



CITY COUNCIL AGENDA June 17, 2024

Juandiego R. Wade, Mayor
Brian R. Pinkston, Vice Mayor
Natalie Oschrein
Michael K. Payne
J. Lloyd Snook, III
Kyna Thomas, Clerk

4:00 PM OPENING SESSION

This is an in-person meeting with an option for the public to participate electronically by registering in advance for the Zoom webinar at www.charlottesville.gov/zoom. The meeting may also be viewed on the City's streaming platforms and local government Channel 10. Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call (434) 970-3182 or submit a request via email to ada@charlottesville.gov. The City of Charlottesville requests that you provide a 48-hour notice so that proper arrangements may be made.

Call to Order/Roll Call

Agenda Approval

Reports

1. Report: State of Homelessness

5:30 PM CLOSED MEETING

6:30 PM BUSINESS SESSION

Moment of Silence

Announcements

Recognitions/Proclamations

Community Matters

Public comment for up to 16 speakers (limit 3 minutes per speaker). Preregistration available for first 8 spaces at <https://www.charlottesville.gov/692/Request-to-Speak>; speakers announced by Noon on meeting day (9:00 a.m. sign-up deadline). Additional public comment at end of meeting. Comments on Public Hearing items are heard during the public hearing only.

Consent Agenda*

The consent agenda consists of routine, non-controversial items whereby all items are passed with a single motion and vote. Individuals speaking during Community Matters may address items on the Consent Agenda.

2. Minutes: March 5 regular meeting
3. Resolution: Resolutions to appropriate \$130,713 from the 2024 City Climate Protection Program – Program Support Grant with LEAP (2nd reading)
 - a. Resolution: Resolution to authorize the city manager to sign a Memorandum of Understanding between the City and the Local Energy Alliance Program (LEAP) for grant funds to support the Climate Protection Program and promote energy performance improvements (2nd reading)
4. Resolution: Resolution to appropriate \$172,182 from the Virginia Department of Social Services to serve clients who are receiving auxiliary grants, adoption assistance, and independent living services (2nd reading)
5. Resolution: Resolution appropriating \$7,988 received from the Virginia Department of Social Services for the Percentage of Income Payment Program (2nd reading)
6. Resolution: Resolution to transfer \$9,064,654 to the City's Retirement Fund (2nd reading)
7. Resolution: Resolution appropriating \$45,567 from the Virginia Department of Social Services to use for overtime for Medicaid unwinding (2nd reading)

8. Resolution: Resolution to appropriate \$10,000 for The Tonsler League (2nd reading)
9. Ordinance: Ordinance to amend and reordain Chapter 31 (Utilities) of the Code of the City of Charlottesville, 1990, as amended, to establish new utility rates and service fees for City gas, water and sanitary sewer (2nd reading)
10. Ordinance: Ordinance to amend and reordain Chapter 31 (Utilities) of the Code of the City of Charlottesville, 1990, as amended, to establish a connection fee for new gas service (2nd reading)
11. Resolution: Resolution to reprogram prior year CDBG funds to support ADA accessibility enhancements at a community playground, Minor Budget Amendment of approximately \$46,000 (2nd reading)
12. Ordinance: Ordinance authorizing a Forgivable Loan to Piedmont Housing Alliance to support redevelopment of Kindewood/Friendship Court Phase 2 for the purpose of producing new housing for low and moderate income persons (2nd reading)
13. Ordinance: Ordinance to create and enact Level 3 Communications Franchise Agreement (2nd reading)
14. Ordinance: Ordinance to create and enact Crown Castle Franchise Agreement (2nd reading)
15. Ordinance: Ordinance to create and enact Brightspeed Franchise Agreement (2nd reading)
16. Resolution: Resolution for a Water and Wastewater Leak Credit for 2PIC LLC - \$18,212.63.

City Manager Report

- Report: City Manager Report

Action Items

17. Ordinance: Ordinance amending and reordaining Chapter 10 (Water Protection) of the Code of the City of Charlottesville, to establish a Virginia Erosion and Stormwater Management Program consistent with the Code of Virginia
18. Ordinance: Ordinance amending and reordaining Chapter 10 (Water Protection) of the Code of the City of Charlottesville, to update the City's Stormwater Utility Program consistent with Section 15.2-2114 of the Code of Virginia
19. Resolution: Resolution authorizing the adoption of the Transit Strategic Plan
20. Resolution: Resolution authorizing a minor budget amendment to Community Development Block Grant Program Year 2024-25 funding awards to reflect an increase in final HUD funds available

General Business

21. Written Report: Sister Cities Commission Annual Report

Community Matters (2)

Adjournment

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



Agenda Date:	June 17, 2024
Action Required:	No action is required.
Presenter:	Misty Graves, Director of Human Services, Shayla Washington, Executive Director - BRACH
Staff Contacts:	Misty Graves, Director of Human Services Ashley Marshall, Deputy City Manager
Title:	State of Homelessness

Background

This report is to provide the City Council and the public with an update on the state of the unhoused and those facing housing insecurity, which may likely lead to homelessness in our community by the Department of Human Services and our community partners who focus on homelessness for single adults and families.

Discussion

Below, the Council and community will find information on the community partners who will present during this report and other key partners in the network. The Charlottesville Department of Human Services will also lead off the presentation and discuss their work through the Pathways fund process, providing emergency hotel access and other key programs:

BRACH - Presenter: Executive Director Shayla Washington - Website: <https://blueridgehomeless.org/>

- The Blue Ridge Area Coalition for the Homeless (BRACH, formerly TJACH) aims to make homelessness rare, brief, and non-recurring in our community. At BRACH, they work to reduce homelessness by initiating solutions and coordinating regional resources and services. BRACH was founded in 1998 and is the lead agency for our community's HUD Continuum of Care (CoC).

The Haven - Presenter: Executive Director Anna Mendez - Website: <https://www.thehaven.org/>

- The Haven is a multi-resource day shelter and housing resource center in downtown Charlottesville. The organization provides a welcoming and safe place to anyone in need. Their day shelter services are open 365 days a year from 7 am to 5 pm (closed from 12-1 pm daily) and 7 am to 12pm Saturday and Sunday, and the organization provides access to breakfast, showers, laundry, computers, phones, storage bins, and mail for those who are unsheltered. They also provide various housing services.

Salvation Army - Presenter: Sandra Chirico, Social Services Manager - Website: <https://charlottesville.salvationarmypotomac.org/>

- Currently led by Captains Mark and Jennifer Van Meter, the Salvation Army has provided care and compassion for those in need in Charlottesville since 1912. The Salvation Army currently has 58 emergency shelter beds year-round and partners with PACEM to provide overflow shelter during winter through its

"Warm Room" program. The Army also provides meals through their Soup Kitchen, which is open 365 days a year and serves meals several times a day (breakfast and supper Monday-Saturday, breakfast and a midday meal on Sundays, which are open to the public). The Soup Kitchen also houses a food pantry in partnership with the Blue Ridge Area Food Bank's Food Pantry Program.

Shelter for Help in Emergency (SHE)- Presenter: Sarah Ellis, Executive Director -

Website: <https://www.shelterforhelpinemergency.org/>

- The Shelter for Help in Emergency works to support and empower victims of domestic violence through a combination of residential, community-based, and outreach services. If you or someone you know is a victim of domestic/intimate partner violence, please call our 24-hour hotline at (434) 293-8509.

REGION 10 PATH Team - Presenter: Cindi Richardson, PATH Liaison and Quality Data Manager- Website:

<https://regionten.org/>

- Established in 1969, Region Ten Community Services Board is part of a statewide network of 40 Community Service Boards working to provide mental health, developmental disability, and substance-use services in the local community where needed. Projects for Assistance in Transition from Homelessness, known as PATH, is a federal, state, and local partnership that provides outreach and assistance to adults with serious mental illness who are experiencing homelessness or who are at risk of becoming homeless. PATH services include community-based outreach, mental health, substance abuse, case management, and other supportive services, as well as a limited set of housing services. Depending on the resources of the local program, PATH may provide one-time financial assistance such as payment of one month's rent to prevent eviction, assistance with the first month's rent, or a security deposit to assist an individual in obtaining housing or other related expenses.

Other key supportive programs and organizations for our unhoused community but who were unable to join the presentation tonight include:

- **Charlottesville City Schools Homeless Education Services**
- https://charlottesvilleschools.org/13623_3

Alignment with City Council's Vision and Strategic Plan

Strategic Outcome Areas

- Economic Prosperity
- Housing
- Organizational Excellence

Community Engagement

This report is for information only and does not require community engagement.

Budgetary Impact

This report does not carry any budgetary impacts, it is for information.

Recommendation

This report does not carry any recommendations, it is for information.

Alternatives

N/A

Attachments

None

CHARLOTTESVILLE CITY COUNCIL MEETING MINUTES
March 5, 2024 at 4:00 PM
Council Chamber

The Charlottesville City Council met on Tuesday, March 5, 2024, Mayor Juandiego Wade presiding. Mr. Wade called the meeting to order and Clerk of Council Kyna Thomas called the roll, noting the following councilors present: Mayor Juandiego Wade, Vice Mayor Brian Pinkston and Councilors Natalie Oschrein, Michael Payne, and Lloyd Snook.

On motion by Pinkston, seconded by Oschrein, Council unanimously approved the meeting agenda.

REPORTS

1. REPORT: City Housing Portfolio (Charlottesville Redevelopment and Housing Authority)

John Sales, Executive Director of the Charlottesville Redevelopment and Housing Authority (CRHA) presented an update on the housing portfolio jointly owned by CRHA and the City of Charlottesville. He reviewed the history of the portfolio, acquisitions, the Dogwood portfolio, demographics, operational changes, financial data, upcoming projects and a potential sale. Councilors were generally in support of bringing an item back for consideration of selling 801 Ridge Street.

2. REPORT: Strategic Investment Area and Small Area Plans

James Freas, Director of Neighborhood Development Services, and Brenda Kelley, Redevelopment Manager, presented a budget report on Strategic Investment Areas and Small Area Plans, which are line items within the Capital Improvement Plan. Projects previously approved by Council have failed to move forward for various reasons and staff has realigned to bring approved projects to completion. Councilors indicated general support for staff to identify a dedicated funding source for Small Area Plan implementation and to bring forward a resolution at a future meeting.

CLOSED MEETING

On motion by Pinkston, seconded by Payne, Council voted 5-0 (Ayes: Oschrein, Payne, Pinkston, Snook, Wade; Noes: none) to meet in closed session as authorized by Virginia Code Section 2.2- 3711(A)(7) for the discussion of actual litigation where consultation in open meeting would adversely affect the negotiating or litigation posture of the Council, specifically, Albemarle County v. City of Charlottesville, and Section 2.2-3711(A)(1) for the discussion and consideration of prospective candidates for appointment to the following boards and commissions: Housing Advisory Committee, Police Civilian Oversight Board, Towing Advisory Board, and Tree Commission.

On motion by Pinkston , seconded by Snook, Council certified by the following vote: 5-0 (Ayes: Oschrein, Payne, Pinkston, Snook, Wade; Noes: none.), that to the best of each Council member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the Motion convening

the closed session were heard, discussed or considered in the closed session.

BUSINESS SESSION

City Council observed a moment of silence.

ANNOUNCEMENTS

Councilor Snook moved that Council authorize the City Attorney and the City Manager to enter into a settlement agreement fully resolving Albemarle County v. City of Charlottesville, Case No. CL17-203. The motion was seconded by Oschrein and approved by a vote of 5-0 (Ayes: Oschrein, Payne, Pinkston, Snook, Wade; Noes: none).

Councilor Payne announced the My Help List contest sponsored by Mr. AlexZan.

RECOGNITIONS/PROCLAMATIONS

Council presented the following items of recognition:

- **PROCLAMATION: Multiple Sclerosis Awareness Month**

Councilor Oschrein presented the Multiple Sclerosis Awareness Month proclamation to Ashley Collier, who made remarks and invited people to the MS Education Conference.

- **PROCLAMATION: American Red Cross Month**

Mayor Wade presented the American Red Cross Month proclamation to Bill Brent and Shelomith Gonzales, who made remarks.

- **PROCLAMATION: Charlottesville High School Varsity Girls and Boys Basketball Teams - Region 4D Champions**

Rayquel Allen, senior on the Girls Varsity Basketball Team thanked Council for the recognition. Luka Matik, senior on the Boys Varsity Basketball Team, spoke in acceptance, and Coach Mitch Minor thanked the community for their support.

BOARD/COMMISSION APPOINTMENTS

On motion by Pinkston, seconded by Snook, Council by a vote of 5-0 approved the following appointments to boards and commissions.

- Housing Advisory Committee (HAC): Michael Parissi, Nicole Scro, Peppy Lindon, and reassigning Dan Rosensweig to the Affordable Housing nonprofit seat
- Police Civilian Oversight Board (PCOB): Al Pola and Cameron McBride
- Tree Commission: Eric Bredder, Jeffrey Aten, Shanti Levy, Woody Parrish, and Manuel Lerdau

CONSENT AGENDA

Clerk of Council Kyna Thomas read the following Consent Agenda items into the record:

3. MINUTES: December 18, 2023 regular meeting
4. RESOLUTION: Resolution to Appropriate Additional COVID Homeless Emergency Response Program (C.H.E.R.P.) Grant Award - \$16,636.84 (2nd reading)

RESOLUTION

Appropriating Funding in the Amount of \$16,636.84 To Be Received from COVID Homeless Emergency Response Program (C.H.E.R.P.)

WHEREAS, The City of Charlottesville, through the Office of Community Solutions, has been notified that it will be awarded an additional grant from the COVID Homeless Emergency Response Program (C.H.E.R.P.) of the Virginia Department of Housing and Community Development, in the amount of \$16,636.84.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that, upon receipt of the additional C.H.E.R.P. funding from the Commonwealth, said funding, anticipated in the sum of \$16,636.84, is hereby appropriated in the following manner:

Revenues			
\$16,636.84	Fund 209	Order 1900401	GL 430120 State (Federal pass-thru)
Expenditures			
\$16,636.84	Fund 209	Order 1900401	GL 530550 Contractual Services

BE IT FURTHER RESOLVED that this appropriation is conditioned upon receipt of the \$16,636.84 in funds from the Virginia Department of Housing and Community Development.

5. RESOLUTION: Resolution to approve the 2024 Blue Ridge Area Food Bank Cold Storage Project and to reprogram Community Development Block Grant funds from prior Program Years, in the amount of \$215,000 (2nd reading)

RESOLUTION

Resolution to Approve the 2024 Blue Ridge Area Food Bank Cold Storage Project and to Appropriate Community Development Block Grant Funds from Prior Program Years, in the Amount of \$215,000

WHEREAS the City of Charlottesville is and has been an Entitlement Community, as designated by the U.S. Department of Housing and Urban Development (HUD), and as such Council has previously approved the appropriation of certain sums of federal grant receipts to specific accounts in the Community Development Block Grant (CDBG) Fund; and

WHEREAS HUD has established expectations and guidance for the timely use of allocated funds to address important community needs; and

WHEREAS a balance of unspent CDBG funds exists that can be reprogrammed to meet current community needs and CDBG allocations not used in a timely manner can be reclaimed by HUD, potentially risking a reduction to future CDBG allocations by a similar amount, a situation which would significantly reduce the potential benefits the CDBG program can offer to the Charlottesville community,

WHEREAS the staff and volunteers of the Blue Ridge Area Food Bank provide a valuable and much-needed service to the Charlottesville community and surrounding counties;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the proposed program in support of the 2024 Blue Ridge Area Food Bank Cold Storage Expansion Project as presented here before Council today is approved and that the Office of Community Solutions is hereby authorized to begin working with BRAFB staff to implement said program; and

BE IT FURTHER RESOLVED that in support of this program appropriations made to the following expenditure accounts in the CDBG Fund be amended by the respective amounts shown below and that the balance accumulated in the Fund as a result of these adjustments be hereby re-appropriated to the receiving account indicated below, as follows:

Initial Fiscal Year	Account Code	SAP Account Name	Proposed Reduction(s)	<u>Revised Appropriation</u> (<u>Avail. Balance</u>)
FY17	P-00001-5-19	CDBG FY17 10th & Paige PN	\$35,347.61	\$0
FY20	1900361	CDBG FY20 Belmont PN	\$23,405.19	\$25,705.78

FY22	1900405	CDBG FY22 Ridge Street PN	\$156,247.20	\$0
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Proposed Reductions = \$215,000

Program Year	Account Code	Program	Proposed Addition	Proposed New Appropriation
PY23-24	1900544	CDBG PY23 Blue Ridge Area Food Bank Cold Storage Expansion	\$215,000	\$215,000

Proposed Addition = \$215,000

6. **ORDINANCE:** Ordinance amending Chapter 25 (Social Services), Article III (Rental Relief for the Elderly and Disabled Persons) Increasing Income Limit, Rents-Paid Limit (used in the

Grant Formula), and Maximum Grant Amount (2nd reading)

**AN ORDINANCE AMENDING AND REORDAINING SECTIONS 25-56 ET SEQ
OF ARTICLE III OF CHAPTER 25 (SOCIAL SERVICES) OF THE
CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, RELATING TO RENT
RELIEF FOR THE ELDERLY AND DISABLED PERSONS.**

7. RESOLUTION: Support for PSCC Apartments (formerly known as Park Street Senior Apartments), 1200 Park Street

RESOLUTION

**Financial Resolution Supporting PSCC Apartments (f/k/a Park Street Senior Apartments)
(1200 Park Street)**

Parcel Number: 470002120

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Charlottesville, Virginia hereby commits up to \$2,250,000 in the form of forgivable loan and rental subsidy for the redevelopment of the Park Street Christian Church site at 1200 Park Street. The funding will be documented pursuant to the required forms and agreements of the City. The commitment of up to \$2,250,000 will help to subsidize the creation of approximately fifty (50) newly constructed affordable housing units and will help to subsidize the affordability of five (5) affordable rental units in the City of Charlottesville. This commitment will be made to Piedmont Housing Alliance. Council's commitment is subject to appropriation.

8. RESOLUTION: Support for 501-A Cherry Avenue and 501-B Cherry Avenue
- a. Financial Resolution Supporting 501-A Cherry Avenue and 501-B Cherry Avenue

RESOLUTION

**Financial Resolution Supporting 501-A Cherry Avenue and 501-B Cherry Avenue
(501 Cherry Avenue site)**

Parcel Numbers: 290177000, 290178000, 290178100, 290178200, 290179000

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Charlottesville, Virginia hereby commits up to \$3,150,000 in the form of forgivable loan and rental subsidy for the redevelopment of the overall 501 Cherry Avenue project site (includes 501-A Cherry Avenue and 501-B Cherry Avenue). The funding will be documented pursuant to the required forms and agreements of the City. The commitment of up to \$3,150,000 will help to subsidize the creation of approximately 71 newly constructed affordable housing units and will help to subsidize the affordability of ten (10) affordable rental units, all within the 501 Cherry Avenue project, in the City of Charlottesville. This commitment will be made to Piedmont Housing Alliance. Council's commitment is subject to appropriation.

- b. Designating Property as a Revitalization Area for 501 Cherry Avenue site

RESOLUTION

Designating Property as a Revitalization Area for 501 Cherry Avenue site (501 Cherry Avenue, 507 Cherry Avenue, 0 6th Street SW and 0 5th Street SW) Parcel Numbers: 290177000, 290178000, 290178100, 290178200, 290179000

WHEREAS, Piedmont Housing Alliance has requested designation of the property shown on the location map attached as Exhibit A, known as 501 Cherry Avenue site, as a Revitalization Area; and

WHEREAS, pursuant to Virginia Code §36-55.30:2(A), the Council of the City of Charlottesville, Virginia has the authority to designate a property as a Revitalization Area; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the 501 Cherry Avenue site is located within a Revitalization Area, defined by the Code of Virginia as any area that 1) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and 2) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area; and

BE IT FURTHER RESOLVED that the following nonhousing building or buildings (or nonhousing portion or portions of the building or buildings) located or to be located on this site are necessary or appropriate for the industrial, commercial or other economic development of the area. Approximately 16,568 square feet of nonresidential space is to be used by one or more entities providing commercial and/or community services to the surrounding area.

On motion by Pinkston, seconded by Oschrein, Council voted 5-0 to adopt the consent agenda (Ayes: Oschrein, Payne, Pinkston, Snook, Wade; Noes: none).

CITY MANAGER REPORT

City Manager Sam Sanders announced that the Council work session schedule was published on the city website. He stated that he and staff will use the City Manager Report time during the City Council meeting to present more substantive reports.

Regarding the Strategic Plan outcome area of economic prosperity, he tasked a workgroup led by Chris Engel, Director of Economic Development to find ways to strengthen the substance of the outcome area and bring action items forward for Council consideration.

COMMUNITY MATTERS

Mayor Wade opened the floor for comments from the public.

1. William Espinosa, city resident, spoke about transition of city buses to electric, and acknowledged the slow process. He spoke about morality related to climate decisions.
2. Michael Salvatierra, city resident, spoke in support of additional school funding.
3. Heidi Dhivya Berthoud, city resident, spoke about the need for neighborhood engagement in the Mountain View Planned Unit Development process, and she suggested improvements for the plan.
4. David Koenig, Charlottesville City Schools teacher and parent, spoke in support of additional school funding.
5. Harold Folley, Jr., city resident, spoke about jail renovations and community forums held in January and February, and stated that they did not qualify as community engagement. He stated that the city budget is better used on community-based services.
6. Bruce W. Glasco, Chair of the Cville 100 Bus Electrification Group, expressed appreciation that their recommendations were heard in February. He stated that questions are forthcoming to the mayor and transit director.
7. Shannon Gillikin, Charlottesville City Schools teacher and parent, spoke in support of additional school funding.
8. John Worozbyt, city resident, spoke about invasive species mitigation efforts.
9. Sandra Alvales, Charlottesville United, spoke in support of the proposed City Schools budget.
10. Kate Fraleigh, city resident, spoke about aspects of the jail renovation project, stating that jails are places of trauma and not healing.
11. Sam, city resident, spoke about recommendations from the People's Coalition for aspects of the jail renovation project, stating that jails are places of trauma and should not be primary places for mental health treatment. He stated that the city budget is better used on community-based services.

ACTION ITEMS

9. BY MOTION: Multi-Jurisdictional Comprehensive Safety Action Plan

Ben Chambers, Transportation Planning Manager, introduced Sandy Shackelford from the Thomas Jefferson Planning District Commission (TJPDC). Ms. Shackelford shared background information for SS4A (Safe Streets and Roads for All), a U.S. Department of Transportation discretionary grant program established in the Bipartisan Infrastructure Law to improve safety and help prevent deaths and serious injuries on the nation's roadways. Eligibility for implementation funding is dependent on first adopting a qualifying Comprehensive Safety Action Plan. TJPDC applied for and was awarded a grant to develop a Comprehensive Safety Action Plan that will meet eligibility requirements for all six of its member jurisdictions, and each

jurisdiction committed funding to support the local match. The planning process is being managed regionally by the TJPDC, but priority countermeasures will be identified individually for each locality. Ms. Shackelford reviewed benefits and required components of a Comprehensive Safety Action Plan.

On motion by Payne, seconded by Pinkston, Council by a vote of 5-0 approved the Multi-Jurisdictional Comprehensive Safety Action Plan

10. PRESENTATION: Presentation of the School Board Adopted Budget for Fiscal Year 2025

Lisa Torres, School Board Chair, introduced the outline for the budget presentation. She and Dr. Royal Gurley, Charlottesville City Schools Superintendent, co-presented the School Board Adopted Budget for Fiscal Year 2025 and answered Council questions.

11. PRESENTATION: Presentation of the Proposed City Budget for Fiscal Year 2025

City Manager Sam Sanders presented the Proposed City Budget for Fiscal Year 2025. Major budget highlights were:

- \$251,526,900 Total Revenues and Expenditures
- \$23 million in new revenue for Fiscal Year 2025
- 10.11% increase over Fiscal Year 2024
- Top Funding Priorities: Collective Bargaining, Classification and Compensation, and Investment in Schools

The proposal indicated a need for increased revenues in order to meet strategic goals established by City Council.

Krisy Hammill, Budget Director, provided General Fund revenues and expenditures summaries, as well as an overview of the Capital Improvement Program and debt. She encouraged Council and the public to use the Budget Explorer on the city website.

Mr. Sanders acknowledged City staff and the heavy lift for work accomplished in the past year.

12. ORDINANCE: Ordinance for creating Shenandoah Mobile Franchise Agreement (carried)

City Attorney Jacob Stroman presented the ordinance request. After asking clarifying questions, Council unanimously agreed to carry the item to the March 18 City Council meeting for a second reading and vote.

GENERAL BUSINESS

13. REPORT: Albemarle Charlottesville Regional Jail (ACRJ) Renovation architectural design options

Colonel Martin Kumer, ACRJ Superintendent, introduced Tony Bell, Mosley Architects, who

provided an overview of ACRJ renovation architectural design options that were presented in public forums for input. He stated that the comment period was scheduled to closed on March 8.

Councilors provided feedback to inform Councilor Pinkston as the Council representative on the ACRJ Authority Board.

14. WRITTEN REPORT: Land Use and Environmental Planning Committee Semi-Annual Report

Mayor Wade acknowledged receipt of the report. Councilor Payne expressed concern about the structure and reporting of LUEPC, and Councilor Snook agreed.

OTHER BUSINESS

Mayor Wade suggested updating language related to boards and commissions seats to attract more applicants. Mr. Sanders stated that Deputy City Manager Ratliff would be the designated person to work with the Clerk's Office for initiating updates. Mr. Wade suggested reviewing the Schools budget process later in the Spring or Summer.

Councilor Oschrein asked about a monthly city newsletter for sharing information with citizens.

COMMUNITY MATTERS (2)

Mayor Wade opened the floor for comments from the public.

- Kate Fraleigh spoke about the lack of information shared from ACRJ in their public forums, and she shared additional jail data.
- Ernest Chambers, teacher and past member of the Blue Ribbon Commission, spoke about the 2013 Blue Ribbon Commission and tax increases proposed at that time versus now, to fund the Schools budget. He spoke in support of funding the city schools request.

The meeting adjourned at 10:44 p.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council

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



Agenda Date:	June 17, 2024
Action Required:	Approval of Resolutions
Presenter:	Kristel Riddervold, Director of the Office of Sustainability
Staff Contacts:	Emily Irvine, Climate Program Manager Kristel Riddervold, Director of the Office of Sustainability
Title:	Resolutions to appropriate \$130,713 from the 2024 City Climate Protection Program – Program Support Grant with LEAP (2nd reading)

Background

The City of Charlottesville's Office of Sustainability is proposing to provide \$130,713 of previously appropriated funds to the Local Energy Alliance Program (LEAP) for support to the Climate Protection Program. The City has partnered with LEAP since its establishment, and this will be the tenth Program Support Grant.

