TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Deputy County Administrator

DATE: February 9, 2015

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (3) Discussion or Consideration of the Acquisition of Real Property for 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

1. Former Blacksburg Middle School Property.

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this

certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. PRESENTATIONS, RECOGNITIONS, AND AWARDS

A. Virginia Department of Transportation
David Clarke, VDOT, will provide an update on road projects/issues in Montgomery County.

B. Retired Seniors Volunteer Program (RSVP)
RSVP Director Angela Little will provide an update on RSVP. Deena Flinchum and Sally Anna Stapleton, volunteers with RSVP, will report on services offered by RSVP.

C. Fieldstone Housing Development
William Park and Jim Cowan will make a presentation on the Fieldstone Housing Development in Blacksburg. (TAB **A**)

1. Action From Presentations

VIII. PUBLIC ADDRESS

1. Action From Public Address

IX. ADDENDUM

X. CONSENT AGENDA

XI. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Montgomery County School Board FY 16 Budget Presentation

XII. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

1. Action Following Work Session

XIII. NEW BUSINESS

A. SUBJECT: ECONOMIC DEVELOPMENT AUTHORITY LEASE REVENUE BOND 2005 - REFUNDING

R-FY-15-
A RESOLUTION APPROVING A PLAN OF LEASE REFINANCING WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF MONTGOMERY COUNTY, VIRGINIA, APPROVING THE FORM OF CERTAIN DOCUMENTS PREPARED IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE SAME

WHEREAS, The Economic Development Authority of Montgomery County, Virginia, formerly the Industrial Development Authority of Montgomery County, Virginia (the "Authority"), was created under and is authorized to exercise all the powers set forth in the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49, Code of Virginia, as amended (the "Act"), which include, among other things, the powers (a) to make loans to, among others, a county in furtherance of the Act, (b) to finance or refinance facilities and lease facilities for use by, among others, a county, (c) to issue its revenue bonds, notes and other obligations from time to time for such purposes and (d) to pledge all or any part of its revenues and receipts derived from payments received by the Authority in connection with its loans or from the leasing by the Authority of such

facilities or from any source, as security for the payment of principal of and interest on any such obligations; and

WHEREAS, The Authority previously issued its $16,805,000 Lease Revenue Bonds, Series 2000B (the "2000B Bonds"), and its $11,550,000 Lease Revenue Bonds, Series 2000C (the "2000C Bonds"), and loaned the proceeds thereof to the County of Montgomery, Virginia (the "County"), to finance improvements and renovations to the Blacksburg Middle School, renovations and improvements to certain of the County's other schools and related facilities and the acquisition, construction and equipping of a County administration building; and

WHEREAS**,** The Authority refunded portions of the 2000B Bonds and the 2000C Bonds by the issuance of its $10,800,000 Lease Revenue Refunding Bonds, Series 2005A (the "2005A Bonds"), and its $7,630,000 Lease Revenue Refunding Bonds, Series 2005B (the "2005B Bonds" and, together with the 2005A Bonds, the "2005 Bonds"); and

WHEREAS, As security for the repayment of the 2005 Bonds, the Authority entered into (a) an Amended Ground Lease dated as of May 1, 2005 (the "2005 Ground Lease"), with the County and the School Board of Montgomery County, Virginia (the "School Board"), pursuant to which the County and the School Board leased to the Authority the Blacksburg Middle School and the County administration building (as more specifically described in the 2005 Ground Lease, the "Premises"), and (b) an Amended Financing Lease dated as of May 1, 2005 (the "2005 Lease Agreement"), with the County, pursuant to which the Authority leased the Premises to the County in exchange for which the County undertook to make rental payments sufficient to cover the annual debt service on the 2005 Bonds; and

WHEREAS, The Board of Supervisors of the County (the "County Board") now desires to realize debt service savings by effecting a refunding of the outstanding 2005 Bonds (the "Refunded Bonds") and has requested that the Authority issue one or more lease revenue refunding bonds (collectively, the "2015 Bond"), use the proceeds thereof to refund the Refunded Bonds and secure the repayment of the 2015 Bond by a lease of all or a portion of the Premises pursuant to the terms of a Ground Lease (as hereinafter defined) and a Lease Agreement (as hereinafter defined); and

WHEREAS**, T**he County has requested Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), to solicit bids from banking and other financial institutions for the purchase of the 2015 Bond; and

WHEREAS, There have been presented to this meeting, drafts of the following documents (collectively, the "Documents") that the County proposes to execute in support of the transactions described above, copies of which shall be filed with the records of the County:

