

ORDINANCE NO. ____

AN ORDINANCE to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE) FINANCING PROGRAM) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 7 of Title 7 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting it in its entirety and adding the text shown in underline as follows:

Chapter 7 - Commercial Property Assessed Clean Energy (C-PACE) Financing Program**Sec. 7-7-1 - Purpose.**

The purpose of this chapter is to create a “The City of Alexandria Commercial Property Assessed Clean Energy (C-PACE) Financing Program,” to operate in coordination with the statewide C-PACE program, all in accordance with Va. 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, or 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.

Sec. 7-7-2 - Definitions.

- (a) Assessment Payment Schedule means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which shall be attached as Exhibit B to the C-PACE Program Agreement.
- (b) 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 its successors and assigns; or (ii) the current holder of a C-PACE Loan.
- (c) City means the City of Alexandria, Virginia.
- (d) Clerk’s Office means the Office of the Clerk of the Circuit Court of the City of Alexandria, Virginia.
- (e) Commonwealth means the Commonwealth of Virginia.
- (f) Council means the Council of the City of Alexandria, 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 Va. 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 shall be recorded in the Clerk’s Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.

- 1 (j) C-PACE Assignment (CP) means a written assignment by one Capital Provider to another
2 Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of
3 the assignment document.
- 4 (k) C-PACE Assignment (Locality) means a written assignment by the City to the Capital
5 Provider to whom the C-PACE Loan is then due, wherein the City assigns its right to
6 enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as
7 Addendum 1 to the C-PACE Lien Certificate.
- 8 (l) C-PACE Documents means the C-PACE Program Agreement, Financing Agreement, C-
9 PACE Lien Certificate, C-PACE Assignment (CP) (if any), C-PACE Assignment
10 (Locality) (if any), C-PACE Amendment (if any), and any other document, agreement, or
11 instrument executed in connection with a C-PACE Loan.
- 12 (m) C-PACE Lien or Lien means the voluntary special assessment lien levied against the
13 Property as security for the C-PACE Loan.
- 14 (n) C-PACE Lien Certificate means the voluntary special assessment lien document duly
15 recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.
- 16 (o) C-PACE Loan or Loan means a loan from a Capital Provider to finance a Project, in
17 accordance with the Program Guidelines.
- 18 (p) C-PACE Payment means the periodic installment payments of the C-PACE Loan by a
19 Property Owner, due and payable to the Capital Provider or Program Administrator as
20 permitted by the C-PACE Act in such amounts and at such times as described in the
21 Assessment Payment Schedule.
- 22 (q) C-PACE Program means the program established by the City through this chapter, in
23 accordance with the C-PACE Act, that in coordination with the Statewide Program
24 facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be
25 levied and recorded against the Property to secure the C-PACE Loan.\
- 26 (r) C-PACE Program Agreement means the agreement executed among the Property Owner,
27 the City, the Treasurer and the Capital Provider, and their respective successors and
28 assigns, which includes the terms and conditions for participation in the C-PACE Program
29 and the Property Owner's acknowledgment and consent for the City to impose a voluntary
30 special assessment, record a C-PACE Lien Certificate against the Property Owner's
31 Eligible Property and, if the City so determines, assign the rights to enforce the C-PACE
32 Lien and C-PACE Lien Certificate to the Capital Provider (and if so assigned, also a
33 consent of the Treasurer to such assignment). The C-PACE Program Agreement shall be
34 substantially in the form attached hereto as Exhibit 1.
- 35 (s) Delinquent Payment means any C-PACE Payment that was not paid by a Property Owner
36 in accordance with the C-PACE Documents.
- 37 (t) Eligible Improvements means the initial acquisition and installation of any of the following
38 improvements made to Eligible Properties:
- 39 (1) Energy efficiency improvements;
 - 40 (2) Water efficiency and safe drinking water improvements;
 - 41 (3) Renewable energy improvements;
 - 42 (4) Resiliency improvements;
 - 43 (5) Stormwater management improvements;
 - 44 (6) Environmental remediation improvements; and
 - 45 (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 shall 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 Sec. 7-7-4, below, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

