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April 29, 2026

Frederick County Data Center Referendum Committee  
c/o Stephen S. Black, Chairman  
2313 New Design Road  
Adamstown, MD 21710

Re: Windridge Properties L.C., et al. v. Frederick County Board of Elections, et al.  
Case No. C-10-CV-26-000321

Dear Mr. Black,

Enclosed please find a copy of a Joint Motion to Consolidate with Case Nos. C-10-CV-26-000309, C-10-CV-000325, C-10-CV-26-000326, and C-10-CV-26-000327 filed with Circuit Court for Frederick County, Maryland in the above-referenced case.

Sincerely,

OFFIT KURMAN, P.A.



Lisa M. King  
Paralegal

Enclosure  
/lmk

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

PETITION OF \*  
WINDRIDGE PROPERTIES L.C., \*

and \*

THEODORE H. BUTZ, \*

FOR JUDICIAL REVIEW OF THE \*  
DECISION OF \*  
FREDERICK COUNTY BOARD OF \*  
BOARD OF ELECTIONS \*

Case No.: C-10-CV-26-000321

and \*

BARBARA WAGNER \*

IN THE MATTER OF THE PETITION OF \*  
THE FREDERICK COUNTY DATA \*  
CENTER REFERENDUM COMMITTEE \*  
FOR REFERENDUM OF FREDERICK \*  
COUNTY COUNCIL ORDINANCE 26-01- \*  
001 \*

\* \* \* \* \*

WINDRIDGE PROPERTIES L.C., et al. \*

Plaintiffs, \*

v. \*

Case No.: C-10-CV-26-000321

FREDERICK COUNTY BOARD OF \*  
ELECTIONS, et al. \*

Defendants. \*

\* \* \* \* \*

**JOINT MOTION TO CONSOLIDATE WITH  
CASE NOS. C-10-CV-26-000309, C-10-CV-26-000325,  
C-10-CV-26-000326, AND C-10-CV-26-000327**

COMES NOW Petitioners-Plaintiffs, Windridge Properties L.C. and Theodore H. Butz (“**Petitioners**”), as well as petitioners-plaintiffs in the companion cases mentioned below, Quantum Maryland, LLC and Joan Aquilino; Rowan Frederick LLC, Rowan Frederick II LLC, and Rowan Frederick III LLC; NDR Properties, LLC and David Pleasants; and Frederick Data Owner, LLC and Justin Cassity, by and through their undersigned counsel, and Respondents-Defendants Frederick County Board of Elections, and Barbara Wagner, by and through their undersigned counsel, pursuant to Maryland Rule 2-503, and hereby jointly move this Honorable Court to consolidate this action with Case Numbers No. C-10-CV-26-000309, C-10-CV-26-000325, C-10-CV-26-000326, and C-10-CV-26-000327 now pending in this Court, and for the reasons stated herein. All Movants agree that Case No. C-10-CV-26-000309 should be designated as the lead case.

As set forth below, this action and the four companion cases all arise from the same determination by the Frederick County Board of Elections (“**Board of Elections**”) and its Election Director, Barbara Wagner (“**Election Director**”), dated April 3, 2026, approving the Petition for Referendum of Frederick County Council Ordinance 26-01-001 (“**Referendum Petition**”) submitted by the Frederick County Data Center Referendum Committee (“**Referendum Committee**”). Except for the Referendum Committee, all parties (including petitioners-plaintiffs in the companion cases who have endorsed and signed this motion and will also file similar motions in each of their respective cases), agree that consolidation will promote judicial economy, ensure consistent resolution, and serve the expeditious disposition of these matters, particularly given that time is of the essence in election law proceedings and that this case has already been assigned to the Hon. James Bonifant. Accordingly, the parties respectfully submit that this action

and Case Nos. C-10-CV-26-000309, C-10-CV-26-000325, C-10-CV-26-000326, and C-10-CV-26-000327 be consolidated.

