

CITY COUNCIL AGENDA
Monday, October 21, 2019



5:15 p.m. **Closed session as provided by Section 2.2-3712 of the Virginia Code**
Second Floor Conference Room (Legal consultation – land acquisition; employment law)

6:30 p.m. **Regular Meeting - CALL TO ORDER**
Council Chamber

PLEDGE OF ALLEGIANCE
ROLL CALL
ANNOUNCEMENTS
PROCLAMATIONS

1. CONSENT AGENDA* (Items removed from consent agenda will be considered at the end of the regular agenda)

- a. MINUTES: September 9 City/County joint meeting; September 12 Budget Worksession
- b. APPROPRIATION: Parks & Recreation Gift Guide Memorials Account - \$3,260 (1st of 2 readings)
- c. APPROPRIATION: State Criminal Alien Assistance Program - \$14,230.00 (1st of 2 readings)
- d. RESOLUTION: Accepting streets within the Sunrise Park Planned Unit Development (PUD) into the City's street system (1st of 1 reading)
- e. RESOLUTION: Piedmont District Baptist Association Off-cycle Funding Request - SAT Preparation Course - \$2,000 (1st of 1 reading)
- f. RESOLUTION: Initiation of Zoning Ordinance Amendment: Strategic Investment Area – Form Based Code (1st of 1 reading)
- g. RESOLUTION: Rivanna Water and Sewer Authority's Observatory Water Treatment Plant, Raw Water Pumping and Piping Upgrade Cost and Capacity Allocation Agreement (1st of 1 reading)
- h. ORDINANCE: Ordinance Repealing Chapter 31 Section 31-103 (Buck Mountain) Surcharge for water connections (1st of 2 readings)
- i. ORDINANCE: PEG Bandwidth VA, LLC - Telecommunications Franchise (2nd reading)
- j. ORDINANCE: Release of Portion of Sewer Easement – McIntire Plaza (2nd reading)
- k. REPORT: Rivanna Authorities Quarterly Update (written only)

CITY MANAGER RESPONSE TO COMMUNITY MATTERS (FROM PREVIOUS MEETINGS)

COMMUNITY MATTERS Public comment is provided for up to 16 speakers at the beginning of the meeting (limit 3 minutes per speaker.) Pre-registration is available for up to 8 spaces, and pre-registered speakers are announced by noon the day of the meeting. The number of speakers is unlimited at the end of the meeting.

2. PUBLIC HEARING/ORDINANCE: Releasing a gasline easement - Oakleigh development on Rio Road (1st of 2 readings)

3. PUBLIC HEARING/ORDINANCE: Vacating a public utility easement on a property at Emmet Street and Barracks Road (1st of 2 readings)

4. ORDINANCE/RESOLUTION*: Ordinance adding Article XVI (Police Civilian Review Board) Ordinance and By-Laws to Chapter 2 (Administration) of the Code of the City of Charlottesville, 1990, as amended (1st of 2 readings)

Resolution to establish reporting requirements for the Police Civilian Review Board's Executive Director (to be considered upon approval of Ordinance).

5. RESOLUTION*: East High Streetscape – Resolution Approving Design Public Hearing (1st of 1 reading)

6. REPORT*: Review of 2020 Thomas Jefferson Planning District Commission (TJPDC) and City Council Legislative Positions (1st of 1 reading)

OTHER BUSINESS

MATTERS BY THE PUBLIC
*ACTION NEEDED

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Joint Meeting
City Council/Board of Supervisors
Monday, September 9, 2019
4:00 p.m.-6:00 p.m.



A joint meeting of the City Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle was held on Monday, September 9, 2019, at 4:00 p.m. at CitySpace, 100 5th Street NE, Charlottesville, Virginia.

Mayor Walker called the City Council meeting to order at 4:01 p.m. and welcomed attendees. The following Councilors were present: Mayor Nikuyah Walker, Vice Mayor Heather Hill, Ms. Kathy Galvin and Mr. Mike Signer. Dr. Wes Bellamy arrived at 4:50 p.m.

Chair Ned Gallaway called the Albemarle Board of Supervisors meeting to order at 4:01 p.m. with the following Supervisors present: Chair Ned Gallaway, Vice Chair Rick Randolph, Ms. Ann Mallek, Ms. Diantha McKeel, Mr. Norman Dill, and Ms. Liz Palmer.

Mr. Gallaway turned the meeting over to City Manager Tarron Richardson and County Executive Jeff Richardson.

Dr. Tarron Richardson gave an overview of the agenda and introduced speakers.

City Attorney John Blair reviewed the Albemarle-Charlottesville Regional Jail appointment made earlier in the summer and the process for making appointments. He advised of the recommendation for the County and City Attorneys to draft a Memorandum of Understanding in which the City and County agree to provide at least ninety days to the other body to consider a joint appointment recommendation. Both bodies unanimously agreed to have the attorneys move forward with drafting a Memorandum of Understanding.

Mr. Ryan Davidson of the City of Charlottesville Budget Department, reviewed the City/County revenue sharing agreement, which has been in place since Fiscal Year 1982-1983. He advised that the City does not allocate or designate revenue sharing dollars to specific programs or projects.

Mr. Davidson reviewed regional services and programs related to the Operating Budget:

- Shared Park Operations and Regional Recreation Programs
- Charlottesville Area Transit System and JAUNT
- Regional Public Safety Agencies and Facilities
- Regional Housing and Employment Programs
- Regional Services for Children Youth and Families

He also reviewed regional projects and capital programs related to the Capital Budget:

- Jointly Owned Facilities
- Parks and Recreation
- Public Safety
- Road Infrastructure, Transportation, and Traffic Improvements
- Other Joint Governmental Projects

Ms. Mallek clarified that funding has not been allocated to specific projects by reason of policy.

Ms. McKeel, Ms. Mallek and Ms. Palmer made comments about the way that the information was presented and advised that their constituents would want more specific information about where funds have been allocated.

City Attorneys advised that the budget report meets the minimum statutory agreement for reporting.

Mr. Gill asked Supervisors to provide an example of what they are looking for. Mr. Gallaway advised that the County is asking for accounting information for where dollars from the County are spent.

Mr. Randolph advised that County constituents are asking for more transparency and accountability based on State legislation changes last year. He suggested possible signage for projects jointly funded by the City and County.

Ms. Walker gave feedback that the process would be cumbersome for what the Board of Supervisors is asking for.

Mr. Signer summarized the presentation as a broad overview for all of the projects and activities that the City administers for the benefit of citizens in the City and County. He advised that the City Budget would be the document to review.

Ms. Galvin advised that what the Board of Supervisors is asking would be to handle the revenue sharing differently than any other revenue stream.

Mr. Gallaway advised that in the future, presentations should include dollar amounts.

Mr. Alex Ikefuna, Charlottesville Director for Neighborhood Development Services, provided the Hydraulic-29 Small Area Plan Implementation update. He advised that the project is not currently funded; however, the Metropolitan Planning Organization (MPO) is considering alternate project submissions for SmartScale funding, with SmartScale applications due in August 2020.

Key Issues:

- 2020 Smart Scale Applications that could score well enough to be funded & meet Small Area Plan considerations
- Use of Route 29 existing funding of \$18,000,000
- Consider alternate funding mechanisms
- Address congestion and safety at Hydraulic & 29

Mr. Chip Boyles, Thomas Jefferson Planning District Executive Director, helped to facilitate discussion regarding the use of the \$18 Million for a revenue sharing project such as the proposed bridge crossing Rt. 29. The Board of Supervisors has sent a letter of support for the bridge project. If the funding has not been used within 2 years, it will be lost for the Hydraulic Road project. Final dollar amounts are being calculated in order to present a followup report at the MPO November meeting.

Mr. Mike Murphy, Deputy City Manager, and Dr. Stacy Pethia, Albemarle Principle Planner for Housing, presented a summary of the Housing Voucher Choice Program. Mr. Murphy described the Charlottesville Supplemental Rental Assistance Program.

Dr. Bellamy arrived at 4:50 p.m.

Dr. Pethia explained that the Virginia Department of Housing and Urban Development sets the number of vouchers and the funding available per locality. The more extreme low income a locality has, the more funding is utilized per household. Fair Market Value drives the funding.

Dr. Bellamy suggested having a joint meeting with the Housing Authority since the County does not have a board to handle housing. Staff manages housing. Mr. Murphy suggested having staff-to-staff ongoing communication.

Mr. Chris Engel, City Economic Development Director, made the presentation along with Ms. Siri Russell, Director of Equity and Inclusion for the County. Mr. Engel reviewed upcoming events for Minority Business Week September 14-20, 2019, and gave an overview of the Business Equity Fund. Ms. Russell advised that the City and County are exploring ways to collaborate in the future.

Ms. Siri Russell gave an overview of the shared journey by both localities regarding equity and inclusion. She advised of opportunities to share resources, connections and tools. Less than 1 in 10 local governments in the nation have an Office of Equity and Inclusion. She reviewed opportunities for fair partnership and collaboration:

- Joint planning for VLGMA Conference
- Albemarle Charlottesville Community Remembrance Project
- Regional equity profiles
- Joint training for senior leadership and department directors on diversity, equity and inclusion
- Regular connection and communication with other organizations
- Shared engagement with partners

Dr. Bellamy asked if the County would consider incorporating equity information in its communications. Members of the Board agreed.

Mr. Chris Gensic reviewed information about the Rivanna River Crossing project. He advised that the pedestrian and bicycle project would cover the area from the Woolen Mills neighborhood to Martha Jefferson Hospital. He advised that the Virginia Department of Transportation (VDOT) will be doing a study, utilizing a consultant soon and include the City and County. Floodplain rules would come into play. The report is expected in approximately one year.

Ms. Galvin asked about having businesses that might benefit engaged in the discussions.

Mr. Dan Mahon gave further information about which entities have been involved.

Mr. Randolph asked for future reports to include a 500-year floodplain and 1000-year floodplain information.

Mr. Ikefuna advised that the City is working with VDOT to synchronize signalization at Emmett Street.

Ms. McKeel asked if further review could include the corridor rather than a single intersection.

Mr. Ikefuna gave an overview of Bike-Pedestrian Capital Improvement Projects for connectivity on Old Lynchburg Road.

Mr. Gensic reviewed priority areas for the trail and sidewalk from Sunset Bridge to Old Lynchburg Rd and Azalea Park, advising that there will need to be discussion of who maintains the areas once constructed.

Mr. Murphy and Dr. Pethia reviewed affordable housing activities for the City and County, and potential ways to collaborate:

- Charlottesville Supplemental Rental Assistance Program (CSRAP)
- Regional Housing Choice Voucher Program
- Permanent Supportive Housing project (The Crossings II)
- Jointly funded evaluation of nonprofit housing providers
- Joint land bank/property acquisition fund
- Joint affordable housing fund

Dr. Bellamy added information about the potential of The Crossings II, with the intent of ending chronic homelessness.

Mr. Blair advised of a provision in the City Charter that allows the City to provide more assistance than the County.

Dr. Richardson introduced new Charlottesville Area Transit (DAT) Director, Garland Williams. Mr. Williams greeted attendees.

Mr. Boyles reviewed the role, history, and engagement of the Regional Transit Partnership. Current strategies include:

- Partner with DRPT for a Joint Regional Transit Strategies Plan (TSP) with local funding match
- Develop a unified regional transit system marketing effort
- Implement a Joint Comprehensive Stakeholder Survey
- Review of FY21 operating budgets for CAT and JAUNT, including driver recruitment, compensation, and appreciation
- Develop consolidated ridership reporting and analysis to include CAT < JAUNT, UTS, Rideshare, Amtrak, e-scooters, etc.
- Peer system visit
- Partnership with Greene County Transit
- CAT and UTS ridership coordination for STIC Funding
- Develop joint funding MOU's for UTS and for JAUNT

He listed long-term opportunities for consideration:

- Consolidated Regional Transit Services
- Regional Transit Authority
- Increased fixed route services by JAUNT
- Shared mobility transit – 1st and last mile connectivity

Ms. Walker, in the interest of time, asked for agreement to extend the meeting by fifteen minutes. Ms. Mallek advised that she had to leave. The remainder of both bodies agreed to extend the meeting by 15 minutes to 6:15 p.m.

Ms. Mallek and Mr. Signer left the meeting at 6:00 p.m.

Ms. Kristel Riddervold gave an overview of the Climate Action plan, describing climate action planning in collaboration and alongside each other (City, County and University of Virginia). She mentioned local partnerships and the carbon neutrality resolution directives passed by City Council during summer 2019. She advised that climate action cannot be discussed as an aside, but must be integrated into everything.

Mr. Lance Stewart gave additional information about various work teams and efforts of working toward carbon neutrality. The potential for single branding approach used by City and County.

Ms. McKeel suggested including the School systems in on the conversation.

Ms. Galvin asked whether the Dominion Energy initiative for funding electric buses has been pursued. Ms. Riddervold advised that they are actively seeking the related information.

Mr. Bill Mawyer reviewed the Rivanna Sewer and Water Authority composting program and composting locations. Ms. Galvin thanked Mr. Mawyer for the oyster shell recycling program.

City Manager Richardson thanked all involved in coordinating the meeting and specifically Ms. Emily Kilroy for help in coordinating his first joint meeting as host locality.

County Administrator Richardson asked staff to coordinate action items that will inform a co-authored memorandum of understanding to help move the organizations forward. He asked that the Bodies get together in early 2020 rather than the previously proposed quarterly schedule based on the work that needs to be done, the momentum already created between the two Bodies, and the upcoming election. He advised of the intentionality between City and County staff to communicate proactively and he thanked staff for their work in preparation for this meeting. Mr. Richardson thanked Dr. Richardson and staff for hosting the County, and he turned the meeting back over to Chair Gallaway and Mayor Walker.

Chair Gallaway adjourned the Board of Supervisors meeting at 6:18 p.m.

Mayor Walker adjourned the City Council meeting at 6:18 p.m.

City Council Budget Worksession – Infrastructure and CIP

September 12, 2019 – CitySpace

The Charlottesville City Council met on September 12, 2019, at CitySpace, 100 5th Street NE, Charlottesville, Virginia, in a work session to hear a presentation and discuss the Infrastructure and Capital Improvement Program (CIP) components of the City budget.

Dr. Richardson began the meeting at 6:00 p.m. and gave an overview of the reasons for the meeting. He advised that it would be important to review priorities to which funding has not been attached. He emphasized planning so as not to overburden future City Councils, and the need to review cost reductions Citywide. He previewed the fiscal year (FY) 2021 – 2025 CIP process, gave an overview of current assets, and an overview and highlights of the adopted FY 2020 – 2024 CIP.

Ms. Krisy Hammill of the Office of Budget and Performance Management, provided information regarding the budget request submission process from internal staff and neighborhoods, and the timeline. She advised that the preliminary CIP development discussion with Council would be held on November 14.

Mr. Marty Silman, Interim Public Works Director, reviewed Capital Asset Statistics. He shared an overview of pavement infrastructure and the ratings as related to street condition. Streets are repaired in order from lowest Pavement Condition Index (PCI) to highest. The total amount required to repair streets to good condition would be just over \$17 Million, and would take approximately ten years to complete. Mr. Silman reviewed traffic signal infrastructure. To replace all signals that have exceeded the 30+ year lifespan would require \$8,250,000. The two intersections proposed for this budget cycle are Rugby and Barracks; Emmett and Massie.

Mr. Paul Oberdorfer, Deputy City Manager, gave an overview of the proposed project to construct a new City Center complex, given the poor condition of current facilities which have far exceeded their useful life. He noted that several factors such as functionality, safety and security, consolidation of services, and maintenance costs continue to be analyzed for cost-benefit.

Mr. Signer arrived at 6:24 p.m.

Mayor Walker called the City Council meeting to order at 6:24 p.m., with the following members present: Mayor Nikuyah Walker, Vice Mayor Heather Hill, and Mr. Mike Signer. She advised that Dr. Bellamy and Ms. Galvin would not be in attendance.

Mr. Signer asked about the City Center building location. Dr. Richardson advised that the goal is to not interrupt current projects that are currently funded and to avoid use of debt service by making use of current assets.

Ms. Walker asked about this project happening in conjunction with the current proposed projects of the City Schools and affordable housing. She also voiced concern about gentrification and potentially making use of City-owned property versus selling. Dr. Richardson advised that the goal is to not negatively impact current projects, and that staff will continue to analyze data.

Ms. Hamill reviewed FY20-24 sources of CIP projects and expenses such as affordable housing and schools projects.

The priorities set were:

- Evaluation of Existing CIP projects
- Public Housing Redevelopment
- City Schools Reconfiguration
- Aging Infrastructure
- City/County Joint Road Projects

Some of the larger projects already funded are:

- Affordable housing \$32.8 million
- General District Court \$6.4 million
- Parking Structure \$10.0 million
- West Main \$12.0 million
- School Projects \$21.8 million

Ms. Hammill reviewed details on funding previously authorized but not issued. She shared the issue of timing in that bonds are not sold until a project is within 24 months of completion. The intention would be to minimize the impact on the general fund. Ms. Hammill reviewed debt capacity of the City, the financial impact of bonds, and ways to consider paying for increased debt service or re-prioritizing.

Mr. Kevin Rotty, financial consultant to the City, summarized the overall bonding process, comparing Charlottesville to peer localities.

Ms. Hammill advised that the most current budget information would be accessible at: www.charlottesville.org/budget.

Ms. Hill asked for consideration of Budget worksession scheduling, keeping newly elected officials informed, and potentially consolidating meetings. Mr. Davidson advised that all information shared with Councilors will be shared with Councilors-elect after the November elections.

Ms. Hill asked about the process for non-profit requests. Mr. Davidson shared that the application process was opened within the last two weeks. He advised that the application is a combination of City and County questions.

Ms. Walker opened the floor to members of the public. With no one coming forward to speak, Ms. Walker adjourned the meeting at 6:58 p.m.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Required:	Approval of Appropriation
Presenter:	John Mann, Landscape Manager
Staff Contacts:	John Mann, Landscape Manager
Title:	Parks & Recreation Gift Guide Memorials Account - \$3,260

Background:

The City of Charlottesville, through the Parks and Recreation Department, has received two donations in the amount of \$1,630 each for memorial benches and plaques for Katherine E. Magraw and Sallie Dietrich Brown. These amenities will be placed along the trail leading to the Murray/Van Yahres Memorial Grove approved by Council during the April 17, 2017 meeting.

Discussion:

Parks and Recreation has received numerous requests from family and friends expressing an interest in paying tribute, to individuals who were active in civic and community involvement, by funding memorial benches for placement in Charlottesville Parks. Memorial options must be consistent with the park design, function, aesthetics and maintenance considerations. Benches or other memorials must be compatible with other existing elements in the Parks and approve by Parks management. Currently a need exists for placement of two benches in East McIntire Park. The selected bench style is consistent with other existing park benches and will be an addition to the approved Murray/Van Yahres Memorial Grove included in the McIntire Park East Plan. Placement is based on current Park plans and future landscape development.

Alignment with City Council's Vision and Strategic Plan:

This supports the Council vision of "A Green City", within a community of vibrant urban forest, trees and lush green park spaces that encourage citizens to enjoy our walking trails. Community connections to green spaces and use of trails contributes to health and mental well-being of our City residents.

Strategic Plan Goal 2 "A Healthy and Safe City" promotes physical activity and age-friendly outdoor spaces for community use. Our trails encourage citizens to participate actively and offer bench sites for rest and contemplation.

Strategic Plan Goal 5 "A Well Managed and Responsive Organization" citizen engagement in

recognition of civic and community participation and contributions from citizens in support of City Park initiatives.

Community Engagement:

Memorial donations are unsolicited and usually contributed by family or friends desiring to memorialize individuals who appreciated the park areas in Charlottesville. Specific parks are requested and consideration is based on need and site appropriateness. Currently two memorial benches are requested for placement in East McIntire Park to compliment the approved “Grove” Memorial Walk and Garden. The bench style and location has been coordinated with representatives of the Grove Steering Committee. Plans are to install the benches in Fall 2019.

Budgetary Impact:

This has no impact on the General Fund. These donations are for specific purchases per the wishes of the donor and the donations and expenses will be recorded in a separate internal order account for those purposes.

Recommendation:

Staff recommends approval and appropriation of donated funds.

Alternatives:

If memorial donations are not appropriated, Parks & Recreation will be unable to purchase the memorial benches and abide by the wishes of those individuals making donations.

Attachments:

Appropriation

APPROPRIATION
Parks & Recreation Gift Guide Memorials Account
\$3,260

WHEREAS, the Parks and Recreation Department has received two donations in the amount of \$3,260 each for memorial benches and plaques for Katherine E. Magraw and Sallie Dietrich Brown;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$3,260 be appropriated in the following manner:

Revenues - \$3,260

Fund: 105 Internal Order: 2000153 G/L Account: 451020

Expenditures - \$3,260

Fund: 105 Internal Order: 2000153 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of the donations.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Required:	Approval and Appropriation
Presenter:	Jeff Brill, Albemarle-Charlottesville Regional Jail
Staff Contacts:	Gail Hassmer, Chief Accountant Symia Tabron, Accountant Ryan Davidson, Sr. Budget and Management Analyst
Title:	State Criminal Alien Assistance Program (S.C.A.A.P.) Grant for 2019 – \$14,230

Background:

The City of Charlottesville has received the State Criminal Alien Assistance Program Grant (S.C.A.A.P.), on behalf of the Albemarle-Charlottesville Regional Jail, in the amount of \$14,230. These are federal funds to reimburse the Albemarle-Charlottesville Regional Jail for Fiscal Year 2018 expenses of housing foreign born inmates. Albemarle County is appropriating funds received under the same program that will also be passed through to the Regional Jail.

Discussion:

The State Criminal Alien Assistance Program (S.C.A.A.P.) provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating certain undocumented criminal aliens. The award amount is based on the number of undocumented persons incarcerated at the Albemarle-Charlottesville Regional Jail. As this is not a one-time grant, the Jail will receive future payments from the City as they are granted. The majority of these funds (88% or \$12,522.40) will be passed through directly to the Regional Jail. The remaining 12% (\$1,707.60) will be sent to Justice Benefits, Inc., for their management services for the administrative functions of the S.C.A.A.P. reimbursements for the regional jail.

Alignment with City Council's Vision and Strategic Plan:

These funds align with Council's Vision for a Smart, Citizen-Focused Government -- Acceptance of these funds will support quality services at our Regional Jail and will help ensure that services are provided in the most efficient and cost effective way to citizens.

These funds also support Goal 2: Be a safe, equitable, thriving and beautiful community, and Objective 2.1. Provide an effective and equitable public safety system

Community Engagement:

N/A

Budgetary Impact:

There is no budgetary impact to the City as these funds will be passed through directly to the Regional Jail and Justice Benefits, Inc., which provides administrative support for the regional jail.

Recommendation:

Staff recommends approval and appropriation of funds to the Regional Jail.

Alternatives:

N/A

Attachments:

Appropriation

APPROPRIATION
State Criminal Alien Assistance Program (SCAAP) Grant for 2018 reimbursement
\$14,230

WHEREAS, the State Criminal Alien Assistance Program (SCAAP) grant, providing federal payments for correctional officer salary costs incurred for incarcerating certain undocumented criminals has been awarded the City of Charlottesville, on behalf of the Albemarle-Charlottesville Regional Jail, in the amount of \$14,230.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that a total of \$12,522.40 be appropriated and passed through to the Albemarle-Charlottesville Regional Jail and \$1,707.60 be appropriated and passed through to Justice Benefits, Inc.

Revenues

\$14,230	Fund: 211	Internal Order: 1900315	G/L Account: 431110
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Expenses

\$12,522.40	Fund: 211	Internal Order: 1900315	G/L Account: 530550
\$ 1,707.60	Fund: 211	Internal Order: 1900315	G/L Account: 530670

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$14,230 from the U. S. Bureau of Justice Assistance.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Requested:	Adoption of a Resolution
Presenter:	John Blair, City Attorney
Staff Contacts:	Lisa A. Robertson, Chief Deputy City Attorney Jack Dawson, City Engineer Marty Silman, Interim Director of Public Works
Title:	Request for Acceptance of Streets within the Sunrise PUD into the Public Street System

Background:

Note: previously, Council considered this matter and adopted a resolution establishing the tasks that would need to be accomplished prior to Council's consideration of the acceptance of private streets within this PUD into the City's public street system for maintenance. This Agenda Memo repeats the one you received several months ago, with **updated materials indicated in blue font**. **Attachment 1 to this Agenda Memo is a Resolution accepting the streets within the Sunrise PUD into the City's public street system for maintenance.**

Attachment 2 is the Resolution adopted by City Council on June 3, 2019, setting forth conditions to be satisfied prior to acceptance of these streets. The status of compliance with those conditions is as follows:

Condition 1: has been satisfied, relative only to permeable pavement immediately adjacent to the Lot 15 development site. Neither Habitat nor the Lot 15 Developer has agreed to protect other areas of permeable pavement from the impacts of remaining construction. On September 23, 2019 we received correspondence on letterhead from "Marion Enterprises" advising that yet another legal entity (Sunrise Cville LLC) is the owner/developer of Lot 15, and stating that it won't provide certain assurances in relation to protection of the permeable pavement during construction. (See **Attachment 3** to this Memo).

Condition 2: Habitat and the Lot 15 Developer have apparently worked out issues relating to legal responsibility for completion of requirements of the Stormwater Management Plan for the Sunrise PUD.

Condition 3: The Lot 15 Developer has provided a cash bond, to guarantee the E&S obligation relative to the need for additional cleaning of the permeable pavement adjacent to the Lot 15 development site (reference Condition 1, above) resulting from construction activities. Neither Habitat nor the Lot 15 Developer has agreed to protect other areas of permeable pavement from the impacts of remaining construction within the PUD.

Condition 4: Neither Habitat nor the Lot 15 Developer has provided an indemnification agreement. Habitat sold off all of the lots within the PUD, without recording any stormwater facility maintenance agreement (as required by state VSMP regulations and local ordinance). Thus, it now appears that the requested indemnification is unnecessary as to Habitat.

Condition 5: The City has received a Deed of Dedication and a Plat, in a form acceptable to the City Attorney's Office.

Condition 6: The City Engineer has verified that the permeable pavement has been permanently installed. The pavement is not functioning properly in many locations; however, Habitat/ Sunrise Park LLC will not make any changes, corrections or replacements. (At the Engineer's request, Habitat cleaned several locations). At this time, since an expected level of functionality wasn't established by City staff up front (as part of the "pilot project" requirements), and Habitat can't provide any as-built documentation of how the pavement was installed, all that can be said is that the Engineer has verified that the pavement is functioning at a level of effectiveness that has been measured/ determined by mutual agreement (in other words: the level of effectiveness of the pavement—which is neither ideal nor proper—has at least been quantified).

In 2009 the Charlottesville City Council approved the Sunrise Planned Unit Development ("PUD"). The streets proposed by Habitat, acting through an LLC (Sunrise Park, LLC, the "Developer") within the PUD Development Plan were narrower than the standard width, included on-street parking lanes to satisfy the required number of parking spaces for the units within the development, and proposed pervious paving materials within the parking lanes. These three design features conflicted with the City's parking requirements and standard public street specifications; therefore, the streets were not to be dedicated for public use.¹ The PUD Development Plan included the following statement: "*Nothing in the PUD Development Plan will be interpreted to prohibit the design team from working with the City Engineer to modify the City's street standards to allow internal streets to be dedicated for public use.*"

The City's street standards have not been modified since 2009. (Notwithstanding the statement within the 2009 PUD Ordinance, the Engineer cannot do that himself; modification of the City's standards and design specifications must be done via a Council update of the City's Standards and Design Manual, which has been pending for some time). Notwithstanding this: Habitat now is asking the City to accept the constructed streets into the City's public street system, so that the City will be financially and otherwise responsible for maintenance, repair and replacement of all of the street improvements, including the permeable paving within the on-street parking areas.

Discussion:

Legally the City is not required to accept any street into its public street system, or to maintain street improvements, even after the street has been officially dedicated for public use. Unless and until the City officially accepts the improvements for public maintenance, the City is not financially responsible for the costs of construction, maintenance/repair, or replacement. On the other hand: despite the fact that the streets don't meet City design standards, City staff approved the subdivision and site plans for the Sunrise PUD as presented, and City Council may determine that there are now appropriate reasons for accepting the streets into the public system for maintenance despite the fact

¹ We note, however, that private streets are not authorized under the city's zoning and subdivision ordinances for any type of development other than a townhouse development.

that they don't meet City standards.

This situation is further complicated by the following facts:

- (i) Habitat and City NDS staff informally agreed several years ago that, as a means to satisfy Habitat's responsibilities under state regulations for stormwater management, a "pilot project" would be implemented, under which, if Habitat utilized permeable paving materials within on-street parking areas, they could claim credit for purposes of their stormwater compliance and the City would later agree to accept the pavement and maintain it. To our knowledge, City personnel did not undertake analysis, in conjunction with Public Works, of the costs associated with ongoing, perpetual maintenance of the permeable paving. Ongoing maintenance will be necessary in order for the larger development area to remain compliant with state stormwater regulations in the future. (In other words: the City won't be able to replace the permeable paving with regular asphalt or concrete).
- (ii) Construction activities within the Sunrise PUD have not yet been completed, so Habitat's state stormwater permit cannot yet be closed out. Originally, Habitat was to have been the land disturber/developer of all of the land within the PUD, and the permeable pavement was supposed to be installed only AFTER all construction activity was completed. However, Habitat installed the pavement out of sequence (after it finished its own construction activities, but before all construction has been completed) and then transferred vacant Lot 15 within the PUD to a private company for development.

The permeable pavement is easily damaged and clogged by dirt and sediment. Because Habitat's Stormwater Management Plan did not contemplate early construction of the permeable paving (prior to completion of construction on Lot 15), Habitat's E&S Bond was not set at an amount that would protect the pavement during construction activities taking place post-installation of the pavement. As you will note in this Resolution, City staff are requiring a supplemental E&S Bond in relation to the development of Lot 15, and the developer who will be conducting the construction activities on Lot 15 has reviewed the Resolution and has agreed to post that supplemental bond.

Much of the permeable pavement is not functioning properly. See [Attachment 3](#).

- (iii) Because this permeable paving is a stormwater management feature, what staff should have done when the "Pilot Program" was agreed to was put the details of the program into writing and specify what level of effectiveness would need to be achieved prior to acceptance into the public street system. No prior metrics were discussed or agreed to. The City Engineer has reviewed the existing condition of the permeable paving with a representative of Habitat, and the language in Paragraph (6) of the Resolution will allow for these issues to be worked through with Habitat prior to your consideration of a future resolution transferring ownership of the Right-of-Way and responsibility for maintenance of all improvements (including the pavement). We would anticipate that future resolution coming back to you within 30-60 days after you establish conditions of acceptance within this agenda item.

Alignment with City Council’s Vision and Strategic Plan:

This application supports Council’s Vision for **Quality Housing Opportunities for All: Our neighborhoods retain a core historic fabric while offering housing that is affordable and attainable for people of all income levels, racial backgrounds, life stages, and abilities.** It also is consistent with the Strategic Plan, Goal 1.3 (Increase Affordable Housing Options).

Community Engagement:

None. (None required by law as to this issue).

Budgetary Impact:

There will be some impact on the Public Works budget (within one or more of its divisions) as a result of adding responsibility for maintenance, repair and replacement of the permeable paving following acceptance by the City, but no analysis of this has been done by staff. Staff is generally aware that this type of paving material is expensive to clean and replace, and requires more frequent attention. However, as noted previously, NDS staff agreed to allow the use of this type of material as a “Pilot Project” years ago. (Since the original PUD approval did not contemplate public streets, it is unclear as to whether or not staff’s agreement to the “Pilot Project” was with the understanding that the maintenance of the pavement would at some point be a public responsibility).

Recommendation:

City NDS staff does not deny the “Pilot Program” agreement, and therefore does not oppose the proposed Resolution.

The City Engineer and the Interim Director of Public Works decline to make a recommendation one way or another. This situation, and how the “Pilot Project” has been undertaken, is less than optimal. If the City does not accept the streets into the public street system, it is unlikely that any of the landowners will be able to afford to maintain the streets and permeable pavement, and there have been no mechanisms (such as an HOA, covenants, recorded maintenance agreements, etc.) put in place to plan for this. If Council elects to accept the streets in order to promote affordable housing, Council should do so with the understanding that additional funding for maintenance will be required in future budget/ CIP requests, and Public Works will plan accordingly for ongoing maintenance pending appropriation of the necessary funding.

Alternatives:

City Council can choose to deny the Resolution, or to approve the Resolution with revisions.

Attachments:

- 1- Proposed Resolution Accepting Sunrise PUD Streets
- 2- Council’s June 3, 2019 Resolution
- 3- September 23, 2019 Correspondence from Lot 15 Developer, and City Engineer Response

**RESOLUTION
ACCEPTING SUNRISE PARK LANE AND CARL SMITH STREET
INTO THE CITY STREET SYSTEM FOR MAINTENANCE**

WHEREAS, the Sunrise Park Lane and Carl Smith Street rights-of-way have been constructed in the Sunrise Park PUD and Sunrise Park, LLC has asked the City to accept these streets into the City street system; now, therefore,

BE IT RESOLVED, by the Council of the City of Charlottesville, Virginia, that Sunrise Park Lane and Carl Smith Street, as shown on the attached plat made by Roudabush, Gale & Associates, Inc. dated July 15, 2019, are hereby accepted into the City street system for maintenance.

**RESOLUTION
ACCEPTING RESPONSIBILITY FOR MAINTENANCE OF CERTAIN
STORMWATER MANAGEMENT FACILITIES WITHIN THE SUNRISE PLANNED
UNIT DEVELOPMENT**

WHEREAS, in 2009 the Charlottesville City Council approved the Sunrise Planned Unit Development (“PUD”). Streets proposed by Sunrise Park LLC within the PUD Development Plan were narrower than the standard width, included on-street parking lanes to provide the required number of parking spaces for the units within the development, and proposed pervious paving materials within the parking lanes; these three design features conflicted with the City’s parking requirements and standard public street specifications. The PUD Development Plan included the following statement: “Nothing in the PUD Development Plan will be interpreted to prohibit the design team from working with the City Engineer to modify the City’s street standards to allow internal streets to be dedicated for public use.”

WHEREAS, the City’s Subdivision Agent granted final approval for a subdivision plat which dedicated the streets within the Sunrise PUD for public use, and that Subdivision Plat was recorded in the City’s land records several years ago. However, recordation of a subdivision plat does not create any obligation upon the City to pay for any paving, improvements or construction, and the City has not, to date, accepted the improved (paved) PUD streets into the City’s public street system for maintenance.

WHEREAS, under the ordinances, standards and specifications in effect as of the date this Resolution is adopted, the streets within the Sunrise PUD do not meet public street standards; however, Sunrise Park LLC is now asking the City to accept the constructed streets into the public street system for maintenance; and

WHEREAS, state law required the PUD Development to be constructed in accordance with a Stormwater Management Plan approved in accordance with state and local laws, which require provision of facilities for management and treatment of the quantity and quality of stormwater. Following completion of the development, all such stormwater management facilities must be maintained by the owners of land within the development. Sunrise Park LLC obtained approval of a Stormwater Management Plan which identified the permeable pavement within the PUD street parking lanes as one of the stormwater management facilities to be permanently maintained by a responsible party—generally, the owner(s) of land within the development.

WHEREAS, the City’s Water Protection Ordinance requires that, in the event a person desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility to the City, that person and the City must enter into a written contract, and prior to execution of that contract, the City Council must, by resolution, accept the responsibility proposed to be ceded or transferred; the purpose of this resolution is to set forth the terms under which City Council will accept responsibility for maintenance of the pervious paving within the street right of way proposed to be transferred.

WHEREAS, this Charlottesville City Council is willing to accept responsibility for maintenance of the pervious pavement within the parking lanes and sidewalks within the Sunrise PUD, but only if: **(i)** Sunrise Park LLC remains bound to complete the entire PUD Development in accordance with the approved stormwater management plan for the PUD, **(ii)** the City is held harmless from all impacts of construction activities within uncompleted portions of the PUD on the permeable pavement, within a written indemnification agreement satisfactory to the City Attorney, and **(iii)** following a formal offer dedicating the streets and sidewalks within the Sunrise PUD right-of-way for public use, the City accepts the streets and sidewalks and title is transferred to the City of Charlottesville;

NOW THEREFORE, BE IT RESOLVED by the Charlottesville City Council that it will accept responsibility for maintenance, repair and replacement of the permeable pavement

within the parking lanes and sidewalks of the right-of-way within the Sunrise PUD Development, effective on the date on which all of the following conditions have been satisfied:

1. All erosion and sediment control (E&S) plans, and any agreement-in-lieu-of-a plan, required pursuant to Chapter 10 of the City Code for construction activities within Phase 4 of the Stormwater Management Plan (Lot 15 as designated within the site plan for the PUD Development), shall include measures specifically designed to protect the permeable pavement from damage, silt, sedimentation, oil/ petroleum spills, hazardous materials spills, and other reasonably foreseeable impacts of construction activities.

2. The Stormwater Management Plan and/or the Stormwater Pollution Prevention Plan for the Sunrise PUD shall be modified or amended, as may be necessary: (i) to reflect the fact that the permeable pavement has been installed prior to completion of all construction activities within the Sunrise PUD and to correctly identify the numbered phases of construction activity, and (ii) to reflect any change in legal responsibility for completion of all requirements of the Stormwater Management Plan, the Stormwater Pollution Prevention Plan, or Virginia State Construction General Permit coverage, so that at no time will there be any lapse in coverage under the Construction General Permit and there will at all times be and remain a person that is legally responsible for compliance with and completion of all requirements of the Stormwater Management Plan or the Stormwater Pollution Prevention Plan for the Sunrise PUD. The City shall not be required to approve any final release of stormwater management or erosion and sediment control bonds posted by Sunrise Park LLC in accordance with VSMP/ VESCP regulations, until a Notice of Termination of construction general permit coverage has been approved in accordance with state regulations and city ordinances.

3. The City shall be provided with a supplemental E&S bond, in the form of a cash bond or letter of credit ("Supplemental Bond") in an amount deemed by the City Engineer to be sufficient to cover the cost of repairing, replacing and/or cleaning the permeable pavement in the event that the protective measures are insufficient under any circumstances, or otherwise fail, in whole or in part, prior to final completion of all requirements of the Erosion and Sediment Control Plan for the Sunrise PUD ("Final Completion"). The Supplemental Bond shall be provided by the person (including, without limitation, any corporation or limited liability company) who is permitted to conduct land disturbing activity within Lot 15 of the PUD Development.

- a. If the E &S measures are insufficient under any circumstances, or otherwise fail, in whole or in part, to protect the permeable pavement, then the City shall have the right, following reasonable written notice to the land disturber, to repair or replace the damage or clean the permeable pavement, as may be necessary, at the sole expense of the land disturber. Funds from the Supplemental Bond shall be released to the City upon request to pay the cost thereof. Thereafter, the Land Disturber shall immediately replenish the line of credit, so that the full amount of funds required to be posted as the Supplemental Bond will remain available to the City for subsequent use prior to Final Completion.
- b. No action by the City to replace, repair or clean the permeable pavement prior to Final Completion shall preclude the City from taking any action(s) to enforce the

requirements of the E&S Plan, or the Stormwater Management Plan for the Sunrise PUD.