- (u) Eligible Property or Property means all assessable commercial real estate located within the City, 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 City, excluding (i) a residential dwelling with fewer than five (5) units, and (ii) a residential condominium as defined in Va. Code §55.1-2000. Common areas of real estate owned by a cooperative or a property owners' association described in Va. 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 shall be eligible to participate in the C-PACE Program.
- (v) 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.
- (w) Land Records means the Land Records of the Clerk's Office.
- (x) 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 allows the C-PACE Lien to have senior priority over the mortgage or deed of trust liens.
- (y) Loan Amount means the original principal amount of a C-PACE Loan.
- (z) Locality Agreement means the Virginia Energy – Locality Commercial Property Assessed Clean Energy Agreement between Virginia Energy and the City, pursuant to which the City elects to participate in the Statewide Program. The Locality Agreement shall be substantially in the form attached hereto as Exhibit 2.
- (aa) 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.
- (bb) Program Fee(s) means the fee(s) 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 shall also be included among the Program Fees.
- (cc) Program Guidelines means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fee(s), responsibilities, and other requirements applicable to the governance and administration of the Statewide Program.

- (dd) Program Manager means the City Manager or such person designated in writing by the City Manager to (i) supervise the City'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 City 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 shall be construed to also authorize such customary signatory for the City to execute such C-PACE Documents.
- (ee) Project means the construction or installation of Eligible Improvements on Eligible Property.
- (ff) Property Owner means (i) the Property Owner(s) of Eligible Property who voluntarily obtain(s) a C-PACE Loan from a Capital Provider in accordance with the Program Guidelines; or (ii) a successor in title to the Property Owner.
- (gg) Property Owner Certification means a notarized certificate from Property Owner, certifying that (i) 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.
- (hh) 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.
- (ii) Treasurer means the Director of Finance for the City of Alexandria, Virginia.
- (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. 7-7-3 - Effective date.

This chapter shall become effective immediately following its adoption.

Sec. 7-7-4 - C-PACE Program; Eligible Improvements.

- (a) C-PACE Program. The C-PACE Program shall be available throughout the City, 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 which 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

- 1 improvements or systems which result in the reduction of consumption of water
2 over a baseline established in accordance with the Program Guidelines;
- 3 (3) Renewable energy production facilities (e.g., solar photovoltaic, fiber optic
4 solar, solar thermal, wind, wave and/or tidal energy, biomass, combined heat
5 and power, geothermal and fuel cells), whether attached to a building or sited on
6 the ground, and the storage and/or distribution of the energy produced thereby,
7 whether for use on-site or sale or export to a utility or pursuant to a power
8 purchase agreement with a non-utility purchaser;
- 9 (4) Resiliency improvements which increase the capacity of a structure or
10 infrastructure to withstand or recover from natural disasters, the effects of
11 climate change, and attacks and accidents, including, but not limited to:
12 a. Flood mitigation or the mitigation of the impacts of flooding;
13 b. Inundation adaptation;
14 c. Natural or nature-based features and living shorelines (as defined in Va.
15 Code § 28.2-104.1);
16 d. Enhancement of fire or wind resistance, including but not limited to
17 reinforcement and insulation of a building envelope to reduce the impacts of
18 excessive heat or wind;
19 e. Microgrids;
20 f. Energy storage; and
21 g. Enhancement of the resilience capacity of a natural system, structure, or
22 infrastructure;
- 23 (5) Stormwater management improvements that reduce onsite stormwater runoff
24 into a stormwater system, such as reduction in the quantity of impervious
25 surfaces or providing for the onsite filtering of stormwater;
- 26 (6) Environmental remediation improvements, including but not limited to:
27 a. Improvements that promote indoor air and water quality;
28 b. Asbestos remediation;
29 c. Lead paint removal; and
30 d. Mold remediation;
31 e. Soil or groundwater remediation;
- 32 (7) Electric vehicle infrastructure improvements, such as charging stations;
- 33 (8) Construction, renovation, or retrofitting of a Property directly related to the
34 accomplishment of any purpose listed in subsections (1) – (7) above, whether
35 such Eligible Improvement was erected or installed in or on a building or on the
36 ground; it being the express intention of the City to allow Eligible
37 Improvements that constitute, or are a part of, the construction of a new
38 structure or building to be financed with a C-PACE Loan; and
- 39 (9) Any other category of improvement (i) approved by the Program Administrator
40 with the consent of the Program Manager as qualifying for financing under the
41 Statewide Program, in accordance with the C-PACE Act (including amendments
42 thereto which authorize additional types of Eligible Improvements), or (ii)
43 added by the General Assembly to the C-PACE Act after the date of adoption of
44 this chapter, without need for a conforming amendment of this chapter. In
45 addition, a Program Administrator may include in its Program Guidelines or