(a) Amended and Restated Ground Lease (the "Ground Lease"), between the Authority, the County and the School Board, pursuant to which the County and the School Board will renew their lease of all or a portion of the Premises to the Authority; and

(b) Bond Purchase and Lease Agreement (the "Lease Agreement"), between the Authority, the County, the School Board and the Bondholder (as defined below) pursuant to which (1) the Authority will issue the 2015 Bond, (2) the Authority will agree to sell, and the Bondholder will agree to purchase, the 2015 Bond, (3) the Authority will use proceeds thereof to refund the Refunded Bonds and (4) the Authority will lease all or a portion of the Premises to the County and the School Board.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:

1. The following plan of lease refinancing is hereby approved: (a) the Authority shall issue the 2015 Bond in a principal amount not to exceed $12,500,000, (b) the County and the School Board will lease one or more of the properties constituting the Premises to the Authority pursuant to the terms of the Ground Lease, with an expiration not later than December 31, 2026, and (c) the Authority will lease the Premises back to the County and the School Board pursuant to the terms of the Lease Agreement, with an expiration not later than December 31, 2021. The County will undertake to make payments to the Authority of basic rent ("Basic Rent") and additional rent ("Additional Rent") under the terms of the Lease Agreement in amounts sufficient to pay when due the principal of and interest on the 2015 Bond and to pay the fees and expenses of the Authority. The obligation of the Authority to pay principal of and premium, if any, and interest on the 2015 Bond will be limited to payments of Basic Rent and Additional Rent received from the County. The undertaking by the County to make payments of Basic Rent and Additional Rent will be subject to appropriations from time to time by the County Board of sufficient amounts for such purposes. Upon an event of default or an event of non-appropriation by the County Board under the Lease Agreement, the Authority shall have the right to exercise any remedies provided in the Lease Agreement, including the right to terminate the Lease Agreement and exclude the County and the School Board from possession of the Premises for the remainder of the term of the Ground Lease. The 2015 Bond will be secured in part by an assignment to the Bondholder of the Authority's rights to receive payments of Basic Rent. The 2015 Bond will be secured by an assignment to the Bondholder of the Authority's rights to receive payments of Basic Rent.

This plan of lease refinancing shall contain such additional requirements and provisions as the County Administrator (which term for purposes of this Resolution includes any Deputy County Administrator) may approve and determine to be in the best interests of the County.

2. Subject to the pricing parameters of the 2015 Bond described below, the County Board hereby authorizes the County Administrator, in consultation with the Financial Advisor and the Authority, to review the bids received and to select the bid that the County Administrator determines to be in the best interests of the County. The banking or other financial institution submitting such winning bid shall be selected as the Bondholder.

3. The County Administrator is authorized and directed to execute the Documents, which shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the County Administrator, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes. In making completions to the Lease Agreement, the County Administrator shall provide for payments of Basic Rent on terms equivalent to the 2015 Bond, which shall (a) mature in installments ending no later than December 31, 2021; (b) have an aggregate principal amount not exceeding $12,500,000; (c) have a "true" or "Canadian" interest cost not exceeding 3.00%; (d) be subject to optional redemption on such terms that the County Administrator and the Chairman or Vice Chairman of the Authority determine to be in the best interests of the County and the Authority; and (e) be sold to the Bondholder at a price not less than 100% of the aggregate principal amount thereof. Following the sale of the 2015 Bond, the County Administrator shall file a certificate with the records of the County Board setting forth the final terms of the 2015 Bond and the Lease Agreement. The actions of the County Administrator in approving the terms of the 2015 Bond and the Lease Agreement shall be conclusive, and no further action shall be necessary on the part of the County. As set forth in the Lease Agreement, the County undertakes to pay from legally available funds such "late charges" and other charges as described therein.

4. The officers of the County are authorized and directed to execute and deliver all certificates and instruments and to take all actions necessary or desirable in connection with the execution and delivery of the Documents and the completion of the lease refinancing.

5. The undertaking by the County to pay any amounts under the Lease Agreement shall be limited obligations payable solely from funds to be appropriated by the County Board for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County beyond any fiscal year for which the County Board has lawfully appropriated funds from time to

time. Nothing herein or in the Lease Agreement shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.

