



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

MEMORANDUM

March 9, 2023

TO: Christopher R. Conklin, Director
Department of Transportation

FROM: Tiara McCray, Acting Chief, Property Acquisition Section TM
Division of Transportation Engineering, Department of Transportation

SUBJECT: **Request for Abandonment of Public Rights of Way along Frederick Road in Clarksburg**

Pursuant to Section 49-62(b) of the Montgomery County Code, the Montgomery County Department of Transportation, Division of Transportation Engineering (the "Applicant") is requesting the abandonment of the public rights of way along Frederick Road previously acquired from Potomac Edison Company in connection with the County's Frederick Road Bike Path project, CIP # 501118 (the "Project"). Please find copies of the following Application materials:

1. Narrative and Justification Statement in support of this request.
2. Bike Path and Drainage Facility Easement Agreement dated April 15, 2020 (the "Original Easement Agreement") (Exhibit A).
3. Bike Path Easement Agreement dated September 14, 2021 (the "Revised Easement Agreement") (Exhibit B).

As described in the Narrative and Justification Statement referenced above, this request for abandonment concerns easements previously acquired from the Potomac Edison Company that are no longer needed for present or anticipated future public use in light of changes made to the design of the Project. The Applicant requests that the Montgomery County Department of Transportation take all necessary actions to allow the County Executive or his designee to make a recommendation on the proposed abandonment and forward that recommendation to the County Council for approval.

Division of Transportation Engineering

100 Edison Park Drive, 4th Floor * Gaithersburg, Maryland 20878 * 240-777-7220 Office * 240-777-7277 FAX
www.montgomerycountymd.gov

*Montgomerycountymd.gov/311 * 240-777-3556 TTY*

NARRATIVE and JUSTIFICATION STATEMENT

Pursuant to the provisions of Section 49-62 of the Montgomery County Code, the Montgomery County Department of Transportation, Division of Transportation Engineering (the “Applicant”) requests the abandonment of two portions of County right of way located over property owned by The Potomac Edison Company along Frederick Road in Clarksburg.

On or about April 15, 2020, Montgomery County (the “County”) and The Potomac Edison Company (“Potomac Edison”) entered into a Bike Path and Drainage Facility Easement Agreement (the “Original Easement Agreement”) pursuant to which Potomac Edison granted to the County the following easements: 1) a perpetual easement for a bike path consisting of 2,655 square feet; 2) a perpetual easement for drainage consisting of 388 square feet; and 3) a temporary construction easement consisting of 970 square feet, all of which were required for the County’s Frederick Road Bike Path project (CIP # 501118) and which were shown and delineated on Right of Way Plat No. 1083, filed among the Land Records for Montgomery County, Maryland (a copy of the Original Easement Agreement is attached hereto as **Exhibit A**).

Upon the recordation of the Original Easement Agreement, the easement areas became part of the public right of way.

Subsequent to the recordation of the Original Easement Agreement, the design of the bike path was modified, resulting in a realignment of the bike path and drainage facilities across the Potomac Edison property. Because the easements acquired under the Original Easement Agreement had already been recorded in land records, it was necessary for the County to acquire

new easements for the realigned path and then abandon the easements/ right of way previously recorded through the Original Easement Agreement.

On or about September 14, 2021, the County and Potomac Edison entered into a Bike Path Easement Agreement (the “Revised Easement Agreement”) through which Potomac Edison granted to the County the following easements: 1) a perpetual easement for a bike path consisting of 5,215 square feet, more or less; 2) two (2) temporary construction easements consisting of 686 square feet, more or less , and 602 square feet, more or less, respectively, and which were shown and delineated on Right of Way Plat #1203 needed to construct the bike path (a copy of the Revised Easement Agreement is attached hereto as **Exhibit B**).

The acquisition of the easements described in the Revised Easement Agreement negates the need for the easements described in the Original Easement Agreement.

Pursuant to the terms of the Revised Easement Agreement, the County is now pursuing the abandonment of the easements/ right of way acquired through the Original Easement Agreement. In light of the re-alignment of the bike path and the recordation of the Revised Easement Agreement, the easements/ right of way acquired through the Original Easement Agreement are no longer needed for present or anticipated future public use.

The easements/ right of way that are requested to be abandoned are described as follows:

- A. Perpetual Easement for a Bike Path consisting of 2,655 square feet of land, more or less, as described and delineated on Right of Way Plat number 1083 attached as part of **Exhibit A**.

B. Perpetual Easement for a Drainage Facility consisting of 388 square feet of land, more or less, as described and delineated on Right of Way Plat number 1083 attached as part of **Exhibit A.**

Upon the County Council's approval of the abandonment of these sections of the public right of way, the land subject to the public right of way will revert to Potomac Edison as the fee simple owner of the underlying land.

For all of the reasons stated herein, the Applicant requests that the Montgomery County Department of Transportation move to allow a hearing by the Executive or his designee to consider this request.

Respectfully Submitted,

eSigned via SeamlessDocs.com

Key: 2da5edf7-6460-451a-abb0-7b1fa038d1d2

Tiara McCray
Acting Chief, Property Acquisition Section
Department of Transportation Engineering

EXHIBIT A

2020 BIKE PATH AND DRAINAGE FACILITY
EASEMENT AGREEMENT
BETWEEN
THE POTOMAC EDISON COMPANY
AND
MONTGOMERY COUNTY, MARYLAND

MONTGOMERY COUNTY, MD

APPROVED BY EZT

JUN 11 2020

Parcel ID: 02-00020714

\$ Exempt RECORDATION TAX PAID
\$ Exempt TRANSFER TAX PAID

**BIKE PATH AND DRAINAGE FACILITY
EASEMENT AGREEMENT**

This Easement Agreement (the "Agreement") is made this 15th day of April, 2020 (the "Effective Date"), by and between THE POTOMAC EDISON COMPANY, a Maryland and Virginia corporation, having a principal place of business at 800 Cabin Hill Drive, Greensburg, PA 15601, its successors and assigns (the "Grantor"), and MONTGOMERY COUNTY MARYLAND, a body corporate and politic and a political subdivision of the State of Maryland, whose address is 100 Edison Park Drive, 4th floor, Gaithersburg, MD 20878, its successors and assigns (the "Grantee") (the Grantor and the Grantee are together the "Parties").

Recitals

WHEREAS, Grantor is the owner of that certain real property located on Frederick Road that is more particularly described as Parcel P440 on SDAT Tax Map EV62 (the "Premises"). The Premises being that same property conveyed to Grantor by virtue of a Confirmatory Deed dated July 26, 2006, and recorded in Liber 32885 at folio 296 among the Land Records for Montgomery County, Maryland; and

WHEREAS, Grantee has funded the construction of a capital improvement project known as the Frederick Road Bike Path CIP #501118 (the "Project"). A portion of the Project will be located upon the Premises, thus necessitating the Grantee to acquire perpetual and temporary easements from Grantor that are shown, delineated, and set forth on Right of Way Plat No. 1083 (collectively, the "Easement Areas"), recorded among the Land Records for Montgomery County, Maryland. A copy of Right of Way Plat No. 1083 is attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, the Grantor agrees to grant the necessary perpetual and temporary easements described on **Exhibit A**, subject to the terms of this Agreement setting forth the proper scope and use of the Easement Areas by Grantee.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 59804, p. 0165, MSA_CE63_59761. Date available 07/10/2020. Printed 03/09/2023.
NO FEE - MONTG. CO. MD.

