

<p style="text-align: center;">ACTIONS Board of Supervisors Meeting of December 7, 2022</p>		
		December 8, 2022
AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 6:00 p.m., by the Chair, Ms. Price. All Supervisors were present except for Supervisor LaPisto-Kirtley, who participated virtually. Also present were Jeff Richardson, Steve Rosenberg, and Claudette Borgersen. 		Link to Video
<p>Non-Agenda: At 6:01 p.m., Supervisor LaPisto-Kirtley requested to participate remotely in accordance with applicable Board Rules of Procedure, rule number 8(B)(1)(b), enacted pursuant to the Freedom of Information Act as she is unable to attend the meeting in person due a medical condition.</p> <ul style="list-style-type: none"> Motion to allow Supervisor LaPisto-Kirtley to participate remotely for the duration of the meeting passed by a vote of 5:0. 		
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED final agenda. 		
<p>5. Brief Announcements by Board Members.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Mentioned that the Charlottesville Band would be holding its Christmas concert on Saturday, December 11, 2022, in the Dickinson Auditorium at PVCC at 3:30 p.m. Commented that a dead Spotted Lantern Fly was found in a local Albemarle County tree seller's tree and encouraged community members to check their Christmas trees to stop the spread. <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> Remarked on the passing of Congressman Donald McEachin. <p><u>Jim Andrews:</u></p> <ul style="list-style-type: none"> Commented on the Albemarle Broadband Authority meeting and the launch of the affordable connectivity program bridge and the work on the regional digital equity proposal. <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Reflected on Pearl Harbor Day and expressed her appreciation to Governor Youngkin's administration for his recent announcement of 21 steps to fight antisemitism in the Commonwealth. 		
<p>7. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> There were none. 		
<p>8.1 Proposed Amendment to the 2018 Albemarle/Charlottesville Memorandum of Agreement for the Courts Project and Lease of Parking Lot to Serve Albemarle County Courts Users.</p> <ul style="list-style-type: none"> ADOPTED, Resolution to approve both the proposed Addendum and proposed Lease and authorize the County Executive to execute both documents in a form acceptable to the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to Facilities and Environmental Services, and County Attorney's office. (Attachments 1-3)</p>	

8.2	<p>Albemarle County Office of Housing Administrative Plan.</p> <ul style="list-style-type: none"> • ADOPTED the Albemarle County Office of Housing Administrative Plan. 	On File in Clerk's Office.	
8.3	<p>Boundary Line Adjustment – Fluvanna.</p> <ul style="list-style-type: none"> • REMOVED from agenda. 		
8.4	<p>Music Hall - Manning Easement Approval Request.</p> <ul style="list-style-type: none"> • ADOPTED resolution to approve an amendment to the Music Hall-Manning ACE Deed of Easement and to authorize the County Executive to execute an amendment of Deed of Easement & Written Approval consistent with the resolution once approved as to form and substance by the County Attorney. 	Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4-5)	
9.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 		
10.	<p><u>Pb. Hrg.: Fiscal Year 2023 Budget Amendment and Appropriations.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to approve appropriations #2023023; #2023024; #2023025; #2023026, #202307, and #2023028 for local government and school projects and programs. 	Clerk: Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachment 6)	
11.	<p><u>Pb. Hrg.: Ordinance to Extend County Police and Fire/Rescue Sworn and Uniformed Employee Sign-On Bonus Payment.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED ordinance. 		
12.	<p><u>Pb. Hrg.: Agricultural and Forestal Districts – Hatton AFD Addition.</u></p> <p><u>a. AFD 2022-01 Hatton AFD - Addition.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED ordinance to approve the addition to the Hatton AFD. 	Clerk: Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 7)	
13.	<p><u>Pb. Hrg.: SP202200003 Daylily Preschool.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Resolution to approve SP202200003 Daylily Preschool with conditions. 	Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 8)	
14.	<p><u>Pb. Hrg.: SP202200009 Virginia Institute of Autism (VIA) Expansion-Adult Service Center and Elementary School.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Resolution to approve SP202200009 for the expansion of VIA, with conditions. 	Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)	
15.	<p><u>Pb. Hrg.: SP202200010 Virginia Institute of Autism (VIA) Stand Alone Parking.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Resolution to approve SP202200010 for stand-alone parking, with conditions. 	Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)	
16.	<p><u>Pb. Hrg.: Consider the Adoption of an Ordinance to Create a Commercial Property Clean Energy (C-PACE) Finance Program.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED ordinance to create a Commercial Property Assessed Clean Energy (C-PACE) Finance Program for Albemarle County through the statewide C-PACE program and authorized the County Executive execute both a C-PACE agreement with the Virginia Department of Energy and C-Pace program agreements with capital providers, once those agreements are approved as to form and substance by the County Attorney. 	Clerk: Forward copy of signed ordinance to Facilities and Environmental Services and County Attorney's office. (Attachment 11)	

	Recess. At 8:23 p.m., the Board recessed and reconvened at 8:35 p.m.	
17.	<p>Action Item: ZMA202100003, SP202100004, and SE202200014 Clifton Inn and Collina Farm Expansion.</p> <ul style="list-style-type: none"> By a vote of 5:1 (Mallek), ADOPTED ordinance approving ZMA202100003. By a vote of 5:1 (Mallek), ADOPTED Resolution to approve SP202100004 with conditions of approval as amended. By a vote of 5:1 (Mallek), ADOPTED Resolution to approve SE202200014. 	<p><u>Clerk:</u> Forward copies of signed ordinance and resolutions to Community Development and County Attorney's office. (Attachments 12-14)</p>
	<p>Non-Agenda: Motion to Reconsider Adoption of Ordinance to Extend County Police and Fire/Rescue Sworn and Uniformed Employee Sign-On Bonus Payment</p> <ul style="list-style-type: none"> Motion to reconsider the Board's adoption, earlier this evening, of an ordinance to authorize the payment of monetary bonuses to eligible public safety employees of the County of Albemarle, Virginia, passed by a vote of 6:0. By a vote of 6:0, ADOPTED an ordinance to authorize the payment of monetary bonuses to eligible public safety employees of the County of Albemarle, Virginia, in the form of Item 11, Attachment A, amended to delete paragraph 1 of the ordinance, which was included in the proposed ordinance in error. 	<p><u>Clerk:</u> Forward copy of signed ordinance to Human Resources and County Attorney's office. (Attachment 15)</p>
18.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Reported on her attendance at the most recent Pantops Community Advisory Committee meeting. 	
19.	<p>Adjourn to December 14, 2022, 1:00 p.m., Lane Auditorium.</p> <ul style="list-style-type: none"> The meeting was adjourned at 9:38 p.m. 	

ckb/tom

Attachment 1 – Resolution to Approve an Amendment to the Courts Project Memorandum of Agreement and Associated Lease with the City

Attachment 2 – Proposed Amendment to Courts Project Memorandum on Agreement

Attachment 3 – Proposed Lease Parking Lot Lease Agreement w/ City

Attachment 4 – Resolution to Approve an Amendment to the Music Hall-Manning Ace Deed of Easement

Attachment 5 – DRAFT Amendment to Deed of Easement & Written Approval

Attachment 6 – Resolution to Approve Addition FY 2023 Appropriations

Attachment 7 – Ordinance No. 22-3(1)

Attachment 8 – Resolution to Approve SP202200003 Daylily School

Attachment 9 – Resolution to Approve SP202200009 Virginia Institute of Autism Expansion Adult Service Center

Attachment 10 – Resolution to Approve SP202200010 Stand Alone Parking for Virginia Institute of Autism

Attachment 11 – Ordinance No. 22-15(8)

Attachment 12 – Ordinance No. 22-A(13) ZMA 2021-00003 Clifton Inn and Collina Farm Expansion

Attachment 13 – Resolution to Approve SP202100004 Clifton Inn and Collina Farm

Attachment 14 – Resolution to Approve SE 2022-00014 Clifton Inn and Collina Farm

Attachment 15 – Ordinance No. 22-A(4)

RESOLUTION TO APPROVE AN AMENDMENT TO THE COURTS PROJECT MEMORANDUM OF AGREEMENT AND ASSOCIATED LEASE WITH THE CITY OF CHARLOTTESVILLE

WHEREAS, the Board finds that it is in the best interest of the County both to amend the existing Courts Project Memorandum of Agreement with the City of Charlottesville and to enter a proposed lease with the City to ensure adequate parking for Albemarle County Court users, both in the City-owned parking lot located at 701 East Market Street and in the Market Street Parking Garage;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to enter both (a) an Amendment to the Courts Project Memorandum of Agreement between the County and the City of Charlottesville and (b) a proposed lease of the City-owned parking lot at 701 East Market Street, once each document is approved by the County Attorney as to form and substance.

**AMENDMENT TO THE MEMORANDUM OF AGREEMENT TO FACILITATE THE
EXPANSION, RENOVATION, AND EFFICIENT AND SAFE OPERATION OF THE
ALBEMARLE CIRCUIT COURT, THE ALBEMARLE GENERAL DISTRICT COURT,
AND THE CHARLOTTESVILLE GENERAL DISTRICT COURT**

THIS AMENDMENT TO THE MEMORANDUM OF AGREEMENT (the “Amendment”) is made as of _____ 20____, by and between the COUNTY OF ALBEMARLE, VIRGINIA (the “County”) and the CITY OF CHARLOTTESVILLE, VIRGINIA (the “City”), both of which are political subdivisions of the Commonwealth of Virginia. The County and the City may be referred to collectively as the “Parties.”

