

**VIRGINIA ENERGY – COUNTY OF ALEBMARLE
COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AGREEMENT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, between the County of Albemarle, 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”), the 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, the 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 will commence upon the date the last party executes the Agreement. This Agreement will 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 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 will 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 will be serviced by their respective capital providers, in accordance with the Ordinance and the Program Guidelines.

(c) Enforcement of C-PACE Liens. The Locality has agreed to delegate enforcement of the C-PACE Lien to a third party 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 will cooperate with the Program Administrator in the latter's operation of the C-PACE Program in the Locality. This cooperation will 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 Director of Finance (who is responsible for the collection of real property taxes) in the processes and procedures described in the Program Guidelines and the Ordinance as involving a Treasurer or the Director of Finance, 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 will 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 will speak and act for Virginia Energy and that any notices required under the terms of this Agreement to be sent to Virginia Energy will 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, will 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 that is amended, this Agreement will 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 will be deemed to be an original, and all of which together will constitute but one and the same instrument. Scanned signatures (e.g., a "PDF" document) and digital signatures (e.g., DocuSign) will have the same force, effect, and validity as original signatures.

(g) Notices. All notices, requests, consents, and other communications must be in writing and delivered, mailed by first-class mail, postage prepaid, hand delivered, or overnight delivery service, to the parties, as follows:

If to the Locality:

County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902
Attention: County Executive

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 will 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 will 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, will 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 ALBEMARLE

By: _____
Jeffrey B. Richardson
County Executive

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: _____

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EXHIBIT 1

COPY OF LOCALITY ORDINANCE

(See attached)

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EXHIBIT 2

NAME AND ADDRESS OF PROGRAM ADMINISTRATOR

Virginia PACE Authority
249 Richmond Rd.
Williamsburg, VA 23185
Attention: Abigail C. Johnson, Executive Director

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EXHIBIT 3

PROGRAM GUIDE

(See attached)

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