

ARTICLES OF INCORPORATION

OF

[\_\_\_\_\_]

The undersigned, desiring to form a nonstock corporation under the provisions of Chapter 10 of Title 13.1 of the Code of Virginia of 1950, as amended (the “Act”), sets forth the following:

ARTICLE 1. Name. The name of the corporation is [\_\_\_\_\_] (the “Corporation”).

ARTICLE 2. Purposes of the Corporation. The Corporation is (a) organized and at all times shall be operated exclusively for charitable, scientific, literary, and educational purposes, as defined by section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any subsequent federal tax laws, together with the regulations pertinent thereto (collectively, the “Code”), and (b) incorporated for the sole purpose of serving as the green bank of Fairfax County, Virginia (the “County”), as authorized by section 15.2-958.3:1 of Chapter 9 of Title 15.2 of the Code of Virginia of 1950, as amended (the “Green Bank Statute”), and the ordinance to amend the Fairfax County Code by adding a new chapter numbered 128, and as each may be amended from time to time hereafter. The Corporation shall not pay over any part of its income, use its assets for, or perform any service that is not in furtherance of its charitable, scientific, literary, and educational purposes. This statement of purpose shall not be considered as limiting or restricting in any manner the powers conferred upon corporations by the Act, and, therefore, the Corporation shall have the power to transact any business not prohibited by law or required to be stated herein.

ARTICLE 3. Members. The Corporation shall have no members.

ARTICLE 4. Appointment of Board of Directors. The Corporation shall have a Board of Directors (the “Board of Directors”) with such designations, qualifications, and rights as set forth in the Bylaws of the Corporation (the “Bylaws”). The Board of Directors shall consist of voting and non-voting members. The County Executive of the County (the “County Executive”) shall appoint all initial voting members of the Board of Directors. The voting members of the Board of Directors shall be divided into Class I and Class II members as set forth in the Bylaws. The term of office of the initial voting members on the Board of Directors shall be until (a) the second annual meeting of the Board of Directors held after the date of incorporation for Class I members of the Board of Directors, and (b) the third annual meeting of the Board of Directors held after the date of incorporation for Class II members of the Board of Directors, or, in each case, until their earlier death, resignation or removal. Following their initial terms, the voting members of the Board of Directors shall be elected by the voting members of the Board of Directors, and the term of each such voting member shall be three years, subject, in each case, to their earlier death, resignation or removal. The term of a voting member elected by the Board of Directors to fill a vacancy on the Board of Directors expires at the end of the term at which the next Class’s term ends, subject, in each case, to such person’s earlier death, resignation or removal. A vacancy of a voting member on the Board of Directors must be filled by a vote of the voting members of the Board of Directors. The non-voting members of the Board of Directors shall be appointed from time-to-time by, and can be removed for any or no reason by, the County Executive. The term of each non-voting member of the Board of Directors shall be until the earliest of such member’s death, resignation or removal.

ARTICLE 5. Registered Agent and Office. The name of the Corporation’s initial registered agent is Bradley J. Nowak, a resident of the Commonwealth of Virginia and a member of the Virginia

State Bar. The initial registered office of the Corporation is 8350 Broad Street, Suite 1600, Tysons, Virginia 22102 in Fairfax County, Commonwealth of Virginia.

ARTICLE 6. Inurement of Earnings and Compensation. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its incorporators, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 2. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including any publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall only carry on activities permitted to be carried on by (i) a corporation exempt from federal income tax under Code section 501(c)(3), or (ii) a corporation, contributions to which are deductible under Code sections 170(c), 2055 and 2522.

ARTICLE 7. Disposition of Assets Upon Dissolution. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Corporation, dispose of all the assets of the Corporation to the County or to any successor entity or organization established by the County pursuant to the Green Bank Statute for the benefit of the County as shall at the time qualify as an exempt organization under Code section 501(c)(3), as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Circuit Court of Fairfax County, solely for such purposes or to such organization or organizations which are organized and operated exclusively for such purposes.

ARTICLE 8. Indemnification. In every instance in which the Act permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the directors and officers of the Corporation shall not be liable to the Corporation.

The Corporation shall indemnify any individual who is, was, or is threatened to be made a party to a proceeding (including a proceeding by or in the right of the Corporation) because such individual is or was a director or officer of the Corporation or because such individual is or was serving the Corporation, or any other legal entity in any capacity at the request of the Corporation while a director or officer of the Corporation, against all liabilities and reasonable expenses incurred in the proceeding, except such liabilities and expenses as are incurred because of such individual's willful misconduct or knowing violation of criminal law. Service as a director or officer of a legal entity controlled by the Corporation shall be deemed service at the request of the Corporation. The determination that indemnification under this paragraph is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made, in the case of a director, as provided by law, and in the case of an officer, as provided in the next paragraph of this Article; provided, however, that if a majority of the voting members of the Board of Directors of the Corporation has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board of Directors and such person. Unless a determination has been made that indemnification is not permissible, the Corporation shall make advances and reimbursements for expenses incurred by a director or officer in a proceeding upon receipt of an undertaking from such director or officer to repay the same if it is ultimately determined that such director or officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of the director or officer and shall

be accepted without reference to such director's or officer's ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that a director or officer acted in such a manner as to make such director or officer ineligible for indemnification. The Corporation is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its directors or officers to the same extent provided in this paragraph.

The Corporation may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its directors and officers pursuant to the preceding paragraph, provide indemnification and make advances and reimbursements for expenses to its employees and agents; officers, employees, and agents of its subsidiaries and affiliated entities; and any person serving any other legal entity in any capacity at the request of the Corporation, and may contract in advance to do so. The Board of Directors shall from time to time by general or specific action, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law, make the determination whether indemnification under this paragraph is permissible, authorize such indemnification, and evaluate the reasonableness of expenses in a specific case. No person's rights under the preceding paragraph of this Article shall be limited by the provisions of this paragraph.

Special legal counsel selected to make determinations under this Article may be counsel for the Corporation. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Corporation, and indemnification under policies of insurance purchased and maintained by the Corporation or

others. However, no person shall be entitled to indemnification by the Corporation to the extent such person is indemnified by another, including an insurer. The Corporation is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Corporation or any other legal entity at the request of the Corporation regardless of the Corporation's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude the Corporation from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If a court of competent jurisdiction holds any provisions of this Article or its application to any person or circumstances invalid, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.

No amendment, modification, or repeal of this Article shall diminish the rights provided hereunder to any person from conduct or events occurring before the adoption of such amendment, modification, or repeal.

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Dated: [\_\_\_\_\_, 2023]

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Bradley J. Nowak, Incorporator