R-1. The Parties previously entered into that certain Memorandum of Agreement dated December 17, 2018, concerning the expansion, renovation, and efficient and safe operation of the County’s Circuit and General District Courts and the City’s General District Court (the “Original Agreement”); and

R-2. The County and the City fulfilled their respective obligations under Section 1 of the Original Agreement to sell and purchase the County’s one-half interest in the previously jointly-owned East Market Street Parcel (the “Market Street Parking Lot”); and

R-3. The City elected not to construct the Parking Structure pursuant to Section 2 of the Original Agreement; and

R-4. The County and the City agree that pursuit of the options available to the County as provided in Section 2(G) (Failure of the City to Complete Construction of the Parking Structure) of the Original Agreement are not in the best interest of the City or the County;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

- I. Section 2 of the Original Agreement (Parking Structure on the East Market Street Parcel) is deleted and replaced in full by the following terms:

2. Parking Provided by City.

- A. Total Number of Parking Spaces for County Courts Users and Employees.** As detailed in Sections 2(B) and 2(C) below, the City must provide the equivalent of ninety (90) total parking spaces in the Market Street Parking Lot and the parking garage owned and operated by the City and located at 550 East Market Street, Charlottesville, Virginia (the “Market Street Garage”). At any time that parking spaces made available for the County’s use in either of these parking facilities are unavailable to the County for more than seven (7) calendar days, the City must provide equivalent parking in a location mutually acceptable to the Parties within a one-third mile radius of Court

Square.

B. East Market Street Parking Lot. The City and County are to execute a lease in a form acceptable to the County and effective not later than February 1, 2023 (the “Lease”), to allow the County the exclusive use of all sixty-three (63) parking spaces in the Market Street Parking Lot at no cost, subject to the following terms and conditions:

- i. The County must have exclusive control over access to and the right to determine the use of the Market Street Parking Lot during the following days and times:
 1. During Regular Court Hours. Each Monday through Friday, both inclusive, from 7:00 a.m. until 6:00 p.m., unless the day is a Court holiday.
 2. During Special Court Sessions or Events. Any weekend day or Court holiday, or any evening after 6:00 p.m., when any County judicial proceeding or other County Court event is scheduled. The County must provide advance notice to the City of any such judicial proceeding or other County Court event.
- ii. The County may enforce parking regulations during its hours of exclusive use of the Market Street Parking Lot. In order to ensure that parking spaces are available to the County, the County may elect to install parking management infrastructure on the Market Street Parking Lot. The cost to install and maintain any such parking management infrastructure must be borne by the County during the term of the Lease. Examples of parking management infrastructure include (but are not limited to) signage, access control gates, and payment kiosks.
- iii. Throughout the term of Lease, the City must bear all costs of maintenance and repair of the Market Street Parking Lot, with the exception of any maintenance and repair required for County-installed parking management infrastructure. The County may (but is not obligated to) remove snow from the lot to ensure vehicular and pedestrian safety.
- iv. The Lease is to be effective for an initial term of twenty (20) years and may be renewed upon the same terms and conditions at the option of the County for an additional 20-year term.

C. Market Street Garage. The City must provide the equivalent of twenty-seven (27) parking spaces to the County in the Market Street Garage by free parking validations for up to eleven (11) validated hours for each such space during the hours set forth in Section 2(B)(i)(1).

This equivalent parking must be made available to the County not later than the date of issuance of the Certificate of Occupancy for the General District Court Building described in Section 5 of this Agreement.

- i. Except by future mutual agreement, parking spaces in the Market Street Garage will not be designated for exclusive use by the County.
- ii. If, in accordance with Section 2(B)(ii), the County elects to install parking management infrastructure in the Market Street Parking Lot, and such installation reduces the number of spaces usable in such lot, the number of spaces provided to the County in the Market Street Garage must be increased by a number equivalent to the reduction. Upon request of the County, the Parties must enter into an amendment to this Agreement in a form acceptable to the County to reflect any such increase.

D. Failure by the City to Abide by Terms and Conditions. If the City fails to perform its obligations under this Section 2 or the Lease, the County may elect one of the following alternative remedies:

- i. **Provide Parking in the Market Street Garage.** The City must provide one hundred (100) parking spaces in the Market Street Garage on or below Level 2, as these levels were identified as of the date of this Agreement designated for the County's exclusive use during the hours set forth in Section 2(B)(i)(1);
- ii. **Reconvey One-Half Interest in East Market Street Parcel, Allow the County to Use the Parcel for Parking, and Pay the County.** The City must convey a one-half interest in the East Market Street Parcel to the County, allow the County to use the East Market Street Parcel for parking, and pay the County, subject to the following terms and conditions:
 - a. **Reconveyance.** The City must convey to the County a one-half interest in the East Market Street Parcel for the amount the City paid to the County pursuant to Section 1 of this Agreement or the then-current appraised value of such one-half interest, whichever is less, less one-half of the fair market rental value for the City's sole use and occupancy of the East Market Street Parcel for the period that the City was the sole owner of the East Market Street Parcel; and
 - b. **Use.** In addition, the County and the City must enter into a memorandum of understanding in a form acceptable to the County, providing to the County exclusive control over access

to and the right to determine the use of the East Market Street Parcel; or

- iii. **Purchase of East Market Street Parcel by the County.** The City must convey to the County fee simple title to all ownership interests in the East Market Street Parcel at the then-current appraised value. The Parties may enter into a separate purchase contract in a form acceptable to the County for the County's acquisition of the East Market Street Parcel.

If the County elects the remedy set forth in either Section 2(D)(ii) or 2(D)(iii), the terms and conditions of Sections 1(B)-(E) of this Agreement will apply to the resulting valuation and/or (re-)conveyance, *mutatis mutandis*.

- II. Section 3 (Managing the Parking Structure and Maintaining the County Parking Spaces) of the Original Agreement and Section 4(F) (Reversion) of the Original Agreement are hereby deleted in their entirety.
- III. All other terms and conditions of the Original Agreement not replaced, superseded, or modified by this Amendment are affirmed and remain in full force and effect. Capitalized terms used in this Amendment and not defined herein are to have the meanings attributed to them in the Original Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COUNTY:

THE COUNTY OF ALBEMARLE, VIRGINIA

By:

Jeffrey Richardson
County Executive

Approved as to form:

County Attorney

CITY:

THE CITY OF CHARLOTTESVILLE, VIRGINIA

By:

Michael C. Rogers
City Manager

Approved as to form:

City Attorney

CITY OF CHARLOTTESVILLE LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter, "Lease" or "Lease Agreement") is made and entered into this _____ day of _____, 20_____, by and between THE CITY OF CHARLOTTESVILLE, VIRGINIA, a Virginia municipal corporation, herein referred to as the "City" or the "Landlord," and the COUNTY OF ALBEMARLE, VIRGINIA, herein referred to as the "County" or the "Tenant."

WITNESSETH:

ARTICLE I. PROPERTY

- A. Landlord owns certain land and improvements ("The Property") located at **701 East Market Street, Charlottesville, Virginia**. For and in consideration of the payment by Tenant of the rent hereinafter reserved and the performance by Tenant of the covenants and agreements hereinafter agreed to be performed by it, Landlord does hereby lease, let, and demise unto Tenant the right of exclusive use and possession of said property during specified hours.

Exhibit A, attached and incorporated herein by reference, sets forth the dimensions and characteristics of the Property.

Tenant shall have exclusive right to the use and possession of the Property, during days and hours in which the County's Circuit Court and/or General District Court ("County Courts") is/are in session, more specifically:

1. ***Weekdays***--Monday through Friday each week, from 7:00 a.m. to 6:00 p.m. each day, excepting holidays observed by the County Courts.
2. ***Special Events or Sessions***—any day(s) other than the weekdays specified above, and any weekday hour(s) after 6:00 p.m., when any judicial proceeding or other event within the County Court(s) is scheduled. Immediately upon the scheduling of any special court event or special session, Tenant shall notify the City's representative in writing.

At all other times, the Landlord shall retain all of its rights as to the use and possession of the property, and Tenant shall not take any action that would hinder or prevent Landlord's use of the Property, and the parking spaces located therein, at all other times.

ARTICLE II. TERM

The term of this Lease shall be for a period of twenty (20) years ("Term"), commencing on February 1, 2023 ("Commencement Date"), and expiring at midnight on February 1, 2043 ("Expiration Date")

unless sooner terminated by the parties in accordance with this Lease. Thereafter, unless the County notifies the City in writing of its intent to discontinue this Lease, this Lease will renew for one additional 20-year term, upon the same terms and conditions as set forth herein.

Tenant may cause a Memorandum of this Lease to be recorded among the land records of the City of Charlottesville, Virginia. Landlord shall cooperate with the Tenant and shall promptly sign such Memorandum upon presentment.

ARTICLE III. USE OF PROPERTY

- A. **Management of Property.** The Tenant shall use the Property for parking throughout the entire term of this Lease. Failure to maintain continuous use, except for shutdowns for repair and maintenance for a not more than 90 days, in the aggregate, per year, shall be deemed a breach of this Lease.

To facilitate its use of the Property, Tenant shall have the right to install parking management infrastructure within the Property. All costs and expenses to install, maintain or replace such infrastructure shall be borne by the Tenant throughout the term of the Lease. Examples of parking management infrastructure include, but are not necessarily limited to, signage, access control gates or equipment, and payment kiosks. All signage shall be compliant with requirements of the City's zoning ordinance, and Tenant shall be responsible for obtaining from City officials any building permits, electrical permits, zoning approvals, or other governmental approvals required for any parking management infrastructure. (The Property, together with any parking management infrastructure or other installations or alterations undertaken by the County for its purposes, shall, collectively, be the "Parking Facility").

The Tenant, at its sole discretion, may enforce parking regulations within the Property during times when it has exclusive use and possession under this Lease. No City of Charlottesville official or employee shall be asked to assist with enforcement of parking regulations, nor shall any City of Charlottesville official or employee provide assistance with parking enforcement. The Tenant's operation of the Parking Facility during all times when the Tenant has the right of exclusive use and possession under this lease shall be the sole undertaking of the Tenant; the Landlord shall not be deemed a partner of the Tenant's, nor shall the Landlord otherwise be deemed to be in any joint undertaking with the Tenant.

- B. **Specific use authorized.** The Property shall be used by the Tenant only as a commercial surface parking lot. Parking spaces within the Property shall be for use by the general public who have business with the Albemarle County Courts, or for judges, clerks, or staff employees of those Courts. No other use shall be made by Tenant of the Property without the advance and express written consent of the Landlord.
- C. **Rules and regulations.** Tenant agrees to observe all reasonable rules and regulations from time to time promulgated by Landlord which, in the Landlord's judgment (to be reasonably exercised), are needed for the general well-being, safety, care and cleanliness of the Property. Such rules shall include, but are not limited to, the following:

- 1) The sidewalks, entries, passages, vehicular travel ways and any other parts of the Property which are not occupied by the Tenant shall not be obstructed or used for any other purpose other than ingress and egress.
- 2) The Tenant shall not install or permit the installation of any awnings, shades, and the like.