NOW THEREFORE, for and in consideration of the above recitals, which are incorporated herein as if fully set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties make the following agreement.

GRANT OF EASEMENTS

Grantor does hereby grant unto the Grantee, the following easements and rights of way for the Project, including the right of reasonable ingress and egress, on, over, under, through, along and across the portion of the Premises identified in the recitals as the Easement Areas, as shown, delineated, and set forth on **Exhibit A** and described below:

1. Perpetual Easement for a Bike Path. Grantor does hereby grant a perpetual, non-exclusive easement containing 2,655 square feet, more or less, for the installation, construction, reconstruction, maintenance, repair, operation, alteration, inspection, replacement and/or removal of a bike path that will be used by the public (the "Bike Path") as shown, delineated, and set forth on **Exhibit A**.
2. Perpetual Easement for a Drainage Facility. Grantor does hereby grant a perpetual easement containing 388 square feet, more or less, for the installation, construction, reconstruction, maintenance, repair, operation, alteration, inspection, replacement and/or removal of a drainage facility, which shall include, among other things, a rip rap ditch, drain, and drain pipe (the "Drainage Facility") as shown, delineated, and set forth on **Exhibit A**.
3. Temporary Construction Easement. Grantor does hereby grant a temporary construction easement containing 970 square feet, more or less (the "Temporary Construction Easement"), as shown, delineated, and set forth on **Exhibit A**. The sole purpose of the Temporary Construction Easement is for the installation and construction of the Bike Path and Drainage Facility within their respective Easement Areas that are located on the Premises. The Temporary Construction Easement shall terminate immediately upon the earlier to occur of (i) the completion of the construction of the Bike Path and Drainage

Facility within the Easement Areas, or (ii) one (1) year following the commencement of Grantee's construction activities upon the Premises.

TERM

The duration of this Agreement shall be perpetual (the "Term"). Notwithstanding, the Grantee may abandon the Easement Areas and terminate this Agreement.

GRANTOR USE OF EASEMENT AREA

Grantee acknowledges that Grantor operates and maintains facilities for the transmission and distribution of electric current upon, over, above, under and across the Premises and Easement Areas. Subject to applicable permitting requirements, the Grantor reserves the right to use the Easement Areas herein described. Grantee agrees that it shall at no time interfere with Grantor's facilities used for the transmission and distribution of electric current upon, over, above, under and across the Premises and Easement Areas. Nothing in this Agreement is to be interpreted or construed as preventing unfettered access to and use of the Premises by Grantor, . For non-routine maintenance, Grantor shall have the right to temporarily block off the Easement Areas for emergency restoration or maintenance work necessary to maintain public safety during such emergency operations.

GRANTEE USE OF EASEMENT AREA

Except during the course of construction or subsequent maintenance of said Bike Path and Drainage Facility within the Easement Areas, Grantee agrees that no equipment, trailers or vehicles used in the construction, operation, and maintenance of said Bike Path and Drainage Facility shall be parked or stored on the Easement Areas and/or Premises at any time. Grantee shall use the Easement Areas solely for the purposes and uses set forth in this Agreement.

CONSTRUCTION, OPERATION, AND MAINTENANCE

Grantee agrees that the said Bike Path and Drainage Facility shall be constructed, operated and maintained in accordance with all applicable laws, governmental orders, permit terms and conditions, and rules and regulations. Grantee agrees that said Bike Path and Drainage Facility shall be installed (a) in accordance with Grantee's Drawing Number(s) PS-14 and PS-15, entitled FREDERICK ROAD BIKE PATH FROM STRINGTOWN ROAD TO NORTH OF MILESTONE MANOR LANE, ROADWAY PLAN & PROFILE, sheets 036 and 037 of 199, as prepared by Stantec dated June 2017.

Grantee shall be responsible for obtaining and following any and all environmental or other permits that may be necessary to support said Bike Path and Drainage Facility construction, operation, or maintenance activities upon the Easement Areas. Grantee shall not erect any above grade structures within the Easement Areas.

AS-BUILT DRAWINGS

After completion of construction of said Bike Path and Drainage Facility and prior to the Bike Path and Drainage Facility being placed in service, Grantee agrees to provide Grantor with as-built drawings indicating the exact location of the Bike Path and Drainage Facility within the Easement Areas. Said as-built drawings shall meet or exceed industry standards for Bike Path and Drainage Facility construction and shall be accurate to sub-foot GPS accuracy.

GRADING

Grantee shall not change the grade or elevation of the Easement Areas, except as shown on Grantee's Roadway Plan & Profile drawings herein before referenced, nor impound water on the Premises and within said Easement Areas. Grantee agrees that the design of said Bike Path and Drainage Facility shall incorporate the expectation that the Grantor will be using heavy equipment on the Easement Areas, therefore, the Bike Path and Drainage Facility shall be capable of withstanding H25 (40,000 lb. axle load) loading.

EXCAVATION, REFILL, AND STOCKPILES

Grantee, by exercising the rights herein granted, agrees to follow all applicable storm water best management practices during excavation and agrees that all trenches shall be back filled with well compacted, suitable material. The Temporary Easement Area shall be restored to a condition equal to or better than that which existed prior to excavation. Grantee shall immediately remove and dispose of any waste material or spoils associated with Grantee's use of the Easement Areas. Grantee shall clear and keep cleared all trees, roots, debris and underbrush as may interfere with or obstruct said Bike Path and Drainage Facility. Except for facilities required by law, subject to approval by Grantor, no above ground structures or changes to ground elevations are permitted. Except during the course of construction or subsequent maintenance of said Bike Path and Drainage Facility, there shall be no material stockpiles (gravel, pipe, soil, etc.) upon the Easement Areas.

ELECTRIC FACILITY CLEARANCE

Other than as provided in the plans for construction, Grantee or its agents shall not perform any excavations (or piling of dirt) within 50 feet of electric utility structures, including but not limited to, towers, poles and guy wires, without the prior written approval of Grantor. Any such excavation work shall incorporate methods to prevent soil strength reductions. Grantee shall coordinate any such excavation work with Grantor and shall be responsible for any and all expenses associated with reinforcing or holding of Grantor's facilities to allow construction and or repair of said Bike Path and Drainage Facility.

TRANSMISSION RIGHT OF WAY GUIDELINES

Grantee agrees to the restrictions and conditions not already addressed herein as specified on the attached document entitled: "Transmission Rights-of-Way Restrictions" marked **Exhibit "B"**, attached hereto and made a part hereof, provided, however, that in the event of any inconsistencies between **Exhibit A**, **Exhibit B**, and this Agreement, the terms of this Agreement shall govern and control.

