

**DRAFT – FOR CONSIDERATION IN CONJUNCTION
WITH INPUT RECEIVED AT THE PUBLIC HEARING**

**FAIRFAX COUNTY WATER AUTHORITY
RESOLUTION AUTHORIZING AND DIRECTING
THE ACQUISITION, BY CONDEMNATION OR OTHER MEANS,
OF LAND IN FEE SIMPLE FOR A PUBLIC STREET DEDICATION, A
STORMWATER EASEMENT, A SIGHT DISTANCE EASEMENT AND
TEMPORARY CONSTRUCTION EASEMENTS ON PORTIONS OF
PROPERTIES LOCATED IN FAIRFAX COUNTY, VIRGINIA**

WHEREAS, the Fairfax County Water Authority (“Fairfax Water”), a water authority established and existing pursuant to the Virginia Water and Waste Authorities Act, provides public drinking water to nearly two million people residing within Fairfax, Loudoun and Prince William counties, as well as the cities of Falls Church and Fairfax; and

WHEREAS, Fairfax Water currently is undertaking a project to construct a distribution system maintenance facility (the “Project”) to serve as a base of operations for water distribution system crews and other staff responsible for water main repair, water system flushing, and other water distribution system maintenance activities; and

WHEREAS, Fairfax Water has determined that it is necessary to acquire for public use as part of the Project (i) a temporary construction easement on a portion of certain real property located at 8435 Lee Highway, Fairfax, VA 22031; (ii) a temporary construction easement on a portion of certain real property located at 8439 Lee Highway, Fairfax, VA 22031; (iii) land in fee simple for public street dedication, as well as sight distance and temporary construction easements on a portion of certain real property located at 8501 Lee Highway; and (iv) stormwater and temporary construction easements on a portion of certain real property located at 8523A Lee Highway, Fairfax, VA 22031 (such easements and public street dedication being collectively referred to herein as the “Property Interests”). The subject properties are more particularly described as Fairfax County Tax Map Parcel Nos. 049-3-((1))-0046, 049-3-((1))-0047, 049-3-((1))-0049 and 049-3-((1))-0050C (collectively, the “Properties”); and

WHEREAS, Fairfax Water has determined that its acquisition of the Property Interests on the Properties: (i) is no more property than is necessary to meet its needs and public purposes and uses stated herein; (ii) will serve only public interests which dominate any private gain; (iii) is sought for the primary purpose of serving public interests and not private financial gain, private benefit, an increase in tax revenues, or an increase in employment; and (iv) otherwise complies with Va. Code Ann. § 1-219.1, as amended; and

WHEREAS, Fairfax Water staff, directly and through their agents, have attempted in good faith to negotiate the acquisition of the Property Interests from the respective owners of the Properties, but, so far, have been unsuccessful in reaching an agreement with the respective owners on mutually acceptable terms; and

WHEREAS, Fairfax Water may acquire land and easements through the exercise of the power of eminent domain pursuant to Va. Code Ann. § 15.2-5114(6), as amended; and

WHEREAS, prior to initiating condemnation proceedings, should resort to condemnation be necessary, Fairfax Water is required to conduct a public hearing pursuant to Va. Code Ann. §15.2-1903(B), as amended; and

WHEREAS, Fairfax Water scheduled a public hearing for April 1, 2021 to consider the acquisition of the Property Interests by condemnation or other means, and published notice of this public hearing in The Connections Newspaper and the Washington Post for two consecutive weeks, and also provided written notice of such public hearing to the owners of the Properties as well as owners of abutting properties and properties immediately across the street from the Properties; and

WHEREAS, Fairfax Water held a public hearing on this matter at Fairfax Water's offices on April 1, 2021, at which all interested members of the public requesting to do so were permitted to speak; and

WHEREAS, at the public hearing, Fairfax Water heard and considered comments from the public as well as information provided by Fairfax Water staff, including the plats that show the Property Interests, documents and materials evidencing legal title to the Properties and publication of notice of the public hearing, as well as appraisal data of the Property Interests provided by Fairfax Water's real estate appraiser; and

WHEREAS, Fairfax Water, upon consideration of all of the foregoing, determines and is of the conclusion that it is in the best interest of Fairfax Water and the public to acquire the Property Interests necessary to complete the Project, either by negotiation or by exercise of Fairfax Water's power of eminent domain if efforts to obtain the Property Interests by other means continue to be unsuccessful.

NOW THEREFORE, IT IS, ON THIS 1st DAY OF APRIL 2021, HEREBY RESOLVED, that the construction of the Project is approved as a critical public use necessary to facilitate emergency and routine maintenance of Fairfax Water's distribution system and ensure a reliable public water supply for the health, safety and welfare of the members of the public served by Fairfax Water; and be it

FURTHER RESOLVED, that the acquisition of the Property Interests by condemnation or other means, free and clear of any and all liens, judgments, deeds of trust, leases or other conflicting encumbrances, is approved, such acquisition being necessary for the Project; and be it

FURTHER RESOLVED, that the Property Interests will be used for facilities to be operated by Fairfax Water in furtherance of its public and governmental functions pursuant to the Virginia Water and Waste Authorities Act, and that the acquisition of the Property Interests for that public use: (i) is no more property than is necessary to meet Fairfax Water's needs and public purposes and uses stated herein; (ii) will serve only public interests which dominate any private gain; (iii) is sought for the primary purpose of serving public interests and not private financial gain, private benefit, an increase in tax revenues, or an increase in employment; and (iv) otherwise complies with Va. Code Ann. § 1-219.1, as amended; and be it

FURTHER RESOLVED, that Fairfax Water has made bona fide efforts to acquire the Property Interests from the landowner, but, to date, those efforts have been ineffectual; and be it

FURTHER RESOLVED, that Fairfax Water does hereby authorize its General Manager and Counsel, respectively, to take all actions for and on behalf of Fairfax Water which are or may be appropriate or necessary for Fairfax Water to acquire the Property Interests through the exercise of its power of eminent domain, including but not limited to, the filing of any papers or pleadings with the Circuit Court of Fairfax County, Virginia and other actions related to the initiation of any legal proceedings necessary or appropriate to acquire the Property Interests by eminent domain, *provided, however*, that nothing in this Resolution shall be construed as preventing the continued negotiation by the General Manager and/or Counsel for Fairfax Water for the acquisition by other means of the Property Interests prior to initiation of any such eminent domain proceedings; and be it

FURTHER RESOLVED, that all the actions taken by the General Manager and Counsel in connection with this matter are hereby ratified and confirmed; and be it

FINALLY RESOLVED, that a copy of this Resolution be filed with the papers of this meeting.

The preceding Resolution was adopted at the Regular Session of Fairfax Water by a vote of _____ ayes and _____ nays.

Chairman

Secretary/Treasurer