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May 12, 2021

Lisa McGee
Virginia Department of Conservation and Recreation
600 East Main Street, 24th Floor
Richmond, VA 23219

RE: Community Flood Preparedness Fund Draft Grant Manual

Ms. McGee:

The Pew Charitable Trusts (Pew) appreciates the opportunity to comment on the Department of Conservation and Recreation's (DCR) draft grant manual for implementation of the Community Flood Preparedness Fund (Fund). Pew strongly supported the Fund's creation pursuant to the Clean Energy and Community Flood Preparedness Act and remains grateful to Gov. Ralph Northam's leadership in championing its authorization and ongoing implementation.

I. Equitable Geographic Distribution of Funds

In its comment letter dated January 27, 2021 responding to draft Fund guidelines, Pew emphasized the need for the Fund to address an array of current and future flood risks across the entire Commonwealth. The letter noted, "It is imperative that Fund guidelines ensure inland and riverine localities outside of Virginia's Coastal Zone – and therefore not contemplated in the Coastal Master Plan – have equitable opportunities to access the Fund as both an essential mechanism to comprehensively address the Commonwealth's flood risk, but also to secure long-term and widespread support for the Fund itself. Pew urges DCR to address this apparent disparity either within modified guidelines or within the proposed grant manual."

The draft grant manual does appear to address this concern, noting Fund awards may be used to assist "inland and coastal communities across the Commonwealth." However, Pew remains concerned regarding the likelihood Fund awards will equitably benefit communities both within the Coastal Zone and inland, given local plan requirements and scoring criteria outlined in the draft grant manual. Pew urges DCR to clearly outline within a finalized grant manual how funds will be equitably distributed across the Commonwealth and should commit to a minimum proportion of funds awarded to communities outside of the Coastal Zone.

II. Match Requirements and Restrictions

Pew is encouraged by DCR's incentivizing use of nature-based solutions (NbS) through its sliding cost-share approach. The proposed sliding cost-share scale is innovative, and if it proves

successful, could serve as a model for other states to prioritize the role of nature in reducing flood risk. However, DCR should clarify how the scale may be calculated. For example, DCR may consider expanded measurements and metrics apart from proportion of development cost ascribed to NbS. Metrics may include the geographic area or population benefitting from nature-based project components, quantifiable co-benefits anticipated from use of NbS, or long-term cost savings associated with post-development operations and maintenance needs. Regardless, clarifications applied to NbS calculations should be intended to minimize metrics favoring hardened gray infrastructure where feasible.

Further, the grant manual specifies, “Loans or grant funds awarded from the Fund may NOT be utilized as match funds. Monies used to match other federal and non-federal funding streams are NOT allowed as match for this grant program.” At a minimum, this verbiage is problematic as written, as it implies a locality utilizing its own general fund resources to meet a federal match requirement cannot then use funds from the same source to meet match requirements associated with the Fund. Assuming this is not DCR’s intended outcome, a finalized grant manual should at a minimum clarify match restrictions associated with Fund awards, as well as specify eligible sources of funds applicants may use to meet Fund match requirements.

Moreover, Pew is concerned by the grant manual’s apparent prohibition Fund awards be used to meet federal match requirements. Leveraging the Fund as match for federal programs, such as the Federal Emergency Management Agency’s Hazard Mitigation Grant Program, Flood Mitigation Assistance program, and Pre-Disaster Mitigation program, would increase total funding invested in resilience across the Commonwealth. Additionally, predominantly low-income communities are likely to have greater difficulty meeting both federal match requirements as well as those associated with the Fund. At a minimum, allowing low-income communities to use Fund resources as a federal match would allow these communities to maximize their ability to compete for federal resources. Ideally, a finalized grant manual will remove the restriction on using Fund awards to meet federal match requirements for all applicants.