Charlottesville has been involved with climate protection related efforts at the local level for almost 20 years, beginning with the establishment of the Climate Protection Program following the City of Charlottesville's 2006 commitment through the US Mayors Climate Protection Agreement to reduce communitywide greenhouse gas (GHG) emissions. This focus and commitment were re-confirmed with the 2019 adoption of GHG emissions reduction goals and the approval of the Charlottesville Community Climate Action Plan in January 2023.

Over 95% of Charlottesville's GHG emissions are associated with non-municipal activities (the three largest sectors are residential buildings, commercial buildings, and transportation), indicating that success and progress in reducing our community's emissions requires participation of the public *and* private sectors. Emissions-reducing actions are also associated with reduced energy usage, lower utility bills, greater comfort, and health benefits. As such, the Climate Protection Program has a focus on increasing the availability, accessibility, affordability, and awareness of programs and resources that support emission-reducing actions within the community. Successful efforts have routinely included an ongoing partnership with the Local Energy Alliance Program (LEAP) through a yearly program support agreement adjusted to the current needs of the City's Climate Protection Program and the Charlottesville community.

LEAP, a Charlottesville-based 501c3 nonprofit, delivers energy efficiency solutions in Virginia to make homes safer, healthier, and more affordable, while also reducing energy usage and mitigating climate change. LEAP's alliance model is a community-based, public-private partnership.

LEAP leverages funding from various sources, including utility programs (e.g., Dominion Energy and

Charlottesville Gas' low-income weatherization programs), grant opportunities, and the City-funded Home Energy Conservation Grant program – and braids them, where possible, to expand the services available to City residents and businesses. LEAP also harnesses the support of local nonprofits and other key stakeholders to increase awareness of relevant programs and educate community members about energy efficiency and renewable energy.

In 2023, LEAP connected residents across the income spectrum with funded energy efficiency service programs and renewable energy programs, including 12 market-rate installations through Solarize Charlottesville and 21 installations through Dominion Energy's Low-Income Solar program. They also insulated 53 homes, installed 56 heat pumps and replaced 37 thermostats in the City, all of which are important home energy savings measures.

2022's Inflation Reduction Act allocated tens of millions of dollars to each state for home energy rebate programs, in addition to tax credits for energy efficiency and renewable energy installations. It is anticipated that Virginia's State-administered rebate program will open in early 2025, underscoring the need to connect City residents to these programs. 2024's proposed Program Support Agreement with LEAP reflects our plans to scale up accessibility for energy programs and services to our community.

Discussion

The proposed grant to LEAP provides ongoing support to the Climate Protection Program and continues the strategy to reduce energy consumption and associated greenhouse gas (GHG) emissions, increase cost savings for residents, and contribute to the City's climate policy goals. This year's scope includes a proposal for an expansion of our efforts to scale access to energy efficiency and renewable energy services through the establishment of a Community Energy Resource Hub with the collaboration and involvement of the Community Climate Collaborative (C3). This hub will serve both residents and business owners, helping to navigate the often-complicated maze of incentives and programs through both an online tool and personalized support. The resource hub will be equally co-funded by the City of Charlottesville and Albemarle County.

City staff has closely coordinated with LEAP on the development of this proposal and appreciates the blend of activities aimed at engaging market-rate and low-income households, rental- and owner-occupied properties, new homeowners, and layering outreach on existing and trusted communication channels to reach target demographics. The proposed grant of \$130,713 to LEAP to implement the 2024 Climate Protection Program Support Agreement (attached) during the coming year will be used to support the City's Climate Action Plan and directly responds to various strategies and key action items in the Community Buildings and Energy sector, including:

Strategy: Increase energy efficiency and onsite renewable energy use in existing buildings

- Key Action: Education/Encouragement
- Key Action: Increase participation by low-income households in fully funded programs for energy efficiency improvements and solar energy systems
- Key Action: Identify options for residents in single-family properties, as well as apartments and town-home style housing, and for both owner-occupied and rental units
- Key Action: Develop and identify funding assistance programs designed for mid-income households

- Key Action: Evaluate and increase resource support for commercial buildings

Strategy: Support transition to carbon-free sources and carbon-neutrality for building energy supply

- Key Action: Prioritize transition to electric for the Miscellaneous Heating Fuels that contribute to the Buildings and Energy sector emissions

Strategy: Leverage outside funding sources

- Key Action: Increase participation in funding programs available from Federal and State governments as well as from utility companies

The attached Memorandum of Understanding provides a summary of the purposes of the funds, program parameters desired by the City, and reporting expectations.

Alignment with City Council's Vision and Strategic Plan

Approval of the Resolutions for the 2024 Climate Protection Program Support Grant aligns directly with the adopted 2023 Climate Action Plan. It also contributes to one of the Strategic Outcome Areas (Climate Action) of the 2023 City Strategic Plan Framework.

Community Engagement

There have been and will continue to be numerous initiatives engaging various community audiences. Utilization of the resources offered through past support agreements and questions that City staff receive from community members seeking resources and information regarding improved energy use speak to community interest in these services. Additionally, public comments received during adoption of the new greenhouse gas reduction goals and development of the Climate Action Plan reflect the need for continued and increased levels of GHG emission reduction and climate adaptation actions. Since the passage of the Inflation Reduction Act, we have heard from many community members that support is needed to help people navigate federal funding opportunities.

Budgetary Impact

There is no additional budgetary impact to the City. Funding support for this program would come from previously appropriated funds in the Fiscal Year 2024 adopted operating budget for the Office of Sustainability.

Recommendation

Staff recommends approval of the Resolutions.

Alternatives

If Council chooses not to proceed, other approaches to promote energy efficiency improvements in the residential and non-residential sectors will be examined.

Attachments

1. LEAP PSA Funding Resolution (2024)
2. LEAP PSA Signature Resolution (2024)
3. 2024 CPP PSA MOU
4. 2024 CPP PSA

RESOLUTION
2024 Climate Protection Program Support Grant
\$130,713

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$130,713 is hereby paid to LEAP from previously appropriated funds in the Gas Fund, Environmental Sustainability Cost Center as follows:

\$130,713	Fund: 631	Cost Center: 2711001000	G/L Account: 599999
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RESOLUTION

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

Memorandum of Understanding (MOU) between the City and the Local Energy Alliance Program (LEAP) for grant funds to support the Climate Protection Program and promote energy performance improvements.

**MEMORANDUM OF UNDERSTANDING
2024 CLIMATE PROTECTION PROGRAM SUPPORT**

This Memorandum of Understanding ("MOU") is made this ____ of _____, 2024, by and among the City of Charlottesville, Virginia and the Local Energy Alliance Program.

Whereas, the City of Charlottesville, Virginia, (hereafter, the City) wishes to increase energy performance of Charlottesville homes and non-residential buildings, and to reduce the greenhouse gas associated with community-wide energy use, and;

Whereas, the Local Energy Alliance Program (hereafter, LEAP) wishes to serve our local community to conserve energy in existing buildings, to promote cost savings, job creation, sustainability, local economic development, and environmental stewardship, and;

Whereas, LEAP wishes to provide access to expertise and action steps for energy efficiency and renewable energy implementation;

Whereas, the parties agree that the intended use and release of City funds should be authorized in a mutually agreed fashion, in furtherance of these shared goals;

Now, Therefore, the City and LEAP jointly agree that upon execution of this MOU, LEAP will be granted an amount of One Hundred and Thirty Thousand Seven Hundred Thirteen (\$130,713) the source of which is already appropriated funds in Fund 631, Cost Center 2711001000, for the purpose of providing 2024 Climate Protection Program support focused on providing access to expertise and action steps for improved energy performance and making the energy efficiency actions process streamlined, easy to understand, and financially attractive, affordable, and accessible. The parties agree to the terms and conditions of this MOU as set forth below:

1. Use of Funds: The parties agree that funds may be used only for the following purposes as covered in the 2024 Climate Protection Program Support proposal.
2. Program Parameters: Upon receipt of the grant, LEAP agrees to provide the proposed program support to promote energy performance improvements.
3. Program Progress Reports: LEAP acknowledges the City's desire to receive progress reports regarding the accomplishments of the program. Both parties agree to the value of monthly meetings to ensure that pursuit of common goals is on track, using metrics outlined in the 2024 proposal. A final report will be provided at the completion of the program support scope Progress updates may be provided to LEAP board members.
4. Modification Terms
This MOU may be supplemented, modified, or amended by mutual agreement as set forth in writing.

In Witness Whereof, the City of Charlottesville and the Local Energy Alliance Program have executed this MOU effective the last date written below.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____

Title: _____

Date: _____

Approved as to Form:

Funds are Available:

City Attorney

Director of Finance, or designee

LOCAL ENERGY ALLIANCE PROGRAM

By: _____

Title: _____

Date: _____

2024 Climate Protection Program

LEAP Program Service Agreement

Climate Action Plan (CAP) Strategies and Actions

- Strategy: Increase energy efficiency and onsite renewable energy use in existing buildings
 - a. Key Action: Education/Encouragement
LEAP ACTION(S):
 - i. *Serve as a navigator to City residents interested in energy efficiency and solar adoption through the Energy Resource Hub (*see Addendum for additional detail)*
 - *Resource Hub: 550 hours*
 - a. *Planning: 50 hours*
 - b. *Implementation: 500 hours (20 hrs/week for 25 weeks)*
 - ii. *Build virtual and physical resources to provide this support*
 - *Resource Hub: 280 hours*
 - a. *Planning: 250 hours (10 hrs/week for 25 weeks)*
 - b. *Implementation: 30 hours*
 - iii. *Host webinars and participate in local in-person events*
 - *General Program Support: 20 hours*
 - *Resource Hub: 175 hours*
 - a. *Implementation: 7 hours/week*
 - iv. *Develop materials and conduct outreach to program-eligible audiences*
 - *General Program Support: 50 hours*
 - *Resource Hub: 150 hours*
 - b. Key Action: Increase participation by low-income households in fully funded programs for energy efficiency improvements and solar energy systems
LEAP ACTION(S):
 - i. *Promote a referral program for current and prior program participants*
 - *General Program Support: 25 hours*
 - ii. *Coordinate targeted outreach from trusted partners (i.e. Loaves and Fishes, Meals on Wheels, and houses of worship)*
 - *General Program Support: 25 hours*
 - iii. *Send strategic mailings to potential participants (i.e. postcards to neighborhoods, utility mailings)*
 - *General Program Support: 50 hours*
 - iv. *Purchase paid advertising to promote LEAP's services and the partnership between LEAP and the City*
 - *General Program Support: 30 hours*
 - *Resource Hub: 90 hours*

- c. Key Action: Develop and identify funding assistance programs designed for mid-income households

LEAP ACTION(S):

- i. *Compile and regularly update all funding assistance programs available to City residents, including federal, state, local, and utility rebates and incentives*
 - *Resource Hub: 50 hours*

The actions described above also address the following additional Climate Action Plan strategies and actions:

- Strategy: Increase energy efficiency and onsite renewable energy use in existing buildings
 - Key Action: Identify options for residents in single-family properties, as well as apartments and town-home style housing, for both owner-occupied and rental units
 - Key Action: Evaluate and increase resource support for commercial buildings
- Strategy: Support transition to carbon-free sources and carbon-neutrality for building energy supply
 - Key Action: Prioritize transition to electric for the Miscellaneous Heating Fuels that contribute to the Buildings and Energy sector emissions
- Strategy: Leverage outside funding sources
 - Key Action: Increase participation in funding programs available from Federal and State governments as well as from utility companies

Metrics

Deliverables

- Energy Resource Hub content, website, logo, and branding
- Resource Hub Office Hours & In-Person Support (location to be determined)
- Marketing materials (postcards, flyers, tabling materials, etc.)

Results

- Energy Efficiency for Market Rate (MR) and Low Income (LI)
 - Number of households audited (MR and LI)
 - Number of households served (LI)
 - Work completed in each household (LI)
 - Estimated kWh reduction (LI)
 - Aggregate natural gas reduction
 - CO₂e reductions by improvement type (where available)
- Solar
 - Number of Solarize sign-ups
 - Number of Solarize installations
 - Size and value of Solarize installations

- Number of LI solar installations
- Size and value of LI solar installations
- Projected energy offset from solar installations
- Energy Resource Hub (monthly updates)
 - Number of participants in office hours
 - Number of calls and emails
 - Number of households/businesses who access rebates/credits
 - Aggregate value of rebates/credits
 - Number of community events attended for program promotion
 - Visits to website
- General
 - Conversion rate of outreach, where trackable
 - Referrals from past participants
 - Projected utility bill impacts

LEAP will invoice the City monthly. LEAP will coordinate with City Climate Protection Program staff to make adjustments to the program and budget as needed throughout the duration of the agreement. LEAP will meet with the City monthly and provide updates on our progress; LEAP will also prepare a mid-year report and final report detailing the deliverables completed, as well as the metrics and results noted above.

The Resource Hub will be delivered through a collaboration between LEAP and the Community Climate Collaborative (C3). LEAP brings expertise in energy efficiency and renewable energy programs in the residential space, and C3 brings expertise in the commercial space. C3 will act as a subcontractor to LEAP for the execution of this work.

ADDENDUM

Energy Resource Hub

The Inflation Reduction Act (IRA) was signed into law in 2022 and will inject 370 billion dollars in actions aimed at decreasing the nation's CO2 emissions 40% by 2030, helping consumers save on energy costs, and propelling the US to become a clean energy industry leader.

Included in the IRA are funds to help homeowners, renters, and businesses to lower their energy usage and reduce their carbon footprint. The legislation includes ten years of tax credits and rebates to install clean residential, business, and vehicle technologies – from rooftop solar to heat pumps to high-efficiency appliances and electric vehicles, all of which will help consumers save money while reducing their environmental impact. Once implemented, these electrification and energy efficiency upgrades, solar installations, and EV adoptions could save thousands of dollars for households and businesses throughout the City of Charlottesville and Albemarle County and support critical progress on our community climate goals. We have an opportunity to ensure that residents and businesses understand their maximum benefits and reach their full potential to reduce community-wide carbon emissions and energy use.

Navigating energy savings rebates, tax credits, and other programs can be complicated and confusing. Some programs are age- or income-qualifying. Some are tax credits, and some will be available at point-of-sale. Some people own their homes and others rent. Everyone's homes are of different ages and have different systems in various conditions. All these variables and more impact what is available to any given community member, which can be an insurmountable barrier for many people. The goal of the Resource Hub is to help the Charlottesville community take as much advantage of these energy programs as possible, saving money and lowering emissions in the process.

In partnership, LEAP and C3 propose planning, building, and operating an Energy Resource Hub to ensure City and County residents and businesses have the tools and information they need to access and accelerate cost savings and emission reductions. The Resource Hub will have an online component and will also provide personalized assistance through both in-person office hours and telephone consultations.

Through the Energy Resource Hub, LEAP and C3 seek to:

- Leverage existing resources (US Department of Energy, VA Department of Energy, Rewiring America, etc.) to build a comprehensive and user-friendly online resource where City of Charlottesville and Albemarle County residents and businesses can easily navigate and understand federal, state, and local incentives.
- Help residents and businesses take action to decrease their emissions and thereby reduce community-wide carbon emissions.
- Provide personalized attention and work one-on-one with residents and businesses to navigate and apply for federal, state, and local incentives and rebates.

- Leverage and expand LEAP's and C3's positions as known and trusted resources for residents and businesses interested in managing their energy use and reducing their environmental impact.
- Represent the City of Charlottesville and Albemarle County at community events with regards to the resource hub.

Project Implementation

PHASE 1 - Planning and Development

The first six months of the program (July to December) will be the planning and development phase. LEAP and C3 will meet on a bi-weekly basis and will convene with City and County staff monthly. During the planning phase, we will:

- Compile and organize existing resources available from Federal, State, Local, and Utility programs
- Train and orient staff (50 hours)
- Create a marketing plan
- Build the website and dashboard (250 hours)

The planning phase will be used to answer key implementation questions, including:

- Locations and times for office hours
- Division of labor and staffing
- Process for managing customer support
- Allocation of the marketing budget (potential items include radio, TV, outdoor, online, and search ads, printed mailers, stadium signage, flyers, and banners)
- Strategy and cadence for attending community events
- Resources required for expansion

PHASE 2 - Launch and Deployment

The second half of the program term (January to June) will be the deployment phase, dedicated to piloting and executing the Resource Hub. We plan to launch to the public in January 2025. This phase will include the following, but specifics may be adjusted following our planning phase:

- Community Support (500 hours, 20 hours/week for 25 weeks)
 - Client intake and call center
 - Office hours
 - 1:1 guidance to residents and businesses
- Marketing and Outreach
 - Advertising
 - Printed materials
 - Community events

Deliverables

- Energy Resource Hub content, website, logo, and brand guidelines
- Resource Hub Office Hours & In-Person Support (location to be determined)
- Marketing materials (postcards, flyers, tabling materials, etc.)

Metrics of Success

We will use the following metrics to evaluate the success of our campaign:

- Number of participants in office hours
- Number of calls and emails
- Number of households/businesses who access rebates/credits
- Aggregate value of rebates/credits
- Number of community events attended for program promotion
- Visits to website

By creating this Hub as a partnership with the City of Charlottesville and Albemarle County, LEAP and C3 will amplify our message to residents and businesses, strengthen our credibility, and support the cost of maintaining the Hub. The funding for this pilot will be split equally between Albemarle County and the City of Charlottesville. The energy resource hub can serve as a vital resource to our local community, driving action and energy solutions to reduce greenhouse gas emissions.

About LEAP

Founded in 2009, the Local Energy Alliance Program (LEAP) delivers energy efficiency solutions in Virginia to make homes safer, healthier, and more affordable while reducing energy usage and mitigating climate change.

LEAP's primary goal is to empower individuals and organizations to make smart energy choices that benefit the environment and their wallets. We offer a wide range of services, from home energy assessments to solar installations, helping our community reduce energy consumption and lower greenhouse gas emissions via electrification.

About C3

The Community Climate Collaborative (C3) was launched in 2017 with a mission of elevating climate action at the local level. We believe the power to confront climate change and embrace climate leadership resides within our communities. Residents, businesses, and local governments have the power to take action, implement policy, and reduce emissions right at home in Charlottesville and Albemarle County, Virginia.

C3 has spent years building and testing business outreach and engagement models and will bring its expertise in building relationships with businesses both large and small. C3 has partnered with small, minority- and/or woman-owned (SWaM) businesses through its Energy Efficiency Grant Program and mid-sized to large employers with its Green Business Alliance.

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



Agenda Date: June 17, 2024

Action Required:

Presenter:

Staff Contacts:

Title: Resolution to authorize the city manager to sign a Memorandum of Understanding between the City and the Local Energy Alliance Program (LEAP) for grant funds to support the Climate Protection Program and promote energy performance improvements (2nd reading)

Background

Discussion

Alignment with City Council's Vision and Strategic Plan

Community Engagement

Budgetary Impact

Recommendation

Alternatives

Attachments

None

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



Agenda Date:	June 17, 2024
Action Required:	Approve Appropriation
Presenter:	Laura Morris, Interim Director of Social Services
Staff Contacts:	Laura Morris, Interim Director of Social Services
Title:	Resolution to appropriate \$172,182 from the Virginia Department of Social Services to serve clients who are receiving auxiliary grants, adoption assistance, and independent living services (2nd reading)

Background

The Virginia Department of Social Services allows local social services agencies to request additional program funding during the fiscal year based on client count and expenditures.

Discussion

The Charlottesville Department of Social Services has received \$172,182 in additional funding to serve clients who are receiving auxiliary grants, adoption assistance, and independent living services for fiscal year 2024..

Auxiliary Grants provide an income supplement for individuals who receive Supplemental Security Income (SSI) and certain other aged, blind, or disabled individuals who reside in a licensed assisted living facility (ALF) or an approved adult foster care (AFC) home.

The purpose of Adoption Assistance is to facilitate adoptive placements and ensure permanency for children. Maintenance payments provide support and services for the child and to strengthen the adoptive family.

Independent Living Services assist youth in foster care ages 14-21 in developing the skills necessary to make the transition from foster care to independent living. Services include education, transportation, and housing assistance.

Alignment with City Council's Vision and Strategic Plan

Approval of this agenda item aligns with the city's vision to provide public safety services and to support educational opportunities.

Community Engagement

Staff work directly with clients, families, and providers to provide needed services and serve as resources to other department staff and community partners.

Budgetary Impact

No local funds are required.

Recommendation

Staff recommend approval and appropriation of these funds.

Alternatives

If funds are not approved and appropriated, local funds will be needed to pay for these mandated client services.

Attachments

1. Addl Funding Resolution May 2024

RESOLUTION

Appropriating Funding Received from the Virginia Department of Social Services In the amount of \$172,182

WHEREAS, the Charlottesville Department of Social Services has received an allocation of \$172,182 in the Fiscal Year 2024 budget from the Virginia Department of Social Services to be used for clients receiving auxiliary grants, adoption assistance, and independent living services.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$172,182, upon receipt by the City, is hereby appropriated for expenditure within the FY24 budget in the following manner:

Revenue – \$172,182

Fund: 212	Cost Center: 9900000000	G/L Account: 430080	\$172,182
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Expenditures - \$172,182

Fund: 212	Cost Center: 3311002000	G/L Account: 540060	\$20,000
Fund: 212	Cost Center: 3311004000	G/L Account: 540060	\$40,000
Fund: 212	Cost Center: 3311007000	G/L Account: 540060	\$60,000
Fund: 212	Cost Center: 3333006000	G/L Account: 540060	\$47,182
Fund: 212	Cost Center: 3343008000	G/L Account: 540060	\$5,000

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



Agenda Date:	June 17, 2024
Action Required:	Approve the appropriation
Presenter:	Laura Morris, Interim Director of Social Services
Staff Contacts:	Laura Morris, Interim Director of Social Services
Title:	Resolution appropriating \$7,988 received from the Virginia Department of Social Services for the Percentage of Income Payment Program (2nd reading)

Background

The Virginia Department of Social Services (VDSS) has provided funding to localities to administer the Percentage of Income Payment Program (PIPP). **The Charlottesville Department of Social Services has received \$7,988 from this funding.**

Discussion

The Percentage of Income Payment Program (PIPP) will assist Dominion Energy customers with household income less than 150% of the federal poverty guidelines to maintain their electric service by making payments based on their household income instead of their utility bill amount. Benefits staff from the Department of Social Services will process applications and enroll approved local residents in the program. The funding will be used for staffing and related administrative costs needed to administer the program.

Alignment with City Council's Vision and Strategic Plan

This aligns with the city's commitment to provide safety services and to build collaboration with community partners.

Community Engagement

Budgetary Impact

Department staff will work closely with the community to promote the program and enroll residents that are eligible.

Recommendation

Approval and appropriation of the funds

Alternatives

The Department will be unable to administer the program which is mandated by the Virginia Department of Social Services.

Attachments

1. PIPP Funding Resolution May 2024

RESOLUTION

Appropriating Funding Received from the Virginia Department of Social Services to administer the Percentage of Income Payment Program (PIPP) In the amount of \$7,988

WHEREAS, the Charlottesville Department of Social Services has received an allocation of \$7,988 in the Fiscal Year 2024 budget from the Virginia Department of Social Services to be used to administer the Percentage of Income Payment Program (PIPP).

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$7,988, upon receipt by the City, is hereby appropriated for expenditures within the FY24 budget in the following manner:

Revenue – \$7,988

Fund: 212	Cost Center: 9900000000	G/L Account: 430080	\$7,988
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Expenditures - \$7,988

Fund: 212	Cost Center: 3301005000	G/L Account: 510010	\$7,988
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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	June 17, 2024
Action Required:	Approval of Resolution
Presenter:	Samuel Sanders, Jr., City Manager
Staff Contacts:	Jason Vandever, City Treasurer Krisy Hammill, Director of Budget
Title:	Resolution to transfer \$9,064,654 to the City's Retirement Fund (2nd reading)

Background

The Charlottesville Supplemental Retirement Fund, and the Post-Retirement Benefits Fund, together constitute the Pension Plan, which is designed to provide City employees with a valuable pension to supplement social security benefits upon retirement. Regular employees may enroll in the plan but are not vested until they have completed five years of service. The Pension Plan is a trust (fiduciary) fund supported by contributions paid by the City and plan members. The trust accumulates funds for the purpose of paying out future pension and post-retirement benefits accumulated by employees who participate in the plan.

Discussion

Under the current pension funding formula, the City's actuary assumes that the City's covered payroll costs will increase at a rate of approximately 3% annually. If the City's covered payroll exceeds an annual growth rate of 3%, an unfunded liability is created in the pension plan, because future pension benefits, which are based on projected final compensation, are growing at a rate faster than the City's underlying actuarial assumption. In FY25, implementation of the collective bargaining contracts and the class and compensation changes for unaffiliated employees will exceed the normal cost of the assumed 3% payroll growth at an additional one-time cost of \$9,064,654. By pre-funding this cost (using year-end funds from the FY23 surplus), instead of amortizing the cost into future years, the City is ensuring that the pay changes implemented in FY 25 are fully funded at the time they are granted. This is best practice in pension plan management and ensures that the City is not increasing the unfunded liability in the plan.

Based on the estimates provided by the actuary, the one-time cost of \$9,064,654 is broken down as follows:

Fire Contract - \$3,241,449
Police Contract - \$776,428
Transit Contract - \$514,450
General Classification and Compensation (unaffiliated employees) - \$4,532,327

Alignment with City Council's Vision and Strategic Plan

This change aligns with the City's vision to be a place where everyone thrives and reflects the City's strategic outcome area of organizational excellence by striving to compensate employees fairly and competitively.

Community Engagement

The City Council's approval of its collective bargaining ordinance and the compensation study have been discussed during multiple public meetings. The need to add additional funds to the retirement fund was also discussed with the Council and the public during the FY 2025 budget development process.

Budgetary Impact

The transfer to the Retirement Fund will be made using the existing budget in the CIP contingency account. The CIP contingency account is funded with year-end surpluses as prescribed by the City's Fund Balance policy. On February 5th, 2024, City Council approved a resolution to appropriate \$15,820,931 from the FY23 year-end surplus to the CIP contingency fund. This proposed allocation will use \$9,064,654 of the FY23 year-end surplus, leaving \$6,756,277 in the CIP contingency for further use.

Recommendation

Staff recommends approval of the resolution.

Alternatives

Council could choose not to approve the transfer which would cause the Retirement Fund to be under-funded. The balance would be amortized through the City's contribution, with interest, over 15 years, adding approximately \$1 Million a year to the City's contribution.

