

Execution Version

CHARGING SUPPORT PROGRAM
CHARGING STATION PARTICIPATION AGREEMENT



School District: School Board of the City of Alexandria

Dated as of _____, 2023

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CHARGING STATION PARTICIPATION AGREEMENT

THIS CHARGING STATION PARTICIPATION AGREEMENT (together with all exhibits and schedules appended hereto, this “*Agreement*”) is dated as of _____, 2023 (the “*Effective Date*”), by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation and a wholly-owned subsidiary of Dominion Energy, Inc. (“*Dominion Energy Virginia*”), and CITY OF ALEXANDRIA SCHOOL BOARD, a body politic and political subdivision of the Commonwealth of Virginia and governing body of the Alexandria City Public Schools (the “*School Board*”). Dominion Energy Virginia and the School Board each may be referred to herein as a “*Party*”, and collectively as the “*Parties*.[”]

RECITALS

WHEREAS, the Virginia Department of Environmental Quality (the “*DEQ*”) has established the Clean School Bus Program, pursuant to which the DEQ will award \$9,250,000.00 in the aggregate from the Volkswagen Environmental Mitigation Trust for State Beneficiaries to Virginia’s public schools to cover the price difference between a battery electric bus and the equivalent diesel bus (the “*DEQ Program*”);

WHEREAS, Dominion Energy Virginia has announced plans to support the DEQ Program by providing electric school bus fast charging stations to school divisions who are participating in the DEQ Program and who are located within the Dominion Energy Virginia service territory (the “*Charging Support Program*”);

WHEREAS, the DEQ Program and the Charging Support Program will assist school divisions in transitioning their school bus fleets in Virginia from diesel to electric;

WHEREAS, Dominion Energy Virginia intends to use the batteries on the school buses to support enhanced reliability on the electric distribution grid and to further study and expand battery storage in a collaborative fashion with the school divisions when the vehicle is not in use for pupil transportation;

WHEREAS, Alexandria City Public Schools, as governed by the School Board, has been selected to participate in the initial phase of the Charging Support Program; and

WHEREAS, Dominion Energy Virginia and the School Board desire to set forth the terms and conditions of their participation in the Charging Support Program.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, and of the mutual promises and covenants contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 *Certain Definitions.* The following capitalized terms, as and when used in this Agreement, shall have the following meanings:

“*Affiliate*” means, with respect to any specified Person, any Person directly or indirectly Controlling, Controlled by or under common Control with such Person.

“Applicable Law” means any federal, state, local or municipal law (including common law), including any treaty, constitution, statute, ordinance, rule, order, judgment, writ, decree, regulation, standard, code, requirement or other directive which is legally binding and has been enacted, issued or promulgated by any Governmental Authority.

“Business Day” means any day other than a Saturday, a Sunday, or a day that is currently observed by the School Board as a holiday.

“Charging Equipment” means Proterra electric bus chargers and dispensers.

“Charging Station” means a charging stall comprised of certain Charging Equipment which serves two (2) parking spaces.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto.

“Control”, “Controlled”, and “Controlling” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Dispute” means any dispute, suit, action or other proceeding arising out of or relating to this Agreement (whether arising in contract, tort or otherwise, and whether arising at law or in equity).

“Emergency Works” means remedial, repair or other actions to remedy a situation when continued operation of any of the Charging Equipment would result or could potentially result in severe mechanical, electrical or other damage to all or a portion of the Charging Equipment, danger to Persons, or damage to other property (including, without limitation, the EV Buses).

“EV Buses” means electric school buses with the specifications set forth on Exhibit A which have been or will be ordered by the School Board (or at its direction) pursuant to the School Board’s participation in the DEQ Program.

“Federal AFVR Property Credit” means the federal tax credit available under Section 30C of the Code and any federal grants, credits or other incentives issued or arising in lieu thereof.

“Governmental Authority” means, excluding the School Board, any (a) national, state, county, municipal or other local government (within the United States) and any political subdivision thereof, (b) any court or administrative tribunal, (c) any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity of competent jurisdiction (including any zoning authority) or (d) any non-governmental agency, tribunal or entity that is vested by a governmental agency with applicable jurisdiction. Solely for purposes of this Agreement, the School Board shall not be deemed a **“Governmental Authority”**.

“Incentive” means (a) electric vehicle charging or renewable energy credits or certificates (including the Federal AFVR Property Credit), carbon credits and any similar environmental or pollution allowances, credits or reporting rights, (b) rebates or other payments based in whole or in part on the cost or size of equipment, (c) performance-based incentives paid as periodic payments, (d) tax credits, grants or benefits, and (e) any other attributes, commodities, revenue streams or payments, in each of (a) through (e) under any present or future Applicable Law, standard or program, or paid by a Governmental Authority or otherwise.

“Liability” of any Person means any indebtedness, claim, commitment, obligation, duty, payable or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability) regardless of whether such indebtedness, claim, commitment, obligation, duty, payable or liability would be required to be disclosed on a balance sheet prepared in accordance with the generally accepted accounting principles in the United States of America, as in effect from time to time, consistently applied, and regardless of whether such indebtedness, claim, commitment, obligation, duty, payable or liability is immediately due and payable.

“Ordering Conditions” means that each of the following has occurred: (a) Dominion Energy Virginia has obtained all permits and approvals required by the applicable Governmental Authorities to install the Charging Equipment and Charging Stations; (b) the School Board has issued a purchase order with the applicable supplier of the EV Buses for the purchase of ten (10) EV Buses; and (c) the School Board has provided Dominion Energy Virginia all Access Rights.

“Person” means any individual, partnership, joint venture, company, corporation, limited liability company, limited duration company, limited life company, association, trust or other entity or organization, including any Governmental Authority.