1 other administrative documentation definitions, interpretations and examples of
 2 these categories of Eligible Improvements.

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

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

14
 15 **Sec. 7-7-5 - C-PACE Loan requirements; Program Fees; reporting; Program**
 16 **Administrator; Program Guidelines.**

17 (a) Source of Loans. C-PACE Loans shall be originated by Capital Providers. The City and/or
 18 its respective governmental entities shall have no obligation to originate or guarantee any
 19 C-PACE Loans.

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

25 (c) C-PACE Loan refinancing or reimbursement. The Program Administrator may approve a
 26 Loan application submitted within two (2) years of the City's issuance of a certificate of
 27 occupancy or other evidence that the Eligible Improvements comply substantially with the
 28 plans and specifications previously approved by the City and that such Loan may refinance
 29 or reimburse the Property Owner for the total costs of such Eligible Improvements.

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

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

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

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

40 (h) C-PACE Program Agreement. In order to participate in the C-PACE Program, Property
 41 Owner and Capital Provider shall enter into a C-PACE Program Agreement, which sets
 42 forth certain terms and conditions for participation in the C-PACE Program. The Program
 43 Manager is authorized to approve the C-PACE Loan and execute the C-PACE Program
 44 Agreement on behalf of the City without further action by the City Council. The Treasurer
 45 is also authorized to execute the C-PACE Program Agreement without further action by the
 46 City Council. The C-PACE Program Agreement shall be binding upon the parties thereto

1 and their respective successors and assigns until the C-PACE Loan is paid in full. The
2 Program Administrator may modify the C-PACE Program Agreement as necessary to
3 further the Statewide Program's purpose and to encourage Program participation, so long
4 as such modifications do not conflict with the Program Guidelines, this chapter, the
5 Locality Agreement or the C-PACE Act.