4. Sunrise Park LLC and the permitted land disturber engaging in construction activities within Lot 15 of the Sunrise PUD shall each execute a written agreement satisfactory to the City Attorney, indemnifying and holding the City of Charlottesville harmless from and against all claims, contributions and responsibilities, financial or otherwise, for maintenance, operation or repair of any stormwater management facility(ies) within the Sunrise PUD (other than the permeable pavement within the on-street parking lanes and sidewalks, following City Council's acceptance of the Sunrise PUD streets and sidewalks into the public system for maintenance).

5. Sunrise Park LLC shall prepare a formal offer of dedication of the land within the boundaries of the platted right-of-way within the Sunrise PUD to the City. The formal offer of dedication shall be in a form approved by the City Attorney, and shall be accompanied by a deed and plat suitable for recordation within the City's land records which can be recorded in the land records of the Circuit Court and will transfer clear title to the City, as indicated by a title report and binding title commitment issued by a title company satisfactory to the City Attorney.

6. Within 90 days prior to the date of any City Council meeting at which Council will be requested to authorize the City Attorney to accept conveyance of title to the land and improvements located within the Rights of Way of the Sunrise PUD, the City Engineer shall verify in writing that the permeable paving within the street right-of-way proposed to be dedicated for public use and conveyed to the City has been permanently installed and is functioning to a level of effectiveness mutually agreed to by the Engineer and Sunrise Park LLC.

BE IT FURTHER RESOLVED THAT, when all of the conditions referenced above within this Resolution have been satisfied, Sunrise Park, LLC may submit a written request to the City Attorney's Office for a certification of compliance. Following certification of compliance by the City Attorney, the City Manager is authorized to place on a City Council agenda a resolution authorizing the City Attorney to accept conveyance of title to the streets and sidewalks within the Sunrise PUD, and a resolution accepting the improved streets and sidewalks within the Sunrise PUD into the City's public system for maintenance.

Approved by Council
June 3, 2019



Kyna Thomas, CMC
Clerk of Council

ATTACHMENT 3 (7 pages, total)

MARION
ENTERPRISES



September 23, 2019
Jack Dawson
City Engineer
City of Charlottesville

Re: Sunrise Lot 15 Permeable Pavement Agreement

Jack,

With this letter, we intend to memorialize our shared understanding of responsibility for the permeable concrete located at Sunrise Lot 15 as well as document the existing conditions on which our responsibility is based. It should be noted that the parcel is owned by Sunrise Cville LLC not BMC and the subsequent agreement will be between the City and Sunrise Cville LLC.

On Friday June 21, the City of Charlottesville represented by yourself and Hugh Blake met members of Sunrise Cville LLC (David Michaelson, Daniel Michaelson, and Reid Murphy) at Lot 15 to conduct pre-construction infiltration testing using ASTM C 1701. Prior to the meeting, the City established that the pervious concrete in the street was the only pervious infrastructure that Sunrise LLC needed to consider. As such, we conducted the infiltration tests at 4 locations in the pervious street parking denoted by locations 1 and 2 (Area 1) and locations 3 and 4 (Area 2) shown in the attached document. The results indicated that locations 1, 2, and 3 were completely clogged. Location 4 showed an infiltration rate of 16.7 in/hr, making the average for Area 2, 8.35 in/hr.

Per your email dated Monday June 24, 2019 the baseline infiltration rate for Area 1 is 0 in/hr in the. As such, we are not obligated to maintain or improve this condition post construction. For Area 2, we are obligated to maintain infiltration rates to 85% of the baseline or 7.098 in/hr. The 85% threshold was discussed as a compromise to the original figure proposed by phone call in July 2019.

Following construction, we will schedule a time to meet with City staff to evaluate Area 2 using ASTM C 1701 to ensure that the 85% threshold is met. If the average of Locations 3 and 4 is 7.098 in/hr or greater Sunrise LLC and Marion Enterprises will have no further liability for the pervious concrete street parking and our erosion and sediment control bond cannot be withheld thereafter on the basis of permeable pavement performance. If the threshold is not met, we agree to clean, re-test and if possible obtain the 7.098 in/hr threshold. In no circumstance will we be responsible for replacement of the existing pervious pavement as we are unaware whether it was constructed correctly to begin with and are not in control of many of the variables influencing performance such as road maintenance or incidental use such as resident oil changes and debris deposition.

In summary, Sunrise LLC agrees to maintain Area 2 to a minimum of 7.098 in/hr. but shall not be beholden to measure or guarantee any other pervious surfaces associated with Sunrise Lot 15 including the sidewalks or Area 1. We trust that we have accurately reflected the understanding between Sunrise Cville LLC and the City of Charlottesville, Virginia and that you will revise your document previously sent to us related to this matter to reflect this understanding.

Thank you for your consideration. Should we need to have a further discussion let me know.

Sincerely,

Daniel Michaelson,
Project Manager
Marion Enterprises, Inc.



Google

24'

2'

TEST #1

12'

TEST #2

2'

EXHIBIT 1

3D

+

-

^

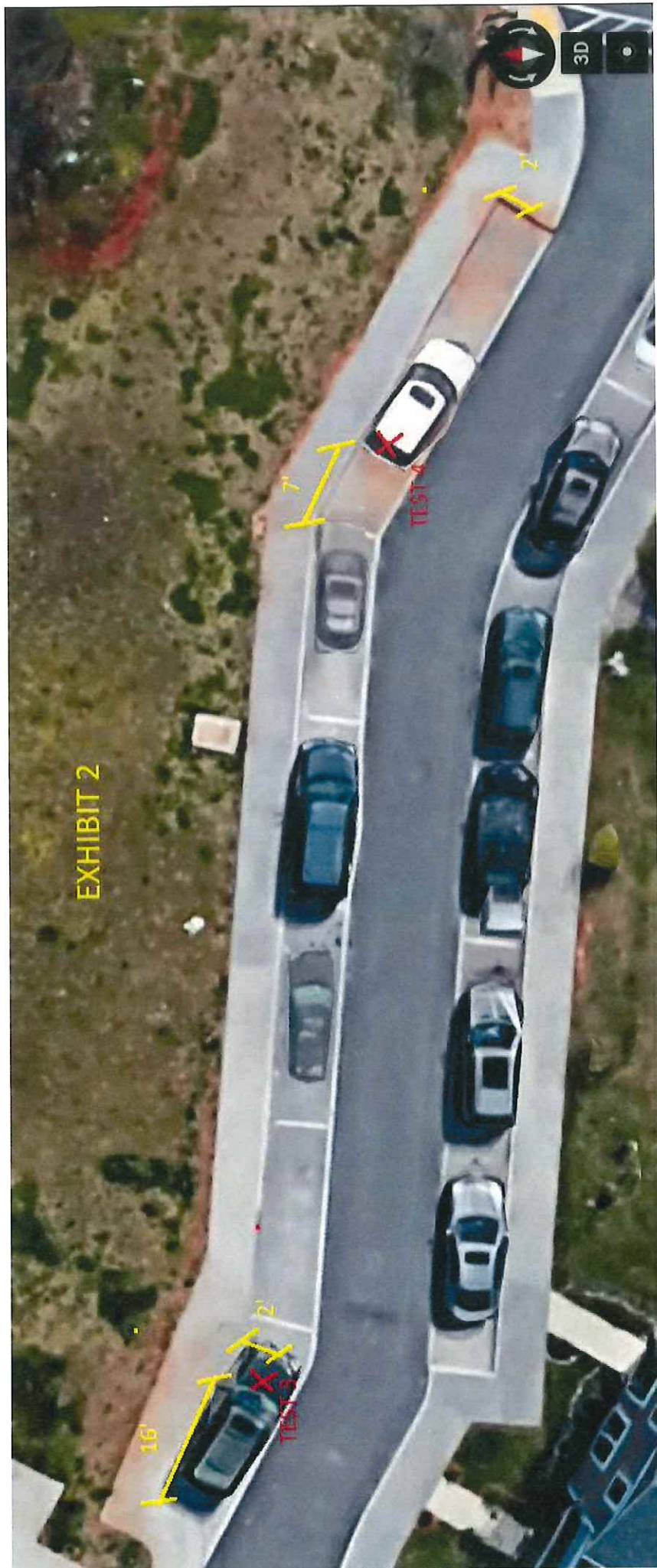


EXHIBIT 2

16'

2'

7'

2'

TEST 4

TEST 3

3D

EXHIBIT 3

$$I = \frac{KM}{(D^2 * t)}$$

where:

- I = Infiltration rate, mm/h [in./h],
- M = Mass of infiltrated water, kg [lb],
- D = Inside diameter of infiltration ring, mm [
- t = time required for measured amount of wa
- K = 4 583 666 000 in SI units or 126 870 in [

NOTE 5—The factor K has units of $(\text{mm}^3 \cdot \text{s}) / (\text{kg} \cdot \text{h})$ [needed to convert the recorded data (W , D , and t) to in mm/h [in./h].

M=	8 Lb
D=	12 in
t	422 s
K	126,870
I	16.70221 in/hr

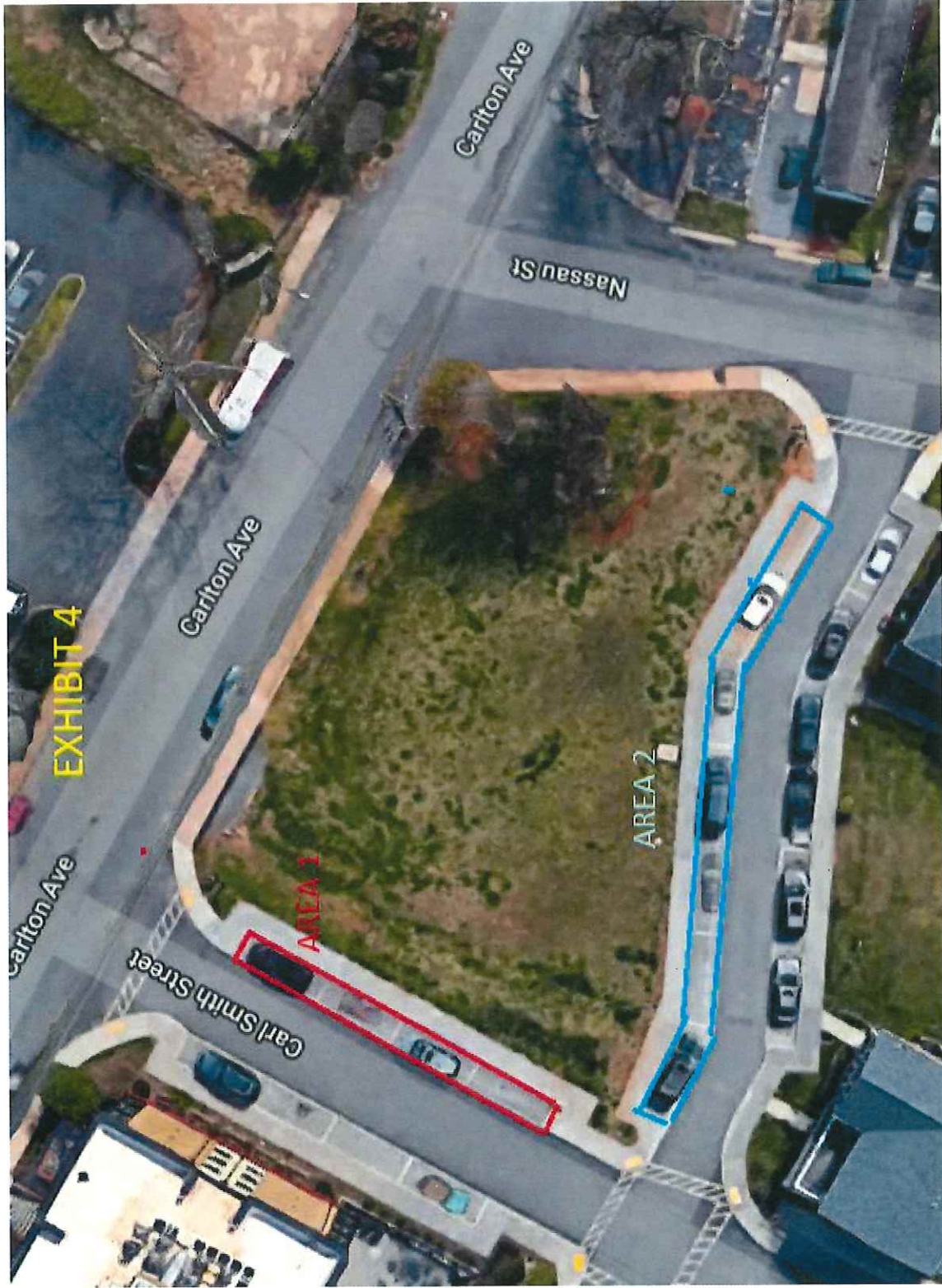


EXHIBIT 4

Carlton Ave

Nassau St

Carlton Ave

Carlton Ave

Carl Smith Street

AREA 1

AREA 2

CITY ENGINEER RESPONSE

Sunrise PUD Lot 15-Baseline Infiltration and Post Development Acceptance Procedures

List of Exhibits:

Exhibit 1: Area 1 Testing Locations

Exhibit 2: Area 2 Testing Locations

Exhibit 3: Test 4 Calculation

Exhibit 4: Area Locations

The work to be conducted by Sunrise Cville LLC ("SC") on Lot 15 is immediately adjacent 2 areas of parking, one of which is immediately downstream (identified on Exhibit 4 as "Area 2"). Both areas are constructed of porous concrete and are intended to function as SWM BMP's, which is within the ROW and will eventually be accepted for City maintenance. The following procedure will be conducted to ensure the efficiency of the BMP's is not degraded beyond a reasonable level during the build out of Lot 15.

Baseline

At a time prior to the start of any construction by SC on the site (including the establishment of perimeter sediment and erosion controls), staff from NDS Engineering and SC, will meet onsite to conduct infiltration tests. Test will be conducted in accordance with ASTM C1701, with any minor modifications agreed upon by both parties. For each area identified on the attached exhibit, 2 locations will be selected and agreed upon by NDS/SC. Each should be somewhat distant from the other and located in an area of which the surface appears to be representative of the area generally, in regards to apparent porosity and any obvious deposition of sediment or other clogging factors. The location should be noted accurately for future use in acceptance testing. One infiltration test should be conducted at each location (total of 4 tests). The results will be recorded and made available to all interested parties.

Acceptance

When all work by SC is completed on Lot 15, and the site is otherwise ready for termination of the general permit (asbuilts have been submitted and accepted, and all inspection punch lists completed), representatives of both NDS engineering and SC will meet again onsite to retest infiltration in the same locations. For each area, the results will be compared to the results for that same location within the area. Taking Area 1 as an example, the baseline test will be labeled with as A1 and A2, for a location 1 and location 2. The Acceptance test, will be labeled B1 and B2.

If

$$\left(\frac{B_1}{A_1} + \frac{B_2}{A_2}\right) \times \frac{1}{2}$$

Is ≥ 0.85

Than area 1 will be considered passing and will be accepted. Area 2 will have the same 85% threshold. If either areas fail to meet the 85% threshold, another cleaning shall be conducted by a professional cleaning service contracted and paid for by SC, and another test performed. If the 85% threshold is not met after cleaning, the facilities will not be considered acceptable, and further action will be taken.

If cleaning (by Habitat for Humanity, SC, or others) is conducted on any of the subject areas in between the Baseline and Acceptance testing, the testing procedures will proceed as described above without consideration to the cleaning, to the benefit of the contractor.

Baseline Results and Future Standards of Acceptance

Testing was conducted jointly by staff of City of Charlottesville NDS and representatives of SC (Sunrise Cville LLC) on June 21st, 2019. Four test were conducted at the locations shown on Exhibit 1 and Exhibit 2. The results of tests at locations 1-3 was that the material was completely clogged, while test location 4 yielded a result of 16.7 in/hr. Per the above formula, the minimum infiltration rates needed to be achieved for each area to be considered 'passing' and therefor acceptable to the City is :

Area 1: 0 in/hr

Area 2: 8.35 in/hr

ACKNOWLEDGED AND AGREED BY SUNRISE CVILLE LLC:

By: _____ Date: _____

Its: Member SCC Registr. #: _____

ACKNOWLEDGED BY BMC

By: _____ Date: _____

Its: _____

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Required:	** See Recommendation **
Staff Contact:	Ryan Davidson, Senior Budget and Management Analyst
Presenter:	Rev. Darnell Lundy, Piedmont District Baptist Association
Title:	City Funding for S.A.T. Preparation Workshops on Saturday, October 12 and October 26, 2019 - \$2,000

Background:

The Piedmont District Baptist Association is seeking the City's funding support for a series of S.A.T. Preparation workshops. The workshops will be held at Charlottesville High School on October 12, 2019 and October 26, 2019 from 9:00 AM to 1:00 PM. This event is open to all area students who are either a Junior or Senior in high school and looking to improve their S.A.T. testing scores. With this request the, Piedmont District Baptist Association is seeking \$2,000 from the City to help fund the costs of this free event.

Discussion:

The Piedmont District Baptist Association serves to be a source of help to the area churches and surrounding communities in Charlottesville, Albemarle, and the surrounding counties. The goal of the S.A.T. preparation workshops is to instruct students on ways to better prepare for taking the S.A.T. tests and to obtain higher S.A.T. scores with the ultimate goal of achieving higher scores that will help the students to gain admission into colleges and universities. The Piedmont District Baptist Association reached out to the teachers and principals at seven area high schools to help publicize the workshops, and also approached the 100 Black Men to help publicize the event.

The first S.A.T. preparation workshop was held on Saturday October 12, 2019 at Charlottesville High School. There were 33 students who registered for the event, 22 of which attended the workshop for the entire time, and 7 of which who were students from the City of Charlottesville. A second workshop will be held on Saturday October 26, 2019 from 9:00 AM to 1:00 PM, also at Charlottesville High School and similar attendance is expected.

The City funds will be used to give an honorarium for the teachers teaching in the workshop; to supply food drink and paper products; and to assist with paying for the S.A.T. testing fees for as

many students as possible if they are unable to pay for those fees, qualify for assistance, and are not having the fees paid for by another source, such as AVID or other similar groups.

Community Engagement:

N/A

Alignment with City Council's Vision and Strategic Plan:

The S.A.T. preparation workshops will contribute toward Strategic Goal #1: Inclusive, Self-sufficient Community, and specifically Goal 1.1 "Preparing students for the academic and vocational success" through helping to obtain higher S.A.T. scores that will help them to gain admission into colleges and universities.

Recommendation:

Staff has prepared a resolution that allocates \$2,000 from Council's Strategic Initiative Account should Council choose to fully fund this request. City Council could also amend the resolution if the decision is to fund at a lesser amount.

Budgetary Impact:

Staff is recommending this come from Council's Strategic Initiatives Account. No new money is required since this is coming from already appropriated funds.

Alternatives:

To fund this program at a lesser amount or not at all.

Attachments:

Resolution

RESOLUTION
City Funding for SAT Preparation Workshops on Saturday, October 12, 2019 and
Saturday October 26, 2019
\$2,000

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$2,000 is hereby paid from currently appropriated funds in the Council Strategic Initiatives account in the General Fund to Piedmont District Baptist Association in support of the SAT preparation workshops taking place on October 12, 2019 and October 26, 2019.

\$2,000

Fund: 105

Cost Center: 10110010000

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Requested:	Motion to Approve Resolution Initiating Public Hearing and Consideration of SIA Form Based Code
Presenter:	John Blair, City Attorney
Staff Contacts:	Alex Ikefuna, Director, NDS
Title:	Initiation of Zoning Ordinance Amendment: SIA-FBC

Background

In 2013 City Council established boundaries of a “Strategic Investment Area”, located to the south and east of the Downtown Mall. The SIA includes three major entrance corridors: Avon/Monticello, Ridge Street, and East High Street. Information regarding the SIA is available at <https://www.charlottesville.org/departments-and-services/departments-h-z/neighborhood-development-services/strategic-investment-area>

In 2013 the City also engaged the services of a consultant to review two then-existing planning documents ((i) 2000 Torti Gallas Commercial Corridor Study, and (ii) Wallace Roberts & Todd’s 2010 Master Plan for CRHA), and to prepare a plan to guide the future redevelopment of the SIA Area. That plan was delivered in 2013 (the “Strategic Investment Area Plan”), which was adopted and incorporated into the City’s Comprehensive Plan. *See* <https://www.charlottesville.org/home/showdocument?id=27996>

Discussion:

In 2017 the City conducted a competitive procurement process and selected a consultant to prepare a Zoning Ordinance amendment to implement the goals of the 2013 SIA Plan through a type of zoning ordinance known as “Form Based Code”. The consultant’s work began in September 2017 and City Council and the Planning Commission recently participated in a joint work session to receive a presentation by the consultants regarding their work over the past two years, and their recommendations for contents of the draft FBC. The consultants have reviewed staff and public comments, and have prepared a revised FBC to be presented to the Planning Commission at an upcoming workshop.

It is staff’s understanding that City Council wishes the SIA-FBC to proceed to a public hearing process, so that it may be considered by City Council for adoption in the near future. If that is City Council’s desire, Council should formally initiate a proposed amendment of the City’s zoning ordinance, for adoption of the Form Based Code. A resolution is attached for Council’s consideration.

Alignment with City Council’s Vision and Strategic Plan: The proposed FBC has been prepared to implement the recommendations of the Strategic Investment Area Plan (2013), a component of the

City's Comprehensive Plan. As the SIA Plan adopted by Council is aligned with Council's Vision and Strategic Plan, so then would be the FBC.

Community Engagement

See Form-Based Code Presentation (August 15, 2019)

<https://www.charlottesville.org/home/showdocument?id=66360>

Budgetary Impact

N/A

Recommendation: We recommend that you adopt this resolution, if you desire that the Form Based Code proceed through a public hearing process, to be considered for approval as an amendment of the zoning ordinance

Alternatives: Council may decline to adopt the Resolution

Attachments:

- (1) Resolution to Initiate Zoning Ordinance Amendments for adoption of SIA-FBC

**RESOLUTION
TO INITIATE AMENDMENT OF THE CITY’S ZONING ORDINANCE
TO ADOPT A FORM BASED ZONING CODE FOR
PHASE I OF THE STRATEGIC INVESTMENT AREA**

WHEREAS, the Charlottesville City Council hereby finds that the public necessity, convenience, general welfare or good zoning practice requires consideration of zoning map amendments and zoning text amendments, to reclassify certain land within the City’s Strategic Investment Area (“Phase I”) into a new zoning (form-based-code) district;

NOW, THEREFORE, be it resolved by the City Council of the City of Charlottesville that the zoning ordinance amendments referred to above are hereby initiated by City Council, and the amendments are hereby referred to Planning Commission in accordance with the requirements of Virginia Code §15.2-2285(B) for review, and for a joint public hearing to be conducted with City Council in November 2019. In accordance with Va. Code §15.2-2285(B) the Planning Commission will report its findings and recommendations back to City Council within 100 days of this Resolution.

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Required:	Approval of Resolution
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	John Blair, City Attorney Chris Cullinan, Director of Finance Lauren Hildebrand, Director of Utilities
Title:	Rivanna Water and Sewer Authority's Observatory Water Treatment Plant, Raw Water Pumping and Piping Upgrade Cost and Capacity Allocation Agreement

Background:

Rivanna Water and Sewer Authority's (RWSA) Observatory Water Treatment Plant was originally constructed in the mid-1950s. Since that time, very little equipment has been replaced or upgraded at the facility. The plant improvement project is part of RWSA's five-year Capital Improvement Plan. The project will provide needed equipment upgrades. The majority of the facility's equipment was installed when the facility was originally constructed and the equipment is not efficient, prone to unexpected failure, and does not have readily available replacement parts. Additionally, the plant's water capacity will increase from 7.7 million gallons per day (MGD) to 10 MGD to provide reliability and redundancy in our Urban Water System.

In addition, per the Community Water Supply Plan, projects are planned to replace the raw water pumping stations and the raw water piping located between the Ragged Mountain Reservoir and the Observatory Water Treatment Plant. The existing pump stations and piping are well beyond their useful life and are an integral part of our Urban Water System. The Four Party Agreement of 1973 between the City, Albemarle County, the Albemarle County Service Authority (ACSA), and RWSA and the December 1, 2003 Agreement between the City, the ACSA, and RWSA require RWSA to allocate any additional water capacity, and the cost to construct the additional capacity, to the party which will benefit from the additional capacity.

Discussion:

The majority of the costs for the upcoming Observatory Water Treatment Plant Upgrade project will be for operational improvements (\$22.5 million); a portion of the work that will increase treatment capacity from 7.7 to 10 MGD is estimated to cost \$2.95 million. The raw water pumping stations' replacement cost is estimated to be \$4.8 million with the raw water piping replacement cost estimated at \$13.2 million. While a portion of the total cost for the projects is for operational replacement, the

projects also provide additional pumping and piping capacity at an estimated cost of \$3.4 million and \$3.3 million, respectively.

A proposed Agreement has been developed allocating 48% of the additional capacity cost for the Observatory Water Treatment Plant and raw water piping project to the City, and 52% to the ACSA. Further, the proposed Agreement allocates 28% of the combined capacity and non-capacity costs for the pump stations to the City, and 72% to the ACSA. The City's Director of Utilities, ACSA Executive Director, RWSA attorney, and RWSA Executive Director have worked to develop the terms of this Agreement over the last year based on previous capacity allocation agreements. Costs to the City and ACSA will be allocated annually in RWSA's debt service charges for Capital Improvement Projects. The Agreement was approved by the RWSA Board on September 24, 2019, and RWSA has requested the City Council consider approving the Agreement.

Alignment with City Council's Vision and Strategic Plan:

The project supports City Council's "Green City" vision. It contributes to Goal 3 of the Strategic Plan: Beautiful Environment, and Objective 3.2: Provide reliable and high quality infrastructure.

Community Engagement:

The approval of the agreement for the Observatory Water Treatment Plant and the Raw Water Pumping and Piping Upgrade Cost and Capacity Allocation Agreement was discussed and approved at the RWSA Board meeting on September 24, 2019. It will also be discussed at a future ACSA Board meeting.

Budgetary Impact:

Costs to the City will be allocated annually in RWSA's debt service charges for the Capital Improvement Projects. These costs are then incorporated in the City's utility rates that are approved by City Council.

Recommendation:

Staff recommends approval of the resolution authorizing the Mayor to execute the Capacity Cost Allocation Agreement between the City, ACSA and RWSA.

Alternatives:

Council could choose to modify or not execute the Capacity Cost Allocation Agreement.

Attachments:

Resolution
Proposed Agreement

RESOLUTION

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that the Mayor is hereby authorized to sign the following document, attached hereto, in form approved by the City Attorney or his designee.

An Agreement among the City of Charlottesville, the Albemarle County Service Authority, and the Rivanna Water and Sewer Authority regarding the Observatory Water Treatment Plant, Raw Water Pumping and Piping Upgrade Cost, and Capacity Allocation.

**OBSERVATORY WATER TREATMENT PLANT,
RAW WATER PUMPING AND PIPING UPGRADE
COST AND CAPACITY ALLOCATION AGREEMENT**

This OBSERVATORY WATER TREATMENT PLANT, RAW WATER PUMPING AND PIPING UPGRADE COST AND CAPACITY ALLOCATION AGREEMENT (this "Agreement") is made for purposes of identification this ____ day of _____, 2019, by and between the CITY OF CHARLOTTESVILLE, Virginia, a municipal corporation (the "City"), the ALBEMARLE COUNTY SERVICE AUTHORITY, a public body politic and corporate ("ACSA") and the RIVANNA WATER and SEWER AUTHORITY, a public body politic and corporate ("RWSA").

WITNESSETH:

A. RWSA owns and/or operates facilities for the receipt and treatment of potable water pursuant to the terms of a Four Party Agreement dated June 12, 1973, among the City, RWSA, ACSA, and the Board of Supervisors of Albemarle County, Virginia (the "Four Party Agreement") and several supplementary agreements.

B. Pursuant to Section 4.3 of the Four Party Agreement, the City and ACSA have agreed upon a project, not contemplated by their previous agreements, for upgrade and expansion of the water production capacity of the Observatory Water Treatment Plant from 7.7 million gallons per day ("mgd") to 10 mgd, as well as replacement and upgrade of the raw water pump stations and pipelines between the Ragged Mountain Reservoir and the Observatory Water Treatment Plant (the "Project"), and thereby increase the water production capacity of RWSA's urban water system (the "Urban Water System"). The Urban Water System consists of all water related facilities within or serving the City of Charlottesville and the urban growth area of

Albemarle County surrounding the City of Charlottesville, including water plants and all reservoirs, pipelines, pumping stations, storage tanks and other appurtenances connected to water plants and operated by RWSA.

C. The City, ACSA and RWSA are parties to an agreement dated December 1, 2003 (the “December 1, 2003 Agreement”) regarding the allocation of expenses for a water supply project to increase the safe-yield provided by the Urban Water System by raising the elevation of the South Fork Rivanna Reservoir. RWSA never constructed this project, however, since 2003 RWSA has allocated costs to the City and ACSA for water supply projects to increase safe yield (as opposed to costs for water treatment capacity related projects) based upon the December 1, 2003 Agreement’s agreed upon percentages of 27% to the City and 73% to ACSA, with the exception of the water supply project costs for those projects identified in the Ragged Mountain Dam Project Agreement dated as of January 1, 2012 by and among the City, ACSA and RWSA, the costs of which were allocated between the City and ACSA pursuant to the Water Cost Allocation Agreement dated as of January 1, 2012 by and among the City, ACSA and RWSA (the “Water Cost Allocation Agreement”), entered into as part of the Ragged Mountain Dam Project Agreement dated as of January 1, 2012 by and among the City, ACSA and RWSA (the “Ragged Mountain Dam Project Agreement”).

D. Paragraph 4 of the December 1, 2003 Agreement provides for the allocation of RWSA’s Urban Water System Plants’ capacity by allocating 48% of such capacity to the City and 52% of such capacity to ACSA, and provides further that these respective percentages shall be used for the allocation of all non-capacity expansion related charges imposed by RWSA, including future non-capacity related projects for the Urban Water System.

E. Paragraph 5 of the December 1, 2003 Agreement provides that if any improvements increase capacity (as opposed to safe-yield) of the Urban Water System, the City and ACSA will negotiate a new cost sharing and capacity allocation agreement as a result of the increased capacity.

F. The Water Cost Allocation Agreement did not address cost allocation for new projects which would result in increased capacity of the Urban Water System.

G. The Project consists primarily of improvements not related to capacity increase with costs preliminarily estimated at \$25.5 million for the plant upgrades, \$4.8 million for pump stations replacement and \$13.2 million for piping, of which only \$2.95 million, \$3.4 million and \$3.3 million, respectively, are estimated as being related to capacity increase.

H. As a primarily non-capacity related project, RWSA has been allocating Project costs to the City and ACSA on the basis of Paragraph 4 of the December 1, 2003 Agreement with 48% of such costs allocated to the City and 52% of such costs allocated to ACSA.

I. The City and ACSA have now reached agreement on future cost allocation for the non-capacity related and capacity related costs of the Project and the allocation of the increased capacity of the Urban Water System expected to result from the Project.

J. The parties recognize that the infrastructure improvements to the Observatory Water Treatment Plant and the raw water lines supplying the plant must be coupled with a future finished water distribution pipe in order to receive the benefits of updating the plant and raw water supply lines in order to build redundancy into the Urban Water System and allow RWSA to provide continuously reliable service.

K. RWSA has commenced an Urban Finished Water Infrastructure Master Plan as part of its capital improvements program which will identify one or more locations for a finished water distribution line from the Observatory Water Treatment Plant in lieu of completion of the Eastern

Branch Phase of the extension of the water transmission system originally identified in the Agreement dated October 26, 1987 between RWSA, the City and ACSA (the “Southern Loop Agreement”).

AGREEMENT:

NOW THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the City, ACSA and RWSA agree as follows:

1. RWSA’s Urban Water System water treatment plants (the “Urban Water System Plants”) currently have a production capacity of 21.7 mgd of potable water. The Project is expected to provide an additional 2.3 mgd of production capacity in the Observatory Water Treatment Plant, and a total production capacity of 24 mgd in the Urban Water System Plants.

2. The City and ACSA agree that following completion of the Project, RWSA’s expected Urban Water System Plants’ capacity of 24 mgd will be allocated 48% to the City (11.5 mgd) and 52% to ACSA (12.5 mgd); and each shall pay these respective percentages of all non-capacity expansion related charges imposed by RWSA, including future non-capacity related projects for the Urban Water System.

3. Effective [July 1, 2019], the City and ACSA agree that all costs for the Project, whether capacity related or not capacity related, with the exception of the capacity related portion of the pump stations replacement as set forth in Paragraph 4 below, will be shared with 48% of such costs continuing to be allocated to the City and 52% of such costs continuing to be allocated to ACSA. All costs incurred by RWSA for the Project, whether capacity related or not capacity related, for work performed or debt service owed for periods prior to July 1, 2019, irrespective of when invoiced or paid, have been allocated to the City and ACSA using these same allocation

percentages for non-capacity related projects set forth in Paragraph 4 of the December 1, 2003 Agreement. Costs for work performed and debt service owed related to the Project include the budgeted costs of engineering, construction, legal and land costs, administrative costs, permit fees, debt service (including anticipated debt service in the period before bonds are issued or loans are obtained to finance the Project), and establishment of reserves and related expenses (hereinafter collectively referred to as the “Debt Service Charges”). RWSA’s water rates have been determined and calculated, and continue to be determined and calculated, as provided in Article VII of the Four-Party Agreement, as amended by Amendment No. 1 to Agreement dated as of October 27, 2015 by and among the City, ACSA, the Board of Supervisors of Albemarle County and RWSA (“Amendment No. 1”), and as provided in the Working Agreement on Urban Area Wholesale Flow Allocation and Billing Methodology dated January 24, 1983 by and among RWSA, ACSA and the City.

4. The capacity related portion of the cost for the pump stations replacement will be shared by allocating 20% of such cost to the City and 80% of such cost to ACSA. The non-capacity related portion of the cost for the pump stations replacement will be shared by allocating 48% of such cost to the City and 52% of such cost to ACSA as provided in Paragraph 3 above, as previously agreed to by the City and ACSA pursuant to Paragraph 3 of the Water Cost Allocation Agreement for pumping facilities under the SRR-RMR Pipeline project (as such term is defined in Paragraph 1(d) of the Ragged Mountain Dam Project Agreement). Based upon the estimated costs of the pumping stations replacement set forth in Recital G above, combining the capacity related and non-capacity related portions of such costs results in an allocation of 28% of such costs to the City and 72% of such costs to ACSA.

5. If any future non-capacity related projects result in an increase in capacity of any of the Urban Water System Plants, the City and ACSA will negotiate a new cost sharing and capacity allocation agreement as a result of the increased capacity. If any future non-capacity related projects result in a decrease in capacity of any of the Urban Water System Plants, the resulting capacity shall be allocated to the City and ACSA proportionally according to the 48%/52% allocation set forth herein.

6. RWSA shall be responsible for all aspects of the design, easement acquisition and construction of the Project.

7. The City and ACSA will continue to pay for routine labor, chemicals, supplies, power, and other operational costs associated with water production in the Urban Water System on the basis of their respective percentage volume use as set out in the Four Party Agreement, as supplemented by (i) Joint Resolution adopted in January 1983 (as such resolution was clarified by Resolution of the Albemarle County Service Authority dated March 17, 1983, and by Resolution of the Charlottesville City Council dated May 2, 1983, and modified by Joint Resolution adopted in December, 1983), (ii) Working Agreement on Urban Area Wholesale Flow Allocations and Billing Methodology dated January 24, 1983; and (iii) Agreement dated October 26, 1987, relating to the operation of the RWSA's Urban Water System and the division of RWSA's operational costs between the City and ACSA, and as amended by Amendment No. 1.

8. The City and ACSA agree that an additional finished water distribution line, in lieu of the Eastern Branch Phase previously agreed to pursuant to the Southern Loop Agreement, to be located more centrally through the City of Charlottesville and the exact location of which will be identified by RWSA upon completion of the Urban Finished Water Infrastructure Master Plan, is necessary in order to receive the benefits of updating the Observatory Water Treatment Plant and

raw water supply lines in order to build redundancy into the Urban Water System and to allow RWSA to provide continuously reliable service. The City and ACSA agree to cooperate fully to insure the additional finished water distribution line is constructed expeditiously to be completed as nearly as possible with the completion of the Project.

Witness the following duly authorized signatures and seals:

CITY OF CHARLOTTESVILLE

By: _____
Mayor

ALBEMARLE COUNTY SERVICE AUTHORITY

By: _____
Chairman

RIVANNA WATER AND SEWER AUTHORITY

By: _____
Chair

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, as Mayor of the City of Charlottesville, Virginia.

Notary Public

My Commission Expires: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as Chairman of the Albemarle County Service Authority.

Notary Public

My Commission Expires: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as Chair of the Rivanna Water and Sewer Authority.

Notary Public

My Commission Expires: _____

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Required:	1 st Reading on Ordinance
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	John Blair, City Attorney Chris Cullinan, Director of Finance Lauren Hildebrand, Director of Utilities
Title:	Ordinance Repealing Chapter 31 Section 31-103 (Buck Mountain) Surcharge for water connections

Background:

The Rivanna Water and Sewer Authority (RWSA) Buck Mountain surcharge was originally intended to fund some of the cost to purchase the Buck Mountain property, located near Free Union in Albemarle County. The intended purpose of the property was to construct a community water supply reservoir. In a Joint Resolution of 1983, the City and the Albemarle County Service Authority (ACSA) requested the RWSA to purchase the property for the proposed Buck Mountain Reservoir. The City and the ACSA also agreed to collect a surcharge for each new water service connection in the City and in the urban water area of the county. Those funds were allocated to the RWSA to help pay for the bonds used to finance the purchase of the property. From 1984 – 1987, RWSA purchased 1313 acres costing \$6.95 million for the reservoir site. While the reservoir was never constructed due to the presence of the James Spinymussel, a state and federally-listed endangered species, 600 acres of the property were preserved in 2013 to mitigate the environmental impacts of the Ragged Mountain Dam project.

Discussion:

City Code Chapter 31 Section 31-103 establishes a surcharge for water connections. The surcharge is collected by the City and then remitted to RWSA to offset the cost of the Buck Mountain property. RWSA has requested the City seek approval to terminate the Buck Mountain Surcharge that was implemented in 1983.

The Rivanna Water and Sewer Authority Board approved the attached Joint Resolution to terminate the surcharge at the regular meeting on Tuesday, September 24, 2019. To terminate the surcharge, this Resolution must be approved by the Bond Trustee, the RWSA Board, City Council, the Albemarle County Board of Supervisors and the Board of Directors of the Albemarle County Service Authority (ACSA). This Resolution states that the parties have agreed that it is no longer necessary to collect this surcharge to pay the long-term debt financing for purchase of the property. The Bond Trustee has approved termination of the surcharge. The surcharge will terminate for both the City and the ACSA

upon the last approval by the parties.

Alignment with City Council’s Vision and Strategic Plan:

It contributes to Goal 5: Responsive Organization, and Objective 5.1: Integrate effective business practices and strong fiscal policies.

Community Engagement:

The termination of the Buck Mountain Surcharge was discussed and approved at the RWSA Board meeting on September 24, 2019. It will also be discussed at future Albemarle County Board of Supervisors and ACSA Board meetings.

Budgetary Impact:

There is no budget impact to the City.

Recommendation:

Staff recommends approval of the ordinance Chapter 31 Section 31-103 that repeals the surcharge for water connections and the Joint Resolution that terminates the Buck Mountain Surcharge.

