

Jason El Koubi
President and CEO
Virginia Economic Development Partnership

Dear Mr. El Koubi,

We are writing to you to request that you convene a stakeholder group to advise and assist you in preparing a memorandum of understanding (MOU) with Amazon Web Services, and to ensure that the MOU contains provisions necessary to protect the health and welfare of Virginians and the environment.

In March of this year, the Virginia General Assembly passed HB2479, creating the Cloud Computing Cluster Infrastructure Grant Fund and extending a sales tax exemption for qualifying data centers. The bill requires the operator (anticipated to be Amazon Web Services) to enter into an MOU with the Virginia Economic Development Partnership in order to take advantage of the tax exemption provided for in the legislation. A second provision also requires an MOU with VEDP for a qualifying data center operator to access the law's grant funding.

As you are no doubt aware, the growth of Virginia's data center industry has already had significant impacts on Virginia's economy, environment, and energy security. Further expansion of the industry must be carefully managed to ensure the greatest public benefit from new data center construction and use of our tax dollars and to minimize harms to the environment, host communities and the general public.

We believe VEDP's MOU with Amazon should provide this kind of guidance by setting out reasonable expectations for the protection and benefit of the public.

Under the terms of HB2479, lines 268-276, VEDP has broad discretion to establish the terms of the MOU:

"Memorandum of understanding" means a memorandum of understanding entered into on or after January 1, 2023, between a qualified company, the Commonwealth, and VEDP that sets forth (i) the grant amount that the qualified company shall be eligible to receive for each new full-time job created and each \$1 million of capital investment in construction costs made; (ii) the total aggregate amount of grants that the qualified company shall be eligible to receive; (iii) the performance date; (iv) the requirements and timing for capital investment and new full-time job creation by the qualified company; (v) the identification of the locality or localities in which such investment and job creation shall take place; and (vi) any other terms and conditions deemed necessary or appropriate to be eligible for grant payments from the Fund.

(Emphasis added.) Lines 187-194 describe similar MOU requirements to qualify for the tax credit extension. It is clear from this language that the General Assembly intends VEDP to use its discretion in drafting an MOU that protects the public and Virginia's environment.

We also believe that fulfilling its role under HB2479 requires VEDP to seek the assistance of both governmental and non-governmental representatives who can advise on issues of energy and water use and other environmental and land use protections. We, therefore, request that VEDP form a stakeholder group to advise it in the drafting of the MOU, and ask that representatives from the environmental and historical preservation communities be included along with local government representatives, economists, and personnel from other Virginia agencies including the Department of Environmental Quality, Department of Historic Resources, the State Corporation Commission and the Department of Energy.

Among the issues we believe should be included in an MOU are the following:

Energy: The avoidance of fossil-fuels to power these data centers is critical to protecting the health of Virginians from both the short-term and long-term impacts of pollution associated with these fuels. New data centers should be expected to achieve energy efficiency ratings at least as good as the top 10% of data centers globally. Amazon should demonstrate that it has procured carbon-free, renewable energy from within Virginia or PJM to serve its Virginia data centers, with no shifting of costs for generation or transmission to other ratepayers. Back-up generation should be provided by on-site carbon-free, renewable energy sources and/or battery storage that must be utilized before other generators are permitted to run.

Water: Amazon should ensure its operations do not deplete surface or groundwater resources or result in water quality impairment. Runoff should be contained onsite for the protection of streams and wetlands.

Siting: HB2479 anticipates that the MOU will designate the localities that will host the new data centers. VEDP will no doubt require Amazon to adhere to local county and city regulations governing data center siting. In addition, the MOU should address siting where impacts will cross borders or affect the broader interests of the commonwealth. Data centers should not be sited adjacent to parklands, wildlife preserves, battlefields, historic sites, and other public land. Existing wildlife corridors should be preserved or enhanced. Noise from cooling fans must not exceed levels consistent with the health and well-being of the public and wildlife.

Disclosure and Transparency: Grant fund eligibility should be conditioned on early public disclosure of where new data centers will be located, the scale of the facilities, and any additional infrastructure that will be needed to serve them. Amazon should demonstrate how it plans to comply with energy, water and siting requirements included in the MOU.



We appreciate your consideration of this request, and look forward to your response.

Yours truly,

Gustavo Angeles, Acting Director
Sierra Club Virginia Chapter

Signatories

American Battlefield Trust
Audubon Society of Northern Virginia
Chesapeake Climate Action Network
Chesapeake Conservancy
Clean Virginia
Climate & Clean Energy Working Group, Virginia Grassroots Coalition
Climate Action Alliance of the Valley
Coalition for Smarter Growth
Coalition to Protect America's National Parks
Coalition to Protect Prince William County
Citizens for Fort Monroe National Park
Faith Alliance for Climate Solutions
Faith Alliance for Climate Solutions, Loudoun Hub
For Us Not Amazon
Friends of the Blue Ridge
JF Environmental Trust Foundation
Journey Through Hallowed Ground
La ColectiVA
League of Conservation Voters
League of Women Voters Loudoun
Lewinsville Faith in Action
Loudoun Climate Project
Manassas Battlefield Trust
National Parks and Conservation Association
Natural Resources Defense Council
Nature Forward
Piedmont Environmental Council
Preservation Virginia
Prince William Conservation Alliance
Prince William Wildflower Society



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Scenic Virginia
Sierra Club Virginia Chapter
Southern Environmental Law Center
Tree Fredericksburg
Virginia Clinicians for Climate Action
Virginia Interfaith Power and Light
Virginia Native Plant Society
Waterkeepers Chesapeake
Wetlands Watch
Wild Virginia

Cc: Governor Glenn Youngkin
Senator Dick Saslaw
Senator Scott Surovell
Senator Louise Lucas
Senator Tommy Norment
Senator Chap Petersen
Delegate Terry Kilgore
Delegate Barry Knight
Delegate Don Scott
Delegate Rip Sullivan