- 6 (i) Repayment of C-PACE Loan; collection of C-PACE Payments. C-PACE Loans will be
7 repaid by the Property Owner through C-PACE Payments made in the amounts and at such
8 times as set forth in the Assessment Payment Schedule, the C-PACE Documents and
9 Program Guidelines. The Capital Provider shall be responsible, subject to and in
10 accordance with the terms of the C-PACE Program Agreement and other C-PACE
11 Documents, for the servicing of the C-PACE Loans and the collection of C-PACE
12 Payments. If a Capital Provider fails to service a C-PACE Loan, such C-PACE Loan shall
13 be serviced by the Program Administrator. Nothing herein shall prevent the Capital
14 Provider or the Program Administrator from directly billing and collecting the C-PACE
15 Payments from the Property Owner to the extent permitted by the C-PACE Act or other
16 applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during
17 an event of default thereunder is governed by Section 7-7-6(e).
- 18 (j) C-PACE Loan assumed. A party which acquires a Property which is subject to a C-PACE
19 Lien, whether it obtained ownership of the Property voluntarily or involuntarily, becomes
20 the Property Owner under the C-PACE Documents and, by virtue of the C-PACE Lien
21 running with the land, assumes the obligation to repay all remaining unpaid C-PACE
22 Payments which are due and which accrue during such successor Property Owner's period
23 of ownership. Only the current C-PACE Payment and any Delinquent Payments, together
24 with any penalties, fees and costs of collection, shall be payable at the settlement of a
25 Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.
- 26 (k) Transfer of C-PACE Loans. C-PACE Loans may be transferred, assigned, or sold by a
27 Capital Provider to another Capital Provider at any time until the C-PACE Loan is paid in
28 full provided that the Capital Provider shall (i) notify the Property Owner and the Program
29 Administrator of the transfer prior to the billing date of the next C-PACE Payment due
30 (and within thirty (30) days if the C-PACE Loan is serviced by the Program
31 Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii)
32 deliver a copy of the recorded C-PACE Assignment (CP) to the Property Owner, the City,
33 and the Program Administrator. Recordation of the C-PACE Assignment (CP) shall
34 constitute an assumption by the new Capital Provider of the rights and obligations of the
35 original Capital Provider contained in the C-PACE Documents.
- 36 (l) Program Fees. The Statewide Program is self-financed through the Program Fees charged
37 to participating Property Owners, together with any funds budgeted by the General
38 Assembly to support the Statewide Program. The Program Fees are established to cover the
39 actual and reasonable costs to design and administer the Statewide Program, including the
40 compensation of a third-party Program Administrator. The amount(s) of the Program Fees
41 shall be set forth in the Program Guidelines. Program Fees may be changed by the Program
42 Administrator from time to time and shall only apply to C-PACE Loans executed after the
43 date the revised fees are adopted.
- 44 (m) Locality Agreement. The City shall opt into the Statewide Program by entering into the
45 Locality Agreement, adopting the Statewide Program as the City's own C-PACE Program.
46 In accordance with the C-PACE Act, opting into the C-PACE Program shall not require the

City to conduct a competitive procurement process. The Program Manager is authorized to execute the Locality Agreement on behalf of the City without further action by the City Council.

- (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 shall indemnify, defend and hold the City harmless against any claim brought against the City or any liability imposed on the City as a result of any action or omission to act by the Program Administrator.

Sec. 7-7-6 - 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 shall be secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the City against each Property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien shall be in the Loan Amount, but shall 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 shall be evidenced by a C-PACE Lien Certificate in the Loan Amount, but shall 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 shall be attached thereto as an exhibit. The Program Manager is hereby authorized to, and shall promptly, execute the C-PACE Lien Certificate on behalf of the City and deliver it to the Capital Provider, without any further action by the City Council. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the Capital Provider shall cause the recordation of the C-PACE Lien Certificate in the Land Records.
- (c) Priority. The C-PACE Lien shall have the same priority as a real property tax lien against real property, except that it shall 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) 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, Property Owner has delivered an executed Property Owner Certification to the City in connection with the C-PACE Loan closing. Only the current C-PACE Payment and any Delinquent Payments shall constitute a first lien on the Property. The C-PACE Lien shall run with the land and that portion of the C-PACE Lien under the C-PACE Program Agreement that has not yet become due shall 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 City Council, shall join with the Capital Provider and the Property Owner in executing a C-PACE

1 Amendment of the C-PACE Loan and the C-PACE Lien after the closing of a C-PACE
2 Loan. The C-PACE Amendment shall be recorded in the Land Records.