Alternatives:

Council could choose to deny the request and the City would continue to collect the fee for RWSA unnecessarily.

Attachments:

Proposed Ordinance
Joint Resolution to Terminate Surcharge

**AN ORDINANCE
REPEALING SECTION 31-103
OF CHAPTER 31 (UTILITIES)**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that:

Section 31-103 of Chapter 31 of the Code of the City of Charlottesville (1990) is repealed as follows:

Sec. 31-103. -- Surcharge for water connections.

(a) ~~In addition to every other charge imposed by this chapter, every person making application for a new water service connection shall pay a surcharge based upon the size of the meter required according to the following schedule:~~

Meter Size	Capacity Gal./Min.	Factor	Surcharge
5/8"	20	1	\$200.00
1"	50	2.5	500.00
1½"	100	5	1,000.00
2"	160	8	1,600.00
3"	350	12.5	2,500.00
4"	600	30	6,000.00
6"	1,250	62.6	12,000.00
8"	1,800	90	18,000.00
10"	2,900	145	29,000.00
12"	4,300	215	43,000.00

~~New connections to master metered systems, not requiring the setting of a new meter, shall nevertheless be subject to the surcharge, based on the capacity of the connection, expressed in gallons per minute on the foregoing schedule.~~

(b) ~~The director of finance shall remit all amounts collected under this section to the Rivanna Water and Sewer Authority for debt service on the Buck Mountain Reservoir Project.~~

JOINT RESOLUTION

WHEREAS, the Rivanna Water and Sewer Authority (“Rivanna”) was formed in 1972 by a joint resolution of Albemarle County and the City of Charlottesville for the purpose of maintaining facilities to supply drinking water to both communities under terms set out in the "Four Party Agreement" dated June 12, 1973 among the City, the County, the Albemarle County Service Authority, and Rivanna; and

WHEREAS, pursuant to Section 4.3 of the Four Party Agreement, Rivanna, at the request of the City and the County, purchased certain land in the County of Albemarle for the purpose of building a reservoir on Buck Mountain Creek; and

WHEREAS, the purchase of such land was financed with the issuance of bonds by Rivanna; and

WHEREAS, pursuant to a Joint Resolution adopted by the Albemarle County Board of Supervisors on January 5, 1983, the Charlottesville City Council on January 18, 1983, the Albemarle County Service Authority (the “Service Authority”) on March 17, 1983 and the Rivanna Water and Sewer Authority on January 10, 1983, the City and the Service Authority were directed, beginning July 1, 1983, to collect a surcharge for each new water service connection in the City and in the urban water area of the County, respectively and remit such surcharges to Rivanna for the purpose of paying the debt incurred under the bonds; and

WHEREAS, the Joint Resolution provided that that obligation of the City and the Service Authority to collect the surcharge would terminate upon the retirement of the long-term debt financing incurred by Rivanna for the land acquisition; and

WHEREAS, the bonds issued by Rivanna were subsequently refinanced with bonds issued by Rivanna for other projects; and

WHEREAS, as a result of such refinancings it cannot be determined exactly when such long-term debt financing for the land acquisition has been retired; and

WHEREAS, the parties have agreed that it is no longer necessary to collect such surcharge in order to pay the long-term debt financing under such refinanced bonds;

NOW, THEREFORE, BE IT JOINTLY RESOLVED BY ALBEMARLE COUNTY, THE CITY OF CHARLOTTESVILLE, THE ALBEMARLE COUNTY SERVICE AUTHORITY, AND THE RIVANNA WATER AND SEWER AUTHORITY, as follows:

1. The obligation of the City and the Albemarle County Service Authority under the Joint Resolution to collect the surcharge for each new water service connection in the City and in the urban water area of the County and remit such surcharges to the Rivanna Water and Sewer Authority shall be terminated upon the last to occur of (i) approval of this Joint Resolution by Albemarle County, the City of Charlottesville, the Albemarle County Service Authority and the Rivanna Water and Sewer Authority, and (ii) approval of such termination by the bond trustee.

ATTEST:

ADOPTED BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF ALBEMARLE

Date

Clerk

Chairman

ATTEST:

ADOPTED BY THE COUNCIL OF THE CITY
OF CHARLOTTESVILLE

Date

Clerk

Mayor

ATTEST:

ADOPTED BY THE ALBEMARLE COUNTY
SERVICE AUTHORITY

Date

Secretary

Chairman

ATTEST:

ADOPTED BY THE RIVANNA WATER AND
SEWER AUTHORITY

Date

Secretary

Chairman

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date:	October 7, 2019
Action Required:	Ordinance Approval (Consent Agenda – 1st of 2 readings)
Staff Contacts:	Sebastian Waisman, Assistant City Attorney
Presenter:	John C. Blair, II, City Attorney
Title:	PEG Bandwidth VA, LLC - Telecommunications Franchise

Background:

PEG Bandwidth VA, LLC (“PEG”), which is a subsidiary of Uniti Fiber, LLC that is authorized to operate in the Commonwealth of Virginia, requested a new franchise agreement to allow it to take over the existing fiber lines and equipment formerly held by Intellifiber Networks, LLC (“Intellifiber”), which has gone into bankruptcy. Intellifiber has had a franchise agreement with the City since 2015. The current franchise agreement expires October 19, 2020, but Intellifiber will cease to exist as an independent corporate entity before that time.

Discussion:

The proposed franchise ordinance contains substantially the same terms as the model Telecommunications Franchise ordinance developed by the City Attorney’s Office and used in other franchises granted by the City. The purpose of the franchise will not change. In accordance with the franchise terms, PEG is prepared to comply with the bonding and insurance requirements set forth in the agreement.

Budgetary Impact:

The proposed franchise has no anticipated budget impact. However, the franchise agreement reserves the right to impose a public right-of-way use fee as allowed by Virginia law through the passage of an ordinance providing for such fee. Previously, Council has declined to adopt such a fee.

Recommendation:

Approve the renewal of the franchise agreement. **Suggested motion: I move to adopt the Ordinance granting a telecommunications franchise to PEG Bandwidth VA, LLC as set forth within the written franchise included with the October 7, 2019 Council agenda materials.**

Alternatives:

Council may decline to adopt the ordinance and decline to allow PEG to take over the fiber lines and equipment previously held by Intellifiber,

Attachments: Proposed PEG Bandwidth VA, LLC Franchise Agreement Ordinance

**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
PEG BANDWIDTH VA, LLC, ITS SUCCESSORS AND ASSIGNS
TO USE THE STREETS AND OTHER PUBLIC PLACES
OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
FOR ITS POLE, WIRES, CONDUITS, CABLES AND FIXTURES,
FOR A PERIOD OF FIVE (5) YEARS**

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that PEG Bandwidth VA, LLC, a Delaware limited liability company (the “Company”), its successors and assigns, is hereby granted a telecommunications franchise for a period of five (5) years from the effective date hereof be and is hereby authorized and empowered to erect, maintain and operate certain telephone lines and associated equipment, including posts, poles, cables, wires and all other necessary overhead or underground apparatus and associated equipment on, over, along, in, under and through the streets, alleys, highways and other public places of the City of Charlottesville, Virginia (the “City”) as its business may from time to time require; provided that:

ARTICLE I

SECTION 101 PURPOSE AND SCOPE

To provide for the health, safety and welfare of its citizens and to ensure the integrity of its roads and streets and the appropriate use of the Public Rights-of-Way, the City strives to keep the right-of-way under its jurisdiction in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City hereby enacts this Ordinance relating to a telecommunications right-of-way franchise and administration. This Ordinance imposes regulation on the placement and maintenance of Facilities and equipment owned by the Company currently within the City’s Public Rights-of-Way or to be placed therein at some future time. The Ordinance is intended to complement, and not replace, the regulatory roles of both state and federal agencies. Under this Ordinance, when excavating and obstructing the Public Rights-of-Way, the Company will bear financial responsibility for their work to the extent provided herein. Finally, this Ordinance provides for recovery of the City’s reasonable out-of-pocket costs related to the Company’s use of the Public Rights-of-Way, subject to the terms and conditions herein.

SECTION 102 AUTHORITY TO MANAGE THE RIGHT OF WAY

This Ordinance granting a telecommunications franchise is created to manage and regulate the Company’s use of the City’s Public Rights-of-Way along city roads pursuant to the authority granted to the City under Sections 15.2-2015, 56-460, and 56-462(A) of the Virginia Code and other applicable state and federal statutory, administrative and common law.

This Ordinance and any right, privilege or obligation of the City or Company hereunder, shall be interpreted consistently with state and federal statutory, administrative and common law, and such statutory, administrative or common law shall govern in the case of conflict. This Ordinance shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce other general ordinances necessary to protect the health, safety, and welfare of the public.

SECTION 103 DEFINITIONS

- 103.1** **CITY** means the City of Charlottesville, Virginia, a municipal corporation.
- 103.2** **COMPANY** means PEG Bandwidth VA, LLC, a Delaware limited liability company, including its successors and assigns.
- 103.3** **DIRECTOR** means the Director of Public Works for the City of Charlottesville.
- 103.4** **FACILITY** means any tangible asset in the Public Rights-of-Way required to provide utility service, which includes but is not limited to; cable television, electric, natural gas, telecommunications, water, sanitary sewer and storm sewer services.
- 103.5** **PATCH** means a method of pavement replacement that is temporary in nature.
- 103.6** **PAVEMENT** means any type of improved surface that is within the Public Rights-of-Way including but not limited to any improved surface constructed with bricks, pavers, bituminous, concrete, aggregate, or gravel or some combination thereof.
- 103.7** **PUBLIC RIGHTS-OF-WAY** or **PROW** means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the City has an interest, included other dedicated rights-of-way for travel purposes and utility easements of the City, paved or otherwise. This definition does not include a state highway system regulated pursuant to the direction of the Commonwealth Transportation Board.

ARTICLE II

SECTION 201 INITIAL INSTALLATION

The initial installation of equipment, lines, cables or other Facilities by the Company shall be a mixture of overhead and underground in Public Rights-of-Way as depicted in Exhibit A, attached hereto, and as may have been or may hereafter be modified, and incorporated by reference.

SECTION 202 SUBSEQUENT INSTALLATION

- 202.1** **SUBSEQUENT INSTALLATION MADE PURSUANT TO AN APPROVED PROW PLAN:** Additional Facilities installed within the PROW may be placed overhead or underground pursuant to an approved request by the Company made pursuant to Article III, and in accordance with such generally applicable ordinances or regulations governing such installations that have been adopted by the City from time to time.
- 202.2** **GENERAL PREFERENCE FOR UNDERGROUND FACILITIES:** As a matter of policy, the City prefers that the installation of any Facility within the PROW occur underground. Notwithstanding this preference, the City recognizes that in some circumstances the placement of Facilities underground may not be appropriate.

- 202.3 INSTALLATION OF OVERHEAD FACILITIES:** Where a subsequent PROW plan is approved for overhead installation, the Company shall use its existing Facilities, or those of another utility where available. If the PROW plan calls for overhead installation and existing Facilities cannot accommodate the proposed installation, the Company will clearly indicate in the PROW plan its intended placement of new Facilities for the Director's review and consideration pursuant to Article III.
- 202.4 FUTURE ORDINANCES:** Nothing herein shall be construed to limit the authority of the city to adopt an ordinance that will restrict the placement of overhead lines for all utilities using the PROW within a defined area of the City.
- 202.5 CONDITIONS FOR RELOCATING UNDERGROUND:** The Company agrees that if, at some future time, the telephone and other utility lines on the posts, poles, and other overhead apparatus upon which the Company has placed some or all of its Facilities in the City's PROWs are relocated underground, the Company will also, at such time, relocate its Facilities on those posts, poles, and other overhead apparatus underground at its expense. Notwithstanding the foregoing, the City shall reimburse Company for any such relocation expense if such reimbursement is required by Section 56-468.2 of the Code of Virginia, or other applicable law.

SECTION 203 INSPECTION BY THE CITY

The Company shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times, during the execution of, and upon completion of, all work conducted pursuant to this Ordinance.

SECTION 204 AUTHORITY OF THE CITY TO ORDER CESSATION OF EXCAVATION

At the time of inspection, or any other time as necessary, the City may order the immediate cessation and correction of any work within the Public Rights-of-Way which poses a serious threat to the life, health, safety or well-being of the public.

SECTION 205 LOCATION OF POSTS, POLES, CABLES AND CONDUITS

In general, all posts, poles, wires, cables and conduits which the Company places within the Public Rights-of-Way pursuant to this Ordinance shall in no way permanently obstruct or interfere with public travel or the ordinary use of, or the safety and convenience of persons traveling through, on, or over, the Public Rights-of-Way within the City of Charlottesville.

SECTION 206 OBSTRUCTION OF THE PROW

Generally, any obstruction of the PROW is limited to the manner clearly specified within an approved PROW plan.

- 206.1 REMOVAL OF OBSTRUCTIONS:** Obstructions of the PROW not authorized by an approved PROW plan shall be promptly removed by the Company upon receipt of notice from the City. The City's notice of the Obstruction will include a specified

reasonable amount of time determined by the Director for the Company's removal of the obstruction, given the location of the obstruction and its potential for an adverse effect on the public's safety and the public's use of the PROW. If the Company has not removed its obstruction from the PROW within the time designated within the notice, the City, at its election, will make such removal and the Company shall pay to the City its reasonable costs within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within the thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the removal and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to administrative, overhead mobilization, material, labor, and equipment related to removing the obstruction.

206.2 NO OBSTRUCTION OF WATER: The Company shall not obstruct the PROW in a manner that interferes with the natural free and clear passage of water through the gutters, culverts, ditches tiles or other waterway.

206.3 PARKING, LOADING AND UNLOADING OF VEHICLES SHALL NOT OBSTRUCT THE PROW: Private vehicles of those doing work for the Company in the PROW must be parked in a manner that conforms to the City's applicable parking regulations. The loading or unloading of trucks must be done in a manner that will not obstruct normal traffic within the PROW, or jeopardize the safety of the public who use the PROW.

ARTICLE III

SECTION 301 ADMINISTRATION OF THE PUBLIC RIGHTS OF WAY

The Director is the principal City official responsible for the administration of this Ordinance granting a telecommunications franchise to the Company and any of its PROW Plans. The Director may delegate any or all of the duties hereunder to an authorized representative.

SECTION 302 SUBMISSION OF PROW PLAN

At least thirty (30) days before beginning any installation, removal or relocation of underground or overhead Facilities, the Company shall submit detailed plans of the proposed action to the Director for his or her review and approval, which approval shall not unreasonably be withheld, conditioned, or delayed.

SECTION 303 GOOD CAUSE EXCEPTION

303.1 WAIVER: The Director, at his or her sole judgment, is authorized to waive the thirty (30) day requirement in Section 302 for good cause shown.

303.2 EMERGENCY WORK: The Company shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The Company will proceed to take whatever actions are necessary to respond to the emergency, or as directed by the Director.

If the City becomes aware of an emergency regarding the Company's facilities, the City will attempt to contact the Company's emergency representative as indicated in Section 1202. In any event, the City shall take whatever action it deemed necessary by the Director to make an appropriate and reasonable response to the emergency. The costs associated with the City's respond shall be borne by the person whose facilities occasioned the emergency.

SECTION 304 DECISION ON PROW PLAN BY THE DIRECTOR

304.1 DECISION: The Director, or his or her authorized representative, shall, within thirty (30) days, either approve the Company's plans for proposed action as described in Section 302 or inform the Company of the reasons for disapproval. The Company shall designate a responsible contact person with whom officials of the Department of Public Works can communicate on all matters relating to equipment installation and maintenance.

304.2 APPEAL: Upon written request within thirty (30) days of the Director's decision, the Company may have the denial of a PROW Plan reviewed by the City Manager. The City Manager will schedule its review of the Director's decision within forty-five (45) days of receipt of such a request. A decision by the City Manager will be in writing and supported by written findings establishing the reasonableness of its decision.

SECTION 305 MAPPING DATA

Upon completion of each project within the Public Rights-of-Way pursuant to this Ordinance, the Company shall provide to the City such information necessary to maintain its records, including but not limited to:

- (a) location and elevation of the mains, cables, conduits, switches, and related equipment and other Facilities owned by the Company located in the PROW, with the location based on (i) offsets from property lines, distances from the centerline of the Public Rights-of-Way, and curb lines; (ii) coordinates derived from the coordinate system being used by the City; or (iii) any other system agreed upon by the Company and the City;
- (b) the outer dimensions of such Facilities; and
- (c) a description of above ground appurtenances.

ARTICLE IV

SECTION 401 COMPLIANCE WITH ALL LAW AND REGULATIONS

Obtaining this telecommunications franchise shall in no way relieve the Company of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any applicable state or federal rule, law or regulation. The Company shall comply with and fulfill all generally applicable laws and regulations, including ordinances, regulations and requirements of the City, regarding excavations and any other work in or affecting the Public Rights-of-Way. The Company shall perform all work in conformance with all applicable codes and established rules

and regulations, and it is responsible for all work conducted by the Company, another entity or person acting on its behalf pursuant to this Ordinance in the Public Rights-of-Way.

ARTICLE V

SECTION 501 RELOCATION OF COMPANY FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY

Upon written notice from the Director of a planned and authorized improvement or alteration of City sidewalks, streets or other property, or of a proposed relocation of any City-owned utilities that necessitate relocation of some or all of the Facilities owned by the Company and lines to accommodate same, the Company shall relocate at its own expense any such Facilities within one hundred eighty (180) days of receipt of the notice. At Company's request, the city may consent to a longer period, such consent not to be unreasonably or discriminatorily withheld, conditioned or delayed. Notwithstanding the foregoing, the City shall reimburse Company for any such relocation expense if such reimbursement is required by Section 56-468.2 of the Code of Virginia, or other applicable law.

SECTION 502 RIGHTS-OF WAY PATCHING AND RESTORATION

502.1 RESTORATION STANDARD: Where the Company disturbs or damages the Public Rights-of-Way, the Director shall have the authority to determine the manner and extent of the restoration of the Public Rights-of-Way, and may do so in written procedures of general application or on a case-by-case basis. In exercising this authority, the Director will consult with any state or federal standards for rights-of-way restoration and shall be further guided by the following considerations:

- (a) the number, size, depth and duration of the excavations, disruptions or damage to the Public Rights-of-Way;
- (b) the traffic volume carried by the Public Rights-of-Way; the character of the neighborhood surrounding the right-of-way;
- (c) the pre-excavation condition of the Public Rights-of-Way and its remaining life expectancy;
- (d) the relative cost of the method of restoration to the Company balanced against the prevention of an accelerated deterioration of the right-of-way resulting from the excavation, disturbance or damage to the Public Rights-of-Way; and
- (e) the likelihood that the particular method of restoration would be effective in slowing the depreciation of the Public Rights-of-Way that would otherwise take place.

502.2 TEMPORARY SURFACING: The Company shall perform temporary surfacing patching and restoration including, backfill, compaction, and landscaping according to standards determined by, and with the materials determined by, the Director.

- 502.3 TIMING:** After any excavation by the Company pursuant to this Ordinance, the patching and restoration of the Public Rights-of-Way must be completed promptly and in a manner determined by the Director.
- 502.4 GUARANTEES:** The Company guarantees its restoration work and shall maintain it for twenty-four (24) months following its completion. The previous statement notwithstanding, the Company will guarantee and maintain plantings and turf for twelve (12) months. During these maintenance periods, the Company shall, upon notification by the City, correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of notice from the Director, within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure. Notwithstanding the foregoing, the Company's guarantees set forth hereunder concerning restoration and maintenance, shall not apply to the extent another company, franchisee, licensee, permittee, other entity or person, or the City disturbs or damages the same area, or a portion thereof, of the Public Rights-of-Way.
- 502.5 DUTY TO CORRECT DEFECTS:** The Company shall correct defects in patching, or restoration performed by it or its agents. Upon notification from the City, the Company shall correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of the notice from the Director within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure.
- 502.6 FAILURE TO RESTORE:** If the Company fails to restore the Public Rights-of-Way in the manner and to the condition required by the Director pursuant to Section 502.5, or fails to satisfactorily and timely complete all restoration required by the Director pursuant to the foregoing, the City shall notify the Company in writing of the specific alleged failure or failures and shall allow the Company at least ten (10) days from receipt of the notice to cure the failure or failures, or to respond with a plan to cure. In the event that the Company fails to cure, or fails to respond to the City's notice as provided above, the City may, at its election, perform the necessary work and the Company shall pay to the City its reasonable costs for such restoration within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within the thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such restoration.
- 502.7 DAMAGE TO OTHER FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY:** The Company shall be responsible for the cost of repairing any Facilities existing within the Public Rights-of-Way that it or the Facilities owned by the Company damage. If the Company damages the City's Facilities within the Public Rights-of-Way, such as, but not limited to, culverts, road surfaces, curbs and gutters, or tile lines, the Company shall correct the damage within a prompt period after receiving written notification from the City. If the Company does not correct the City's damaged Facilities pursuant to the

foregoing, the City may make such repairs as necessary and charge all of the reasonable costs of such repairs within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within such thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such repair.

502.8 DIRECTOR'S STANDARD: All determinations to be made by the Director with respect to the manner and extent of restoration, patching, repairing and similar activities under the franchise granted by this Ordinance, shall be reasonable and shall not be unreasonably conditioned, withheld, or delayed. The Company may request additional time to complete restoration, patching, repair, or other similar work as required under the franchise granted by this Ordinance, and the Director shall not unreasonably withhold, condition, or delay consent to such requests.

ARTICLE VI

SECTION 601 INDEMNIFICATION AND LIABILITY

601.1 SCOPE OF INDEMNIFICATION: Subject to the following, the Company agrees and binds itself to indemnify, keep and hold the City council members, Board and its employees free and harmless from liability on account of injury or damage to persons, firms or corporations or property growing out of or directly or indirectly resulting from:

- (a) the Company's use of the streets, alleys, highways, sidewalks, rights-of-way and other public places of the City pursuant to the franchise granted by this Ordinance;
- (b) the acquisition, erection, installation, maintenance, repair, operation and use of any poles, wires, cables, conduits, lines, manholes, facilities and equipment by the Company, its authorized agents, subagents, employees, contractors or subcontractors; or
- (c) the exercise of any right granted by or under the franchise granted by this Ordinance or the failure, refusal or neglect of the Company to perform any duty imposed upon or assumed by the Company by or under the franchise granted by this, Ordinance.

601.2 DUTY TO INDEMNIFY, DEFEND AND HOLD HARMLESS: If a suit arising out of subsection (a), (b), (c) of Section 601.1, claiming such injury, death, or damage shall be brought or threatened against the City, either independently or jointly with the Company, the Company will defend, indemnify and hold the City harmless in any such suit, at the cost of the Company, provided that the City promptly provides written notice of the commencement or threatened commencement of the action or proceeding involving a claim in respect of which the City will seek indemnification hereunder. The Company shall be entitled to have sole control over the defense through counsel of its

own choosing and over settlement of such claim provided that the Company must obtain the prior written approval of City of any settlement of such claims against the City, which approval shall not be unreasonably withheld or delayed more than thirty (30) days. If, in such a suit, a final judgment is obtained against the City, either independently or jointly with the Company, the Company will pay the judgment, including all reasonable costs, and will hold the City harmless therefrom.

SECTION 602 WAIVER BY THE CITY

The City waives the applicability of these indemnification provisions in their entirety if it:

- (a) elects to conduct its own defense against such claim;
- (b) fails to give prompt notice to the Company of any such claim such that the Company's ability to defend against such claim is compromised;
- (c) denies approval of a settlement of such claim for which the Company seeks approval; or
- (d) fails to approve or deny a settlement of such claim within thirty (30) days of the Company seeking approval.

SECTION 603 INSURANCE

603.1 The Company shall also maintain in force a comprehensive general liability policy in a form satisfactory to the City Attorney, which at minimum must provide:

- (a) verification that an insurance policy has been issued to the Company by an insurance company licensed to do business in the State of Virginia, or a form of self insurance acceptable to the City Attorney;
- (b) verification that the Company is insured against claims for personal injury, including death, as well as claims for property damage arising out of (i) the use and occupancy of the Public Rights-of-Way by the Company, its agents, employees and permittees, and (ii) placement and use of Facilities owned by the Company in the Public Rights-of-Way by the Company, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground Facilities and collapse of property;
- (c) verification that the City Attorney will be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;
- (d) verification that comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City Attorney in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Ordinance; and

- (e) verification that the policy has a combined single limit coverage of not less than two million dollars (\$2,000,000).

The policy shall include the City as an additional insured party, and the Company shall provide the City Attorney with a certificate of such coverage before beginning installation of any lines, cable or equipment.

603.2 The Company shall also require similar indemnification and insurance coverage from any contractor working on its behalf in the public right-of-way.

SECTION 604 NEGLIGENCE AND INTENTIONAL ACTS

Nothing herein contained shall be construed to render the Company liable for or obligated to indemnify the City, its agents, or employees, for the negligence or intentional acts of the City, its Council members, its Board, its agents or employees, or a permittee of the City.

ARTICLE VII

SECTION 701 GENERAL REQUIREMENT OF A PERFORMANCE BOND

Prior to the Effective Date of this Ordinance, the Company has deposited with the City a Performance Bond made payable to the city in the amount of one hundred thousand dollars (\$100,000). The Performance Bond is to guarantee that the project is done in a proper manner without damage to the PROW. The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. Upon completion of construction of the Facilities, the Company may reduce the Performance Bond to the amount of twenty-five thousand dollars (\$25,000) and made payable to the City, and the Performance Bond shall be maintained at this amount through the term of this Agreement.

SECTION 702 CHANGED AMOUNT OF THE PERFORMANCE BOND

At any time during the Term, the City may, acting reasonably, require or permit the Company to change the amount of the Performance Bond if the City finds that new risk or other factors exist that reasonably necessitate or justify a change in the amount of the Performance Bond. Such new factors may include, but not be limited to, such matters as:

- (a) material changes in the net worth of the Company;
- (b) changes in the identity of the Company that would require the prior written consent of the City;
- (c) material changes in the amount and location of Facilities owned by the Company;
- (d) the Company's recent record of compliance with the terms and conditions of this Ordinance; and

- (e) material changes in the amount and nature of construction or other activities to be performed by the Company pursuant to this Ordinance.

SECTION 703 PURPOSE OF PERFORMANCE BOND

The Performance Bond shall serve as security for:

- (a) the faithful performance by the Company of all terms, conditions and obligations of this Ordinance;
- (b) any expenditure, damage or loss incurred by the City occasioned by the Company's failure to comply with all rules, regulations, orders, permits and other directives of the City issued pursuant to this Ordinance;
- (c) payment of compensation required by this Ordinance;
- (d) the payment of premiums for the liability insurance required pursuant to this Ordinance ;
- (e) the removal of Facilities owned by the Company from the Streets at the termination of the Ordinance, at the election of the City, pursuant to this Ordinance;
- (f) any loss or damage to the Streets or any property of the City during the installation, operation, upgrade, repair or removal of Facilities by the Company;
- (g) the payment of any other amounts that become due to the City pursuant to this Ordinance or law;
- (h) the timely renewal of any letter of credit that constitutes the Performance Bond; and
- (i) any other costs, loss or damage incurred by the City as a result of the Company's failure to perform its obligations pursuant to this Ordinance.

SECTION 704 FEES OR PENALTIES FOR VIOLATIONS OF THE ORDINANCE

704.1 FEE OR PENALTY: The Company shall be subject to a fee or a penalty for violation of this Ordinance as provided for in applicable law.

704.2 APPEAL: The Company may, upon written request within thirty (30) days of the City's decision to assess a fee or penalty and for reasons of good cause, ask the City to reconsider its imposition of a fee or penalty pursuant to this Ordinance unless another period is provided for in applicable law. The City shall schedule its review of such request to be held within forty-five (45) days of receipt of such request from the Company. The City's decision on the Company's appeal shall be in writing and supported by written findings establishing the reasonableness of the City's decision.

During the pendency of the appeal before the City or any subsequent appeal thereafter, the Company shall place any such fee or penalty in an interest-bearing escrow account.

Nothing herein shall limit the Company's right to challenge such assessment or the City's decision on appeal, in a court of competent jurisdiction.

ARTICLE VIII

SECTION 801 COMPENSATION/PROW USE FEE.

The City reserves the right to impose at any time on the Company consistent with Section 253(c) of the Communications Act of 1934, as amended:

- (a) a PROW Use Fee in accordance with Section 56-468.1(G) of the Code of Virginia, and/or
- (b) any other fee or payment that the City may lawfully impose for the occupation and use of the Streets.

The Company shall be obligated to remit the PROW Use Fee and any other lawful fee enacted by the City, so long as the City provides the Company and all other affected certificated providers of local exchange telephone service appropriate notice of the PROW Use Fee as required by Section 56-468.1(G) of the Code of Virginia. If the PROW Use Fee is eliminated, discontinued, preempted or otherwise is declared or becomes invalid, the Company and the City shall negotiate in good faith to determine fair and reasonable compensation to the City for use of the Streets by the Company for Telecommunications.

SECTION 802 FRANCHISING COSTS

Prior to the execution of this Ordinance, the City incurred costs for the services of third parties (including, without limitation, attorneys and other consultants) in connection with the award of this telecommunications Franchise. Within thirty (30) days after receipt from the City of an invoice for such costs, the Company shall pay at such time and in such manner as the City shall specify to the City or, at the direction of the City, to third parties an amount equal to the costs the City incurs for the services of such third parties. Payment by Company of such franchising costs shall not in any way be offset nor deducted from applicable PROW use fees required pursuant to Section 801 herein. In the event of any renewal, renegotiations, transfer, amendment or other modification of this Ordinance or the Franchise, the Company will reimburse the City in the same manner for such third party costs, if any are incurred. The Company's obligations under this Section shall not exceed two thousand five hundred dollars (\$2500.00).

SECTION 803 NO CREDITS OR DEDUCTIONS

The compensation and other payments to be made pursuant to Article VIII: (a) shall not be deemed to be in the nature of a tax, and (b) except as may be otherwise provided by Section 56468.1 of the Code of Virginia, shall be in addition to any and all taxes or other fees or charges that the Company shall be required to pay to the City or to any state or federal agency or authority, all of which shall be separate and distinct obligations of the Company.

SECTION 804 REMITTANCE OF COMPENSATION/LATE PAYMENTS, INTEREST ON LATE PAYMENTS

(1) If any payment required by this Ordinance is not actually received by the City on or before the applicable date fixed in this Ordinance, or (2), in the event the City adopts an ordinance imposing a PROW Use Fee, if such Fee has been received by the Company from its customers, and has not been actually received by the City on or before the applicable date fixed in this Ordinance or thirty (30) days after receipt of the PROW Use Fee from its customers, whichever is later, then the Company shall pay interest thereon, to the extent permitted by law, from the due date to the date paid at a rate equal to the rate of interest then charged by the City for late payments of real estate taxes.

ARTICLE IX

SECTION 901 RESERVATION OF ALL RIGHTS AND POWERS

The City reserves the right by ordinance or resolution to establish any reasonable regulations for the convenience, safety, health and protection of its inhabitants under its police powers, consistent with state and federal law. The rights herein granted are subject to the exercise of such police powers as the same now are or may hereafter be conferred upon the City. Without limitation as to the generality of the foregoing the City reserves the full scope of its power to require by ordinance substitution of underground service for overhead service, or the transfer of overhead service from the front to the rear of property whenever reasonable in all areas in the City and with such contributions or at such rates as may be allowed by law.

Notwithstanding anything herein to the contrary, nothing herein shall be construed to extend, limit or otherwise modify the authority of the City preserved under Sections 253 (b) and (c) of the Communications Act of 1934, as amended. Nothing herein shall be construed to limit, modify, abridge or extend the rights of the Company under the Communications Act of 1934, as amended.

SECTION 902 SEVERABILITY

If any portion of this Ordinance is for any reason held to be invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE X

SECTION 1001 MAINTENANCE OBLIGATION

The Company will maintain the poles, wires, cable, conduits, lines, manholes, equipment and other Facilities it owns within the City's PROW in good order and operating condition throughout the term of the franchise granted by this Ordinance.

SECTION 1002 TREE TRIMMING

Should the Company install any overhead lines, it shall have the authority to trim trees upon or overhanging the streets, alleys, walkways or Public Rights-of-Way to prevent the branches of such

trees from interfering with its lines or other Facilities. However, all such trimmings shall be performed in a safe and orderly manner under the general direction of the Director of Public Works or his or her designee and in compliance with the pruning standards of the National Arborists Association as currently in effect.

ARTICLE XI

SECTION 1101 INITIAL TERM OF TELECOMMUNICATIONS FRANCHISE

The term of the franchise granted by this Ordinance shall be for a period of five (5) years from the effective date of this Ordinance.

SECTION 1102 APPLICATION FOR NEW TELECOMMUNICATIONS FRANCHISE

If the Company wishes to maintain its equipment within the City and to continue the operation of the system beyond the term of the franchise granted by this Ordinance, it shall give written notice to the City at least one hundred twenty (120) days before expiration of the franchise granted by this Ordinance, stating that it wishes to apply for a new franchise. Such application shall include a report of the location of the Facilities owned by the Company within the City's PROW, and a statement as to whether the Company has complied with the provisions of this Ordinance.

SECTION 1103 OPERATION OF FACILITIES OWNED BY THE COMPANY WHILE RENEWAL IS PENDING

Upon a timely request by the Company prior to the expiration of its initial franchise, the Company shall be permitted to continue operations of the Facilities owned by the Company within the City under the terms of the franchise granted by this Ordinance until the City acts. Nothing herein shall be construed to grant the Company a perpetual franchise interest.

ARTICLE XII

SECTION 1201 NOTICE

All notices, except for in cases of emergencies, required pursuant to the franchise granted by this Ordinance shall be in writing and shall be mailed or delivered to the following address:

To the Company:

PEG Bandwidth VA, LLC
10802 EXECUTIVE CENTER DR.
BENTON BLDG., SUITE 300
LITTLE ROCK AR72211

To the City:

City of Charlottesville
Attn: City Manager
605 East Main Street
Charlottesville, VA 22902

With a copy to:

With a copy to:
City Attorney's Office
P.O. Box 911
Charlottesville, VA 22902

All correspondences shall be by registered mail, certified mail or regular mail with return receipt

requested; and shall be deemed delivered when received or refused by the addressee. Each Party may change its address above by like notice.

SECTION 1202 EMERGENCY NOTIFICATION

Notices required pursuant to Section 303.2 shall be made orally and by facsimile to the following:

To the Company: Michael McCarty
251-214-7793 (telephone)

24/7 Global Network Operations Center:
877.652.2321(telephone)

To the City:

Gas Dispatchers

(434) 970-3800 (office)

Emergency (434)293-9164 (leaks)

(434) 970-3817 (facsimile)

Paul Oberdorfer, Director of Public Works

(434) 970-3301 (office)

(434) 970-3817 (facsimile)

(434) 971-6645 (home)

SECTION 1203 REGISTRATION OF DATA

The Company, including any subleasee or assigns, must keep on record with the City the following information:

- (a) Name, address and e-mail address if applicable, and telephone and facsimile numbers;
- (b) Name, address and e-mail address if applicable, and telephone and facsimile numbers of a local representative that is available for consultation at all times. This information must include how to contact the local representative in an emergency; and
- (c) A certificate of insurance as required under Article VI, Section 603 of this telecommunications franchise, and a copy of the insurance policy.

The Company shall keep update all of the above information with the City within fifteen (15) days following its knowledge of any change.

ARTICLE XIII

SECTION 1301 TERMINATION OF TELECOMMUNICATIONS FRANCHISE

The franchise granted by this Ordinance may be terminated:

- (a) by the Company, at its election and without cause, by written notice to the City at least sixty (60) days prior to the effective date of such termination; or

- (b) by either the Company or the City, after thirty (30) days written notice to the other party of the occurrence or existence of a default of the franchise granted by this Ordinance, if the defaulting party fails to cure or commence good faith efforts to cure, such default within sixty (60) days after delivery of such notice.

Notwithstanding the provisions of this Section, the terms and conditions of the franchise granted by this Ordinance pertaining to indemnification shall survive a termination under this Section.

ARTICLE XIV

SECTION 1401 REMOVAL OF FACILITIES FROM THE PUBLIC RIGHTS-OF-WAY

The Company shall remove all Facilities owned by the Company from the streets, alleys and public places of the City at the expense of the Company within six (6) months after the termination, abandonment, or expiration of this franchise granted by this Ordinance, or by such reasonable time to be prescribed by the City Council, whichever is later. No such removal will be required while any renewal requests as provided for in Section 1102 and Section 1103, are pending before the City. If such renewal request is denied, the six (6) month period provided above shall commence on the date of denial or expiration, whichever is later. The City reserves the right to waive this requirement, as provided for in Section 1402 herein. The City shall grant the Company access to the Public Rights-of-Way in order to remove its telecommunications Facilities owned by the Company pursuant to this paragraph.

SECTION 1402 ABANDONMENT OF FACILITIES OWNED BY THE COMPANY IN THE PUBLIC RIGHTS-OF-WAY

The telecommunications Facilities owned by the Company may be abandoned without removal upon request by the Company and approval by the City. This Section survives the expiration or termination of this franchise granted by this Ordinance.

ARTICLE XV

SECTION 1501 PRIOR WRITTEN CONSENT FOR ASSIGNMENT

The franchise granted by this Ordinance shall not be assigned or transferred without the expressed written approval of the City, which shall not be unreasonably or discriminatorily conditioned, withheld or delayed.

In addition, the City agrees that nothing in this Ordinance shall be construed to require Company to obtain approval from the City in order to lease any Facilities owned by the Company or any portion thereof in, on, or above the PROW, or grant an indefeasible right of use (“IRU”) in the Facilities owned by the Company, or any portion thereof, to any entity or person. The lease or grant of an IRU in such Facilities owned by the Company, or any portion or combination thereof, shall not be construed as the assignment or transfer of any franchise rights granted under this Ordinance.

SECTION 1502 SUCCESSORS AND ASSIGNS

Notwithstanding Section 1501, the Company may assign, transfer, or sublet its rights, without the consent of the City, to any person or entity that controls, is controlled by or is under common control with the Company, any company or entity with which or into which the Company may merge or consolidate, to any lender of the Company provided the City is advised of the action prior to enactment. Any successor(s) of the Company shall be entitled to all rights and privileges of this franchise granted by this Ordinance and shall be subject to all the provisions, obligations, stipulations and penalties herein prescribed.

ARTICLE XVI

SECTION 1601 NONEXCLUSIVE FRANCHISE

Nothing in the franchise granted by this Ordinance shall be construed to mean that this is an exclusive franchise, as the City Council reserves the right to grant additional telecommunications franchises to other parties.

ARTICLE XVII

SECTION 1701 ALL WAIVERS IN WRITING AND EXECUTED BY THE PARTIES

Subject to the foregoing, any waiver of the franchise granted by this Ordinance or any of its provisions shall be effective and binding upon the Parties only if it is made in writing and duly signed by the Parties.

SECTION 1702 NO CONSTRUCTIVE WAIVER RECOGNIZED

If either Party fails to enforce any right or remedy available under the franchise granted by this Ordinance, that failure shall not be construed as a waiver of any right or remedy with respect to any breach or failure by the other Party. Nothing herein shall be construed as a waiver of any rights, privileges or obligations of the City or the Company, nor constitute a waiver of any remedies available at equity or at law.

