freedom of Information Act (VFOIA). The Board indisputably met all the legislation's requirements regarding public notice, access, and comment for an electronic meeting. But the Supreme Court interpreted the legislation narrowly to exclude consideration and adoption of zMOD. If the Board's 2021 adoption of the zMOD Ordinance was void, so was the contemporaneous repeal of the 1978 Zoning Ordinance (as amended), leaving that earlier Ordinance still in effect. As a result, new public hearings are required for reconsideration of the zMOD Ordinance as previously adopted on March 23, 2021. And while subsequent Zoning Ordinance amendments are not addressed in the opinion, staff recommends that they be included as part of the complete Zoning Ordinance being considered.

PLANNING COMMISSION RECOMMENDATION:

~~The Planning Commission is scheduled to hold its public hearing on May 3, 2023. Staff will provide the Planning Commission recommendation prior to the May 9, 2023, public hearing.~~

**On May 3, 2023, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:**

- **Repeal Chapter 112 of the *County Code* and adopt the new and modernized Zoning Ordinance as Chapter 112.2, as set forth in the Staff Report dated April 14, 2023, to include the following changes:**
  - **Wherever the proposed text refers to Chapter 112.1, revise it to say Chapter 112.2;**

Board Agenda Item  
May 9, 2023

- With respect to previous approvals, as set forth in Appendix 1 of the proposed Zoning Ordinance, make the following changes to Appendix 1, as previously distributed to the Commission:
  - Replace all references to July 1, 2021, with the new effective date of the Zoning Ordinance; and
  - Relocate subsection 2.B(1) regarding the Hollin Hills Historic Overlay District to subsection 1.H and delete the reference to the amendment number, ZO 112.1-2022-6, and replace the effective date with March 9, 2022.
- That repeal of Chapter 112 and the adoption of Chapter 112.2 become effective at 12:01 a.m., the day following adoption; and
- If Chapter 112.1 is ultimately validated, the Board provide for Chapter 112.1 to supersede Chapter 112.2 and for Chapter 112.2 to sunset or be repealed.

In a follow-on motion, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:

- Staff be directed to bring the following topics forward for further discussion and review as part of the Zoning Ordinance Work Program that is scheduled to be discussed by the Planning Commission's Land Use Process Review Committee on June 8, 2023, and by the Board's Land Use Policy Committee on July 18, 2023:
  - Data centers: Review, as a Tier 1 topic, the potential environmental and other impacts, and consider revisions to standards;
  - Planned Residential Community (PRC) Plan: Review the exceptions for when a PRC Plan is required in subsection 8100.2.F(3)(c) to expand the permitted minor improvements that would not require a PRC Plan. These exceptions could include updating existing recreation features, community facilities, and placement of minor structures above the current limitations, particularly as they relate to open space and community facilities; and
  - Editorial revisions: Compile editorial revisions, including those needed to comply with the *Code of Virginia*, and to recognize that the Board of Zoning Appeals may have up to three alternate members.

RECOMMENDATION:

The County Executive recommends the repeal and replacement of the 1978 Zoning Ordinance (as amended), and to either repeal the 2021 zMOD Ordinance, as amended, or sunset the proposed new Zoning Ordinance if the 2021 zMOD Ordinance is subsequently reinstated by others.

Board Agenda Item  
May 9, 2023

TIMING:

The Board authorized advertisement of public hearings on April 11, 2023; the Planning Commission public hearing will be held on May 3, 2023, at 7:30 p.m.; and the Board public hearing is scheduled for on May 9, 2023, at 4:30 p.m., if the Planning Commission has reported its recommendations.

BACKGROUND:

The main goals of the zMOD project were to:

- Modernize the County's Zoning Ordinance.
- Make the regulations easier for all stakeholders to understand.
- Remove inconsistencies, gaps, and ambiguities that had found their way into the Ordinance since initial adoption of the previous Ordinance in 1978.

Having begun in 2017, the zMOD project had matured in the midst of the COVID-19 pandemic. The societal challenges posted by the pandemic made it all the more critical to update the 1978 Zoning Ordinance as a means of helping to sustain and stimulate the County's economy. Indeed, the proposed changes were intended to benefit businesses and residents of all income levels.

Because the pandemic made it unsafe to hold in-person meetings, the Planning Commission and Board both held their public hearings via electronic means but provided the public notice, real-time public access, and opportunity for public comment as required by the 2020 state legislation, adopted at the outset of the COVID-19 pandemic that expanded the ability of public bodies to conduct business via electronic meetings. On March 23, 2021, the Board voted to repeal the 1978 Zoning Ordinance and adopt the zMOD Ordinance, which took effect on July 1, 2021. Seven subsequent amendments to the zMOD Ordinance have been adopted, as listed below.