- 3) Tenant shall have a parking operations plan that specifies when, and under what circumstances vehicles will be towed from parking spaces within the Property. Signs posted within the Premises shall comply with applicable legal requirements and shall provide telephone number(s) at which an employee of Tenant may be reached for customer complaints and for resolution of complaints. Tenant shall be solely responsible, financially and otherwise, for contracting with a provider of towing services.

ARTICLE IV. RENT

Rent. The Tenant hereby covenants and agrees to occupy the Property as Tenant of the Landlord for the term hereinabove set forth and agrees to pay to the Landlord rental therefor without offset or deduction therefrom, the sum of Ten Dollars (\$10.00) in U.S. currency per year ("Rent").

The parties acknowledge that the annual Fair Market Rent for the Property is \$92,412.00. The difference between the annual Rent specified for this Lease and the annual Fair Market Rent shall be deemed an in-kind financial contribution by Landlord to Tenant in support of the parties' operation of a joint general district court complex on a different site.

ARTICLE V. DAMAGE OR DESTRUCTION BY CASUALTY

- A. *Casualty renders entirely untenable.* If during the term of this Lease, the Property are damaged by fires, floods, windstorms, earthquakes, explosions, hurricanes, tornadoes, strikes, acts of public enemy, incidences of terrorism, wars or riots, civil disturbances, acts of God, or other casualty, so that the same are rendered unsuitable for Tenant's uses, and if said Property cannot be repaired by Landlord within ninety (90) days from the time of said damage, then this Lease shall terminate as of the date of such damage.
- B. *Casualty renders partially untenable.* If said Property shall be partially damaged by any of the above casualties as to be partially unsuitable for Tenant's uses, Landlord shall repair the Property promptly.
- C. *Limitation.* At any time that any parking spaces within the Property are unavailable for use due to circumstances referenced in (A) or (B) for more than seven consecutive calendar days, the Landlord shall provide an equivalent number of parking spaces in a location mutually acceptable to the parties within a one-third mile radius of the Albemarle Circuit Court building, which is the center of the area known as "Court Square", for as long as the Property are at least partially untenable.
- D. *Exclusions from Landlord's repairs.* If Landlord undertakes repair of the Property under this Section, Landlord shall not be obligated to repair, restore or replace any of Tenant's fixtures or any other personal property owned by or in the possession of Tenant and located on the Property; further, Landlord shall not be under any obligation to repair, restore or replace any alterations to the Property made by or on behalf of Tenant.

ARTICLE VI. FORCE MAJEURE

Except as otherwise expressly set forth herein, in the event either Landlord or Tenant shall be delayed or hindered in, or prevented from, the performance of any act or rendering of any service required under this Lease, or may be rendered unable to conduct its ongoing operations within the Property by reason of strikes, inability to obtain materials, failure of power or other utilities, restrictive governmental laws or regulations, acts of God, incidences of terrorism, wars or riots, civil disturbances, floods, earthquakes, volcanic activity, fire, explosions, epidemics or pandemics, hurricanes, tornadoes, or other

reasons of a similar or dissimilar nature which are beyond the reasonable control of the Landlord or Tenant (collectively known as "Event"), then the performance of any such act or rendering of any such service shall be excused for the period of the resulting delay and the period of the performance or the rendering of the service shall be extended for a period equivalent to the period of such delay.

ARTICLE VII. INSURANCE

- A. *Required insurance coverage.* Tenant shall maintain throughout the term of this Lease, with a company licensed to do business in the Commonwealth of Virginia, having a rating satisfactory to Landlord: broad form comprehensive general liability insurance (written on an occurrence basis, including contractual liability coverage).
- 1) The broad form comprehensive general liability insurance shall be in the minimum amount typically carried by prudent tenants engaged in commercial parking operations, but in no event shall be in an amount less than one million dollars (\$1,000,000.00) combined single limit per occurrence.
 - 2) Tenant's property insurance shall be in an amount not less than that required to replace all fixtures, personal property and other Tenant-installed improvements located on the Property, or twenty-five thousand dollars (\$25,000.00), whichever is greater.
- B. All such insurance shall name Landlord as an additional named insured, contain an endorsement that such insurance shall remain in full force and effect notwithstanding that the insured may have waived its claim against any person prior to the occurrence of a loss, provide that the insurer waives all right of recovery by way of subrogation against Landlord, its partners, agents and employees, and, contain an endorsement prohibiting cancellation, failure to renew, reduction in amount of insurance or change of coverage (1) as to the interests of Landlord by reason of any act or omission of Tenant, and (2) without the insurer's giving Landlord thirty (30) days' prior written notice of such action. Tenant shall deliver evidence of all required insurance and receipts evidencing payment of the premium for such insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) to Landlord on or before the Commencement Date and at least annually thereafter.

ARTICLE VIII. LOSS OR DAMAGE TO PROPERTY OR PERSONS

All personal property and fixtures belonging to the Tenant, located on or about the Property shall be there at the sole risk of the Tenant; and neither the Landlord nor Landlord's agent shall be liable for the theft or misappropriation thereof nor for any damage or injury thereto, nor for damage or injury to the Tenant or any of its officers, agents or employees or to other persons or to any property caused by fire, explosion, water, gas, electricity, or due to any other cause whatsoever, unless resulting from the willful acts of the Landlord, its employees, agents or representatives. Tenant shall give immediate notice to Landlord in case of fire or accident in the Property or of any defects, damage or injury therein or in any fixtures or equipment.

ARTICLE IX. REPAIRS AND MAINTENANCE--TENANT

- A. *Surrender Obligation.* At the expiration or earlier termination or cancellation of this Lease, Tenant shall surrender the Property to Landlord in as good condition as at the time of delivery, subject to reasonable wear and tear.

- B. *Landlord rights.* If Tenant fails to perform any of its obligations under this Article, then Landlord may perform such obligations and Tenant will pay as additional Rent to Landlord the cost of such performance, including an amount sufficient to reimburse Landlord for overhead and supervision, within thirty (30) calendar days after receipt of Landlord's written demand therefor. Tenant's obligation under this paragraph shall survive the expiration or termination of this Lease.

ARTICLE X. REPAIRS AND MAINTENANCE--LANDLORD

- A. *Maintenance, generally.* Maintenance of the Property, other than as set forth in the foregoing Article, shall be provided by Landlord. Landlord's maintenance responsibility shall include removal of snow and ice from parking areas, onsite walkways, and adjacent public sidewalks and grass mowing. In order to ensure the safety of users of the lot when County courts are in operation, Tenant reserves the right, but not the obligation, to remove snow and ice from the Property, at Tenant's own expense, if not timely removed by the Landlord.
- B. *Capital maintenance.* The Landlord shall, at its expense, maintain the pavement and painted parking space lines in good condition and shall repair the same with reasonable diligence when necessary.
- C. *Timing.* Landlord shall use reasonable diligence in scheduling maintenance to take place at a time and in a manner so as not to unreasonably interfere with Tenant's normal parking use; provided, however, that Landlord shall not be required to perform maintenance at night, or on weekends, if, in Landlord's sole discretion, that would not be efficient from either a budgetary or a practical perspective. Landlord shall give reasonable advance notice to Tenant of scheduled maintenance activities, so that Tenant can adjust its operations accordingly. If planned maintenance or repair activities will render any parking spaces within the Property unavailable for Tenant's exclusive use for more than seven consecutive calendar days, Landlord shall provide an equivalent number of parking spaces in a location mutually acceptable to the parties within a one-third mile radius of the Albemarle Circuit Court building, which is the center of the area known as "Court Square", for the remaining duration of the repair or maintenance activities.

ARTICLE XI. SERVICES AND UTILITIES

- A. *Separately metered utilities.* If, and to whatever extent, any electric, telephone or other utility service(s) are required by Tenant for its parking infrastructure, and such services cannot be separately metered, Tenant shall place all utilities serving the Property in the Tenant's name and be solely responsible for associated costs.
- B. Tenant shall be solely responsible for all other utility or other services required by Tenant for or in connection with its use of the Property (such as internet service, trash removal, etc.).

ARTICLE XII. ALTERATIONS BY TENANT

- A. *Alterations Prohibited Without Landlord Consent.* Tenant shall not make any alteration or improvement to the Property, and shall not install any parking infrastructure, without first submitting plans for such to the Landlord for review and approval.
- B. *Procedure; Review of Drawings and Specifications.* In the event Tenant proposes to make any alteration or physical improvement to the Property, Tenant shall first submit to Landlord for prior written approval: (a) detailed drawings and specifications, and (b) all other documents and information as Landlord may reasonably request in connection with such alteration (including,

without limitation, materials proposed to be submitted in connection with required building permit applications, zoning approvals, or other governmental requirements). Approval of drawings and specifications under the provisions of this Lease shall not constitute any representation or warranty by Landlord as to the accuracy, adequacy, sufficiency or propriety of such drawings and specifications or the quality of workmanship, or the compliance of such alteration with applicable legal requirements (such compliance to be determined only by the governmental authorities responsible for enforcement of such requirements).

Tenant shall pay the entire cost of the alteration and, if requested by Landlord, shall deposit with Landlord, prior to the commencement of the alteration, security for the payment and completion of the alteration in form and amount required by Landlord. Each alteration shall be performed in a good and workmanlike manner, in accordance with the drawings and specifications approved by Landlord and shall meet or exceed the standards for construction and quality of materials established by Landlord for the Property. In addition, each alteration shall be performed in compliance with all applicable legal requirements and all regulations and requirements of Landlord's and Tenant's insurers. Each alteration, whether temporary or permanent in character, unless otherwise specified, made by Tenant in or upon the Property (excepting only Tenant's furniture, removable equipment and removable trade fixtures) shall become Landlord's property and shall remain upon the Property at the expiration or termination of this Lease without compensation to Tenant. Notwithstanding the foregoing, Landlord shall have the right to require Tenant to remove any alteration at Tenant's sole cost and expense.