Attachments

1. CIP Contingency Transfer - Retirement Fund Transfer

RESOLUTION
Appropriating the transfer of \$9,064,654 from the CIP Contingency fund to the City's Retirement Fund

WHEREAS, implementation of the collective bargaining contracts and the class and compensation changes for unaffiliated employees will exceed the projected annual pension cost;

WHEREAS, best practice for pension plan management is to ensure that the pay changes implemented in FY 25 are fully funded at the time they are granted;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby transferred from CIP Contingency funds in the following manner:

Transfer From

\$9,064,654	Fund: 426	WBS: CP-080	G/L Account: 561869
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Transfer To

\$9,064,654	Fund: 869	Cost Center: 1921001000	G/L Account: 498426
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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	June 17, 2024
Action Required:	Approve and appropriate funding
Presenter:	Laura Morris, Interim Director of Social Services
Staff Contacts:	Laura Morris, Interim Director of Social Services
Title:	Resolution appropriating \$45,567 from the Virginia Department of Social Services to use for overtime for Medicaid unwinding (2nd reading)

Background

The Virginia Department of Social Services has provided funding to local departments of social services to use for overtime for Medicaid unwinding. The Charlottesville Department of Social Services has received \$45,567 in funding.

Discussion

With the expiration of the continuous enrollment condition authorized by the Families First Coronavirus Response Act (FFCRA), departments of social services throughout the United States have resumed normal operations, including restarting full Medicaid eligibility renewals and terminations of coverage for individuals who are no longer eligible. The Charlottesville Department of Social Services has roughly 7,800 Medicaid cases. As of May 20, 2024 there are an estimated 200 cases that still need to have eligibility re-determined. This is due to the efforts of the staff in the benefits division who have worked diligently to complete the renewals while maintaining their other client programs and processing new applications.

Alignment with City Council's Vision and Strategic Plan

This aligns with the city's strategic plan to provide residents with safety services and to have staff who are well-trained and dedicated to delivering excellent services to the community.

Community Engagement

Benefits staff work closely with residents to re-determine eligibility for Medicaid and other benefit programs.

Budgetary Impact

The Virginia Department of Services is providing 100% of the funding. There is no local match required.

Recommendation

Staff recommend approval and appropriation of the funding.

Alternatives

if not approved, local funding will be needed to cover the additional overtime worked.

Attachments

1. Overtime Funding Resolution May 2024

RESOLUTION

Appropriating Funding Received from the Virginia Department of Social Services to provide overtime for Medicaid unwinding In the amount of \$45,567

WHEREAS, the Charlottesville Department of Social Services has received an allocation of \$45,567 in the Fiscal Year 2024 budget from the Virginia Department of Social Services to be used to provide overtime for Medicaid unwinding.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$45,567, upon receipt by the City, is hereby appropriated for expenditures within the FY24 budget in the following manner:

Revenue – \$45,567

Fund: 212	Cost Center: 9900000000	G/L Account: 430080	\$45,567
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Expenditures - \$45,567

Fund: 212	Cost Center: 3301005000	G/L Account: 510060	\$45,567
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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	June 17, 2024
Action Required:	Staff recommends the appropriation of these funds.
Presenter:	Riaan Anthony, Interim Director
Staff Contacts:	Riaan Anthony, Interim Director
Title:	Resolution to appropriate \$10,000 for The Tonsler League (2nd reading)

Background

The Tonsler League, originally established in 2010 by Damien Banks as the Banks Collage Basketball Association (BCBA), was taken over in 2022 by Dr. Wes Bellamy and renamed the Tonsler League in honor of Benjamin Tonsler, a prominent community leader and former principal of the first Black school in Charlottesville. The league, which plays from June through August at Tonsler Park, has grown to include a kids' and women's league, expanding its reach and impact. Sponsored by the City's Parks and Recreation Department for the past three years, the Tonsler League has become a very popular activity, especially among our African American community members. It fosters a strong sense of place and belonging, creating an infectious, family-like atmosphere each summer.

Discussion

For the past three years, the Parks and Recreation Department has provided funding to this partnership, contributing \$15,000 annually. Thanks to this support, the league has been able to expand its offerings to the community. They have successfully introduced both a women's league and a kids' league, broadening their reach and inclusivity within the community. In light of these developments and the increased scope of their programs, with the support of Parks and Recreation, the league is now requesting an additional \$10,000 from the Vibrant Community Fund to further support and sustain their expanded activities.

Alignment with City Council's Vision and Strategic Plan

Charlottesville provides, encourages, and supports a wide range of recreation, green space, art, and cultural programs and opportunities.

Community Engagement

The Tonsler League is well attended by the community during the summer season and the community is looking forward to the expanded activities.

Budgetary Impact

These funds will be paid from the unallocated Vibrant Community Funds appropriated as part of the FY 25 City Council Adopted Budget.

Recommendation

Staff recommends the appropriation of these funds.

Alternatives

N/A

Attachments

1. Tonsler League

RESOLUTION

Appropriating the amount of \$10,000 for the Tonsler League

WHEREAS Council has appropriated funding for outside and nonprofit agencies as part of the FY 25 competitive Vibrant Community Fund (VCF) process;

AND WHEREAS for FY 25, there was a remaining unallocated balance of \$12,000;

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$10,000 is hereby appropriated to provide funding to the Tonsler League as follows:

Expenditures:

\$10,000	Fund: 105	Cost Center: 9743056000	G/L Account: 540100
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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	June 17, 2024
Action Required:	2nd reading of Ordinance
Presenter:	Chris Cullinan, Director of Finance, Lauren Hildebrand, Director of Utilities
Staff Contacts:	Chris Cullinan, Director of Finance Lauren Hildebrand, Director of Utilities
Title:	Ordinance to amend and reordain Chapter 31 (Utilities) of the Code of the City of Charlottesville, 1990, as amended, to establish new utility rates and service fees for City gas, water and sanitary sewer (2nd reading)

Background

The City of Charlottesville owns and operates public utilities for water, wastewater, natural gas and stormwater. Utility services are essential on a daily basis to both individuals and to the entire community. Thoughtful, deliberate planning and sufficient financial resources ensure safe, efficient and orderly maintenance and operation of these systems. The need for investment in our utility systems is not without cost, but our utility rates must also be balanced with the need for continued affordability for our customers.

Each of the City's utilities is accounted for separately as enterprise funds. Enterprise funds are operated on a self-supporting basis, meaning that each utility is required to cover the full costs of providing its service. The City's utilities are funded solely through their rates and related fees and charges and are not subsidized with general tax revenues. The utilities do not operate on a for-profit basis. As such, utility rates are calculated annually to bring each fund to a break-even point; however, variable factors such as weather, usage, and number of customers may result in an unexpected operating surplus or deficit during any given year. If so, the surpluses or deficits are accounted for and remain within their respective utility fund.

Rivanna Water and Sewer Authority (RWSA), which provides the treatment services for the City, is one of the largest fixed cost elements for the water and wastewater budgets. For FY'25, the rates for RWSA have increased, and they are incorporated in the City's proposed utility rates.

Discussion

Proposed Utility Rates for FY'25

The budgets for each of the utilities have been thoroughly examined for opportunities to minimize costs without sacrificing service. Based on the revenue requirements needed to operate and maintain each utility and the above recommendations, the City is proposing the following rates in the

water, wastewater, and gas utility:

- \$76.87/1,000 cubic feet (cf) of water (average annual composite rate of seasonal rates),
- \$92.55/1,000 cf of wastewater, and;
- \$74.04/8,000 cf of natural gas.

In addition, the proposed Monthly Services Charges for Water and Wastewater are as follows:

Water Monthly Service Charge			
Meter Size	Current Monthly Service Charge	Proposed Monthly Service Charge	\$ Change
5/8"	\$6.50	\$7.50	\$1.00
1"	\$16.25	\$18.75	\$2.50
1 1/2"	\$32.50	\$37.50	\$5.00
2"	\$52.00	\$60.00	\$8.00
3"	\$104.00	\$120.00	\$16.00
4"	\$162.50	\$187.50	\$25.00
6"	\$325.00	\$375.00	\$50.00
14"	\$2,128.75	\$2,456.25	\$327.50

Wastewater Monthly Service Charge			
Meter Size	Current Monthly Service Charge	Proposed Monthly Service Charge	\$ Change
5/8"	\$6.50	\$7.50	\$1.00
1"	\$16.25	\$18.75	\$2.50
1 1/2"	\$32.50	\$37.50	\$5.00
2"	\$52.00	\$60.00	\$8.00
3"	\$104.00	\$120.00	\$16.00
4"	\$162.50	\$187.50	\$25.00
6"	\$325.00	\$375.00	\$50.00
14"	\$2,128.75	\$2,456.25	\$327.50

For the stormwater utility, there are minimal changes to the budget and stormwater fees are proposed to remain unchanged for the coming year at \$1.20 per 500 square feet of impervious

surface.

Impact on Average Customer

Utility customers continue to conserve water and natural gas, which is both good for the environment and for their utility bill. The average residential water customer is using 400 cubic feet (cf) per month. Similarly, the average residential gas customer is using 4,600 cf. Based on these usage figures and the proposed utility rates, the average residential customer is projected to spend the following per month:

<u>Service</u>	<u>Current</u> <u>(based on rates adopted 7/1/23)</u>	<u>Proposed</u> <u>(Effective 7/1/24)</u>	<u>Change</u>	<u>Percent</u>
Water ¹	\$36.57	\$38.25	\$1.68	4.59%
Wastewater ¹	\$41.84	\$44.52	\$2.68	6.41%
Natural Gas ¹	\$50.45	\$54.03	\$3.58	7.10%
Stormwater ²	\$5.86	\$5.86	\$0	0%
TOTAL	\$134.72	\$142.66	\$7.94	5.89%

1. Rates include monthly service charge.
2. The budget impact shown reflects a residential monthly average fee and provides consistency with other utilities. Stormwater fees are rounded to the next whole billing unit and are billed to property owners biannually.

For City residential customers who receive water, wastewater, stormwater and natural gas (82.5% of City residents), their total utility bill is projected to rise by \$7.94 per month, or 5.89%. For residential customers who receive just water, wastewater and stormwater service, their utility bill will increase by \$4.36 per month, or 5.17%. The proposed rate report can be found at <https://www.charlottesville.gov/602/Utility-Billing>.

Alignment with City Council's Vision and Strategic Plan

City Utilities operations supports City Council's Vision and Strategic Plan. It contributes to the Strategic Plan's Outcome Areas of Climate Action and Organizational Excellence:

Community Engagement

The public hearing is being held at tonight's Council meeting to establish the rates for City utility services (water, sanitary sewer, natural gas and stormwater). These rates would be effective as of July 1, 2024, if approved by Council on June 17, 2024. The notice for the public hearing was advertised in the newspaper during the weeks of May 13, 2024 and May 20, 2024.

Budgetary Impact

The Utility Funds (water, wastewater, and natural gas) are self-sustaining enterprise funds that are supported by the revenues from customers' usages. The stormwater fee is based on the impervious surface of the property.

Note: The approval of the utility rates has no impact on the General Fund.

Recommendation

Staff recommends approval of the proposed rates.

Alternatives

As noted above, the utilities operate on a self-sustaining, break-even basis. If the proposed rates are not adopted, the utilities would not financially perform in this manner which in turn would impact the City's ability to efficiently and reliably operate these systems. The City's ability to invest in these critical infrastructure systems would be negatively impacted as well. Additionally, the City would not meet its long-term financial policy by not having sufficient working capital for its utilities.

Attachments

1. FY2025 Utility Rate Ordinance
2. At a Glance FY2025
3. Operations Overview FY2025

**AN ORDINANCE
AMENDING AND REORDAINING CHAPTER 31 (UTILITIES) OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
TO ESTABLISH NEW UTILITY RATES AND SERVICE FEES
FOR CITY GAS, WATER AND SANITARY SEWER.**

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

1. Sections 31-56, 31-57, 31-60, 31-61, 31-62, 31-102, 31-106, 31-153, 31-156 and 31-158 of Chapter 31, of the Code of the City of Charlottesville, 1990, as amended, are hereby amended and reordained as follows:

CHAPTER 31. UTILITIES

ARTICLE II. GAS

DIVISION 2. TYPES OF SERVICE; SERVICE CHARGES

Sec. 31-56. Rates - Generally.

The firm service gas rates based on monthly meter readings shall be as follows:

Basic Monthly Service Charge	\$ 10.00	
First 3,000 cubic feet, per 1,000 cubic feet	\$9.2491	<u>\$9.7813</u>
Next 3,000 cubic feet, per 1,000 cubic feet	\$8.7216	<u>\$9.1798</u>
Next 144,000 cubic feet, per 1,000 cubic feet	\$8.1941	<u>\$8.5784</u>
All over 150,000 cubic feet, per 1,000 cubic feet	\$7.6666	<u>\$7.9769</u>

Sec. 31-57. Air conditioning...

Sec. 31-60. Interruptible sales service (IS).

(a) *Conditions. . . .*

(b) *Customer's agreement as to discontinuance of service. . . .*

(c) *Basic monthly service charge.* The basic monthly charge per meter for interruptible sales service ("IS gas") shall be sixty dollars (\$60.00).

(d) *Rate.* For all gas consumed by interruptible customers the rate shall be ~~\$7.2264~~ \$7.3466 per one thousand (1,000) cubic feet for the first six hundred thousand (600,000) cubic feet, and ~~\$6.6275~~ \$6.6850 per one thousand (1,000) cubic feet for all volumes over six hundred thousand (600,000) cubic feet.

(e) *Annual Minimum Quantity.* Interruptible rate customers shall be obligated to take or pay for a minimum quantity of one million two hundred thousand (1,200,000) cubic feet of gas annually. Each year, as of June 30, the director of finance shall calculate the total consumption of each interruptible customer for the preceding twelve (12) monthly billing periods and shall bill any customer that has consumed less than the minimum quantity for the deficient amount at the rate of ~~\$7.2264~~ \$7.3466 per one thousand (1,000) cubic feet. Any new customer shall be required to enter into a service agreement with the City prior to the start of service. If an interruptible customer terminates service, the annual minimum requirement shall be prorated on the basis of one hundred thousand (100,000) cubic feet per month for each month the customer has received service since the last June 30 adjustment.

(f) *Contract required.* . . .

Section 31-61. Interruptible Transportation Service (TS).

(a) *Generally.* ...

(b) *Rates.* The rates for interruptible transportation service ("TS gas") shall be as follows:

- (1) ~~\$3.0147~~ \$3.2827 per dekatherm for a customer receiving only TS gas, and
- (2) ~~\$1.8088~~ \$1.9696 per dekatherm, for customers who transport 35,000 or more dekatherms per month ("large volume transportation customers"), regardless of whether such large volume transportation customer receives only TS gas, or also receives IS service.

(c) *Basic Monthly Service Charges.* ...

(d) *Special terms and conditions.* ...

(e) *Extension of facilities.* . . .

(f) *Billing month.* . . .

(g) *Lost and unaccounted-for gas.* . . .

(h) *Combined IS and TS customer using more than provided or scheduled by customer....*

(i) *TS Customer providing more gas, or less gas, than customer's usage.* ...

(j) *Other terms and conditions.* . . .

Section 31-62. Purchased gas adjustment.

In computing gas customer billings, the basic rate charges established under sections 31-56, 31-57, 31-60 and 31-61 shall be adjusted to reflect increases and decreases in the cost of gas supplied to the city. Such increases or decreases shall be computed as follows:

(1) For the purpose of computations herein, the costs and charges for determining the base unit costs of gas are:

- a. Pipeline tariffs;
- b. Contract quantities; and
- c. Costs of natural gas, in effect or proposed as of ~~April 1st, 2022~~, May 1st, 2023.

(2) Such base unit costs are ~~\$3.9740~~ \$3.7668 per one thousand (1,000) cubic feet for firm gas service and ~~\$2.2350~~ \$1.8332 per one thousand (1,000) cubic feet for interruptible gas service.

(3) In the event of any changes in pipeline tariffs, contract quantities or costs of scheduled natural gas, the unit costs shall be recomputed on the basis of such change in accordance with procedures approved by the city manager. The difference between the unit costs so computed and the base unit costs shall represent the purchased gas adjustment to be applied to all customer bills issued beginning the first billing month after each such change.

ARTICLE IV. WATER AND SEWER SERVICE CHARGES

Sec. 31-153. Water rates generally.

(a) Water rates shall be as follows:

(1) Monthly service charge.

Water Meter Size (inches)	Fee
5/8	\$6.50 \$7.50
3/4	\$6.50 \$7.50
1	\$16.25 \$18.75
1 ½	\$32.50 \$37.50
2	\$52.00 \$60.00
3	\$104.00 \$120.00
4	\$162.50 \$187.50
6	\$325.00 \$375.00
14	\$2,128.75 \$2,456.25

May-September

October-April

(2) Metered water consumption, per 1,000 cu. ft. ~~\$86.86~~ \$88.83 ~~\$66.82~~ \$68.33

(b) This section shall not apply to special contracts for the consumption of water which have been authorized by the city council.

Sec. 31-156. Sewer service charges generally.

(a) Any person having a connection directly or indirectly, to the city sewer system shall pay therefor a monthly charge as follows:

(1) Monthly service charge.

Water Meter Size (inches)	Fee
5/8	\$6.50 \$7.50
3/4	\$6.50 \$7.50
1	\$16.25 \$18.75
1 ½	\$32.50 \$37.50
2	\$52.00 \$60.00
3	\$104.00 \$120.00
4	\$162.50 \$187.50
6	\$325.00 \$375.00
14	\$2,128.75 \$2,456.25

(2) An additional charge of ~~eighty-eight dollars and thirty-four cents (\$88.34)~~ ninety-two dollars and fifty-five cents (\$92.55) per one thousand (1,000) cubic feet of metered water consumption.

(b) Any water customer not discharging the entire volume of water used into the city's sanitary sewer system shall be allowed a reduction in the charges imposed under this section, provided such person installs, at his expense, a separate, City-approved water connection to record water which will not reach the City sewer system. The cost and other terms of City Code section 31-102 shall apply. For customers with monthly water consumption in excess of thirty thousand (30,000) cubic feet, where the director of finance considers the installation of a separate meter to be impracticable, the director may establish a formula which will be calculated to require such person to pay the sewer charge only on that part of the water used by such person which ultimately reaches the city sewers.

2. The foregoing amendments shall become effective July 1, 2024.

At A Glance

City of Charlottesville

Utility Rate Report



The following information provides a brief summary of the rate and fee recommendations for water, wastewater, stormwater and natural gas for FY2025, and new rates will go into effect July 1st, 2024. For a more thorough explanation and details of the recommendations, please refer to the FY2025 Utility Rate Report.

The table below illustrates the monthly impact on an average City residential customer using 400 cubic feet (cf) of water and wastewater, owning a property with approximately 2,440 square feet of impervious surface, and using 4,600 cubic feet (cf) of gas. This information is based on utility rates and charges adopted July 1st, 2023, and proposed rates and charges.

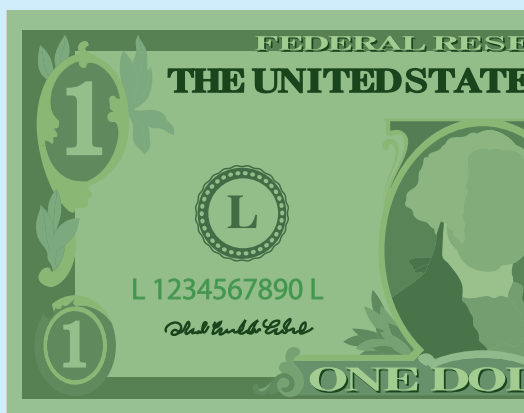
	Current Based on rates adopted 7/1/23	Proposed Effective 7/1/24	Change	Percent
Water ¹	\$36.57	\$38.25	\$1.68	4.59%
Wastewater ¹	\$41.84	\$44.52	\$2.68	6.41%
Gas ¹	\$50.45	\$54.03	\$3.58	7.10%
Stormwater ²	\$5.86	\$5.86	\$0	0%
Total	\$134.72	\$142.66	\$7.94	5.89%

(1) Rates include monthly service charges

(2) The budget impact shown reflects a residential monthly average fee and provides consistency with other utilities. Stormwater fees are rounded to the next whole billing unit and are billed to property owners biannually.

Water Rates

Where your Water Dollar goes ...



\$0.54

RWSA (PURCHASE OF DRINKING WATER)



\$0.27

CITY OPERATIONS AND
MAINTENANCE



\$0.17

CITY DEBT SERVICE
(INFRASTRUCTURE)



\$0.02

CUSTOMER SERVICE
& BILLING

FY'25 Budget

\$18,697,932

Usage Rate

Water rates are proposed to increase by \$1.70 per 1,000 cf based on the amount of water used (2.3% increase).



Impact on the Customer

The impact on a customer's bill will depend on how much water is consumed. The average single-family household uses 400 cf/month (2,992 gallons/month; approximately 100 gallons/day). To the extent an individual customer's usage differs from the average will determine the impact of the proposed rate on their bill. The table below shows the monthly impact on water customers at different amounts of usage.

	Water Use (cf per month)	Current Composite Water (per 1,000 cf)	Current Water Usage (charge per month)	Proposed Composite Water (per 1,000 cf)	Proposed Water Usage (charge per month)	\$ Change	% Change
Minimal User (10 th Percentile)	140	\$75.17	\$10.52	\$76.87	\$10.76	\$0.24	2.28%
Small User (25 th Percentile)	250	\$75.17	\$18.79	\$76.87	\$19.22	\$0.43	2.29%
Median User (50 th Percentile)	400	\$75.17	\$30.07	\$76.87	\$30.75	\$0.68	2.26%
Large User (75 th Percentile)	610	\$75.17	\$45.85	\$76.87	\$46.89	\$1.04	2.27%
High Volume User (90 th Percentile)	880	\$75.17	\$66.15	\$76.87	\$67.65	\$1.50	2.27%

Wastewater Rates

Where your Wastewater Dollar goes ...



\$0.58

RWSA (PURCHASE OF WASTEWATER TREATMENT)



\$0.24

CITY OPERATIONS AND
MAINTENANCE



\$0.16

CITY DEBT SERVICE
(INFRASTRUCTURE)



\$0.02

CUSTOMER SERVICE
& BILLING

FY'25 Budget

\$17,675,799

Usage Rate

Wastewater usage rates are proposed to increase by \$4.21 per 1,000 cf based on the amount of water used (4.8% increase).



Impact on the Customer

The impact on a customer's bill will depend on how much water is consumed. The average single-family household uses 400 cf/month (2,992 gallons/month; approximately 100 gallons/day). To the extent an individual customer's usage differs from the average will determine the impact of the proposed rate on their bill. The table below shows the monthly impact on wastewater customers at different amounts of usage.

	Water Use (cf per month)	Current Wastewater (\$ per 1,000 cf)	Current Wastewater Usage (charge per month)	Proposed Wastewater Rate (\$ per 1,000 cf)	Proposed Wastewater Usage	\$ Change	% Change
Minimal User (10 th Percentile)	140	\$88.34	\$12.37	\$92.55	\$12.96	\$0.59	4.77%
Small User (25 th Percentile)	250	\$88.34	\$22.09	\$92.55	\$23.14	\$1.05	4.75%
Median User (50 th Percentile)	400	\$88.34	\$35.34	\$92.55	\$37.02	\$1.68	4.75%
Large User (75 th Percentile)	610	\$88.34	\$53.89	\$92.55	\$56.46	\$2.57	4.77%
High Volume User (90 th Percentile)	880	\$88.34	\$77.74	\$92.55	\$81.44	\$3.70	4.76%

Water & Wastewater

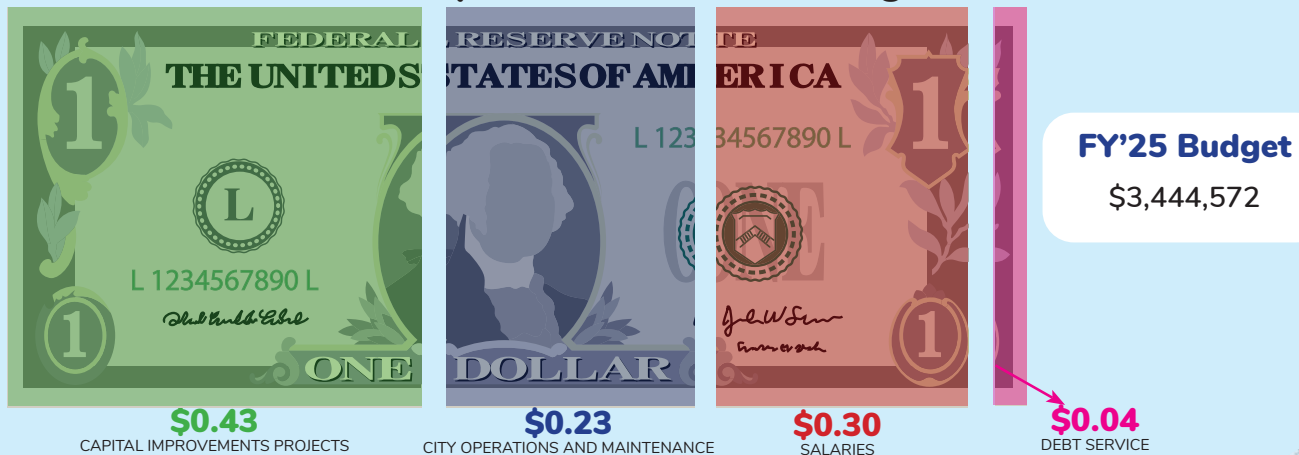
Monthly Service Charge

The monthly service charges for water and wastewater are proposed to change. The monthly service charges will increase to \$7.50 for water and \$7.50 for wastewater for a 5/8" meter. Approximately 95% of customers have a 5/8 meter. The proposed combined monthly service charges for water and sewer are as follows:

Water Meter Size (in inches)	Current	Proposed	\$ Change
5/8	\$ 13.00	\$ 15.00	\$2.00
1	\$ 32.50	\$ 37.50	\$5.00
1 1/2	\$ 65.00	\$ 75.00	\$10.00
2	\$ 104.00	\$ 120.00	\$16.00
3	\$208.00	\$240.00	\$32.00
4	\$ 325.00	\$ 375.00	\$50.00
6	\$ 650.00	\$ 750.00	\$100.00
14	\$ 4,257.50	\$ 4,912.50	\$655.00

Stormwater Rates

Where your Stormwater Dollar goes ...



Stormwater rates are proposed to remain constant for the coming year at \$1.20 per 500 square feet of impervious surface (or part thereof) per month.

Stormwater fees are billed concurrently with real estate tax assessments and are due in June and December.

Modernize and maintain infrastructure integrity while pursuing environmental stewardship.

As part of the larger Water Resources Protection Program (WRPP), the City has adopted a stormwater utility fee to provide a dedicated and stable source of funding for stormwater management activities. Funds received are used to help the City comply with federal and state stormwater regulations, rehabilitate the City's aging stormwater infrastructure, address drainage and flooding problems, and pursue environmental stewardship.

Impact on the Customer

The stormwater utility fee is charged to property owners based on the amount of impervious area on their property (areas covered by hard surfaces, such as: buildings, concrete, gravel, etc.).