SAFETY COMPLIANCE

Grantee, its employees, agents, invitees and contractors shall at all times comply with the National Electrical Safety Code (“NESC”) standards and shall maintain with its equipment and personnel Occupational Safety Health Act (“OSHA”) safe-working clearances from a person or any conductive object to the energized bare wires as well as any other applicable federal, state or local safety requirement, with respect to the design, installation, maintenance and operation of the Bike Path and Drainage Facility, and shall warn and cause any other person including employees, agents, invitees and contractors of Grantee working on or around said Bike Path and Drainage Facility to do the same. Grantee is responsible to verify distance between energized conductors and Grantee operations and activities. Regulatory clearances must be maintained at all times. Any encroachment may create a hazardous condition and contact with or arcing of the energized conductors may cause property damage or serious bodily injury, including death. Grantee shall provide warning signs to indicate “Overhead Electric Lines Above” when performing work near Grantor’s electrical facilities. Furthermore, Grantee agrees that all work performed in connection with the Bike Path and Drainage Facility shall be performed in accordance with accepted engineering practices.

DAMAGES

Grantee will repair, replace or pay for any and all damages of any kind whatsoever to that portion of the Premises that are not included in the Easement Areas that are damaged as a result of the Grantee’s negligent installation, operation, maintenance, repair or removal of said Bike Path and Drainage Facility and will pay Grantor for any and all damages to Grantor’s electrical facilities or structures located on said Easement Areas and/or Premises caused by or related to the Grantee’s negligent installation, operation, maintenance, repair or removal of said Bike Path and Drainage Facility.

ENVIRONMENTAL ISSUES

In the event that any of Grantee's operation, maintenance or construction activities associated with said Bike Path and Drainage Facility conducted on the Easement Areas and Premises results in the environmental release of any Hazardous Substance (as defined below), it will be the sole responsibility of the Grantee to immediately notify Grantor and all applicable regulatory agencies of said release and to investigate and remediate said environmental release in accordance with any and all local, state, and federal laws and regulations.

INSURANCE

The Grantee shall evidence limits of insurability for general liability coverage in an amount of \$800,000 aggregate and \$400,000 each occurrence, and \$30,000 per person, \$60,000 per accident for bodily injury and \$15,000 for property damage for automobile liability and State of Maryland statutory limits for workman's compensation. Grantee shall have the right to self-insure. These are the maximum limits of liability for which the Montgomery County Self-Insurance Program is liable.

In addition, Grantee shall cause Grantee's contractors to purchase and maintain the following minimum insurance coverages:

1. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages. Coverage under this policy shall have limits of liability of not less than \$1,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.
2. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.

3. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the work is to be performed, for the current period.
4. Employer's Liability with a minimum limit of \$500,000 for each accident or illness.

Grantee shall instruct its contractors that FirstEnergy Corp., its subsidiaries and affiliates, and their successors and assigns shall be included as additional insureds as it pertains to the use of the Easement Areas under this Agreement. A Certificate of Insurance evidencing coverage shall be provided by the contractor to FirstEnergy Service Company, Attention: Real Estate Services, 800 Cabin Hill Drive, Greensburg, PA 15601. The insurance policies required by this Article shall not be canceled or allowed to lapse, and no change shall be made which alters, restricts or reduces the insurance provided or changes the name of the insured without first giving at least thirty (30) days' notice in writing to FirstEnergy Service Company, Real Estate Services, with receipt of notice acknowledged.

GRANTEE INDEMNITY (BODILY INJURY, DEATH, OR PROPERTY DAMAGE)

The Parties agree and acknowledge that that pursuant to §5-1103 of the Natural Resources Article, Grantor owes no duty of care to keep the Bike Path and Drainage Facility safe for entry or use by others for any recreational or educational purpose, or to give any warning of a dangerous condition, use, structure, or activity on the Bike Path and Drainage Facility to any person who enters on the Bike Path and Drainage Facility for these purposes. Notwithstanding, Grantee, for itself, by exercising the rights herein granted, agrees to indemnify and hold harmless Grantor, and its respective directors, officers, shareholders, employees, parent, affiliates, agents, successors and assigns (collectively, the "Grantor Parties"), from and against all liability arising from suits or claims, damages, actions or causes of action, together with any and all fines or penalties in connection therewith or related thereto, asserted by any person or persons for bodily injury, death or property damage arising from Grantee's improper or negligent use of the herein-described Easement Areas and/or Premises, unless such suits or claims, damages, actions or causes of action arises from the negligence of the Grantor Parties. Without limiting the

foregoing, Grantee agrees to indemnify and hold harmless the Grantor Parties against all fines or penalties incurred because the Grantee violates any ordinance, regulation, rule or law of any political subdivision or duly constituted public authority arising out of the performance of work or use of the Easement Areas and/or Premises. This paragraph is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. §§ 5-301, et seq. (the "LGTC"); and Md. Code Ann., Cts. & Jud. Proc. §5-5A-02, together (the "County Indemnification Statutes"), all as amended from time to time. This indemnification is not intended to create any rights or causes of action in any third parties, or to increase the Grantee's liability above the caps provided in the County Indemnification Statutes, as applicable.

GRANTOR INDEMNITY DISCLAIMER

Grantor has not and does not hereby make any express or implied representation or warranty or give any indemnification of any kind to Grantee concerning the Easement Areas, Temporary Easement Area, and/or Premises, its condition or suitability or its compliance with any statute, ordinance or regulation, including, but not limited to, those relating to the environment.

THE USE, ENTRY AND ACCESS TO THE EASEMENT AREAS, TEMPORARY EASEMENT AREA, AND/OR PREMISES BY GRANTEE, ITS LICENSEES, AGENTS AND CONTRACTORS ARE AT THE SOLE RISK OF GRANTEE, ITS LICENSEES, AGENTS, AND CONTRACTORS. GRANTEE ACKNOWLEDGES THAT IT HAS INSPECTED THE EASEMENT AREAS, TEMPORARY EASEMENT AREA, AND/OR PREMISES AND HAS DETERMINED THEIR SUITABILITY FOR GRANTEE'S PURPOSES AND USE AS PERMITTED UNDER THIS AGREEMENT, AND ACCEPTS SUCH PROPERTY IN ITS "AS-IS," "WHERE-IS" CONDITION WITH ALL FAULTS.

GRANTOR WARRANTY DISCLAIMER

Notwithstanding the use of the term “grant” hereinabove set forth, Grantor does not warrant the title to the Easement Areas or Temporary Easement Area herein granted unto the Grantee.

SOLE COST AND EXPENSE

Grantee, by exercising the rights herein granted, agrees that the work herein contemplated shall be done at the sole cost and expense of the Grantee.

TERMINATION AND ABANDONMENT

The easement herein granted shall terminate automatically upon the fulfillment of the statutory requisites for an abandonment of the Bike Path and Drainage Facility under County law. In the event that the Bike Path or Drainage facility is abandoned, Grantee or its successors and assigns shall execute and deliver to Grantor a written release in recordable form within thirty (30) days of written notice from Grantee, and shall proceed to remove said Bike Path and Drainage Facility from the Premises within 6 months, or with the consent of Grantor, abandon said Bike Path and Drainage Facility, in place, on the Premises. Except as the Parties shall otherwise agree in any written agreement to fully release or terminate the easement rights granted under this Agreement, no abandonment of the Bike Path and Drainage Facility, or any portion thereof, shall release Grantee from its obligations under this Agreement or its liability for any breach of the terms, covenants or conditions hereof accruing or occurring prior to such release or termination.