“Safety Issue” means an act, change, event, circumstance or occurrence that endangers, or would reasonably be expected to endanger persons, property or the integrity or normal operations of any component of the Charging Equipment, the EV Buses or Dominion Energy Virginia’s electric grid.

“Supplier” means Proterra, Inc., or one of its subsidiaries or distributors.

In addition to the foregoing, each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Access Rights	2.4
Act	5.2(a)
Agreement	Preamble
Branding Strategy	5.2(d)
Charging Support Program	Recitals
Confidential Information	5.2(b)
Data	2.3
DEQ	Recitals
DEQ Program	Recitals
Dominion Energy Virginia	Preamble
Effective Date	Preamble
Federal AFVR Property Credit Tax Treatment	5.3(c)
Installation Work	2.1(c)
License	2.4(a)
Major Decision	4.2
Parties	Preamble
Party	Preamble
Premises	2.1(a)
Purchase Option	4.6
School Board	Preamble
Term	3.1
Termination Date	7.2

1.2 Other Definitional Provisions.

(a) **Construction.** As used herein, singular shall include the plural, the masculine gender shall include the feminine and neuter, feminine gender shall include the masculine and neuter and the neuter gender shall include the masculine and feminine unless the context otherwise indicates.

(b) **References.** References to Articles and Sections are intended to refer to Articles and Sections of this Agreement, and all references to Exhibits and Schedules are intended to refer to Exhibits and Schedules attached to and made a part of this Agreement. Any reference to any document, statute, code or statutory provision shall be deemed to refer to such document, statute, code or statutory provision as amended, modified, supplemented, reenacted or replaced from time to time, but not to incorporate compliance with the same as an obligation owed to the Parties unless plainly stated. Whenever a Person is to determine something “in its discretion” or if something is “acceptable to” such Person, such determination may not be made in bad faith. Unless the context dictates otherwise, the word “or” shall mean “and/or” rather than “either/or.” The term “including” means “including, without limitation.”

ARTICLE II

THE PROGRAM; OWNERSHIP

2.1 Participation; Ordering; Installation; Utilities.

(a) Dominion Energy Virginia shall procure and own the Charging Equipment at the location specified on Exhibit B (the “**Premises**”) in order to outfit a total of five (5) Charging Stations on the Premises. The Parties hereby agree that Dominion Energy Virginia shall own and receive the benefit of any Incentives derived from the construction, installation, ownership, use and operation of the Charging Equipment and Charging Stations. The School Board will cooperate with Dominion Energy Virginia in obtaining all Incentives and if, for any reason, any Incentives are not received by Dominion Energy Virginia and are instead received by the School Board, the School Board agrees to immediately pay the dollar amount of any such Incentives to Dominion Energy Virginia.

(b) Within thirty (30) days of the satisfaction of the Ordering Conditions, Dominion Energy Virginia shall order the Charging Equipment.

(c) Following Dominion Energy Virginia’s inspection of the Charging Equipment and confirmation that the Charging Equipment is not defective or insufficient for the purposes for which it is intended, Dominion Energy Virginia shall install improvements, make alterations to the Premises and construct and install the Charging Stations (the “**Installation Work**”) all at its sole expense. Dominion Energy Virginia shall obtain from the applicable Governmental Authorities all licenses, permits or other approvals required to perform such Installation Work. The School Board shall provide the Charging Stations with all utility services necessary to operate the Charging Equipment, including electricity and Internet or cellular data service, for the entirety of the Term. Any and all costs and expenses incurred by the School Board for the provision of such utility services shall be the sole responsibility of the School Board.

(d) The School Board shall not permit any commercial operation of the Charging Equipment or Charging Stations until it receives notice from Dominion Energy Virginia that the Charging Equipment is ready for commercial operation.

(e) No inspection, review, or approval by Dominion Energy Virginia shall relieve the School Board from any liability or responsibility for any injuries to persons or damage to property.

2.2 No Conveyance of Title, Ownership or other Property Rights. Except as otherwise expressly provided in this Agreement, no interest, right or title to, or ownership of, the Charging Equipment, the Incentives or the Data is or shall be transferred to the School Board or any third party by virtue of the Parties' entry into this Agreement. The Charging Equipment, the Incentives and the Data and any corrections, modifications, customizations, revisions, improvements, upgrades, new releases, repairs, accessions or any other change to the Charging Equipment and the Data constitute the exclusive property of Dominion Energy Virginia.

2.3 Data. Each Party acknowledges that while performing its obligations under this Agreement it may have access to various Charging Support Program data, including Charging Station utilization and energy consumption information generated by the Charging Equipment (collectively, the "**Data**"). The School Board hereby disavows any and all right, title and interest it may have in the Data, except as provided herein, and acknowledges that Dominion Energy Virginia owns all right, title and interest in all the Data, provided, however, Dominion Energy Virginia shall, upon written request, provide the Data to the School Board in its raw form or in a summary format for its own internal use. To the extent that the School Board is deemed to have any right, title or interest in any of the Data by operation of law, the School Board hereby assigns any and all right, title and interest it has, or may have, in such Data to Dominion Energy Virginia. Nothing herein shall prohibit the Parties from periodically sharing information, materials or records relating to the vehicular operation, location and performance of the EV Buses and Charging Equipment.