An example fee calculation is provided below:

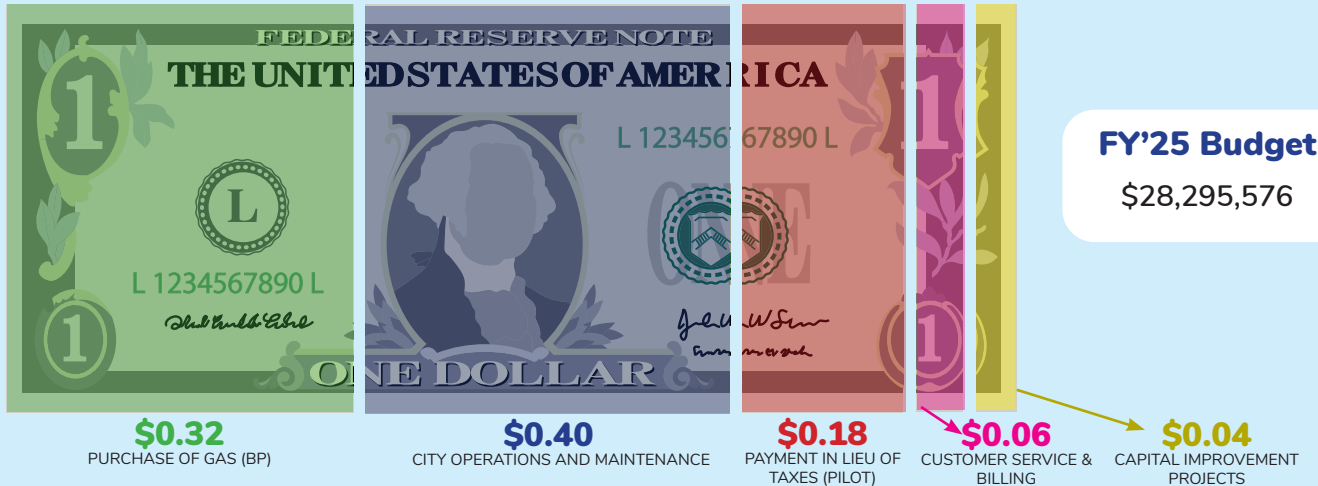


Example Fee Calculation

- Total impervious area (house and driveway): 2,100 SF
- Divide by 500 square feet: $2,100 / 500 = 4.2$ billing units
- Round to the next whole number: 4.2 rounds to 5 billing units
- Multiply the number of billing units by the rate (\$1.20 per billing unit per month) to determine annual fee: $5 \times \$1.20 \times 12 = \72 annual fee, billed \$36 due in June and December

Gas Rates

Where your Natural Gas Dollar goes ...



Usage Rate

Gas rates are proposed to increase for all natural gas customers. For the average residential gas customer, gas rates are proposed to increase by 7.10%.



Impact on the Customer

The impact on a customer's bill will depend on the volume of gas that the customer uses. The average single family household uses 4,600 cubic feet of natural gas per month. The table below shows the monthly impact on gas customers at different amounts of usage.

	Gas Used (cf per month)	Current Monthly Gas Bill with Most Recent PGA	Proposed Monthly Gas Bill with Most Recent PGA	\$ Change	% Change
Minimal User	4,000	\$45.38	\$48.52	3.14	6.92%
Average User	4,600	\$50.45	\$54.03	3.58	7.10%
Large User	20,000	\$173.19	\$186.98	13.79	7.96%
High Volume User	60,000	\$490.09	\$530.12	40.03	8.17%

The base rate is set on July 1st each year. This base rate is calculated using the cost of gas at that time. However, gas is purchased throughout the year and the cost per cubic foot of natural gas varies by month due to various factors (weather, economics, etc) which are hard to predict. The purchased gas adjustment (PGA) acts as a "true up" to account for the differences between the current market cost of gas and the base rate. This ensures that customers are not over or underpaying and that the City is not over or under collecting.

New Gas Service Connection Fee

The City currently offers gas service installation up to 150 feet at no cost to residential customers if the City's investments in installation costs are offset by the revenue generated within a payback period of approximately 4 ½ years. Beginning January 1, 2025, Charlottesville Gas will no longer offer service line installations for qualifying appliances at no cost to the customer. Under this new ordinance, gas services with qualifying appliances, such as gas heat or gas water heating, will pay a \$340.00 connection fee for the new service, up to 150 feet of service line.

Charlottesville Gas will use the funds from this connection fee to finance our expanded energy efficiency program to promote energy savings and reduce greenhouse gas emissions.

Utilities Operations Overview



FY2025

The Department of Utilities is committed to providing the Charlottesville community with safe, reliable, and sustainable utility services by dedicated and knowledgeable staff.

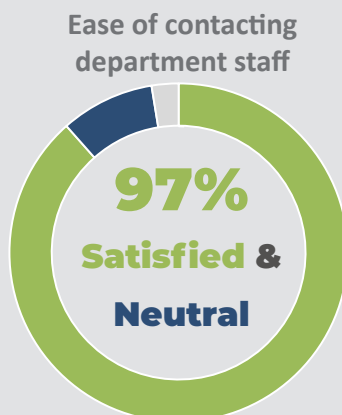
Core Programs & Services

Department-Wide

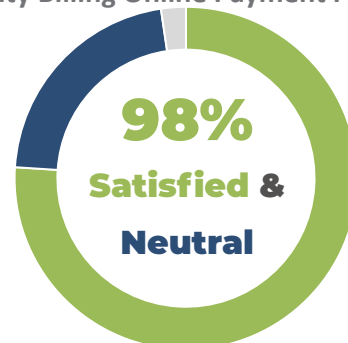
- **Utility Location Oversight**
Protecting infrastructure & critical facilities, including utility locating: **31,569** tickets in 2023.
- **24/7/365 Utilities Call Center**
The Utilities Call Center handles approximately **25,000** calls per year.
- **Customer Service**
Last year, we processed **6,493** Move-ins and **6,521** Move-outs.
- **Online Bill Pay Services**
In October 2021, we launched a new bill pay portal. To date, **4,357** customers have registered for Autopay, and over **12,500** customers receive paperless billing.
- **Emergency Operations**
Emergency response to water and gas leaks as well as sewer backups. **853** leaks checked in 2023.
- **GIS Mapping and Maintenance**
50,831 feet of utility lines entered and **1,327** CCTV videos cataloged last year.
- **Meter Reading and Maintenance**
We performed **449,777** meter readings including **2,141** implausible meter readings and completed **701** ERT replacements in 2023.
- **Development Site Plan Review**
Our engineers reviewed and followed the implementation of **170** site plans in 2023.

Customer Satisfaction

Experience Interacting with Utilities Department Staff (% Satisfied)*



How satisfied you are with the new Utility Billing Online Payment Portal?



*Department of Utilities Customer Satisfaction Survey - SurveyMonkey – February, 2023



Water Distribution & Wastewater Collection



Water & Wastewater by numbers



14,500
CUSTOMERS
SERVED



4.5 million
GALLONS OF WATER
PROVIDED DAILY



179 miles
OF WATER
MAINS



168 miles
OF WASTEWATER
MAINS



7,447
WORK ORDERS
COMPLETED

Water Quality

- The quality of our drinking water meets and exceeds all regulatory requirements and expectations for safety and reliability. A water quality report is prepared annually and is available online.
- Cross-contamination:
 - The situation in which water flows in a direction that is opposite from the intended flow is called backflow and presents a serious hazard to our water supply.
 - The City's Department of Utilities currently maintains inspection records for **935 backflow devices** in an effort to protect and provide the highest quality water to the City residents.



Water Loss Prevention

- Meter testing and replacement program:
 - Over **329** large water meters have been replaced since the program's inception.
- Annual system-wide leak detection survey:
 - In 2023, **5 leaks** totalling **184,320 GPD** were detected and repaired.
- Ultrasonic meter installation:
 - Is more accurate and measures low flow usage.



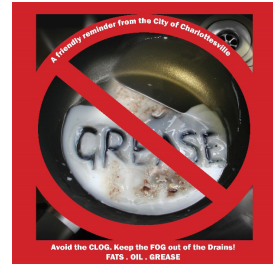
Water & Wastewater Asset Management

- Water main replacement program:
 - 7,706 linear feet** in 2023 and **128,660 linear feet** of water lines have been replaced since 2010 (**13.6%** of the entire water system).
 - Total construction cost: **\$30.6 million**
- Water service line replacement:
 - 3,501 linear feet** in 2023 and **55,719 linear feet** of water services have been replaced since 2010 (**17.4%** of the City-owned water services).
- Wastewater main rehabilitation program:
 - 11,666 linear feet** of wastewater lines were rehabilitated or replaced in 2023 and over **355,394 linear feet** of main have been rehabilitated or replaced since the program's inception in 2009 (**40.1%** of the wastewater system).
 - Total construction cost: **\$36.4 million**
- Manhole rehabilitation or replacement:
 - 1,325 manholes** have been rehabilitated or replaced since the program's inception (**22.4%** of the City's wastewater manholes).



Fats, Oils, and Grease Program

- The City of Charlottesville prohibits the discharge of fats, oils, and grease (FOG) down the drain into the City's wastewater system.
 - The City of Charlottesville maintains an active FOG program that routinely inspects and advises best management practices to over **300 city food service establishments** on an annual basis on how to properly dispose of FOG.
- We provide FOG Kits to residents to help properly dispose fats, oils, and grease from cooking.



Customer Satisfaction

In our recent Utilities Customer Satisfaction Survey, our customers show high levels of satisfaction with the reliability of our services.

Rate the value that you pay for your water service



Rate the value that you pay for your sewer service



Reliability of your water service



Reliability of your sanitary sewer service



The vast majority of our customers rated the value of their water and sewer service as fair and above (good and excellent).



Stormwater

Stormwater by numbers



15,000
BILLABLE
CUSTOMERS



8,340
STORMWATER
STRUCTURES



130 miles
OF SUBSURFACE
CONVEYANCE PIPING



460
OUTFALLS

Stormwater Asset Management

- Utilities has had an active Stormwater Conveyance System Rehabilitation Program since 2010.
- Stormwater rehabilitation program:
 - 77,771 linear feet** rehabilitated or replaced (**11.3%** of the system since the program's inception).
 - Total construction cost: **\$11.8 million**
- Structure rehabilitation or replacement:
 - 456** structures rehabilitated or replaced since the program's inception (**5.4%** of the system's storm structures).





Gas System

Natural Gas by numbers



21,050
CUSTOMERS
SERVED



340 miles
GAS MAIN
LINES



304 miles
GAS SERVICE
LINES



36
REGULATOR
STATIONS



10,034
WORK ORDERS
COMPLETED

Greenhouse Gas Reduction Strategy

Adoption of a three-pronged strategy to help reduce greenhouse gas emissions (GHG) in our community due to natural gas usage.

1) Energy-efficiency programs:

- Energy-Saving Trees – The program has **given away 700 trees** for planting. Beginning in the fall of 2024, Utilities will increase the program frequency to twice yearly (Spring and Fall).
- Popular energy-efficiency rebates include a **\$100 Programmable Thermostat** and **\$300 Attic Insulation** rebates. Beginning July 1, 2024, the \$200 Tankless Water Heater rebate will be paused as the utility evaluates its existing rebate offerings.
- Charlottesville Gas Energy Efficiency Program (CGEEP) offers **energy efficiency upgrades at no cost** to income-qualified households. Since its launch, **179 gas customers** have benefitted from the program. The utility is developing a reduced-cost home weatherization program to complement CGEEP. The revenue from the newly established gas connection fee will fund this new program.

2) Carbon offset program:

- This program allows Utilities to invest in various carbon sequestration projects all over the world. Charlottesville Gas currently **offsets 25%** of its emissions through this program. Future carbon offset projects will be selected in partnership with the City's Office of Sustainability.

3) Updated Infrastructure:

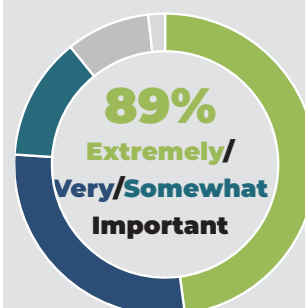
- Charlottesville Utilities was awarded a **\$7.1 million grant** from the Natural Gas Distribution Infrastructure Safety and Modernization program to replace Utilities' last remaining section of legacy cast iron pipes helping to strengthen the system's resiliency and reduce methane emissions. Construction is scheduled to start in Spring 2025.

Decarbonization Study

- The Decarbonization Study will help Charlottesville Utilities determine how the gas utility can be part of the solution in achieving Community Climate Action goals of **45% reduction** in community-wide GHGs **by 2030** and **carbon neutrality by 2050**. The Study will evaluate several pathways and their impact on emissions, reliability of service, and cost to customers. **Community Engagement sessions** will occur in the **Summer of 2024**.

In our recent Utilities Customer Satisfaction Survey, our customers show high levels of satisfaction with access to gas service, and value of natural gas.

How important is it to have gas available to your home?



Rate the value that you pay for your natural gas service



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



Agenda Date:	June 17, 2024
Action Required:	<u>2nd reading of Ordinance</u>
Presenter:	Lauren Hildebrand, Director of Utilities
Staff Contacts:	Chris Cullinan, Director of Finance Lauren Hildebrand, Director of Utilities
Title:	Ordinance to amend and reordain Chapter 31 (Utilities) of the Code of the City of Charlottesville, 1990, as amended, to establish a connection fee for new gas service (2nd reading)

Background

The City of Charlottesville owns and operates a natural gas utility that provides service to approximately 21,050 customers in the City of Charlottesville and Albemarle County. Currently, the City offers natural gas service to residential and commercial customers based on the proposed connected loads for their gas appliances. Department of Utilities staff make a financial evaluation of gas service requests to ensure installation, operation, and ongoing maintenance of the service are economically feasible for the gas utility. The City currently offers gas service installation up to 150 feet at no cost to residential customers if the City's investments in installation costs are offset by the revenue generated within a payback period of approximately 4 ½ years.

Discussion

Charlottesville Gas is proposing to no longer offer service line installations for qualifying appliances at no cost to the customer. It is proposed gas services with qualifying appliances, such as gas heat or gas water heating, will pay a \$340.00 connection fee for the new service, up to 150 feet of service line. New service for non-qualifying appliances that includes generators and gas fireplaces, will continue to pay the cost for a new service line and City Code will not change for a non-qualifying appliance. Services that exceed 150 feet will be required to pay the cost for the excess footage. Charlottesville Gas will use the funds from this connection fee to finance an expanded energy efficiency program to promote energy savings and reduce greenhouse gas emissions.

Alignment with City Council's Vision and Strategic Plan

City Utilities operations supports City Council's Vision and Strategic Plan. It contributes to the Strategic Plan's Outcome Area of Organizational Excellence:

Community Engagement

A public hearing is being held at tonight's Council meeting to establish a connection fee of \$340.00 for a new gas service. The fee would be effective as of January 1, 2025, if approved by Council on

June 17, 2024. The future effective date is to allow adequate notice to be given to interested parties. The notice for the public hearing was advertised in the newspaper during the weeks of May 13, 2024 and May 20, 2024.

Budgetary Impact

The Natural Gas Utility Fund is a self-sustaining enterprise fund that is supported by the revenue from rates and fees. The approval of the connection fee has no impact on the General Fund. As noted earlier, the funds from this connection fee will finance an expanded energy efficiency program to promote energy savings and reduce greenhouse gas emissions.

Recommendation

Staff recommends approval of the proposed connection fee.

Alternatives

Council can choose to not approve the proposed connection fee, and City Code will remain the same where gas service installation up to 150 feet are offered at no cost to residential customers if the City's investments in installation costs are offset by the revenue generated.

Attachments

1. Gas Connection Fee ordinance 632024

**AN ORDINANCE
AMENDING AND REORDAINING CHAPTER 31 (UTILITIES) OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
TO ESTABLISH A CONNECTION FEE FOR NEW GAS SERVICE**

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

1. Sections 31-31 of Chapter 31, of the Code of the City of Charlottesville, 1990, as amended, are hereby amended and reordained as follows:

CHAPTER 31. UTILITIES

ARTICLE II. GAS

DIVISION 1.-GENERALLY

Sec. 31-31. - Installation of service connections and lines; relocation of lines, meters, etc.

(a) The gas division may install new service connections up to one hundred fifty (150) feet from the main at ~~no cost~~ a cost of \$340.00 to the customer for residential service, provided that the ~~gas superintendent~~ Director of Utilities, or their designee determines that the prospective revenue from such installation will justify the city's investment therein. The additional cost to the city in extending any such service connection beyond one hundred fifty (150) feet from the main shall be charged to the customer. The cost to the customer for installation of a gas service for commercial applications will be determined based on connected load using the economic model in the gas main extension policy.

(b) *All gas connections*

(c) *Relocation of service lines*

2. The foregoing amendments shall become effective January 1, 2025.

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



Agenda Date:	June 17, 2024
Action Required:	Approval of the Program Year 2023-24 ADA Accessibility Enhancements Program at Johnson Elementary Playground to support important ADA accessibility enhancements by the Department of Public Works at one or more community playgrounds and the reprogramming of associated Community Development Block Grant funds available to commit from prior program years, in the approximate amount of \$46,000
Presenter:	Anthony Warn, Grants Analyst, Alexander Ikefuna, Director, Office of Community Solutions
Staff Contacts:	Anthony Warn, Grants Analyst Michael Goddard, Facilities Development Manager Taylor Harvey-Ryan, Grants Program Manager
Title:	Resolution to reprogram prior year CDBG funds to support ADA accessibility enhancements at a community playground, Minor Budget Amendment of approximately \$46,000 (2nd reading)

Background

The City of Charlottesville (the City) is an Entitlement Community (EC) as designated by the U.S. Department of Housing & Urban Development (HUD) and, as such, is the recipient of annual allocations of federal funds through the Community Development Block Grants (CDBG) program. The City has used these funds over the years to support numerous projects designed to strengthen our community's ability to foster high quality living environments and housing and to expand economic opportunities for low- and moderate-income residents.

In addition, in recent years both HUD and the City have strengthened their commitments to the use of CDBG funds to facilitate the removal of barriers to access as an important outcome to work towards.

Discussion

Providing young children full and unfettered access to high quality playground equipment and play spaces, regardless of economic circumstances or physical mobility limitations, is an important goal in the work of community planning & development associated with the city's CDBG program. In recent years, city staff have become aware of several situations in which physical barriers impede such access and the CDBG program can be a valuable tool in facilitating the removal of these barriers. One such instance can be seen at a much-used community playground located on the grounds of Johnson Elementary in the heart of the City's historic Fifeville neighborhood.

Specifically, several physical barriers exist that the City's Department of Public Works has proposed addressing, including:

- Trip hazards, such as broken and/or uneven surfaces in the current concrete apron on the exterior of a much-used doorway that students use several times a day when school is in session
- Significant barriers to accessing the playground from the parking lot with the designated accessible parking spaces that complicate navigating into the play area for persons experiencing mobility challenges
- Replacement of sinking areas of sidewalk leading to the playground with new supported slabs and/or paved walkway
- Rehabilitative landscaping as needed to repair construction impacts and to enhance adjacent play areas and green spaces, and related enhancements

Public Works has outlined a Scope of Work that conforms to HUD guidance for CDBG programs and with Council approval can begin implementation of this work mid-to-late June or early July, with work to be completed shortly thereafter, well ahead of the start of the new school year.

Alignment with City Council's Vision and Strategic Plan

The work of this proposal is closely aligned to City Council's vision of the City of Charlottesville as a place where everyone thrives. This alignment stems in part from the remediation of persistent and significant obstacles to access at an important community gathering space but also from contributing to an improved **Educational** setting, in that the playground sits on a much-used and much-beloved elementary school campus in the heart of the Fifeville neighborhood.

This project also strengthens the City's commitment to **Equity and Inclusion** by demonstrating a public commitment by the City to taking the steps necessary to ensure equitable and inclusive access to public amenities for all, regardless of economic circumstances and/or physical impairments. This project similarly strengthens the City's commitment to high quality opportunities for **Recreation** by delivering significant improvements to much used playspaces and greenspace for young children and their families.

This project also promises the added benefit of providing an avenue for enhancing **Organizational Excellence** and strengthening **Partnerships** between and among various city departments and offices by creating space for positive conversations about how these kinds of crosscutting projects can most efficiently be approached going forward.

Community Engagement

This proposal benefits from a high degree of community engagement, including through multiple opportunities for community input and feedback through public hearings before City Council, among others. In addition, this program fits squarely within the framework established by the 2023-27 5-Year Consolidate Plan as approved by both City Council and HUD and the City's 2023 Comprehensive Plan, both of which benefitted from extensive periods of public engagement and opportunities for feedback.

Budgetary Impact

As the funds proposed here are federal funds allocated to the City by HUD to support community-benefit activities, and, as such, do not draw from the city's General Fund, no adverse impacts to the City's budget are anticipated. Rather, use of these funds as recommended here will instead serve to address important and pressing community need(s) while at the same time supporting the city's continued eligibility for allocations of entitlement funds in future years by supporting the timely expenditure of CDBG funds.

Recommendation

Based on the anticipated benefits of the current proposal to the Charlottesville community, specifically in that enhancing the opportunities for students with physical and mobility impairments to have full and unfettered access to playgrounds with their friends and families is a goal of immense public value, staff recommends that Council approve the proposal presented here as well as the associated appropriation of funds within the CDBG Fund as needed to fully implement the proposed program, to be enacted as a Minor Amendment to the CDBG Annual Action Plan currently underway for Program Year 2023-24.

Suggested motion:

I move that Council approve the RESOLUTION now before us for the 2024 ADA Accessibility Enhancements Program at Johnson Elementary Playground and to appropriate associated Community Development Block Grant funds as needed to implement the proposal presented here before us today.

Alternatives

Given that these funds are provided by the U.S. Department of Housing & Urban Development to the City of Charlottesville for the execution of meaningful community-benefit activities and, as such, are not drawn from the city's General Fund, no alternatives courses of action are considered. Council, could, of course, decide not to provide approval for this proposal and could instead direct staff to explore other options for expenditure of these funds.

Attachments

1. CDBG PY23+ Public Works ADA at Johnson Elementary - Resolution to Approve & to Appropriate Funds
2. CDBG PY23+ Public Works ADA at Johnson Elementary - Slide Deck

RESOLUTION TO APPROPRIATE FUNDS

Resolution to Approve the Program Year 2023-24 Community Playground ADA Enhancements Program at Johnson Elementary School and to Appropriate Associated CDBG Funds from Prior Years, in the Amount of \$46,000

WHEREAS the City of Charlottesville ('City') is and has been an Entitlement Community, as designated by the U.S. Department of Housing and Urban Development ('HUD'), and as such Council has previously approved the appropriation of certain sums of federal grant receipts to specific accounts in the Community Development Block Grant ('CDBG') Fund; and

WHEREAS a balance of unspent CDBG funds from prior years exists that can be reprogrammed to meet important and current community needs, and

WHEREAS full and unfettered access to public amenities by all, especially for persons with mobility impairments, is a public benefit of immense value and an essential part of the City's work to foster high quality living environments for all;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the proposed *2024 ADA Accessibility Enhancements Program at Johnson Elementary Playground* as presented here today before Council is approved and that the Office of Community Solutions ("OCS") is hereby authorized to begin work to implement said program;

BE IT FURTHER RESOLVED that, in support of this program, appropriations made to the following expenditure account(s) in the CDBG Fund be amended by the respective amounts shown below:

<i>SAP Fund</i>	<i>Funding Source</i>	<i>SAP Expenditure Account (Internal Order #)</i>	<i>Proposed Reduction</i>
218	CDBG Closed Program	1900306	-\$1,090.00
218	CDBG Closed Program	1900308	-\$1,291.49
218	CDBG Closed Program	1900330	-\$13,324.00
218	CDBG Closed Program	1900361	-\$22,741.37
218	CDBG Closed Program	1900362	-\$15.00
218	CDBG Closed Program	1900363	-\$8.14

Total proposed reductions to prior year accounts = \$38,470.00

BE IT FURTHER RESOLVED that, in support of this program, appropriations made to the following revenue account in the CDBG Fund be amended by the respective amounts shown below:

<i>Program Year</i>	<i>Account/Internal Order #</i>	<i>SAP Revenue Account(s)</i>	<i>Current Balance</i>	<i>Proposed Addition</i>	<i>Proposed New Balance</i>
2023-24	1900527	CDBG PY23+ ADA at Johnson Elementary	\$7,530	\$38,470	\$46,000

As the funds to be appropriated in support of this program have been previously awarded to the City by HUD in prior program years and have also previously been appropriated by Council in support of approved CDBG activities, this proposal does not involve the appropriation of any new funds from the City's general budget.

BE IT FURTHER RESOLVED that the amounts appropriated above within this resolution will be provided as a grant to a public agency ('subrecipient') and shall be utilized by this subrecipient solely for the purpose stated within their approved Memorandum of Understanding and Scope of Work agreements with OCS.

The City Manager is hereby authorized to enter into agreements with such subrecipients as deemed advisable so as to ensure that the grant is expended for its intended purposes and in accordance with applicable federal and state laws and regulations.

To this end, the City Manager, the Director of Finance, and public officers to whom any responsibility is delegated by the City Manager pursuant to City Code Section 2-147, are authorized to establish administrative procedures and provide for guidance and assistance in subrecipients' execution of the funded program.