Until the Supreme Court's opinion on March 23, 2023, the County operated successfully under the 2021 zMOD Ordinance. In light of the Court's opinion, however, the County is currently operating under the 1978 Zoning Ordinance (as amended through April 14, 2021). The Zoning Ordinance proposed for readoption is provided as Attachment 1 and includes the seven amendments previously adopted by the Board (links to the adopted Ordinances are provided below):

- [Amendment 112.1-2021-1](#): Establishment of Wellington at River Farm Historic Overlay District (WHOD).
- [Amendment 112.1-2021-2](#): Agritourism and Related Changes.
- [Amendment 112.1-2021-3](#): Special Permit Fees and Other Minor Revisions.
- [Amendment 112.1-2021-4](#): Historic Overlay Districts and State Code Revisions.
- [Amendment 112.1-2022-5](#): Minor and Editorial Revisions.



Board Agenda Item  
May 9, 2023

- [Amendment 112.1-2022-6](#): Establishment of Hollin Hills Historic Overlay District.
- [Amendment 112.1-2023-7](#): Minor and Editorial Revisions.

A detailed discussion of the zMOD Ordinance and subsequent amendments is contained in the updated Summary of Notable Changes, a link to which is included in the Staff Report (Attachment 2).

As previously discussed, the recent Virginia Supreme Court decision requires new public hearings for the zMOD Ordinance and subsequent amendments. The proposed Zoning Ordinance under consideration does not include new content outside of what was previously considered and approved by the Board, except edits to the effective date and a minor edit for consistency in submission requirements.

#### EQUITY IMPACT:

The proposed zMOD Ordinance and subsequent amendments align with the [One Fairfax Policy](#) areas of focus #2 - furthering the provision of a full spectrum of housing opportunities throughout the County, and #11 - supporting a quality built environment that anticipates growth and change. The zMOD community engagement process was particularly robust with public meetings occurring virtually and in-person, allowing for participation from all interested stakeholders—in addition to the required public hearings. Comments were received through a variety of means and considered as part of the proposed Ordinance.

#### REGULATORY IMPACT:

The proposal to readopt the currently invalidated zMOD Ordinance and its subsequent amendments will provide a clear path forward for those zoning applications, plans, and permits that were submitted under the 2021 zMOD Ordinance but are currently subject to the 1978 Ordinance in effect on June 30, 2021. It will also remove uncertainty for approvals granted over the past almost two years. The current situation has created a great deal of confusion for previously approved and in process applications, so time is of the essence in mitigating that uncertainty.

#### FISCAL IMPACT:

The fiscal impacts of this effort are difficult to quantify. The zMOD Ordinance is easier for staff, residents, businesses and industry, and other stakeholders to understand and implement. The more easily understandable regulations may save staff time in interpreting the Zoning Ordinance, as well as responding to stakeholder inquiries, allowing additional time to be spent on daily zoning work.

Board Agenda Item  
May 9, 2023

Fee changes based on the 1978 Zoning Ordinance (amended through April 14, 2021), as compared to the fees under the zMOD Ordinance and subsequent amendments proposed for readoption are listed in the Summary of Notable Changes. The zMOD Ordinance proposed new uses and approvals with appropriate fees that were not available in the 1978 Zoning Ordinance.

The potential revenue impacts will be minor, and staff will continue to monitor revenues in collaboration with the Department of Management and Budget, and will adjust budgeted revenues, if necessary.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Zoning Ordinance  
Attachment 2 – Staff Report

STAFF:

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

ASSIGNED COUNSEL:

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

### Proposed Zoning Ordinance

**INSTRUCTIONS:** The proposed Zoning Ordinance is as provided in the link below <https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx>, except with the following revisions:

- Replace July 1, 2021, with the new effective date of the Ordinance in:
  - Section 1107 – Effective Date
  - Subsection 4102.5.R(2) – Commercial Recreation, Indoor
  - Subsection 4102.5.W – Health and Exercise Facility, Large
  - Subsections 4102.6.A.(2)(a), (3)(a) – Data Center
  - Subsection 4102.6.B(3) – Goods Distribution Hub
  - Subsection 4102.7.B(4) – Accessory Living Unit
  - Subsection 5100.2.L(3) – Lots with Pipestem Driveways
  - Table 8102.1 – Fee Schedule: SE for Addition to or Replacement of a Single-Family Detached Dwelling Existing as of (*insert effective date*), in a Floodplain
- Delete subsections 8101.3.E(1)(d) and (e), which require submission of documentation for the age or disability of a resident with an application for a special permit for an accessory living unit.
- In Appendix 1 (not part of the codified Zoning Ordinance), one or more instances of July 1, 2021, may be replaced with the new effective date of the Ordinance.