6. The County Board believes that funds sufficient to make payment of all amounts payable under the Lease Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the County Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future County Boards do likewise during the term of the Lease Agreement. The County Board directs the County Administrator, the Director of Finance or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the budget request for each fiscal year during the term of the Lease Agreement an amount sufficient to make the payment of all amounts payable under the Lease Agreement. Within 10 days after adoption of the County's annual budget and related appropriation resolution, but not later than 10 days after the beginning of each fiscal year, the County Administrator is authorized and directed to deliver to the Authority and the Bondholder a certificate stating whether an amount equal to or credited to the payment of Basic Rent and Additional Rent that will be due during such fiscal year has been budgeted and appropriated by the County Board. So long as the 2015 Bond is outstanding, if at any time during any fiscal year of the County, the amount appropriated in the County's annual budget in such fiscal year is insufficient to pay when due the amounts payable under the Lease Agreement, the County Board directs the County Administrator or Director of Finance, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to submit to the County Board a request for a supplemental appropriation sufficient to cover the deficit.

7. (a) The County covenants that it will not take or omit to take any action the taking or omission of which will cause the 2015 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause the interest due on the 2015 Bond to be includable in the gross income of the holder thereof under existing statutes. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the funds received under the Lease Agreement, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the 2015 Bond from being includable in the gross income for federal income tax purposes of the holder thereof under existing law.

(b) The County covenants that during the term of the Lease Agreement it shall not permit the proceeds of the 2015 Bond or the facilities refinanced therewith to be used in any manner that would result in (a) 10% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of such facilities, (b) 5% or more of such proceeds or facilities being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the 2015 Bond from being includable in the gross income for federal income tax purposes of the holder thereof under existing law, the County need not comply with such covenants.

8. Such officers of the County as may be requested by bond counsel for the County are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Lease Agreement in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with bond counsel for the County, and such elections shall be made after consultation with bond counsel.

9. The County Administrator is authorized and directed to take or direct the Authority to take all proper steps to call for redemption of the Refunded Bonds, to prepare and deliver any such notices and correspondences necessary therefor and to obtain any documents, certificates and approvals necessary to terminate or amend any prior lease agreements, trust agreements or investment contracts relating to the Refunded Bonds and/or the Premises.

10. The County Administrator is authorized and directed to execute an escrow deposit agreement (the "Escrow Agreement") between the County, the Authority and an escrow agent (the "Escrow Agent") to be selected by the County Administrator and the Chairman or Vice Chairman of the Authority for purposes of refunding the Refunded Bonds. The Escrow Agreement shall be in a form approved by the County Administrator, in collaboration with the County Attorney and the County's bond counsel, the execution thereof by the County Administrator to constitute conclusive evidence of the County Administrator's approval of the Escrow Agreement. The Escrow Agreement shall provide for the irrevocable deposit of a portion of the 2015 Bond

proceeds (the "Refunding Portion") in an escrow fund (the "Escrow Fund") that shall be sufficient, when invested in United States Treasury obligations (the "Government Obligations"), to provide for payment of principal of and interest on the Refunded Bonds; provided, however, that such Bond proceeds shall be invested in such manner that the 2015 Bond will not be an "arbitrage bond" within the meaning of Section 148 of the Code. If requested by the County Administrator, the Escrow Agent is authorized to execute, on behalf of the County, an initial and final subscription form for the purchase of the Government Obligations.

11. All costs and expenses in connection with the refunding of the Refunded Bonds and the issuance of the 2015 Bond, including the Authority's fees and expenses and the fees and expenses of bond counsel, counsel for the Authority, the Bondholder and counsel to the Bondholder, shall be paid from the proceeds of the 2015 Bond or other legally available funds of the County. If for any reason the 2015 Bond is not issued, it is understood that all such expenses shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.

12. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

13. All other actions of the officers of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of this lease refinancing are approved and ratified.

14. All resolutions or parts of resolutions in conflict herewith are repealed.

15. This Resolution shall take effect immediately.

ISSUE/PURPOSE:	Refunding of the 2005 EDA Lease Revenue Bonds.
JUSTIFICATION:	See TAB **D** for the RFP results summary provided by our Financial Advisor. Also included as required by the bond resolution is a copy of the Amended and Restated Ground Lease Agreement and the Bond Purchase and Lease Agreement.

B. SUBJECT: SUPPORT AGREEMENT – EDA LOAN FOR TORC

R-FY-15-
RESOLUTION OF THE BOARD OF SUPERVISORS AGREEING TO UNDERTAKE A NON-BINDING MORAL OBLIGATION FOR THE ECONOMIC DEVELOPMENT AUTHORITY OF MONTGOMERY COUNTY, VIRGINIA

WHEREAS, The Economic Development Authority of Montgomery County, Virginia ("EDA") entered into a Lease Agreement with TORC Robotics LLC ("TORC") whereby the EDA agreed to construct an Office/Manufacturing Building in the Blacksburg Industrial Park Phase V, in order to lease 15,659 sq. ft. to TORC ("Lease Agreement"); and