Approved by Council
June 3, 2024

Kyna Thomas, MMC
Clerk of Council



**To be a place where
everyone thrives.**

Program Year 2023-24 ADA Accessibility Enhancements Program at Johnson Elementary Playground

**Community Development Block
Grant Program (CDBG)**

Program Year 2023-24

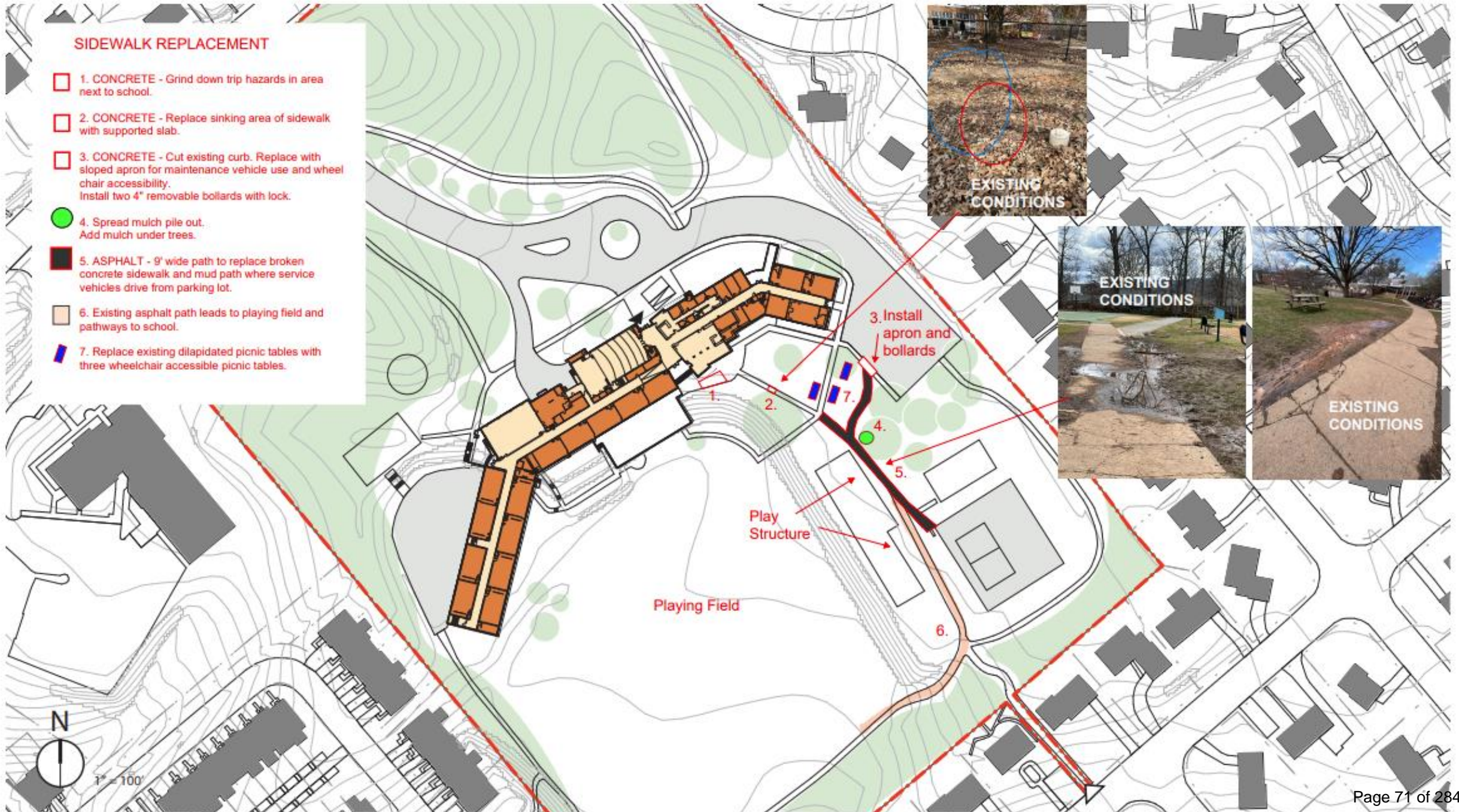
Staff Contact: Anthony Warn
warna@charlottesville.gov

Objective:

To enhance access to high quality
playspaces for children with
mobility impairments and other
members of the Charlottesville
community through removal of
existing barriers to access and
related enhancements

SIDEWALK REPLACEMENT

- 1. CONCRETE - Grind down trip hazards in area next to school.
- 2. CONCRETE - Replace sinking area of sidewalk with supported slab.
- 3. CONCRETE - Cut existing curb. Replace with sloped apron for maintenance vehicle use and wheel chair accessibility. Install two 4" removable bollards with lock.
- 4. Spread mulch pile out. Add mulch under trees.
- 5. ASPHALT - 9' wide path to replace broken concrete sidewalk and mud path where service vehicles drive from parking lot.
- 6. Existing asphalt path leads to playing field and pathways to school.
- 7. Replace existing dilapidated picnic tables with three wheelchair accessible picnic tables.



**Please contact the Office of
Community Solutions for
more information about this
proposal: [Send us an email](#)**



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



Agenda Date:	June 17, 2024
Action Required:	Approve Ordinance
Presenter:	Brenda Kelley, Redevelopment Manager
Staff Contacts:	Brenda Kelley, Redevelopment Manager Robinson Hubbard, Deputy City Attorney
Title:	Ordinance authorizing a Forgivable Loan to Piedmont Housing Alliance to support redevelopment of Kindewood/Friendship Court Phase 2 for the purpose of producing new housing for low and moderate income persons (2nd reading)

Background

Piedmont Housing Alliance (PHA) intends to continue redeveloping the 11.75-acre Friendship Court property, n/k/a Kindewood through a total of four phases over a total of 7-8 years. This \$100+ million project includes the creation of approximately 450 affordable rental and homeownership units with tiers of affordability. Additionally, the redevelopment will include commercial and community space, a community park, and associated infrastructure and parking. Phase 1 of the project is substantially complete and created 106 Affordable Units, including the 1:1 replacement of 46 of the existing Project-based Section 8 Rental Affordable Units. Phase 2 of the project proposes the creation of 104 affordable for-rent and for-sale units, including the 1:1 replacement of 54 of the existing Project-based Section 8 rental affordable units.

Over multiple budget years (FY22, FY23 and FY25), City Council has approved a total of \$5,750,000 in City Capital Improvements Program funding for Friendship Court Infrastructure Improvements and Friendship Court Redevelopment for Phase 2.

To facilitate the allocation of the approved CIP funding for Phase 2, City staff has been working closely with PHA staff and consultants to develop the attached Ordinance that spells out the agreed-to specifics of how and when the funding will be disbursed, and for what the funding may be expended. Two Amended Declarations of Affordable Housing Covenants – one for rental units and one for homeownership units – will be required to be recorded prior to any disbursement of funding. These documents further provide protections and guarantees in place to insure that Affordable Units and infrastructure are built in accordance to the agreed upon performance requirements to disburse funding. The City Manager and City Attorney will be required to approve these covenants prior to recordation. (Please note: there is an additional [separate] request by PHA, through arrangements with the Charlottesville Economic Development Authority (CEDA), for reimbursement of real estate taxes paid if the Redevelopment achieves certain performance measures; that CEDA Agreement is a separate item on Council's Agenda).

PHA has received a commitment of Low Income Housing Tax Credits (LIHTC) from Virginia Housing to begin construction soon on Phase 2.

Discussion

Phase 2 includes 104 affordable units spanning the spectrum of affordability from below 30% AMI up to 80% AMI. 54 units will be subject to project-based federal Section 8 operating subsidies and a minimum of 4 units will be affordable for-sale homes. The City would enter into a forgivable Loan to PHA for costs expended in the construction of Infrastructure, affordable residential units, relocation assistance and soft costs in Phase 2, over a Loan Period of 40 years.

All Affordable Units will have a Required Affordability Period of 99 years. These affordability terms will also be enforced by the state through Virginia Housing due to the LIHTC award, and also through (i) the terms of the 40-year deferred payment forgivable loan period, and (ii) a 99-year affordable housing covenant.

Years 1-40: If PHA breaches the terms of the Loan (including the Required Affordability provisions) during the initial 40-year Loan Period, the entire amount of the Loan would become payable in full to the City, and the City would have all other remedies available—including the ability to obtain injunctive relief in court for specific performance of the affordability covenants. If the 40-year Loan Period expires, and the affordability covenants have been complied with throughout that time, the entire amount of the Loan will be forgiven (principal and interest).

Years 41 through and 99: the Loan will have been forgiven in Year 40 if all Affordability Requirements were continuously implemented; however, in years 41 through 99 the City will have the ability to file an action in court to obtain an injunction requiring Affordable Units to be provided within the Project throughout the 99-Year Required Affordability Period.

Here are some key elements of the attached documents:

- 100% of the units constructed within the Project will be provided for rental or ownership by low and moderate income persons. All Affordable Units, whether Rental or For-Sale Units, will be and remain affordable for a period of 99 years.
- Within Phase 2 of the Project, a minimum of 100 Rental Affordable Units shall be provided, as follows: (i) 54 Rental Affordable Units shall be provided as 1:1 replacements for existing units with Project-based Section 8 operating subsidy; (ii) no fewer than 23 Rental Affordable Units will be provided for households with incomes of not more than 80% AMI; (iii) no fewer than 9 Rental Affordable Units will be provided for households with incomes of not more than 60% AMI; (iv) no fewer than 58 Rental Affordable Units will be provided for households with incomes of not more than 50% AMI; (v) no fewer than 10 Rental Affordable Units will be provided for households with incomes of not more than 30% AMI.
- Within Phase 2 of the Project, a minimum of 4 For Sale Affordable Units shall be provided, as follows: (i) no fewer than 4 For Sale Affordable Units will be provided for households with incomes of not more than 30% - 80% AMI; (ii) the average AMI of the 4 For Sale Affordable Units shall not exceed 60% AMI.
- A Master Affordable Housing Covenant for the entire site was recorded prior to development of Phase 1. Two Amended Declaration of Affordable Housing Covenants will be recorded to provide assurances of affordability for Phase 2. As each phase of redevelopment proceeds,

new Amended Declaration of Affordable Housing Covenant(s) for that phase of development will be approved and executed and recorded by the parties. In addition, if the City is providing funding to support the redevelopment of subsequent phases, an Ordinance will be approved by City Council to specify the terms of that funding.

- The Phase 2 Amended Declaration of Affordable Housing Covenants do not incorporate any other scope of the project beyond Phase 2.
- The Project, upon completion, shall be constructed in accordance with the Master Plan developed by PHA/Kindlewood/Friendship Court with input from Kindlewood/Friendship Court residents.
- Loan proceeds can only be used for: (a) the installation, construction, or reconstruction of public streets (inclusive of sidewalk, curb and gutter, stormwater, landscaping), utilities, and park(s), essential to the Project (Public Infrastructure); (b) to prevent the displacement of low and moderate income residents of the existing property to be redeveloped, and for construction of new Phase 2 housing units for rental and homeownership by low and moderate income persons (ADU Construction); and (c) to cover "soft costs" associated with the planning and design for construction of infrastructure for the Project and /or construction of Rental or For-Sale Affordable Units within Phase 2 of the Project.
- Prior to the first disbursement of funding, the following documents are required to be provided to the City for the Phase 2 development: (i) a public infrastructure plan; (ii) a Resident Relocation Plan; (iii) a Construction Schedule; (iv) the Budget for the Project; (v) the Amended Declaration of Affordable Housing Covenants to be executed and recorded in the public records; (vi) an Affordable Marketing Plan;
- Each disbursement of funding is required to provide documentation that such amount(s) have actually been paid to construction contractor(s), subcontractor(s) and/or independent contractors for work or services already completed (In other words: reimbursement for completed work or services).
- The disbursement of City funds shall constitute loan proceeds. The term of the Loan is forty (40) years, commencing on the date of the final disbursement of Loan proceeds by the City. As security for the Loan, the City will be granted an assignment of its subordinate interest in Phase 2. Interest shall accrue on outstanding amounts of the Loan at the annual rate of 3%. If the Project is completed and operated continuously in accordance with all terms, then the Loan and the accrued interest shall be forgiven.
- Beginning with the first occupancy of any Affordable Unit, PHA and/or the developer of the homeownership units will be required to provide an annual report, which shall include at a minimum: (a) the number of affordable units that are occupied; (b) the number of affordable units that are vacant; (c) for each unit that is vacant, the manner in which the unit became vacant and the progress in re-leasing the unit; (d) for each occupied unit, current household information; (e) a sworn statement that occupants of the affordable units meeting the eligibility criteria; (f) a copy of each new or revised Certification of Income; (g) a copy of each new or revised Certification of Residency; (h) a copy of each inspection report and Certification of Inspection for each unit; and (i) a copy of all forms, policies, procedures, and other documents reasonably requested related to the affordable rental units.
- Once the Amended Declaration of Affordable Housing Covenants are recorded, then the Affordability Requirements become binding not only on the current landowner(s), but also upon any third parties to whom the Project may be sold in the future. (In other words: the Affordability Requirements will run with the Land).

- Following the expiration of the LIHTC extended use period, the City will have the exclusive right to lease up to 20% of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four persons having an income of 80% AMI.
- The City shall have the right to purchase a For Sale Affordable Unit in the event of a foreclosure on the unit. The City may designate another agency or other third party to take title to the unit.
- **PHA has requested that the documents contain provisions that specify that (affordability) restrictions on the Project will terminate in the event the Project is foreclosed upon by Virginia Housing (provider of LIHTC). This request is pursuant to certain development policies established by Virginia Housing. We have drafted the documents in a manner that complies with the Virginia Housing policies.**
- The CIP funding approved to date for Phase 2, in the total amount of \$5,750,000 is as follows:
 - FY22 Infrastructure: \$2,000,000
 - FY22 Phase 2: \$ 750,000
 - FY23 Phase 2: \$2,500,000
 - FY25 Phase 2: \$ 500,000

Approval of this Ordinance will allocate the funds in one lump sum while allowing for a not to exceed amount of \$525,000 for soft costs.

- It is intended that upon completion of construction of the streets and the park (park constructed over Phase 2 and Phase 3; streets constructed over all phases), those public infrastructure will be conveyed to the City for ownership (and maintenance). An agreement specifying conveyance responsibilities will come to the City Council at a future date.

Here are some key considerations regarding the redevelopment:

- In the event that the Project is foreclosed upon, the affordability restrictions will terminate.
- At some point, in order to maintain affordability, the City may have the opportunity to control affordable units in the Project. However, if the City were to take advantage of this opportunity, there will be a cost to the City associated with this.

Alignment with City Council's Vision and Strategic Plan

This action aligns with the Council's Strategic Plan Framework Strategic Outcome Areas for Housing; and Partnerships; and Recreation, Arts, Culture.

Community Engagement

There has been significant community engagement, primarily at the resident level, including an Advisory Committee for the overall development of Friendship Court/Kindlewood.

Budgetary Impact

No additional funding is required at this time. Approval of the attached Ordinance will establish the terms and conditions under which the CIP funding previously approved for Phase 2 can be expended.

Recommendation

Approve the Ordinance.

Alternatives

City Council can decline to adopt the attached Ordinance.

Attachments

1. Ordinance Friendship Ct Redev Phase 2 final060324

ORDINANCE
AUTHORIZING A FORGIVABLE LOAN TO PIEDMONT HOUSING
ALLIANCE TO SUPPORT REDEVELOPMENT OF FRIENDSHIP
COURT/KINDLEWOOD PHASE 2 FOR THE PURPOSE OF PRODUCING
NEW HOUSING FOR LOW AND MODERATE INCOME PERSONS

WHEREAS, the production of new housing for persons of low and moderate income is a public purpose and use for which public money may be spent, and such production is a governmental function of concern to the Commonwealth of Virginia; and

WHEREAS, pursuant to Virginia Code §15.2-958 the City of Charlottesville may, by ordinance, make grants or loans to the owners of residential rental property occupied, or to be occupied, following construction, by persons of low or moderate income, for the purpose of producing such property; and

WHEREAS, Piedmont Housing Alliance (“PHA”) is a private, nonprofit 501(c)(3) organization (corporation) organized and operating under the laws of the Commonwealth of Virginia, having as its mission the creation of affordable housing opportunities by developing new housing and by preserving existing affordable housing; and

WHEREAS, PHA and its joint venture partner are planning the redevelopment of Friendship Court into a new development named Kindewood, such redevelopment to be done in multiple phases, funded by Low Income Housing Tax Credits, private donations, grants, local government funding from the City of Charlottesville, and a mortgage; and

WHEREAS, PHA has requested the City of Charlottesville (the “City”) to award local public funding for the Project, in an amount sufficient to subsidize the projected cost of constructing the required public infrastructure for the Project as well as the construction of for-rent and for-sale affordable units within Phase 2 (defined below) of the Project (defined below), the City desires to make a Loan to PHA pursuant to and in consideration for PHA’s activities in compliance with this Agreement and the Amended Declaration of Affordable Housing Covenants, to be approved by the City prior to recordation; and

WHEREAS, PHA will make a subordinate loan to the owners of the second phase of the development in an amount not to exceed the loan from the City to PHA (the “Sponsor Loan”), which the Phase 2 owners will use to undertake the improvements described herein (defined below); and

WHEREAS, the Sponsor Loan will be secured by a subordinate interest in the land for Phase 2 of the Project and such subordinate interest shall be assigned to the City as security for this loan; and

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council that local public funding is hereby approved for Piedmont Housing Alliance to support the Project, subject to the following terms and conditions, which shall be set forth within a written agreement that shall be executed by duly authorized agents of the City and Piedmont Housing Alliance (“Loan Agreement” or “Agreement”):

Section 1. Public purpose of the Loan

This Loan is provided to Piedmont Housing Alliance (“Recipient” or “PHA”) for the public purposes of providing for construction of streets, utilities, a portion of a future city park, and other site improvements necessary for the Project, and to assist the construction of new for-rental and for-sale housing units within the property known as Friendship Court and to be identified as Kindewood upon completion of the redevelopment project, as part of a multi-phased redevelopment of that property (“Subject Property” or “Project”). Phase 2 and subsequent phases of the Project shall be diligently prosecuted by the Recipient, to the end that, upon completion of construction, **one hundred percent (100%) of the dwelling units within the Project will be for rental or for ownership by low- and moderate-income persons, for a period not less than ninety-nine (99) years.**

Section 2. Representations and Warranties by the Recipient

To induce the City to make the Loan, Recipient makes the following as its representations and warranties to the City:

- (A) Recipient is a corporation organized under the laws of the Commonwealth of Virginia, active and in good standing as of the date of its execution of this Agreement.
- (B) Recipient is a nonprofit 501(c)(3) organization whose 501(c)(3) status remains in effect as of the date of its execution of this Agreement.
- (C) Recipient will use its best efforts to ensure the Loan funds will be used only for the public purposes referenced in Section 1. Recipient may expend the Loan funds itself, or Recipient may loan the funds to a third party who is legally obligated to use the funds only for the public purpose referenced in Section 1. A loan to a third party shall be secured by a lien on the land within Phase 2. Recipient shall execute an assignment of such lien and interests as further security for the Loan from the City to the Recipient, subject to certain requirements of lenders and the investor member of Phase 2 Project Owner, including this Agreement and the Master Affordable Housing Covenant (or any phase-specific replacement covenants) being subordinate and subject to the lien of all lenders to the Project and including the forbearance

of certain creditor's rights and remedies during the applicable federal tax credit "compliance period" when the investor member has an ownership interest in the Phase 2 Project Owner.

- (D) Recipient shall in good faith take all measures necessary to ensure that one hundred percent (100%) of the dwelling units constructed within the Project will be Rental Affordable Units and For-Sale Affordable Units for low- and moderate-income persons, in accordance with the Master Affordable Housing Covenant, previously recorded, and any amendments thereto.
- (E) Recipient will use its best efforts to ensure the number of newly constructed affordable dwelling units constructed within subsequent phases of the development are in accordance with the Master Site Requirements attached as an Exhibit to the Master Affordable Housing Covenant.

At all times within the Subject Property there will be one hundred fifty (150) for-rent affordable dwelling units subject to project-based federal Section 8 operating subsidies, including a combination of pre-existing and new units. This represents the current number of units existing within the Subject Property as of the date of this Agreement.

- (F) Recipient recorded a Master Affordable Housing Covenant for the Project on December 10, 2021 in the land records of Charlottesville Circuit Court as instrument number 2021-00006048 (the "Covenant"). The Phase 2 specific Affordability Covenants shall be recorded in the land records of Charlottesville Circuit Court. The City Manager and City Attorney shall approve the Phase 2 specific Affordability Covenants prior to recordation.
- (G) To the best of its knowledge, NHTE Piedmont Garrett Square Limited Partnership (the "Landowner") currently owns all right, title and interest in and to the land comprising the development site of the Project, and Recipient has verified that the Landowner does not intend to transfer or convey title to any such land to any third party, other than the Phase 2 project owners, until the Phase 2 Amended Affordable Housing Covenants have been recorded in the City's land records.
- (H) Recipient will use its best efforts to ensure the development of all phases of the Project shall be consistent with the Master Plan developed by the Recipient with public input from the community, a copy of which is depicted in **Illustration 1**, following below, as may be amended from time to time consistent with the provisions of the Master Affordable Housing Covenant and the public purposes for which this Loan is offered pursuant to Virginia Code §15.2-958.

Illustration 1.



- (I) Recipient will execute any and all documents reasonably requested by the City to finalize the Loan authorized by this Ordinance, including, without limitation, any note, deed of trust, security agreement or guaranty.
- (J) The representations set forth within paragraphs (A) through (H) preceding above are material provisions of this Agreement.

Section 3. Authorized Expenditures; Budget

- (A) The Project is planned as a multi-phased redevelopment of land currently identified by Tax Parcel Identification No. 280112000, currently assigned the street address of 400-426 Garrett Street, Charlottesville, Virginia. As of the date of this Agreement, Phase 1 is substantially complete and Phase 2 is being approved for construction. As subsequent phases are designed,

the parties may amend this Agreement as necessary or desirable to reflect additional public funding for the Project.

- (B) Phase 2 shall include no fewer than one hundred four (104) for-rent or for-sale affordable dwelling units, of which: (i) fifty-four (54) will be subject to project-based federal Section 8 operating subsidies; and (ii) a minimum of forty-six (46) additional For-Rent dwelling units will be provided for rental to households having incomes from thirty percent (30%) to eighty percent (80%) AMI; and (iii) a minimum of four (4) For-Sale dwelling units will be land trust for-sale homes for sale to households having incomes from thirty percent (30%) to eighty percent (80%) AMI as mutually agreed to by the City and the Recipient on or before [any disbursement of Loan funds]. The average AMI of the four (4) For-Sale dwelling units will not exceed 60% AMI. See Exhibit A for a legal description for Phase 2.
- (C) Phase 2 shall include a portion of a park ultimately intended to be conveyed to City ownership as a public City park. Completion of construction of the park is anticipated to be completed at the end of Phase 3 of the overall redevelopment of Friendship Court. A separate agreement will be established, prior to the start of Phase 3, to identify all terms associated with the limits, design, construction, conveyance and maintenance of the park. Nothing in this agreement shall obligate the City to take ownership, or provide maintenance of the potential park.
- (D) The City will provide \$5,750,000 in Loan proceeds for Phase 2. Loan proceeds may be expended as follows:
- i. Up to \$5,225,000.00 shall be expended for site work (demolition of existing buildings, grading, erosion, and sediment control measures, etc.), the installation, construction, or reconstruction of public streets (inclusive of sidewalk, curb and gutter, stormwater, landscaping), utilities, and park(s), essential to the Project (“Public Infrastructure” or “Public Infrastructure Construction”), and for construction of new Phase 2 housing units for rental and for sale to low- and moderate-income persons, which may include tenant relocation costs (“ADU Construction”).
 - ii. Up to \$525,000.00 is expected to cover “soft costs” associated with the planning and design for construction of infrastructure for the Project and/or construction of Rental and For-Sale Affordable Units within Phase 2 of the Project. Any portion of this amount not expended for Soft Costs may be expended in accordance with (i), above;
- (E) Construction will commence within six months following loan closing on Phase 2 of the Project, and be diligently prosecuted by Recipient to completion.

(F) Phase 2 Project Owners, with consultation from Recipient, shall establish a Budget for Public Infrastructure Construction for the Project and for construction of Rental Affordable Units and For-Sale Affordable Units within Phase 2, and will submit the Budget to the City for approval. Once the Budget is approved by the City, all material changes to the Budget shall be subject to the prior written approval of the City. Whenever any change order is under consideration by Recipient which would materially increase the cost of any aspect of construction, a Budget amendment shall be prepared for the City's approval prior to execution of the change order.

(G) [Reserved.]

(H) The Budget shall establish stand-alone line items for Public Infrastructure Construction. The Budget shall also include line items for a Construction Contingency Amount, soft costs and other reserves acceptable to the City.

Section 4. Disbursement of Loan Proceeds

(A) Preconditions, General

Prior to the first disbursement of any Loan proceeds for expenses incurred pursuant to Section 3(D)(i) or (ii), the Recipient shall furnish all of the following documents to the City for Phase 2 of the Project, in a form acceptable to the City in all respects, for the City's approval:

- i. A Public Infrastructure Plan: providing for construction of public streets, sidewalks, curb and gutter, utilities, stormwater, landscaping, park, and street lights ("Public Infrastructure") for the Project, prior to commencement of construction of any building(s) or structure(s) within Phase 2, or providing for the phased construction of Public Infrastructure, by **(a)** delineating sections within the Project in which infrastructure will be constructed in coordination with housing that will be served by that infrastructure, **(b)** within each delineated section, establishing a schedule for completion of construction of the Public Infrastructure, within that section in relation to the completion of construction and occupancy of dwelling units within that section; **(c)** providing a Cost Estimate establishing the cost of constructing the Public Infrastructure in each section, and **(d)** in the event that Public Infrastructure within a delineated section has been substantially constructed but has not met all requirements necessary for final acceptance into the City's public system for maintenance, then Recipient shall provide a maintenance and indemnifying bond, with surety acceptable to the City, in an amount sufficient for and conditioned upon the maintenance of the Public Infrastructure until such time as the Public Infrastructure is accepted into the City's public system for maintenance.

- ii. A Resident Relocation Plan establishing a schedule, consistent with the schedule established within the construction plan referenced in (i) above: (a) identifying how many of the newly constructed units in each section will be occupied by then-current residents of Friendship Court, (ii) establishing a budget for the relocation of Friendship Court residents, and (iii) setting forth how the Recipients will determine what Friendship Court residents will be relocated first, etc. The relocation plan shall demonstrate zero displacement.
- iii. A Construction Schedule that implements construction of the Rental or For Sale Affordable Units in Phase 2, in all aspects, in accordance with paragraphs (i) – (ii) preceding above.
- iv. The Budget required by Section 3, above.
- v. Phase 2 Affordable Housing Covenants, approved by the City prior to execution by Recipient and recorded within the land records of the Circuit Court for the City of Charlottesville.

If the above-referenced documents demonstrate the adequacy of the Budget to complete the Public Infrastructure and the Rental and For-Sale Affordable Units within Phase 2, and if the Construction Schedule is realistic, then the City's approval shall not unreasonably be withheld.

(B) Disbursements for Infrastructure and for Costs of Tenant Relocation and Construction of Affordable Housing

- i. Following the date on which the Phase 2 Affordable Housing Covenants are recorded within the City's land records, the Recipient may request disbursements of the Loan funds, and disbursements may be made by the City from time to time during construction of the Public Infrastructure and/or construction of new Rental or For-Sale Affordable Units, as such construction progresses, no more frequently than once per calendar month, until the City has disbursed the aggregate amount specified within Section 3(D)(i) above (and upon request, any amount(s) not previously disbursed under Section 3(D)(ii)).
- ii. As a condition precedent to each disbursement of loan proceeds for the Public Infrastructure, the Recipient shall furnish or cause to be furnished to the City all of the following documents for each disbursement, in form and substance satisfactory to the City: (a) a Disbursement Certification in a form approved in advance by the City; (b) copies of payment approval forms, certified by an architect or engineer

authorizing payment of specific amount(s), and documentation that such amount(s) have actually been paid to construction contractor(s) and subcontractor(s), for work completed; **(c)** as-built drawings, certified by a professional engineer licensed by the Commonwealth of Virginia, certifying that construction of the improvements and facilities that are the subject(s) requested of loan disbursements is in conformity with the approved final plan and applicable city standards; **(d)** a budget-to-actual expenditure report for the Public Infrastructure, current through the date of the disbursement request; **(e)** a Construction Schedule report, documenting the actual progress of construction (inclusive of Public Infrastructure and housing) compared with the approved Construction Schedule. In the aggregate, items (a)-(e) shall constitute a “Disbursement Request”.

