

MOTION

To amend Ordinance No. 2023-152 as follows:

Page 12, Line 13

At the beginning of the line, insert the text “*City Clerk* means City Clerk appointed pursuant to section 4.04 of the Charter of the City of Richmond (2020), as amended” followed by a period

Page 13, Line 6

At the beginning of the line, insert the text “*C-PACE Assignment (Locality)* means a written assignment by the City to the Capital Provider to whom the C-PACE Loan is then due, wherein the City relinquishes and assigns its right to enforce the C-PACE Lien to the Capital Provider” followed by a period

Page 13, Line 10

After the comma following the word “Certificate”, insert the text “*C-PACE Assignment (Locality)* (if any)” followed by a comma

Page 13, Line 23

After the word “Program”, insert the text “facilitates the financing of Eligible Improvements and”

Page 14, Line 7

After the word “Property”, insert the text “and, if the City so determines, assign the rights to enforce the C-PACE Lien and C-PACE Lien Certificate to the Capital Provider”

Page 17, Line 10

At the beginning of the line, delete the text: “*Property or Eligible 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 condominium as defined in Va. Code §55.1-2100. 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” followed by a period

Page 23, Line 4

After the period following the word “full”, strike the word “The”, and insert the text “To conform to a modification of the Statewide Program template version of the C-PACE Program Agreement, the”

Page 23, Line 6

After the word “modify”, strike the text “Statewide Program template version of the”

Page 23, Line 7

After the word “Agreement”, insert the text “in accordance with the provisions of section 11-194.1(p)”

Page 25, Line 20

After the word “of”, strike the words “Program Guidelines” and insert the word “Documents”

Page 25, Line 21

After the comma following the word “Guidelines”, insert the text “C-PACE Program Agreement, C-PACE Lien Certificate, C-PACE Amendment, C-PACE Assignment (“CP”) and C-PACE Assignment (Locality) (the “Documents”)

Page 26, Line 3

After the word “If”, delete the text “the Program Guidelines” and insert the text “any of the Documents”

Page 26, Line 5

After the word “revised”, delete the text “Program Guidelines” and insert the word “Documents”

Page 26, Line 6

After the second occurrence of the word “the”, delete the text “Program Guidelines” and insert the word “Documents”

Page 26, Line 8

After the word “until”, delete the word “sixty” and insert the number “90”

Page 26, Line 10

After the period following the word “Revisions”, insert the text “During such 90-day period” followed by a comma

Page 26, Line 13

After the word “Resolution”, insert the text “during the aforementioned 90-day period”

Page 26, Line 14

After the word “the”, strike the text “Program Guidelines” and insert the word “Documents”

Page 26, Line 24

After the comma following the word “Amount”, strike the text “which secures” and insert the text, “but the Lien Certificate shall secure”

After the word “and”, delete the text “ensures” and insert the word “ensure ”

Page 27, Line 1

After the word “repayment”, insert the word “of”

Page 27, Line 3

After the word “fees”, strike the word “of”, and insert the text “and costs not to exceed”

After the word “the”, strike the text “unpaid principal Loan Amount”, and insert the text “amount of the unpaid delinquent payments”

Page 28, Line 8

After the comma following the word “Payments”, strike the text “plus the remaining unpaid principal balance of the Loan Amount” and the following comma

Page 28, Line 9

After the comma following the word “interest”, insert the word “reasonable”

Page 28, Line 10

After the word “fees”, strike the word “equal”, and insert the text “and costs not”

After the word “to”, insert the word “exceed”

After the word “the”, insert the text “amount of the”

After the word “unpaid”, strike the text “principal Loan Amount”

Page 28, Line 11

At the beginning of the line insert the text “delinquent payments”

After the word “any”, insert the word “other”

After the period following the text “*et seq.*”, insert the text “If the City elects not to enforce the C-PACE Lien, which election shall be made within 30 days of receipt by the City from the Capital Provider of notice of the Property Owner’s default under the terms of the C-PACE Documents, then the City shall, within 15 days of the City’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 Loans closing, regardless of whether the C-PACE Loan is then in default. Upon such assignment and recordation, the Capital Provider is authorized to, and shall, enforce the C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien against real estate property may be enforced under Title 58.1, Chapter 39 of the Code of Virginia (1950), as amended, including the institution of suit in the name of the City 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; provided, that prior to conducting any aspect of enforcement such legal counsel shall apply to the City Attorney for appointment as special counsel to the City pursuant to section 4.17 of the Charter of the City of Richmond (2020), as amended. Such legal counsel shall, upon appointment by the City Attorney, have the status of ‘Special Counsel to the City and its Director of Finance’ and possess all the rights and powers

of an attorney employed under sections 58.1-3966 and 58.1-3969 of the Virginia Code with the express authority to exercise for the benefit of the Capital Provider every power granted to the City or its Director of Finance or 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, as amended. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees, other types of fees, and penalties charged by the City or the Capital Provider, as applicable and consistent with the C-PACE Act and the Virginia Code, as amended, shall (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount for sued and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein shall prevent the Capital Provider to which the C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act, or general law” followed by a period

Page 31, Line 16

After the word “Attachment”, strike the letter “B” and insert the text “A, As Amended”

Page 31, Line 17

After the first occurrence of the word “Attachment”, strike the letter “C” and insert the text “B, As Amended”

After the second occurrence of the word “Attachment”, strike the letter “D” and insert the text “C, As Amended”

After the third occurrence of the word “Attachment”, strike the letter “E” and insert the text “D, As Amended”

Page 31, Line 18

After the inserted text “‘Amended,’”, strike the word “and”

After the word “Attachment”, strike the letter “F” and insert the text “E, As Amended, and Attachment F, As Amended”

Page 32, Line 2

After the word “Attachment”, strike the letter “B” and insert the text “A, As Amended”

Page 32, Line 7

After the word “Attachment”, strike the letter “C” and insert the text “B, As Amended”

Page 32, Line 10

After the word “Attachment”, strike the letter “D” and insert the text “C, As Amended”

Page 32, Line 14

After the word “Attachment”, strike the letter “E” and insert the text “D, As Amended”

Page 32, Line 18

After the word “Attachment”, strike the letter “F” and insert the text “E, As Amended”

Page 32, Line 20

At the beginning of the line, insert a parenthetical subdivision letter “(f)” followed by the text “The document entitled ‘C-PACE Lien Assignment (Locality)’ and attached to this ordinance as ‘Attachment F, As Amended’ shall be the ‘C-PACE Assignment (Locality)’ as defined in section 11.101.1 of the Code of the City of Richmond (2020), as amended” followed by a period