

**NORTHSIDE PARK PINEY BRANCH**  
**STREAM RESTORATION FUNDING AGREEMENT**

This Agreement (“Agreement”) made and entered into this 6<sup>th</sup> day of DECEMBER, 2017, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County"), a body politic, and the **TOWN OF VIENNA** (the “Town”) (collectively, the “Parties”).

**WITNESSETH:**

WHEREAS, the Town has been awarded a Stormwater Local Assistance Fund Grant from the Virginia Department of Environmental Quality in the amount of Six hundred sixty thousand dollars (\$660,000) (the “DEQ Grant”) for the Northside Park Piney Branch Stream Restoration Project (the “Project”), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Northside Piney Branch; and

WHEREAS, the location of the Project is at Longitude 38.909939N and Latitude 77.272382W and is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 38-1((2)) parcels 5 and 6; and

WHEREAS, the Project is within the Chesapeake Bay, Potomac River, and Difficult Run watersheds;

WHEREAS, the Town is part of the County’s Stormwater Service District and the County, Town, and the Town of Herndon have entered into an agreement known as the “Cooperative Agreement Between the Fairfax County Board of Supervisors, the Town of Vienna, and Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects” (the “Cooperative Agreement”) to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load (“TMDL”) and other water quality goals. The Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town (the “Paid Vienna Revenues”); and

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used to match the DEQ Grant for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the Project is estimated to cost one million, three hundred twenty thousand dollars (\$1,320,000) ("Total Project Cost"), half of which is to be paid using the DEQ Grant; and

WHEREAS, that County intends to pay six hundred sixty thousand dollars (\$660,000) from the Stormwater Budget for the purpose of supporting the design and construction of the project; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. Upon execution of this Agreement, the County shall grant funds in the amount of six hundred sixty thousand dollars (\$660,000) (the "County Contribution") to the Town, to be paid with monies from the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services).

2. The County Contribution shall not be charged against the PAID VIENNA REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.

3. The Town shall dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

4. The Town shall expend the DEQ Grant solely for the purpose of supporting the design and construction of the Project when the DEQ Grant is received.

5. The County Contribution shall be used and expended solely for the purpose of design and constructing the Project and not for the cost of any feasibility study or acquisition of any lands or easements necessary for the completion of the Project.

6. The Town shall acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

7. The Town, at its sole expense, shall administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

8. The Town shall notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above and in the Town's "Water Division Application for Stormwater Local Assistance Fund (SLAF) – Stormwater Capital Projects," which was submitted to DEQ for the DEQ Grant (the "Plan"). If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town shall, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

9. The Town shall provide to the County a copy of the final site plan for the Project.

10. The Town shall retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

11. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town shall immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments. "Abandon," as used herein, shall include, but not be limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

12. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality

Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services ) and are not more than 10% of the estimated Project Cost of \$1,320,000.

13. The Town shall complete the Project not later than three years after this agreement is executed.

14. The Project shall be subject to the Cooperative Agreement, and, as such, the total pollutant load reduction credits for the Project will be apportioned among the parties as established pursuant to the terms of the Cooperative Agreement or any amendments or attachments thereto.

15. This agreement can only be modified in writing and signed by both parties.

**[Signatures appear on following page]**

TOWN OF VIENNA

By: Laurie A DiRocco  
Mayor Laurie A. DiRocco

STATE OF VIRGINIA :  
: to-wit  
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Laurie A. DiRocco of the Town of Vienna, this 18<sup>th</sup> day of October 2017, on behalf of the Town of Vienna.

Melanie J. Clark  
Notary Public

My commission expires: 06/30/21

Notary Registration Number: 7290978

MELANIE J. CLARK  
NOTARY PUBLIC  
REGISTRATION # 7290978  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES  
JUNE 30, 2021