- iii. As a condition precedent to each disbursement of loan proceeds for relocation and construction of new units of Rental or For-Sale Affordable Housing, the Recipient shall furnish or cause to be furnished to the City all of the following documents for each disbursement, in form and substance satisfactory to the City: **(a)** a Disbursement Certification in the form approved in advance by the City; **(b)** copies of payment approval forms, certified by an architect or engineer authorizing payment(s) which have been made by the Phase 2 Project Owner or Recipient, together with documentation of amount(s) actually paid to construction contractor(s) and subcontractor(s), for completed work referenced within such payment approval forms; **(c)** a budget-to-actual expenditure report, current through the date of the disbursement request, for the relocation and housing construction Budget line items; **(d)** a Construction Schedule report, documenting the actual progress of construction compared with the approved Construction Schedule; **(e)** documentation of amount(s) actually paid by the Phase 2 Project Owner or Recipient to relocate tenants into a new affordable housing unit for which a certificate of occupancy (non-temporary) has been issued. In the aggregate, items (a)-(d) shall constitute a “Disbursement Request” for reimbursement of construction costs, and items (a), (c) and (e) shall constitute a “Disbursement Request” for reimbursement of relocation expenditures.
- iv. Following receipt of a complete Disbursement Request, the City shall issue payment of Loan proceeds to the Recipient reimbursing amounts documented within the Disbursement Request as having actually been paid to construction contractor(s) and subcontractor(s) or to relocate tenants. Payment shall be made within 30 days of the City’s receipt of a complete Disbursement Request.

(C) Disbursements for Soft Costs

Following the date on which the Phase 2 Affordable Housing Covenants are recorded within the City’s land records, the Recipient may request disbursements of the Loan funds for the purposes

referenced in Section 3(D)(ii), above. As a condition precedent to each disbursement of loan proceeds for Soft Costs, the Recipient shall furnish or cause to be furnished to the City all of the following documents for each disbursement, in form and substance satisfactory to the City (“Disbursement Request”): (i) a Disbursement Certification in a form approved in advance by the City; and (ii) documentation evidencing expenditure of the Soft Costs to one or more independent contractors for work or services associated with the planning or design for construction of the Public Infrastructure or the For Rent or For-Sale Affordable Units within Phase 2 of the Project.

Following receipt of a complete Disbursement Request, the City shall issue payment of Loan proceeds to the Recipient for the amounts documented within the Disbursement Request as having actually been paid to independent contractors. Payment shall be made within 30 days of the City’s receipt of a complete Disbursement Request.

(D) Execution of Loan Instruments

This Loan is in the amount of the total disbursements made by the City to the Recipient, pursuant to Section 4(B), 4(C) preceding above. Disbursement shall be made up to the Loan maximum specified in Section 3(D), above. All disbursements shall be added to the principal of the Loan, and interest at the rate of this Loan shall accrue thereon from the date each disbursement is made. The City shall not disburse any loan proceeds to the Recipient unless and until the Recipient has executed and delivered to the City all documents or legal instruments deemed by the City to be necessary to effectuate the Loan and to secure the City’s ability to enforce the requirements of this Loan Agreement. The following terms and conditions are material to the City’s agreement to enter into this Loan Agreement and shall be requirements of this Agreement enforceable in accordance with this Loan Agreement as well as through any documents or legal instruments that effect and secure the Loan of public funds to the Recipient:

- (i) Recipient will use commercially available best efforts to negotiate provisions in a subordination agreement with the senior lender for the development of Phase 2 that provide the City with the right to cure a default and exercise rights pursuant to a collateral assignment of Recipient’s interest in Phase 2 under a Deed of Trust securing the Sponsor Loan, with wording acceptable to the City Manager and City Attorney. The income, rent and use restrictions required by this Agreement shall terminate upon a foreclosure of the Sponsor Loan, except: (i) twenty percent (20%) of the units within the Project may remain at sixty percent (60%) of area median income following such a foreclosure, and (ii) VHDA may permit additional units at 60% AMI to survive such a foreclosure, provided that VHDA determines, in its sole discretion, that the development will achieve a targeted debt service coverage rate (DCSR) of at least 1.25 while subject to such additional set-aside. The City Manager, after consultation with the City Attorney’s Office, is the City official hereby designated as having authority as the agent of City Council to renegotiate

income, rent and use restrictions required by this Agreement and the Master Affordable Housing Covenant, and any amendments thereto, and to enter into a binding amendment of this Agreement, if such renegotiation or amendment is necessary to facilitate Recipient's receipt of financing from VHDA, provided that (i) the renegotiated terms are no less than those VHDA itself requires in its own Lending Policy and (ii) in accordance with Virginia Code §15.2-958, a minimum of twenty percent (20%) of the housing units within Phase 2 shall be Rental or For Sale Affordable Units for a minimum of ten (10) years.

- (ii) **Deferred Payment Loan; Payment Date.** This Loan shall be a deferred payment loan. The deferral period shall commence on the Commencement Date specified in subparagraph (iii), below, and shall expire at midnight on December 31 of the fortieth (40th) calendar year thereafter ("Deferral Period"). Interest shall accrue during the Deferral Period, in the amount specified in subparagraph (iv) following below.
- (iii) Each Disbursement of funds made by the City to the Recipient shall constitute loan proceeds (individually and collectively, the "Loan") of the Loan that is the subject of this Agreement. The term of the Loan shall be forty (40) years, commencing on the date of the final disbursement of Loan proceeds by the City to the Recipient pursuant to this Agreement ("Commencement Date"). If the Project is completed and operated continuously in accordance with the requirements of this Agreement and the Master Affordable Housing Covenant, and any amendments thereto, throughout the entire Deferral Period (i.e., continuously from the Commencement Date through the expiration of the Deferral Period) then the Loan shall be forgiven. Recipient will grant to the City, as security for the Loan, an assignment of its subordinate interest in Phase 2, which secures its Sponsor Loan to the Phase 2 Project Owner. The assignment shall be subordinate to loans from VHDA or any federal agency.
- (iv) Interest shall accrue on outstanding amounts of the Loan, at the annual rate of three percent (3%), beginning on the Commencement Date specified in (iii), above. If the Project is completed and operated continuously in accordance with the requirements of this Agreement and the Master Affordable Housing Covenant, and any amendments thereto, throughout the entire Deferral Period referenced in paragraph (ii) preceding above (i.e., continuously from the Commencement Date through the expiration of the Deferral Period) then the accrued interest shall be forgiven.

(v) Payment. All Loan proceeds disbursed to the Recipient shall immediately become due and owing to the City in full, in each case following any applicable notice and cure period:

- a. on the date of any Uncured Event of Default on the Loan;
- b. upon the insolvency or dissolution of the Recipient;
- c. on the date of any foreclosure of Phase 2; or
- d. upon the sale or transfer of the Phase 2 property, or any portion(s) thereof, to any person other than a related entity, or other assignee, who has been approved by the City in advance. For purposes of this Agreement, the term “related entity” means any transferee that is controlled by the Recipient, the Landowner, or both.

(vi) For so long as the City Loan proceeds are subsidizing Phase 2, Recipient, on behalf of itself and its heirs, successors and assigns (collectively, “Owner”) agree that, prior to the first refinancing of the senior lien debt, or prior to the next new tax credit financing (but subject to any senior lender approvals, in their sole discretion, if such new tax credit financing does not include a refinancing of the senior debt) it will propose an Affordability Analysis to the City for the City’s review and approval. The Affordability Analysis will determine and detail if any qualified tenants have incomes permitted under the federal low income housing tax credit program that are in excess of one hundred thousand dollars (\$100,000) and the Owner will agree either (a) to escrow such rents that exceed thirty percent (30%) of such tenants’ income above \$100,000 and to use such reserves when sufficient and with the approval of the City to target deeper income restrictions on future tenancies of the other restricted units by providing a rental subsidy to such tenants, or (b) to propose further income restriction to the other restricted units to the reasonable satisfaction of the City.

(vii) **Default.** If any Event of Default shall occur pursuant to this Phase 2 Loan Agreement and is not cured within sixty (60) days from the date that written notice of such Event of Default is given by the City to the Recipient or such longer period as was reasonably necessary for cure, provided the Recipient requested an extension prior the expiration of the 60-day cure period and the City approved the request in writing (“Uncured Event of Default”, the Loan shall immediately become due and payable in full to the City. Each of the following shall constitute an Event of Default:

- a. Use of Loan funds for any purpose(s) other than those articulated within Section One of this Ordinance;
- b. Failure to comply with the terms and conditions of this Loan Agreement that apply to Phase 2;
- c. Failure to comply with the requirements of the Master Affordable Housing Covenant, and any amendments thereto, as it may be amended, or any phase-specific replacement covenant thereto;
- d. Failure to perform any of Recipient's obligations under this Loan Agreement with respect to construction of the Public Infrastructure or construction of units of housing within Phase 2;
- e. Failure to perform any of Recipient's obligations under the Master Affordable Housing Covenant, and any amendments thereto, as it may be amended or any phase-specific replacement covenant thereto;
- f. A successful legal challenge initiated by the Landowner, PHA, NHT Communities or any Project Owner, asserting that the Master Affordable Housing Covenant, and any amendments thereto, is invalid or unenforceable, in whole or as applied to such person;
- g. Failure to perform as required by any document that secures this Loan and relates to Phase 2;
- h. Failure of Recipient to give the City notice of any anticipated sale of all or any portion of the Project to any person that is not controlled by the Recipient, the Landowner, or both and who will use it for any purpose other than that specified within Section 1 of this Agreement;

(viii) **Remedies for Default.** If Recipient fails to pay the Loan or fails to cure any Event of Default prior to the end of the 30-day notice period, the City may invoke foreclosure of this Loan Agreement or any other remedy allowed by the Loan Agreement, any document related to this Loan, or by the laws of the Commonwealth of Virginia. All of the City's rights and remedies are distinct and cumulative to any other rights and remedies under this Agreement, or otherwise at law, and may be exercised concurrently, independently, or successively.

(ix) **No Waiver.** No forbearance by the City in exercising any right or remedy hereunder, or otherwise afforded by Virginia law, shall constitute a waiver of, nor shall forbearance preclude the exercise of, any right or remedy.

Section 5. General Terms and Conditions

- (A) Non-Appropriations Condition: The obligations of the City as to any funding beyond the end of Fiscal Year 2024 (June 30, 2024) are expressly made subject to the availability of and appropriation by the City Council of sufficient public funds to support continued performance of this agreement by the City in succeeding fiscal years. When public funds are not appropriated or are otherwise unavailable to support continuation of payment(s) by the City to Recipient in a subsequent fiscal year, the City's obligations hereunder shall automatically expire, without liability or penalty to the City. Within a reasonable time following City Council's adoption of a budget, the City shall provide the Recipient with written notice of any non-appropriation or unavailability of funds affecting this Loan agreement.
- (B) Assignments. The City reserves the right to approve in advance any assignment of this Agreement by the Recipient to any individual or entity, and the ownership and membership of any such entity must be disclosed to the City. Any change in the Recipient's organizational structure, and any change in the Recipient's status or Recipient's relationship to either the Landowner, the Project Owner or the Phase 2 Project Owner shall also be subject to approval by the Authority. Any such assignee shall be bound by all the terms and conditions of this Agreement.
- (C) Public Disclosure of Agreement Documents: The Recipient acknowledges and understands that this agreement, and all related public proceedings and records, shall be open to the inspection of any citizen or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Va. Code §2.2-3700 et seq.) and the Virginia Public Procurement Act (Va. Code §2.2-4300 et seq.) to the extent that either of those laws applies.
- (D) No Waiver of Rights: No failure on the part of the City to enforce any of the terms or conditions set forth in this agreement shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by the City of any default or failure to perform by the Recipient shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance of the performance of all or any part of this Agreement by the City, for or during any period(s) following a default or failure to perform by the Recipient, shall not be construed as or deemed to be a waiver by the City of any rights hereunder, including, without limitation, the City's right to terminate this Agreement.
- (E) Force Majeure. All dates in this Agreement shall be extended for a period of time equal to the period of any delay directly affecting such date which is caused by fire, earthquake or

other acts of God, strike, lockout, acts of public enemy, riot, insurrection, pandemic, disease, work shortages, acts beyond the control of the parties, declared state of emergency or public emergency, government mandated quarantine or travel ban, government shutdown or governmental regulation. All federal extensions permitted due to any pandemic, declared state of emergency or public emergency, government mandated quarantine or travel ban, or any other similar event, shall also apply to the dates in this Loan Agreement.

- (F) Severability: In the event that any term, provision, or condition of this Agreement, or the application thereof to any person or circumstance shall be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, and the application of any term, provision or condition contained herein to any person or circumstance other than those to which it has been held invalid or unenforceable, shall not be affected thereby.
- (G) Governing Law: This Agreement shall be governed by the laws of the Commonwealth of Virginia, and, in the event of litigation, jurisdiction and venue shall be in the Circuit Court of the City of Charlottesville, Virginia, and all legal actions involving this Agreement shall be brought only in such court. All parties hereto agree that in the event of any action brought to enforce the terms and provisions hereof, the prevailing party shall be entitled to reimbursement of reasonable attorney's fees and court costs. All parties to this Agreement have standing to enforce any covenants, terms, provisions, and agreements set forth herein.
- (H) Entire Agreement: This Agreement is the entire agreement between the parties hereto, sets forth all of promises, agreements, conditions, and understandings between the parties respecting the subject matter hereof and supersedes all prior and contemporaneous negotiations, conversations, discussions, correspondence, memoranda, and agreements between the parties concerning such subject matter.
- (I) Authorized City Signature: By its approval of this ordinance, the Charlottesville City Council authorizes the Charlottesville City Manager to execute Agreements to effectuate the requirements herein on its behalf.
- (J) Amendments. Except as otherwise specified within Section 5(E) of this Ordinance, the City Manager is hereby authorized to modify terms and conditions set forth within this Ordinance, without Council review and approval, but only if such amendment(s) do **not** materially modify: (i) the number of affordable dwelling units to be provided by Recipient, or the length of the Affordability Period, (ii) the requirement that Recipient provide a one-for-one replacement of all of the 150 for-rent, Section 8 subsidized dwelling units existing within Friendship Court as of the date of this Agreement (divided among all phases of the

Project), (iii) the layout of land uses, or the general or approximate location of the public streets, as depicted in *Illustration 1*, above, within this Agreement, or (iv) the dollar amount(s) of the Loan, as set forth within Section 3(D) of this Agreement. Any amendments of the terms referenced in clauses (i) – (iv) preceding above within this paragraph must be approved by ordinance of City Council in the same manner as this Agreement.

(K) Notices. All notices required under this Agreement shall be given in writing, and shall be deemed to be received five (5) business days after being mailed by first class mail, postage prepaid, return receipt requested, or one (1) business day after being placed for next day delivery with a nationally recognized overnight courier service, or upon receipt when delivered by hand, addressed as follows: (i) if given to the City—to the City Manager, with a copy to the City Attorney, each to: 605 East Main Street, Second Floor, City Hall (P.O. Box 911), Charlottesville, Virginia, 22902, or (ii) if given to the Recipient—to Piedmont Housing Alliance, Attention: Executive Director, 682 Berkmar Circle, Charlottesville, Virginia, 22901, with a copy to Erik T. Hoffman, Klein Hornig, LLP, 1325 G Street, N.W., Suite 770, Washington, DC, 20005 and a copy to the Project Lender at an address provided by the Recipient.

AND BE IT FURTHER ORDAINED BY THIS CITY COUNCIL THAT the City Manager is hereby authorized to execute a Loan Agreement containing the terms and conditions consistent with those set forth within this Ordinance, and other documents and instruments necessary to complete this Loan transaction, subject to approval by the City Attorney's Office as to the form of all such documents and instruments.

EXHIBIT A

Legal Description of Property (Phase 2)

DESCRIPTION OF PORTIONS OF TMP 28-112, NHTE PIEDMONT GARRETT SQUARE LIMITED, 'FRIENDSHIP COURT' PHASE 2 LANDS:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE CITY OF CHARLOTTESVILLE, VIRGINIA, TO BE PHASE 2 LANDS OF THE REDEVELOPMENT OF FRIENDSHIP COURT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON ROD ALONG THE NORTH LINE OF MONTICELLO AVENUE, AN 84' WIDE PUBLIC RIGHT OF WAY, APPROXIMATELY 305' WEST OF INTERSECTION WITH 6TH STREET, SE, THENCE WITH THE NORTH LINE OF MONTICELLO AVENUE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 606.12', A CENTRAL ANGLE OF 2°48'04", A CHORD BEARING N23°13'05" W, A CHORD LENGTH OF 29.63' A DISTANCE OF 29.63' ALONG THE ARC OF SAID CURVE TO A POINT, **SAID POINT BEING THE POINT OF BEGINNING (P.O.B.);**

THENCE WITH THE NORTH LINE OF MONTICELLO AVENUE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 606.12', A CENTRAL ANGLE OF 13°53'42", A CHORD BEARING N31°33'58" W, A CHORD LENGTH OF 146.53' A DISTANCE OF 146.99' ALONG THE ARC OF SAID CURVE TO A POINT;

THENCE CONTINUING WITH THE NORTH LINE OF MONTICELLO AVENUE N38°30'49"W 164.85' TO A POINT;

THENCE LEAVING THE NORTH LINE OF MONTICELLO AVENUE AND THROUGH THE LANDS OF NHTE PIEDMONT GARRETT SQUARE LIMITED ('NHTE') THE FOLLOWING COURSES:

N51°29'11"E 78.00' TO A POINT;

S71°50'35"E 11.83' TO A POINT;

S38°30'49"E 29.59' TO A POINT;

N51°29'11"E 27.00' TO A POINT;

S38°30'49"E 8.81' TO A POINT;

N51°30'59"E 51.15' TO A POINT;

S38°29'01"E 21.93' TO A POINT;

N50°50'02"E 122.44' TO A POINT;

S71°01'37"E 96.02' TO A POINT;

N19°29'33" E 95.09' TO A POINT;

S70°49'15"E 58.97' TO A POINT;

S22°48'25"E 54.32' TO A POINT;

A CURVE TO THE RIGHT, HAVING A RADIUS OF 165.00', A CENTRAL ANGLE OF 21°59'19", A CHORD BEARING S11°48'45" E, A CHORD LENGTH OF 62.93' A DISTANCE OF 63.32' ALONG THE ARC OF SAID CURVE TO A POINT;

S0°46'29"E 9.27' TO A POINT IN THE WEST LINE OF CITY PID 280112001 IN THE NAME OF FC PHASE 1, LLC ('PHASE 1');

THENCE CONTINUING WITH THE WEST LINE OF PHASE 1 THE FOLLOWING COURSES:

A CURVE TO THE RIGHT, HAVING A RADIUS OF 340.74', A CENTRAL ANGLE OF 30°33'40", A CHORD BEARING S14°43'10" W, A CHORD LENGTH OF 179.60' A DISTANCE OF 181.75' ALONG THE ARC OF SAID CURVE TO A POINT;

S29°57'42"W 83.93' TO A POINT;

A CURVE TO THE RIGHT, HAVING A RADIUS OF 65.00', A CENTRAL ANGLE OF 37°23'36", A CHORD BEARING S48°39'30" W, A CHORD LENGTH OF 41.67' A DISTANCE OF 42.42' ALONG THE ARC OF SAID CURVE TO A POINT;

A CURVE TO THE RIGHT, HAVING A RADIUS OF 40.00', A CENTRAL ANGLE OF 33°05'24", A CHORD BEARING S83°54'00" W, A CHORD LENGTH OF 22.78' A DISTANCE OF 23.10' ALONG THE ARC OF SAID CURVE TO A POINT;

S61°31'51"W 66.09' TO A POINT AT THE NORTHEAST CORNER OF THE FUTURE 'PCLT' PARCEL;

THENCE LEAVING THE WEST LINE OF PHASE 1 AND WITH THE NORTH LINE OF THE FUTURE PCLT PARCEL N29°45'01"W 59.83' TO A POINT;

THENCE S60°14'59"W 80.10' **TO THE POINT OF BEGINNING**, AN AREA OF LAND, BEING PHASE 2 LANDS, CONTAINING 2.839 ACRES, MORE OR LESS.

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



Agenda Date:	June 17, 2024
Action Required:	Approve Franchise Agreement
Presenter:	Steven Hicks, Director of Public Works
Staff Contacts:	James Freas, Deputy City Manager Chris Sibold
Title:	Ordinance to create and enact Level 3 Communications Franchise Agreement (2nd reading)

Background

To help provide for public safety and ensure the integrity of its roads and streets and the appropriate use of the Public Rights-of-Way the City enacts ordinances to impose regulations on telecommunications and its associated equipment and facilities currently in place or to be placed at some time in the future. These ordinances must be reviewed and renewed according to the timelines set forth in the specific agreement between the City and associated user of the Public-Rights-of-Way, specifically Level 3 Communications, LLC.

Discussion

Approval is needed for creation of this Franchise Agreement in order to continue operations and regulation of 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 that may be required by Level 3 Communications, LLC.

Alignment with City Council's Vision and Strategic Plan

NA

Community Engagement

NA

Budgetary Impact

There is no budgetary impact except for the prescribed measures granted by this agreement for the City to recover costs as appropriate for use of the Public-Rights-of-Way.

Recommendation

Staff recommends approval of this agreement.

Alternatives

NA

Attachments

1. Lumen Franchise Agreement Final
2. Level 3 Communications Exhibit 1

LEVEL 3 COMMUNICATIONS, LLC

TELECOMMUNICATIONS FRANCHISE

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**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
LEVEL 3 COMMUNICATIONS, 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 LEVEL 3 COMMUNICATIONS, LLC, (the “Company”), its successors and assigns, is hereby granted a telecommunications franchise for a period of five (5) years from the effective date hereof 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 provisions.

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 Level 3 Communications, LLC, 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 located at 324 W Main St, Charlottesville, VA 22903, as shown on the approved PROW Plan for the Facilities, a copy of which shall be maintained by the Director within a file within the Department of Public Works. Any additional installation of equipment, lines, cables or other Facilities shall be underground unless it shall be determined by the Director as set forth in Article III that it is not feasible to do so.

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. Any additional installation of lines, cable, equipment or other Facilities shall be underground unless it shall be determined by the Director, pursuant to Article III, that it is not feasible to do so.

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 City employee.

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 a detailed PROW Plan of the proposed action to the Director for review and approval.

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 response 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 sixty (60) 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 installation within the PROW, the Company shall provide to the City such information necessary to document the location and elevation of the installation, 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 and location 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, City Council members, officials 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, its officers, or employees, 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, its officers, or employees, 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 execution of this franchise in a form acceptable to the City Attorney.

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 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 twenty-five thousand dollars (\$25,000). The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. The Performance Bond shall be maintained at this amount through the term of this franchise.

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 RESERVED

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 56-468.1 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 upon the Company's request. 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:

Attn: NIS/ROW
Lumen
1025 Eldorado Blvd
Broomfield, CO 80021

To the City:

City of Charlottesville
Attn: City Manager
605 East Main Street
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:

LEVEL3/LUMEN NOC
(855) 244-6468

Shawn Deyo
Sr Network Implementation
Program Manager
(804) 298-7195 (office)
(804) 400-7413 (cell)

To the City:

Gas Dispatchers
(434) 970-3800 (office)
Emergency (434) 293-9164 (leaks)
(434) 970-3817 (facsimile)

Steven Hicks
Director of Public Works
(434) 970-3301 (office)
(434) 970-3817 (facsimile)

SECTION 1203 REGISTRATION OF DATA

The Company, including any sub-leasee 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 the 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__.

Clerk of Council

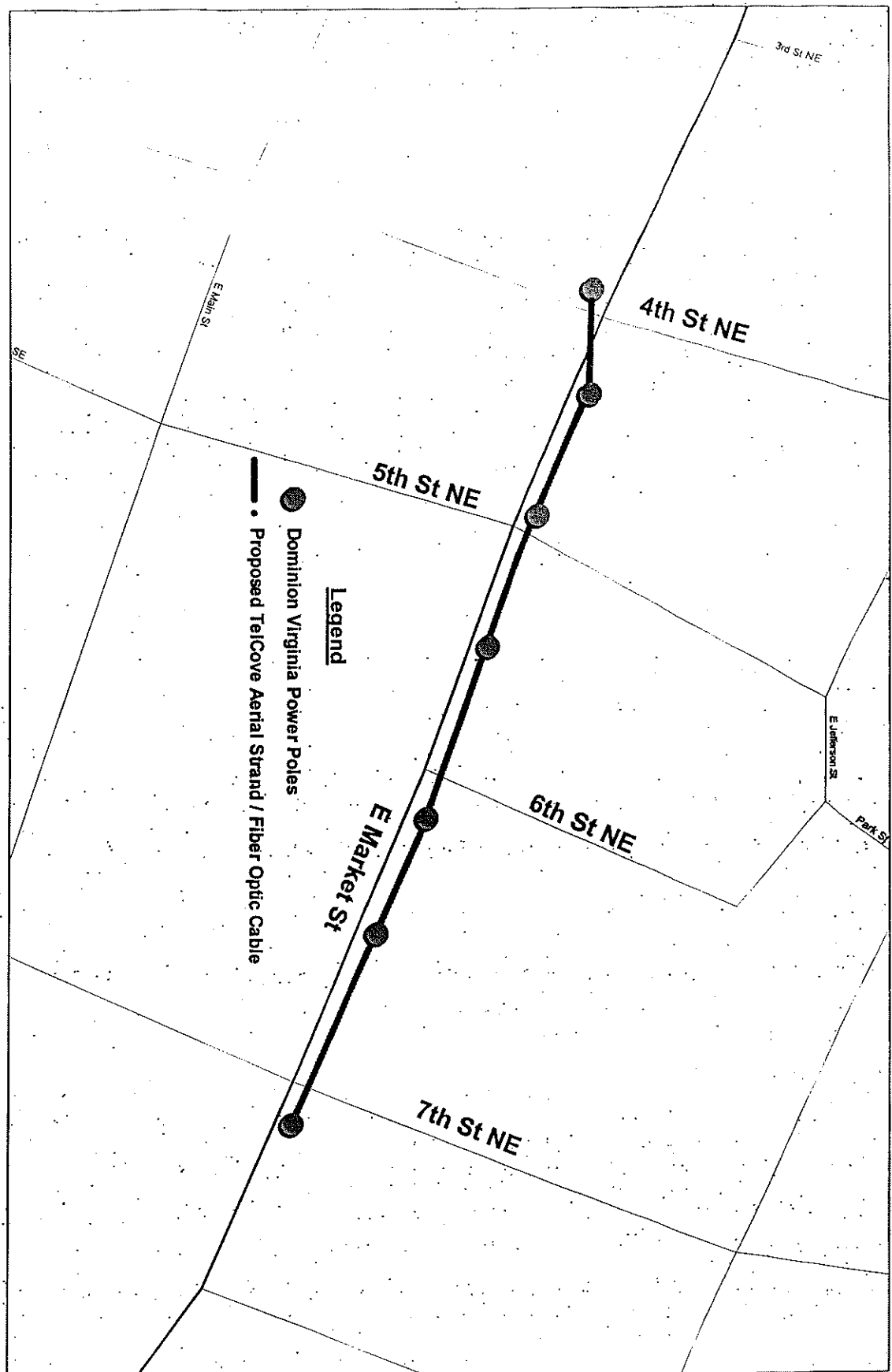
ACCEPTED: This franchise is accepted, and we agree to be bound by its terms and conditions.