2.4 Access Rights; License. The School Board shall provide Dominion Energy Virginia with, or otherwise obtain for Dominion Energy Virginia's benefit, all rights sufficient (in Dominion Energy Virginia's reasonable discretion) for Dominion Energy Virginia to (i) access the Premises to install, inspect and maintain the Charging Equipment, (ii) perform various work related to the Charging Equipment, including any associated infrastructure work that is required, (iii) access the Charging Equipment, and (iv) provide adequate ingress and egress for any reasonable purpose in conjunction with the operation, inspection and maintenance of the Charging Equipment (all such rights, the "**Access Rights**"). The Parties hereby agree that as part of the provision of the Access Rights to Dominion Energy Virginia:

(a) subject to all the terms and conditions herein, the School Board grants to Dominion Energy Virginia and its Affiliates, and Dominion Energy Virginia hereby accepts from the School Board, an irrevocable, non-exclusive license (i) for the Charging Equipment to be placed and to remain on the Premises, and (ii) to gain access to and from the Premises for the purposes outlined in this Agreement, inclusive of Dominion Energy Virginia's rights under Sections 2.1, 2.5 and 3.2 (collectively, the "**License**"); and

(b) the School Board shall grant to Dominion Energy Virginia one or more easements, rights of way, substantially in the form attached hereto as Exhibit C to (i) locate all necessary ancillary electric distribution facilities to be installed on the School Board's (or the applicable locality's) real property to enable the location of the Charging Equipment on the Premises; and (ii) permit Dominion Energy Virginia to access, install, maintain and operate such above ground and underground electric distribution facilities.

Notwithstanding the foregoing, Dominion Energy Virginia shall be required to provide the School Board with reasonable prior notice, whenever practical, of its intent to gain access to the Premises (which notice may be delivered by phone or by email using the information provided pursuant to Section 9.1), except in emergency situations, during which the School Board shall expedite access to the Premises to the extent practical. This License shall terminate upon the later of (i) Dominion Energy Virginia's removal of the Charging Equipment in accordance with Section 3.2(b), or (ii) Dominion Energy Virginia's removal of the Charging Equipment for any other reason pursuant to this Agreement. The Parties hereby agree that if Dominion Energy Virginia determines that the Charging Stations need to be changed or moved or any of

the ancillary electric distribution facilities need to be moved, Dominion Energy Virginia shall pay all expenses incurred by Dominion Energy Virginia to move such Charging Equipment or facilities. In the event that the School Board or any Governmental Authority determines that the Charging Stations need to be changed or moved or any of the ancillary electric distribution facilities need to be moved, the School Board shall pay all expenses incurred by Dominion Energy Virginia to move such Charging Equipment or facilities.

2.5 Right to Review and Inspect; Right to Monitor; Reporting.

(a) Each Party shall participate in regular reviews of the Charging Support Program and shall promptly address any business or operational issues that may arise during the Term of this Agreement. Dominion Energy Virginia and its designees shall have the right to review and inspect the Charging Equipment (i) immediately, if a potential Safety Issue exists (as determined by Dominion Energy Virginia in good faith) or (ii) promptly upon reasonable notice to the School Board and within the School Board's operating hours. Except for any inspections due to the existence of a potential Safety Issue, the Parties hereby agree that they shall work together to schedule such inspection at a time that is the least disruptive for the operations of the EV Buses. The School Board hereby consents to Dominion Energy Virginia's and its designees' right to enter the Premises for any and all purposes described in this Agreement.

(b) Notwithstanding the foregoing, Dominion Energy Virginia shall be permitted to monitor the usage of the Charging Stations remotely on an ongoing basis.

(c) Following the completion of the Installation Work, every ninety (90) days (or, if such date is not a Business Day, then the first Business Day thereafter) the School Board shall provide an e-mail to Dominion Energy Virginia pursuant to the email addresses set forth in Section 9.1 (with no obligation to transmit a duplicate copy of such notice via any other method specified in Section 9.1) describing in detail the condition of the Charging Equipment as of such date and describing any damage, maintenance, or other material issues that arose in the preceding ninety (90) day period.

(d) The School Board shall cooperate and participate in reasonable periodic qualitative and quantitative surveys of the Charging Support Program, as requested by Dominion Energy Virginia or its designee.

2.6 Locality; Governing Body; Appropriations.

(a) The School Board shall coordinate with its locality's governing body to effectuate the terms and conditions of this Agreement, including by seeking all requisite approvals of the locality's governing body as and when necessary.

(b) This Agreement shall be null, void, and unenforceable if the School Board fails to obtain funds or appropriations sufficient for the School Board to satisfy its obligations under this Agreement, including those items set forth in Article IV.

(c) The School Board hereby agrees that the superintendent of the Alexandria City Public Schools shall (i) annually during the Term request appropriations of the School Board and the locality's governing body in an amount sufficient to pay all reasonably anticipated ongoing financial obligations hereunder; (ii) take reasonable steps to obtain such appropriations in a timely manner; (iii) provide copies of any appropriations request or proposal and any notices or other responses provided to the School Board upon Dominion Energy Virginia's request; and (iv) provide notice to Dominion Energy Virginia within ten (10) Business Days of the School Board's knowledge that sufficient funds to pay all of

its ongoing financial obligations hereunder will not be appropriated; provided, however, that nothing in this Agreement or any of the documents related hereto shall be construed to create indebtedness or a commitment of funds other than appropriated funds available for the payment and performance of the School Board's financial and other obligations hereunder.

ARTICLE III

TERM

3.1 Term. The Agreement commences on the Effective Date and will continue for fifteen (15) years from the Effective Date unless terminated earlier in accordance with the terms hereof (the "**Term**").

3.2 Effect of Expiration of Term or Early Termination.

(a) If this Agreement shall be terminated early pursuant to Section 7.1 or the Term shall expire pursuant to Section 3.1, all further obligations of the Parties under this Agreement (other than the provisions which by their terms are intended to survive the expiration or termination of this Agreement including Article I, Sections 2.2, 2.3, 4.6, 5.2(a) – (b), Article IX and this Section 3.2) shall be terminated without further Liability of any Party to the other Party and the exercise of any right of early termination pursuant to Section 7.1 will not be an election of remedies; provided, however, that, subject to Section 9.11, nothing in this Section 3.2(a) shall relieve any Party from Liability for its breach of the terms or conditions of this Agreement in accordance with the terms and conditions of this Agreement.