ARTICLE XVIII

SECTION 1801 NO DISCRIMINATION

The Company's rights, privileges and obligations under the franchise granted by this Ordinance shall be no less favorable than those granted by the City to and shall not be interpreted by the City in a less favorable manner with respect to any other similarly situated entity or person or user of the City's Public Rights-of-Way.

ARTICLE XIX

SECTION 1901 FORCE MAJEURE

Neither the Company nor the City shall be liable for any delay or failure in performance of any

part of the franchise granted by this Ordinance from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations embargoes, epidemics, terrorist acts, riots insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions.

ARTICLE XX

SECTION 2001 EFFECTIVE DATE

This Ordinance shall be effective upon its passage.

Adopted by the Council of the City of Charlottesville on the ____ day of _____, 20__.

Kyna Thomas, Clerk of Council

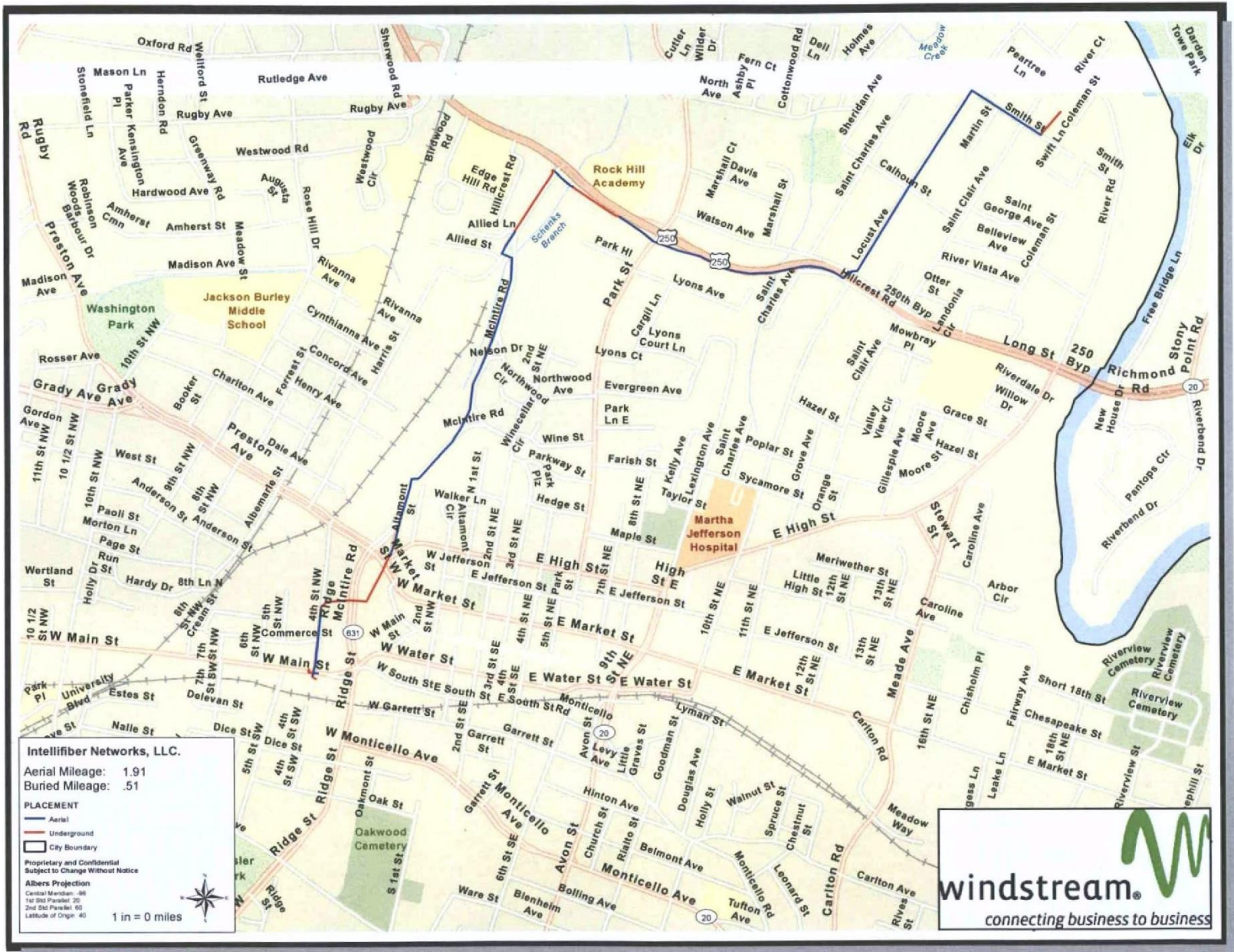
ACCEPTED: This Franchise is accepted, and we agree to be bound by its terms and conditions.

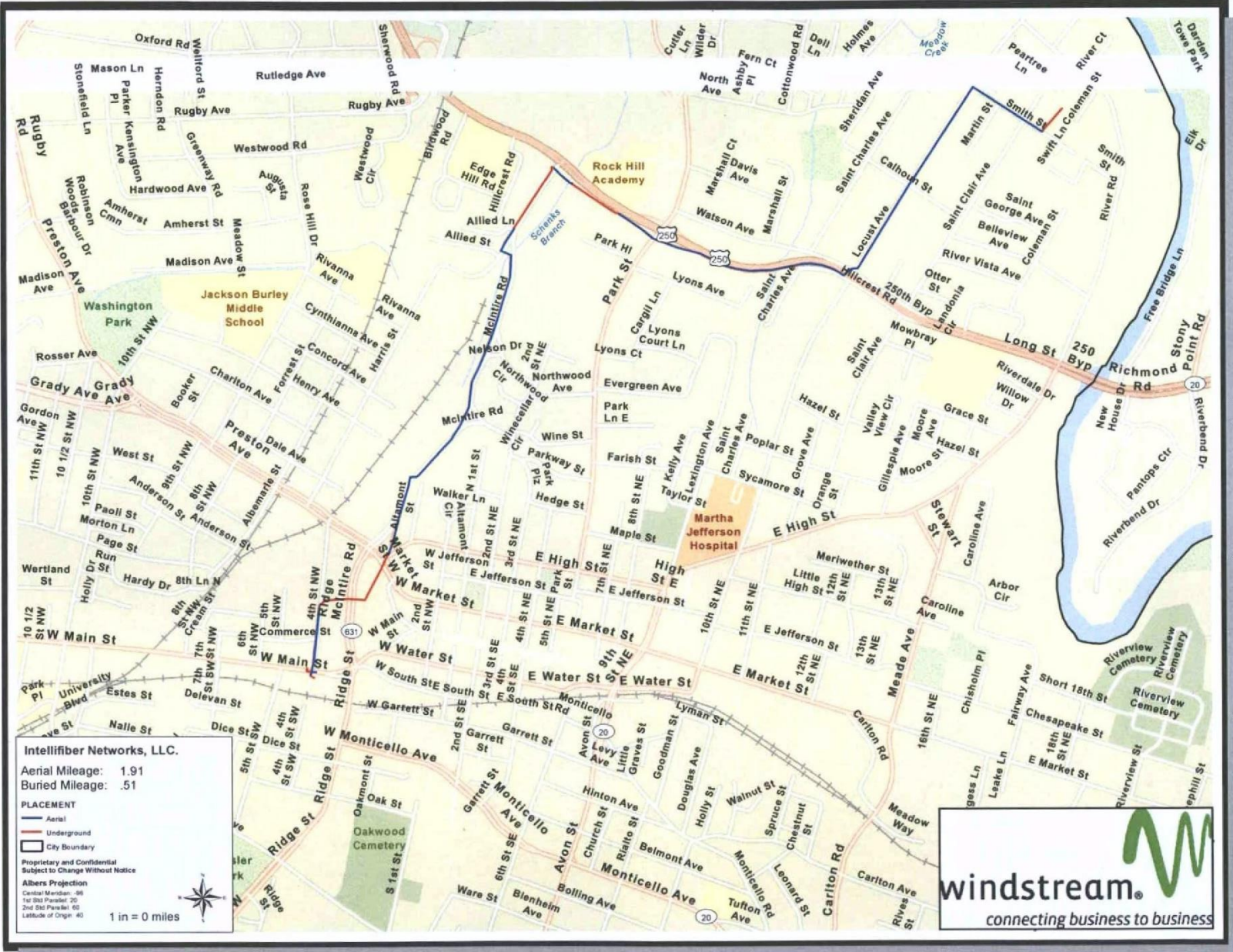
PEG BANDWIDTH VA, LLC

Date: _____, 2019

By: _____

Its: _____





Intellifiber Networks, LLC.
 Aerial Mileage: 1.91
 Buried Mileage: .51
PLACEMENT
 — Aerial
 — Underground
 □ City Boundary

 Proprietary and Confidential
 Subject to Change Without Notice
 Albers Projection
 Central Meridian: -96
 1st Std Parallel: 20
 2nd Std Parallel: 40
 Latitude of Origin: 40

 1 in = 0 miles



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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 7, 2019
Action Required:	Yes (Public Hearing and First Reading of Ordinance)
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	Roy Nester, Public Utilities Lisa Robertson, Chief Deputy City Attorney
Title:	Release of Portion of Sewer Easement – McIntire Plaza

Background: In 2015 the City was granted a 20’ wide sanitary sewer easement (“**Proposed Vacated Easement**”) across property now known as McIntire Plaza, a new commercial development at the end of Allied Street, designated as City Tax Map Parcel 340090200. The development is owned by C-ville Business Park, LLC (“Owner”), and a subdivision plat showing utility line easements was recorded in 2015 as Instrument #2015000246 in the Charlottesville Circuit Court Clerk’s Office. A plat showing the Proposed Vacated Easement is attached.

Discussion: The Utilities Department and Neighborhood Development Services have confirmed that neither the Proposed Vacated Easement nor any existing line(s) within the area are needed for public use. Currently, the Proposed Vacated Easement contains a manhole into which a line carrying sewerage from the buildings within the development is routed, and sewerage from that line is then carried to a public main, with the entry point at public manhole #08-018, within the Allied Street right-of-way (close to the center of the cul-de-sac). This existing line provides the service connection from the public main to the buildings within the development, and the owner(s) of the land within the development own the line and are responsible for maintaining the entire length of it—from the connection to each building all the way to the public main in Allied Street.

The Owner has requested release of the subject easement area in order to place improvements (a large sign structure) within the area. If City Council approves vacation of this easement, the City Attorney’s Office will draft a Deed of Vacation of Easement (substantially the same as the attached deed) to release the City’s rights in the Proposed Vacated Easement area and quitclaiming any interest in existing line(s) located within that area.

Community Engagement: A public hearing is required by law to give the public an opportunity to comment on the proposed conveyance of a property interest. Notice of such public hearing was advertised in the local newspaper in accordance with Va. Code Sec. 15.2-2272(2).

Alignment with City Council’s Vision and Priority Areas: Not applicable.

Budgetary Impact: None.

Recommendation: Approve the ordinance vacating a portion of a sanitary sewer easement, subject to the condition that any existing sanitary sewer line(s) currently located within the Proposed Vacated Easement are the property of the owner(s) of the land within McIntire Plaza and said owner(s) are responsible for maintaining the existing line(s), from connection(s) to each building within the development all the way to the public main (manhole #08-018) within Allied Street.

Attachments: Proposed Ordinance; Deed and Plat

**AN ORDINANCE
AUTHORIZING THE RELEASE OF
A PORTION OF A SANITARY SEWER EASEMENT
GRANTED TO THE CITY ACROSS PROPERTY
ON ALLIED STREET (McINTIRE PLAZA)**

WHEREAS, in 2015 the City acquired a permanent easement for installation of sanitary sewer line facilities (“2015 Sewer Easement”) across property currently owned by C-ville Business Park, LLC, designated as City Tax Map Parcel 340090200 (“Subject Property”); and

WHEREAS, the subdivision plat showing the 2015 Sewer Easement is of record as Instrument #2015000246 in the Charlottesville Circuit Court Clerk’s Office; and

WHEREAS, the Directors of Utilities and Neighborhood Development Services have reviewed the request to vacate a portion of the 2015 Sewer Easement, shown as a shaded area on the attached plat, and labeled “Portion of 20’ City of Charlottesville Sanitary Sewer Easement (Instr. #2015000246, Pages 4 Thru 15 Plat) Hereby Extinguished”, after determining that the City no longer has a need for that portion of the subject easement; and

WHEREAS, in accordance with Virginia Code Sec. 15.2-2272(2), a public hearing was held to give the public an opportunity to comment on the partial release of the 2015 Sewer Easement; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Vacation of Easement, in form approved by the City Attorney, to release the above-described portion of the 2015 Sewer Easement granted to the City, and quitclaiming any and all right, title, and interest in and to any existing sewer lines which pass through the vacated easement area and connect to public manhole #08-018 within Allied Street.

Prepared by Lisa A. Robertson (VSB #32486)
Charlottesville City Attorney's Office, P.O. Box 911, Charlottesville, VA 22902

Tax Map Parcel 340090200
Consideration: \$0

*This deed is exempt from recordation tax imposed by Va. Code Sec. 58.1-802
Pursuant to Va. Code Sec. 58.1-811(C)(4)*

THIS DEED OF VACATION OF EASEMENT ("Deed") is made as of this _____ day of _____, 2019, by and between the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and political subdivision of the Commonwealth of Virginia ("City"), Grantor, and **C-VILLE BUSINESS PARK LLC**, a Virginia limited liability company, Grantee, whose address is 224 14th Street, N.W., Charlottesville, Virginia 22903.

WITNESSETH:

WHEREAS, Grantee owns certain real property in the City of Charlottesville, Virginia, designated as Parcel 90.2 on City Real Estate Tax Map 34; and

WHEREAS, by Boundary Line Adjustment Plat, dated January 14, 2014, last revised November 24, 2014, of record in the Charlottesville Circuit Court Clerk's Office as Instrument No. 2015000246, a sanitary sewer easement was established and dedicated to the City as a public utility easement, and further affirmed as a public utility easement by Deed of Easement dated _____, 2019, of record in the aforesaid Clerk's Office as Instrument No. 201900_____; and

WHEREAS, Grantee requested vacation and release of a portion of the subject sewer line easement by the City, described as follows:

A portion of the sanitary sewer line easement dedicated to the City as a public easement by the above-referenced recorded instruments (Instrument Nos. 2015000246 and 201900_____), shown as a shaded area on a plat entitled "Plat Showing a Portion of 20' City of Charlottesville Sanitary Sewer Easement on T.M. 34-90.2 Hereby Extinguished, the Property of C-ville Business Park LLC Located on Allied Street, City of Charlottesville, Virginia", dated August 1, 2019 attached hereto, said easement being labeled "Portion of 20' City of Charlottesville Sanitary Sewer Easement (Instr. #2015000246, Pages 4 Thru 15 Plat) Hereby Extinguished"; and

WHEREAS, C-ville Business Park LLC requested the City to vacate a portion of the Subdivision Plat pursuant to Virginia Code Sec. 15.2-2272(2), by way of adoption of an ordinance; and

WHEREAS, by ordinance adopted _____, 2019, City Council authorized the City Manager to execute this Deed of Vacation of Easement;

NOW, THEREFORE, for and in consideration of TEN DOLLARS (\$10.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City does hereby VACATE, RELEASE and EXTINGUISH that portion of the sanitary sewer easement shown on the attached Plat and further, the City does hereby REMISE, RELEASE and forever QUITCLAIM all right, title and interest whatsoever, both at law and in equity, in and to the lands and premises hereby released, and all improvements and sewer line(s) therein located and which pass through the lands and premises hereby released for connection to any public main(s) within the adjacent right-of-way for Allied Street.

IN WITNESS WHEREOF, the Mayor of the City of Charlottesville, Virginia, has signed this Deed pursuant to an ordinance adopted _____, 2019.

WITNESS the following signatures and seals.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Nikuyah Walker, Mayor

COMMONWEALTH OF VIRGINIA
City of Charlottesville, Virginia

The foregoing instrument was acknowledged before me, a Notary Public in and for the aforesaid City and Commonwealth, by Nikuyah Walker, Mayor of the City of Charlottesville, Virginia, on this _____ day of _____, 2019.

Notary Public

Registration #: _____

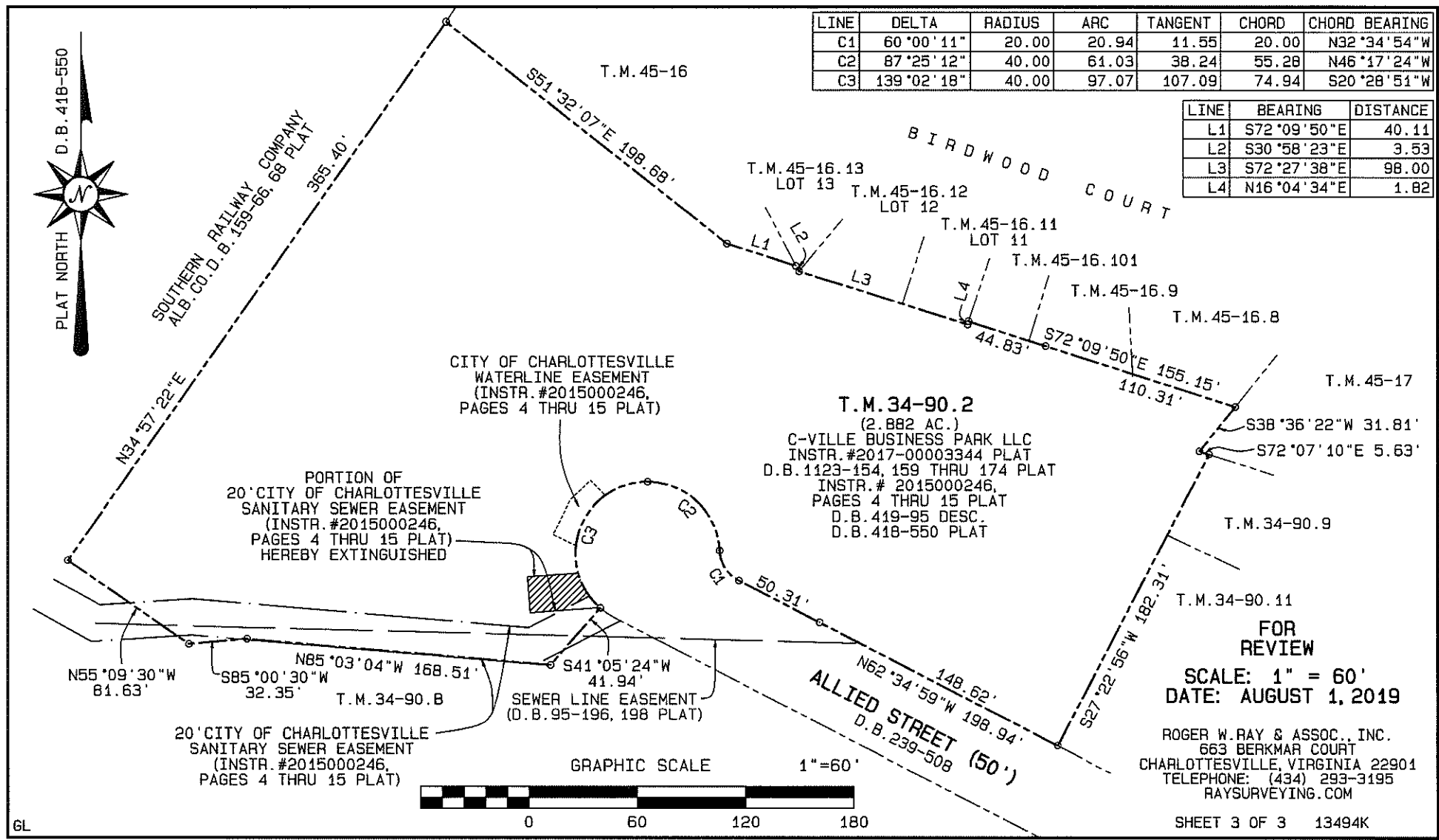
Approved as to form:

John C. Blair, II, City Attorney



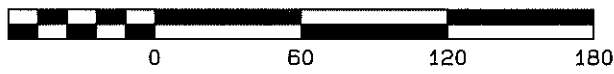
LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	60°00'11"	20.00	20.94	11.55	20.00	N32°34'54"W
C2	87°25'12"	40.00	61.03	38.24	55.28	N46°17'24"W
C3	139°02'18"	40.00	97.07	107.09	74.94	S20°28'51"W

LINE	BEARING	DISTANCE
L1	S72°09'50"E	40.11
L2	S30°58'23"E	3.53
L3	S72°27'38"E	98.00
L4	N16°04'34"E	1.82



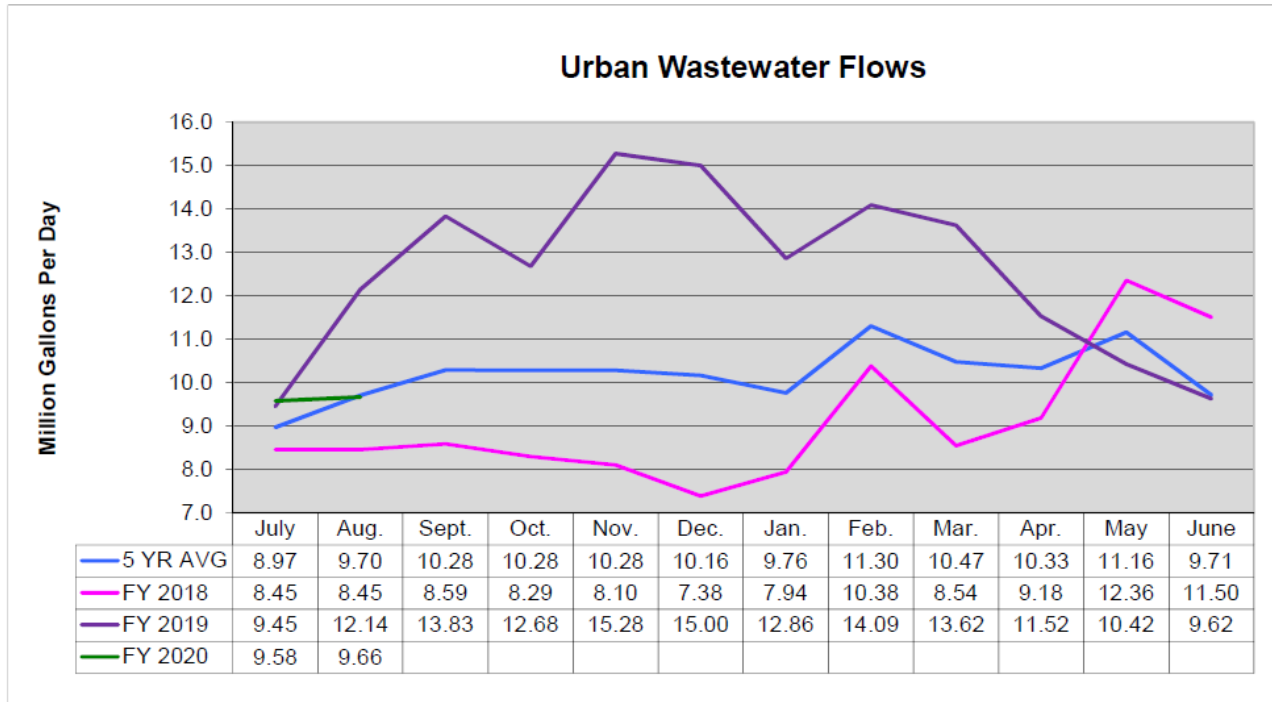
FOR REVIEW
 SCALE: 1" = 60'
 DATE: AUGUST 1, 2019

ROGER W. RAY & ASSOC., INC.
 663 BERKMAR COURT
 CHARLOTTEVILLE, VIRGINIA 22901
 TELEPHONE: (434) 293-3195
 RAYSURVEYING.COM



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2. Urban wastewater flow for August (9.6 mgd), including flows from Crozet, was comparable to the five-year average (9.7 mgd) for August, as shown by the following graph:



3. A general overview of significant current and upcoming Capital Improvement Projects includes:

A. Water Treatment Plant Improvements

Scope: Replace equipment which has reached end-of-service life at the South Rivanna and Observatory Water Treatment Plants. Increase water treatment capacity from 7.7 to 10 million gallons per day at the Observatory Water Treatment Plant.

Completion: 2020 - 2023

Cost: \$40.5 million

B. Sugar Hollow Dam – Rubber Crest Gate Replacement and Intake Tower Repairs

Scope: Replace the inflatable rubber device that sits on top of the concrete dam and regulates the normal water level in the reservoir. The gate is over 20 years old, and has reached the end of its service life. Concrete repairs will be made on the intake tower.

Completion: 2020 - 2021

Cost: \$1.1 million

C. South Fork Rivanna to Ragged Mountain Reservoir Pipeline Right-of-Way Acquisition

Scope: Determine alignment and acquire right-of-way and easements for a nine-mile-long pipeline and pumping station to transfer raw water between the South Rivanna Reservoir and the Ragged Mountain Reservoir, as required by the Community Water Supply Plan.

Completion: 2017-2021

Cost: \$2.3 million

D. Urban Water Demand and Safe Yield Study

Scope: Assess the capacity of the Urban water supply reservoirs as well as the community's future water demand to ensure our long-term water supply is adequate, as required by the Ragged Mountain Dam Agreement.

Completion: November 2019

Cost: \$154,000

E. Urban Finished Water Infrastructure Master Plan

Scope: Update our drinking water infrastructure master plan to ensure future water distribution piping projects are planned to effectively serve customers throughout the system.

Completion: April 2020

Cost: \$253,000

F. Ragged Mountain Reservoir to Observatory Water Treatment Plant Raw Water Line and Raw Water Pump Station

Scope: Replace two 18-inch cast iron raw water pipes, which have been in service for more than 70 and 110 years, respectively, and the existing Stadium Road and Royal raw water pump stations which have exceeded their service lives or will require significant upgrades to support the Observatory Water Treatment Plant expansion.

Completion: 2022 - 2026

Cost: \$18 million

G. Upper Schenks Branch Wastewater Piping Replacement, Phase II

Scope: Replace sewer piping installed in the mid 1950's in conjunction with the City's sewer upgrade program to increase system capacity. The new underground piping would be located near McIntire Road. Exploration for underground rock was recently performed.

Completion: TBD

Cost: \$4 million

4. Refuse disposal and recycling services are being improved as follows:

- Oyster shells are being collected at the McIntire Recycling Center.
- Design is underway for a recycling convenience center at the Ivy Material Utilization Center.
- A study is underway to evaluate composting opportunities for organic wastes.

Please let me know if you have any questions. I will be glad to provide additional information.

cc: RSWA Board of Directors
RWSA Board of Directors

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Required:	Vacation of Natural Gas Line Easement (1 st reading of Ordinance)
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	Lauren Hildebrand, Director of Utilities John Blair, City Attorney
Title:	Release of a Gas Line Easement - Oakleigh Development

Background:

In April of 2017, the City of Charlottesville Department of Utilities acquired a natural gas line easement across property designated as Albemarle County Tax Map Parcel 45-26A in the Oakleigh Development along Rio Road. After construction of the development began, minor changes were made to the fire access road to accommodate an existing tree and the site conditions. The property owner has already granted a new easement for the gas line easement by Deed of Easement dated August 22, 2019 (Albemarle County Deed Book 5211, Page 719).

Discussion:

The City of Charlottesville Department of Utilities has received a request to vacate the 2017 gas easement located in the Oakleigh Development on Rio Rd West. The Department of Utilities has no objection to the release of the 2017 gas line easement.

Alignment with City Council's Vision and Strategic Plan: Not Applicable

Community Engagement:

A public hearing is required by law to give the public an opportunity to comment on the proposed conveyance of a property interest. Notice of such public hearing was advertised in the local newspaper in accordance with Va. Code Sec. 15.2-1800(B).

Budgetary Impact: None

Recommendation:

Staff recommends the approval of the ordinance releasing the 2017 gas line easement in the Oakleigh Development.

Attachments:

Ordinance
Deed of Vacation of Easement (with 2017 plat attached)

**AN ORDINANCE
AUTHORIZING THE RELEASE OF
A NATURAL GAS EASEMENT GRANTED TO THE CITY BY
OAKLEIGH ALBEMARLE, LLC**

WHEREAS, Oakleigh Albemarle, LLC (“Owner”) is the current owner of property located on West Rio Road in the County of Albemarle (Albemarle Tax Map Parcel No. 45-26A); and

WHEREAS, the Owner requested adjustments to the easement location, and the City has been granted a new gas line easement by deed dated August 22, 2019, of record in the Albemarle County Circuit Court Clerk’s Office in Deed Book 5211, Page 719; and

WHEREAS, Oakleigh Albemarle, LLC has requested release of the permanent natural gas easement granted to the City by deed dated April 26, 2017, of record in the Albemarle County Circuit Court Clerk’s Office in Deed Book 4927, page 170; and

WHEREAS, the Director of Utilities has reviewed the request and determined that the City has no objection to releasing the above described 2017 easement; and

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the partial release of this easement; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Vacation of Easement, in form approved by the City Attorney, to release the above-described natural gas easement recorded in Albemarle County Deed Book 4927, Page 170.

Prepared by John C. Blair, II (VSB #65274)
Charlottesville City Attorney's Office, P.O. Box 911, Charlottesville, VA 22902

Tax Map Parcel 45, Parcel 26A (Oakleigh)

*This deed is exempt from recordation tax imposed by Va. Code Sec. 58.1-802
Pursuant to Va. Code Sec. 58.1-811(C)(4)*

THIS DEED OF VACATION OF EASEMENT ("Deed") is made as of this _____ day of _____, 2019, by and between the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and political subdivision of the Commonwealth of Virginia ("City"), Grantor, and **OAKLEIGH ALBEMARLE, LLC**, a Virginia limited liability company, Grantee, whose address is 690 Berkmar Circle, Charlottesville, Virginia 22901.

WITNESSETH:

WHEREAS, Grantee owns certain real property in the City of Charlottesville, Virginia, designated as Parcel 26A on Albemarle County Real Estate Tax Map 45; and

WHEREAS, by Deed of Easement, dated April 26, 2017, of record in the Albemarle County Circuit Court Clerk's Office in Deed Book 4927, Page 170, a 15' wide natural gas line easement was granted to the City; and

WHEREAS, Grantee requested vacation and release of the above-referenced gas line easement (hereinafter, "Subject Easement") by the City, described as follows:

A permanent 15' wide natural gas line easement dedicated to the City by the above-referenced recorded Deed of Easement (Albemarle County Deed Book 4927, Page 170), and shown as a shaded area on the plat attached to said deed dated April 26, 2017.

WHEREAS, Oakleigh Albemarle, LLC requested the City to release and vacate the Subject Easement, by way of adoption of an ordinance;

NOW, THEREFORE, for and in consideration of ONE DOLLAR (\$1.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City does hereby VACATE, RELEASE and EXTINGUISH the above-described natural gas line easement.

IN WITNESS WHEREOF, the Mayor of the City of Charlottesville, Virginia, has signed this Deed pursuant to an ordinance adopted _____, 2019.

WITNESS the following signature and seal.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Nikuyah Walker, Mayor

COMMONWEALTH OF VIRGINIA
City of Charlottesville, Virginia

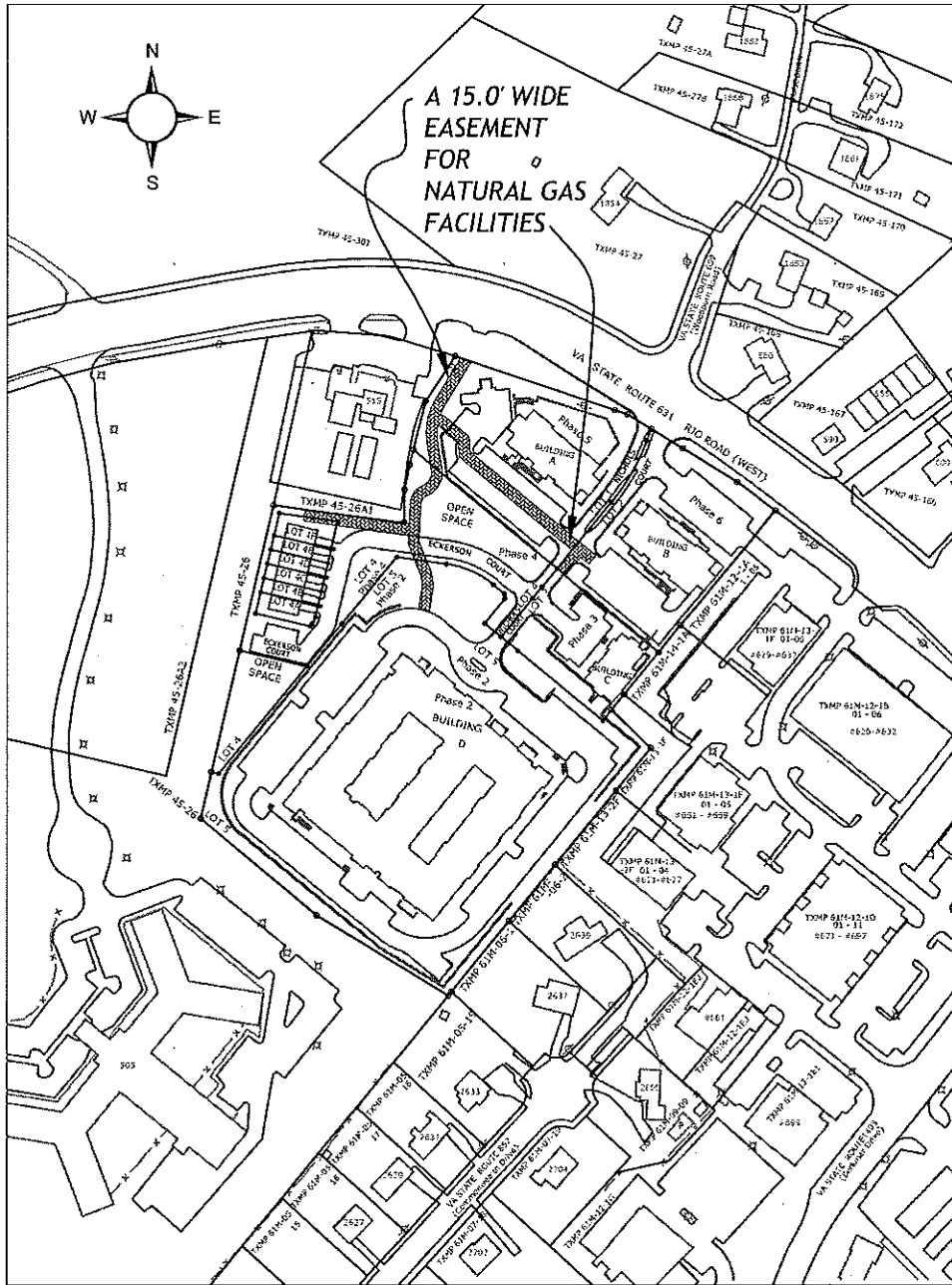
The foregoing instrument was acknowledged before me, a Notary Public in and for the aforesaid City and Commonwealth, by Nikuyah Walker, Mayor of the City of Charlottesville, Virginia, on this _____ day of _____, 2019.

Notary Public

Registration #: _____

Approved as to form:

John C. Blair, II, City Attorney



**CITY OF CHARLOTTESVILLE PUBLIC UTILITIES: GAS
 PLAT SHOWING
 A FIFTEEN-FOOT WIDE EASEMENT FOR NATURAL GAS FACILITIES
 FROM
 OAKLEIGH ALBEMARLE, LLC
 ALBE. CO. TAX MAP 45 PARCEL 26A
 DEED BOOK 3346 PAGE 314
 DATE: APRIL 20, 2017 SCALE: 1" = 200'**

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Required:	Yes (Public Hearing and First Reading of Ordinance)
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	Roy Nester, Public Utilities Lisa Robertson, Chief Deputy City Attorney
Title:	Release of a Public Utility Easement – CVS Project at Emmet Street and Barracks Road

Background:

In May of 2018 the City was granted a 5' wide public utility easement ("Proposed Vacated Easement") across property at the intersection of Emmet Street and Barracks Road ("CVS Project"), designated as City Tax Map Parcel 1-4.1. The development is owned by Meadowbrook Corner, LLC ("Owner"), and a plat showing this utility line easement was recorded on May 21, 2018 as Instrument #2018001798 in the Charlottesville Circuit Court Clerk's Office. A plat dated August 22, 2019 showing the Proposed Vacated Easement, highlighted in yellow, is attached. The City has already accepted the other public utility easements shown on the plat by recordation of a Deed of Easement recorded September 6, 2019 (Instrument No. 201900003150).

Discussion:

The Utilities Department and Neighborhood Development Services have confirmed that the Proposed Vacated Easement is not needed for public use. The original purpose of the easement was to install a water meter, but the City decided to place the water meter in another location so this easement is no longer required.

The Owner has requested release of the subject easement area. If City Council approves vacation of this easement, the City Attorney's Office will draft a Deed of Vacation of Easement (substantially the same as the attached deed) to release the City's rights in the Proposed Vacated Easement area.

Community Engagement:

A public hearing is required by law to give the public an opportunity to comment on the proposed conveyance of a property interest. Notice of such public hearing was advertised in the local newspaper in accordance with Va. Code Sec. 15.2-1800(B).

Alignment with City Council's Vision and Priority Areas: Not applicable.

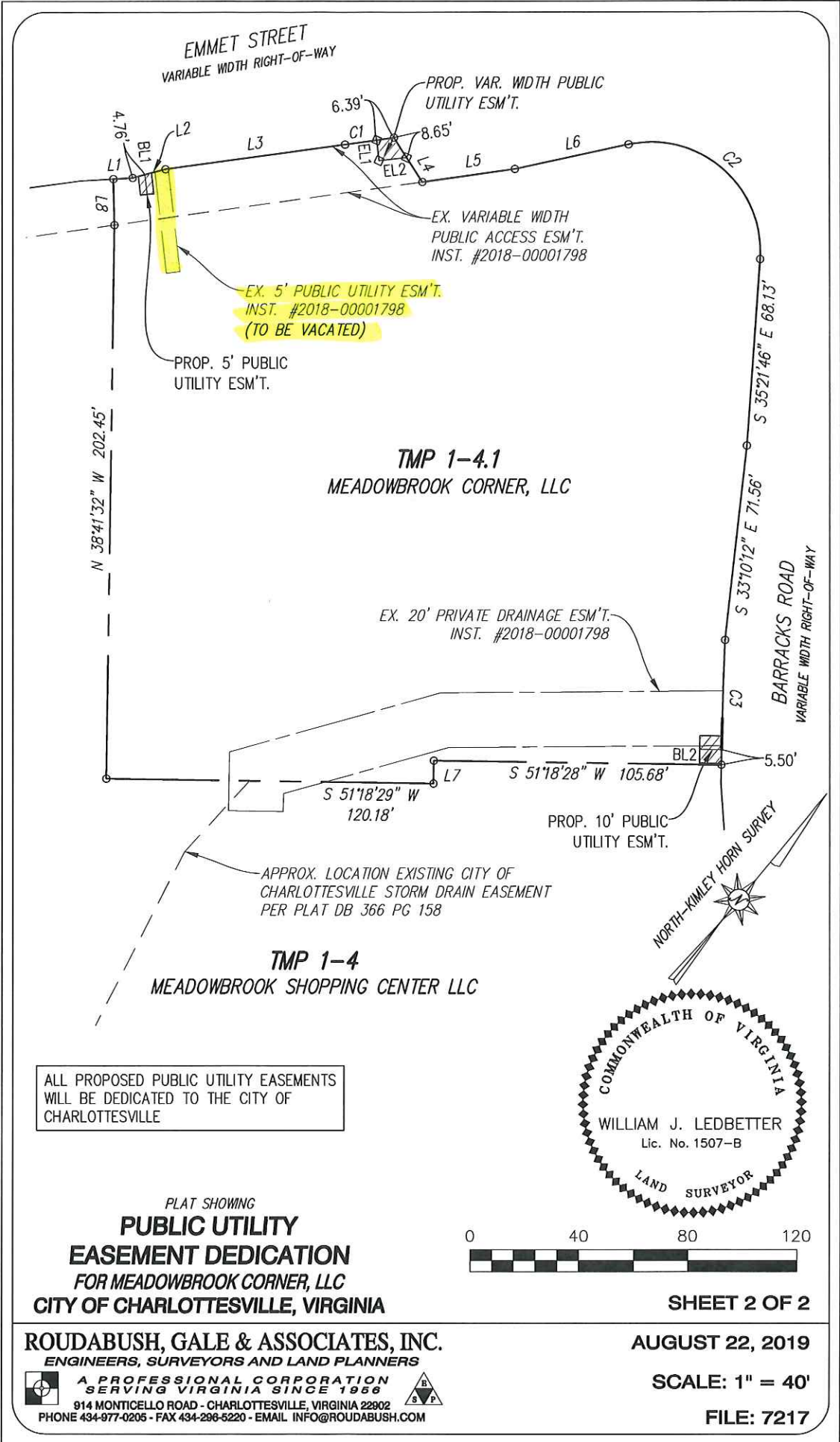
Budgetary Impact: None.