Upon completion of alterations or improvements, Tenant shall provide to the City copies of as-built drawings, in the form of a CAD disc.

- C. *ADA Compliance.* Tenant acknowledges that the Property may constitute a place of public accommodation or a facility under Title III of the Americans with Disabilities Act (the "ADA"). Any alteration or improvement to the Property, and parking infrastructure, must comply with accessibility standards set forth in the rules promulgated by the Department of Justice at 28 C.F.R. 36.101 *et seq.* Parking infrastructure installed by Tenant shall comply with applicable ADA and accessibility standards.
- D. *Liens.* Upon completion of any alteration or improvement, Tenant shall promptly furnish Landlord with sworn contractor's acknowledgements of payment in full and final waivers of lien in form and substance satisfactory to Landlord covering all labor and materials included in such alteration. Tenant shall not permit any mechanic's lien to exist against the property, or any part thereof, arising out of any alteration performed, or alleged to have been performed, or any service or work or material provided or furnished to Tenant or the Property by or on behalf of Tenant. If any such lien exists, Tenant shall, within ninety (90) days thereafter, have such lien discharged of record or deliver to Landlord a recordable bond in form, amount, and issued by a surety satisfactory to Landlord indemnifying Landlord against all costs and liabilities resulting from such lien and the foreclosure or attempted foreclosure thereof, to the extent permitted by Virginia law. Nothing herein constitutes a waiver of either party's sovereign immunity. If Tenant fails to have such liens so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including expenses and attorneys' fees.

ARTICLE XIII. REPRESENTATIONS OF TENANT

Tenant acknowledges and represents that it has had an opportunity to inspect the Property, and that the Property are in good order and repair. Tenant accepts the Property "as-is" and acknowledges that, based on its own inspection of the Property, the Property are suitable for its intended purposes.

ARTICLE XIV. COMPLIANCE WITH LAWS AND REGULATIONS

The Tenant shall, at its own expense, properly and promptly comply with and execute all laws, ordinances, rules, regulations and requirements, as the same now exist or as the same may hereafter be enacted, amended or promulgated by any federal, state or municipal authority, and/or any department or agency thereof, relating to the Tenant's use of the Property or of the operation of the Tenant's parking therein.

ARTICLE XV. DEFAULT BY TENANT

A. *Events of Default.* Tenant shall be deemed to be in default under this Lease, if:

- 1) Tenant shall fail or neglect to keep and perform each and every one of the other covenants, conditions and agreements herein contained and on the part of the Tenant to be kept and performed, within thirty (30) days after written notice from the Landlord specifying the items alleged to be in default, unless (1) the curing of such default will take more than thirty (30) days, in which event Tenant shall be deemed to be in default only if it does not commence the curing of such default within the said thirty (30) day period and carry it, in good faith, to prompt completion; or (2) the Tenant shall, in good faith, dispute the existence of any default or the extent of its liability therefor, in which event the Tenant shall be deemed to be in default only if it fails, within thirty (30) days after the agreement or final adjudication, to commence the curing of such default as is adjudged to exist or which the Landlord and the Tenant shall agree exists, and to carry it, in good faith, to prompt completion;

In the event the Tenant abandons the Property, either (i) by removing all of Tenant's personal property and fixtures from the Property, or (ii) by Tenant's failure to occupy the Property for a period in excess of ninety (90) days for reasons other than a *force majeure* event, the Landlord may, at its option, accelerate the entire unpaid balance of the basic annual rent for unexpired portion of the Lease, and take action to collect same as the Landlord deems appropriate. The Landlord may re-enter the Property, and such re-entry shall not be deemed a surrender and termination of the Lease. It shall be deemed to be a retaking for the purpose of re-letting the Property and the Landlord may make such alterations, improvements, repairs, etc. as it deems necessary to prepare the Property for re-letting. Neither the Landlord's re-entry nor failure to re-enter shall be deemed a waiver of any claim it may have against the Tenant for the remaining portion of the Lease. The Tenant remains liable to the Landlord for the entire unpaid balance plus all damages that the Landlord may have suffered by reason of Tenant's abandonment, less credit given for any rental received by the Landlord from a successor tenant. If the successor tenant pays a rent that exceeds the rent obligation of the Tenant hereunder, the Landlord shall be under no obligation to the Tenant to account for or pay over such excess.

- B. If a material default of any covenant, condition or agreement contained in this Lease shall exist, Tenant's right to possession shall thereupon cease and Landlord shall be entitled to the possession of said Property and to re-enter the same without demand for rent or for possession. Landlord may proceed forthwith to recover possession of said Property by process of law, any notice to quit or of intention to exercise such option or to re-enter said Property being hereby **EXPRESSLY WAIVED BY TENANT**. Further, Landlord at its sole option may accelerate the unpaid rent for the unexpired

portion of the Lease, giving credit for any proceeds from the re-letting in whole or in part of the Property and improvements by Landlord to others. Tenant will be liable to Landlord for all court costs and reasonable attorney's fees in the event Tenant shall become in default and Landlord incurs court costs and/or attorney's fees in obtaining possession of the Property or in the enforcement of any covenant, condition or agreement herein contained, whether through legal proceedings or otherwise, and whether or not any such legal proceedings be prosecuted to a final judgment.

C. Remedies for Default.

Upon the occurrence of a material Default, Landlord may elect to terminate this Lease, or, without terminating this Lease, Landlord may terminate Tenant's right to possession of the Property—in either case, after giving written notice thereof to Tenant. Upon any such termination, Tenant shall immediately surrender and vacate the Property and deliver possession thereof to Landlord. Tenant grants to Landlord the right, without notice to Tenant, to enter and repossess the Property, to eject Tenant and any others who may be occupying the Property, and to remove any and all personal property and fixtures therefrom, without being deemed in any manner guilty of trespass and without relinquishing Landlord's rights to any rent or any other right given to Landlord hereunder or by operation of law. In addition, Landlord may alter any locks, access gates, or other security devices at the Property.

In addition, Landlord may, but shall not be obligated, to perform any obligation of Tenant under this Lease, and if Landlord so elects, all costs and expenses paid by Landlord in performing such obligation shall be reimbursed by Tenant to Landlord on demand.

- D. Cumulative Remedies.* Any and all remedies set forth in this Lease: (a) shall be in addition to any and all other remedies Landlord may have at law and/or in equity, (b) shall be cumulative, and (c) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.
- E. No Waiver.* No waiver of any default of Tenant shall be implied from any omission by Landlord to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.

ARTICLE XVI. DEFAULT BY LANDLORD

Landlord shall be deemed to be in default under this Lease, if it shall fail to provide the Property in the condition agreed to herein, free from any interference with Tenant's use and enjoyment thereof, or to provide all services within the standards agreed upon. In case of Landlord's material default, Tenant shall have the option of terminating this Lease after first giving sixty (60) days' advance written notice to Landlord and an opportunity to cure. In the event the material default is not cured within the 60-day period, the Lease shall terminate.

ARTICLE XVII. SURRENDER OF PROPERTY

Upon the expiration or other termination of this Lease, Tenant shall quit and surrender the Property to Landlord in good order, repair and condition, ordinary wear and tear, acts of God, fire, and other casualty (not resulting from Tenant's or Tenant's agents', employees' or invitees' acts or omissions) excepted. Tenant shall on the day of expiration or termination of this Lease, or prior to such date,

remove all property of Tenant, and Tenant shall within two weeks after expiration or termination repair all damage to the Property caused by such removal and make reasonable restoration of the Property to the condition in which they existed prior to the installation of the property so removed.

ARTICLE XVIII. SIGNAGE

Tenant shall have no right to erect or install canopies, marquees, or advertising devices within the area of the Property. Tenant shall have no right to erect or install any sign within the Property, except with Landlord's prior written approval, which approval shall not be unreasonably withheld or delayed. All signs authorized by the Landlord must comply with applicable requirements of the City's zoning ordinance and the Uniform Statewide Building Code.

ARTICLE XIX. ASSIGNMENT AND SUBLETS

- A. Except as otherwise expressly authorized herein, Tenant shall not assign or sublet the Property or any part thereof to any third party.
- B. Tenant shall not mortgage or encumber the Property without Landlord's written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion.
- C. *Tenant to Remain Liable.* In no event shall any Transfer (whether or not permitted hereunder) release or relieve Tenant from its obligations to fully observe or perform all of the terms, covenants and conditions of this Lease on its part to be observed or performed.
- D. *Attorneys' Fees.* Tenant shall pay Landlord, on demand as additional rent, any attorney's fees and expenses incurred by Landlord in connection with any proposed Transfer, whether or not Landlord consents to such Transfer.

ARTICLE XX. HAZARDOUS MATERIAL

- A. For purposes of this Lease, "Hazardous Material" means any flammable items, explosives, radioactive material, oil, toxic substance, material or waste or related materials, including any material or substance included in the definition of "hazardous wastes," "hazardous materials" or "toxic substances", now or hereafter regulated under any Legal Requirements, including, without limitation, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, medical waste, polychlorinated biphenyls, and similar compounds. "Hazardous Material" shall also include, without limitation, any materials or substances which could trigger any employee "right to know" requirements or for which any regulatory or other governmental body has adopted any requirements for the preparation or distribution of a material safety data sheet.
- B. Tenant shall not cause or permit any Hazardous Material to be brought upon, produced, stored, generated, used, discharged or disposed of, in, on, under or about the Property, without the prior written consent of Landlord and then only in compliance with all applicable environmental legal requirements.
- C. Tenant shall execute such affidavits, representations and certifications from time to time as may be requested by Landlord, concerning Tenant's best knowledge and belief regarding the presence or absence of Hazardous Material in, on, under or about the Property and/or the Property.

- D. To the extent permitted by law, Tenant shall defend, indemnify and hold harmless Landlord from and against any and all claims (including, without limitation, costs and attorneys' fees) arising from any breach of this Article. The indemnity, defense and hold harmless obligations in this Article shall be in addition to all other indemnity, defense and hold harmless obligations contained in this Lease. Nothing herein constitutes a waiver of either party's sovereign immunity.