(b) Unless the School Board requests in writing, in the event of the termination or expiration of this Agreement, Dominion Energy Virginia shall (i) remove the Charging Equipment from the Premises, and (ii) remove any ancillary electric distribution facilities installed on the School Board's (or the applicable locality's) real property.

(c) Within ninety (90) days following the termination or expiration of this Agreement, the School Board shall remove all branding and signage as contemplated in the Branding Strategy.

ARTICLE IV

OPERATION OF THE CHARGING STATIONS; BATTERIES

4.1 Training. The School Board shall be responsible for all training of its employees, vendors, or other third parties with regard to the use, operation, charging and maintenance of the Charging Equipment following the initial training provided by Supplier. The School Board shall operate the Charging Equipment in accordance with all operating manuals and other documentation provided by Dominion Energy Virginia or Supplier.

4.2 Daily Operation; Major Decisions. Except as otherwise expressly provided in this Agreement, the School Board shall be free to dictate the day-to-day operation of the EV Buses and the Charging Equipment to best fit the needs of the School Board; provided, that the School Board shall connect the EV Buses to the Charging Stations and otherwise permit the use by Dominion Energy Virginia of the EV Buses as grid assets pursuant to their vehicle-to-grid capability, in each case as set forth on Exhibit D. The School Board shall not have the right nor the authority to do, take, make, authorize or approve any decision or action set forth below without the prior approval of Dominion Energy Virginia (in each case, a "**Major Decision**"):

- (a) material modification of the Charging Equipment or Charging Stations;

(b) any action which it knows would void all or part of any warranties applicable to the Charging Equipment; or

(c) any action which (i) would result in a failure to connect the EV Buses to the Charging Stations in accordance with Exhibit D, or (ii) would result in the failure of the EV Buses to be utilized as grid assets as contemplated on Exhibit D.

4.3 Maintenance and Repairs.

(a) Dominion Energy Virginia shall be responsible for, and shall promptly perform and pay for all repairs and maintenance of the Charging Equipment, and all other expenditures relating to the Charging Equipment and Charging Stations, except as set forth in Section 4.3(b) below.

(b) The School Board shall be responsible for, and shall promptly perform and pay all costs for electricity for operating the Charging Equipment and Charging Stations; provided, however, that Dominion Energy Virginia shall not bill the School Board, and the School Board shall not be responsible, for any costs for electricity used by the School Board to replace electricity stored in the batteries of the EV Buses actually utilized by Dominion Energy Virginia pursuant to the vehicle-to-grid capability of the EV Buses. The School Board shall be responsible for, and shall promptly perform and pay for, all expenditures which relate to any damage to the Charging Equipment and Charging Stations to the extent caused by the gross negligence of School Board personnel or other personnel that is working for, on behalf of or at the direction of the School Board or the Alexandria City Public Schools.

(c) The School Board shall promptly notify Dominion Energy Virginia of (i) any damage, maintenance or other material issue related to the Charging Equipment or the Charging Stations, or (ii) any third Persons damaging, impairing or misusing the Charging Equipment or Charging Stations.

(d) The School Board shall promptly install or push, as applicable, all software and software updates necessary for the operation of the Charging Equipment and Charging Stations as made available by Supplier.

4.4 Insurance.

(a) Each Party acknowledges that the other Party may contract to insure that Party through private insurers or may maintain or participate in one or more programs of self-insurance it will use to satisfy, in whole or in part, its insurance obligations under this Agreement. For avoidance of doubt, the School Board may self-insure through a government pooling arrangement, self-funded loss reserves, risk retention program or other self-insurance program approved by the Commonwealth of Virginia. Each Party shall (i) procure, at such Party's expense, and maintain, insurance meeting the minimum requirements set forth on Schedule 4.4, and (ii) take such actions as contemplated on Schedule 4.4.

Each Party agrees to provide to the other Party such information as such Party may reasonably request with respect to the adequacy of such insurance or self-insurance to cover the risks proposed to be insured, including those risks provided in this Section 4.4(a). Each Party may, in lieu of certificates of insurance, provide letters of self-insurance or other similar documents in a form reasonably acceptable to the other Party, and in such event, the evidence so provided will be deemed insurance certificates for purposes of this Section 4.4.

(b) Nothing in this Agreement shall be deemed a waiver of the School Board's sovereign immunity nor the immunity of the School Board's employees and other agents.

4.5 Suspensions. In the event that a Party determines that (a) a Safety Issue exists or is reasonably imminent, or (b) Emergency Works need to be performed, each Party shall have the right, in its sole discretion, to demand that the Charging Equipment or Charging Stations immediately cease operations for as long as such Party determines is necessary to resolve any existing or imminent Safety Issue or sufficiently perform the requisite Emergency Works.

4.6 Battery Purchase Option. At the end of the Term, Dominion Energy Virginia shall have the right to purchase the battery in each EV Bus from the School Board for \$1.00 (each such option, a “**Purchase Option**”). If either (a) Dominion Energy Virginia notifies the School Board in writing that it does not wish to exercise the Purchase Option with respect to a particular battery (or group of batteries), or (b) Dominion Energy Virginia has not notified the School Board in writing that it wishes to exercise the Purchase Option with respect to a particular battery (or group of batteries) within forty-five (45) days after the end of the Term, Dominion Energy Virginia shall no longer have the right to purchase the applicable battery (or group of batteries) pursuant to the Purchase Option. The School Board shall convey each battery pursuant to this Section 4.6 on an “as is, where is” basis with no representations or warranties whatsoever.