Recommendation:

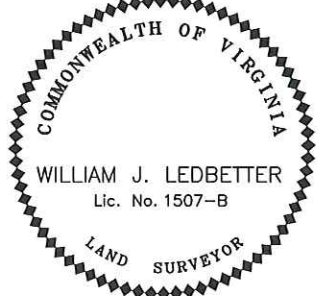
Approve the ordinance vacating the above-described 5' wide public utility easement.

Attachments:

Proposed Ordinance
Deed and Plat



ALL PROPOSED PUBLIC UTILITY EASEMENTS WILL BE DEDICATED TO THE CITY OF CHARLOTTESVILLE



PLAT SHOWING
PUBLIC UTILITY EASEMENT DEDICATION
FOR MEADOWBROOK CORNER, LLC
CITY OF CHARLOTTESVILLE, VIRGINIA



SHEET 2 OF 2

ROUDABUSH, GALE & ASSOCIATES, INC.
ENGINEERS, SURVEYORS AND LAND PLANNERS
A PROFESSIONAL CORPORATION
SERVING VIRGINIA SINCE 1966
914 MONTICELLO ROAD - CHARLOTTESVILLE, VIRGINIA 22902
PHONE 434-977-0205 - FAX 434-296-5220 - EMAIL INFO@ROUDABUSH.COM

AUGUST 22, 2019
SCALE: 1" = 40'
FILE: 7217

**AN ORDINANCE
AUTHORIZING THE RELEASE OF
A PUBLIC UTILITY EASEMENT
GRANTED TO THE CITY ACROSS PROPERTY
AT EMMET STREET AND BARRACKS ROAD (CVS PROJECT)**

WHEREAS, in 2018 the City acquired a permanent 5' wide public utility easement ("Public Utility Easement") across property currently owned by Meadowbrook Corner, LLC, designated as City Tax Map Parcel 010004100 ("Subject Property"); and

WHEREAS, the plat creating the Public Utility Easement is attached to a Deed of Easement dated May 10, 2018, of record as Instrument #201800001798 in the Charlottesville Circuit Court Clerk's Office; and

WHEREAS, the Directors of Utilities and Neighborhood Development Services have reviewed the request to release, vacate and extinguish the Public Utility Easement, shown as a shaded area on the attached plat dated August 22, 2019, and labeled "Ex. 5' Public Utility Esm't Inst. #2018-00001798 (To Be Vacated)", after determining that the City no longer has a need for the subject easement; and

WHEREAS, in accordance with Virginia Code Sec. 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the release of the above-referenced Public Utility Easement; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a Deed of Vacation of Easement, in form approved by the City Attorney, to release, vacate and extinguish the above-described Public Utility Easement granted to the City.

Prepared by Lisa A. Robertson (VSB #32486)
Charlottesville City Attorney's Office, P.O. Box 911, Charlottesville, VA 22902

Tax Map Parcel 010004100
Consideration: \$0

*This deed is exempt from recordation tax imposed by Va. Code Sec. 58.1-802
Pursuant to Va. Code Sec. 58.1-811(C)(4)*

THIS DEED OF VACATION OF EASEMENT ("Deed") is made as of this ____ day of _____, 2019, by and between the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and political subdivision of the Commonwealth of Virginia ("City"), Grantor, and **MEADOWBROOK CORNER, LLC**, a Virginia limited liability company, Grantee, whose address is 1754, Stony Point Road, Charlottesville, Virginia 22911.

WITNESSETH:

WHEREAS, Grantee owns certain real property in the City of Charlottesville, Virginia, designated as Parcel 4.1 on City Real Estate Tax Map 1; and

WHEREAS, by Deed of Easement, dated May 10, 2018, of record in the Charlottesville Circuit Court Clerk's Office as Instrument No. 201800001798, a 5' wide public utility easement was established and dedicated to the City; and

WHEREAS, Grantee requested vacation and release of a 5' public utility easement (hereinafter, "Subject Easement") by the City, described as follows:

A permanent 5' wide public utility easement dedicated to the City by the above-referenced recorded Deed of Easement (Instrument No. 201800001798), and shown as a shaded area on a plat entitled "Ex. 5' Public Utility Esm't Inst. #2018-00001798 (To Be Vacated)", dated August 22, 2019, of record in the aforesaid Clerk's Office as Instrument No. 201900003150 attached to a Deed of Easement dated August 29, 2019; and

WHEREAS, Meadowbrook Corner, LLC requested the City to release and vacate the Subject Easement, by way of adoption of an ordinance; and

WHEREAS, by ordinance adopted _____, 2019, City Council authorized the City Manager to execute this Deed of Vacation of Easement;

NOW, THEREFORE, for and in consideration of ONE DOLLAR (\$1.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City does hereby VACATE, RELEASE and EXTINGUISH the above-described public utility easement.

IN WITNESS WHEREOF, the Mayor of the City of Charlottesville, Virginia, has signed this Deed pursuant to an ordinance adopted _____, 2019.

WITNESS the following signatures and seals.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Nikuyah Walker, Mayor

COMMONWEALTH OF VIRGINIA
City of Charlottesville, Virginia

The foregoing instrument was acknowledged before me, a Notary Public in and for the aforesaid City and Commonwealth, by Nikuyah Walker, Mayor of the City of Charlottesville, Virginia, on this _____ day of _____, 2019.

Notary Public

Registration #: _____

Approved as to form:

John C. Blair, II, City Attorney

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Required:	Ordinance Enactment & Resolution Adoption
Presenter:	John C. Blair, II, City Attorney
Staff Contacts:	John C. Blair, II, City Attorney
Title:	Police Civilian Review Board Ordinance, Bylaws, and Resolutions

Background:

On December 18, 2017, the City Council adopted a Resolution establishing an Initial Police Civilian Review Board (IPCRB). The IPCRB concluded its work on July 1, 2019 and adopted proposed bylaws and a proposed ordinance. The IPCRB made a presentation about the proposed bylaws and ordinance at Council's August 5, 2019 meeting.

Discussion:

Upon receipt of the IPCRB's materials, the City Manager and City Attorney's Office engaged in discussions with Councilors about the proposals and the Councilors' opinions on various topics contained within the materials.

Additionally, the City Attorney's Office organized a September 19, 2019 City Council work session with members and staff from the Fairfax County Police Civilian Review Panel. After the work session, additional meetings were held with Councilors to gather their opinions on more topics related to the IPCRB materials.

The proposed Ordinance and Bylaws contain changes from the IPCRB's original proposal based on Council's feedback. The following describe some of the major changes contained in the Civilian Review Board (CRB) Ordinance and Bylaws:

Councilor Membership: A majority of Councilors indicated that they did not support a member of City Council serving as a non-voting member of the CRB.

Auditor/Audit Function: A majority of Councilors did not support hiring an Auditor for the CRB at this time. Therefore, functions and access provisions contained in the IPCRB related to the Auditor position are not included in the CRB Ordinance and Bylaws. However, there is a Resolution for Council's consideration that relates to the Auditor position and functions. The CRB Executive Director is required to present a report to City Council in December 2020 with recommendations concerning an Auditor position as well as Audit functions. The Council will consider the Executive Director's report and any recommended Ordinance or Bylaws

amendments.

Executive Director: The Executive Director will be hired by the City Manager. The City Manager will include two members of the CRB on an interview panel for Executive Director finalists. Similar to the Chief of Police, the Ordinance provides that the City Council must vote to confirm the City Manager's choice for Executive Director.

Legal Counsel: The CRB will be empowered to retain its own legal counsel for some of its functions (i.e. Review Request hearings). The CRB may also consult the City Attorney's Office for legal advice concerning issues not related to those specific functions. The CRB Executive Director, CRB Chair, and City Attorney will work together to retain legal counsel for the CRB.

Procedural Matters: Similar to bylaws contained in Fairfax County and Virginia Beach, the Bylaws provide that a Complaint or Review Request will not proceed if those requests concern matters that are the subject of a pending criminal or civil action or a grievance proceeding. Additionally, consistent with the bylaws of Fairfax County and Virginia Beach, the CRB may only consider matters that occur on or after the date of the Council's adoption of the Bylaws and Ordinance. Additionally, a Complaint may only be made within one year of the event giving rise to the Complaint and a Review Request may only be made within 75 days of an individual's receipt of a CPD Internal Affairs determination letter.

Legislative Agenda: The CRB is empowered to provide suggested legislative changes for the City Council's consideration in crafting its legislative agenda for the General Assembly.

Board Composition: The CRB's voting membership will include at least three (instead of the four initially proposed by the IPCRB) members who come from historically disadvantaged communities that have traditionally experienced disparate policing or who are residents of public housing and at least one member who represents an organization that seeks racial or social justice on behalf of historically-disadvantaged communities. One board member may be representative of both a historically disadvantaged community that has traditionally experienced disparate policing or resident of public housing as well as a representative of an organization that seeks racial or social justice on behalf of historically-disadvantaged communities.

Board Member Selection: The Council favors a CRB member selection similar to the Planning Commission. The Council will interview prospective CRB members in a closed session pursuant to the Virginia Freedom of Information Act and vote on appointing members to the CRB in an open meeting. The CRB would not have a role in the Council's appointment process.

Policy Review: The IPCRB proposed that the CPD would need to provide all new proposed general orders and policies to the CRB at least 30 days in advance before the policy or general order could be enacted. A majority of Councilors did not favor this 30 day advance notice for all CPD policies and general orders. However, a majority of Councilors do favor having the CPD provide any amendment to its policy concerning internal affairs investigations to the CRB at least 30 days in advance before the policy is enacted. Additionally, Councilors favored the CPD providing a copy of all policy amendments to the CRB for comment and for the CRB to be empowered to make policy recommendations to the CPD and the City Manager.

Board Member Compensation: The IPCRB proposed annual compensation of \$1500 for Board members. The Council does not favor this compensation for CRB members.

Bylaws Amendments: The Ordinance and Bylaws are written in a coordinated manner. Therefore, an amendment to the Bylaws will require approval of the Charlottesville City Council.

Community Outreach: The CRB is empowered to conduct community outreach sessions with the general public to discuss the relationship with CPD and the general public. The CRB is also empowered to request a joint meeting with the City Council to discuss the relationship with CPD and the general public.

Investigations: The proposed Bylaws permit the CRB to request an investigation in limited circumstances. The CRB can request an independent investigation when a Complaint submitted to CPD is not resolved within 75 days and after a conference between the CRB Executive Director and the Chief of Police, if the CRB is not satisfied with the Executive Director's report. Additionally, if the CRB conducts a Review Request and advises the City Manager that the CPD's investigation is incomplete or unsatisfactory and provides the specific reasons for this finding, the CRB may request an independent investigation pertaining to the specific reasons cited by the CRB. In both instances, the City Manager, in consultation with the CRB Executive Director, shall procure an investigator not affiliated with CPD to investigate the matters. The City Manager will provide a copy of the investigation's results to the CRB Executive Director to share with the CRB.

Next Steps

If the Council adopts the proposed Ordinance and Bylaws, the next steps for the CRB would be as follows:

1. Council advertises for, interviews, and appoints members to the CRB;
2. The CRB convenes to elect a Chair and Vice-Chair and selects two members to participate on the Executive Director finalist interview panel;
3. The City Manager selects an Executive Director and presents the candidate to Council for a confirmation vote as well as appropriations for anticipated expenditures;
4. The Executive Director begins their duties.

Budgetary Impact:

The budgetary impact is undetermined at this time. The costs of an Executive Director, NACOLE training for CRB members, office expenditures, office space, and legal services will need to be determined.

Alternatives:

The Council could amend or decline to adopt the Ordinance, Bylaws, and Resolution.

Attachments:

Ordinance
Bylaws
Resolution

**AN ORDINANCE
ADDING ARTICLE XVI (POLICE CIVILIAN REVIEW BOARD)
TO CHAPTER 2 (ADMINISTRATION) OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that a new Article to be numbered Article XVI, is hereby added to Chapter 2 of the Code of the City of Charlottesville (1990), as amended, to read as follows:

ARTICLE XVI. POLICE CIVILIAN REVIEW BOARD

Sec. 2-450. Title.

This article shall be known as the Charlottesville Police Civilian Review Board Ordinance.

Sec. 2-451. Police Civilian Review Board established; immunities.

There is hereby created a Charlottesville Police Civilian Review Board which shall be referred to as the Police Civilian Review Board for purposes of this article. The Police Civilian Review Board shall enjoy the protection of sovereign immunity to the extent allowed and provided pursuant to Virginia statutory and common law.

Sec. 2-452. Powers and duties of the Police Civilian Review Board.

The Police Civilian Review Board shall have the following powers and duties:

- (a.) Develop and administer a process for receiving civilian complaints about the Charlottesville Police Department;
- (b.) Review Charlottesville Police Department internal affairs investigations at the request of the complainant;
- (c.) Conduct hearings and make findings concerning Charlottesville Police Department internal affairs investigations;
- (d.) Organize and conduct community outreach sessions;
- (e.) Provide policy recommendations to the City Council and Charlottesville Police Department

Sec. 2-453. Police Civilian Review Board membership.

The Police Civilian Review Board shall be composed of seven voting members and one non-voting member appointed by the City Council. The members shall be removable by the City Council.

The seven voting members of the Police Civilian Review Board shall be residents of the City of Charlottesville.

The seven voting members shall include: at least three members who come from historically disadvantaged communities that have traditionally experienced disparate policing or who are residents of public housing and at least one member who represents an organization that seeks racial or social justice on behalf of historically-disadvantaged communities. One board member may be representative of both a historically disadvantaged community that has traditionally experienced disparate policing or resident of public housing as well as a representative of an organization that seeks racial or social justice on behalf of historically-disadvantaged communities.

The non-voting member of the Police Civilian Review Board shall consist of an individual with policing expertise or experience.

No Police Civilian Review Board voting member shall be a current City of Charlottesville employee, a current candidate for public office, a former member of the Charlottesville Police Department, an immediate family member of a current Charlottesville Police Department employee, or a current employee of a law enforcement agency.

Sec. 2-454. Police Civilian Review Board membership appointment, and terms.

(a) *Appointment Process.* The City Council shall appoint the members of the Police Civilian Review Board. The Council shall announce a public application process with applications available online and by hardcopy in English and Spanish for individuals interested in serving on the Police Civilian Review Board.

The City Council shall interview candidates for the Police Civilian Review Board in a closed session pursuant to the Virginia Freedom of Information Act.

The Council shall convene in an open session held pursuant to the Virginia Freedom of Information Act and appoint members of the Police Civilian Review Board.

(b) *Terms.* The first Police Civilian Review Board shall consist of three voting members appointed for individual terms of eighteen months and four voting members appointed for individual terms of three years.

All subsequent members of the Police Civilian Review Board shall serve terms of three years.

The non-voting member with policing expertise or experience shall serve a term of three years.

Sec. 2-455. Police Civilian Review Board vacancies.

If a Police Civilian Review Board member's service on the Board ends before the conclusion of the Board member's term, the City Council shall appoint an individual to complete the remainder of the term.

Sec. 2-456. Police Civilian Review Board executive director.

The City Manager shall appoint a Police Civilian Review Board Executive Director with the approval of a majority vote of the City Council.

Sec. 2-457. Police Civilian Review Board legal counsel.

The Police Civilian Review Board shall be empowered to employ its own legal counsel consistent with the Police Civilian Review Board's bylaws approved by the Charlottesville City Council on November 4, 2019 and as amended from time to time.

Sec. 2-458. Police Civilian Review Board policy recommendations.

The Police Civilian Review Board may recommend policies or procedures to the City Council or the Charlottesville Police Department concerning police practices.

The Charlottesville Police Department shall provide any proposed amendment to its Internal Investigations and Citizen Complaints policy to the Police Civilian Review Board at least thirty days before its enactment. The Police Civilian Review Board may provide comment upon the proposed policy or general order's impacts, including but not limited to, on historically disadvantaged communities that have traditionally experienced disparate policing.

Upon the determination of the Chief of Police, in consultation with the City Manager and Police Civilian Review Board Executive Director, that it is impractical to present an amendment to the Internal Investigations and Citizen Complaints policy to the Police Civilian Review Board at least thirty days before its enactment, the City Manager may waive the thirty day notice requirement. The amendment shall still be presented to the Police Civilian Review Board for review and comment.

Sec. 2-459. Police Civilian Review Board community engagement and outreach.

The Police Civilian Review Board is authorized to engage in community outreach efforts to discuss and gather information about community relations between the Charlottesville Police Department and the general public.

The Police Civilian Review Board may request the City Council to conduct a joint meeting to discuss issues of concern between the Charlottesville Police Department and the general public.

Sec. 2-460. Police Civilian Review Board complaint intake.

The Police Civilian Review Board is authorized to develop and administer a process for receiving civilian complaints about the Charlottesville Police Department consistent with the Police Civilian Review Board's by-laws approved by the Charlottesville City Council on November 4, 2019 and as amended from time to time.

Sec. 2-461. Police Civilian Review Board internal investigation review.

The Police Civilian Review Board is authorized to review completed Charlottesville Police Department internal investigation determinations as enabled by the Police Civilian Review Board's by-laws approved by the Charlottesville City Council on November 4, 2019 and as amended from time to time.

Sec. 2-462. Police Civilian Review Board recommendations and annual report.

The Police Civilian Review shall provide the City Council a list of recommendations, if the Board determines any recommendations are necessary, for the Council's consideration to include in its annual legislative program present to the General Assembly. These recommendations shall be due to the Council by August 15 of each year.

The Police Civilian Review Board shall provide the City Council with an annual report by December 1 of each year. The report shall detail the Police Civilian Review Board's calendar year activities.

Sec. 2-463. Police Civilian Review Board by-laws.

The City Council shall approve Police Civilian Review Board by-laws, and any amendments to the by-laws, that shall govern the procedures, practices, and operations of the Police Civilian Review Board.

Secs. 2-464 – 2-470. Reserved.

CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD BYLAWS

Adopted by the Charlottesville City Council on _____, 2019.

ARTICLE 1. NAME

The name of this organization is the Charlottesville Police Civilian Review Board (hereinafter “Board”).

ARTICLE 2. PURPOSE

The Board aims to provide objective and independent civilian-led oversight of the Charlottesville Police Department (hereinafter “CPD”) in an effort to enhance transparency and trust, to promote fair and effective policing, and to protect the civil and constitutional rights of the people of the City of Charlottesville.

The Board’s functions, as outlined below, shall pursue the following principles and objectives:

- A. Ensuring that police officers act with integrity and treat every person with equal dignity;
- B. Empowering and inspiring self-governance and a culture of mutual respect;
- C. Seeking social and racial justice;
- D. Engaging in community outreach and amplifying the voices of the socially, politically, and economically disenfranchised;
- E. Listening to and building cooperation between all stakeholders to find and develop common ground and public purpose;
- F. Championing just, equitable, and legitimate policing policies and practices; and
- G. Processing complaints, reviewing police practices and internal investigations, issuing findings, writing public reports, and making recommendations.

ARTICLE 3. BOARD MEMBERSHIP AND TERMS OF OFFICE

A. Composition and Qualifications.

1. The Charlottesville City Council shall appoint each member of the Board.
2. The Board shall be composed of seven voting members all of whom reside in the City of Charlottesville. Three of the Board members shall either be residents of public housing at the time of their appointment or come from historically-disadvantaged communities that have traditionally experienced disparate policing. One of the Board members shall represent an organization, office, or agency that seeks racial or social justice or that otherwise advocates on behalf of historically-disadvantaged communities, particularly communities that have experienced

disparate policing. One Board member may fulfill both categories established in the preceding two sentences.

3. The Board shall also have one non-voting member with law enforcement experience.

B. Terms of Service.

Board Members shall be appointed for three-year terms, except for the inaugural Board (which shall have terms as described below) and may be appointed to no more than two consecutive terms pursuant to Charlottesville City Code Section 2-8.

With respect to the inaugural Board, three Board Members shall be appointed for three year terms and three Board Members shall be appointed to eighteen month terms.

The non-voting member shall serve for a term of three years.

C. Resignations, Removals and Vacancies.

1. Board Members serve at the pleasure of the Charlottesville City Council.
2. The Board may request that the Charlottesville City Council remove a Board member for misfeasance, malfeasance, or excessive absences from Board meetings.
3. Any Board member may resign from the Board at any time by delivering written notice of their resignation to the City Council's Clerk of Council with a copy to the Board Chair. The resignation will be effective upon receipt by the Clerk of Council, unless an effective date of the resignation is specified in the written notice.
4. The Charlottesville City Council may appoint a new Board Member for the unexpired Board Member term resulting from a vacancy that occurs for any reason. In filling a vacancy for the remainder of a term, the Charlottesville City Council will attempt to maintain the composition of the Board consistent with the Article 3, Section (A)(2) of these Bylaws, but it is not required to do so. The Council will endeavor to preserve the composition of the Board consistent with Article 3, Section (A)(2) of these Bylaws by giving a preference to a prospective appointee who represents a group mentioned in these Bylaws to fulfill the aforementioned Board composition provision.

D. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with ordinances or resolutions of the Charlottesville City Council. To the extent there is a conflict between any ordinance or any other resolution or matter passed by the City Council, and these Bylaws, the ordinance or resolution shall govern.

E. Board Immunity.

Board members shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, et seq., and the provisions of Virginia Code § 15.2-1405.

ARTICLE 4. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. Election of Chairperson and Vice-Chairperson.

At its first meeting, the Board shall elect, by a majority vote, a Chairperson and Vice-Chairperson. The Board shall elect a Chairperson and Vice-Chairperson at its first meeting of every calendar year. No Board Member shall serve more than two consecutive terms as Chairperson.

B. Duties of the Chairperson and Vice-Chairperson.

The Chairperson shall preside over all Board meetings at which they are present. Additionally, the Chairperson shall prepare all Board meeting agendas in consultation with Board professional staff members. The Chairperson shall also draft all Board communications and serve as the Board's media point of contact. Finally, the Chairperson may assign an *ad hoc* task to one or more Board members.

The Vice-Chairperson shall preside over all Board meetings in the absence of the Chairperson and shall perform any other duties delegated to them by the Chairperson. The Vice-Chairperson shall take minutes at all Board public meetings unless the Board votes to allow its Executive Director to take minutes.

C. Committees.

The Chairperson may appoint any necessary committees or subcommittees of Board members to accomplish the Board's objectives.

D. Community Advisory Panels.

The Board may establish community advisory panels as it deems necessary. The Board shall determine the composition of the panels. The purpose of the panels shall be to provide community input on the Board's activities. No more than two Board members shall serve on a community advisory panel, and panels will not be delegated any of the Board's functions nor shall they serve as advisors to the Board.

ARTICLE 5. QUORUM, VOTING, MEETINGS, MINUTES, AND ETHICS

A. Quorum.

At any Board meeting, the presence of four Board members shall constitute a quorum.

B. Voting.

The vote of a majority of Board members present at a meeting with a quorum is necessary for the Board to take an action. All votes of Board members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Board members who are present at a meeting, including the Chair, may vote at any meeting.

C. Regular Meetings.

At its first meeting, the Board shall establish a regular meeting schedule for the year. Regular meetings shall be scheduled on a monthly basis, however, the Chairperson may cancel any meeting if there is no business to conduct or in the event of inclement weather. Any meeting cancelled due to inclement weather will be rescheduled by the Chairperson upon consultation with other Board members.

The Board will provide a time for public comment at each of its regular meetings. The Board Chairperson will establish a reasonable time period to receive public comments. The Board Chairperson may establish a specific, uniform time period for each public commenter to address the Board.

D. Special Meetings.

The Chairperson or two Board members may call a special meeting by providing a written request to the Executive Director.

E. Participation by Electronic Communication Means

A Board member may participate in the meeting through electronic communication means if the following conditions are met:

1. A quorum of Board members is physically present at the meeting site;
2. If the Board member is unable to be physically present due, the Board member shall notify the Chairperson of their inability to attend the physical meeting;
3. If the Board member's absence is due to a personal matter, the Board member shall identify the specific nature of the personal matter (a Board member may only participate electronically in two Board meetings per calendar year due to a personal matter);

4. The electronically participating member's physical location is recorded in the Board's minutes as well as the specific nature of the personal matter that prohibits the Board member's attendance;

5. The Board's minutes shall reflect if the electronically participating Board member's absence is due to a temporary or permanent disability or medical condition (a Board member may electronically participate in an unlimited number of meetings due to a temporary or permanent disability or medical condition);

6. The electronically participating member's voice can be heard by all Board members at the physical location of the meeting; and

7. By a majority vote of the Board members present at the physical meeting location, the Board approves the Board member's electronic participation in the meeting.

F. Freedom of Information Act Compliance

The Board shall work with members of City staff to ensure compliance with all meeting notice requirements contained in the Freedom of Information Act. All regular Board meetings shall be publicly notices in two physical locations within Charlottesville City Hall as well as on the City of Charlottesville's calendar available on the internet.

G. Minutes

The Board shall ensure that it records meeting minutes for each Board meeting. The minutes shall contain the date, time, and place of the meeting; the Board members who are absent and present for the meeting; a brief description of the Board's business conducted at the meeting; and a record of all votes taken at the meeting including each Board member's vote on each issue by name, unless the vote is unanimous.

H. Ethics.

The Board shall demonstrate a commitment to integrity and impartiality. A Board member shall not allow a personal interest to compromise these values. The Board shall comply with the Virginia Conflict of Interests Act (COIA). Additionally, even if the COIA does not prohibit a Board member from participating in a Board action, if a Board member does not wish to vote on a matter before the Board, they may abstain from voting.

I. Training.

All Board members shall, within six months of appointment, participate in city-sponsored training offered by the National Association for Criminal Oversight of Law Enforcement (NACOLE) or a comparable organization selected by the Board's Executive Director. The training shall consist of at least eight hours.

Additionally, the Board's Executive Director shall provide a separate training to Board members within six months of a Board member's appointment. The curriculum of this training

shall be developed by the Executive Director in consultation with the City Manager, City Attorney, Chief of Police, and any other City staff member that the Executive Director wishes to consult.

ARTICLE 6. STAFF

A. Executive Director

The City Manager will appoint an Executive Director for the Board upon a majority vote of the Charlottesville City Council. Before recommending a candidate for Executive Director role to the City Council, the City Manager will conduct an interview panel for finalists for the position. Two members of the Board shall serve on the interview panel and provide their advice and recommendations to the City Manager. The City Manager shall supervise and evaluate the Executive Director. The Executive Director may be terminated by the City Manager. The Board may, by a majority vote, request a conference between the Board Chair and the City Manager to discuss the performance of the Executive Director.

B. Legal Counsel.

The Board's Executive Director, the City Attorney, and the Board Chair shall work collaboratively to select legal counsel for the Board on an annual basis utilizing best practices for procuring legal services. The Board's legal counsel shall advise the Board on all legal questions the Board may have concerning complaints, reviews of internal affairs investigations, policy recommendations, and community forums. The Board and Executive Director may consult the Office of the City Attorney for legal advice concerning legal questions not related to the four aforementioned topics.

ARTICLE 7. PANEL AUTHORITY TO REVIEW INVESTIGATIONS

A. Scope of Panel Review Authority.

The Board may review CPD internal affairs investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (1) the CPD has completed an internal affairs investigation of a CPD officer and the investigation resulted in a finding of unfounded, exonerated, or not resolved; and (2) a Review Request is filed with the Board's Executive Director. A request shall be deemed filed when it is received by the Board's Executive Director. The Board shall not review:

1. Any Complaint related to an incident that occurred before the date of the Charlottesville City Council's adoption of these by-laws;

2. A Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Complaint;

3. A Review Request filed more than seventy-five (75) days after the date of the CPD notice sent to the complainant that informs the complainant of the completion of the CPD's internal

affairs investigation (unless the Panel determines that there is good cause to extend the filing deadline); or

4. A Review Request concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any City of Charlottesville grievance proceeding.

The Board may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Board shall not act on any Review Request that is the subject of a grievance proceeding until any and all appeals are resolved.

B. Deferral of Pending Proceedings.

If at any point in the review process the Board learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any grievance proceeding, the Board shall:

1. Suspend its review;
2. Defer the review pending resolution of the criminal, civil or grievance proceeding by the trial court or Personnel Appeals Board panel;
3. Notify the complainant, in writing, of any deferrals; and
4. Track any deferred matter and notify the complainant and the once the proceedings are closed and the request for review may proceed.

The Board may request assistance of the City Attorney in making its determination that matters of a Review Request are the subject of pending proceedings.

The Board may act on a Review Request after the City Attorney determines that the trial court or Personnel Appeals Board has resolved the pending criminal, civil, or grievance matter.

ARTICLE 8. PANEL REVIEW PROCEDURES

A. Scheduling a Review Request.

Upon receipt of a Review Request, the Board shall meet to discuss the request and schedule a Review Request for a hearing before the Board. The Board shall determine whether the Review Request is filed within the timelines established within Article 5 of these Bylaws.

B. Access to Internal Affairs File and Other Materials.

Upon scheduling a Review Request for a hearing before the Board, the Board shall notify the Charlottesville Chief of Police. The CPD shall prepare each Board member a complete copy of the internal affairs file that is the subject of the Review Request. The City Attorney shall review the file and redact any information related to a juvenile pursuant to Virginia Code Section 16.1-301, as amended.

In addition to a complete copy of the internal affairs file, the CPD shall produce a copy of any final disciplinary actions taken against the officer that is the subject of the Review Request.

Additionally, the Board shall have access to any material or evidence utilized by the CPD during its internal affairs investigation related to the Review Request unless the Chief of Police, upon concurrence of the Charlottesville Commonwealth's Attorney, determines that the material or evidence is the subject of an active criminal investigation.

Board members may review the internal affairs file and the aforementioned disciplinary actions upon signing a notice of confidentiality in which the Board member agrees that they will not disclose the contents of an internal affairs file or disciplinary action taken against the officer. Failure to adhere to the notice of confidentiality shall result in the Council removing the Board member from the Board.

Finally, the Board shall have access to raw and aggregated data on the timing, findings, and dispositions of CPD internal affairs investigations.

C. Review Request Hearing

The Board shall conduct a hearing on all Review Requests that it finds to be in conformance with the criteria established in Article 5 of these Byaws.

The Board may not subpoena witnesses or evidence nor may it take testimony under oath.

The individual filing the Review Request shall state the specific reason(s) for the Review Request. The individual may also present any evidence, including witnesses, supporting their reasons for filing the Review Request. The Board may question the individual filing the Review Request and any witnesses that the individual presents.

Upon the completion of the individual filing the Review Request's presentation, a CPD representative familiar with the internal affairs investigation that is being reviewed by the Board shall present a statement which summarizes all findings of fact and a review of all evidence collected and received during the investigation. The Board may ask the CPD representative questions about the investigation.

D. Findings.

At the conclusion of the Review Request, the Board shall, within thirty days, determine, by a preponderance of the evidence, and by a majority vote of Board members one of the following findings:

1. The Board concurs with the findings of the CPD investigation; or
2. The Board advises the City Manager that the CPD investigation's findings are not supported by the information reasonably available to CPD and make further recommendations to the City Manager concerning disposition of the Review Request; or
3. The Board advises the City Manager that the CPD's investigation is incomplete or unsatisfactory and provide the specific reasons for this finding; or
4. After an investigation pursuant to Article 10, if the Board still believes that an investigation is unsatisfactory or incomplete, it may make a finding to that effect and provide the specific reasons for

The Board shall be advisory and shall not have disciplinary authority.

If the Board determines that the CPD investigation is incomplete or unsatisfactory and provides specific reasons for its findings, it shall suspend its Review Request inquiry and follow the procedure found in Article 10 of these Bylaws.

ARTICLE 9. COMPLAINTS

A. Complaint Intake.

A Complaint shall be in writing and shall be deemed filed when delivered or emailed to the Board's Executive Director. A Complaint shall contain:

- (i) identifying information for the person filing the Complaint;
- (ii) a statement describing the reasons for the Complaint;
- (iii) the specific police behavior of concern;
- (iv) a description of the incident in which the behavior occurred; and
- (v) a list of the names, addresses and phone numbers of all witnesses to or persons with knowledge of the incident known by the complainant.

B. Complaint Processing.

The Board shall immediately forward an Initial Complaint to the CPD for investigation. The CPD shall complete its investigation and provide an Investigation Report to the Board within seventy-five (75) days. The Board's Executive Director will assist and answer questions a Complainant may have about the Complaint process. The Board's Executive Director will provide an update to the Board about open Complaints at each Board meeting.

C. Complaint Results.

The CPD shall provide the Board and the Complainant a letter with its finding concerning the Complaint. If the CPD makes a finding of unfounded, exonerated, or not resolved the Complainant may file a Review Request by the Board within seventy-five (75) days

of receiving the CPD finding. Additionally, the Board may initiate a Review Request, by a majority vote, if the CPD makes a finding of unfounded, exonerated, or not resolved.

ARTICLE 10. INVESTIGATIONS

A. Criteria.

If a Complaint investigation is not completed by CPD within seventy-five days of Complaint receipt or if, at the conclusion of a Board Review Request, the Board advises the City Manager that the CPD's investigation is incomplete or unsatisfactory and provides the specific reasons for this finding, then the Board's Executive Director shall request a conference with the CPD Chief of Police.

B. Conference.

The Board's Executive Director and the Chief of Police shall conduct a conference within thirty (30) days of either criteria being met in Article 10, Section A of these Bylaws. The purpose of the conference will be to discuss the delay of a Complaint's investigation or the Board's specific concerns about a Review Request investigation. The Executive Director and Chief of Police shall attempt to address the Board's concerns.

C. Report to Board.

The Executive Director shall report back to the Board after their conference with the Chief of Police. If the Board remains unsatisfied with the Executive Director's report, the Board may vote to request an investigation concerning the Complaint's incomplete investigation which shall address the specific reasons the Board cited in its referral of a Review Request to the Executive Director.

D. Investigation.

If the Board votes to request an investigation pursuant to Article 10 Section (C) of these Bylaws, the Executive Director shall forward the request to the City Manager. The City Manager, in consultation with the Executive Director, shall procure an investigator independent of CPD to examine the Board's specific concerns about the Review Request or the incomplete investigation of a Complaint. The results of the investigation shall be provided to the City Manager and the Executive Director.

Any investigation initiated by the City Manager shall comply with existing federal, state, and local law and protections including the Virginia Law Enforcement Procedural Guarantee Act as well as the United Supreme Court's decision in *Garrity v. New Jersey*. Notwithstanding this provision, only the Chief of Police may issue a "*Garrity* warning" to compel a statement from a CPD employee.

E. Investigation Results.

Upon completion of the investigation, the Executive Director shall provide the Board with the results of the investigation. If the investigation is the result of an incomplete Complaint investigation, the investigation shall be provided to the Complainant and the CPD. If the investigation is the result of a Review Request, the Board shall reconvene, complete its deliberations, and issue its finding.

ARTICLE 11. POLICY REVIEW AND ANNUAL REPORT

A. General Policy Review.

The CPD will provide the Board a list of all amendments that it makes to its administrative and operational policies. At the request of a Board member, the Chairperson shall schedule a review of the policy amendment at the Board's next regularly scheduled meeting. The Board may adopt, by motion or resolution, a formal position statement on the policy amendment. The Board shall provide any official position statement to the Charlottesville Chief of Police for their consideration.

The Board may also make recommendations to the Chief of Police about proposed amendments to any existing CPD administrative and operational policies. Additionally, the Board may recommend proposed policies to the Chief of Police for their consideration.

B. Internal Investigations Policy Review.

The Chief of Police shall provide the Board with any proposed amendments to the CPD's internal investigations policy at least thirty (30) days before the amendment will be enacted. The Board may adopt, by motion or resolution, a formal position statement on the policy amendment. The Board shall provide any official position statement to the Charlottesville Chief of Police for their consideration before the amendment is enacted.

C. Annual Report.

The Board shall file an annual written report to the Charlottesville City Council by December 1 of every calendar year. The report shall contain a summary of the Board's activities for the calendar year as well as any recommendations the Board wishes to make about policing within the City of Charlottesville.

D. Legislative Proposals.

The Board may make requests to the Charlottesville City Council about specific state legislation that it wishes for the Charlottesville City Council to include in the Council's annual legislative package presented to the state legislators representing Charlottesville in the Virginia General Assembly. The Board shall provide all requests to the City Manager by August 15 of each calendar year.

ARTICLE 12. PUBLIC ENGAGEMENT

A. Community Outreach.

The Board may engage in community outreach to gather the input of community members about their interactions with CPD.

B. Community Listening Sessions.

The Board may engage in community listening sessions in which the Board solicits feedback about the relationship between CPD and members of the general public.

ARTICLE 13. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Charlottesville City Council.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Board by adopting the proposed amendment or amendments by a majority vote of the Board and by presenting those proposed changes for approval to the Charlottesville City Council. Any such amendments to the Bylaws shall become effective upon approval of the Charlottesville City Council.