III. Scoring Criteria and Local Planning Requirements

Developing transparent and clearly defined scoring criteria is essential for the Fund’s long-term success. As DCR refines scoring criteria for a finalized grant manual, it should clearly state the maximum number of points to be awarded, as well as a minimum threshold score for an application to be considered within a fundable range. Moreover, draft scoring criteria appears to be overly weighted to projects – specifically acquisitions, over plans, studies, and capacity building. A stream restoration project is not comparable to a proposal to revise ordinances or develop a comprehensive community flood resilience plan; scoring criteria should be developed by project type to allow for more appropriate comparative analysis of project benefits.

The draft grant manual additionally stipulates an applicant must have a “completed resilience plan” to be eligible for project funding. This in effect creates two classes of applicants – those with a plan and those without a plan. However, the manual does not outline specifically what is required to meet this requirement. For example, the manual does not specify whether plans can be developed at the county level to capture unincorporated areas, or whether a plan developed

regionally through a Planning District Commission (PDC) or comparable entity would render the constituent localities within that jurisdiction eligible for project funding. This ambiguity could have further unintended consequences, potentially discouraging collections of communities within common watersheds from collaborating to develop watershed-scale plans. Moreover, if a municipality develops a plan within a county or region that also develops a plan, the grant manual offers no clear understanding of which plan will be used to adjudge a project's consistency with the required "completed resilience plan."

More alarmingly, the draft grant manual does not offer any reasonable assurance applicants in the 'without plan' category will ever be able to access the Fund to develop a plan, which would then allow those communities to subsequently apply for project funding. Hypothetically, an applicant in the 'without plan' category could dutifully apply for funding over several funding cycles without ever receiving an award to develop a plan, effectively precluding the community from ever benefitting from a project developed through the Fund, irrespective of that community's overall flood risk profile. To rectify this, Pew believes DCR should dedicate a proportion of funds in each cycle for planning awards and should be proactive in working with communities without a resilience plan to encourage those communities to develop such plans.

Pew urges DCR to address these issues in a finalized grant manual and further encourages DCR to offer recommendations and best practices for communities who are in the process of or who are yet to develop a resilience plan. In doing so, DCR should require applicants to engage in community education and outreach during plan development, as specified in resilience plan criteria. Alternatively, if an approved resilience plan was completed prior to the Fund's establishment, DCR should require applicants demonstrate meaningful community engagement during a proposed project's design process.

IV. Schedule Requirements and Grant Extensions


The Fund's draft grant manual stipulates all awarded activities must be completed within 36 months following the issuance of a signed agreement. While the draft grant manual does allow for extension requests, circumstances under which an extension would be granted are not stated, instead deferring to DCR's discretion. At a minimum, this extension process is ambiguous and subjective. However, Pew also believes the 36-month completion schedule is itself onerous and should be revised. Realistically, a 36-month timeline for project scoping and conceptual design, final design and completion of construction documents, environmental clearance and permitting, contractor procurement and contracting, and construction activities is difficult to achieve even under ideal circumstances. Such a timeline is impossible to meet if a project encounters delays related to environmental or archaeological findings requiring site remediation or preservation, or an abundance of weather-induced 'no work' days.

Instead of a 36-month completion deadline, DCR should consider a 36-month deadline to break ground, and a 60-month deadline for closeout, with a possible 12-month extension. This longer timeframe would provide additional flexibility to account for unexpected development and construction delays, and would additionally allow for an applicant to conduct meaningful community engagement in early stages of a project's design.

To conclude, once finalized, the Fund's grant manual should be reliable and consistent – a durable product with long-term applicability. This will afford applicants security as they develop long-term plans in consideration of funding cycles across an elongated time horizon. Significant revisions to the grant manual from year to year may discourage communities from the types of strategic long-term resilience planning and project development efforts the Clean Energy and Community Flood Preparedness Act and Community Flood Preparedness Fund are intended to incentivize. Therefore, Pew urges DCR to be deliberate and measured in finalizing the Fund's grant manual.

We appreciate the opportunity to provide these comments and look forward to future stakeholder discussions as DCR finalizes the grant manual and further engages in Fund activities. We are available to answer any questions or engage in future dialogue as requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Yaron Miller". The signature is fluid and cursive, with the first name "Yaron" being more prominent than the last name "Miller".

Yaron Miller
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