ARTICLE V

RIGHTS AND RESPONSIBILITIES OF THE PARTIES; REPRESENTATIONS OF THE SCHOOL BOARD

5.1 Other Ventures. A Party may have other business interests and may engage in other activities in addition to those relating to the Charging Support Program. No Party shall have the right, by virtue of this Agreement, to share or participate in such other investments or activities of the other Party (including without limitation any expansion of the Charging Support Program) or to the income or proceeds derived therefrom.

5.2 Confidential Information.

(a) The Parties hereby acknowledge and agree that the School Board is a “public body” within the meaning of the Virginia Freedom of Information Act (Va. Code Ann. §§ 2.2-3700, *et seq.*) (the “*Act*”) and that public records in the possession of the School Board may be subject to public disclosure on request made under the Act, unless exempted or otherwise permitted to be withheld by Applicable Law.

(b) In the event that Dominion Energy Virginia determines at any time during the Term to deliver or to transmit to the School Board or its agents any documents, materials, or records, including all or any part of the Data, and to insist upon non-disclosure of the same on the ground that it consists of trade secrets, proprietary information, or is otherwise exempt from permissive or compelled disclosure under the Act, Dominion Energy Virginia will: (i) comply fully with the terms of Va. Code Ann. § 2.2-4342(F) or its successor by amendment or by future legislation, if any, or other pertinent portions of the Act or Applicable Law with respect to those documents, materials or records; and (ii) conspicuously label all such documents, materials, or records as “Confidential – Exempt from Disclosure” prior to or contemporaneous with such delivery or transmittal to the School Board or its agents. As employed herein, “**Confidential Information**” means all documents, materials and records with respect to which Dominion Energy Virginia has complied with subsections (b)(i) and (ii) above.

(c) In the event that disclosure of Confidential Information or any part thereof is sought from the School Board either under the Act, in connection with a pending or threatened court proceeding, in a request by any local, state, or federal Governmental Authority, or otherwise, the School

Board shall: (i) unless prohibited by Applicable Law, promptly advise Dominion Energy Virginia in writing of that request so that Dominion Energy Virginia may, in its discretion, seek a protective order or other appropriate remedy; (ii) provide Dominion Energy Virginia a copy of said request; and (iii) timely assert the inapplicability of the Act to the requested materials and any and all exemptions from public disclosure that may be applicable thereto, including protections under Va. Code Ann. § 2.2-4342 as the same may be amended. The School Board will not disclose Confidential Information without the prior written consent of Dominion Energy Virginia, absent a final court order requiring disclosure. In the event of any conflict or ambiguity between the terms of Sections 5.2(a) – (c) and any other provision of this Agreement, Sections 5.2(a) – (c) shall govern. Nothing contained herein shall prevent the School Board from using or disclosing Confidential Information to the extent necessary in order to enforce its rights under this Agreement.

(d) **Public Statements & Branding.** The Parties shall use their reasonable best efforts to coordinate with regard to any press conferences or other public events with regard to the Charging Support Program or Dominion Energy Virginia's support of the School Board's participation in the DEQ Program. Each Party acknowledges and agrees that the other Party shall have the right to control media access to such Party's premises. The Parties hereby agree that Dominion Energy Virginia shall be permitted to brand the Charging Equipment and Charging Stations in a manner consistent with and as set forth in the branding strategy set forth on Exhibit E (the "***Branding Strategy***"). The Parties may agree to update the Branding Strategy or approve any additional signage as they see fit; provided, that, if Dominion Energy Virginia proposes updates or amendments to the Branding Strategy or any additional signage, the School Board shall consider such updates or amendments in good faith and not unreasonably withhold, condition or delay its consent to such updates or amendments to the Branding Strategy or any additional signage.

(e) **Specific Performance.** The Parties agree that irreparable damage will result if this Section 5.2 is not performed in accordance with its terms, and the Parties agree that damages available at law for a breach of this Section 5.2 would not be an adequate remedy. Therefore, to the full extent permitted by Applicable Law, any Party shall be entitled to seek that the provisions hereof and the obligations of the Party hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and that appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a Party may have under this Agreement, at law or in equity.

5.3 Taxes; Incentives; Cooperation.

(a) The Parties agree to cooperate and consider such arrangements as are reasonably necessary to lawfully reduce the level of taxes payable by any Party in connection with performance of the provisions of this Agreement and the transactions contemplated herein.

(b) In accordance with Section 2.1(a), Dominion Energy Virginia shall own and receive the benefit of any Incentives derived from the construction, installation, ownership, use and operation of the Charging Equipment. The School Board shall cooperate with Dominion Energy Virginia in obtaining any such Incentives and if any Incentives are not received by Dominion Energy Virginia and are instead actually received by the School Board, the School Board shall immediately pay the dollar amount of any such Incentives to Dominion Energy Virginia.