RESOLUTION

BE IT RESOLVED, by the Council of the City of Charlottesville, Virginia, that the Police Civilian Review Board's Executive Director shall issue a report to the Charlottesville City Council in December 2020 recommending whether an Auditor should be employed by the City for the Board; and

BE IT FURTHER RESOLVED, by the Council of the City of Charlottesville, Virginia that the report shall recommend whether the Auditor should be a full-time or part-time position or if the Executive Director recommends contracting with a firm for audit services; and

BE IT FURTHER RESOLVED, that the Executive Director's report shall detail which, if any, aspects of the Charlottesville Police Department's operations should be audited; and

BE IT FURTHER RESOLVED, by the Council of the City of Charlottesville, Virginia that the Council will consider the Executive Director's report and may amend any ordinances or the Police Civilian Review Board's Bylaws to establish an Auditor position or contract with an outside firm as well as to establish procedures governing access to the CPD's records.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 21, 2019
Action Required:	Vote on Resolution
Staff Presenters:	Timothy Motsch, Transportation Project Manager Brian McPeters, PE, Kimley-Horn and Associates, Inc.
Staff Contacts:	Alex Ikefuna, NDS Director Tony Edwards, Development Services Manager Timothy Motsch, Transportation Project
Title:	East High Streetscape – Resolution Approving Design Public Hearing

Background: The Design Public Hearing for the East High Streetscape project was held on Wednesday, June 12, 2019 at City Space on the Downtown Mall. The meeting was advertised using the following methods:

- 1) Daily Progress Advertisement – Sunday, May 26, Monday May 27, Tuesday May 28, Wednesday May 29, Thursday May 30, Friday May 31, and Saturday June 1
- 2) Direct Mailing - 81 “Current Residents” + 186 “Owners”
- 3) Certified Mailing to Impacted Property Owners (as well as Invitation to Meet)
- 4) Emailed Citywide mailing list as well as Project mailing list
- 5) Updated Project Website’s Main Page
- 6) Installed signage on Project Corridor
- 7) Variable Message Sign used on Project Corridor for one week before meeting
- 8) Posted Notices in Neighborhood Development Services’ lobby

Forty-seven (47) persons attended the hearing. Project plans, detailed displays, the environmental document and other required project materials were available for public review and discussion from 5:00pm until 7:00pm. The displays may be viewed by visiting the project website at www.easthighstreetscape.org. From 7:00pm until before 8:00pm public speakers shared comments that were captured by a court reporter (Attachment C). Five (5) citizens spoke during the hearing and thirteen (13) provided written comments. All public comments received between June 12, 2019 and June 22, 2019 have been included in a chart with project team responses (Attachment D). All comments have been addressed by the project team and provided to the public.

Discussion: After a public engagement process to develop a conceptual design, City Council approved a Preferred Conceptual Design for the East High Streetscape project on December 3, 2019 and authorized commencement of final design. As a result, the project team has refined the

Preferred Conceptual Design in preparation of the Design Public Hearing. The hearing was held to solicit public comment on the major design features (bicycle and pedestrian facilities, roadway configuration and streetscape design) as well as anticipated temporary and permanent impacts on adjacent property owners and the completed environmental document.

No comments were received regarding the environmental document which is not surprising given the existing built environment of this project's context. No additional environment impacts are expected with this project and the project team will be producing construction documents to ensure the contractor follows current requirements for proper disposal (ex. hazardous materials) and maintains proper site controls (ex. erosion and sediment protections).

As for major design features, the following themes emerged from the comments collected:

- 1) Concern was expressed regarding the need for canopy trees instead of understory trees on 9th Street between Market and Lexington. Three people commented on this concern. The project team has since revised the plans to replace the understory trees with canopy trees.
- 2) It was pointed out the curb bump-outs on Market Street inhibit necessary truck movements and stacking for loading before and after concerts at Sprint Pavilion. The project team will revise the plans to minimize the impacts to Pavilion truck activities; however, minimum widths required for ADA requirements must be met..
- 3) Concerns were expressed regarding the proposed removal of the right turn lane from 9th Street onto East High Street. After study, the project team concluded no change should be made to the current design. Traffic analysis demonstrated that the shortening of the pedestrian crosswalk across this existing right turn lane is of high safety value in the current design. Also, the anticipated right turn traffic does not warrant a separate right turn lane.

Several adjacent property owners also attended the hearing and provided comments:

- 1) Diane Dale and Mark Rylander – Requested more canopy trees on 9th Street between Market and Lexington.
- 2) Kirby Hutto, Sprint Pavilion – Reconsider the curb bump-outs on Market Street. They inhibit necessary truck movements and stacking for loading before and after concerts at Sprint Pavilion.
- 3) Tyler Whitney, Lauren McQuiston, Kevin McDermott – Concerns expressed regarding the proposed removal of the right turn lane from 9th Street onto East High Street.

The project team appreciates all of the comments offered by the public and has responded to each comment in Attachment D. Several comments complimented the public process, overall project and expressed the feeling that participants were heard during the process.

As a result of the comments received, the project team is suggesting the following changes:

- 1) Replacement of understory trees with canopy trees along 9th Street between E. Market Street and Jefferson Avenue.
- 2) Adjustment of the planting pallet to provide more variety of species with a focus on native species.
- 3) Increased bike lane width to six feet (6') along 9th Street from E. High Street to the existing CFA Institute entrance.

Alignment with City Council’s Vision Areas and Strategic Plan: Advancing East High Streetscape project upholds the City’s commitment to create “a connected community” by improving upon our existing transportation infrastructure. In addition, it would contribute to Goal 3 of the Strategic Plan, Beautiful Environment; 3.1 Engage in robust and context sensitive urban planning and implementation; 3.2 Provide reliable and high quality infrastructure and 3.3 Provide a variety of transportation and mobility options.

Community Engagement: This agenda item is approving the results of the latest public meeting held for East High Streetscape project. The next step in the public process is to seek a Certificate of Appropriateness from the Board of Architectural Review. Going forward, bi-monthly reports will be issued to update the public on project status as final construction documents are produced, right of way secured and construction commences. A Citizen Information Meeting will also be held before construction to provide information on the Maintenance of Traffic plans, Phasing, Points of Contact and other useful information.

To help guide the project, the City Council appointed a project Steering Committee composed of:

- Carl Schwartz – Board of Architectural Review
- David Katz – Belmont Carlton Neighborhood Association
- Lena Seville – Bicycle & Pedestrian Advisory Committee
- Rosamond Casey – Little High Neighborhood Association
- Greg Jackson - Little High Neighborhood Association
- Eberhard Jehle – Martha Jefferson Neighborhood Association
- Michael Wheelwright – North Downtown Neighborhood Association
- Hunter Smith – Planning Commission
- Brian Menard – Tree Commission

The process also involved coordination with the following City Council appointed stakeholder groups:

- Bicycle and Pedestrian Advisory Committee
- Board of Architectural Review
- Downtown Business Association/Chamber of Commerce
- PLACE Design Task Force
- Planning Commission
- Tree Commission

The City of Charlottesville has provided multiple opportunities for the public to provide input into the plan development process. These opportunities consisted of a project website, three community events (Streetscape Summit, Open House and Public Hearing) as well as presentations to various stakeholder groups. Information presented and gathered at these meetings can be found at www.easthighstreetscape.org.

Project Website: The Project website (www.easthighstreetscape.org) contains information that has been presented to date as part of the process. Information presented includes:

- Project background

- Project schedule
- A “resource” page that provides access to information presented and gathered from community events, and information presented at the stakeholder meetings
- A contact form
- A “get involved” page
- An “FAQ” page

As of September 4, 2019, the project website has logged over 4,639 unique page views, and approximately 1,724 unique users.

Budgetary Impact:

The preferred Conceptual Design Concept falls within the established budget comprised of a combination of City, State and Federal funding sources. The current draft of the City of Charlottesville FY 2020-2024 Capital Improvement Program includes an additional appropriation to enable a betterment for undergrounding of franchise utilities along E. Market Street and 9th Street. If the appropriation were to be approved in the upcoming CIP, then overhead franchise utilities would be placed underground as part of the project.

Recommendation:

As a result of the comments received, the project team is suggesting the following changes:

- 1) Replacement of understory trees with canopy trees along 9th Street between E. Market Street and Jefferson Avenue.
- 2) Adjustment of the planting pallet to provide more variety of species with a focus on native species.
- 3) Increased bike lane width to six feet (6’) along 9th Street from E. High Street to the existing CFA Institute entrance.

Alternatives:

None.

Attachments:

- (A) Proposed Design Resolution Approving Major Design Features**
- (B) Preferred Conceptual Design with Three Suggested Changes as a result of Design Public Hearing**
- (C) Design Public Hearing Transcript**
- (D) Design Public Hearing Comments**

**EAST HIGH STREETScape PROJECT
DESIGN PUBLIC HEARING APPROVAL RESOLUTION**

WHEREAS, a Design Public Hearing was conducted on June 12, 2019 in the City of Charlottesville by representatives of the City of Charlottesville and the Commonwealth of Virginia Department of Transportation after due and proper notice for the purpose of considering the proposed design of the East High Streetscape project under State project number of U000-104-298 (UPC 10948) and Federal project number of NHPP-5104(254) in the City of Charlottesville, at which hearing aerial photographs, drawings, environmental documentation and other pertinent information were made available for public inspection in accordance with state and federal requirements; and

WHEREAS, all persons and parties in attendance were afforded full opportunity to participate in said public hearing; and

WHEREAS, representatives of the City of Charlottesville were present and participated in said hearing; and

WHEREAS, the Council had previously requested the Virginia Department of Transportation to program this project; and

WHEREAS, the Council fully deliberated and considered all such matters; now

THEREFORE BE IT RESOLVED that the Council of the City of Charlottesville hereby approves the major design features of the proposed project as presented at the Public Hearing with the following changes:

- 1) Replacement of understory trees with canopy trees along 9th Street between E. Market Street and Jefferson Avenue.
- 2) Adjustment of the planting pallet to provide more variety of species with a focus on native species.
- 3) Increased bike lane width to six feet (6') along E. High Street from 9th Street to the existing CFA Institute entrance.

BE IT FURTHER RESOLVED that the City of Charlottesville will acquire and/or furnish all right-of-way necessary for this project and certify the same to the Virginia Department of Transportation and Federal Highway Administration at the appropriate time.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, on behalf of the City of Charlottesville, all necessary agreements required in conjunction with acquiring such rights of way, as well as all other associated standard agreements for construction activities.

Adopted this _____ day of October 2019.

City of Charlottesville, Virginia

ATTEST:

CLERK OF COUNCIL

BY: _____
MAYOR



City of Charlottesville City Council Design Approval

October 21, 2019



Process/Schedule

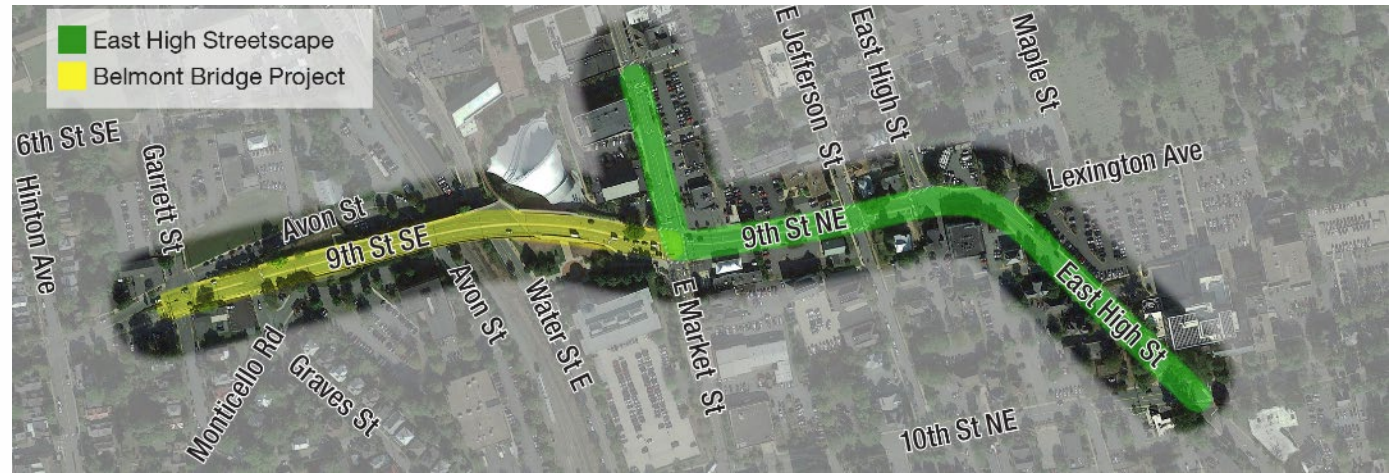


Project Overview

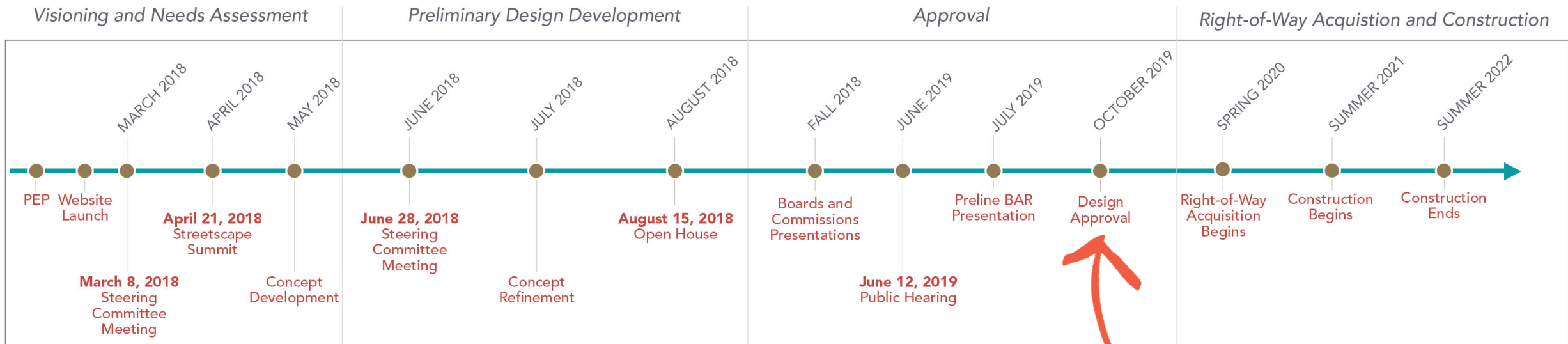


- Funded in 2016 through  SMART SCALE
- Multimodal improvements including:
 - Wider sidewalks, bike lanes, landscaping, ADA and pedestrian improvements, wayfinding, and signal upgrades.
 - Evaluate undergrounding overhead utilities
- E. Market Street
 - From 7th Street to 9th Street
- 9th Street
 - From E. Market Street to E. High Street
- E. High Street
 - From 9th Street to 10th Street

Total Budget: \$7.16 Million
(Not including potential underground utility betterment)



Process/Schedule



We are here!



Public Engagement Overview



Visioning & Needs Assessment

As of October 2019



Steering Committee Meeting #1

17,500+

individual data points

EastHighStreetscape.org Website

1,000+

touch points

500+

written comments

Streetscape Summit

MetroQuest Survey

Steering Committee Meeting #2

Open House

Presentations to City Committees

Approval by Planning Commission

Conceptual Approval by City Council

Coordination with Active Developments

Prelim. Input from Board of Arch. Review

Key Takeaways

- Overall, pedestrian facilities and multimodal mobility is a priority
- Desire to provide a safe and walkable street that enhances neighborhood connections
- Utilize design features and proposed amenities to enhance the overall environment for all users

Vision & Needs Assessment

Common Themes and Key Takeaways

- **Key Words** | safe, walkable/pedestrian-friendly, functional

- **Priorities**

1. Pedestrian Facilities
2. Landscaping
3. Bicycle Facilities
4. Traffic and Travel Speeds
5. Lighting



- **Challenges** | traffic volumes, limited space/competing priorities, Lexington and E. High intersection

- **Outcomes** | conformance to Comprehensive Plan, City Council concept approval



Preliminary Design Development

Design Public Hearing – Key Themes & Takeaways



46

attendees

30+

written comment
forms or e-mails

Key Takeaways

- Overall support of bicycle and pedestrian improvements
- Desire for planting palette enhancements including larger canopy trees
- Interest in how planned Tarleton Oaks development works with streetscape
- Support for conversion of existing overhead utilities to underground
- Concerns expressed regarding traffic
- Challenges with competing priorities in limited space and need for compromise

Recommended Preliminary Design



Project Location

Charlotteville, Virginia

North Arrow & Scale

GRAPHIC SCALE IN FEET

Legend

Proposed Asphalt	Existing Right of Way
Proposed Sidewalk	Proposed Right of Way Line
Proposed Stormwater Best Management Practice (BMP)	Proposed Permanent Easement
Proposed Green Bike Pavement Marking	Proposed Temp. Construction Easement
Area Under Further Study	Proposed Curb
Proposed Trees	Proposed Pedestrian Signal
	Proposed Signal

Contact Information

Written comments may be sent by June, 22 2019 to:
 Tim Motsch
 City of Charlottesville
 610 East Market Street
 P.O. Box 911
 Charlottesville, Va. 22902

E-mail comments may also be sent to:
motscht@charlottesville.org

East High Streetscape
 Charlottesville, Virginia
 State Project: U000-104-298
 UPC 106480

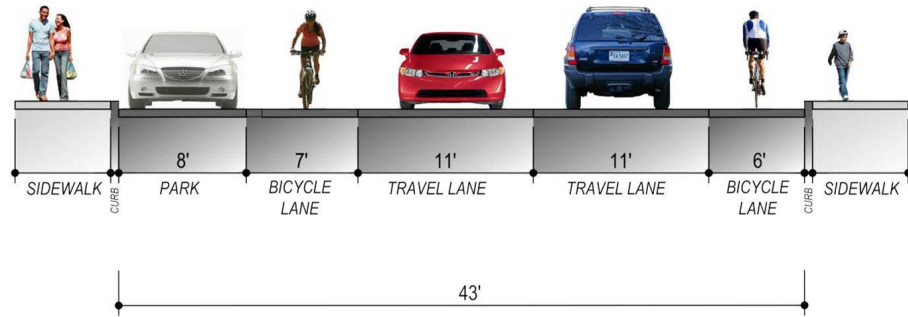
These plans are unfinished and unapproved and are not to be used for any type of construction or the acquisition of right of way. Preliminary easements for utility relocations are approximate only and subject to change as project design is finalized.

Imagery Courtesy of the Commonwealth of Virginia copyright 2018

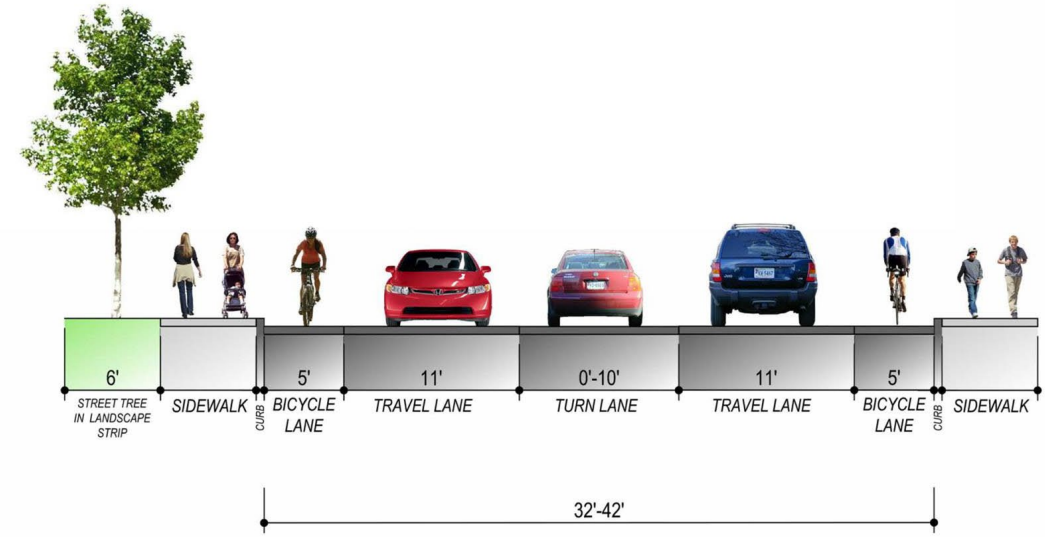


Recommended Preliminary Design

E. Market Street/9th Street



SECTION A - MARKET ST BETWEEN 8TH ST. AND 7TH ST.

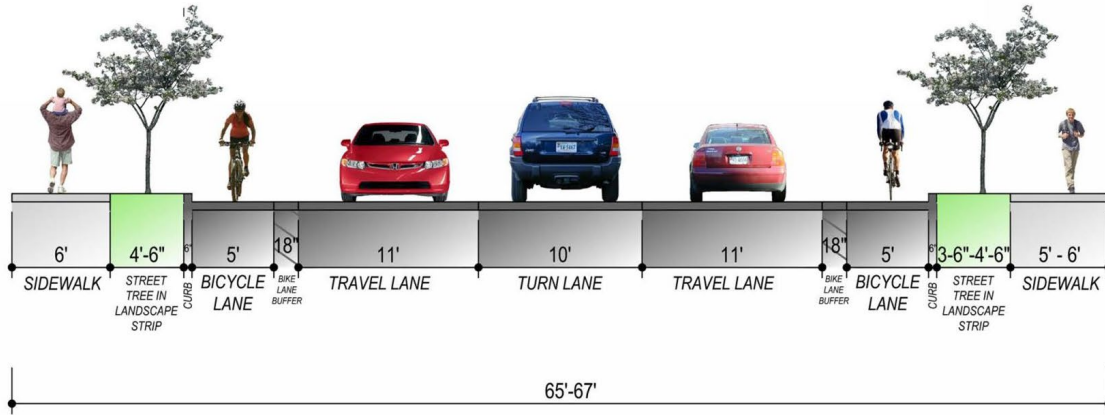


SECTION B - MARKET ST BETWEEN 8TH ST. AND 9TH ST.

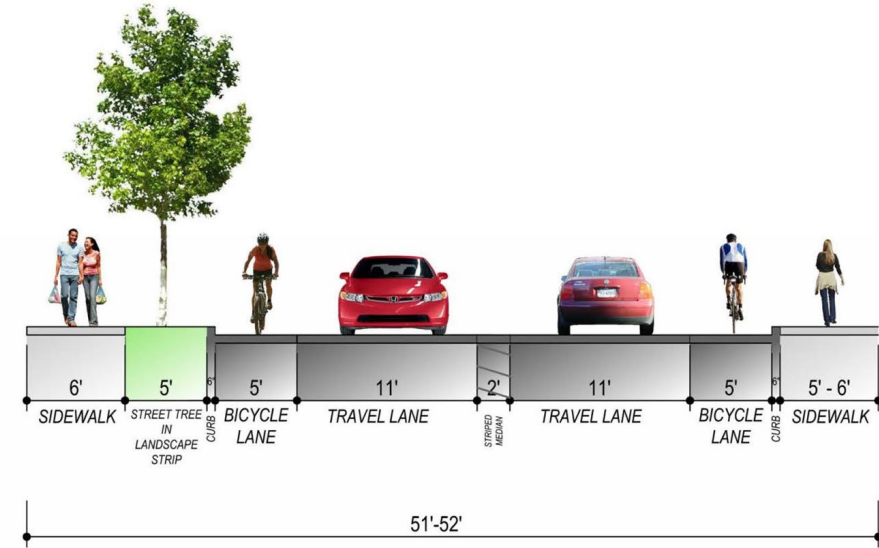


Recommended Preliminary Design

9th Street NE/E. High Street



SECTION C - 9TH ST. BETWEEN MARKET ST. AND E. JEFFERSON ST.



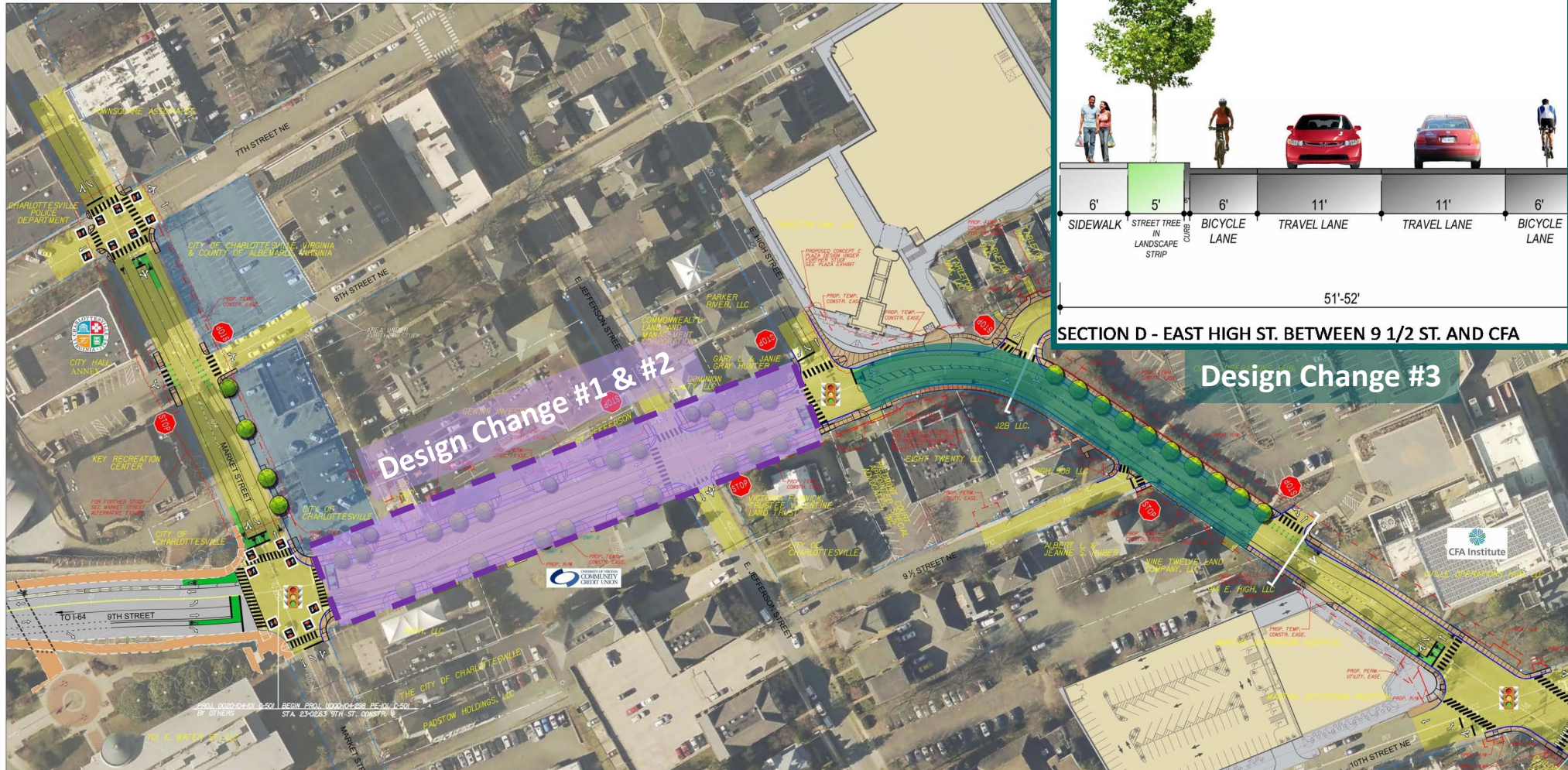
SECTION D - EAST HIGH ST. BETWEEN 9 1/2 ST. AND CFA



Recommended Design Changes Based on Public Hearing Comments



Design Changes Summary

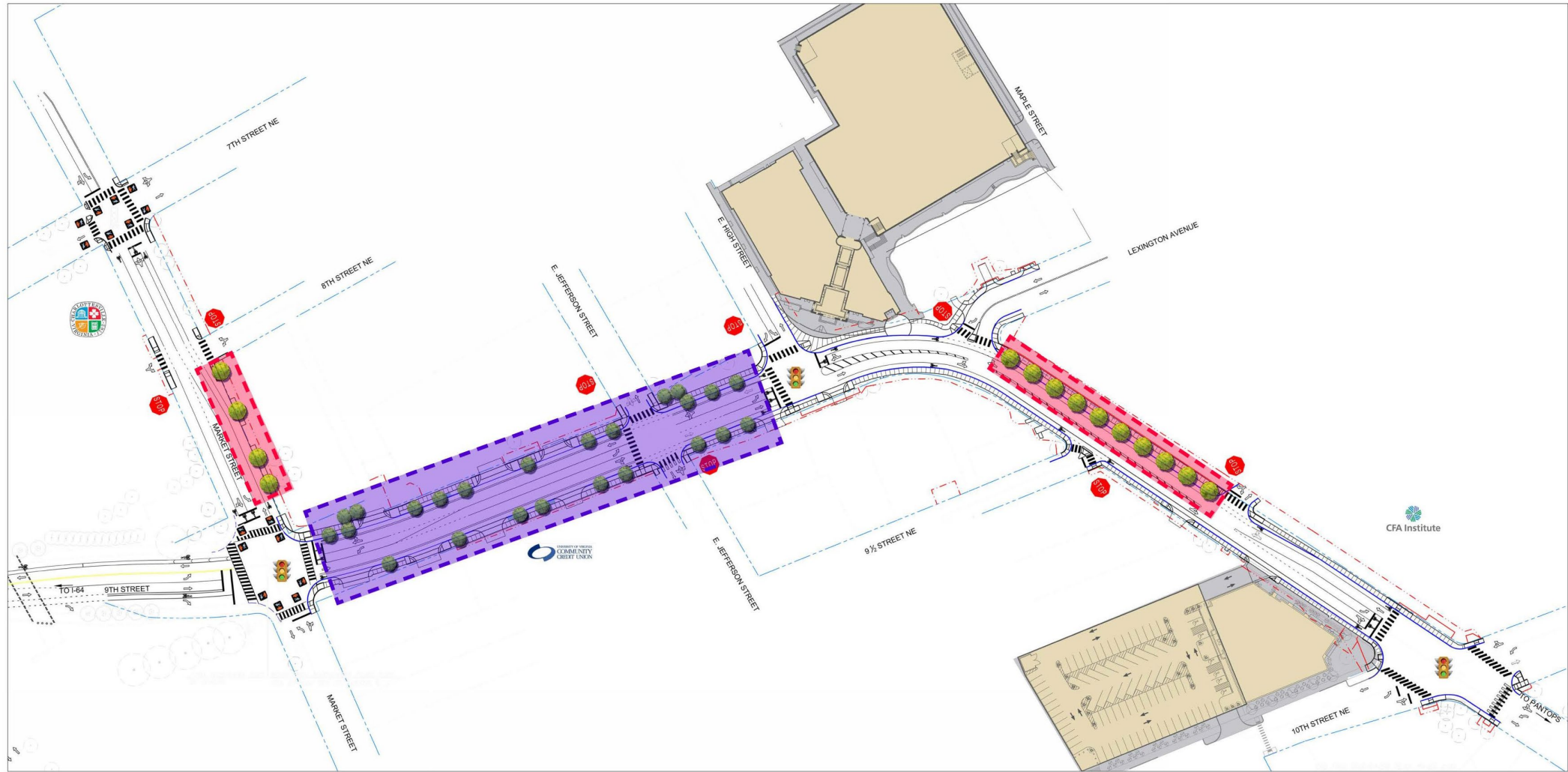


Design Change #1 & #2 - Planting Palette Presented at Public Hearing

- Proposed Canopy Trees
Potential Species:
Ginkgo Tree (Male)
G. bilboa
American Elm 'Jefferson'
U. americana
'Armstrong' Red Maple
A. rubrum 'Armstrong'
London Plane Tree
P. x acerifolia

- Proposed Understory Trees
Potential Species:
Flowering Dogwood
C. florida
Serviceberry (multi-stem)
A. grandiflora
Eastern Redbud
C. canadensis
River Birch
B. nigra 'Heritage'

Note: Tree species selected are consistent with Charlottesville's Master Tree List



Design Change #1 & #2 - Public Hearing Feedback on Planting

Key Takeaways

- Encourage the use of native trees
- Consider pedestrian comfort and safety
- Desire for larger trees rather than understory

• Priorities

1. Large trees for shade
2. Native tree varieties

• Challenges

1. Adequate soil volume available for large trees
2. Overhead electric utilities (if not underground)

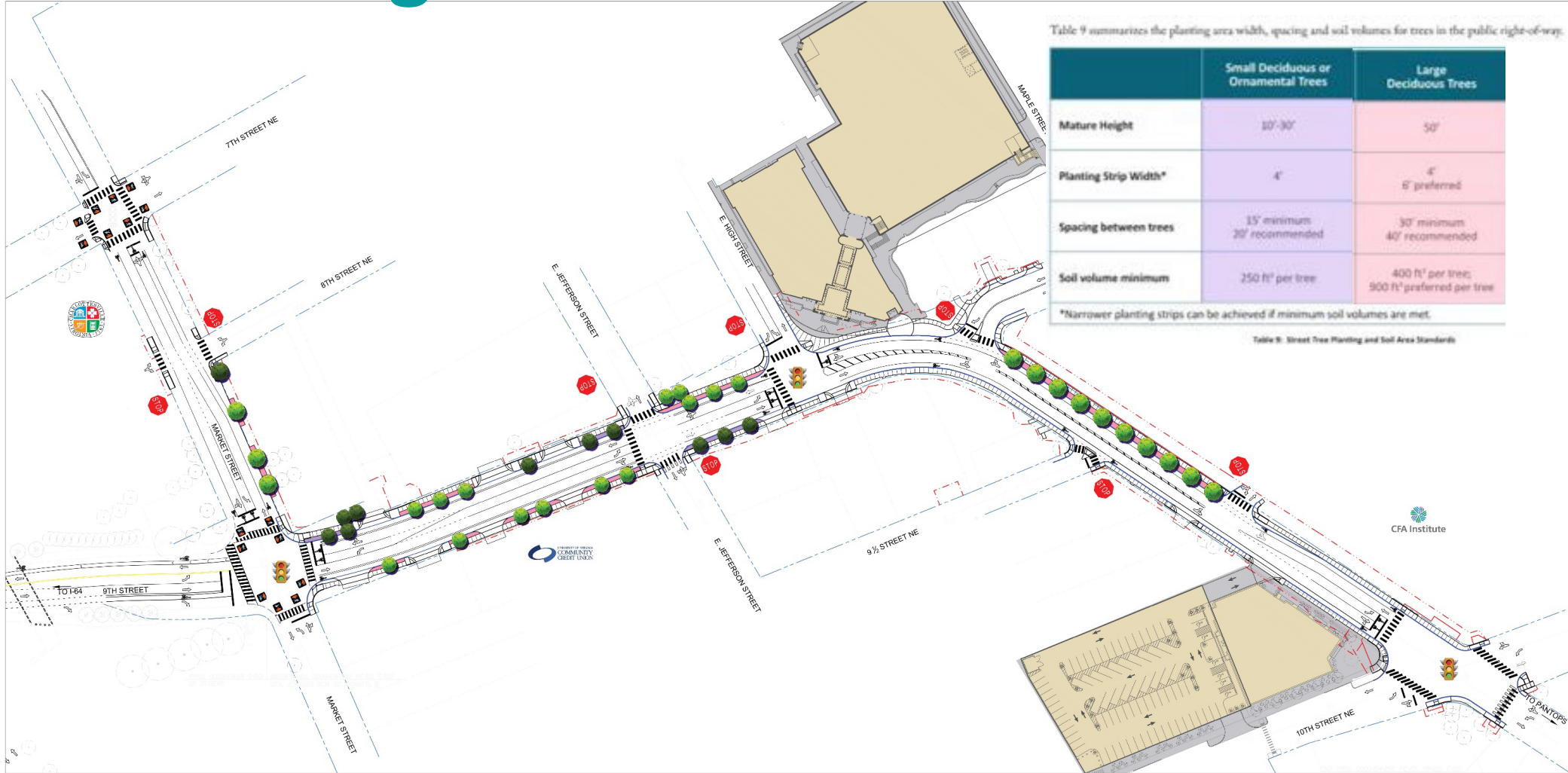


Design Change #1 & #2 - Revised Planting Palette

- Proposed Canopy Trees
Potential Species:
- Sweet Gum
L. styraciflua 'Rotundiloba'
- Scarlet Oak
Q. coccinea
- American Linden
T. americana
- London Plane Tree
P. x acerifolia 'Bloodgood'
- Willow Oak
Q. phellos 'Hightower'

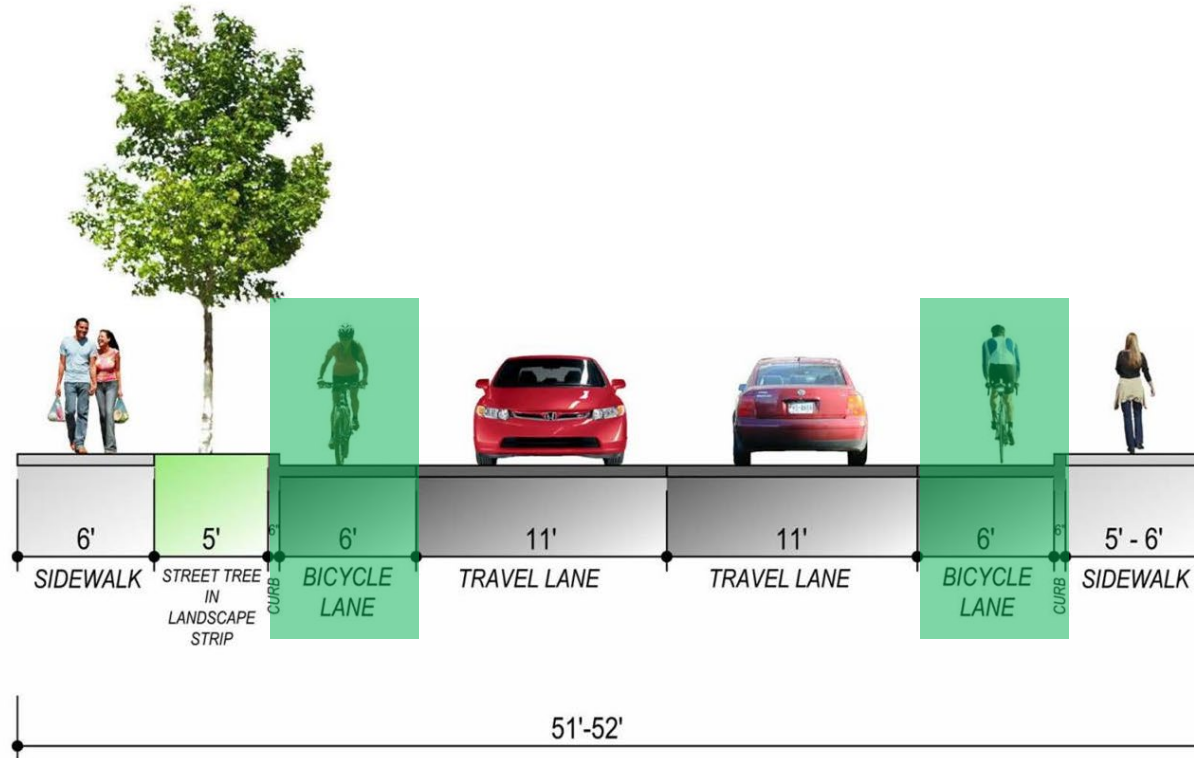
- Proposed Understory Trees
Potential Species:
- Flowering Dogwood
C. florida
- Serviceberry (multi-stem)
A. grandiflora
- Eastern Redbud
C. canadensis
- American Hornbeam
C. caroliniana
- Winter King Hawthorn
C. viridis 'Winter King'

Note: Tree species selected are consistent with Charlottesville's Master Tree List



Design Change #3

E. High Street



1. Eliminate 2' wide striped median from E. High intersection to CFA Institute Entrance.
2. Widen proposed bicycle lane from 5' to 6'.

SECTION D - EAST HIGH ST. BETWEEN 9 1/2 ST. AND CFA



Recommendation for Design Approval



Recommendation

Approval of the major design features as shown at the Design Public Hearing with 3 changes as a result of public hearing comments:

- Replacement of understory trees with canopy trees along 9th Street between E. Market Street and Jefferson Avenue
- Adjustment of the planting pallet to provide more variety of species with a focus on native species
- Increased bike lane width to six feet (6') along 9th Street from E. High Street to the existing CFA Institute entrance.