# FAIRFAX COUNTY

## PROPOSED ZONING ORDINANCE AMENDMENT

### STAFF REPORT

## Readoption of the Zoning Ordinance as Amended through March 22, 2023

April 14, 2023

#### Hearing Dates

Planning Commission: May 3, 2023

Board of Supervisors: May 9, 2023, 4:30 p.m.

#### Staff Contacts

Carmen Bishop, Deputy Zoning Administrator  
Casey Judge, Principal Planner



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



Zoning Administration Division  
Government Center Parkway, Suite 807  
Fairfax, Virginia 22035-5507  
Phone 703-324-1314

[www.fairfaxcounty.gov/planning-development](http://www.fairfaxcounty.gov/planning-development)

## Background

On March 23, 2023, the Supreme Court of Virginia issued an opinion in *Berry v. Board of Supervisors* (Record No. 211143) reversing the Fairfax County Circuit Court and finding the County's 2021 Zoning Ordinance, adopted in March 2021 and commonly referred to as zMOD, void *ab initio*. According to the Supreme Court's opinion, the Board of Supervisors (Board) erred in relying on state legislation, adopted at the outset of the COVID-19 pandemic in 2020, that expanded the ability of public bodies statewide (including the General Assembly) to conduct business via electronic meetings. For meetings that met its requirements, the 2020 legislation overrode conflicting open meeting provisions of the Virginia Freedom of Information Act (VFOIA). The Board indisputably met all the legislation's requirements regarding public notice, access, and comment for an electronic meeting. But the Supreme Court interpreted the legislation narrowly to exclude consideration and adoption of zMOD. If the Board's 2021 adoption of the zMOD Ordinance was void, so was the contemporaneous repeal of the 1978 Zoning Ordinance (as amended), leaving that earlier Ordinance still in effect.

As a result, new public hearings are required for reconsideration of the zMOD Ordinance as previously adopted on March 23, 2021. And while subsequent Zoning Ordinance amendments are not addressed in the opinion, staff recommends that they be included as part of the complete Zoning Ordinance being considered. The Planning Commission public hearing is scheduled for May 3, 2023, and the Board public hearing is scheduled for May 9, 2023 (if the Planning Commission has reported its recommendations).

## Proposed Changes

A [Summary of Notable Changes](#) was originally published April 6, 2021, to highlight the notable changes found in the adopted zMOD Ordinance as compared to the previous 1978 Ordinance. This document has been updated to provide information on the project background, a summary of the structure of the new Ordinance, an overview of the outreach and engagement efforts, and notable changes from seven subsequent Zoning Ordinance amendments adopted by the Board.

The proposed Zoning Ordinance is as provided in the link below

<https://online.encodeplus.com/regs/fairfaxcounty-va/doc-viewer.aspx>, except with the following proposed revisions:

- Replace July 1, 2021, with the new effective date of the Ordinance in:
  - Section 1107 – Effective Date
  - Subsection 4102.5.R(2) – Commercial Recreation, Indoor
  - Subsection 4102.5.W – Health and Exercise Facility, Large
  - Subsections 4102.6.A.(2)(a), (3)(a) – Data Center
  - Subsection 4102.6.B(3) – Goods Distribution Hub
  - Subsection 4102.7.B(4) – Accessory Living Unit
  - Subsection 5100.2.L(3) – Lots with Pipestem Driveways

- Table 8102.1 – Fee Schedule: Special Exception for Addition to or Replacement of a Single-Family Detached Dwelling Existing as of (*insert effective date*), in a Floodplain
- Delete subsections 8101.3.E(1)(d) and (e), which require submission of documentation for the age or disability of a resident with an application for a special permit for an accessory living unit. This edit is for consistency because the age or disability requirement was previously removed from the use standards as part of zMOD.
- In Appendix 1 (not part of the codified Zoning Ordinance), one or more instances of July 1, 2021, may be replaced with the new effective date of the Ordinance.

### Summary

The proposed Zoning Ordinance does not include new content outside of what was previously considered and approved by the Board, except as noted above.

The current situation has created a great deal of confusion for previously approved and in-process applications, so time is of the essence in mitigating that uncertainty. Adoption of the proposed Zoning Ordinance that was in use prior to the *Berry* opinion will allow the most efficient and expeditious resolution of concerns. Therefore, staff recommends readoption of the Zoning Ordinance adopted on March 23, 2021, as amended through March 22, 2023, with the additional revisions noted above. It is recommended that the Ordinance become effective at 12:01 a.m. on the day following adoption.