(c) Notwithstanding anything herein to the contrary and for the avoidance of doubt, the Parties acknowledge and agree that, to the extent that Dominion Energy Virginia determines in its sole discretion that Dominion Energy Virginia is not treated as the owner of the Charging Equipment for federal income tax purposes, (i) Dominion Energy Virginia shall notify the School Board of such treatment; (ii)

Dominion Energy Virginia shall be treated for federal income tax purposes as having sold the Charging Equipment to the School Board pursuant to this Agreement; (iii) Dominion Energy Virginia shall be treated as the taxpayer that placed such property in service for federal income tax purposes; (iv) the amount of the Federal AFVR Property Credit allowable with respect to the Charging Equipment placed in service at a location shall be the amount determined by Dominion Energy Virginia in accordance with Section 30C of the Code (the “**Federal AFVR Property Credit Tax Treatment**”); and (v) each Party (and its respective Affiliates) agrees to prepare and file all tax returns consistent with such Federal AFVR Property Credit Tax Treatment and will not take any inconsistent position on any tax return or during the course of an audit, litigation, or other proceeding with respect to taxes, except as otherwise required by Applicable Law following a “determination” within the meaning of Section 1313(a) of the Code or similar provision of other Applicable Law; provided, however, nothing contained herein shall require any Party to (i) contest or litigate in any forum any proposed deficiency or adjustment by any Governmental Authority which challenges such Federal AFVR Property Credit Tax Treatment, or (ii) be responsible for the cost of the other’s tax preparation, including but not limited to Federal AFVR Property Credit Tax Treatment.

(d) Dominion Energy Virginia and the School Board shall, upon request, provide the other Party with all reasonable information and documentation that either Party may reasonably require with respect to (i) any tax reporting obligations of such Party in connection with the construction, installation, ownership, use and operation of the Charging Equipment; and (ii) obtaining any Incentives to which such Party may be entitled to in accordance with the terms of this Agreement.

5.4 School Board Representations. The School Board represents that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, regulation, order, or other legal determination applicable to it; (c) it has obtained any and all required consents or approvals to enter into this Agreement and to participate in the Charging Support Program and the DEQ Program; (d) this Agreement constitutes a legal, valid and binding obligation of the School Board; (e) to its actual knowledge, the Premises are subject to no conditions, restrictions or covenants incompatible with the installation, operation and maintenance of the Charging Equipment and Charging Stations; and (f) the Premises are free of environmental contamination that violates any Applicable Law.

5.5 Dominion Energy Virginia Representations. Dominion Energy Virginia represents that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, regulation, order, or other legal determination applicable to it; (c) it has obtained any and all required consents or approvals to enter into this Agreement; and (d) this Agreement constitutes a legal, valid and binding obligation of Dominion Energy Virginia.

ARTICLE VI

DEFAULT

6.1 Default by Dominion Energy Virginia. Should Dominion Energy Virginia fail to perform any material provision of this Agreement and should said performance failure continue for a period of fifteen (15) days after the delivery by the School Board of written notice of said failure, then the School Board may, at its option and without prejudicing any right or remedy available to it under Applicable Law, (i) proceed with the dispute resolution provisions set forth in Section 9.2, (ii) seek specific performance of Dominion Energy Virginia’s obligations under this Agreement to the extent permitted by Applicable Law, or (iii) terminate this Agreement as provided in Section 7.1(b).

6.2 Default by the School Board. Should the School Board fail to perform any material provision of this Agreement and should said performance failure continue for a period of fifteen (15) days after delivery by Dominion Energy Virginia of written notice of said failure, then Dominion Energy Virginia may, at its option and without prejudicing any right or remedy available to it under Applicable Law, (i) proceed with the dispute resolution provisions set forth in Section 9.2, (ii) seek specific performance of the School Board's obligations under this Agreement to the extent permitted by Applicable Law or pursue any and all other remedies available at law or equity; (iii) elect to cure the School Board's failure to perform and recover from the School Board costs incurred by Dominion Energy Virginia in curing such failure, or (iv) terminate this Agreement as provided in Section 7.1(c).

6.3 Notice of Default. Each Party shall promptly notify the other if it becomes aware of any failure of the other Party to perform any material provision of this Agreement or if it suspects that the other Party has failed or is failing to perform any material provision of this Agreement. Upon receipt of a notice alleging that such Party has failed or is failing to perform any material provision of this Agreement, the receiving Party shall promptly and in any event within fifteen (15) days of receipt thereof, admit or deny in writing the allegations contained in such notice; provided, however, that a Party's failure to respond to any such notice within fifteen (15) days shall be deemed a denial.

ARTICLE VII

TERMINATION

7.1 Termination. Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time:

- (a) by the mutual written consent of the Parties;
- (b) by the School Board, if there has been a material breach on the part of Dominion Energy Virginia of any covenant, agreement or other obligation of Dominion Energy Virginia contained in this Agreement, which breach remains uncured for thirty (30) days after notice of such breach is received by Dominion Energy Virginia;
- (c) by Dominion Energy Virginia, (i) if there has been a material breach on the part of the School Board of any covenant, agreement or other obligation of the School Board contained in this Agreement, which breach remains uncured for thirty (30) days after notice of such breach is received by the School Board, or (ii) if the School Board no longer has unencumbered control or possession of the Premises;
- (d) by the School Board or Dominion Energy Virginia, if a Governmental Authority shall have issued a final and non-appealable order, injunction, judgment, decree or ruling permanently restraining, enjoining or otherwise prohibiting (i) the Charging Support Program, or (ii) the operation, maintenance, deployment and use of the Charging Equipment and Charging Stations in the manner contemplated by this Agreement;
- (e) by the School Board or Dominion Energy Virginia, if a Dispute remains unresolved after forty-five (45) days following the commencement of the negotiations described in Section 9.2;
- (f) by the School Board or Dominion Energy Virginia, upon the total destruction of the Premises or the Charging Equipment;

(g) by Dominion Energy Virginia, if the Ordering Conditions have not been satisfied within ninety (90) days after the Effective Date; or

(h) by the School Board or Dominion Energy Virginia, if the School Board's governing body fails to appropriate sufficient funds to satisfy the obligations of the School Board hereunder.

7.2 Notice of Termination. Any Party desiring to terminate this Agreement pursuant to Section 7.1 shall give written notice of such termination to the other Party. The date the non-terminating Party receives such written notice of termination from the terminating Party shall be the effective date of the termination (the "**Termination Date**").