Thank You!

Questions?

October 21, 2019



Comment Sheet Summary, Belmont Bridge Replacement Project
Public Hearing Comment Response Sheets Summary
Thursday, May 24, 2018

13-Total Respondents

Question #1 - Do the design features adequately address the needs of bicyclists, pedestrians and motorists?

	Yes	No	Not Sure	No Response	Total
1	1	5	5	1	12
Explain Why:					#
Ensure bike lanes have "soft" barrier after corner of E. High and 9th to prevent cars straying into bike lane					
Protect bike lanes with more than paint. Mountable rumble strips? Market Street flip bike lane and parking for parking protected bike lanes					
Bike lanes are continuous and as expected. Plan appears to reflect decisions of the steering committee.					
Market between 7th and 8th needs minimum 6' bike lane. Remove lot parking, narrow landscaping.					
Replacing right-turn lane with plaza will worsen congestion at that intersection					
Cyclists and pedestrians need canopy trees, not understory trees for shade, urban heat, etc.					
Market Street parking is critical for staging semis at Spring Pavilion					
Concerned removing right-turn lane will result in compounding backups, not queue reduction					
Cross section is a compromise					
This is an excellent preliminary iteration you will change					
Understory trees will not thrive in heat, need integrated cross-section where sidewalk and plant trenches share space					
Why add 4 trees on Market before Parking Garage construction?					

Question #2 - Do you agree that the following project features are attractive while appropriately connect the Downtown Mall and surrounding neighborhoods?

	Agree	Neutral	Disagree	No Response	Total
2a - Landscaping	6	3	4		13

Question #2A - Concerns/Comments on Landscaping

Understory trees should be replaced by Gingkos because they are hardy in urban settings					
It's kind of "meh"					
Would like to see a better selection of understory trees, but is an improvement					
Planting and sidewalk improvements will be much appreciated					
Function for all users is more important than appearance, if tradeoff					
Tarleton Oaks plaza is a horrible aesthetic to have at major entrance to downtown and will not be used. Better off softscape in front of building					
Separation between sidewalk and travelway could be accomplished with smaller vegetation in narrow ROW					
Can't tell what landscaping will look like from plans. VDOT usually plants junk trees with no maintenance					

2b - Lighting	5	5	1	2	13
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Question #2B - Concerns/Comments on Lighting

Definitely "meh"					
Modern and simple. Make sure color temperature and light quality meets BAR standards.					
Streetlights picture look great. Don't see layout but any added will be an improvement					
Appearance fine, performance unknown					
No lighting features presented at all in print materials or conversations					

2c - Surf. Treatment	5	5	2	1	13
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Question #2c - Surface Treatments (sidewalk, crosswalks, walls)

Pretty basic, simple is good and cost effective					
Seems standard, fine					
Sidewalk could be 5' where R/W is tight, now with planting strip					
Can't tell what they look like					
Porous surfaces?					

2d - Public Spaces	3	5	2	3	13
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Question #2d - Public Spaces

In front of Tarleton Oak? Can you sell the land to the developer and let them design it? It will get entry corridor review.					
The proposed building at Tarleton Oaks is awful so please make this improved street corner as nice as possible to hide the building.					
Wide benches need for transit users at bus stops					
The proposed plaza and space created by removing the turn lane is not nice/usable public space on a major intersection. Totally exposed loud intersection.					
Given that project is pursuing multi-modal "X" That work approach					
Not necessary feature if it means removal of the right turn lane I mention in question 1					
Depends in large part on what the developer @ E. High Tarleton Oaks gas station property does.					
Are there any? It seems like all roads and sidewalks, bike lanes and intersections. Are those considered public spaces?					

Question #3 - Did the visual information (typical sections, plans, etc.) on display at the hearing help your understanding of the project?

	Yes	No	Not Sure	No Response	Total
3	8	1	1	3	13

Question #3 - If No, why?

I had some questions about bike lane treatments.					
Would like to see larger plans					
Clearer understanding of section cut directionality would help. Also better indication of where overhead utilities are - if they end up remaining.					
You should always show existing conditions clearly next to proposed changes.					
Mostly					

Question #4 - Do you have any comments on the draft environmental document or comments regarding potential environmental issues?

Please do not cut down the chestnut trees, on 9th St, N. of Jefferson. They are a cultural and educational resource of great value.					
I didn't really see any that are talking about stormwater, etc. tree root structures					
Would have been good to consider urban? And climate change					

Question #5 - Please use the following space for any additional comments.

Please design tree grates and other soil structure support devices to support the growth of larger canopy trees in smaller areas.					
Improve tree selection, visual diversity, possible traffic calming effect of vegetative diversity					
General sense that this is an engineered compilation of solutions rather than a design					
Work w/ tree commission on the "understory" trees					

Name / Address	R/W Parcel Number	Comment Source		Support Project	Comment	Response	Potential Plan Change	
		Comment Sheet	Oral Comment				Yes	No
Sprint Pavilion	N/A			Neutral	<p>I am particularly concerned about the proposed enhancements on Market Street and the potential impact that they may have on our ability to load touring acts into the Pavilion. The drawing showed the westbound lane of Market across from the City Hall annex as having bump outs at each end of the block and a loss of some parking. I had asked the consultant what the loss would be and he could not provide a firm answer but indicated it might be "half a space to a full space".</p> <p>Let me provide some context for my concerns. Most touring artists that we bring to Pavilion (16-20 shows a year) will have multiple large vehicles that we have to jostle around as we get them unloaded during the mornings and then to their ultimate parking location. Our road down to the stage can only accommodate one semi at a time and some tours have as many as 4 or 5 trucks with an equal number of tour buses, some with trailers. Handling this number of large vehicles while minimizing the impact on morning traffic downtown takes a lot of work and communication to the tour. That is complicated by the fact that most times the drivers have driven thru the night and need to get their vehicles parked before they violate their maximum logged hours. We utilize parking backstage, down on Water Street by the Lexus Nexus building, and always that 700 block of westbound Market as the final locations but there is a lot of movement before everyone gets there. That space on Market is the critical one since we can stage a truck there while the previous one exits the backstage and then we can quickly and efficiently back them from Market Street down to the stage. Everyone is within eyesight and our crew can make sure no one starts to move until we are ready for them. Losing enough room to easily stage a truck on that block could really complicate and delay things for us. I fear that it may also lead to more congestion and blocked traffic lanes since a driver may leave a remote spot and show up on Market before we have things clear to back him in. It seems like we always have the one tour a year and that does not communicate our parking details to their drivers as it is and we wind up with a handful of large vehicles all over Market at 8AM and a real mess.</p> <p>I know from all of our years of experience that the usable linear feet of parking on that block just barely works for us. Any loss of space, or the addition of any impediment that is going to make truck access more difficult will cause ripple effects that will impact other traffic. The drawing that I saw on the wall on June 12 and the unclear explanation of what the changes might be really left me worried. We also have traditionally used the dedicated turn lanes to temporarily stage a truck and those are going away. The combination of the proposed changes will make our job harder and I just want to make sure that our concerns are heard as the plans move forward.</p>	<p>The area between 7th and 8th shown below is subject to comments made by VDOT during their 60% design review. Specifically, ADA has requirements for the handicap ramps that cannot be accommodated by the current curb line at the corners. The radii changes and curb bump outs will be minimized to that only required to provide ADA compliant ramps at the E. Market/7th Street and E. Market/8th Street intersections.</p>	X	
Sam Tyree 716 Locust Avenue	N/A				<p>I strongly agree with the person who voiced concern about eliminating the right turn lane in front of Tarleton Oak service station. I drive that route almost every day, and the backup of traffic going straight through that intersection toward Belmont bridge during peak periods is significant. The right turn lane allows traffic that is proceeding west on High Street to continue without delay. If all of those folks who want to turn right will now be forced to wait in that line of traffic, two things will happen: 1) the line of traffic will become longer, and wait times for ALL traffic at that light will become worse; 2) more people will cut through neighborhood streets to avoid that bottleneck (I'll be one of them). I strongly encourage you to reconsider removing the right turn lane at that intersection.</p>	<p>The East High Streetscape Project is proposing a two through lanes along 9th Street/E. High Street with opportunistic turn lanes where practical, necessary and effective. The project team has been conducting traffic analysis and presenting their findings at various public meetings. The project team has been conducting traffic analysis and presenting their findings at various public meetings. You may review these materials at https://www.easthighstreetscape.org/resources/. A Traffic Analysis Report can also be found at https://www.easthighstreetscape.org/wp-content/uploads/2019/05/East_High_Streetscape_Report_020519-ADAweb.pdf. This analysis also documents and supports the elimination of the existing SB E. High Street/9th Street to WB E. High Street right turn lane. It is also noted that right turn lanes create conflict with pedestrians and increase the potential for pedestrian crashes at high volume pedestrian locations.</p> <p>In summary, the project area is surrounded and being fed by a series of two-lane streets. Avon Street/9th Street is two lanes south of E. Market Street (assuming the completion of the Belmont Bridge Replacement and south of Levy Avenue today). No future roadway projects are currently proposed for Downtown Charlottesville to widen any of the surrounding two lane roadways into four lane roadways. By focusing on the length and configuration of turn lanes at select intersection along 9th Street/E. High Street, the efficiency, or amount of vehicles proceeding through the signals, can be maximized making traffic slightly better in the short-term and the same or slightly worse in the long-term. By maximizing the efficiency of the signals, previous vehicle lane width that was used for queuing vehicles can be re-purposed to encourage and enhance bicyclist and pedestrian facilities. Since the project area is urban in nature, we provided a growth rate of future vehicle, bicycle, and pedestrian activity to account for redevelopment.</p>		X
Lynne Gardner don.gardner@embarqmail.com	N/A				<p>I am a home-owner of many years on Lexington Ave. I attended the recent June 12, 2019 public hearing at the City Space to review the proposed plan and listen to concerns made by others. Ever since the CFA Institute moved into a portion of the former Martha Jefferson Hospital, there has been a huge increase in traffic on Lexington; not just cars but BIG delivery trucks. Eliminating one of the traffic lanes from Lexington westward onto High Street will most definitely cause a bottleneck for the traffic. It's very easy for you and your staff to dismiss this likely happening as I heard it said at the June 12th meeting!! Having lived on this street since 1962, I remember when Maple Street was two-way, not one way. Why couldn't Maple Street between Lexington and Eighth ST NE be changed to allow two-way traffic to help ease the vehicles that need to go westward? Additionally, if Maple St. was widened, that would only be a loss of approximately 6-7 parking spaces!! Seems like a small sacrifice for a HUGE improvement as an additional alternative traffic flow. One of the reasons, residents on Lexington do not like to exit onto Locust and Park St via Sycamore, Poplar or Farish is that the bushes at those intersections are often overgrown and the visibility is very poor!! Is that the responsibility of the homeowners or the City????</p>	<p>The East High Streetscape Project is proposing a two through lanes along 9th Street/E. High Street with opportunistic turn lanes where practical, necessary and effective. The project team has been conducting traffic analysis and presenting their findings at various public meetings. The project team has been conducting traffic analysis and presenting their findings at various public meetings. You may review these materials at https://www.easthighstreetscape.org/resources/. A Traffic Analysis Report can also be found at https://www.easthighstreetscape.org/wp-content/uploads/2019/05/East_High_Streetscape_Report_020519-ADAweb.pdf. This analysis also documents and supports the elimination of the existing SB E. High Street/9th Street to WB E. High Street right turn lane. It is also noted that right turn lanes create conflict with pedestrians and increase the potential for pedestrian crashes at high volume pedestrian locations.</p> <p>In summary, the project area is surrounded and being fed by a series of two-lane streets. Avon Street/9th Street is two lanes south of E. Market Street (assuming the completion of the Belmont Bridge Replacement and south of Levy Avenue today). No future roadway projects are currently proposed for Downtown Charlottesville to widen any of the surrounding two lane roadways into four lane roadways. By focusing on the length and configuration of turn lanes at select intersection along 9th Street/E. High Street, the efficiency, or amount of vehicles proceeding through the signals, can be maximized making traffic slightly better in the short-term and the same or slightly worse in the long-term. By maximizing the efficiency of the signals, previous vehicle lane width that was used for queuing vehicles can be re-purposed to encourage and enhance bicyclist and pedestrian facilities. Since the project area is urban in nature, we provided a growth rate of future vehicle, bicycle, and pedestrian activity to account for redevelopment.</p>		X
Joan Fenton fenton.joan@gmail.com					<p>The area between 7th and 8th shown below is subject to comments made by VDOT during their 60% design review. Specifically, ADA has requirements for the handicap ramps that cannot be accommodated by the current curb line at the corners. The radii changes and curb bump outs will be minimized to that only required to provide ADA compliant ramps at the E. Market/7th Street and E. Market/8th Street intersections.</p>			

Name / Address	R/W Parcel Number	Comment Source		Support Project	Comment	Response	Potential Plan Change	
		Comment Sheet	Oral Comment				Yes	No
	N/A			Neutral	The Board of DBAC voted unanimously to support the comments made by Kirby Hutto, supporting his request that there not be any changes to the area where he parks tractor trailers for events at the Pavilion and other suggestions that he has made. In addition, we would object to removing the turn lanes. Prior to any changes of this magnitude we would like to have more comprehensive data based on traffic studies that occur from 8 am - 6pm on a regular weekday, on a Friday and at least another 2 days. Too often these changes are being made with insufficient data and rely on someone saying they have not observed a problem with no data to back it up. It is important that the needs of the entire community be considered when making changes to parking and vehicular access, We need to have data to avoid making changes that worsen traffic, create gridlock downtown and have a negative impact on the general public and the Downtown Mall, which is a major economic hub for the City	will be minimized to that only required to provide ADA compliant ramps at the E. Market/7th Street and E. Market/8th Street intersections. The East High Streetscape Project is proposing a two through lanes along 9th Street/E. High Street with opportunistic turn lanes where practical, necessary and effective. The project team has been conducting traffic analysis and presenting their findings at various public meetings. The project team has been conducting traffic analysis and presenting their findings at various public meetings. You may review these materials at https://www.easthighstreetscape.org/resources/ . A Traffic Analysis Report can also be found at https://www.easthighstreetscape.org/wp-content/uploads/2019/05/East_High_Streetscape_Report_020519-ADAweb.pdf . This analysis also documents and supports the elimination of the existing turn lanes on E. Market Street, 9th Street and E. High Street. In summary, the project area is surrounded and being fed by a series of two-lane streets. Avon Street/9th Street is two lanes south of E. Market Street (assuming the completion of the Belmont Bridge Replacement and south of Levy Avenue today). No future roadway projects are currently proposed for Downtown Charlottesville to widen any of the surrounding two lane roadways into four lane roadways. By focusing on the length and configuration of turn lanes at select intersection along 9th Street/E. High Street. the efficiency, or amount of vehicles proceeding through the signals, can be maximized making traffic slightly better in the short-term and the same or slightly worse in the long-term. By maximizing the efficiency of the signals, previous vehicle lane width that was used for queuing vehicles can be re-purposed to encourage and enhance bicyclist and	X	
Janet Matthews 500 Lexington Avenue janetmatthews@gmail.com	N/A				The overarching impression I get from the designs presented is that it is an engineering solution (badly needed, obviously) and many of the problems have been addressed in terms of infrastructure and traffic flow. The gaps I see are that the specifics of the aesthetics and using an overall design approach that involves a sustainable, thoughtful, well-considered, integration of the engineering needs and livability long term are in need of some tweaking. This corridor now serves and will continue to expand into a gateway to our Downtown and there are some early changes that can make or break this as a stellar project or one that just gets done without the best possible design answers being realized, which is what the City has the chance to do here. It will be the legacy for generations to come. The kids being pushed in their strollers across Belmont Bridge as it stands today will do the same for their children and talk about dodging cars just to get to the Pavilion. Here are some minimal and minor examples that I use as proof that the choices being made can be improved now. I am not an engineer, planner or City staff but I travel all over the world all the time and have my entire life and I have spent time in cities far older than ours where the time was taken to make them livable for modern populations looking for a better quality of life as drivers, pedestrians and cyclists. 1) The access across the Belmont Bridge needs a little design improvement as a space to accommodate seating and community interaction. People here know each other and stop to talk. 2) Choosing understory trees is a mistake, they are not built for that environment, they will bake and die and require constant watering and replacement. Yes, they are some beautiful native species but the wrong choice. 3) Look at the CFA buy for East High and see if there is a way to narrow the landscaping and save the project money to be spent on other areas. A different landscaping choice here could work - narrower, taller plants in concrete planters that require occasional trimming but no leaf maintenance, no pedestrian, bike and car hazards caused by wet leaf drop and no sidewalk cleaning and reduce cost for the City in perpetuity. I cite the South Lawn bridge over JPA as an example of an effective, beautiful privacy screen that works. At the Haven we used evergreen laurels and they grew in well and provided exactly the privacy everyone sought.	1) The design of the Belmont Bridge Replacement Project was approved by City Council in December 2017. The design of this project does not begin until the north side of the intersection of 9th Street/E. Market Street. However, the design of the E. High Streetscape Project was coordinated with the on-going detailed design efforts of the Belmont Bridge project. 2) The design of the streetscape along 9th Street between E. Market Street and Jefferson Avenue has been revised through a combination of strategic widening of the proposed landscape verge and installation of larger canopy trees where soil volume allows in accordance with City of Charlottesville Streets that Work Guidelines. The City and the design team have also revised the preliminary plant pallet for species selection in the planting areas throughout the project limits. The revised planting pallet focuses on suitable and native species selections for the planting spaces throughout the project. The City and design team will be developing detailed landscape plans in close coordination with the City's Tree Commission and City Parks and Recreation Department. 3) The design of the typical section to 9th Street was selected based on results of public and stakeholder engagement including input from the City's Tree Commission. While the design necessitates the acquisition right of way on the CFA Institute parcel, it does so to specifically introduce street trees to a section of the streetscape that would not have street trees.	2)	1) & 3)
Chris Schopper					I had a question regarding the plan, specifically Section D on page 1 of the public hearing brochure. Why does that section utilize a two foot striped median instead of removing that buffer and providing a bike lane buffer like what is included in Section C? I think a bike lane buffer would ensure bikers feel safer as they round E High to 9th and would prevent drivers from encroaching on the bike lane, though maybe the median is meant to prevent cars from straying over that same line into oncoming traffic. If possible, I would prefer the protected bike lanes to extend further (from 9 1/2 Street all the way across the Belmont Bridge, though I know that is outside the scope of this project. As a biker that frequents this area every day on the way to & from work, ensuring more continuous bike infrastructure would help me feel safer passing through this corridor.	1) The striped median along E. High Street between 9th Street and Locust Avenue/10th Street has been revised to reallocate the median width and add 1' to each bicycle lane between 9th Street and the entrance to the CFA Institute. 2) The design of the Belmont Bridge Replacement project does include protected bike lanes from just south of the intersection of 9th Street/E. Market Street to Levy Avenue.		2)
Alison DeTuncq President/CEO UVA Community Credit Union 3300 Berkmar Drive Charlottesville, VA 22901 alison.detuncq@uvacreditunion.org (434)964-2002	005				Thank you for the information regarding the East High Streetscape Project. I would like to provide the following comments. Regarding the impact to Parcel No. 005, owned by University of Virginia Community Credit Union, Inc. I wish to ensure the existing curb is not realigned into the existing parking area. The parking and traffic flow within the existing lot, is tight, and any loss of the current lot would be unacceptable. This concern is also extended to the 3 drainage manholes designed to be installed as part of this project. I assume they will not interfere with the existing parking area, but I wish to confirm. I am also concerned about the impact the proposed temporary easement would have on the ingress and egress to the parking area. I request that at all times, during construction, the existing access to the parking area remain open during normal business hours, and one remain open after normal business hours, to allow access to the night drop and ATM. Finally, I question the removal of the existing crape myrtles. As you move to final plans, I look forward to gaining a better understanding of the landscaping plan, to determine whether or not these trees need to be remove. They are healthy, mature trees, and I question the need to replace them with younger trees.	1. The existing curb on private property in the credit union parking lot will be unchanged. Keep in mind that the project does proposed to re-align, relocate and reconstruct the curb and sidewalk along 9th Street within the existing right of way. Keep in mind that the credit union entrances will be reconstructed and connected to the reconstructed 9th Street. The project does not at this time anticipate impacts to the existing parking lot beyond reconnect your two driveways to the reconstructed 9th Street. 2. The preliminary drainage design includes proposed storm drainage inlets within the right of way that will not be on private property of Parcel 005, and they will not conflict with the existing parking lot. 3. The temporary construction easements sole purpose is to allow the City's contractor to reconnect your existing driveways to 9th Street. The plans already do include requirements, and the City's contract with the Contractor will reinforce the requirement, that access to private property will need to be maintained at all times. At no time will your access be completely removed, but as with all construction there will be times of inconvenience. We can discuss specific details on how access will be maintained during right of way negotiations and prior/during construction. 4. The existing crape myrtles are proposed to be removed with the project to make room for wider sidewalks and a continuous planting strip including street trees along 9th Street. Given the type of construction within the right of way including water, sewer and gas utilities, storm drainage and pavement/sidewalk construction it is likely the crape myrtles would be damaged anyway. It is noted that the crape myrtles lie partially within existing City right of way. You will have the opportunity during right of way negotiations to request compensation for replacement for trees/landscaping on private property as part of the negotiations.		X
Karen Katz karenkatz@gmail.com	N/A				My only comment is really that this is a wonderful thing you're doing. And I don't understand why this doesn't happen with other projects that are going on in our twelve-and-a-half-square-mile city, that doesn't have any more land to build on, and there is so much contention going on about every building project in the city. And somehow or other, this kind of approach seems so civilized and logical.	Thank you for attendance and input.		X

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2019
Action Requested:	Motion to Approve 2020 Legislative Positions
Presenter:	David Blount, Thomas Jefferson Planning District Commission Lisa Robertson, Chief Deputy City Attorney
Staff Contacts:	Lisa Robertson
Title:	Review of 2020 TJPDC and City Council Legislative Positions

Background:

Each year, the localities in the Thomas Jefferson Planning District region adopt legislative statements and positions on issues of importance and concern to local governments. These positions form the basis for local advocacy efforts during the General Assembly session each winter. The City Attorney's Office works in conjunction with TJPDC's legislative liaison during the session to provide advocacy on behalf of the City's interests.

Additionally each year, City Council establishes a statement of legislative positions, as a means of communicating to legislators (i) issues of concern and interest to Council, and (ii) requests, if any, for legislative action items.

Discussion:

TJPDC Program—The TJPDC legislative program has been drafted based on discussions with and input from the six localities in the region. The recommendations, requests and positions in the program cover a range of issues and topics that are anticipated to become the subject of proposed legislation or the state budget during the upcoming session, and that may be of concern to the region or to individual localities in the region.

City Position Statement—The City Position Statement has been drafted to reflect ongoing issues of concern and interest specifically to Council. We try not to repeat positions that are repetitive of those advocated within the TJPDC Program, but where City Council has a slightly different position than TJPDC as a whole, it's appropriate to include it within Council's position statements.

The City's Position Statement has been assembled with direction from the Council Legislative Committee (Councilors Galvin and Bellamy), giving consideration to information and recommendations received from other organizations of which the City is a member; the City's Public Works, Environmental Division; and the City's HAC. The Legislative Committee also met with Senator Creigh Deeds and Delegate David Toscano, to discuss experiences in the 2019 General Assembly Session and to discuss anticipated opportunities and challenges during the 2020 General Assembly Session. General information on the 2020 Session may be found at: <https://virginiageneralassembly.gov/membersAndSession.php?secid=1&activesec=0#!hb=1&mainContentTabs=1>

The City's Position Statement incorporates references to the legislative position statements of several other organizations, as follows:

- Virginia First Cities
http://virginiafirstcities.com/images/2019_VFC_Legislative_Program_Presentation.pdf
- Virginia Municipal League
<https://www.vml.org/wp-content/uploads/pdf/2020-VML-Preliminary-Legislative-Program-as-of-9-13-19.pdf>
- Portions of Virginia Education Association (attached)
- Virginia Housing Alliance (attached)

Also: for those interested in reviewing the work completed in 2019 by the Safe Virginia Initiative (gun control), the Report and Policy Recommendations can be found here:

http://www.vahousedems.org/wp-content/uploads/2019/01/Safe-Virginia-Initiative-Report_Jan-2019.pdf

Alignment with City Council's Vision and Strategic Plan: Yes. We believe that the TJPDC Program as well as the proposed City Position Statements promote all of the Goals of the City Council's Strategic Plan: (1) Inclusive, Self-Sufficient Community; (2) Healthy and Safe City, (3) Beautiful Environment; (4) Strong, Diversified Economy; and (5) Responsive Organization.

Community Engagement: N/A

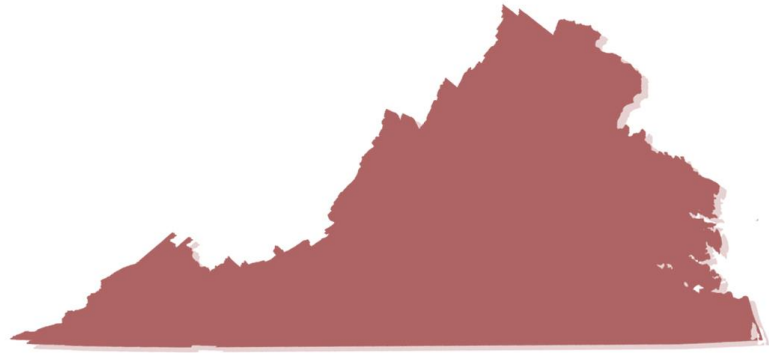
Budgetary Impact: N/A

Recommendation: We recommend approval of the TJPDC 2020 Program, and approval of the City's 2020 Statement of Legislative Positions

Alternatives: N/A

Attachments:

- (1) TJPDC 2020 Legislative Program and List of Changes
- (2) Proposed City Statement of Legislative Positions (2020)
- (3) VEA Positions
- (4) Virginia Housing Alliance Positions



Thomas Jefferson Planning District
2020 LEGISLATIVE PROGRAM

Albemarle County | City of Charlottesville
Fluvanna County | Greene County
Louisa County | Nelson County

DRAFT

October 2019

Dale Herring, Chair
Chip Boyles, Executive Director
David Blount, Director of Legislative Services

TOP LEGISLATIVE PRIORITIES

State Budget and Funding Obligations

PRIORITY: The Planning District localities urge the governor and legislature to enhance state aid to localities, and to not impose mandates on or shift costs for state programs to localities.

Several challenging factors have emerged as state policymakers are pledging to exercise caution in development of the next state biennial budget, including downward trending of several state revenue sources and increasing uncertainty over economic factors at the federal level. Also in the mix are 1) higher state K-12 education rebenchmarking costs that could be \$600 million or more; 2) more dollars needed for Medicaid, which makes up over 20% of state general fund spending and which has seen a 71% increase in expenditures the past 10 years; and 3) the desire by legislators and the Administration to set aside more money in cash reserves.

As the State develops revenue and spending priorities, we encourage them to support K-12 education, economic development, public safety, and other public goals. Localities continue to be the state's go-to service provider and we believe state investment in local service delivery must be enhanced, as many mandated programs have been level funded since 2009. State funding for others, such as for jail per diems and HB 599, are less than the 2009 amounts.

We take the following positions:

→We oppose unfunded state and federal mandates and the cost shifting that occurs when the State or the federal government fails to fund requirements or reduces or eliminates funding for programs. Doing so strains local ability to craft effective and efficient budgets to deliver services mandated by the State or federal government or demanded by residents.

→We urge the State to resist placing additional administrative burdens on local governments without sufficient resources or flexibility; otherwise, the quality of services delivered at the local level is jeopardized.

→We urge policymakers to preserve existing funding formulas rather than altering them in order to save the State money and/or to shift costs to localities.

→The State should not confiscate or redirect local general fund dollars to the state treasury.

Public Education Funding

PRIORITY: The Planning District localities urge the State to fully fund its share of the realistic costs of the Standards of Quality (SOQ) without making policy changes that reduce funding or shift funding responsibility to localities.

The State will spend just over \$6.5 billion on direct aid to public education in FY20. While we appreciate additional state teacher salary and other education dollars approved during the current biennium, we continue to believe that the State should significantly increase its commitment to K-12 education. While overall state funding has increased above FY09's low levels, per pupil funding amounts have not kept pace with inflation and state dollars do not reflect

the true costs of K-12 education. Local governments consistently go “above and beyond” to close this funding gap by appropriating twice as much K-12 funding as required by the state.

We believe localities need an adequately defined SOQ so that state funding better aligns with what school divisions are actually providing in their schools. This could include recognizing additional instructional positions and increasing state-funded staffing ratios for various non-instructional positions. We also believe the state should restore previous cuts made a decade ago in state K-12 education that reduced the state’s funding obligations to public education.

Broadband

PRIORITY: The Planning District localities urge and support state and federal efforts and financial incentives that assist localities and their communities in deploying universal, affordable access to broadband technology in unserved areas.

Access to broadband, or high-speed internet, is essential in the 21st century for economic growth, equity in access to public education, community growth, and consumer communications and information. Many communities, particularly those in unserved rural areas, need thoughtful, longer-term strategies to bridge the broadband gap. This may be an approach that utilizes both fiber and wireless technologies, private/public partnerships and regulated markets that provide a choice of service providers and competitive prices. Accordingly, we support the ability of localities to establish, operate and maintain sustainable broadband authorities to provide essential broadband to communities.

We believe state and federal support for broadband expansion should include the following:

→Additional state general fund dollars for localities/private sector providers to help extend service to areas presently unserved by any broadband provider. We appreciate state actions that have increased funding for the Virginia Telecommunication Initiative (VATI) to \$19 million in FY20, but believe additional, significant increases in investment are critical.

→Development of a statewide comprehensive plan for broadband and state support for local governments that are developing or implementing local or regional broadband plans.

→Provisions and incentives that would provide 1) for the use of existing electrical, road right-of-way, and railroad crossing easements for broadband infrastructure, and 2) a sales tax exemption for materials used to construct such infrastructure.

→Support for linking broadband efforts for education and public safety to private sector efforts to serve businesses and residences.

→Maintaining local land use, permitting, fee and other local authorities.

→Consideration of proposals that would subject broadband to stricter and more developed regulation as a public utility.

OTHER PRIORITY ITEMS

Local Revenue Authority

PRIORITY: The Planning District localities urge the governor and legislature to diversify the revenue options available to localities, to include equalizing the revenue-raising authority of counties with that of cities, and to not restrict local revenue-raising authority.

We believe the legislature should make additional revenue options available to diversify the local revenue stream, which could reduce dependency on real property taxes, rather than removing or restricting local revenue authorities. One way to do this is to eliminate the differences between city and county taxing authority, which exist due to now less-prevalent distinctions in services provided. This would mean removing the restrictions that currently apply to county authority to levy the meals, lodging, cigarette and amusement taxes.

Equalizing revenue authority for counties with that of cities also should be included as part of a needed modernization of the state's tax system to comport with the realities of a global, information-driven economy, which will rely less on governmental spending and more on new, private sector business models. We also believe any tax reform efforts should examine the financing and delivering of state services at the local level.

We take the following positions:

- The State should refrain from establishing local tax policy at the state level and allow local governments to determine the equity of local taxation policy.
- The State should not expect local governments to pay for new funding requirements or the expansion of existing ones on locally-delivered services, without a commensurate increase in state financial assistance or new local revenue authority (see above).
- The State should not alter or eliminate the BPOL and Machinery and Tools taxes.
- The State should not alter the existing tax assessment appeal process.
- The State should refrain from diverting Communications Sales and Use Tax Trust Fund dollars for general fund purposes. Revenues coming back to localities from the Fund have been declining for years, primarily because the tax does not reflect modern technology patterns of consumption; we support updating the tax to reflect these new patterns.

Children's Services Act

PRIORITY: The Planning District localities urge the State to be partners in containing Children's Services Act (CSA) costs and to better balance CSA responsibilities between the State and local governments. The State should resist attempts to shift costs of serving children through CSA to localities and schools.

Since the inception of CSA in the early 1990's, there has been pressure to hold down costs, to cap state costs for serving mandated children, to increase local match levels and to make the program more uniform by attempting to control how localities run their programs.

CSA pool expenditures totaled nearly \$400 million in FY18, which is up more than \$75 million the past five years (the fifth year in a row in which costs have increased). Increased costs continue to largely be attributable to private special education day placements, which remain under review by the State. A study of special education, including the process by which private day placements are made through CSA, is expected to be done next year.

Localities are concerned about previous proposals that would move some CSA funding to the Department of Education, with any resulting shortfalls in funding for services becoming the responsibility of localities (rather than the current process where localities request supplemental state funding). Such a scenario could limit services and funding that are necessary for students who may need more intensive services at any time.

Accordingly, we support 1) local ability to use state funds to pay for mandated services provided directly by the locality, specifically for private day placements, where the same services could be offered in schools; and 2) maintaining cost shares on a sum sufficient basis by both the State and local governments. Changing the funding mechanism to a per-pupil basis of state funding would shift the sum sufficient portion fully to localities, which we would oppose.

We also support the following:

- Enhanced state funding for local CSA administrative costs;
- A cap on local expenditures (with the State making up any gaps) in order to combat higher costs for serving mandated children; and
- The State being proactive in making residential facilities, services and service providers available, especially in rural areas, and in supporting locality efforts to provide facilities and services on a regional level.

Land Use and Growth Management

PRIORITY: The Planning District localities encourage the State to resist preempting or circumventing existing land use authorities, and to provide additional tools to plan and manage growth, including broader impact fee authority.

Over the years, the General Assembly has enacted both mandated and optional land use provisions. Some have been helpful, while others have prescribed one-size-fits-all rules that hamper different local approaches to land use planning. Accordingly, we support local authority to plan and regulate land use, and we oppose legislation that weakens these key local responsibilities. This would include recent efforts to 1) restrict local oversight of the placement of various telecommunications infrastructure, and 2) single out specific land uses for special treatment without regard to the impact of such uses in particular locations.

We also believe the General Assembly should provide localities with necessary tools to meet important infrastructure needs, as current land use authority often is inadequate to allow local governments to provide for balanced growth in ways that protect and improve quality of life. This would include more workable impact fee authority for facilities other than roads, authority that should provide for calculating the cost of all public infrastructure, including local transportation and school construction needs caused by growth. On a related note, we appreciate legislative changes made in 2019 to the proffer law, which softened the strict limitations that had been enacted just three years earlier. We continue to support changes to provisions that limit the scope of impacts that may be addressed by proffers.

We support ongoing state and local efforts to coordinate land use and transportation planning, and urge state and local officials to be mindful of various local and regional plans when conducting corridor or transportation planning within a locality or region.

Concerning land preservation, we request state funding and incentives for localities, at their option, to acquire, preserve and maintain open space. We also support greater flexibility for localities in the preservation and management of trees.

LEGISLATIVE POSITIONS

Economic and Workforce Development

The Planning District's member localities recognize economic development and workforce training as essential to the continued viability of the Commonwealth. We support policies and additional state funding that closely link the goals of economic and workforce development and the state's efforts to streamline and integrate workforce activities and revenue sources. We encourage enhanced coordination with the K-12 education community to equip the workforce with in-demand skill sets, so as to align workforce supply with anticipated employer demands. We also support continuing emphasis on regional cooperation in economic, workforce and tourism development.

Economic Development:

- We support continuation of the *GO Virginia* initiative to grow and diversify the private sector in each region, with ongoing state financial backing, technical support and other incentives to support collaboration by business, governments, educational institutions and communities that spur economic development, job creation and career readiness.

Workforce Development:

- We support state job investment and small business grants being targeted to businesses that pay higher wages.

Planning District Commissions:

- We support increased state funding for regional planning district commissions.
- We encourage opportunities for planning districts to collaborate with state officials and state agencies on regional programs and projects.

Agricultural Products and Enterprises:

We encourage state and local governments to work together and with other entities to identify, to provide incentives for, and to promote local, regional and state agricultural products and rural enterprises, and to encourage opportunities for such products and enterprises through a balanced approach.

Education

The Planning District's member localities believe that the state should be a reliable funding partner with localities by recognizing the operational, personnel, and capital resources necessary for a high-quality public education system (see priority position on *Public Education Funding*).

School Division Finances:

- We believe that unfunded liability associated with the teacher retirement plan should be a shared responsibility of state and local government, with the Virginia Department of Education paying its share of retirement costs directly to the Virginia Retirement System in order to facilitate such sharing.
- The State should not eliminate or decrease funding for school employee benefits.
- We support legislation that 1) establishes a mechanism for local appeal to the State of the calculated Local Composite Index (LCI); and 2) amends the LCI formula to recognize the land use taxation value, rather than the true value, of real property.

Literary Fund:

- The State should discontinue seizing dollars from the Literary Fund to help pay for teacher retirement.
- We urge state financial assistance with school construction and renovation needs.

Safety and Security at Schools:

- We support funding (both capital and operational) to improve security at local schools, to include incentive funding or reimbursement for localities and school divisions hiring school resource or security officers.

Environmental Quality

The Planning District's member localities believe that environmental quality should be funded and promoted through a comprehensive approach, and address air and water quality, solid waste management, land conservation, climate change and land use policies. We support protection and enhancement of the environment and recognize the need to achieve a proper balance between environmental regulation and the socio-economic health of our communities within the constraints of available revenues. Such an approach requires regional cooperation due to the inter-jurisdictional nature of many environmental resources, and adequate state funding to support local and regional efforts.

Chesapeake Bay Preservation Act:

- We oppose legislation mandating expansion of the Chesapeake Bay Preservation Act's coverage area. Instead, we urge the State to 1) provide legal, financial and technical support to localities that wish to comply with any of the Act's provisions; 2) allow localities to use other practices to improve water quality; and 3) provide funding for other strategies that address point and non-point source pollution.

Biosolids:

- We support the option for localities, as a part of their zoning ordinances, to designate and/or reasonably restrict the land application of biosolids to specific areas within the locality, based on criteria designed to further protect the public safety and welfare of citizens.

Alternate On-Site Sewage Systems:

- We support legislative and regulatory action to 1) ensure operation and maintenance of alternative on-site sewage systems in ways that protect public health and the environment; and 2) increase options for localities to secure owner abatement or correction of system deficiencies.

Dam Safety:

- We support dam safety regulations that do not impose unreasonable costs on dam owners whose structures meet current safety standards.

Water Supply:

- The State should be a partner with localities in water supply development and should work with and assist localities in addressing water supply issues, to include investing in regional projects.

Program Administration:

- The State should not impose a fee, tax or surcharge on water, sewer, solid waste or other local services to pay for state environmental programs.

Solar:

- We support the creation of stronger markets for distributed solar.
- We support authority for local governments to install small solar facilities on government-owned property and use the electricity for schools or other government-owned buildings located nearby.
- We support action to move up the sunset date for property tax exemptions for solar energy projects, or that a reasonable compromise be reached.
- We support eliminating or relaxing the net metering limit of one percent on the total amount of solar that can be net metered in a utility territory.

Recycling:

- We support state incentives to improve recycling markets and provisions that provide for accurate reporting of recycling data.
- We support local authority to develop incentives to decrease the distribution, sale or offer of disposable plastic bags.

General Government

The Planning District's member localities believe that since so many governmental actions take place at the local level, a strong local government system is essential. Local governments must have the freedom, flexibility and tools to carry out their responsibilities.