WHEREAS, The required construction and up-fit of the Building pursuant to the Lease Agreement was proposed to cost the EDA Two Million Five Hundred Thousand Dollars with the monthly debt service to be paid by monthly lease payments to be made by TORC pursuant to the Lease Agreement and from other future tenants in the Building; and

WHEREAS, The EDA secured Two Million Five Hundred Thousand Dollars in financing from First Bank and Trust and from the Virginia Small Business Financing Authority ("the Financing") and the Board of Supervisors agreed to be morally obligated to re-pay the $2.5 Million Dollar Financing should the EDA fail to make the required payments to either First Bank and Trust or the Virginia Small Business Financing Authority; and

WHEREAS, The EDA and TORC executed a First Lease Amendment with TORC whereby the EDA agreed to upfit the remaining 4,611 sq. ft. to warehouse space and TORC agreed to lease this additional 4,611 sq. ft., for a total of 20,270 sq. ft. of lease space; and

WHEREAS, The cost in upfitting the additional 4,611 sq. ft. to warehouse space and the unforeseen costs incurred in site work due to poor soils, the EDA needs to increase the Financing $200,000 from $2.5 Million to $2.7 Million and First Bank and Trust has agreed to provide the additional funding; and

WHEREAS, The Board of Supervisors desires to support the EDA in its efforts to finance the building construction required under the Lease Agreement with TORC by agreeing to increase the amount the Board will be morally obligated to repay from $2.5 Million to $2.7 Million under the Support Agreement with the EDA; and

WHEREAS, Section 15.2-953 of the Code of Virginia 1950, as amended, provides that any locality may appropriate money to an economic development authority for the purpose of promoting economic development.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors hereby agrees:

1. Should the County receive written notice from the EDA that TORC has defaulted or otherwise vacated the Building and the EDA is no longer receiving rent payments from TORC that were intended to cover the loan payments owed under the First Bank and Trust Financing and the Virginia Small Business Financing Authority, the Board of Supervisors hereby agrees to undertake a non-binding moral obligation, in such manner that is consistent with both the Constitution and laws of the Commonwealth of Virginia, to appropriate money to the EDA sufficient to make up any deficiency and allow the EDA to continue to make its loan payments required under the First Bank and Trust and the Virginia Small Business Financing Authority Financing. The Board of Supervisors, while recognizing that it is not hereby empowered to make any binding commitment to make such appropriation in future fiscal years, hereby states its intent to make such appropriations in future fiscal years and hereby recommends that future Boards do likewise.

2. Nothing herein contained is or shall be deemed to be a lending of the full faith and credit of the County of Montgomery to the EDA, First Bank and Trust, the Virginia Small Business Financing Authority or to any other person or entity and nothing herein contained is or shall be deemed to be a pledge of the full faith and credit or the taxing power of the County of Montgomery nor shall anything herein contained legally bind or obligate the Board of Supervisors to appropriate funds for the purpose described herein.

3. To enter into a Support Agreement between the County of Montgomery, Virginia, and the Economic Development Authority of Montgomery County, Virginia with terms consistent with the Board of Supervisors' stated intentions under this Resolution and authorizes William Brown, Chair, to execute the Support Agreement on behalf of the County of Montgomery, Virginia.

ISSUE/PURPOSE: Resolution to enter into a Support Agreement with the Economic Development Authority.

JUSTIFICATION: The EDA entered into a Lease Agreement with TORC Robotics LLC whereby the EDA agreed to construct an Office/Manufacturing Building in the Blacksburg Industrial Park Phase V, in order to lease 15,659 sq. ft. to TORC. The EDA agreed to upfit the remaining 4,611 sq. ft. to warehouse space and TORC agreed to lease the remaining space. The cost in upfitting the additional 4,611 sq. ft. to warehouse space and the unforeseen costs incurred in site work due to poor soils, the EDA needs to finance an additional $200,000. See TAB **E** for a copy of the Support Agreement.

XIV. COUNTY ATTORNEY'S REPORT

1. Beekeepers' Association – Request to Amend County Code (TAB **F**)

XV. COUNTY ADMINISTRATOR'S REPORT

XVI. BOARD MEMBERS' REPORT

1. Supervisor Perkins
2. Supervisor Tuck
3. Supervisor Gabriele
4. Supervisor Creed
5. Supervisor King
6. Supervisor Biggs
7. Supervisor Brown

XVII. OTHER BUSINESS

XVIII. ADJOURNMENT

FUTURE MEETINGS

Adjourned Meeting
Monday, February 23, 2015
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Regular Meeting
Monday, March 9, 2015
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Adjourned Meeting
Monday, March 23, 2015
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Special Joint Meeting
With the School Board
Monday, March 30, 2015
Time: TBD