ENTIRE AGREEMENT

This Agreement constitutes all of the agreements and stipulations of the parties pertaining to the subject matter of the Easement herein granted and supersedes all prior agreements,

representations or understandings, whether written or verbal, and may be modified or amended only by a written agreement signed by both parties.

SEVERABILITY

In the event any provision or any portion of any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable by reason of any law or public policy, such provision or portion thereof shall be considered to be deleted, and the remainder of this Agreement shall constitute the entire agreement between Grantor and Grantee covering the subject matter hereof.

COUNTERPARTS

This Agreement may be executed by facsimile or by email scan and in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

ASSIGNMENT

The easement rights herein granted, subject to all restrictions, requirements, conditions, indemnity, and insurance requirements, are for the benefit of Grantee and shall not be assignable without the prior written consent of Grantor, in whole or in part, to any third party owning or acquiring any interest in the Bike Path and Drainage Facility which written consent shall not be unreasonably withheld.

AGREEMENT SUBJECT TO APPROPRIATIONS

Grantor and Grantee agree that this Agreement is subject to the annual appropriation of funds required to fund the performance of the Grantee's obligations under this Agreement. The Grantee's liability as to each provision contained in this Agreement is subject to, limited by, and contingent upon the appropriation and availability of such funds. The Grantee shall not be liable

to the Grantor for any obligation arising under this Agreement for which there has not been an appropriation of funds.

GENERAL PROVISION

The section headings used in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

MISCELLANEOUS

This Agreement and said easement herein granted shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, personal representatives, affiliated companies, successors, and to the extent assignable, on the assigns of the Parties hereto. This Agreement shall be construed and enforced pursuant to the laws of the State of Maryland.

Said Agreement has been executed as of the 15th day of April, 2020.

GRANTOR'S NAME

GRANTEE'S NAME

By: William R. Beach
William R. Beach

By: Adrianna Hochberg
Adrianna Hochberg

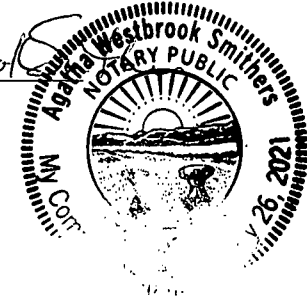
Its: Director, Real Estate for FirstEnergy Service Company on behalf of The Potomac Edison Company

Its: Assistant Chief Administrative Officer (Title)

STATE OF OHIO)
Portage) SS:
COUNTY OF SUMMIT)

On this 15th day of April, 2020, before me a Notary Public the undersigned officer, personally appeared William R. Beach, who acknowledged himself to be the Director of Real Estate for FirstEnergy Service Company on behalf of The Potomac Edison Company, a Maryland and Virginia corporation, and that he as such Director being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Director.

In witness whereof, I hereunto set my hand and official seal.

Agatha Westbrook Smithers
Notary Public
MP. 1/26/2021


STATE OF Maryland)
COUNTY OF Montgomery) SS:

On this 15th day of June, 2020, before me a Notary Public the undersigned officer, personally appeared Fanda Kasalova, who acknowledged himself/herself to be the Assistant Chief Administrative Officer for Montgomery County, Maryland, a Political Subdivision of the State of Maryland, and that he/she as such Assistant Chief Administrative Officer being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of Montgomery County, Maryland by himself/herself as Assistant Chief Administrative Officer.

In witness whereof, I hereunto set my hand and official seal.

Julie L. White
Notary Public

This instrument was prepared by the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

John L. Munsch

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 59804, p. 0177, MSA_CE63_59761. Date available 07/10/2020. Printed 03/09/2023.

Exhibit "B"

Transmission Rights-of-Way Restrictions

Working Safety Restrictions

Compliance is required for all Occupational Safety Health Administration (OSHA) **safe-working clearances** between persons, conductive objects and energized conductor/wire. **NOTICE:** The conductor/wire position changes continuously depending on load, ambient temperature, wind speed, etc. The Grantor is not responsible for providing conductor/wire position to determine OSHA safe-working clearance.

Parking or operating a vehicle or equipment within or adjacent to the Grantor's Transmission Rights of Way may induce an electrical charge. Induced electric charges may also be transmitted to objects such as fences, signs, or any other conductive object. The use of a proper grounding system designed by a licensed engineer is required. Construction vehicles, vehicles with booms and equipment operating within or adjacent to the Grantor's Transmission Rights of Way must be properly grounded.

Right-of-Way Access

The Grantor's authorized personnel, vehicles and equipment must have continuous access to the rights-of-way and all the Grantor's structures.

Right-of-Way Restrictions

Changes to grade elevations within the Grantor's Transmission Right of Way are NOT permitted. Ground disturbance or excavations are NOT permitted within 50' of Grantor's structures (poles, towers, guys, etc.).

Buildings, solar panels, lighting fixtures, signs, billboards, swimming pools, decks, flag posts, sheds, barns, garages, playgrounds, fences, equipment, trailers, materials or any other permanent or temporary objects are NOT permitted within the Grantor's Transmission Rights of Way. Other restrictions may apply under specific situations as defined by the Grantor.

Protective barriers must be used for any driveway or parking area within 15 feet of Grantor's structures (poles, towers, guys, etc.).

All vegetation on or adjacent to the Grantor's Transmission Rights of Way shall be low growing within the wire zone. The wire zone is defined as the area directly under the conductors which extends approximately 15 feet on each side. Vegetation that is 10-foot maximum mature height, 3-foot in NJ, is under certain circumstances permissible on the Grantor's Transmission Rights of Way. It is preferred that the planting of any woody vegetation be done outside of the wire zone of the Grantor's transmission facilities and are not permitted to be closer than 10 feet in any direction from the Grantor's structures (poles, towers, guys, etc.). All approved shrubbery planted near Grantor's structures shall allow for working area and accessibility at ground level.

Explosives or combustible liquids, substances, or materials are not permitted within the Grantor's Transmission Rights of Way. Prohibited materials include but are not limited to fuel, wood chips, mulch, brush, and tires.

Septic systems leach beds and/or wells are not permitted within the Grantor's Transmission Rights of Way.

Kite flying, model airplane flying, or similar activities is strictly prohibited on or near the Grantor's Transmission Rights of Way.

State of Maryland Land Instrument Intake Sheet

Baltimore City County: Montgomery

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (Check Box if addendum Intake Form is Attached.)

2 Conveyance Type Check Box

3 Tax Exemptions (if applicable) Cite or Explain Authority

4 Consideration and Tax Calculations

5 Fees

6 Description of Property SDAT requires submission of all applicable information.

7 Transferred From

8 Transferred To

9 Other Names to Be Indexed

10 Contact/Mail Information

11 Assessment Information

Assessment Use Only - Do Not Write Below This Line

REMARKS:

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 59804, p. 0180, MSA_CE63_59761. Date available 07/10/2020. Printed 03/09/2023.