LEVEL 3 COMMUNICATIONS, LLC

By _____

Its _____

Date _____



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



Agenda Date:	June 17, 2024
Action Required:	Approve Franchise Agreement
Presenter:	Steven Hicks, Director of Public Works
Staff Contacts:	James Freas, Deputy City Manager Chris Sibold
Title:	Ordinance to create and enact Crown Castle Franchise Agreement (2nd reading)

Background

To help provide for public safety and ensure the integrity of its roads and streets and the appropriate use of the Public Rights-of-Way the City enacts ordinances to impose regulations on telecommunications and its associated equipment and facilities currently in place or to be placed at some time in the future. These ordinances must be reviewed and renewed according to the timelines set forth in the specific agreement between the City and associated user of the Public-Rights-of-Way, specifically Crown Castle Fiber, LLC.

Discussion

Approval is needed for creation of this Franchise Agreement in order to continue operations and regulation of 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 that may be required by Crown Castle Fiber, LLC.

Alignment with City Council's Vision and Strategic Plan

NA

Community Engagement

NA

Budgetary Impact

There is no budgetary impact except for the prescribed measures granted by this agreement for the City to recover costs as appropriate for use of the Public-Rights-of-Way.

Recommendation

Staff recommends approval of this agreement.

Alternatives

NA

Attachments

1. Crown Castle Franchise Agreement FINAL
2. CrownCastle attachments_(18399) 240 W Main St_Permit_Rev5

Adopted by City Council on _____

CROWN CASTLE FIBER LLC

TELECOMMUNICATIONS FRANCHISE

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**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
CROWN CASTLE FIBER LLC, ITS SUCCESSORS AND ASSIGNS
TO USE THE STREETS AND OTHER PUBLIC PLACES
OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
FOR ITS POLES, 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 Crown Castle Fiber LLC (the “Company”), its successors and assigns, is hereby granted a telecommunications franchise for a period of five (5) years from the effective date hereof and is hereby authorized and empowered to erect, maintain and operate certain telecommunications facilities 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 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 Crown Castle Fiber LLC, 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, including 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 hereafter be modified, and incorporated by reference.

SECTION 202 NEW INSTALLATION

202.1 INSTALLATION MADE PURSUANT TO AN APPROVED PROW PLAN: 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 LIKE-FOR-LIKE FACILITIES: As a matter of policy, in areas where undergrounding of other Facilities has occurred, the City prefers that the installation of any new Facility also occur underground. Notwithstanding this preference, the City recognizes that in some circumstances the placement of Facilities underground may not be appropriate. Any additional installation of lines, cable, equipment or other Facilities in these areas of the PROW shall be underground unless it shall be determined by the Director, pursuant to Article III, that it is not appropriate or feasible to do so.

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 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, unless it shall be determined that it is not appropriate or feasible to do so. 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 wellbeing of the public.

SECTION 205 LOCATION OF POSTS, POLES, CABLES AND CONDUITS

In general, all posts, poles, equipment, 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 removed by the Company in a reasonably prompt period at the discretion of the Director 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, as well as other circumstances including whether the PROW can be accessed by the Company, particularly during times of emergency. 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 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 pursuant to Section 1202 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 response 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 with a reasonable level of specificity 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 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 at the discretion of the Director within a reasonably prompt period 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 thirty (30) 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 the reasonable, actual and documented 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, officials 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, conditioned or delayed. 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 execution of this franchise.

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, defend and hold harmless the City, its agents, or employees, for the negligence or intentional acts of the City, its Council members, 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 twenty-five thousand dollars (\$25,000). The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. The Performance Bond shall be maintained at this amount through the term of this franchise.

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 RESERVED

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 56-468.1 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:

Crown Castle Fiber LLC
Attn: Contracts Administration
2000 Corporate Drive
Canonsburg, PA 15317-8564

To the City:

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

Copy to: Crown Castle Fiber LLC
Attn: Teddy Adams, General Counsel
200 Corporate Drive
Canonsburg, PA 15317-8564

Copy to: City of Charlottesville
Attn: City Attorney
605 East Main Street
Charlottesville, VA 22902

All correspondence 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 via telephone and by facsimile to the following:

To the Company:
Emergency contact for
afterhours/weekends/holidays:
Network Operations Center
1-888-230-4404, Option 2

To the City:
Gas Dispatchers
(434) 970-3800 (office)
Emergency (434)293-9164 (leaks)
(434) 970-3817 (facsimile)

Steven Hicks, Director of Public Works
(434) 970-3301 (office)
(434) 970-3817 (facsimile)

SECTION 1203 REGISTRATION OF DATA

The Company, including any sublease 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 upon prior request a copy of the insurance policy.

The Company shall update all 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.

CROWN CASTLE FIBER LLC

By _____

Its _____

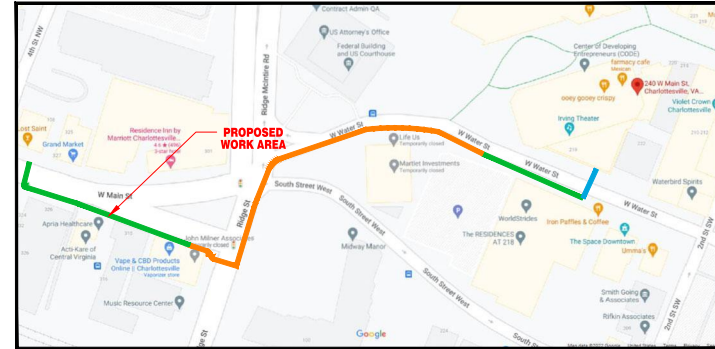
Date _____



240 W MAIN STREET PROPOSED FIBER ROUTE CHARLOTTESVILLE, VA. REVISION 05 APRIL 12, 2024

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VICINITY MAP
SCALE N.T.S

CONTACT LIST

CUSTOMER:

ANTOINE WILSON	(307) 206-4865
EXPRESS-TEK:	
DAVID BROWN SR. ENGINEERING MANAGER	(540) 752-6691
CHRIS GOODRICH ENGINEER	(540) 752-6691
SHERY SMITH PERMITTING SPECIALIST	(540) 752-6691
THOMAS BOWEN LEAD DRAFTER	(540) 752-6691

UTILITIES:

MISS UTILITY (VA)	24 HOUR NUMBER	811
WILLIAMS PIPE LINE (TRANSCONTINENTAL)	WILLIAM POOLE	(703) 368-3255 X2223
EMERGENCY 24 HOUR NUMBER		1-(800) 257-7777
NATURAL GAS:		
CITY OF CHARLOTTESVILLE	EMERGENCY	(434) 293-9164
WATER & SEWER:		
CITY OF CHARLOTTESVILLE	EMERGENCY	(434) 293-9164

PERMITTING AGENCIES:

CITY OF CHARLOTTESVILLE	ROY NESTER	(434) 970-3808
CITY OF CHARLOTTESVILLE	CHRIS SIBOLD ASST. CITY ENGINEER	SIBOLD@CHARLOTTESVILLE.GOV
CITY OF CHARLOTTESVILLE	HUNTER R.T. UTILITIES CIVIL ENGINEER	(434) 970-3032

NOTE: THIS INFORMATION IS OR WILL
BE BASED ON AREA OF WORK

240 MAIN ST.
CHARLOTTESVILLE, VA.

ENGINEER:
C. GOODRICH
DRAFTER:
T. BOWEN
PERMITTING:
S. SMITH

DATE: 04/12/24

SCALE: 1"=25'

FILE #: 18399

SHEET SIZE: 24" x 36"

REVISION: 05



Know what's below.
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FOR
CONSTRUCTION



SHEET TITLE
COVER

SHEET 01 OF 07

LEGEND

SYMBOL	DESCRIPTION	LINETYPES AND STATIONING	DESCRIPTION
	ELECTRIC MANHOLE	0+00 TEXT LINE 1	EXISTING STATIONING
	ELECTRIC TRANSFORMER	0+00 TEXT LINE 1	PROPOSED STATIONING
	PARKING METER	A/E	AERIAL CABLE LINE
	STREET LIGHT	CATV	CABLE TV
	TRAFFIC CONTROL BOX	E	ELECTRIC LINE
	TRAFFIC/CROSSWALK SIGNAL	G	GAS LINE
	TRAFFIC SIGNAL	S	SEWER LINE
	TELEPHONE MANHOLE	=====	STORM DRAIN LINE
	EXISTING TELEPHONE HH	T	TELEPHONE LINE
	VERIZON MANHOLE	TR	TRAFFIC LINE
	ANCHOR	W	WATER LINE
	TELEPHONE PEDESTAL	CSW	CONCRETE SIDE WALK
	TELE/VZ/PROP POLE	ASW	ASPHALT SIDE WALK
	VZ/TELE/PROP POLE	CL	CENTER LINE
	FIBER MARKER TUBE	EOG	EDGE OF GRAVEL
	WATER MANHOLE	EOP	EDGE OF PAVEMENT
	WATER VALVE	BOC	BACK OF CURB
	WATER METER	PROP BOC	PROPOSED BACK OF CURB
	FIRE HYDRANT	P	PROPERTY LINE
	IRRIGATION VALVE	R/W	RIGHT OF WAY
	SEWER MANHOLE	PROP R/W	PROPOSED RIGHT OF WAY
	SEWER CLEANOUT	LVL 3	LEVEL - 3
	STORM DRAIN MANHOLE	ZAYO	ZAYO
	GRATE INLET	MCI	MCI - VERIZON
	CATCH BASIN	MFN	METRO FIBER NETWORKS
	GAS MANHOLE	XO	XO COMMUNICATIONS
	GAS VALVE	SIG	SUMMIT IG
	GAS TANK	AT&T	TCG-AT&T
	UTILITY MANHOLE	QGS	QWEST
	TREE	VZN	VERIZON
	MAILBOX	CC	CROWN CASTLE
	TEST PIT	MFS	METROPOLITAN FIBER SYSTEMS
	PROPERTY PIN	RCN	RCN
	STEEL POST	FBL	FIBERLIGHT
	SIGN		

SYMBOL	DESCRIPTION
	PROP/EXISTING TELE HH
	PROPOSED ANCHOR
	AERIAL SLACK COIL
	SPLICE POINT
	ANCHOR TEXT
	PROPOSED MANHOLE
	PROPOSED SLACK COIL
	ADDRESS LABEL
	ROAD NAME
	ROAD MATERIAL
	RR SIGNAL
	TRACK SWITCH
	CROSSING ARM
	RR MP
	MILE POST
	POLE SEQUENCE CIRCLE
	AERIAL DISTANCE OVAL
	DETAIL CIRCLE
	WORK ZONE
	BUILDING EDGE

LINETYPES	DESCRIPTION
	FENCE LINE
	GUARDRAIL
	PROPERTY LINE
	RAILROAD
	SLOPE - TOP
	SLOPE - BOTTOM
	WOODS
	PROPOSED UNDERGROUND PULL THRU
	PROPOSED FIBER
	PROPOSED AERIAL FIBER
	PROPOSED AERIAL OVERLASH FIBER
	PROPOSED INNERDUCT W/ FIBER
	PROPOSED CONDUIT W/ FIBER
	PROPOSED ISP PULL THRU EXISTING CONDUIT
	EASEMENT LINE

ABBREVIATION	DESCRIPTION
HH	HANDHOLE
MH	MANHOLE
O/S	OFFSET
DB	DIRECTIONAL BORE
PVC	POLY VINYL CHLORIDE
HDPE	HIGH DENSITY POLYETHYLENE
INDT	INNERDUCT
EMT	ELECTRICAL METALLIC TUBING

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SHEET TITLE
LEGEND

SHEET 02 OF 07

GENERAL NOTES

GENERAL NOTES:

1. ALL WORK WILL COMPLY WITH APPLICABLE LOCAL, STATE, AND FEDERAL REGULATORY AGENCIES, INCLUDING, BUT NOT LIMITED TO, OSHA, NESC, DOT, RPA, ETC. GENERAL NOTES WILL APPLY TO ALL DRAWINGS.
2. THE CONTRACTOR WILL NOTIFY (IF APPLICABLE) THE ADJACENT PROPERTY OWNERS A MINIMUM OF 24 HOURS IN ADVANCE OF CONSTRUCTION.
3. ALL TRAFFIC CONTROL DEVICES WILL BE IN PLACE PRIOR TO CONSTRUCTION. DEVICES NO LONGER NEEDED WILL BE REMOVED AS QUICKLY AS POSSIBLE.
4. PEDESTRIAN TRAFFIC AREAS MUST BE MAINTAINED AT ALL TIMES. PEDESTRIANS WILL NOT BE ROUTED ON TO PRIVATE PROPERTY.
5. NO MATERIALS OR EQUIPMENT WILL BE STORED OR ALLOWED TO STAND UNPROTECTED WHERE PEDESTRIAN OR VEHICULAR TRAFFIC IS PRESENT.
6. NO EQUIPMENT OR MATERIALS WILL BE STORED ON ROAD SURFACE DURING NON-WORK PERIODS.
7. NO EQUIPMENT OR MATERIALS MAY BE STORED ON THE SIDEWALK.
8. EXCAVATION MATERIAL WILL BE STORED AWAY FROM THE PAVED ROADWAY. ALL SPILLED MATERIAL WILL BE PICKED UP IMMEDIATELY.
9. MUNICIPAL ROAD SIGNS, DELINEATORS, GUARDRAILS, ETC. WILL NOT BE REMOVED WITHOUT PRIOR WRITTEN PERMISSION FROM THE APPROVING AUTHORITY.
10. ALL WORK WILL BE PERFORMED IN ACCORDANCE WITH THE CITY, COUNTY, AND STATE SPECIFICATIONS AND STANDARDS.

EROSION SEDIMENT CONTROL NARRATIVE:

DESCRIPTION:

THIS PROJECT CONSISTS OF THE PROPOSED CONSTRUCTION OF TRENCHING OR DIRECTIONAL BORING FOR THE PURPOSE OF INSTALLING FIBER OPTIC DUCT.

DATES OF CONSTRUCTION:

CONSTRUCTION ON THE RIGHT OF WAY IS PLANNED TO BE A YEAR ROUND ACTIVITY. SOILS DATA: FOR SOILS MAP AND SOILS INFORMATION PROVIDED.

EROSION SEDIMENTATION CONTROL PROGRAM:

EROSION AND SEDIMENTATION CONTROLS SHOWN ARE PROVIDED TO ACCOMMODATE ONSITE DRAINAGE AREAS DURING THE CONSTRUCTION PHASE. ADDITIONAL OR REVISED CONTROLS MAY BE INSTALLED AS DETERMINED NECESSARY. EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE CONSTRUCTED AND MAINTAINED ACCORDING TO THE STANDARDS AND SPECIFICATIONS IN THE CURRENT VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK.

PHASE OF LAND DISTURBING ACTIVITIES:

CONTROLS SHOWN SHALL BE INSTALLED AS THE FIRST ITEM OF CONSTRUCTION AND MAINTAINED FOR CONSTRUCTION ACTIVITIES LASTING MORE THAN A ONE DAY SCHEDULE. ALL AREAS NOT TO BE IMMEDIATELY BUILT UPON SHALL BE SEEDED FOR TEMPORARY VEGETATION. ALL CONTROLS ARE TO REMAIN IN PLACE FOR THE DURATION OF THE JOB. REMOVAL, REGRADING AND SEEDING OF THE TEMPORARY DIVERSION DIKES WILL BE THE FINAL ACT OF GRADING IF REQUIRED.

SEQUENCE OF CONSTRUCTION:

1. PLACEMENT OF EROSION AND SEDIMENTATION CONTROLS
2. TRENCHING AND/OR DIRECTIONAL BORING.
3. UTILITY INSTALLATION
4. FINAL GRADING AND VEGETATION
5. REMOVAL OF CONTROLS

MAINTENANCE PROGRAM:

1. ALL MEASURES ARE TO BE INSPECTED DAILY BY THE SITE SUPERINTENDENT OR HIS REPRESENTATIVE. ANY DAMAGE STRUCTURAL MEASURES SHALL BE REPAIRED IMMEDIATELY TO AVOID DAMAGE TO DOWN STREAM PROPERTIES.
2. AS AREAS ARE BROUGHT TO EITHER GRADE OR SUBGRADE THEY SHOULD BE STABILIZED BY EITHER PLACING GRAVEL SUBBASE OR BY SEEDING AS EARLY AS POSSIBLE.
3. ALL FILLS ARE TO BE LEFT WITH A LIP AT THE TOP OF THE SLOPE AT THE END OF EACH DAY OF OPERATION.
4. ALL CUT AND FILL SLOPES ARE TO BE SEEDED AND MULCHED WITH IN FIVE (5) DAYS OF COMPLETION OF GRADING.

GENERAL LAND CONSERVATION NOTES:

1. NO DISTURBED AREA WILL BE DENUDED FOR MORE THAN SEVEN (7) CALENDAR DAYS UNLESS AUTHORIZED BY THE COUNTY WHERE THE WORK IS TAKING PLACE.
2. ALL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE PLACED AS THE FIRST STEP IN GRADING.
3. ELECTRIC POWER, TELEPHONE AND GAS SUPPLY TRENCHES SHALL BE COMPACTED, SEEDED AND MULCHED. WITHIN FIVE (5) DAYS OF BACKFILL.
4. ALL TEMPORARY EARTH BERMS, DIVERSION DIKES, SILT DAMS, AND SOIL STOCKPILES SHALL BE SEEDED AND MULCHED FOR TEMPORARY VEGETATIVE COVER IMMEDIATELY AFTER GRADING. STRAW OR HAY IS REQUIRED.
5. DURING CONSTRUCTION, ALL STORM SEWER INLETS SHALL BE PROTECTED BY SILT TRAPS MAINTAINED AND MODIFIED AS REQUIRED DURING CONSTRUCTION PROGRESS.
6. ANY DISTURBED AREA NOTE COVERED BY NOTE 1 ABOVE AND NOT PAVED, SODDED, OR BUILT UPON BY NOVEMBER 1, OR DISTURBED AFTER THAT DATE, SHALL BE MULCHED WITH HAY OR STRAW MULCH AT THE RATE OF TWO (2) TONS PER ACRE AND OVER-SEEDED BY MARCH 15.
7. AT THE COMPLETION OF THE CONSTRUCTION PROJECT AND PRIOR TO RELEASE OF THE BOND, ALL TEMPORARY SILTATION AND EROSION CONTROLS SHALL BE REMOVED UPON THE APPROVAL OF VIRGINIA AND ALL DENUDED AREAS SHALL BE STABILIZED WITH VEGETATION.
8. ALL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL MEET THE STANDARDS AND SPECIFICATIONS OF THE CURRENT VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK.
9. NO MORE THAN 500 LINEAR FEET OF TRENCH MAY BE OPENED AT ONE TIME.
10. EXCAVATION MATERIAL SHALL BE PLACED ON THE UPHILL SIDE OF THE TRENCH.
11. EFFLUENT FROM THE DEWATERING OPERATIONS SHALL BE FILTERED OR PASSED THROUGH AN APPROVED SEDIMENT TRAPPING DEVICE, OR BOTH, AND DISCHARGED IN A MANNER THAT DOES NOT ADVERSELY AFFECT FLOWING STREAMS OR OFF-SITE PROPERTY.
12. MATERIAL USED FOR BACKFILLING TRENCHES SHALL BE PROPERLY COMPACTED IN ORDER TO MINIMIZE EROSION AND PROMOTE STABILIZATION.
13. RESTABILIZATION SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THESE REGULATIONS.
14. APPLICABLE SAFETY REGULATIONS SHALL BE COMPLIED WITH.
15. WHERE CONSTRUCTION VEHICLE ACCESS ROUTES INTERSECT PAVED OR PUBLIC ROADS, PROVISIONS SHALL BE MADE TO MINIMIZE THE TRANSPORT OF SEDIMENT BY VEHICULAR TRACKING ONTO THE PAVED SURFACE. WHERE SEDIMENT IS TRANSPORTED ONTO A PAVED OR PUBLIC ROAD SURFACE, THE ROAD SURFACE SHALL BE CLEANED THOROUGHLY AT THE END OF EACH DAY. SEDIMENT SHALL BE REMOVED FROM THE ROADS BY SHOVELING OR SWEEPING AND TRANSPORTED TO A SEDIMENT CONTROL DISPOSAL AREA. STREET WASHING SHALL BE ALLOWED ONLY AFTER SEDIMENT IS REMOVED IN THIS MANNER.

SEEDING SPECIFICATIONS:

NOTE: ALL EARTHEN CONTROLS SHALL BE SEEDED AND MULCHED IMMEDIATELY FOLLOWING INSTALLATION AND ANY SOIL STOCKPILES SHALL BE STABILIZED WITH TEMPORARY VEGETATION.

TEMPORARY SEEDING:

1. IN HIGHLY ACID SOILS (PH 5.5 AND LOWER) LIME SHALL BE ADDED TO THE SOIL AT A RATE OF TWO (2) TONS OF PULVERIZED LIMESTONE PER ACRE AND WORKED INTO THE TOP 2"-4" OF THE SOIL. FERTILIZER SHALL BE APPLIED AT A RATE OF 450 POUNDS PER ACRE OF 10-20-20 OR EQUIVALENT. IT SHALL BE WORKED INTO THE TOP 2"-4" OF THE SOIL.
2. SURFACE ROUGHENING WHERE SURFACE IS COMPACTED, CRUSTED OR HARDENED IS REQUIRED. THE SOIL SURFACE SHALL BE LOOSENEED PER SURFACE ROUGHENING IN THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.
3. SEEDING ACCOMPLISHED IN THE FALL OR WINTER, ON SLOPES IN EXCESS OF 4:1, ON ADVERSE SOIL CONDITIONS OR EXCESSIVELY HOT OR DRY WEATHER SHALL BE MULCHED IN ACCORDANCE WITH THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.
4. AREAS WHICH FAIL TO ESTABLISH VEGETATIVE COVER ADEQUATELY TO PREVENT RILL EROSION SHALL BE RESEDED AS SOON AS THEY ARE IDENTIFIED.
5. TEMPORARY SEED MIXTURES SHALL BE AS FOLLOWS:
60 LBS/ACRE GERMAN MILLET (SUMMER MONTHS)
60 LBS/ACRE ANNUAL RYEGRASS OR 100 LBS/ACRE CEREAL RYE (LATE FALL OR EARLY WINTER)

PERMANENT SEEDING:

1. THE EXISTING SOIL MUST MEET THE FOLLOWING CRITERIA:
A. ENOUGH FINE GRADED MATERIAL TO MAINTAIN ADEQUATE MOISTURE AND NUTRIENT SUPPLY.
B. SUFFICIENT PORE SPACE TO PERMIT ROOT PENETRATION. A BULK DENSITY OF 1.2 TO 1.5 INDICATES THAT SUFFICIENT PORE SPACE IS AVAILABLE.
C. SUFFICIENT DEPTH OF SOIL TO PROVIDE ADEQUATE ROOT ZONE. THE DEPTH TO ROCK OR IMPERMEABLE SURFACES SHALL BE 12" OR MORE.
D. A FAVORABLE PH RANGE OF 6.0-7.0 FOR PLANT GROWTH. IF SOIL IS TOO ACIDIC TO BE MODIFIED TO WITHIN THIS RANGE, IT IS CONSIDERED AN UNSUITABLE ENVIRONMENT FOR PLANT ROOTS.
E. FREEDOM FROM TOXIC AMOUNTS OF MATERIALS HARMFUL TO PLANT GROWTH.
F. FREEDOM FROM EXCESSIVE QUANTITIES OF ROOTS, BRANCHES, LARGE STONES, LARGE CLODS OF EARTH OR TRASH OF ANY KIND.
IF ANY OF THE CRITERIA CANNOT BE MET THEN TOPSOIL SHALL BE APPLIED IN ACCORDANCE WITH THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.
2. SURFACES SHALL BE ROUGHENED IN ACCORDANCE WITH THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.
3. SOIL CONDITIONERS MAY BE ADDED TO THE SOIL AS DESIRED BUT MUST BE DONE IN ACCORDANCE WITH THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.
4. LIME AND FERTILIZER NEEDS SHOULD BE DETERMINED BY SOIL SCIENTISTS FROM QUALIFIED COMMERCIAL LABORATORY OR THE COOPERATIVE EXTENSION SERVICE SOIL TESTING LABORATORY AT VPI & SU. GENERAL RECOMMENDATIONS ARE TWO (2) TONS PER ACRE OF AGRICULTURAL LIMESTONE ON SANDY SOILS AND THREE (3) TONS PER ACRE ON CLAYEY SOILS WITH 1,200 POUNDS PER ACRE OF 10-10-10 FERTILIZER.
5. SEED MIXTURE SHALL BE 100-120 LBS/ACRE OF TALL FESCUE AND 12 LBS /ACRE ANNUAL RYEGRASS.
6. ALL PERMANENT SEEDING SHALL BE MULCHED IMMEDIATELY IN ACCORDANCE WITH THE CURRENT VIRGINIA EROSION AND SEDIMENT HANDBOOK.