ARTICLE XXI. NOTICES

- A. Any notice required or permitted by this Lease to be given by either party to the other may be hand-delivered or sent by U.S. Mail, return receipt requested, with the sender retaining sufficient proof of having given such notice. No notice required or permitted by this Lease shall be effective if given only by electronic mail.

- B. All notices required by this Lease, unless otherwise designated in writing, shall be given to:

Tenant Mailing Address: Albemarle County Executive
401 McIntire Road
Charlottesville, Virginia 22902

Delivery Address: Same as above

Landlord Mailing Address: Charlottesville City Manager
PO Box 911
Charlottesville, Virginia 22902

Delivery Address: Same as above

ARTICLE XXII. QUIET ENJOYMENT

Upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall have the peaceful and quiet use of the Property during the days and times specified herein, and all rights, servitudes, and privileges belonging to, or in any way appertaining thereto, or granted hereby for the terms stated, without hindrance, or interruption by Landlord or any other person or persons lawfully claiming by, through or under Landlord.

ARTICLE XXIII. NO IMPLIED WAIVERS

A waiver of any covenant or condition of this Lease shall extend to the particular instance only and in the manner specified and shall not be construed as applying to or in any manner waiving any further or other covenants, conditions or rights hereunder.

ARTICLE XXIV. NO PARTNERSHIP CREATED

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of, or between, Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

ARTICLE XXV. ENTIRE AGREEMENT; MODIFICATION

- A. This Lease, together with exhibits attached hereto and the parties' Memorandum of Agreement regarding the County's Courts Project (as amended), represents the entire understanding between the parties, and there are no other collateral or oral agreements or understandings between the parties as to any subject(s) herein contained.
- B. This Lease is entered pursuant and subordinate to the parties' Memorandum of Agreement regarding the County's Courts Project (as amended). Any rights and responsibilities of the parties thereunder, including (but not limited to) any and all obligations to provide alternate parking, survive termination of this Lease.
- C. This Lease shall not be modified unless in writing of equal dignity signed by both parties.

ARTICLE XXVI. PARTIAL INVALIDITY

If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

ARTICLE XXVII. BINDING EFFECT

It is agreed that all of the terms and conditions of this Lease are binding upon the parties hereto, their administrators, heirs, successors and assigns, unless otherwise specified herein. All terms and conditions herein are also covenants.

ARTICLE XXVIII. APPLICABLE LAW

This Lease shall be governed in all aspects by the laws of the Commonwealth of Virginia, notwithstanding its conflict of laws provisions.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized representatives, following below:

[insert signature pages following]

RESOLUTION TO APPROVE AN AMENDMENT TO THE MUSIC HALL-MANNING ACE DEED OF EASEMENT

WHEREAS, the Board finds that it is in the best interest of the County to exercise its discretion to approve the increased primary dwelling size from 7,000 above ground livable square feet to 11,500 above ground livable square feet authorized in the existing ACE Deed of Easement (recorded at the Albemarle County Circuit Court Deed Book 3404, page 288; Parcel IDs 06500-00-00-01100, 06500-00-00-011B0, and 06500-00-00-011C0; 76.46 acres) in exchange for the current landowner, Castalia-Cismont Investment, LLC, agreeing to amend the same deed so as to eliminate on secondary dwelling and to limit the size of the one remaining permitted secondary dwelling to 2,000 above ground livable square feet; and

WHEREAS, the Board finds that this approval and amendment to the Deed of Easement will increase the conservation value protections currently existing on the subject property by reducing and permanently fixing the permitted aggregate above ground area livable area for dwellings.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to execute an Amendment to Deed of Easement and Written Approval consistent with this Resolution once approved to form and substance by the County Attorney.

This document was prepared by
 Albemarle County Attorney
 County of Albemarle
 401 McIntire Road
 Charlottesville, Virginia 22902

Tax Map and Parcel Numbers 06500-00-00-01100, 06500-00-00-011B0, 06500-00-00-011C0

This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3).

AMENDMENT TO DEED OF EASEMENT & WRITTEN APPROVAL

THIS AMENDMENT TO DEED OF EASEMENT & WRITTEN APPROVAL, made this ____ day of December, 2022, between **CASTALIA-CISMONT INVESTMENT, LLC**, a Virginia limited liability company, Grantor, hereinafter referred to as the “Grantors,” and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter sometimes referred to as the “County,” and the **ALBEMARLE COUNTY CONSERVATION EASEMENT AUTHORITY (formerly known as the ALBEMARLE COUNTY PUBLIC RECREATIONAL FACILITIES AUTHORITY)**, a public body established pursuant to Virginia Code § 15.2-5600 *et seq.*, each of whose address is 401 McIntire Road, Charlottesville, Virginia, 22902; the County and the Albemarle County Public Recreational Facilities Authority are hereinafter collectively referred to as the “Grantees.”

WITNESSETH

WHEREAS, the Grantor owns in fee simple the real property located in Albemarle County that is described below and hereinafter referred to as the “Property;”

WHEREAS, under the County’s Acquisition of Conservation Easements (“ACE”) Program, codified in Appendix A.1 of the Albemarle County Code, the County of Albemarle, Virginia (“the County”), acquired a conservation easement over the Property subject herein by a Deed of Easement recorded with the Clerk’s Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 3404, page 288 (“the Conservation Easement”); and

WHEREAS, the Grantor acknowledges the Property remains subject to the terms of the Conservation Easement except as expressly amended and modified in this Amendment to Deed of Easement and Written Consent;

WHEREAS, the Grantor desires to maintain the Conservation Easement on the Property for the purpose of preserving such lands as open space in perpetuity in order to protect the values described in the Conservation Easement but has asked Grantees to approve in writing an increase in the size limit on the permitted primary single-family dwelling and, in consideration thereof, has agreed to eliminate one of two permitted accessory dwellings and to limit the size of the one remaining permitted accessory dwelling;

WHEREAS, by the terms of the Conservation Easement, Grantees reserved the authority to approve in writing a larger primary single-family dwelling); and

WHEREAS, Grantees have found that eliminating one permitted accessory dwelling and restricting the size of the remaining permitted accessory dwelling increase the protection of the conservation values under the Conservation Easement.

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby grants, conveys, and covenants and the Parties agree as follows:

1. AMENDMENT TO DEED OF EASEMENT. The Grantor hereby grants and conveys to the Grantees and their successors and assigns, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, an Amendment to the Conservation Easement in gross over the Property described below, restricting in perpetuity the use of the Property in the manner set forth herein:

Parcel 1: All that certain tract or parcel of land, with improvements thereon and appurtenances thereto pertaining, situated in Albemarle County, Virginia, fronting on the South Side of State Route 600, containing 22.011 acres, more or less, and designated on a plat of B. Aubrey Huffman and Associates, dated June 21, 1994, as Parcel 11 on Sheet 65, recorded in the Clerk's Office for the Circuit Court of Albemarle County, Virginia, in Deed Book 1419, page 402.

Parcel 2: All that certain tract or parcel of land consisting of 2.45 acres, more or less, situated one-half mile west of Cismont in Albemarle County, Virginia, adjoining State Route 600, as shown on a plat of C.H. Shapleigh, C.E., dated April 1957, recorded in the Clerk's Office for the Circuit Court of Albemarle County, Virginia, in Deed Book 355, page 420.

Parcel 3: All that certain tract or parcel of land situate in Albemarle County, Virginia, fronting a short distance on the South Side of State Route 600, containing 52 acres, more or less, and described as Parcel A on a plat of B. Aubrey Huffman and Associates, dated January 9, 1973, and

recorded in the Clerk's Office for the Circuit Court of Albemarle County, Virginia, in Deed Book 526, page 290.

All three parcels are the same property conveyed to the Grantor by Deed from Ann C. McGraw and Barbara C. Little as Trustees of the Elizabeth B. Chester Revocable Declaration of Trust dated January 19, 2005, as amended and restated April 27, 2013, and Ann C. McGraw and Barbara C. Little as Trustees of the Donal G. Chester Trust, u/a dated January 19, 2005, as amended and restated April 27, 2012, said Deed dated November 16, 2020, of record in said Clerk's Office in Deed Book 5435, page 101.

The Property is also identified in the County's tax maps as Tax Map and Parcel Numbers 06500-00-00-01100, 06500-00-00-011B0 and 06500-00-00-011C0.

The terms contained in Section 2.B.2.(ii) of the Conservation Easement relating to permitted types of structures are hereby stricken in full and replaced with the following: "Only one accessory dwelling of no greater than 2,000 square feet of above ground livable-space, and non-residential outbuildings or structures commonly and appropriately incidental thereto."

2. WRITTEN APPROVAL FOR LARGER PRIMARY SINGLE-FAMILY

DWELLING. Pursuant to Section 2.B.2.(i), Grantees approve the construction, placement, and maintenance of one single-family dwelling not to exceed 11,500 square feet of above ground livable-space.

3. MISCELLANEOUS PROVISIONS

A. All other terms and conditions not inconsistent with the Deed of Easement referred to herein as the Conservation Easement that is recorded with the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 3404, page 288 remain in full force and effect and are incorporated fully into this Amendment to Deed of Easement & Written Approval.

B. **Recordation.** Upon execution by the parties, this Amendment to Deed of Easement and Written Approval shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Albemarle, Virginia.

C. **Authority to convey easement.** The Grantor covenants that it is vested with good title to the Property and may convey this Easement.

D. Authority to accept easement. The Grantees are authorized to accept this Easement pursuant to Virginia Code § 10.1-1701 and Albemarle County Code Section A.1-109(E). The County, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts the amendment to the deed of easement pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed. The Albemarle Conservation Easement Authority, acting by and through its Chair, duly authorized by a motion adopted on August 11, 2022, accepts this deed of easement pursuant to Virginia Code § 15.2-5604, as evidenced by the Chair's signature hereto and the recordation of this Deed.

L. Construction. This Easement shall be construed to promote the purposes of this Easement, the ACE Program, and the Open-Space Land Act and shall be construed in conjunction with the terms of the Conservation Easement recorded with the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 3404, page 288.