- 3 (e) Enforcement and collection costs. In the event of Property Owner's default under the terms
4 of the C-PACE Documents, the City, acting by and through the Treasurer, may enforce the
5 C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and
6 any costs of collection in the same manner that a property tax lien against real property
7 may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. Va. Code
8 Sec. 58.1-3965.1 shall be applied to the sale of any Property to enforce a C-PACE Lien to
9 collect Delinquent Payments. If the City elects not to enforce the C-PACE Lien, which
10 election shall be made within thirty (30) days of receipt by the City from the Capital
11 Provider of notice of the Property Owner's default under the terms of the C-PACE
12 Documents, then the City, acting by and through the Treasurer, shall, within fifteen (15)
13 days of the City's determination not to enforce the C-PACE Lien, assign the right to
14 enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the
15 Capital Provider by executing a C-PACE Assignment (Locality) and delivering such
16 instrument to the Capital Provider for recordation in the Land Records. The preceding
17 sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded
18 at any time during the term of the C-PACE Loan, including at the C-PACE Loan's closing,
19 regardless of whether the C-PACE Loan is then in default. Upon such assignment and
20 recordation, the Capital Provider is authorized to, and shall, enforce the C-PACE Lien
21 according to the terms of the C-PACE Documents, in the same manner that a property tax
22 lien against real property may be enforced under Title 58.1, Chapter 39 of the Virginia
23 Code, including the institution of suit in the name of the City and its Treasurer, and this
24 right to enforce expressly includes authorization for the Capital Provider to engage legal
25 counsel to advise the Capital Provider and conduct all aspects of such enforcement. Such
26 legal counsel, being authorized to institute suit in the name of the City and its Treasurer,
27 shall have the status of "Special Counsel to the City and its Treasurer" and an "attorney
28 employed by the governing body," and possess all the rights and powers of an attorney
29 employed under Va. Code Secs. 58.1-3966 and 58.1-3969, with the express authority to
30 exercise for the benefit of the Capital Provider every power granted to a local government
31 and/or its Treasurer and its or their attorneys for the enforcement of a property tax lien
32 under, or in connection with, any provision contained in Title 58.1, Chapter 39, Article 4 of
33 the Virginia Code. The City, on its behalf and on behalf of the Treasurer, waives its right
34 to require such legal counsel to post the optional bond described in Va. Code Sec. 58.1-
35 3966. All collection and enforcement costs and expenses (including legal fees and costs),
36 interest, late fees, other types of fees, and penalties charged by the City or Capital Provider,
37 as applicable and consistent with the C-PACE Act and the Virginia Code, shall (i) be added
38 to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued
39 for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE
40 Lien. Nothing herein shall prevent the Capital Provider to which the C-PACE Lien has
41 been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-
42 PACE Documents, the C-PACE Act or general law. The Property Owner of a Property
43 being sold to pay Delinquent Payments, or other interested party, may redeem the Property
44 at any time prior to the Property's sale, in accordance with Va. Code Secs. 58.1-3974 and
45 58.1-3975.

Sec. 7-7-7 - Role of the City; limitation of liability.

- (a) 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 City and as a condition of participation in the C-PACE Program and the Statewide Program, that:
- (1) the City undertakes no obligations under the C-PACE Program and the Statewide Program except as expressly stated herein or in the C-PACE Program Agreement;
 - (2) in the event of a default by a Property Owner, the City has no obligation to use City 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;
 - (3) 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 shall be backed by the credit of the City, the Commonwealth, or its political subdivisions, including, without limitation, City taxes or other City funds;
 - (4) 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 shall constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction;
 - (5) the City has not made any representations or warranties, financial or otherwise, concerning a Property Owner, Eligible Property, Project, Capital Provider, or C-PACE Loan;
 - (6) the City 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;
 - (7) the City assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof;
 - (8) each Property Owner or Capital Provider shall, upon request, provide the City 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
 - (9) each Property Owner, Capital Provider, or other participant under the C-PACE Program, shall comply with all applicable requirements of the Program Guidelines.

Sec. 7-7-8 - Severability.

- (a) 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 shall not be affected by that decision and continue in full force and effect.

Section 2. That Chapter 7 as enacted pursuant to Section 1 of this ordinance, be, and the

1 same hereby is, reordained as part of the City of Alexandria City Code.

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3 Section 3. That this ordinance shall become effective upon the date and at the time of its
4 final passage.
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JUSTIN M. WILSON
Mayor

ATTEST:

GLORIA M. SITTON
City Clerk
Ordinance Attachments
Exhibit 1: C-PACE Program Agreement
Exhibit 2: Locality Agreement

Introduction: October 8, 2024
First Reading: October 8, 2024
Publication:
Public Hearing: October 19, 2024
Second Reading: October 19, 2024
Final Passage: October 19, 2024