## **I. Statement of Facts**

On April 3, 2026, the Election Director determined that the Referendum Committee's Referendum Petition targeting Ordinance 26-01-001—the County Council's Critical Digital Infrastructure (CDI) Overlay Zone zoning map amendment—is sufficient for purposes of Maryland Election Law § 6-206. Petitioners filed this action on April 13, 2026, seeking judicial review of that certification under Election Law § 6-209(a), declaratory relief under § 6-209(b), and a writ of mandamus. Case No. C-10-CV-26-000309 was filed on April 10, 2026. Four additional actions, including this action, were subsequently filed in this Court on April 13, 2026, each challenging the same April 3, 2026, determination:

1. Windridge Properties L.C. and Theodore H. Butz v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000321;
2. NDR Properties, LLC and David S. Pleasants v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000325;
3. Rowan Frederick LLC, Rowan Frederick II LLC, and Rowan Frederick III LLC v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000326; and
4. Frederick Data Owner, LLC and Justin Cassity v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000327.

On April 21, 2026, all counsel in these matters met, conferred, and agreed in principle that the cases would be served by consolidation and special assignment to a single judge. Counsel for Petitioners in Case No. C-10-CV-26-000309 later sought confirmation from all counsel during the course of the next three days. As of the date of this filing, all counsel for Petitioners-Plaintiffs (including those in the companion cases) and Respondents-Defendants the Board of Elections and the Election Director agree that all case should be consolidated into this case. Counsel for the

Referendum Committee never replied to correspondence on this and other case management issues.

## II. Legal Standard

Maryland Rule 2-503(a)(1) provides that “[w]hen actions involve a common question of law or fact or a common subject matter, the court, on motion or on its own initiative, may order a joint hearing or trial or consolidation of any or all of the claims, issues, or actions.” Pursuant to this Rule, courts have regularly consolidated separate matters that have common issues of fact or a common subject matter, including circumstances when the matters seek different and distinct types of relief. *See, e.g., Anderson House, LLC v. Mayor & City Council of Rockville*, 402 Md. 689, 701–03, 939 A.2d 116 (2008) (“Although the Circuit Court had some reservations as to how it should view or parse jurisdiction, we note that Anderson House assuredly properly invoked it by filing the two actions that were consolidated.”); *Jenkins v. City of College Park*, 379 Md. 142, 165, 840 A.2d 139 (2003) (“We hold that under the specific facts in this case, denying respondent’s motion to consolidate its case with those of petitioner was an abuse of discretion because respondent’s case was integral to the resolution to the issue of title of the property within petitioner’s actions.”); *Fallston Meadows Cmty. Ass’n, Inc. v. Board of Child Care of Baltimore Annual Conference of United Methodist Church*, 122 Md. App. 683, 699, 716 A.2d 344 (1997) (“Rule 2-503(a) provides for consolidation of cases in circumstances where cases have common issues of law or common issues of fact or a common subject matter. Here, there is no dispute that both cases share a common factual background and a common subject matter. Thus, pursuant to Rule 2-503(a), the consolidation of the appeals was appropriate.”).

### III. Argument

This action and the four companion cases should be consolidated. The actions undisputedly involve “common question[s] of law or fact” and a “common subject matter.” Md. Rule 2-503. The facts underlying all five actions are identical—each arises from the same Referendum Petition, the same determination by the Board of Elections, and the same Ordinance 26-01-001. All cases share identical causes of action, including a petition for judicial review, a complaint for declaratory relief, and in most cases a petition for a writ of mandamus. The central legal issue before the Court in each case is the same: whether Ordinance 26-01-001 is subject to referendum. Even the ancillary legal issues raised in the actions are almost identical. Consolidation of these five actions is therefore plainly warranted under Rule 2-503.

Moreover, adjudication of all five actions will involve the same administrative record, the same witnesses, and the same underlying facts and documents—namely, the history of the CDI Overlay Zone, the enactment of Bill 25-09, the adoption of Ordinance 26-01-001, the Referendum Committee’s signature-gathering campaign, and the Board of Elections’ determination dated April 3, 2026. *See ACandS, Inc. v. Godwin*, 340 Md. 334, 395, 667 A.2d 116 (1995) (finding that consolidation of issues into a single trial was proper in light of commonality of issues that involved the same evidence and noting that “it is senseless to repeat the presentation of the same evidence against the same defendants in successive, individual trials”). Consolidation clearly serves the interests of judicial efficiency and economy. *See, e.g., Waterkeeper Alliance, Inc. v. Maryland Dept. of Agriculture*, 439 Md. 262, 283, 96 A.3d 105, 117 (2014) (recognizing that Maryland courts have consolidated cases for “the purposes of efficiency”).