LR - Government
Instrument 0.00
Agency Name: MONT CO
Instrument List:
Agreement / Easement
Describe Other:
Ref: PEPCO

=====
Total: 0.00
08/12/2020 09:40
CC15-KM
#13753317 CC0602 -
Montgomery
County/CC06.02.06 -
Register 06



**DOCUMENT VALIDATION PAGE
FOR CLERK'S USE ONLY
(EXCLUDED FROM PAGE COUNT FOR CERTIFIED COPY)**

BARBARA H. MEIKLEJOHN
Clerk of the Circuit Court for Montgomery County
50 Maryland Avenue
Rockville, Maryland 20850
Recording and Licensing
(240) 777-9470

EXHIBIT B

2021 BIKE PATH EASEMENT
AGREEMENT
BETWEEN
THE POTOMAC EDISON COMPANY
AND
MONTGOMERY COUNTY, MARYLAND

MONTGOMERY COUNTY, MD

APPROVED BY Kam

OCT 12 2021

Parcel ID: 02-00020714

\$ Exempt RECORDATION TAX PAID **BIKE PATH EASEMENT AGREEMENT**

\$ Exempt TRANSFER TAX PAID

This Easement Agreement (the "Agreement") is made this 14th day of September, 2021 (the "Effective Date"), by and between THE POTOMAC EDISON COMPANY, a Maryland and Virginia corporation, having a principal place of business at 800 Cabin Hill Drive, Greensburg, PA 15601, its successors and assigns (the "Grantor"), and MONTGOMERY COUNTY MARYLAND, a body corporate and politic and a political subdivision of the State of Maryland, whose address is 100 Edison Park Drive, 4th floor, Gaithersburg, MD 20878, its successors and assigns (the "Grantee") (the Grantor and the Grantee are together the "Parties").

Recitals

WHEREAS, Grantor is the owner of that certain real property located on Frederick Road that is more particularly described as Parcel P440 on SDAT Tax Map EV62 (the "Premises"). The Premises being that same property conveyed to Grantor by virtue of a Confirmatory Deed dated July 26, 2006, and recorded in Liber 32885 at folio 296 among the Land Records for Montgomery County, Maryland;

WHEREAS, Grantee has funded the construction of a capital improvement project known as the Frederick Road Bike Path CIP #501118 (the "Project");

WHEREAS, by an instrument dated April 15, 2020, the Parties entered into a Bike Path and Drainage Facility Easement Agreement (the "Original Easement Agreement") by which Grantor granted to Grantee certain perpetual and temporary easements for the construction, operation and maintenance of the Project over the Premises. Said Original Easement Agreement, which was recorded among the Land Records of Montgomery County, Maryland at Liber 59804 at folio 165, granted to Grantee the following easements: 1) a perpetual easement for a bike path consisting of 2,655 square feet; 2) a perpetual easement for drainage consisting of 388 square

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~~NO PUBLIC RECORDS~~

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feet; and 3) a temporary construction easement consisting of 970 square feet, all as shown on Right of Way plat No. 1083, filed among the Land Records for Montgomery County, Maryland;

WHEREAS, subsequent to the recording of the Original Easement Agreement, Grantee revised its construction plans for the Project, resulting in a change to the easement areas needed from Grantor, including the elimination of the perpetual drainage easement granted in the Original Easement Agreement;

WHEREAS, the Parties now desire to terminate the Original Easement Agreement (upon completion of the County’s statutory process for abandonment of public right of way) and enter into this Bike Path Easement Agreement by which Grantor grants to Grantee the perpetual and temporary easements that are shown, delineated, and set forth on Right of Way Plat No. 1203 (collectively, the “Easement Areas”), recorded among the Land Records for Montgomery County, Maryland, subject to the terms and conditions set forth herein. A copy of Right of Way Plat No. 1203 is attached hereto and incorporated herein as **Exhibit A**;

NOW THEREFORE, for and in consideration of the above recitals, which are incorporated herein as if fully set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties make the following agreement.

GRANT OF EASEMENTS

Grantor does hereby grant unto the Grantee, the following easements and rights of way for the Project, including the right of reasonable ingress and egress, on, over, under, through, along and across the portion of the Premises identified in the recitals as the Easement Areas, as shown, delineated, and set forth on **Exhibit A** and described below:

1. Perpetual Easement for a Bike Path. Grantor does hereby grant a perpetual, non-exclusive easement containing 5,215 square feet, more or less, for the installation, construction, reconstruction, maintenance, repair, operation, alteration, inspection,

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) KAB 64250, p. 0072, MSA_CE63_64207. Date available 10/15/2021. Printed 03/11/2022.

replacement and/or removal of a bike path that will be used by the public (the "Bike Path") as shown, delineated, and set forth on **Exhibit A**.

2. Temporary Construction Easements. Grantor does hereby grant two (2) temporary construction easements that respectively contain 686 square feet, more or less, and 602 square feet, more or less (collectively the "Temporary Construction Easements"), as shown, delineated, and set forth on **Exhibit A**. The sole purpose of the Temporary Construction Easements is for the installation and construction of the Bike Path within its respective Easement Area that is located on the Premises. The Temporary Construction Easements shall terminate immediately upon the earlier to occur of (i) the completion of the construction of the Bike Path within the Easement Areas, or (ii) one (1) year following the commencement of Grantee's construction activities upon the Premises.

TERM

The duration of this Agreement shall be perpetual (the "Term"). Notwithstanding, the Grantee may abandon the Easement Areas and terminate this Agreement.

ABANDONMENT OF PRIOR EASEMENTS

Promptly after the execution of this Bike Path Easement Agreement, the Grantee will, pursuant to Chapter 49-62 et seq of the Montgomery County Code, initiate a request to abandon the rights of way granted to the Grantee in the Original Easement Agreement and will diligently prosecute said request in accordance with the County Code. Upon approval of the abandonment request by the County Council, the Grantee will provide a written release to Grantor and the Original Easement Agreement will automatically terminate as set forth in the Original Easement Agreement.

GRANTOR USE OF EASEMENT AREA

Grantee acknowledges that Grantor operates and maintains facilities for the transmission and distribution of electric current upon, over, above, under and across the Premises and

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Easement Areas. Subject to applicable permitting requirements, the Grantor reserves the right to use the Easement Areas herein described. Grantee agrees that it shall at no time interfere with Grantor's facilities used for the transmission and distribution of electric current upon, over, above, under and across the Premises and Easement Areas. Nothing in this Agreement is to be interpreted or construed as preventing unfettered access to and use of the Premises by Grantor. For non-routine maintenance, Grantor shall have the right to temporarily block off the Easement Areas for emergency restoration or maintenance work necessary to maintain public safety during such emergency operations.

GRANTEE USE OF EASEMENT AREA

Except during the course of construction or subsequent maintenance of said Bike Path within the Easement Areas, Grantee agrees that no equipment, trailers or vehicles used in the construction, operation, and maintenance of said Bike Path shall be parked or stored on the Easement Areas and/or Premises at any time. Grantee shall use the Easement Areas solely for the purposes and uses set forth in this Agreement.

CONSTRUCTION, OPERATION, AND MAINTENANCE

Grantee agrees that the said Bike Path shall be constructed, operated and maintained in accordance with all applicable laws, governmental orders, permit terms and conditions, and rules and regulations. Grantee agrees that said Bike Path shall be installed (a) in accordance with Grantee's Drawing Number(s) PS-14 and PS-15, entitled FREDERICK ROAD BIKE PATH FROM STRINGTOWN ROAD TO NORTH OF MILESTONE MANOR LANE, ROADWAY PLAN & PROFILE, sheets 036 and 037 of 199, as prepared by Stantec with revision date of November 13, 2020.