[Signature Pages Follow]

[Signature Page 1 of 2]

WITNESS the following signatures and seals.

CASTALIA-CISMONT INVESTMENT, LLC

By: _____ (SEAL)
Manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____:

The foregoing *Amendment to Deed of Easement & Written Approval* was signed, sworn to and acknowledged before me this _____ day December, 2022, by _____, Grantor.

Notary Public
My Commission Expires: _____

COUNTY OF ALBEMARLE, VIRGINIA

**ALBEMARLE CONSERVATION
EASEMENT AUTHORITY**

By: _____ (SEAL)
Jeffrey Richardson
County Executive

By: _____ (SEAL)
Jay Fennell
Chair

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE:

The foregoing *Amendment to Deed of Easement & Written Approval* was signed, sworn to and acknowledged before me this _____ day December, 2022, by Jeffrey Richardson, County Executive for the County of Albemarle, Virginia, Grantee.

My Commission Expires: _____
Notary Public

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE:

The foregoing *Amendment to Deed of Easement & Written Approval* was signed, sworn to and acknowledged before me this _____ day December, 2022, by Jay Fennell, Chair of the Albemarle Conservation Easement Authority, Grantee.

My Commission Expires: _____
Notary Public

Approved as to form:

By: _____
County Attorney

**RESOLUTION TO APPROVE
ADDITIONAL FY 2023 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 23 Budget is amended to increase it by \$22,828,349;
- 2) That Appropriations #2023023; #2023024; #2023025; #2023026; #2023027; and #2023028 are approved;
- 3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2023.

ORDINANCE NO. 22-3(1)

AN ORDINANCE TO AMEND CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE 2, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance Division 2, Districts, is hereby reordained and amended as follows:

By Amending:

Sec. 3-219 Hatton Agricultural and Forestal District

Chapter 3. Agricultural and Forestal Districts

...

Article 2. Districts of Statewide Significance

...

Division 2. Districts

...

Sec. 3-219 Hatton Agricultural and Forestal District.

The district known as the "Hatton Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on June 29, 1983.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
 - 1. Tax map 135: parcels 13, 13A, 13B, 14B, 15, 15A, 15C, 17, 18, 19, 22, 22A, 22C, 22C1, 22C2.
 - 2. Tax map 136: parcels 2A, 6B, 8H, 9A2, 9B, 9C, 9D1, 9E, 9H2.
- C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to September 1, 2031.

(Code 1988, § 2.1-4(a); § 3-215, Ord. 98-A(1), 8-5-98; Ord. 01-3(1) , 6-20-01; Ord. 07-3(1), 7-11-07; Ord. 10-3(2), 7-7-10; Ord. 11-3(1), 7-6-11; § 3-219, Ord. 18-3(1) , 11-7-18; Ord. 21-3(2) , 9-1-21; Ord. 22-3(1), 12-7-22)

**RESOLUTION TO APPROVE
SP202200003 DAYLILY SCHOOL**

WHEREAS, upon consideration of the staff reports prepared for SP 202200003 Daylily School and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(5) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200003 Daylily School, subject to the conditions attached hereto.

* * * * *

SP202200003 Daylily School Special Use Permit Conditions

1. Development of the use must be in general accord with the conceptual plan dated 7/18/2022. To be in general accord with the conceptual plan, development must reflect the following major elements essential to the design of the development:
 - a. Location of buildings, preschool, and playground areas;
 - b. Location of parking areas;
 - c. Delineation of parking spaces; and
 - d. Provision of a "Do Not Enter" sign at the entrance of the preschool driveway as shown on the concept plan and a "Parking" sign near the area designated as "parent parking" on the concept plan.

Minor modifications to the plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. Enrollment may not exceed thirty-five (35) children/students.
3. The hours of operation for the preschool may not exceed 8:30 a.m.-5:30 p.m. Monday through Friday.

**RESOLUTION TO APPROVE
SP202200009 VIRGINIA INSTITUTE OF AUTISM
EXPANSION ADULT SERVICE CENTER**

WHEREAS, upon consideration of the staff reports prepared for SP 202200009 Virginia Institute of Autism Expansion Adult Service Center and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-18.2.2(5), 18-22.2.2(6), and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

5. not be a substantial detriment to adjacent parcels;
6. not change the character of the adjacent parcels and the nearby area;
7. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the C-1 Commercial zoning district, and with the public health, safety, and general welfare (including equity); and
8. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200009 Virginia Institute of Autism Expansion Adult Service Center, subject to the conditions attached hereto.

* * * * *

**SP202200009 Virginia Institute of Autism Expansion Adult Service Center
Special Use Permit Conditions**

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan titled "Virginia Institute of Autism Hillsdale Expansion," prepared by Timmons Group, with the latest revision date of August 12, 2022. To be in general accord with the conceptual plan, development must reflect the following major element essential to the design of the development:

- a. Location of potential phase 1 play area as shown on the plan.

Minor modifications to the plan that do not conflict with the element above may be made to ensure compliance with the Zoning Ordinance.

2. Enrollment may not exceed 137 participants.
3. Normal hours of operation for the Center may not exceed 7:30 a.m. to 6:00 p.m., Monday through Friday, with occasional evening and weekend activities.
4. Signage must be provided onsite, near the point of egress, notifying buses that only left turns out are permitted.

**RESOLUTION TO APPROVE
SP202200010 STAND ALONE PARKING FOR
VIRGINIA INSTITUTE OF AUTISM
EXPANSION ADULT SERVICE CENTER**

WHEREAS, upon consideration of the staff reports prepared for SP 202200010 Stand Alone Parking for the Virginia Institute of Autism Expansion Adult Service Center and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-22.2.2(9) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

9. not be a substantial detriment to adjacent parcels;
10. not change the character of the adjacent parcels and the nearby area;
11. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the C-1 Commercial zoning district, and with the public health, safety, and general welfare (including equity); and
12. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200010 Stand Alone Parking for the Virginia Institute of Autism Expansion Adult Service Center, subject to the conditions attached hereto.

* * * * *

**SP202200010 Stand Alone Parking for the
Virginia Institute of Autism Expansion Adult Service Center
Special Use Permit Conditions**

1. Development of the use shall be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan titled "Virginia Institute of Autism Hillsdale Expansion," prepared by Timmons Group, with the latest revision date of August 12, 2022. To be in general accord with the conceptual plan, development must reflect the following major element essential to the design of the development:
 - a. Location of parking areas

Minor modifications to the plan that do not conflict with the element above may be made to ensure compliance with the Zoning Ordinance.

ORDINANCE NO. 22-15(8)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, of the Code of the County of Albemarle, Virginia, is hereby amended as follows:

By Adding:

15-1501 Purpose.

15-1502 Definitions

15-1503 Effective date.

15-1504 C-PACE Program; Eligible Improvements.

15-1505 C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

15-1506 Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

15-1507 Role of the County; limitation of liability.

15-1508 Severability.

Chapter 15. Taxation**ARTICLE 15****Article 15 Commercial Property Assessed Clean Energy (C-PACE) Financing Program****Section 15-1501 - Purpose.**

The purpose of this chapter is to create the "County of Albemarle Commercial Property Assessed Clean Energy (C-PACE) Financing Program," to operate in coordination with the statewide C-PACE program, all in accordance with Virginia Code § 15.2-958.3 (hereinafter, the "C-PACE Act"). The local and statewide C-PACE programs, working together, will facilitate Loans made by Capital Providers to Property Owners of Eligible Properties to finance Eligible Improvements thereon. Subject to the limitations set forth in this chapter, the C-PACE Act, and other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by a voluntary special assessment lien on the Property that is the subject of such Loan.

Section 15-1502 - 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 schedule will be attached as Exhibit B to the C-PACE Program Agreement.

(b) *Board of Supervisors* means the Board of Supervisors of the County of Albemarle, Virginia.

(c) *Capital Provider* means (i) a private lending institution that has been approved by the Program Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and the institution's successors and assigns; or (ii) the current holder of a C-PACE Loan.

(d) *Clerk's Office* means the Office of the Clerk of the Circuit Court of the County of Albemarle, Virginia.

(e) *Commonwealth* means the Commonwealth of Virginia.

(f) *County* means the County of Albemarle, Virginia.

(g) *C-PACE* means Commercial Property Assessed Clean Energy.

(h) *C-PACE Act* means Virginia's "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at Virginia Code § 15.2-958.3.

- (i) *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 must be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.
- (j) *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.
- (k) *C-PACE Assignment (Locality)* means a written assignment by the County to the Capital Provider to whom the C-PACE Loan is then due, wherein the County 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.
- (l) *C-PACE Documents* means the C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-PACE Assignment (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.
- (m) *C-PACE Lien* or *Lien* means the voluntary special assessment lien levied against the Property as security for the C-PACE Loan.
- (n) *C-PACE Lien Certificate* means the voluntary special assessment lien document duly recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.
- (o) *C-PACE Loan* or *Loan* means a loan from a Capital Provider to finance a Project, in accordance with the Program Guidelines.
- (p) *C-PACE Payment* means the periodic installment payments of the C-PACE Loan by a Property Owner, due and payable to the County or Capital Provider as permitted by the C-PACE Act in such amounts and at such times as described in the Assessment Payment Schedule.
- (q) *C-PACE Program* means the program established by the County through this chapter, in accordance with the C-PACE Act, which in coordination with the Statewide Program 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.
- (r) *C-PACE Program Agreement* means the agreement executed among the Property Owner, the County, the Director of Finance, and the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the C-PACE Program and the Property Owner's acknowledgment and consent for the County to impose a voluntary special assessment, record a C-PACE Lien Certificate against the Property Owner's Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE Lien Certificate to the Capital Provider (and if so assigned, also a consent of the Director of Finance to such assignment). The C-PACE Program Agreement will be substantially in the form attached hereto as Appendix A.
- (s) *Delinquent Payment* means any C-PACE Payment that was not paid by a Property Owner in accordance with the C-PACE Documents.
- (t) *Director of Finance* means the Director of Finance of the County, who is the official executing the tax collection duties that would otherwise be carried out by a Treasurer.
- (u) *Eligible Improvements* means the initial acquisition and installation of 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.