7.3 Effect of Termination. Subject to Section 9.11, nothing herein shall relieve any Party from Liability for its breach of the terms or conditions of this Agreement in accordance with the terms and conditions of this Agreement; provided, that each Party shall submit to the other Party any claim it may have pursuant or relating to this Agreement within sixty (60) days of the termination of this Agreement.

ARTICLE VIII

PROVISIONS REQUIRED BY VIRGINIA LAW

8.1 Nondiscrimination. Dominion Energy Virginia agrees that during the performance of the Agreement:

(a) It will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of Dominion Energy Virginia. Dominion Energy Virginia agrees to post in conspicuous places, available to employees and applicants, notices setting forth the provisions of this nondiscrimination clause.

(b) It will state that it is an equal opportunity employer in all solicitations or advertisements for employees placed by it or on its behalf. Notices, solicitations, and advertisements placed in accordance with federal law, rule, or regulations shall be deemed sufficient for the purposes of meeting the requirements of this Section 8.1(b).

(c) It will include the provisions of the foregoing subsections (a) and (b) in every subcontract or purchase order of over \$10,000 entered into relating to this Agreement, so that the provisions will be binding upon each such subcontractor or contractor.

8.2 Drug Free Work Place. During the performance of the Agreement, Dominion Energy Virginia agrees to (a) provide a drug-free workplace for Dominion Energy Virginia's employees; (b) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Dominion Energy Virginia's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (c) state in all solicitations or advertisements for employees placed by or on behalf of Dominion Energy Virginia that Dominion Energy Virginia maintains a drug-free workplace; and (d) include the provisions of the foregoing subsections (a), (b) and (c) in every subcontract or purchase order of over \$10,000 entered into relating to this Agreement, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with the Agreement.

8.3 Religious Organizations. The School Board does not discriminate against faith-based organizations.

8.4 Certification Regarding Felons and Sex Offenders. By entering into the Agreement, Dominion Energy Virginia agrees to certify by executing the certification form attached to this Agreement as Exhibit F, as required by Va. Code Ann. § 22.1-296.1. Dominion Energy Virginia shall make such certifications available to the School Board and shall promptly report to the School Board any change that would make any such certifications no longer accurate.

8.5 Prompt Payment Requirements For Subcontractors. If subcontractors are used in the performance of the Agreement:

(a) Dominion Energy Virginia shall take one of the two following actions within seven (7) days after receipt of amounts paid to it by the School Board for work performed by a subcontractor relating to this Agreement:

(i) Pay the subcontractor for the proportionate share of the total payment received from the School Board attributable to the work performed by the subcontractor; or

(ii) Notify the School Board and subcontractor, in writing, of Dominion Energy Virginia's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

8.6 Interest. Dominion Energy Virginia shall pay interest to any subcontractor who performs work relating to this Agreement on all amounts owed by Dominion Energy Virginia that remain unpaid after seven (7) days following receipt by it of payment from the School Board for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in Section 8.4(a)(ii) above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month for amounts owed to any subcontractor. Dominion Energy Virginia shall include in each of its subcontracts relating to this Agreement a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor. Dominion Energy Virginia's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this paragraph shall not be construed to be an obligation of the School Board. This Agreement shall not be modified for the purpose of providing reimbursement for the interest charge.

8.7 Authority to Transact Business. Dominion Energy Virginia warrants that it is, and for the duration of the Agreement shall remain, authorized to transact business in the Commonwealth of Virginia and that the identification number issued by the Virginia State Corporation Commission is 00063172.

8.8 Indemnification and Arbitration. The Parties hereby agree that this Agreement does not contain any indemnification or hold harmless provision or agreement to arbitrate.

ARTICLE IX

GENERAL PROVISIONS

9.1 Notices. Except as expressly provided herein, all notices and communications to be given hereunder shall be in writing and shall be hand delivered, sent by email (with a duplicate copy transmitted by another method of delivery authorized hereunder), sent by first class certified US Mail, postage prepaid, or sent by nationally recognized express courier service. Such notices and other communications shall be

effective upon receipt if hand delivered, sent by email (with a duplicate copy transmitted by another method of delivery authorized hereunder), or by first class certified US Mail; and one (1) Business Day after dispatch if sent by express courier to the addresses or email addresses set forth below:

If to the School Board:

City of Alexandria School Board
1340 Braddock Place, Suite 610
Alexandria, Virginia 22314
Attention: Susan Neilson, Clerk
E-mail: susan.neilson@acps.k12.va.us

Attention: Dyanna McMullen, Director of Procurement
E-mail: Dyanna.mcmullen@acps.k12.va.us
Attention: Dr. Alicia Hart
Email: Alicia.hart@acps.k12.va.us
Attention: MeChale' Johnson, Director of Pupil
Transportation and Fleet Johnson
Phone No.: 703-461-4169

and with a copy to:

Blankingship & Keith, PC
Jeremy B. Root, Partner
4020 University Drive, Suite 300
Fairfax, VA 22030

If to Dominion Energy Virginia:

Virginia Electric and Power Company
8th and Main Street
Richmond, VA 23219
Attention: Joe Woomer, Vice President – New Business
and Customer Solutions
E-mail: joe.woomer@dominionenergy.com

and with a copy to:

Dominion Energy Services, Inc.
120 Tredegar Street
Richmond, VA 23219
Attention: Gina Burgin, Legal Department
E-mail: gina.m.burgin@dominionenergy.com

9.2 Negotiation to Resolve Disputes. If a Dispute arises, the Parties shall attempt to resolve such Dispute first, by promptly holding a meeting (whether by phone or in person) of necessary personnel of the Parties such that each Party is represented in such meeting by individuals with decision-making authority to resolve such Dispute, in a good faith attempt to resolve the Dispute. If the Dispute is still unresolved after forty-five (45) days following the commencement of the negotiations described above, then the Parties will thereafter be entitled to pursue all such remedies as may be available to them.