Grantee shall be responsible for obtaining and following any and all environmental or other permits that may be necessary to support said Bike Path construction, operation, or maintenance activities upon the Easement Areas. Grantee shall not erect any above grade structures within the Easement Areas.

AS-BUILT DRAWINGS

After completion of construction of said Bike Path and prior to the Bike Path being placed in service, Grantee agrees to provide Grantor with as-built drawings indicating the exact location of the Bike Path within the Easement Areas. Said as-built drawings shall meet or exceed industry standards for Bike Path construction and shall be accurate to sub-foot GPS accuracy.

GRADING

Grantee shall not change the grade or elevation of the Easement Areas, except as shown on Grantee's Roadway Plan & Profile drawings herein before referenced, nor impound water on the Premises and within said Easement Areas. Grantee agrees that the design of said Bike Path shall incorporate the expectation that the Grantor will be using heavy equipment on the Easement Areas, therefore, the Bike Path shall be capable of withstanding H25 (40,000 lb. axle load) loading.

EXCAVATION, REFILL, AND STOCKPILES

Grantee, by exercising the rights herein granted, agrees to follow all applicable storm water best management practices during excavation and agrees that all trenches shall be back filled with well compacted, suitable material. The Temporary Easement Areas shall be restored to a condition equal to or better than that which existed prior to excavation. Grantee shall immediately remove and dispose of any waste material or spoils associated with Grantee's use of the Easement Areas. Grantee shall clear and keep cleared all trees, roots, debris and underbrush as may interfere with or obstruct said Bike Path. Except for facilities required by law, subject to approval by Grantor, no above ground structures or changes to ground elevations are permitted. Except during the course of construction or subsequent maintenance of said Bike Path, there shall be no material stockpiles (gravel, pipe, soil, etc.) upon the Easement Areas.

ELECTRIC FACILITY CLEARANCE

Other than as provided in the plans for construction, Grantee or its agents shall not perform any excavations (or piling of dirt) within 50 feet of electric utility structures, including but not limited to, towers, poles and guy wires, without the prior written approval of Grantor. Any such excavation work shall incorporate methods to prevent soil strength reductions. Grantee shall coordinate any such excavation work with Grantor and shall be responsible for any and all expenses associated with reinforcing or holding of Grantor's facilities to allow construction and or repair of said Bike Path.

TRANSMISSION RIGHT OF WAY GUIDELINES

Grantee agrees to the restrictions and conditions not already addressed herein as specified on the attached document entitled: "Transmission Rights-of-Way Restrictions" marked **Exhibit "B"**, attached hereto and made a part hereof, provided, however, that in the event of any inconsistencies between **Exhibit A**, **Exhibit B**, and this Agreement, the terms of this Agreement shall govern and control.

SAFETY COMPLIANCE

Grantee, its employees, agents, invitees and contractors shall at all times comply with the National Electrical Safety Code ("NESC") standards and shall maintain with its equipment and personnel Occupational Safety Health Act ("OSHA") safe-working clearances from a person or any conductive object to the energized bare wires as well as any other applicable federal, state or local safety requirement, with respect to the design, installation, maintenance and operation of the Bike Path, and shall warn and cause any other person including employees, agents, invitees and contractors of Grantee working on or around said Bike Path to do the same. Grantee is responsible to verify distance between energized conductors and Grantee operations and activities. Regulatory clearances must be maintained at all times. Any encroachment may create a hazardous condition and contact with or arcing of the energized conductors may cause property damage or serious bodily injury, including death. Grantee shall provide warning signs to

indicate "Overhead Electric Lines Above" when performing work near Grantor's electrical facilities. Furthermore, Grantee agrees that all work performed in connection with the Bike Path shall be performed in accordance with accepted engineering practices.

DAMAGES

Grantee will repair, replace or pay for any and all damages of any kind whatsoever to that portion of the Premises that are not included in the Easement Areas that are damaged as a result of the Grantee's negligent installation, operation, maintenance, repair or removal of said Bike Path and will pay Grantor for any and all damages to Grantor's electrical facilities or structures located on said Easement Areas and/or Premises caused by or related to the Grantee's negligent installation, operation, maintenance, repair or removal of said Bike Path.

ENVIRONMENTAL ISSUES

In the event that any of Grantee's operation, maintenance or construction activities associated with said Bike Path conducted on the Easement Areas and Premises results in the environmental release of any Hazardous Substance (as defined below), it will be the sole responsibility of the Grantee to immediately notify Grantor and all applicable regulatory agencies of said release and to investigate and remediate said environmental release in accordance with any and all local, state, and federal laws and regulations.

INSURANCE

The Grantee shall evidence limits of insurability for general liability coverage in an amount of \$800,000 aggregate and \$400,000 each occurrence, and \$30,000 per person, \$60,000 per accident for bodily injury and \$15,000 for property damage for automobile liability and State of Maryland statutory limits for workman's compensation. Grantee shall have the right to self-insure. These are the maximum limits of liability for which the Montgomery County Self-Insurance Program is liable.

In addition, Grantee shall cause Grantee's contractors to purchase and maintain the following minimum insurance coverages:

1. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages. Coverage under this policy shall have limits of liability of not less than \$1,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.
2. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.
3. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the work is to be performed, for the current period.
4. Employer's Liability with a minimum limit of \$500,000 for each accident or illness.

Grantee shall instruct its contractors that FirstEnergy Corp., its subsidiaries and affiliates, and their successors and assigns shall be included as additional insureds as it pertains to the use of the Easement Areas under this Agreement. A Certificate of Insurance evidencing coverage shall be provided by the contractor to FirstEnergy Service Company, Attention: Real Estate Services, 800 Cabin Hill Drive, Greensburg, PA 15601. The insurance policies required by this Article shall not be canceled or allowed to lapse, and no change shall be made which alters, restricts or reduces the insurance provided or changes the name of the insured without first giving at least thirty (30) days' notice in writing to FirstEnergy Service Company, Real Estate Services, with receipt of notice acknowledged.

GRANTEE INDEMNITY (BODILY INJURY, DEATH, OR PROPERTY DAMAGE)

The Parties agree and acknowledge that that pursuant to §5-1103 of the Natural Resources Article, Grantor owes no duty of care to keep the Bike Path safe for entry or use by others for any recreational or educational purpose, or to give any warning of a dangerous condition, use, structure, or activity on the Bike Path to any person who enters on the Bike Path for these purposes. Notwithstanding, Grantee, for itself, by exercising the rights herein granted, agrees to indemnify and hold harmless Grantor, and its respective directors, officers, shareholders, employees, parent, affiliates, agents, successors and assigns (collectively, the “Grantor Parties”), from and against all liability arising from suits or claims, damages, actions or causes of action, together with any and all fines or penalties in connection therewith or related thereto, asserted by any person or persons for bodily injury, death or property damage arising from Grantee’s improper or negligent use of the herein-described Easement Areas and/or Premises, unless such suits or claims, damages, actions or causes of action arises from the negligence of the Grantor Parties. Without limiting the foregoing, Grantee agrees to indemnify and hold harmless the Grantor Parties against all fines or penalties incurred because the Grantee violates any ordinance, regulation, rule or law of any political subdivision or duly constituted public authority arising out of the performance of work or use of the Easement Areas and/or Premises. This paragraph is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. §§ 5-301, et seq. (the “LGTCA”); and Md. Code Ann., Cts. & Jud. Proc. §5-5A-02, together (the “County Indemnification Statutes”), all as amended from time to time. This indemnification is not intended to create any rights or causes of action in any third parties, or to increase the Grantee’s liability above the caps provided in the County Indemnification Statutes, as applicable.