Eligible Improvements may be made to both existing Properties and new construction, as further prescribed in this chapter and the Program Guidelines. Eligible Improvements will include types of authorized improvements added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition to the elaboration on the types of Eligible Improvements provided in Section 15-1504(a), below, a Program Administrator may include definitions, interpretations, and examples of these categories of Eligible Improvements in its Program Guidelines or other administrative documentation.

(v) *Eligible Property or Property* means all assessable commercial real estate located within the County, with all buildings located or to be located thereon, whether vacant or occupied, improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the County, excluding (i) a residential dwelling with fewer than five units, and (ii) a residential condominium as defined in Virginia Code § 55.1-2100. Common areas of real estate owned by a cooperative or a property owners' association described in Virginia Code Title 55.1, Subtitle IV (§ 55.1-1800 et seq.), that have a separate real property tax identification number are Eligible Properties. Eligible Properties will be eligible to participate in the C-PACE Program.

(w) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain any lawful terms agreed to by the Capital Provider and the Property Owner.

(x) *Land Records* means the Land Records of the Clerk's Office.

(y) *Lender Consent* means a written subordination agreement executed by each mortgage or deed of trust lienholder with a lien on the Property that is the subject of a C-PACE Loan, which agreement allows the C-PACE Lien to have senior priority over the mortgage or deed of trust liens.

(z) *Loan Amount* means the original principal amount of a C-PACE Loan.

(aa) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy Agreement between Virginia Energy and the County, pursuant to which the County elects to participate in the Statewide Program. The Locality Agreement will be substantially in the form attached hereto as Exhibit B.

(bb) *Program Administrator* means the private third party retained by Virginia Energy to provide professional services to administer the Statewide Program in accordance with the requirements of the C-PACE Act, this chapter, the Locality Agreement, and the Program Guidelines.

(cc) *Program Fees* means the fees authorized by the C-PACE Act and charged to participating Property Owners to cover the costs to design and administer the Statewide Program, including, without limitation, compensation of the Program Administrator. While Capital Providers are required to service their C-PACE Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing responsibility and charges a servicing fee, the servicing fee will also be included among the Program Fees.

(dd) *Program Guidelines* means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fees, responsibilities, and other requirements applicable to the governance and administration of the Statewide Program.

(ee) *Program Manager* means the County Executive or such person designated in writing by the County Executive to (i) supervise the County's C-PACE Program and participation in the Statewide Program, (ii) act as liaison with the Program Administrator and (iii) advise the Program Administrator as to who will sign the C-PACE Documents to which the Locality is a party on the Locality's behalf. If the employee of the County who customarily signs agreements for the Locality is not the person designated as Program Manager, then references in this Ordinance and in the C-PACE Documents to the Program Manager signing certain C-PACE Documents on behalf of the Locality will be construed to also authorize such customary signatory for the County to execute such C-PACE Documents.

(ff) *Project* means the construction or installation of Eligible Improvements on Eligible Property.

(gg) *Property Owner* means (i) the Property Owners of Eligible Property who voluntarily obtain a C-PACE Loan from a Capital Provider in accordance with the Program Guidelines; or (ii) a successor in title to the Property Owner.

(hh) *Property Owner Certification* means a notarized certificate from a Property Owner, certifying that (i) the 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, (ii) that the Property Owner is not insolvent or in bankruptcy proceedings, and (iii) 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.

(ii) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy, established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this chapter, the Locality Agreement, the C-PACE Documents, and the Program Guidelines.

(jj) *Useful Life* means the normal operating life of the fixed asset.

(kk) *Virginia Code or Va. Code* means the Code of Virginia of 1950, as amended.

(ll) *Virginia Energy* means the Virginia Department of Energy.

Sec. 15-1503 - Effective date.

This chapter will become effective immediately following its adoption.

Sec. 15-1504 - C-PACE Program; Eligible Improvements.

(a) *C-PACE Program.* The C-PACE Program will be available throughout the County, provided that the Property Owner, the Property, the proposed Eligible Improvements, the Capital Provider, and the principal contractors all qualify for the Statewide Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

(1) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation, and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, and/or weather-stripping), or other capital improvements or systems that result in the reduction of consumption of energy over a baseline established in accordance with the Program Guidelines;

(2) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling, and other forms of water conservation), or other capital improvements or systems that result in the reduction of consumption of water over a baseline established in accordance with the Program Guidelines;

(3) Renewable energy production facilities (e.g., solar photovoltaic, fiber optic solar, solar thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power purchase agreement with a non-utility purchaser;

(4) Resiliency improvements that increase 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:

- a. Flood mitigation or the mitigation of the impacts of flooding;
- b. Inundation adaptation;
- c. Natural or nature-based features and living shorelines, as defined in Virginia Code § 28.2-104.1;
- d. Enhancement of fire or wind resistance, including but not limited to reinforcement and insulation of a building envelope to reduce the impacts of excessive heat or wind;

- e. Microgrids;
- f. Energy storage; and
- g. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;

(5) Stormwater management improvements that reduce onsite stormwater runoff into a stormwater system, such as reduction in the quantity of impervious surfaces or providing for the onsite filtering of stormwater;

(6) Environmental remediation improvements, including but not limited to:

- a. Improvements that promote indoor air and water quality;
- b. Asbestos remediation;
- c. Lead paint removal; and
- d. Mold remediation;

(7) Soil or groundwater remediation;

(8) Electric vehicle infrastructure improvements, such as charging stations;

(9) Construction, renovation, or retrofitting of a Property directly related to the accomplishment of any purpose listed in subsections (1) – (8) above, whether such Eligible Improvement was erected or installed in or on a building or on the ground; it being the express intention of the County to allow Eligible Improvements that constitute, or are a part of, the construction of a new structure or building to be financed with a C-PACE Loan; and

(10) Any other category of improvement (i) approved by the Program Administrator with the consent of the Program Manager as qualifying for financing under the Statewide Program, in accordance with the C-PACE Act (including amendments thereto that authorize additional types of Eligible Improvements), or (ii) added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

(b) *Use of C-PACE Loan proceeds.* The proceeds of a C-PACE Loan may be used to pay for the construction, development, and consulting costs directly related to Eligible Improvements, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial, and legal), program fees, C-PACE Loan fees, capitalized interest, interest reserves, and C-PACE transaction underwriting and closing costs.

(c) *Program applications; prioritization.* The Program Administrator will make available the Statewide Program's program application process, to provide for the review and approval of proposed Eligible Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

Section 15-1505 - C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

(a) *Source of Loans.* C-PACE Loans will be originated by Capital Providers. The County and/or its respective governmental entities will have no obligation to originate or guarantee any C-PACE Loans.

(b) *C-PACE Loan Amount thresholds.* The minimum Loan Amount that may be financed for each Project is fifty thousand dollars (\$50,000.00). There is no maximum aggregate amount that may be financed with respect to an Eligible Property, except as stipulated in the Program Guidelines. There will be no limit on the total value of all C-PACE Loans issued under the C-PACE Program.

(c) *C-PACE Loan refinancing or reimbursement.* The Program Administrator may approve a Loan application submitted within two years of the County's issuance of a certificate of occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible Improvements.

(d) *C-PACE Loan interest.* The interest rate of a C-PACE Loan will be as set forth in the C-PACE Documents.

(e) *C-PACE Loan term.* The term of a C-PACE Loan must not exceed the weighted average Useful Life of the Eligible Improvements, as determined by the Program Administrator.

(f) *Apportionment of costs.* All of the costs incidental to the financing, administration, collection, and/or enforcement of the C-PACE Loan must be borne by the Property Owner.

(g) *Financing Agreements.* Capital Providers may use their own Financing Agreements for C-PACE Loans, but the Financing Agreement may not conflict with the provisions of this chapter, the C-PACE Act, or the C-PACE Program Agreement. To the extent of any conflict, this chapter, the C-PACE Act, and the C-PACE Program Agreement will prevail.

(h) *C-PACE Program Agreement.* In order to participate in the C-PACE Program, the Property Owner and the Capital Provider must enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and execute the C-PACE Program Agreement on behalf of the County without further action by the Board of Supervisors. The Director of Finance is also authorized to execute the C-PACE Program Agreement without further action by the Board of Supervisors. The C-PACE Program Agreement will be binding upon the parties thereto and their respective successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the C-PACE Program Agreement as necessary to further the Statewide Program's purpose and to encourage Program participation, so long as such modifications do not conflict with the Program Guidelines, this chapter, the Locality Agreement, or the C-PACE Act.

(i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment Payment Schedule, the C-PACE Documents and Program Guidelines. The Capital Provider will be responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other C-PACE Documents, for the servicing of the C-PACE Loans and the collection of C-PACE Payments. If a Capital Provider fails to service a C-PACE Loan, such C-PACE Loan will be serviced by the Program Administrator. Nothing herein will prevent the Capital Provider or the Program Administrator from directly billing and collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default thereunder is governed by Section 15-1506(e).

(j) *C-PACE Loan assumed.* A party that acquires a Property that is subject to a C-PACE Lien, whether it obtained ownership of the Property voluntarily or involuntarily, becomes the Property Owner under the C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay all remaining unpaid C-PACE Payments that are due and that accrue during such successor Property Owner's period of ownership. Only the current C-PACE Payment and any Delinquent Payments, together with any penalties, fees and costs of collection, will be payable at the settlement of a Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.

(k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider must (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of the next C-PACE Payment due (and within 30 days if the C-PACE Loan is serviced by the Program Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator. Recordation of the C-PACE Assignment (CP) will constitute an assumption by the new Capital Provider of the rights and obligations of the original Capital Provider contained in the C-PACE Documents.

(l) *Program Fees.* The Statewide Program is self-financed through the Program Fees charged to participating Property Owners, together with any funds budgeted by the General Assembly to support the Statewide Program. The Program Fees are established to cover the actual and reasonable costs to design and administer the Statewide Program, including the compensation of a third-party Program

Administrator. The amount of the Program Fees will be set forth in the Program Guidelines. Program Fees may be changed by the Program Manager from time to time and will only apply to C-PACE Loans executed after the date the revised fees are adopted.