9.3 Governing Law; Venue. This Agreement and any Disputes under or relating to this Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to the principles of conflicts of law thereof. The Parties hereby irrevocably submit to the exclusive jurisdiction of either the Circuit Court of the City of Richmond, Virginia or the

United States District Court for the Eastern District of Virginia located in Richmond, Virginia (if applicable) with respect to any action or proceeding arising out of or relating to this Agreement or any Dispute. Each Party hereto irrevocably and unconditionally waives trial by jury in any action, suit or proceeding relating to this Agreement or any Dispute. Each Party hereby irrevocably waives, to the extent permitted by Applicable Law, and agrees not to assert, by way of motion, as a defense, or otherwise, in any legal action or proceeding brought hereunder in any of the above-named courts that such action or proceeding is brought in an inconvenient forum, or that the venue for the action or proceeding is improper.

9.4 Counterparts. This Agreement may be executed in one or more counterparts, each bearing the signatures of one or more Party. Each such counterpart shall be considered an original and all of such counterparts shall constitute a single agreement binding all Parties as if all had signed a single document. Facsimile or .PDF signatures shall be accepted as original signatures for purposes of this Agreement.

9.5 Severability. If any provision of this Agreement shall be contrary to any other Applicable Law, at the present time or in the future, such provision shall be deemed null and void, but this shall not affect the legality of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in compliance with Applicable Law and this Agreement shall then be construed in such a way as will best serve the intention of the Parties at the time of the execution of this Agreement.

9.6 Entire Agreement. This Agreement, including any Schedules and Exhibits constitutes the entire agreement among the Parties regarding the subject matter hereof, except as amended in writing pursuant to the requirements of this Agreement, and supersedes all prior and contemporaneous agreements, statements, understandings and representations of the Parties.

9.7 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Party in the performance by that Party of its obligations under this Agreement is not a consent or waiver to or of any other breach or default in the performance by that Party of the same or any other obligations of that Party under this Agreement. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to its obligations under this Agreement, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute of limitations period has run.

9.8 Amendment or Modification. Notwithstanding anything to the contrary herein, this Agreement may be amended or modified from time to time by the Parties by a written instrument executed by each of the Parties.

9.9 Binding Effect. This Agreement is binding on and inures to the benefit of the Parties and their respective legal representatives, permitted successors and permitted assigns.

9.10 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Party shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions contemplated herein.

9.11 Limitation on Dominion Energy Virginia's Liability. EXCEPT TO THE EXTENT OF (i) INTENTIONAL MISCONDUCT OR FRAUD OF DOMINION ENERGY VIRGINIA OR (ii) DOMINION ENERGY VIRGINIA'S GROSS NEGLIGENCE IN (x) PERFORMING THE INSTALLATION WORK IN ACCORDANCE WITH SECTION 2.1(c), (y) REMOVING THE CHARGING EQUIPMENT OR ANCILLARY ELECTRIC DISTRIBUTION FACILITIES IN ACCORDANCE WITH SECTION 3.2(b), OR (z) PERFORMING ANY MAINTENANCE OR REPAIR

WORK IN ACCORDANCE WITH SECTION 4.3, NO CLAIMS SHALL BE MADE BY THE SCHOOL BOARD OR ANY OF ITS REPRESENTATIVES, EMPLOYEES, ATTORNEYS OR AGENTS AGAINST DOMINION ENERGY VIRGINIA OR ANY OF ITS AFFILIATES, REPRESENTATIVES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS FOR (a) ANY LOSS, DAMAGE, INJURY OR LIABILITY, WHETHER DIRECT OR INDIRECT, TO PERSONS OR PROPERTY IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE OPERATION, MAINTENANCE, DEPLOYMENT AND USE OF THE CHARGING EQUIPMENT OR CHARGING STATIONS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION WITH ANY OF THE FOREGOING, OR (b) ANY LOSS, DAMAGE, INJURY OR LIABILITY, WHETHER DIRECT OR INDIRECT, RELATING TO THE FACILITATION, CREATION OR IMPLEMENTATION OF THE CHARGING SUPPORT PROGRAM (IN EACH CASE, WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE); AND THE SCHOOL BOARD HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY SUCH CLAIM WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR. THE OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT ARE OBLIGATIONS OF THE PARTIES ONLY AND NO RE COURSE SHALL BE AVAILABLE UNDER THIS AGREEMENT AGAINST ANY AFFILIATE OF ANY PARTY OR ANY OF SUCH PARTY'S REPRESENTATIVES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS.

9.12 No Third Party Beneficiaries. This Agreement is entered into for the sole benefit of the Parties, and except as specifically provided herein (including Section 9.11), no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

9.13 Relationship of the Parties. Each Party will perform all obligations under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties, nor shall any term or matter contained herein be construed to be a grant of a power of attorney from one Party to the other Party.

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

DOMINION ENERGY VIRGINIA:

VIRGINIA ELECTRIC AND POWER COMPANY

By: _____
Name:
Title:

SCHOOL BOARD:

SCHOOL BOARD OF THE CITY OF ALEXANDRIA

By: _____

Name:

Title: Interim Superintendent of Schools

By: _____

Name:

Title: Director of Procurement & General Services

By: _____

Name:

Title: Chief of Facilities & Operations

By: _____

Name: McChale Johnson

Title: Director of Pupil Transportation and Fleet Management