GRANTOR INDEMNITY DISCLAIMER

Grantor has not and does not hereby make any express or implied representation or warranty or give any indemnification of any kind to Grantee concerning the Easement Areas,

Temporary Easement Area, and/or Premises, its condition or suitability or its compliance with any statute, ordinance or regulation, including, but not limited to, those relating to the environment.

THE USE, ENTRY AND ACCESS TO THE EASEMENT AREAS, TEMPORARY EASEMENT AREA, AND/OR PREMISES BY GRANTEE, ITS LICENSEES, AGENTS AND CONTRACTORS ARE AT THE SOLE RISK OF GRANTEE, ITS LICENSEES, AGENTS, AND CONTRACTORS. GRANTEE ACKNOWLEDGES THAT IT HAS INSPECTED THE EASEMENT AREAS, TEMPORARY EASEMENT AREA, AND/OR PREMISES AND HAS DETERMINED THEIR SUITABILITY FOR GRANTEE'S PURPOSES AND USE AS PERMITTED UNDER THIS AGREEMENT, AND ACCEPTS SUCH PROPERTY IN ITS "AS-IS," "WHERE-IS" CONDITION WITH ALL FAULTS.

GRANTOR WARRANTY DISCLAIMER

Notwithstanding the use of the term "grant" hereinabove set forth, Grantor does not warrant the title to the Easement Areas or Temporary Easement Area herein granted unto the Grantee.

SOLE COST AND EXPENSE

Grantee, by exercising the rights herein granted, agrees that the work herein contemplated shall be done at the sole cost and expense of the Grantee.

TERMINATION AND ABANDONMENT

The easement herein granted shall terminate automatically upon the fulfillment of the statutory requisites for an abandonment of the Bike Path under County law. In the event that the Bike Path is abandoned, Grantee or its successors and assigns shall execute and deliver to Grantor a written release in recordable form within thirty (30) days of written notice from Grantee, and shall proceed to remove said Bike Path from the Premises within 6 months, or with

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the consent of Grantor, abandon said Bike Path, in place, on the Premises. Except as the Parties shall otherwise agree in any written agreement to fully release or terminate the easement rights granted under this Agreement, no abandonment of the Bike Path, or any portion thereof, shall release Grantee from its obligations under this Agreement or its liability for any breach of the terms, covenants or conditions hereof accruing or occurring prior to such release or termination.

ENTIRE AGREEMENT

This Agreement constitutes all of the agreements and stipulations of the parties pertaining to the subject matter of the Easement herein granted and supersedes all prior agreements, representations or understandings, whether written or verbal, and may be modified or amended only by a written agreement signed by both parties.

SEVERABILITY

In the event any provision or any portion of any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable by reason of any law or public policy, such provision or portion thereof shall be considered to be deleted, and the remainder of this Agreement shall constitute the entire agreement between Grantor and Grantee covering the subject matter hereof.

COUNTERPARTS

This Agreement may be executed by facsimile or by email scan and in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

ASSIGNMENT

The easement rights herein granted, subject to all restrictions, requirements, conditions, indemnity, and insurance requirements, are for the benefit of Grantee and shall not be assignable

without the prior written consent of Grantor, in whole or in part, to any third party owning or acquiring any interest in the Bike Path which written consent shall not be unreasonably withheld.

AGREEMENT SUBJECT TO APPROPRIATIONS

Grantor and Grantee agree that this Agreement is subject to the annual appropriation of funds required to fund the performance of the Grantee's obligations under this Agreement. The Grantee's liability as to each provision contained in this Agreement is subject to, limited by, and contingent upon the appropriation and availability of such funds. The Grantee shall not be liable to the Grantor for any obligation arising under this Agreement for which there has not been an appropriation of funds.

GENERAL PROVISION

The section headings used in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

MISCELLANEOUS

This Agreement and said easement herein granted shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, personal representatives, affiliated companies, successors, and to the extent assignable, on the assigns of the Parties hereto. This Agreement shall be construed and enforced pursuant to the laws of the State of Maryland.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) KAB 64250, p. 0082, MSA_CE63_64207. Date available 10/15/2021. Printed 03/11/2022.

Said Agreement has been executed as of the 14th day of September, 2021.

GRANTOR'S NAME

GRANTEE'S NAME

By: [Signature]

By: [Signature]

William R. Beach

Name Printed:

Its: Director, Real Estate for FirstEnergy Service Company on behalf of The Potomac Edison Company

Its: Fariba Kassiiri
Assistant Chief Administrative Officer

STATE OF OHIO)
Portage) SS:
COUNTY OF ~~SUMMIT~~)

On this 14th day of September, 2021, before me a Notary Public the undersigned officer, personally appeared William R. Beach, who acknowledged himself to be the Director of Real Estate for FirstEnergy Service Company on behalf of The Potomac Edison Company, a Maryland and Virginia corporation, and that he as such Director being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Director.

In witness whereof, I hereunto set my hand and official seal.

[Signature]
Notary Public

STATE OF Maryland)
) SS:
COUNTY OF Montgomery)



AGATHA WESTBROOK SMITHERS
Notary Public
State of Ohio
My Comm. Expires
January 26, 2026

On this 11 day of October, 2021, before me a Notary Public the undersigned officer, personally appeared Fariba Kassiiri, who acknowledged himself/herself to be the Assistant Chief Administrative Officer for Montgomery County, Maryland, a Political Subdivision of the State of Maryland, and that he/she as such Assistant Chief Administrative Officer being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of Montgomery County, Maryland by himself/herself as Assistant Chief Administrative Officer.

In witness whereof, I hereunto set my hand and official seal.