Internet-based Businesses and Services:

- We oppose legislation that would single out internet-based businesses and services for special treatment or exceptions. Rather, the State should support local authority concerning collection and auditing of taxes, licensing and regulation. There should be a level playing field for competition among businesses offering goods and services to ensure safety, reliability and fair access to such offerings by consumers and the general public.

Local Government Operations:

- We oppose intrusive legislation involving purchasing procedures; local government authority to establish hours of work, salaries and working conditions for local employees; matters that can be adopted by resolution or ordinance; procedures for adopting ordinances; and procedures for conducting public meetings.
- We support allowing localities to use alternatives to newspapers for publishing various legal advertisements and public notices.
- We oppose attempts to reduce sovereign immunity protections for localities and their employees, to include regional jail officers.

State-Supported Positions:

- Localities should have maximum flexibility in providing compensation increases for state-supported local employees (including school personnel), as local governments provide significant local dollars and additional personnel beyond those funded by the State.

Elections:

- We urge funding to address shortfalls in elections administration dollars, as elections administration has become more complex and federal and state financial support for elections has been decreasing. Specifically, we request that the State adequately fund costs associated with new early voting requirements taking effect with the November, 2020 elections.

- We support legislation that allows localities to address concerns and discrepancies regarding voting district boundary lines, including to allow use of a GIS map as a representation of recorded/surveyed parcel lines to determine a county boundary.

Freedom of Information Act (FOIA):

- We request that any changes to FOIA preserve 1) a local governing body’s ability to meet in closed session; 2) the list of records currently exempt from disclosure; and 3) provisions concerning creation of customized records.
- We support changes to allow local and regional public bodies to conduct electronic meetings as now permitted for state public bodies.

Quality of Life Issues:

- We oppose changes to state law that further weaken a locality’s ability to regulate noise or the discharge of firearms.
- We support expanding local authority to regulate smoking in public places.

Libraries: We support enhanced state funding for local and regional libraries.

Health and Human Services

The Planning District’s member localities recognize that special attention must be given to developing circumstances under which people, especially the disabled, the poor, the young and the elderly, can achieve their full potential. Transparent state policies and funding for at-risk individuals and families to access appropriate services are critical. The delivery of such services must be a collaborative effort by federal, state and local agencies.

Funding:

- We support full state funding for the local costs associated with Medicaid expansion, including local eligibility workers and case managers. We oppose any shifting of Medicaid matching requirements from the State to localities, as well as changes in state funding or policies that increase the local share of costs for human services.
- The State should provide sufficient funding to allow Community Services Boards (CSBs) to meet the challenges of providing a community-based system of care. This includes restoration of funding reduced in the current biennium when health care was expanded through Medicaid. Future reductions should be reviewed to ensure that the State’s goal of providing more services at the community level can be achieved without shifting costs to localities.
- We support increased investment in the ID waiver program for adults and young people and Medicaid reimbursement for children’s dental services.
- We support sufficient state funding assistance for older residents, to include companion and in-home services, home-delivered meals and transportation.

Social Services:

- We support the provision of sufficient state funding to match federal dollars for the administration of mandated services within the Department of Social Services, and to meet the staffing standards for local departments to provide services as stipulated in state law.
- We support changes to the Code to provide that a judicial finding be controlling of administrative findings in alleged child abuse and neglect cases.

Prevention:

- We support continued operation and enhancement of early intervention and prevention programs. This includes the Virginia Preschool Initiative and Part C of the Individuals with Disabilities Education Act (infants and toddlers).

Housing

The Planning District's member localities believe that every citizen should have an opportunity to afford decent, safe and sanitary housing. The State and localities should work to expand and preserve the supply and improve the quality of affordable housing for the elderly, disabled, and low- and moderate-income households. Regional planning and solutions should be implemented whenever possible.

Affordable Housing:

- We support the following: 1) local flexibility in the operation of affordable housing programs and establishment of affordable dwelling unit ordinances; 2) creation of a state housing trust fund; 3) grants and loans to low- or moderate-income persons to aid in purchasing dwellings; and 4) the provision of other funding to encourage affordable housing initiatives.

Homelessness:

- We support measures to prevent homelessness and to assist the chronic homeless.

Historic Structures:

- We support incentives that encourage rehabilitation and preservation of historic structures.
-

Public Safety

The Planning District's member localities encourage state financial support, cooperation and assistance for local law enforcement (and state police), emergency medical care, criminal justice activities and fire services responsibilities carried out locally.

Funding:

- We urge the State to make Compensation Board funding a top priority, fully funding local positions that fall under its purview. It should not increase the local share of funding for Constitutional offices or divert money away from them, but increase dollars needed for their operation. Specifically, we urge the State to fully fund currently-authorized positions for Commonwealth's Attorney offices 1) to allow these offices to fully comply with new discovery rules being promulgated by the Virginia Supreme Court; and 2) to be able to effectively incorporate and manage new sources of evidence resulting from new technology, including body worn camera video.
- We urge state funding of the HB 599 law enforcement program in accordance with *Code of Virginia* provisions.
- We support Virginia's transition to Next Generation 911 (NG 911) in way that does not unfairly burden localities.
- The State should increase funding to the Virginia Juvenile Community Crime Control Act program, which has greatly reduced the number of juvenile justice commitments over the past decade.
- We support funding for mental health and substance abuse services at juvenile detention centers.
- We support state funding for alternative transportation options to help individuals in crisis get to evaluation services and treatment, rather than relying on local law enforcement for extended transportation and custody responsibility.

Body Worn Cameras:

- We support the ability of local governments to adopt policies regarding law enforcement body worn cameras that account for local needs and fiscal realities.

Jails:

- As the state prisoner reimbursement rate is insufficient to cover actual costs, jail per diem funding should be increased to levels that better represent the costs of housing inmates, and be regularly adjusted for inflation. The State should fund four quarters of payments per year in the budget, and pay for the medical costs and any necessary mental health assessments costs for inmates.
- The State should not shift costs to localities by altering the definition of state-responsible prisoner.
- The State should continue to allow exemptions from the federal prisoner offset.

Offender Programs and Services:

- We support continued state funding of the drug court program and the Offender Reentry and Transition Services (ORTS), Community Corrections and Pretrial Services Acts.
- We support continued state endorsement of the role and authority of pretrial services offices.

Volunteers:

We support initiatives and authority that enable localities to better support local volunteer firefighting and emergency service organizations.

Transportation Funding and Devolution

The Planning District's member localities recognize that revenues for expanding and maintaining all modes of infrastructure are critical for meeting Virginia's well-documented transportation challenges and for keeping pace with growing public needs and expectations. We believe the state should continue to enhance funding for local and regional transportation needs, including the Revenue Sharing Program with localities. We also remain opposed to attempts to transfer responsibility to counties for construction, maintenance or operation of current or new secondary roads.

Smart Scale:

- As the State continues to implement the prioritization process established by HB 2 (2014), known as "Smart Scale," and the distribution formula for highway construction projects established by HB 1887 (2015), there should be adequate funding, and local authority to generate transportation dollars, for important local and regional projects across modes.

Devolution:

- We believe that efficient and effective transportation infrastructure, including the secondary road system, is critical to a healthy economy, job creation, a cleaner environment and public safety. Accordingly, we oppose shifting the responsibility for secondary roads to local entities, which could result in vast differences among existing road systems in different localities, potentially placing the state at a competitive economic disadvantage with other states when considering business and job recruitment, and movement of goods.

Local and Regional Authority:

- We support additional authority to establish mechanisms for funding transit in our region.
- We support VDOT utilizing Metropolitan Planning Organizations and regional rural transportation staff to carry out local transportation studies.

Water Quality

The Planning District's member localities support the goal of improved water quality, but as we face ongoing costs for remedies, including stormwater management and to address revised water quality criteria, we believe major and reliable forms of financial and technical assistance from the federal and state governments is necessary if comprehensive improvement strategies are to be effective.

Funding:

- We urge aggressive state investment in meeting required milestones for reducing Chesapeake Bay pollution to acceptable levels.
- We believe these investments include authority, funding and other resources to achieve success, and must ensure that cost/benefit analyses are conducted of solutions that generate the greatest pollution reductions per dollar spent.
- We support dollars being targeted to stormwater management; for permitted dischargers to upgrade treatment plants and for any retrofitting of developed areas; and to aid farmers with best management practices through the cost share program.

Stormwater Management:

- We request that any stormwater requirements be balanced and flexible, and that adequate funding and training be available for the State and local governments to meet ongoing costs associated with local stormwater programs.
- We support increased and ongoing investment in the Stormwater Local Assistance Fund to assist localities with much-needed stormwater projects and in response to any new regulatory requirements.
- We oppose proposals that would result in new or expanded mandates or requirements (including elimination of current "opt-out" provisions), or financial burdens on local governments.
- We oppose further amendments to the regulation of stormwater which would require a locality to waive stormwater charges.

Nutrient Allocations:

- We oppose efforts that would require re-justification of nutrient allocations for existing wastewater treatment facilities in our region or that would reduce or eliminate nutrient allocation or related treatment capacity serving the region.

TJPD Legislative Program

Highlights of proposed changes (for 2020)

TOP PRIORITIES:

STATE BUDGET—updated first paragraph with timely topics to be addressed in budget

PUBLIC EDUCATION FUNDING—updated numbers and added a statement about restoring previous cuts

BROADBAND—updated funding amounts; added language supporting local broadband authorities;
added language supporting use of railroad crossing easements

OTHER PRIORITY ITEMS:

LOCAL REVENUE AUTHORITY—deleted position on local sales taxes related to the Wayfair decision, which was accomplished; added position opposing changes to the existing tax assessment appeals process

CHILDREN'S SERVICES ACT—updated funding numbers and status of studies

LAND USE/GROWTH MANAGEMENT—revised language on proffers in light of 2019 legislation; added position supporting local tree preservation

LEGISLATIVE POSITIONS:

--ENVIRONMENTAL QUALITY: Added NEW STATEMENTS to the position on solar to support 1) local authority on small solar facilities; 2) easing of the property tax exemption for utility scale solar; and 3) changes in net metering. Also, added a NEW STATEMENT to the position on recycling to support improvements to recycling markets and provision of accurate reporting of recycling data.

--GENERAL GOVERNMENT: Added NEW STATEMENTS to the position on Elections to 1) support state funding for new early voting requirements; and 2) address GIS use in determining county boundaries.

--HEALTH and HUMAN SERVICES: Updated language related to reduced CSB funding that is expected to be recovered from Medicaid expansion

--PUBLIC SAFETY: Added NEW STATEMENTS to the position on Funding to 1) request full state funding for currently authorized positions for Commonwealth's Attorney offices; 2) support fair transitioning to NG911; and 3) support state funding for alternative options for transporting mental health patients. Also, added a NEW POSITION on Volunteers to endorse having additional tools to support emergency services volunteers. Deleted a position on court issuance of restricted driver's licenses, which has been accomplished.

--TRANSPORTATION: Deleted the position on Transit Capital Funding, as bond usage has been extended for several years.

**CHARLOTTESVILLE CITY COUNCIL
STATEMENT OF LEGISLATIVE POSITIONS
FOR THE 2020 GENERAL ASSEMBLY SESSION**

Endorsement of TJPD and VML Priority Statements

As a member of the **TJPD, Virginia First Cities** and of the **Virginia Municipal League**, we are supportive of the 2020 Legislative Positions presented by those organizations. On a few issues, the City's interests may differ, and those issues are included within our position statements following below.

Children's Education, Services and Programs

Positions:

1. We endorse state funding provided to support implementation by local school divisions of extended school day/ extended school year programs, and encourage continuation of these dollars.
2. We endorse the **Virginia Education Association (VEA)** requests for a) a statewide education adequacy and equity study; b) salary increases for SOQ-funded positions; c) abolishing staffing caps on support personnel costs enacted during the depths of the recession; and d) lottery funds to be used to cover capital costs.
3. We would support changing the education funding formula ("Local Composite Index") to take poverty within each locality's jurisdiction into account.
4. We support the state authorizing local school divisions to construct housing for teachers on school-board-owned, or local-government-owned property.
5. We support expansion of preschool and after-school programs for children with working parents and provide subsidies for low-income families and state grant money to businesses that institute childcare or other family support programs within the workplace.

Affordable Housing; Regulation of Development;

Local Authority over Local Real Estate

Positions:

1. We endorse the **Virginia Housing Alliance's (VHA)** proposed 2020 legislative priorities, including: VHA's calls for increased state funding for the Virginia Housing Trust Fund; appropriation of state funding for a state-study of the need for a state housing tax credit program; reform of eviction legislation; enhanced non-discrimination laws; and a Constitutional amendment to allow localities to exempt all or part of an affordable housing property from local real estate taxes.
2. We encourage the State to consider enactment of legislation authorizing inclusionary zoning ordinances. In localities where there is an affordable housing crisis, market forces are not delivering new affordable units, and the over-complexity of the density bonus provisions within Virginia Code § 15.2-2305 (the provisions of which do not appear to have been reviewed since 2008 for economic feasibility) make that statute difficult to interpret and apply.
3. We encourage the General Assembly to establish a comprehensive state Affordable Housing Program that delegates authority to all Virginia municipalities the more general authorization within Virginia Code § 15.2-2304.

4. We support any legislative action that would allow localities greater flexibility in (i) the range of methods that may be applied to implement local affordable housing programs, and (ii) in the use of public funding for the promotion and establishment of affordable housing.

5. We support establishment of a statewide rental assistance voucher program, calibrated to fit regional housing market, funded through the state Housing Trust Fund and/or Communities of Opportunity Tax Credit and Vibrant Community Initiative administered by VHDA.

6. The state should enhance funding for affordable homeownership grants and loans, through the Virginia Housing Development Authority, and for public universities, provide funding for housing assistance for university employees who earn less than 60% AMI.

7. We support state funding and incentives to support localities' acquisition, preservation and maintenance of open space.

8. We oppose any legislative action that would limit our local authority to regulate the nature and intensity of specific uses of land, in relation to their location(s) within our city; we oppose any legislation that would single out specific land uses for special treatment throughout the Commonwealth without regard to the impact of such land uses in particular locations.

Requests:

Confederate Monuments--Sponsor or support legislation that would remove reference to "Confederate or Union monuments or memorials of the War Between the States (1861-1865)" from Va. Code §15.2-1812.

Rationale: These monuments are symbols of social and political divisions that run deep within individual communities, and each locality should have the authority to determine, through its own local political process, whether such monuments or memorials should be removed from local-government-owned property. With the exception of Va. Code §15.2-1812, all other decisions as to the use of locally-owned real estate are determined by local governing bodies, in accordance with the Va. Constitution, Article VII, §9. The restrictions of Va. Code §15.2-1812 should be repealed.

Affordable Housing Enabling Legislation--Sponsor or support legislation similar to that requested in 2019 by the City of Richmond (HB1670; SB 1192), to add the City of Charlottesville to the list of localities authorized to adopt an affordable housing dwelling unit program under the provisions of Va. Code §15.2-2304.

Rationale: Charlottesville is in an affordable housing crisis, and the provisions of Va. Code §15.2-2304 provide much needed flexibility to design a program suited to the particular needs of the City of Charlottesville.

Environment

Water Quality/ Stormwater Management Positions:

1. The state should substantially increase funding for the Stormwater Local Assistance Fund (SLAF), the program that provides matching grants to localities for stormwater management projects and best management practices.

2. The state should also provide reliable state funding for Agriculture Best Management Practices Cost-Share programs, as the current FY20 allocation of \$10 million is substantially less than the \$100 million identified by the Virginia Department of Conservation and Recreation as being necessary.

3. We support adequate state funding and training, as well as an expansion of allowable stormwater management “best practices,” that would enable the State and local governments to meet total maximum daily load (TMDL) nutrient and sediment reduction requirements, and ongoing costs associated with local stormwater management programs that became effective in 2014.

4. We oppose any legislation that would require a locality to waive stormwater utility fees, or to exempt railroad companies or other entities from the requirement to pay local Stormwater utility fees--all landowners should be required to share in the cost of stormwater utility programs.

Chesapeake Bay Preservation Act Positions

The City of Charlottesville does not oppose expansion of the CBPA beyond its current tidal river boundaries. In this regard, our position differs from TJPD’s.

Clean Energy Positions:

Background: The City of Charlottesville is committed to reducing its community-wide greenhouse gas (GHG) emissions associated with energy use. This has been formalized in the recent adoption of updated GHG reduction goals for 45% reduction by 2035 and carbon neutrality by 2050. Increasing the availability of financial resources, including grant programs and incentives, to a broader range of community members is one key to our success. We continue to encourage our representatives to endorse legislation, funding, and data sharing proposals that support energy efficiency and renewable energy use. We supported the 2019 adopted regulation to limit carbon pollution from the electric power sector in Virginia through a market-based emission mechanism, and encourage participation in the existing Regional Greenhouse Gas Initiative (RGGI) with proceeds incentivizing energy efficiency improvements and renewable energy investments as well as addressing public health, integrity of property, and economic and infrastructure resilience amid climate change. We also were pleased that HB-2192 (2019) signaled the General Assembly’s intent that public school buildings and facilities be designed and operated to generate more electricity than consumed, and authorized local school boards to enter into leases with private developers to achieve that goal. Accordingly, we support the following positions:

Solar:

Ratepayer subscriptions (e.g., community solar) for electricity from solar-produced power for all ratepayers, including community net metering.

Net metering:

Requests to modify municipal net metering pilot programs to allow for the use of PPAs and to eliminate capacity restrictions based on current electric load in order to allow for future growth. We also support action that would remove the net-metering limit that currently stands as a one percent cap on the total amount of solar that can be net metered in a utility territory.

Renewable Power:

1. Replacement of current pilot programs for third-party renewable energy power purchase agreements with a permanent provision that allows PPAs to all customer classes without limits on system size or program capacity.

2. A mandatory renewable portfolio standard (RPS) to provide a market incentive for renewable power in Virginia to keep Virginia competitive with neighboring states.

Energy Efficiency:

1. A mandatory Energy Efficiency Resource Standard (EERS) that requires utilities in Virginia to meet annual, long-term targets for reducing energy use through end-use efficiency.

2. The Department of Mines, Minerals, and Energy (DMME) creating an “Energy and Resiliency Bank” using public and private funds to serve as a catalyst for innovation and implementation of advanced energy efficiency practices, renewable energy deployment, increased resiliency, and other environmental programming throughout the Commonwealth.

3. We support state funding to support localities in their efforts to electrify their fleets (e.g. Dominion’s electric school bus program).

Landfill Diversion:

As the City is working to further strategies for reduction, reuse, and recycling in an effort align waste management programs with sustainability related goals and commitments, we support:

1. Local authority to establish regulations addressing strategies such as single use plastic reduction and elimination of straws and styrofoam, with acknowledgement that key exceptions are necessary.
2. Local authority to prohibit yard waste and brush from municipal solid waste (landfill) collection.

Transportation

Positions:

We urge legislators to increase state funding as follows:

1. For the expansion and maintenance of all modes of our transportation infrastructure.
2. For important local and regional Smart Scale projects, including those that promote walking and cycling as viable modes of transportation for commuting (not just recreation) and as a key strategy related to GHG reduction goals. We also support the establishment of a “Smart Scale-type” prioritization for rail and transit projects.
3. For lane-mileage rates for funding of local street maintenance (primary/urban funds).
4. For public transit and transit planning, to leverage local investments in public transit, and for infrastructure that accommodates walking, cycling as well as automobile travel.

We request that the manner in which transportation funding is provided allows localities to have flexibility to apply transportation funding in a manner that they deem most beneficial to their own communities. Localities should have the right to determine whether allocations of state funding should be spent for maintenance of existing streets or for new construction. We also support the state applying equal weight to projects that enhance bicycle and pedestrian mobility as well as public transit systems in determining Smart Scale funding priorities.

Criminal Justice Reform

Positions:

1. The State should increase funding to the Virginia Juvenile Community Crime Control Act (VJCCCA) program, which has demonstrated effectiveness in substantially reducing the number of juvenile justice commitments over the past decade.
2. The State should end mandatory minimum sentencing.
3. The State should revisit Virginia’s policies on parole and decriminalize offenses that do not threaten public safety. Additional funding should be provided to support diversion programs (such as rehabilitative and educational programs) as alternatives to prison for first time offenses, especially for women.

4. The State should repeal all laws that automatically exclude individuals with criminal convictions from public benefits, housing, driver's licenses, civic participation (voting), and educational and employment opportunities.
5. We encourage the state to legalize marijuana safely and responsibly.
6. We encourage legislation that would allow restricted driver licenses to be issued for as long as a court deems appropriate, and to allow courts to issue restricted licenses when necessary to facilitate the employment, or continued employment of an individual who is otherwise subject to revocation of his or her driver license.

Public Safety and Local Firearms Regulation in Public Places

Positions:

Management of Local Buildings and Land:

Localities should have full authority to regulate the use of, and to provide adequate security for local-government-owned buildings and property.

Requests: Sponsor or support legislation to amend Va. Code §15.2-915, in order to: **(1)** repeal the provisions which allow local government employees to store, at a local government workplace, possession of firearms and ammunition within a private motor vehicle; **(2)** authorize governing bodies to adopt regulations restricting the possession and carrying of firearms within public buildings and places at which public meetings are being conducted, and within public parks and recreation facilities; and **(3)** authorize localities to include restrictions on the possession and carrying of firearms, as conditions within a permit authorizing the temporary use of public property, during the period of such use.

Reform of State Firearms Regulations: We support the General Assembly undertaking a comprehensive reform of Virginia's gun control legislation. We support implementation of the Report and Policy Recommendations of the Safe Virginia Initiative (2019), including raising the minimum age required to purchase a firearm to 21 and requiring universal background checks and closing known loopholes in the background check process.

Requests: Continue to advocate the City's strong interest in responsible firearms legislation, by sponsoring or supporting legislation such as that which was introduced in 2019, such as: **HB1956/SB1473** (firearms, permitted events); **SB1482** (firearms, prohibition on carrying in public places); **SB1458** (firearms, removal from persons posing substantial risk); **HB1654** (prohibited public carrying of certain firearms in public areas).

Local policing:

The state should provide funding for the following: 1) community policing initiatives, including housing assistance payments for local police officers who live within the communities they serve; 2) recruitment of women and minorities into professional policing careers; and 3) police in urban jurisdictions, to support training in uniform, DCJS-approved best practices for crowd management at civil disturbances.

Civil disturbances and riots:

We encourage the General Assembly to provide funding for a new program within the Department of State Police, to provide 1) monitoring of internet and social media to detect potential threats to public safety; 2) a mechanism for threat assessment; and 3) information sharing and resources to localities faced with events which present a substantial risk of widespread violence.

Cell Phone Use:

The City supports legislation that would make it illegal in Virginia to drive with a phone held in one's hand.

Photo-speed-monitoring:

We encourage the General Assembly to authorize local law enforcement agencies within urban areas to utilize photo-speed-monitoring devices in school zones and on residential streets. Such devices have been in use within DC and Maryland for years, and state police are now authorized to use them. These devices would enhance safety within urban jurisdictions.

Public Service Corporations

Positions:

1. We oppose any legislative action that would further expand the ability of telecommunications companies or other entities to install new aboveground poles or other support structures in City rights-of-way, on terms or conditions mandated by state law.
2. We support doubling the scope of Dominion Virginia Power's Pilot Program for Undergrounding Utility lines and the utility entering into cost share agreements with local governments for undergrounding lines or "open ditch" policies allowing the burial of power lines either within or adjacent to a public Right of Way (ROW). Dominion also should be allowed to impose a surcharge on affected customers, if undergrounding is requested by a locality, to coincide with local projects removing and replacing natural gas, water and sewer lines within a public ROW.

Procurement

Positions:

1. We oppose legislative action that would restrict our ability to make local procurement decisions that are best for the citizens we serve. Any erosion of local authority to implement the policies of the Virginia Public Procurement Act, through means tailored at the local level to assure acquisition of the best goods and services at the most competitive rates, is contrary to fiscal responsibility objectives.
2. We support legislation that would authorize use of preferences by public bodies in awarding contracts to persons, firms, or corporations having principal places of business in the locality in which the procuring public body is located ("local preference").
3. We support allowing localities the ability to procure goods and service by competitive negotiation (instead of using the lowest-responsible-bid process), in situations where job creation and tax base expansion would be part of a "best value" analysis of competitive proposals.
4. We believe the state should review the SWAM certification program, to ensure greater participation by businesses within each locality, and to make it easier for localities to hire local, small women- and minority-owned businesses within local procurement processes.

Budget, Revenues and Taxation

Background:

We believe the process for evaluating local fiscal impacts of proposed legislation should be improved. Actions that would impose additional administrative burdens on local governments without sufficient financial resources or administrative flexibility will jeopardize the quality of services delivered at the local level, and will ultimately jeopardize the potential success of state programs and initiatives.

Positions:

1. We oppose any shift of the cost(s) of state programs to localities.
2. We oppose any legislative or budgetary action that would remove or reduce any existing sources of state and local funding (e.g., HB599 funding for law enforcement; diversion of fines, fees and forfeitures relating to violations of local ordinances; etc.).
3. We oppose across-the-board state cuts to education funding.
4. We support expanded funding for programs such as tuition remission at community colleges, and childcare and transportation assistance that support workers seeking to upgrade their skills or change careers due to layoffs or other job losses.

Taxation:

1. The state should direct a study of the effectiveness of state income tax and fee structures in terms of progressivity and capacity to meet growing public needs. The study should include the effectiveness of local real estate taxation, and should give consideration to enabling legislation for localities to enact more progressive local real estate taxes.
2. The state also should expand funding to support programs (such as tuition remission at community colleges, and childcare and transportation assistance) that support workers seeking to upgrade their skills or change careers due to layoffs or other job losses.
3. We oppose any state legislation that would single out any internet-based businesses and services for special treatment for purposes of local taxation, licensing and regulation. We request our legislators to protect our local ability to regulate businesses on a level playing field, whether they are traditional, electronic, internet-based, virtual, or otherwise. Creating a level playing field for competition among businesses offering goods and services is the best way to ensure safety, reliability, and fair access to goods and services for consumers. The state should not carve out exceptions to business licensing, or local taxes, for special interest groups; in doing so, state legislators would harm traditional local businesses and deprive local governments of stable and reliable sources of revenue.

Prosperity, Health, and Well-Being

Minimum Wage

We encourage the Commonwealth to raise the minimum wage to \$15 per hour. As part of raising the minimum wage, we encourage the State to provide funding for childcare assistance if federal income-eligibility thresholds are exceeded due to a household member making \$15 per hour.

Health Care

We support budgetary and legislative initiatives that will increase access to health care for all Virginia residents and that will reduce the cost of health care—including reduction of insurance premiums; reduction of the cost of

Women’s Rights

1. We encourage the General Assembly to vote to ratify the Equal Rights Amendment.
2. The Commonwealth should enact legislation that makes it unlawful for companies, and state and government entities, to maintain pay scale distinctions by outmoded gender roles.

Health Food Access

The State should provide financial incentives for the establishment of grocery stores in “food desert” areas.

Salaries for Members of Local Governing Bodies

Request: Sponsor or support legislation to amend Virginia Code §15.2-1414.6 to remove the limitation on annual salaries for city councils. *Rationale:* City councils in Virginia should be permitted to establish the annual salaries for councilors at the local level; each locality's needs are unique and maximum compensation should be a local decision, based on the will of the electorate and the financial resources of a locality.



Teaching. Learning. Leading.

VEA Requests to Governor Northam for the 2020-2022 Biennial Budget

Item	Amount	Rationale
K-12 Public Education Adequacy and Equity Study	\$3 million one-time (FY20)	The study will 1) identify the funding required to meet the Standards of Learning, Standards of Accreditation and Standards of Quality; 2) identify a per pupil base level of funding and per pupil weights for students with special needs, including such economically disadvantaged students eligible for federal free and reduced-priced lunch program, students with limited English proficiency and students eligible for special education services; 3) analyze the effects of concentrations of poverty on the adequacy estimates; 4) determine the effect of declining enrollment on the fiscal capacity of school divisions; 5) identify gaps in growth and achievement among student groups and make recommendations for programs that might address these gaps; 6) identify any relationships between student performance and funding gaps; 7) assess the effect of quality prekindergarten on school readiness as a factor in the adequacy estimates; 8) make recommendations on any other factors to be included as part of the adequacy study; 9) conduct a review of adequacy studies carried out in other states and report on best practices and recommendations, and; 10) make recommendations on implementation of the report's recommendations.
5% salary increase for SOQ funded positions each year of the biennium	\$218 million/yr. (estimated)	Average pay for VA teachers is \$52,466 compared to the national average of \$61,782. That puts VA 33rd when compared to other state. There must be a sustained effort to appropriate state resources to local school divisions to improve school employee salaries. State support for salaries must be included in a broader strategy to increase overall state funding for K-12 so that the state funds 55% of the true cost of K-12.
Recession-era cuts: Strike 136 C.5.k (Support staff cap) and 136 A.17 (flexible staffing requirements) of the Appropriation Act	\$371.6 million/yr.	This was a temporary measure taken during the depths of the recession. The cap is arbitrary. It does not represent actual costs, and it is not based upon estimates of the number of needed support staff.
Supplemental Lottery Per Pupil Allocation: In 136 37.b-strike "recurring costs"	Language only	This language was added in the 2016-18 biennial budget. The VEA supports the use of these funds for one-time costs. Those programs that have recurring costs should be include in General Fund allocations. When the language was added, school divisions began using this money to fill holes personnel costs rather than for school building maintenance and repairs. We would like to see the language removed and appropriate state funding allocated to cover recurring costs of the programs currently allowable under this item.

School Counselors: Strike 136 B 7.g in the Appropriations Act	Language Only	This language was added after the passage of SB1406. It undermines the ratios in the bill and sets a bad precedence of not fully funding the SOQs.
SOQs: School Counselors one for every 250 students	\$88.2 million/yr. (although current spending is \$12 million/yr. based on section 136 B 7.g in the Appropriations Act)	Based on FY2015, there was approximately one counselor for every 329 students in Virginia, while the SOQ standards required only approximately one counselor for every 425 students. The American School Counselor Association’s publication The Role of the School Counselor recommends a ratio of one counselor to every 250 students. The VEA supports that ratio.
SOQs: One Principal in every school (§22.1-253.12:2 H.2)	\$7.9 million /yr.	Standard Two currently requires school divisions to employ a full-time principal in all schools, except for elementary schools with 299 or fewer students, which are only required to employ a half-time principal. The role of the principal has grown increasingly complex, and the principal is essential to ensure that schools are safe and secure, a full-time principal should be provided for every elementary school, regardless of size. Therefore, the staffing standard should be adjusted as recommend by the BOE in 2016 and, we expect, reaffirmed in September 2019.
SOQs: One Assistant Principal for every 400 students (§22.1-252.13:2)	\$83.9 million/yr.	Administering a school has become increasingly more complex, school divisions have recognized a need to provide additional assistant principals at almost three times the rate required by the Standards of Quality. In order to ensure that a high quality system of educational leadership is provided in every school, the staffing ratio should be adjusted to provide one full-time assistant principal for each 400 students as recommended by the BOE in 2016 and, we expect, reaffirmed in September 2019.
SOQs: One registered nurse for every 550 students OR SOQ pending proposal for specialized student support so long as school nurses are Registered Nurses	\$1.8 million/yr. (Nurse only) \$100 million/yr. (Specialized Student Support)	Although state assistance is provided, the SOQ does not establish minimum staffing levels for support services-designated positions, which includes positions ranging from those that provide direct student support to those that maintain school facilities. Local school boards have the discretion to fill these positions as they deem necessary. This contrasts with the minimum instructional position staffing levels that are specified in the SOQ. The VEA supported the establishment of separate ratios for school nurses, social workers and psychologist as recommended by the BOE in 2016. We fully understand the approach the Board is currently taking that allows the school divisions to have flexibility with these positions, but we strongly believe that if state funds are appropriated for a “school nurse”, the state should require a Registered Nurse and they should be paid a salary reflective of their license.
SOQs: Add Teacher Leader program and expand the Teacher mentor Programs as proposed in pending recommendations from the Board of Education (BOE)	\$106.3 million/yr. over what is currently appropriated for	Current Teacher Mentor programs in Virginia are, often times, paper compliance and a check box for school divisions. The VEA supports the Board of Education’s proposal to add both Teacher Mentors (for new teachers) and Teacher Leaders (for teachers with more than 3 years of experience) into the SOQ as required positions with appropriate compensation adjustments. Assigning experienced teachers to guide and support novice teachers provides valuable professional development for both new and veteran teachers.

	the Teacher Mentors	
SOQs: English Language Learners- differentiate distribution of teaching positions to reflect proficiency of students as proposed in pending recommendations from the BOE	\$26.7 million/yr.	Our members who teach ELL's have long argued that distributing positions based upon proficiency level at the division level will permit ELL service models to be tailored to meet each school division's needs, while ensuring additional supports are provided for newer students.
SOQs: Add Reading Specialists into the SOQs per the pending BOE recommendation	\$36.6 million/yr. in addition to current funding for Early Reading Intervention	This proposal would shift the Early Reading Intervention Program into the Standards of Quality, expand it to provide reading specialists in grades four and five, and eliminate the non-staffing permissible expenditures. Students failing the third grade reading assessment would be the metric used to distribute funding, as opposed to the reading diagnostic instrument (typically, PALS) in kindergarten through third grade.
SOQs: Add Work Based Learning Coordinators per the BOE's pending recommendation	\$1.24 million/yr.	This proposal would provide work-based learning coordinators who would establish relationships between school divisions and businesses to ensure meaningful work-based learning opportunities are available to students in every high school in Virginia. Recognizing that many rural school divisions need to cooperate regionally to establish successful work-based learning programs with businesses in their area, developing the infrastructure regionally would be more effective than at the school division level. Instead of allocating positions to school divisions, this proposal would establish a statewide coordinator position, who would oversee several regional coordinators, staffed either through VDOE or contracts with other entities such as workforce investment boards, GO Virginia boards, or community colleges.
SOQs: Include the K-3 Class Size Reduction program into the SOQs and expand to grades K-6 per the pending BOE's recommendation	\$213.8 million /yr.	The K-3 Class Size Reduction program was established in the 1994-1996 Appropriation Act. For FY 2020, the General Assembly appropriated \$128.0 million to school divisions to reduce class sizes in grades kindergarten through three., but the program exists outside of the Standards of Quality. The VEA believes that the K-3 Class Size Reduction program should be added into the SOQ and mandate reduced class sizes in schools meeting the prescribed poverty thresholds. The program should be expanded also to include 4th through 6th grades.
SOQs: Establish a state-wide Principal Mentorship program as per the pending BOE recommendations	\$1.24 million/yr.	Mastering school leadership competencies requires a fundamental shift away from managing checklists and other routine tasks to leading a school team through the process of identifying curriculum, instruction, or student achievement challenges and then finding solutions that work for the students and community. Creating a principal mentor network at the state-level would be more effective than establishing division-level principal mentor positions in the Standards of Quality, because prospective mentors will frequently need to be matched with mentees from a different school division. In addition, establishing a state-level program will ensure consistent statewide implementation and quality control
Enhance VDOE data collections regarding school staffing to provide better information about staffing practices in local school divisions.		BOE proposal and VEA approved action from our 2019 Convention: I move that the VEA develop and advocate a funding structure that accurately reflects the number of employees that currently work in school systems. The new funding structure should include State funding for service personnel, custodians and other non-instructional employees.

Total cost of the VEA Budget Request:	\$1.258 billion/yr.	Total for the Biennium: \$2.513 billion
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VHA Proposed Priorities for 2020

Tier 1

VHA is Lead

Virginia Housing Trust Fund

- Increase state funding of the Virginia Housing Trust Fund to **30/35M in FY20** and **50M in FY21**

State Housing Tax Credit Program

- Receive new budget appropriations for DHCD or JLARC to study a State Housing Tax Credit model that best suits Virginia
- Georgia, Colorado, Illinois, Missouri, Wisconsin programs are being considered as good examples of models
 - Note: it may be possible for DHCD to complete in-house without any appropriations
- **Support built -in Income targeting (30% to 40% AMI)**

Permanent Supportive Housing

- Working with NAMI of Virginia to identify needs for PSH; increased funding for supportive services vs new units (or both)

Tier 2

Partner is lead, VHA actively supports where needed - in committee, legislator meetings, online action alerts, etc

Evictions Legislation (VPLC is Lead)

- Requiring that all residential leases contain notice of the renter's right to ask the landlord to make necessary repairs and to file a tenant's assertion if repairs aren't made.
- Enacting a "warranty of habitability" defense to nonpayment of rent if the landlord has failed to make essential repairs.
- Allowing renters to file tenant's assertions against landlords who don't make necessary repairs even if they are behind on the rent, as long as they notify the landlord of the need for the repairs and give him an opportunity to make the repairs before filing.
- Allowing people to file a tenant's assertion claim for damages even after they have moved out of the dwelling, especially when the poor conditions forced them to move out.
- Establishing an eviction prevention fund to provide emergency rental assistance to renters who have received "pay or quit" notices. This will enable renters to pay rent and late fees before landlords file court cases, benefiting everyone.
- Clarifying that hearings on "unlawful exclusion" petitions, filed when a landlord unlawfully evicts a renter by changing the locks or terminating utilities without a court order, can be held *ex parte* (without notice).
- Allowing renters to get statutory damages of twice the monthly rent when the landlord unlawfully evicts them to compensate them for the unforeseeable costs of an unlawful eviction, and deter landlords from unlawfully using "self-help".
- Sealing eviction cases that are dismissed by the court, and making the case record available to third parties only by court order after a finding that the third party has a legitimate need for it. A dismissed eviction case has no bearing on the defendant's suitability as a tenant; landlords should not be able to use these dismissed cases to deny people housing.
- Making it unlawful for landlords to deny someone housing just because they are using a rental voucher, or any other form of lawful payment. Housing choice vouchers, sometimes called "Section 8" vouchers, were created to help people with very low incomes afford safe, suitable housing in neighborhoods of their choice. But many landlords don't accept these vouchers. Some people even lose their vouchers because they are unable to find landlords willing to accept them
- homeownership option, by requiring notice to non-profits and residents before a manufactured home community is sold, enabling them to come up with their own plan to purchase the community and maintain its affordability.
- Preventing the public housing stock from shrinking through demolition or sale to private owners by requiring advance notice of either of these intended dispositions to nonprofits and residents of public housing, providing them the opportunity to develop and implement a plan to preserve the deep affordability of the housing.



Tier 2, Continued

Partner is lead, VHA actively supports where needed - in committee, legislator meetings, online action alerts, etc

Source of Income Nondiscrimination

- Support adding discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices.

Sexual Orientation and Gender Identity Nondiscrimination

- Support adding discrimination on the basis of a person real or perceived sexual orientation or gender identity to the list of unlawful discriminatory housing practices.

Child Care in Affordable Multifamily Housing

- Support establishing a law that no landlord may prevent a tenant from using rental housing for operation of licensed family day care.

Energy Efficiency

- Working with MFEEC, VAEEC, and VPLC to identify legislative items that would address energy efficiency and energy affordability in housing.

Tier 3

Partner is lead, VHA passively supports - sign on letters, logo on advocacy materials, etc

Affordable Housing Tax Abatements

- Support amending the Virginia Constitution to allow jurisdictions to exempt all or part of the property tax due on an affordable housing property.

Arlington Affordable Housing Ordinance

- Support updating Arlington's Affordable Housing Ordinance ([state law](#)) and possible statewide inclusionary zoning updates.