Additionally, failure to consolidate poses a significant risk of inconsistent judgments. Because all five actions challenge the same agency determination—the Board of Elections’ April

3, 2026, certification of the Referendum Petition—proceeding with five separate actions would risk conflicting rulings on identical legal questions. Such inconsistent results would be inherently incompatible, would leave the parties and the Board of Elections without clear guidance, and would only necessitate further proceedings, which would be particularly problematic given the compressed timeline that governs election law proceedings.

Finally, consolidation would not pose any prejudice to any party, particularly since all parties except for the Referendum Committee agree to it.

#### **IV. Conclusion**

For the reasons set forth herein, all parties to these related cases except the Referendum Committee respectfully request that this Honorable Court consolidate this action with Case Nos. C-10-CV-26-000309, C-10-CV-26-000325, C-10-CV-26-000326, and C-10-CV-26-000327. Case No. C-10-CV-26-000309 should be designated as the lead case.

Dated: April 29, 2026

Respectfully submitted,

**OFFIT KURMAN P.A**

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*Counsel for Respondents-Defendants Frederick  
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official capacity as Election Director*

## CERTIFICATE REGARDING RESTRICTED INFORMATION

I, William E. Erskine, HEREBY CERTIFY that this submission does not contain any restricted information.

/s/ William E. Erskine

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William E. Erskine, Esq.  
(CPF# 9306230100)

## CERTIFICATE OF SERVICE

I, William E. Erskine, HEREBY CERTIFY that on this 29th day of April, 2026, a copy of the foregoing Joint Consent Motion to Consolidate with Case Nos. C-10-CV-26-000309, C-10-CV-26-000325, C-10-CV-26-000326, and C-10-CV-26-000327 and proposed Order was filed electronically in the Maryland Electronic Courts (MDEC) system in the above-captioned matter, and served and/or will be served upon all parties and/or their counsel indicated in the Service List below.

/s/ William E. Erskine

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William E. Erskine, Esq.  
(CPF# 9306230100)

## SERVICE LIST

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and

**TO BE SERVED VIA FIRST CLASS U.S. MAIL:**

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IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

PETITION OF  
WINDRIDGE PROPERTIES L.C.,

and

THEODORE H. BUTZ,

FOR JUDICIAL REVIEW OF THE  
DECISION OF  
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Case No.: C-10-CV-26-000321

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IN THE MATTER OF THE PETITION OF  
THE FREDERICK COUNTY DATA  
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COUNTY COUNCIL ORDINANCE 26-01-  
001

\* \* \* \* \*

WINDRIDGE PROPERTIES L.C., et al.

Plaintiffs,

v.

FREDERICK COUNTY BOARD OF  
ELECTIONS, et al.

Defendants.

\* \* \* \* \*

**ORDER**

Upon consideration of the *Joint Motion to Consolidate*, it is this \_\_\_ day of \_\_\_\_\_, 2026,

ORDERED, that the Joint Consent Motion to Consolidate is GRANTED, and it is, ORDERED, that the above-captioned matter is hereby consolidated with the following actions pending in the Circuit Court for Frederick County, Maryland:

1. *Quantum Maryland, LLC and Joan Aquilino v. Frederick County Board of Elections, et al.*, Case No. C-10-CV-26-000309;
2. *NDR Properties, LLC and David S. Pleasants v. Frederick County Board of Elections, et al.*, Case No. C-10-CV-26-000325;
3. *Rowan Frederick LLC, Rowan Frederick II LLC, and Rowan Frederick III LLC v. Frederick County Board of Elections, et al.*, Case No. C-10-CV-26-000326; and
4. *Frederick Data Owner, LLC and Justin Cassity v. Frederick County Board of Elections, et al.*, Case No. C-10-CV-26-000327.

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Judge, Circuit Court for Frederick County,  
Maryland