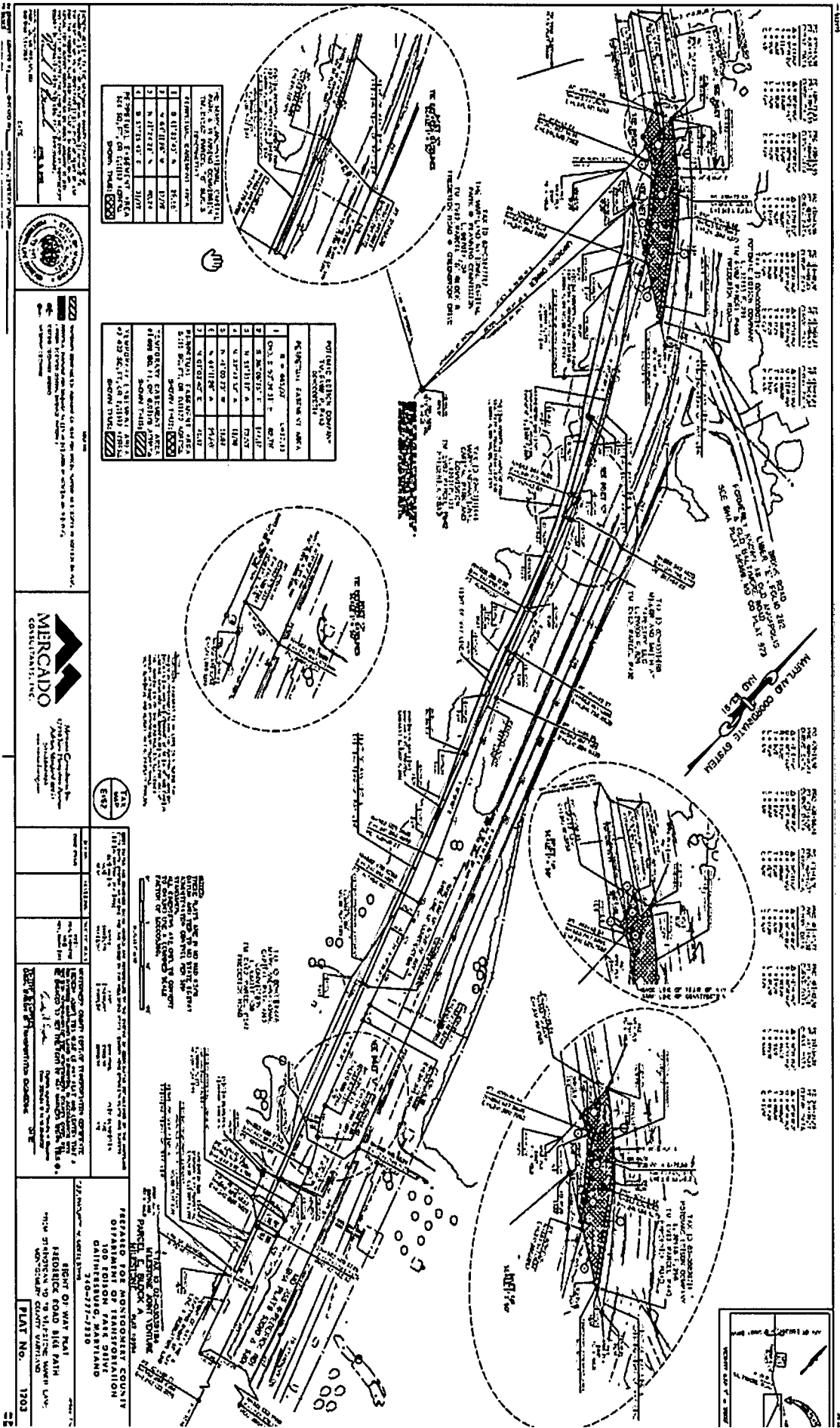
LUISA S RODRIGUEZ
Notary Public-Maryland
Montgomery County
My Commission Expires
May 24, 2025

[Signature]
Notary Public

This instrument was prepared by the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

[Signature]
Robert Birenbaum
Associate County Attorney

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) KAB 64250, p. 0083, MSA_CE63_64207. Date available 10/15/2021. Printed 03/11/2022.



NO.	SECTION	TOWNSHIP	RANGE
1	36	12 N	23 E
2	36	12 N	23 E
3	36	12 N	23 E
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6	36	12 N	23 E
7	36	12 N	23 E
8	36	12 N	23 E
9	36	12 N	23 E
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14	36	12 N	23 E
15	36	12 N	23 E
16	36	12 N	23 E
17	36	12 N	23 E
18	36	12 N	23 E
19	36	12 N	23 E
20	36	12 N	23 E

NO.	SECTION	TOWNSHIP	RANGE
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16	36	12 N	23 E
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18	36	12 N	23 E
19	36	12 N	23 E
20	36	12 N	23 E



MERCADO CONSULTANTS, INC.
 1700 North Rockledge Avenue
 Suite 100
 Rockledge, FL 32955
 Phone: (407) 277-1111
 Fax: (407) 277-1112
 Email: info@mercadoconsultants.com

RECORD OF DEEDS
 MONTGOMERY COUNTY, ALABAMA
 PLAT NO. 1203

Exhibit "B"

Transmission Rights-of-Way Restrictions

Working Safety Restrictions

Compliance is required for all Occupational Safety Health Administration (OSHA) safe-working clearances between persons, conductive objects and energized conductor/wire. **NOTICE:** The conductor/wire position changes continuously depending on load, ambient temperature, wind speed, etc. The Grantor is not responsible for providing conductor/wire position to determine OSHA safe-working clearance.

Parking or operating a vehicle or equipment within or adjacent to the Grantor's Transmission Rights of Way may induce an electrical charge. Induced electric charges may also be transmitted to objects such as fences, signs, or any other conductive object. The use of a proper grounding system designed by a licensed engineer is required. Construction vehicles, vehicles with booms and equipment operating within or adjacent to the Grantor's Transmission Rights of Way must be properly grounded.

Right-of-Way Access

The Grantor's authorized personnel, vehicles and equipment must have continuous access to the rights-of-way and all the Grantor's structures.

Right-of-Way Restrictions

Changes to grade elevations within the Grantor's Transmission Right of Way are NOT permitted. Ground disturbance or excavations are NOT permitted within 50' of Grantor's structures (poles, towers, guys, etc.).

Buildings, solar panels, lighting fixtures, signs, billboards, swimming pools, decks, flag posts, sheds, barns, garages, playgrounds, fences, equipment, trailers, materials or any other permanent or temporary objects are NOT permitted within the Grantor's Transmission Rights of Way. Other restrictions may apply under specific situations as defined by the Grantor.

Protective barriers must be used for any driveway or parking area within 15 feet of Grantor's structures (poles, towers, guys, etc.).

All vegetation on or adjacent to the Grantor's Transmission Rights of Way shall be low growing within the wire zone. The wire zone is defined as the area directly under the conductors which extends approximately 15 feet on each side. Vegetation that is 10-foot maximum mature height, 3-foot in NJ, is under certain circumstances permissible on the Grantor's Transmission Rights of Way. It is preferred that the planting of any woody vegetation be done outside of the wire zone of the Grantor's transmission facilities and are not permitted to be closer than 10 feet in any direction from the Grantor's structures (poles, towers, guys, etc.). All approved shrubbery planted near Grantor's structures shall allow for working area and accessibility at ground level.

Explosives or combustible liquids, substances, or materials are not permitted within the Grantor's Transmission Rights of Way. Prohibited materials include but are not limited to fuel, wood chips, mulch, brush, and tires.

Septic systems leach beds and/or wells are not permitted within the Grantor's Transmission Rights of Way.

Kite flying, model airplane flying, or similar activities is strictly prohibited on or near the Grantor's Transmission Rights of Way.

LR - Government
Instrument 0.00
Agency Name:
MONTGOMERY COUNTY
Instrument List:
Agreement / Easement
Describe Other:
Ref: THE POTOMAC
EDISON COMPANY

=====
Total: 0.00
10/12/2021 01:34
CC15-FG
#15511648 CC0602 -
Montgomery
County/CC06.02.06 -
Register 06



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Clerk of the Circuit Court for Montgomery County
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Rockville, Maryland 20850
Recording and Licensing
(240) 777-9470