

SETTLEMENT AGREEMENT

This AGREEMENT is made effective as of the date of the last signature hereto (the “Effective Date”), by and between G. EDWARD WHITE, SUSAN D. WHITE, ROY VAN DOORN, KRISTI VAN DOORN, THOMAS J. HILL, Trustee of the Thomas J. Hill Trust, u/a June 1, 2005, as amended, KEMP P. HILL, Trustee, of the Kemp P. Hill Trust, u/a June 1, 2005, as amended, JENNY CLAY, MICHAEL BEVIER and LILLIAN BEVIER (collectively, the “Claimants”) and the CHARLOTTESVILLE CITY COUNCIL (the “City”), each a “Party” and collectively, the “Parties.”

REASONS FOR AGREEMENT

Claimants have asserted various claims against the City in that action filed in the Circuit Court for the City of Charlottesville styled *G. Edward White, et al., v. Charlottesville City Council*, Case No. CL24-25 (the “Lawsuit”). In the Lawsuit, Claimants’ operative pleading is now the Amended Complaint, filed on or about December 30, 2024. The Amended Complaint contains two Counts, and alleges that the new zoning ordinance adopted by the City on December 18, 2023 (the “NZO”) was void *ab initio* for, among other reasons, the failure to submit the NZO to the Virginia Department of Transportation (“VDOT”) pursuant to Virginia Code § 15.2-2222.1(B) and the associated Traffic Impact Analysis Regulations set forth in 24VAC30-155-10, *et seq.* The Parties enter into this Agreement for the purpose of resolving the Lawsuit.

TERMS

For and in consideration of the mutual promises and commitments specified herein, the receipt and sufficiency of which is hereby acknowledged by each Party, the Parties agree as follows:

1. **Preparation of Traffic Impact Statement.** The City agrees to prepare a VDOT Traffic Impact Statement (“VTIS”) pursuant to requirements of 24VAC30-155-60. The City shall contact VDOT to request a scope of work meeting pursuant to 24VAC30-155-60(B) (the “Meeting”) within thirty (30) days of the Effective Date and shall comply with the elements and scope for the VTIS as required by VDOT. Prior to the Meeting, unless otherwise directed, waived or agreed upon by VDOT in writing, with a copy of such writing being provided to Claimants through their counsel of record in the Lawsuit (“Counsel”), the City shall submit to VDOT a Pre-Scope of Work Meeting Form (the “Form”) pursuant to VDOT’s August 2022 Updated Administrative Guidelines for the Traffic Impact Analysis Regulations and shall provide a copy of that submission to Claimants through Counsel. The Form shall, at a minimum, identify all State-maintained roads within 3,000 feet of the City’s corporate limits unless otherwise directed by or agreed upon by VDOT in writing, with a copy of such writing being provided to Claimants through Counsel. Upon request, the City shall provide Claimants through Counsel copies of any subsequent correspondence between the City and VDOT regarding the Meeting, the Form, or the VTIS. The City shall complete the VTIS within one-hundred and twenty (120) days of the scope of work meeting.

2. Submission to VDOT. The City shall submit the NZO to VDOT, along with the required proposal elements set forth in 24VAC30-155-40(B) or as otherwise directed or agreed upon with VDOT (the “Package”) within thirty (30) days of completion of the VTIS. The City shall provide Claimants through Counsel, with a copy of the complete submission to VDOT within five (5) days of such submission. The City shall comply with all requests for information made by VDOT in connection with its review of the Package, including but not limited to any requests for meetings pursuant to Virginia Code § 15.2-2222.1(B) and 24VAC30-155-40(D) and any requests for modifications to the Package or the resubmission of the Package.

3. VDOT Comments. The City shall provide Claimants, through their Counsel, with VDOT’s official comments within five (5) days of the City’s receipt thereof.

4. Nonsuit. The Claimants shall file a Motion to Nonsuit the Lawsuit within ten (10) days of the Effective Date.

5. Tolling. If the City fails to comply with its obligations under Sections 1 and 2 of this Agreement within one year of the Effective Date, the Claimants, or any number of them, shall have the right to re-file their Lawsuit and the City agrees that it shall not interpose in any such suit lawsuit: (a) a defense that the applicable statute of limitations shall have expired as to Counts I or II, as specifically alleged in the Amended Complaint or (b) any time defenses based on the passage of time as to Counts I and II, as specifically alleged in the Amended Complaint.

6. Covenant Not to Sue and Contingent Release. Except in accordance with Section 5, Claimants, or any number of them, agree that they will not re-file the Lawsuit in any court. Likewise, Claimants agree to release any and all claims or causes of action, asserted or unasserted, known or unknown, asserted in the Lawsuit or related to the City’s adoption of the NZO. This release is contingent on the City complying with its obligations under Sections 1 and 2 of this Agreement, within one year of the Effective Date.

7. No Admission of Liability or Waiver of Defenses. This Agreement is a compromise to resolve disputed claims and shall not constitute an admission of liability by any Party. Should Claimants, or any number of them, re-file the Lawsuit in accordance with Section 5, Claimants agree that except as set forth in Section 5 this Agreement does not waive any defenses or arguments that the City may have to the asserted claims, including but not limited to the defense/argument that submission of the NZO to VDOT was not required. Claimants further agree that in any re-filed litigation, they will not use this Agreement to contend that the City admitted or acknowledged an obligation to submit the NZO to VDOT.

8. General Terms and Conditions. *Governing Law/Jurisdiction.* This Agreement shall be construed and enforced according to the laws of the Commonwealth of Virginia and the state courts located in the City of Charlottesville, Virginia shall be the exclusive jurisdiction for any claims arising out of or related to this Agreement. *Construction.* This Agreement shall not be construed more strongly against any Party, regardless of who is responsible for its preparation. *Recitals.* The foregoing reasons for agreement are hereby incorporated by reference as if fully restated. *Entire Agreement.* This Agreement contains the final and entire agreement between the Parties with respect to the subject matter hereof and is intended to be an

integration of all prior negotiations and understandings. All prior agreements and understandings between the Parties concerning the subject matter hereof are superseded by the terms of this Agreement. This Agreement may only be modified in a writing signed by all Parties. *Invalidity/Enforceability.* If any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the other terms, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law. *Counterparts/Signatures.* This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute the same instrument. This Agreement shall not be effective until executed by all Parties. Facsimile copies of signatures and copies of signature in PDF shall be as binding as originals. *Successors and Assigns.* This Agreement shall be binding upon the Parties and their respective heirs, executors, administrators, affiliates, successors, and assigns and shall inure to the benefit of the Parties' respective heirs, executors, administrators, representatives, affiliates, successors, and assigns, although not individually named. *Authority to Enter Into Agreement.* The signatories hereto represent that they are duly authorized to enter into this Agreement as set forth below and that their signature is binding upon the Party on whose behalf they sign.

[Signatures to Follow on Page 3]

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be executed pursuant to the following signatures and seals:

Defendant Charlottesville City Council

By: _____

Name: Sam Sanders

Title: City Manager

Date: _____

Claimants

By Counsel

By: _____

Name: Mike Derdeyn

Title: Counsel for Claimants

Date: _____