

ORDINANCE AUTHORIZING SPECIAL ASSESSMENTS AND SPECIAL TAXES ON PROPERTY WITHIN THE WEST FALLS DISTRICT

- WHEREAS, the City Council of the City of Falls Church (the “City Council”), in accordance with a Petition received on June 7, 2021 (the “Petition”), from the City of Falls Church, Virginia, the City of Falls Church Economic Development Authority, FCGP Development LLC, a Delaware limited liability company, and TC Midatlantic Development V, Inc., a Delaware corporation (collectively the “Petitioners”), created the West Falls Community Development Authority (the “West Falls CDA”) encompassing the West Falls District identified in the Petition (the “West Falls District”), by ordinance adopted on August 9, 2021; and
- WHEREAS, the Petition proposed that the West Falls CDA be formed for the purposes of, among other things, financing the cost of certain public infrastructure services and facilities within or serving the West Falls District (the “Public Infrastructure”); and
- WHEREAS, the Petition provided that the West Falls CDA or its designee may contract for and incur all necessary operating expenses (“CDA Operating Costs”); and
- WHEREAS, the Petition proposed that the City Council establish a special assessment upon taxable real property within the West Falls District to finance all or a portion of the cost to provide the Public Infrastructure and pay for the operation of the West Falls CDA; and
- WHEREAS, the Petition proposed that the City authorize a special tax on taxable real property within the West Falls District (a) in the event that all or any portion of the special assessment is determined to be legally unenforceable in a final decree by a court of competent jurisdiction or (b) if the West Falls CDA determines that the permitted amount of the levy of the special assessment will be insufficient in any year to pay debt service on any bonds issued by the West Falls CDA and all other expenses of the West Falls CDA described in the Petition, in either case at a rate calculated to produce the revenue needed to pay such debt service and expenses that is not paid with special assessment revenue, if necessary at a rate in excess of the limit set forth in Section 15.2-5158(A)(3) of the Code of Virginia of 1950, as amended (the “Virginia Code”); and
- WHEREAS, Virginia Code §§ 15.2-2405, 15.2-5158, and 58.1-3965.2 authorize the City Council to impose and collect such a special assessment and special tax; and
- WHEREAS, certain of the Petitioners propose to enter into, and the City Council has heretofore authorized the execution and delivery of, a Memorandum of Understanding (the “MOU”), which, among others things, sets forth a rate and method for apportioning such a special assessment among taxable properties within the West Falls District (the “Rate and Method”).

NOW THEREFORE, the City of Falls Church hereby ordains:

1. In accordance with Virginia Code §§ 15.2-2405, 15.2-5158, and 58.1-3965.2, the Petition, the MOU, and one or more Special Assessment Agreements heretofore approved by the City Council that will be entered into by and between the West Falls CDA, the owner or owners of assessable property within the West Falls District, and the trustee under a trust indenture between the West Falls CDA and such trustee, a special assessment on taxable real property within the West Falls District to pay the costs of providing the Public Infrastructure and the CDA Operating Costs is established and apportioned in accordance with the Rate and Method attached as an exhibit to the MOU.
2. These special assessments shall become effective upon the date that the Special Assessment Agreement and Declaration of Notice of Special Assessment is caused by the West Falls CDA to be recorded in the Circuit Court of Arlington County, Virginia, against the taxable real property in the West Falls CDA, and shall be payable as determined in accordance with the Rate and Method.
3. In accordance with Virginia Code §§ 15.2-2405, 15.2-5158, and 58.1-3965.2, and the Petition, a special tax on taxable real property within the West Falls District is hereby authorized (a) in the event that all or any portion of the special assessment is determined to be legally unenforceable in a final decree by a court of competent jurisdiction or (b) if the West Falls CDA determines that the permitted amount of the levy of the special assessment will be insufficient in any year to pay debt service on any bonds issued by the West Falls CDA and all other expenses of the West Falls CDA described in the Petition, in either case at a rate calculated to produce the revenue needed to pay such debt service and expenses that is not paid with special assessment revenue, if necessary at a rate in excess of the limit set forth in Virginia Code § 15.2-5158(A)(3).
4. The West Falls CDA shall cause notice of the special assessments and any special tax to be reported to the Treasurer of the City of Falls Church.
5. The special assessments and special taxes shall be liens on the taxable real property in the West Falls District in accordance with the provisions of Virginia Code §§ 15.2-2404 *et seq.*
6. In accordance with Virginia Code § 58.1-3965.2, if any special assessment or special tax levied pursuant to this Ordinance is delinquent, proceedings for the sale of the real property subject to such special assessment or special tax are authorized to be instituted on the first anniversary of the date on which the assessment or tax became due.

This Ordinance shall become effective immediately upon adoption.

GIVEN under my hand this \_\_\_ day of \_\_\_\_\_, 2022.

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Celeste Heath  
City Clerk