(m) *Locality Agreement.* The County will opt into the Statewide Program by entering into the Locality Agreement, adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act, opting into the C-PACE Program will not require the County to conduct a competitive procurement process. The Program Manager is authorized to execute the Locality Agreement on behalf of the County without further action by the Board of Supervisors.

(n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program. The Program Administrator may modify the Program Guidelines from time to time, provided such amendments are (i) consistent with the C-PACE Act and (ii) approved by Virginia Energy before taking effect.

(o) *Indemnification.* The Program Administrator must 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.

Section 15-1506 - Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

(a) *Levy of voluntary special assessment lien.* Each C-PACE Loan made under the C-PACE Program will be secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each Property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien will be in the Loan Amount, but will secure not only the principal of the C-PACE Loan, but also all interest, delinquent interest, late fees, penalties, Program Fees, and collection costs (including attorneys' fees and costs) payable in connection therewith.

(b) *Recordation of C-PACE Lien Certificate.* Each C-PACE Lien will be evidenced by a C-PACE Lien Certificate in the Loan Amount, but will also expressly state that it also secures all interest, delinquent interest, late fees, other types of fees, penalties, and collection costs (including attorneys' fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule will be attached thereto as an exhibit. The Program Manager is hereby authorized to, and will promptly, execute the C-PACE Lien Certificate on behalf of the County and deliver it to the Capital Provider, without any further action by the Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the Capital Provider must record the C-PACE Lien Certificate in the Land Records.

(c) *Priority.* The C-PACE Lien will have the same priority as a real property tax lien against real property, except that it will have priority over any previously recorded mortgage or deed of trust lien on the Property only if prior to the recording of the C-PACE Lien:

- (i) the Property Owner has obtained a written Lender Consent, in a form and substance acceptable to the holder of such prior mortgage or deed of trust in its sole and exclusive discretion, executed by such lienholder and recorded with the C-PACE Lien Certificate in the Land Records; and
- (ii) prior to the recording of the C-PACE Lien Certificate, the Property Owner has delivered an executed Property Owner Certification to the County in connection with the C-PACE Loan closing.

Only the current C-PACE Payment and any Delinquent Payments will constitute a first lien on the Property. The C-PACE Lien will run with the land and that portion of the C-PACE Lien under the C-PACE Program Agreement that has not yet become due will not be eliminated by foreclosure of a real property tax lien.

(d) *Amendment of lien.* Upon written request by a Capital Provider in accordance with the Program Guidelines, the Program Manager, without any further action by the Board of Supervisors, will join with the Capital Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien after the closing of a C-PACE Loan. The C-PACE Amendment must be recorded in the Land Records.

(e) *Enforcement and collection costs.* In the event of Property Owner's default under the terms of the C-PACE Documents, the County, acting by and through the Director of Finance, 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. If the County elects not to enforce the C-PACE Lien, which election will be made within 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, acting by and through the Director of Finance, will, within 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 delivering 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 will, 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 its Director of Finance, 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 and its Director of Finance, will have the status of "Special Counsel to the County and its Director of Finance" and an "attorney employed by the governing body," and possess all the rights and powers of an attorney employed under Virginia Code § 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 and/or its Director of Finance 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, on its behalf and on behalf of the Director of Finance, waives its right to require such legal counsel to post the optional bond described in Virginia Code § 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, will (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 will 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 Virginia Code § 58.1-3974 and § 58.1-3975.

Section 15-1507 - 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 C-PACE Program Agreement, or by otherwise participating in the C-PACE Program and the Statewide Program, the Property Owner, Capital Provider, contractor, or other party or participant acknowledge and agree, for the benefit of the County and as a condition of participation in the C-PACE Program and the Statewide Program, that:

- (i) The County undertakes no obligations under the C-PACE Program and the Statewide Program except as expressly stated herein or in the C-PACE Program Agreement;
- (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;
- (iii) No C-PACE Loan, C-PACE Payment, C-PACE Lien, or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will be backed by the credit of the County, the Commonwealth, or its political subdivisions, including, without limitation, County taxes or other County funds;
- (iv) No C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will constitute an indebtedness of the County within the meaning of any constitutional or statutory debt limitation or restriction;
- (v) The County has not made any representations or warranties, financial or otherwise, concerning a Property Owner, Eligible Property, Project, Capital Provider, or C-PACE Loan;
- (vi) The County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE Document, or any assignment or amendment thereof;
- (vii) The County assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof;
- (viii) Each Property Owner or Capital Provider must, upon request, provide the County with any information associated with a Project or a C-PACE Loan that is reasonably necessary to

- confirm that the Project or C-PACE Loan satisfies the requirements of the Program Guidelines; and
- (ix) Each Property Owner, Capital Provider, or other participant under the C-PACE Program, must comply with all applicable requirements of the Program Guidelines.

Section 15-1508 - Severability.

As provided by Section 1-104 of the Code of the County, the provisions of this chapter are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid, or that the application of any part of the chapter or provision to any person or circumstance is invalid, the remaining provisions of this chapter will not be affected by that decision and continue in full force and effect.

Appendix A – C-PACE Program Agreement

Appendix B – Locality Agreement

(Ord. 22-15(8), 12-7-22, effective 12-7-22)

State Law reference – Va. Code § 15.2-958.3

This ordinance is effective immediately.

**ORDINANCE NO. 22-A(13)
ZMA 2021-00003 CLIFTON INN AND COLLINA FARM EXPANSION**

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR PARCEL ID 07900-00-00-023F0**

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2021-00003 and their attachments, including the application plan, the information presented at the public hearing, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-10.2.2(27) and 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2021-00003.

**RESOLUTION TO APPROVE
SP202100004 CLIFTON INN AND COLLINA FARM**

WHEREAS, upon consideration of the staff reports prepared for SP 202100004 Clifton Inn and Collina Farm and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(27) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, with the applicable provisions of County Code § 18-5, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202100004 Clifton Inn and Collina Farm, subject to the conditions attached hereto.

* * * * *

SP202100004 Clifton Inn and Collina Farm Special Use Permit Conditions

1. Development and use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the Conceptual Plan. To be in general accord with the Conceptual Plan, development and use must reflect the following major elements, as shown on the Conceptual Plan and described in the Narrative, that are essential to the design of the development:
 - a. location of buildings and structures
 - b. location of parking areas
 - c. Limits of disturbance
 - d. Landscape screening
 - e. Right-of-Way reservation area for Route 250 improvements
 - f. Proposed new Greenway Easement for County trails, parking, and other amenities for the Rivanna River greenway and Milton Boat launch

Minor modifications to the Conceptual Plan that do not conflict with these major elements may be made to ensure compliance with the Zoning Ordinance.
2. The number of guest rooms must not exceed 71.
3. The number of restaurant seats must not exceed 100.
4. Attendance at special events at Clifton Inn must not exceed 75 persons.
5. Attendance at special events at Collina Farm must not exceed 200 persons, provided that special events of up to 300 persons are permitted up to 12 times per year.
6. No additional building permit(s) may be issued for any structures on the Clifton Inn property until the building plans have been reviewed by the Virginia Department of Historic Resources to confirm that no plan(s) would result in de-listing from the National Register of Historic Places or Virginia Landmarks Register.
7. No final site plan may be approved unless and until a plan prepared by a professional archaeologist (for the identification, protection, preservation and mitigation of archaeological resources and on-site cemeteries areas of disturbance) has been reviewed and approved by the Virginia Department of Historic Resources. The plan must account for the possibility of archaeological testing in sequential phases depending on the results of previous phases of study.
8. Sound generated by outdoor amplified music will be subject to the same standards as are applicable to agricultural operations under *County Code* § 18-5.1.58(g).
9. In the event that the use, structure, or activity for which this special use permit is issued is not commenced within sixty (60) months from the date of Board of Supervisors approval, it will be deemed abandoned and the permit terminated. The term "commenced" means "construction of any structure necessary to the use of the permit."

**RESOLUTION TO APPROVE
SE 2022-00014 CLIFTON INN AND COLLINA FARM**

WHEREAS, upon consideration of the staff reports prepared for SE2022-00014 Clifton Inn and Collina Farm (in conjunction with SP SP2021-00004) and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.2, 18-4.2.5(a), and 18-33.9, the Albemarle County Board of Supervisors hereby finds that:

- (i) The proposed special exception would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties;
- (ii) The proposed special exception would not be contrary to sound engineering practices; and
- (iii) Strict application of the requirements of County Code § 18-4.2 would not forward the purposes of the Zoning Ordinance or otherwise serve the public health, safety or welfare.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves a special exception to allow the disturbance of two areas of critical slopes, 369 square feet on the Clifton Inn (Parcel ID: 07900-00-00-023B0) and 7,610 square feet on the Collina Farm (Parcel ID 07900-00-00-024B0), each pursuant to County Code § 18-4.2.5(a).

ORDINANCE NO. 22-A(4)**AN ORDINANCE TO AUTHORIZE THE PAYMENT OF MONETARY BONUSES TO ELIGIBLE PUBLIC SAFETY EMPLOYEES OF THE COUNTY OF ALBEMARLE, VIRGINIA**

WHEREAS, current conditions in the job market include trends of fewer qualified persons applying for public safety positions, and peer localities provide sign-on bonuses and offer higher starting pay than that offered by the County of Albemarle; and

WHEREAS, the Board desires to retain and recruit the most qualified sworn and uniformed personnel for the Albemarle County Police Department and the Albemarle County Department of Fire Rescue; and

WHEREAS, the Board is authorized by Virginia Code § 15.2-1508 to provide for the payment of monetary bonuses; and

WHEREAS, an appropriation to fund one-time and sign-on bonuses was authorized by Ordinance 21-A(10) on December 1, 2021.

NOW, THEREFORE, BE IT ORDAINED that the Albemarle County Board of Supervisors hereby authorizes the extension of these payments of monetary bonuses as follows:

1. A sign-on payment of \$3,000 shall be paid to all sworn or uniformed full-time and part-time regular employees of the Albemarle County Police Department and the Albemarle County Department of Fire Rescue who:
 - A. Have a hire date between December 1, 2022 and November 30, 2023; and
 - B. Fill a total full-time equivalent of 0.7 and above.