CONSTRUCTION NOTES:

1. NUMBER 6 TRACER WIRE TO BE REQUIRED WITH ALL CABLE PLACEMENT.
2. FIBER OPTIC WARNING TAPE WILL BE PLACED 12" BELOW THE EXISTING GRADE IN ALL EXCAVATIONS.
3. VERIFICATION OF THE LOCATION OF EXISTING UTILITY CROSSINGS IS THE RESPONSIBILITY OF THE CONTRACTOR. HAND DIGGING WILL BE UTILIZED WHERE REQUIRED.
4. CALL THE LOCAL UTILITY ONE-CALL AT LEAST 72 HOURS IN ADVANCE OF ANY CONSTRUCTION 811
5. A 12" SEPARATION BETWEEN PROPOSED CONDUIT AND OTHER UTILITIES WILL BE MAINTAINED.
6. CONDUIT CAPS WILL BE PLACED ON THE ENDS OF ALL VACANT DUCTS DURING CONSTRUCTION, UPON COMPLETION, AND WHILE AWAITING FIBER INSTALLATION.
7. ALL INSTALL DUCTS WILL BE PROOFED USING A MANDRILL 1/4" SMALLER THAN THE PIPE ID PVC AS SHOWN ON DRAWING.
8. THE MINIMUM BENDING RADIUS FOR FIBER CABLE WILL BE 36".
9. MAXIMUM CABLE INSTALLATION TENSION WILL NOT EXCEED 600 POUNDS. A 600 POUND BREAKAWAY SWIVEL WILL BE USED DURING PULLING.
10. THE REMOVAL AND STORAGE OF ALL SHRUBBERY TO BE REPLACED IS THE RESPONSIBILITY OF THE CONTRACTOR.
11. THE CONTRACTOR WILL RESTORE ALL DISTURBED AREAS TO THEIR ORIGINAL OR BETTER CONDITION
12. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO MAINTAIN CONSTRUCTION AS-BUILT DRAWINGS AND PRESENT A COMPLETE SET OF RED-LINED DRAWINGS TO CROWN CASTLE WITHIN 14 DAYS OF COMPLETION OF THE WORK.
13. CONDUITS WILL BE TERMINATED ABOVE THE MIDPOINT OF MANHOLE.
14. PLACE 100 FEET FIBER SLACK COIL IN EACH HANDHOLE/MANHOLE.
15. HAND DIG UNDER ANY BURIED UTILITY CABLES AS REQUIRED.
16. ALL CONDUITS WILL BE PLACED AT A MINIMUM OF 36" COVER.

240 MAIN ST.
CHARLOTTESVILLE, VA.

ENGINEER:
C. GOODRICH

DRAFTER:
T. BOWEN

PERMITTING:
S. SMITH

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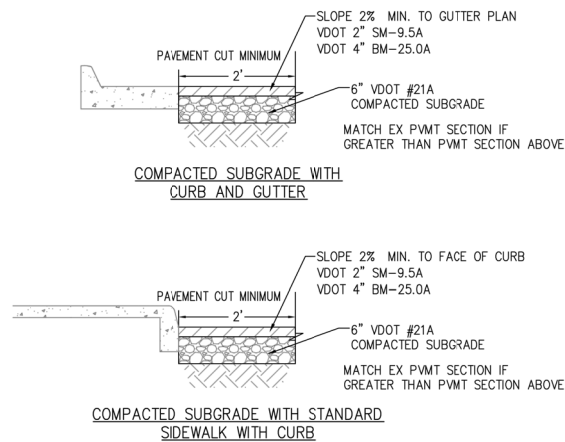


CC CROWN CASTLE FIBER
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UTILITY CONSULTING

SHEET TITLE
GENERAL NOTES

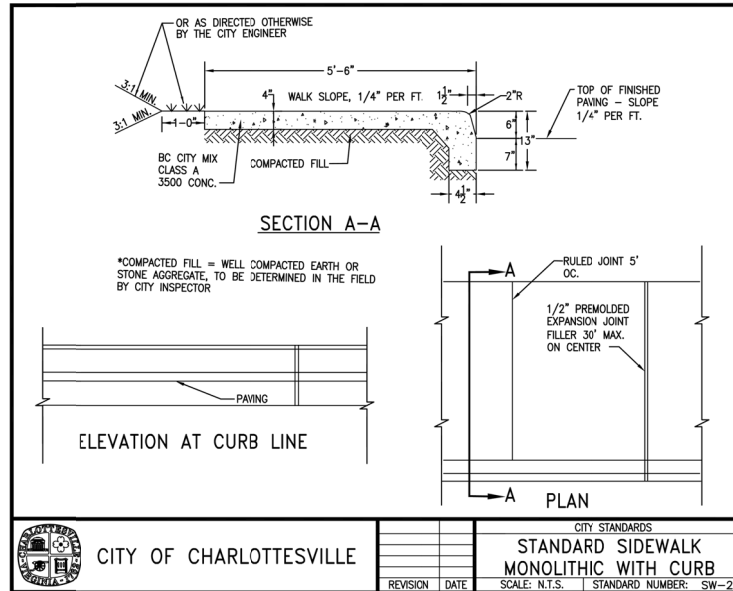
SHEET 03 OF 07

PLACEMENT TYPICALS



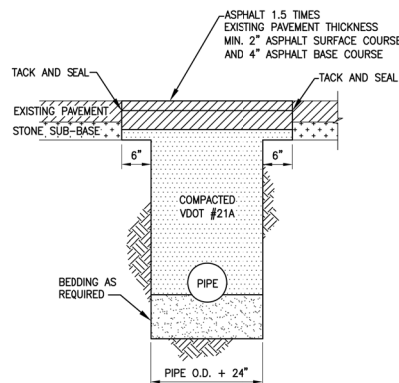
CITY OF CHARLOTTESVILLE

CITY STANDARDS			
MINIMUM PAVEMENT PATCH			
REVISION	DATE	SCALE: N.T.S.	STANDARD NUMBER: PP-1



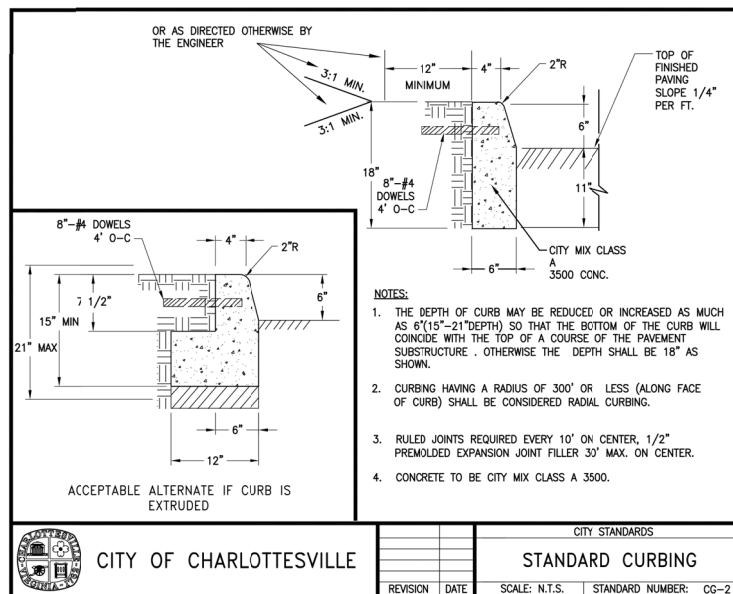
CITY OF CHARLOTTESVILLE

CITY STANDARDS			
STANDARD SIDEWALK MONOLITHIC WITH CURB			
REVISION	DATE	SCALE: N.T.S.	STANDARD NUMBER: SW-2



CITY OF CHARLOTTESVILLE

CITY STANDARDS			
PERMANENT PAVEMENT REPAIR			
REVISION	DATE	SCALE: N.T.S.	STANDARD NUMBER: PR-1



CITY OF CHARLOTTESVILLE

CITY STANDARDS			
STANDARD CURBING			
REVISION	DATE	SCALE: N.T.S.	STANDARD NUMBER: CG-2

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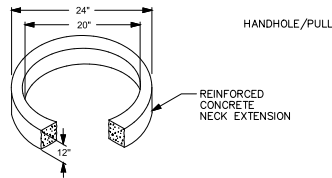
SHEET TITLE
PLACEMENT TYP.

SHEET 04 OF 07

TYPICAL 3'x3'x3' MANHOLE DETAIL

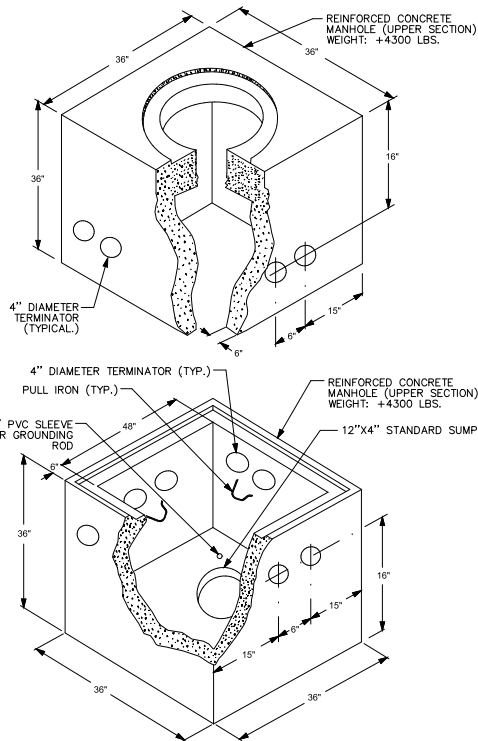
TYPICAL DETAIL "A"

TYPICAL NECK EXTENSION DETAIL



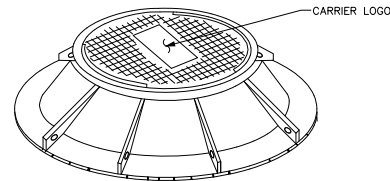
TYPICAL DETAIL "D"

DALWORTH QUICKSET MANHOLE
WALLS: 6in. HEADROOM: 48in.



TYPICAL DETAIL "B"

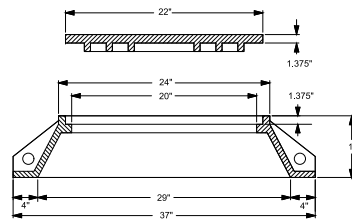
MANHOLE COVER IRONWORKS #B-30



NOTES:
1. EACH COVER TO HAVE (4) PICK
SLOTS FOR REMOVING.
2. STAMP CARRIER'S ID IN COVER.
3. ACCESS HOLE: 30"

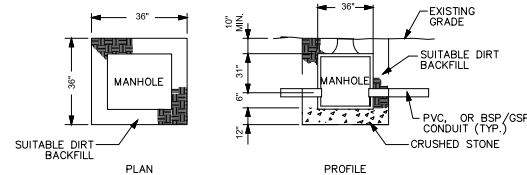
TYPICAL DETAIL "E"

RING AND COVER DETAIL
RING: 390lbs. COVER: 300lbs.



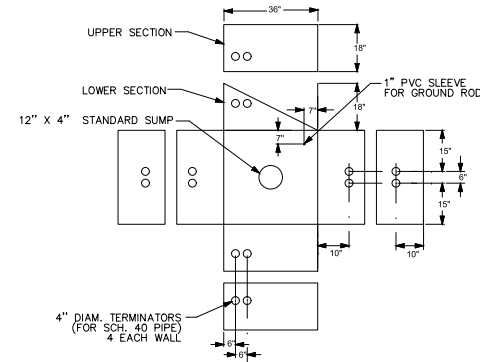
TYPICAL DETAIL "G"

TYPICAL MANHOLE EXCAVATION PIT



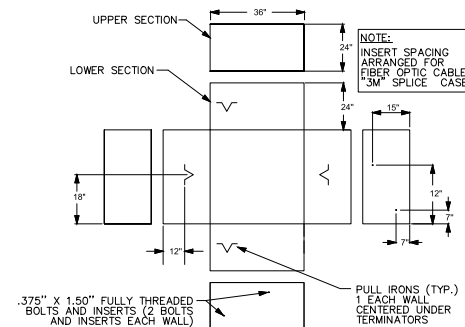
TYPICAL DETAIL "C"

TERMINATORS, SUMP, & GROUND ROD SLEEVE
2 SECTIONS



TYPICAL DETAIL "F"

BOLT INSERTS AND PULL IRONS
2 SECTIONS



NOTES:
VOID IN EXCAVATED AREAS TO BE BACKFILLED WITH SELECT MATERIAL.
BOTTOM OF EXCAVATED PIT TO BE BACKFILLED WITH 12" OF CRUSHED STONE (3/4" GRADE).
SHORING WILL BE REQUIRED.
ALL MANHOLES SHALL BE PLACED WITH COVER FLUSH WITH EXISTING GRADE

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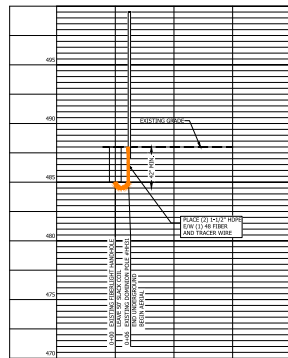
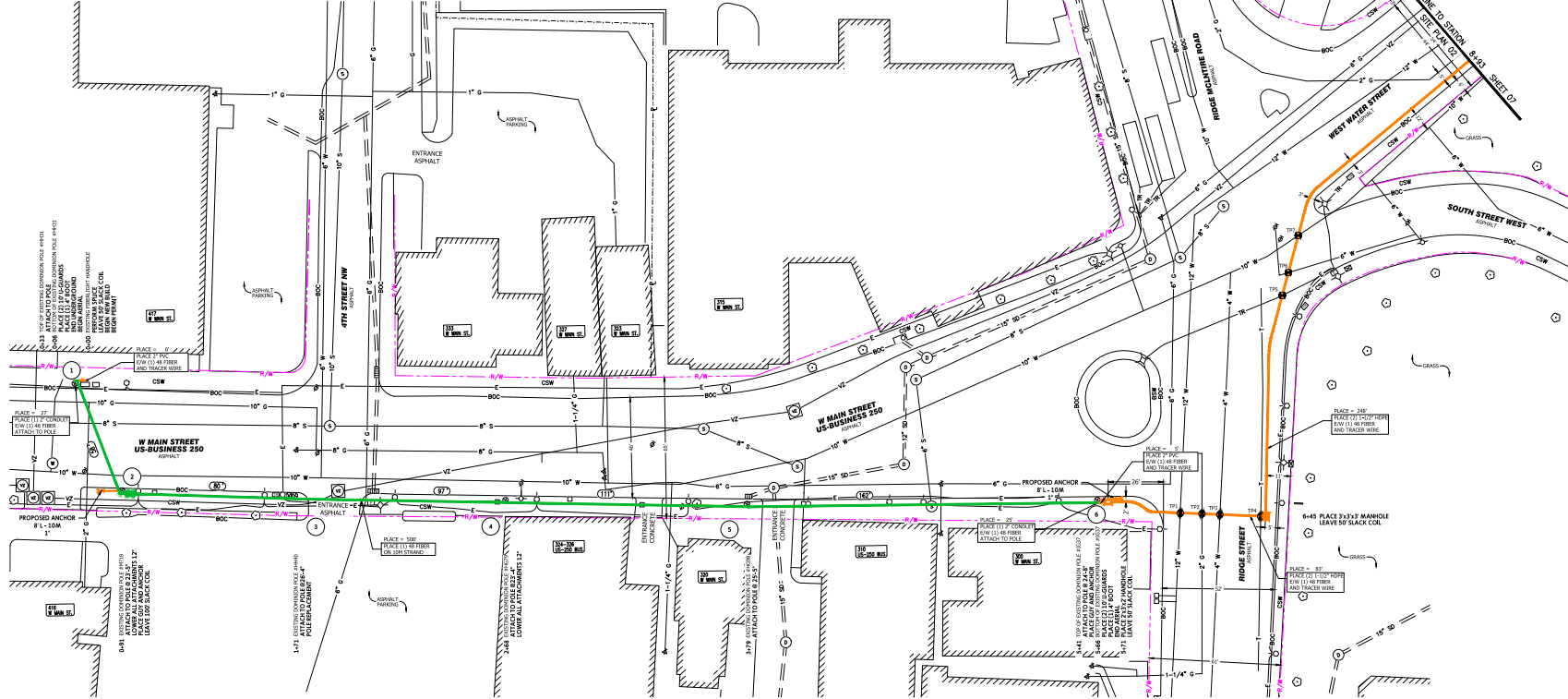


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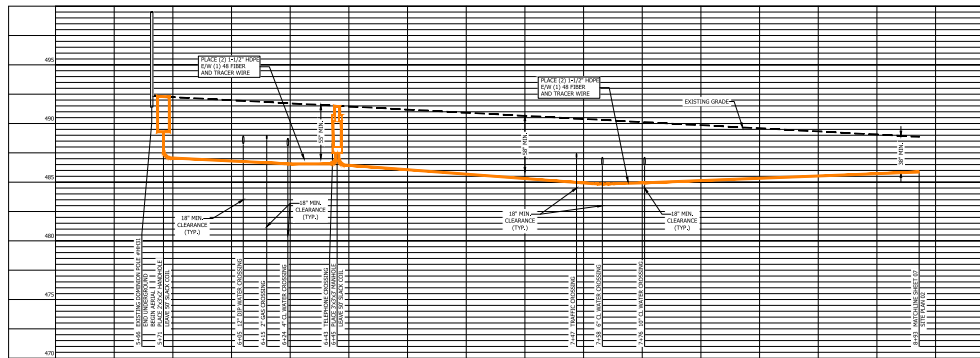
SHEET TITLE
MANHOLE DETAIL

SHEET 05 OF 07

**CHARLOTTESVILLE, VA
SITE PLAN - 01**



PROFILE
SCALE: HORIZONTAL 1"=20'
VERTICAL 1"=5'



PROFILE
SCALE: HORIZONTAL 1"=20'
VERTICAL 1"=5'

CONSTRUCTION NOTE:
THE CONTRACTOR WILL NEED TO NOTIFY THE CITY OF CHARLOTTESVILLE WHEN WORKING WITHIN THE CITY LIMITS.

CONSTRUCTION NOTE:
THE PERMIT HOLDER OR REPRESENTATIVE THERE OF SHALL BE RESPONSIBLE TO REPAIR/RESTORE ALL STREETSCAPE ELEMENTS THAT ARE DAMAGED AS A RESULT OF CONSTRUCTION. STREETSCAPE ELEMENTS SHALL BE RESTORED TO THEIR ORIGINAL CONDITION.



TEST PIT SCHEDULE			
NO.	UTILITY	STATION	DEPTH
TP1	12" DIP WATER	6+05	N/A
TP2	2" GAS	6+15	N/A
TP3	4" CL WATER	6+24	N/A
TP4	TELEPHONE	6+43	N/A
TP5	TRAFFIC	7+47	N/A
TP6	6" CL WATER	7+58	N/A
TP7	10" CL WATER	7+76	N/A



**240 MAIN ST.
CHARLOTTESVILLE, VA.**

ENGINEER:
C. GOODRICH
DRAFTER:
T. BOWEN
PERMITTING:
S. SMITH

DATE: 04/12/24

SCALE: 1"=25'

FILE #: 18399

SHEET SIZE: 24" x 36"

REVISION: 05



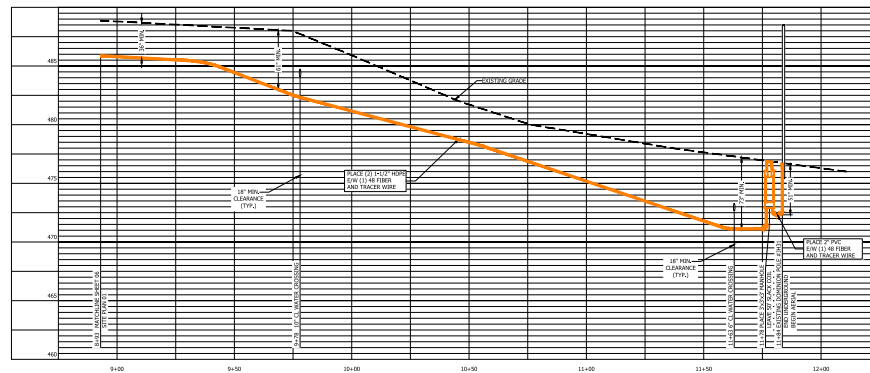
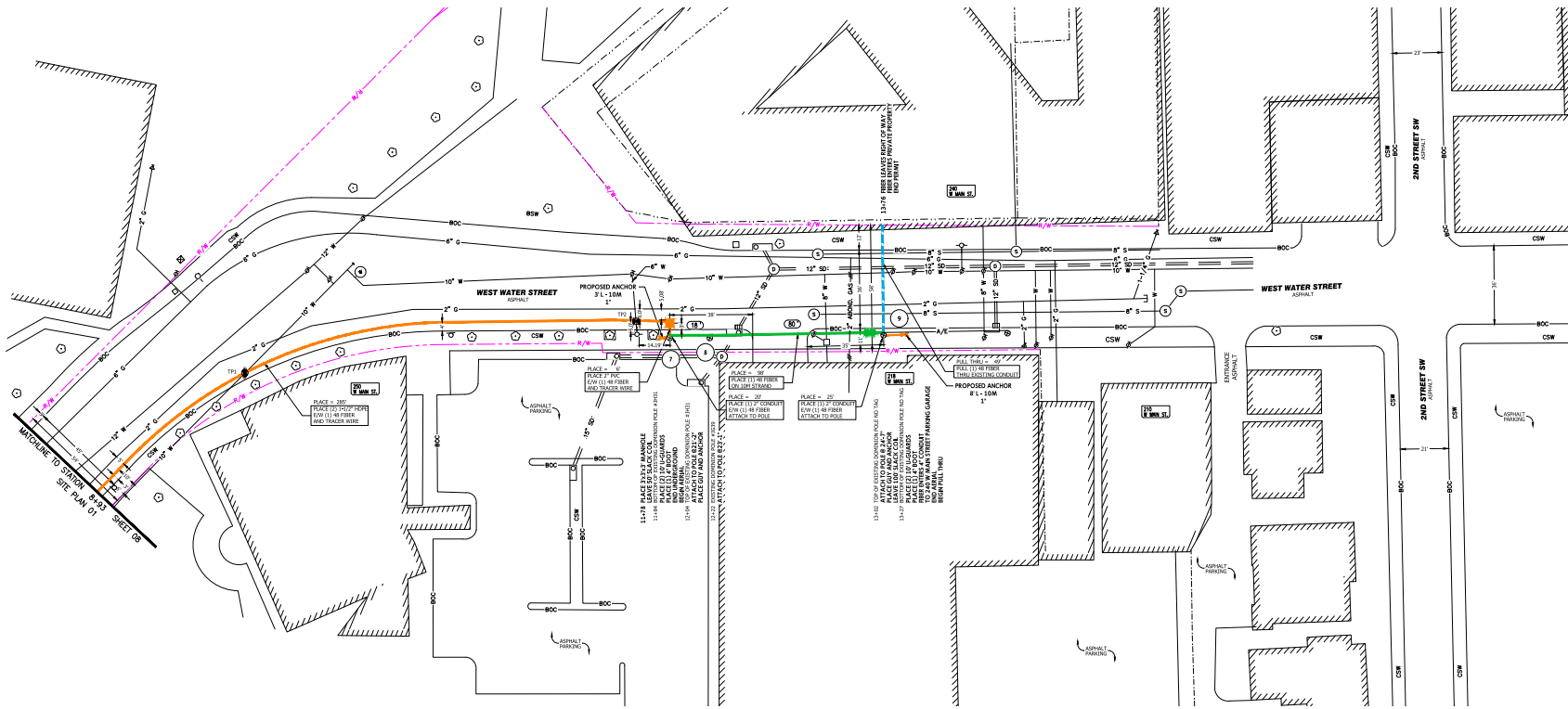
**PERMIT
FOR
CONSTRUCTION**



**SHEET TITLE
SITE PLAN - 01**

SHEET 06 OF 07

CHARLOTTESVILLE, VA
SITE PLAN - 02



PROFILE
SCALE: HORIZONTAL 1"=20'
VERTICAL 1"=2'



CONSTRUCTION NOTE:
THE CONTRACTOR WILL NEED TO NOTIFY THE CITY OF CHARLOTTESVILLE WHEN WORKING WITHIN THE CITY LIMITS.

CONSTRUCTION NOTE:
THE PERMIT HOLDER OR REPRESENTATIVE THERE OF SHALL BE RESPONSIBLE TO REPAIR/RESTORE ALL STREETSCAPE ELEMENTS THAT ARE DAMAGED AS A RESULT OF CONSTRUCTION. STREETSCAPE ELEMENTS SHALL BE RESTORED TO THEIR ORIGINAL CONDITION.



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CHARLOTTESVILLE, VA.

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REVISION: 05



PERMIT
FOR
CONSTRUCTION



SHEET TITLE
SITE PLAN - 02

SHEET 07 OF 07

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



Agenda Date:	June 17, 2024
Action Required:	Approve Franchise Agreement
Presenter:	Steven Hicks, Director of Public Works
Staff Contacts:	James Freas, Deputy City Manager Chris Sibold
Title:	Ordinance to create and enact Brightspeed Franchise Agreement (2nd reading)

Background

To help provide for public safety and ensure the integrity of its roads and streets and the appropriate use of the Public Rights-of-Way the City enacts ordinances to impose regulations on telecommunications and its associated equipment and facilities currently in place or to be placed at some time in the future. These ordinances must be reviewed and renewed according to the timelines set forth in the specific agreement between the City and associated user of the Public-Rights-of-Way, specifically Brightspeed of Virginia, LLC.

Discussion

Approval is needed for creation of this Franchise Agreement in order to continue operations and regulation of 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 that may be required by Brightspeed of Virginia, LLC.

Alignment with City Council's Vision and Strategic Plan

N/A

Community Engagement

N/A

Budgetary Impact

There is no budgetary impact except for the prescribed measures granted by this agreement for the City to recover costs as appropriate for use of the Public-Rights-of-Way.

Recommendation

Staff recommends approval of this agreement.

Alternatives

N/A

Attachments

1. Brightspeed Franchise Agreement
2. Brightspeed Exhibit2

BRIGHTSPEED OF VIRGINIA, LLC
TELECOMMUNICATIONS FRANCHISE

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**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
BRIGHTSPEED OF VIRGINIA LLC, ITS SUCCESSORS AND ASSIGNS
TO USE THE STREETS AND OTHER PUBLIC PLACES
OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
FOR ITS POLES, 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 Brightspeed of Virginia LLC (the "Company"), its successors and assigns, is hereby granted a telecommunications franchise for a period of five (5) years from the effective date hereof and is hereby authorized and empowered to erect, maintain and operate certain telecommunications facilities 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 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 Brightspeed of Virginia LLC, 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, including 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 hereafter be modified, and incorporated by reference.

SECTION 202 NEW INSTALLATION

202.1 INSTALLATION MADE PURSUANT TO AN APPROVED PROW PLAN: 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 LIKE-FOR-LIKE FACILITIES: As a matter of policy, in areas where undergrounding of other Facilities has occurred, the City prefers that the installation of any new Facility also occur underground. Notwithstanding this preference, the City recognizes that in some circumstances the placement of Facilities underground may not be appropriate. Any additional installation of lines, cable, equipment or other Facilities in these areas of the PROW shall be underground unless it shall be determined by the Director, pursuant to Article III, that it is not appropriate or feasible to do so.

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 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, unless it shall be determined that it is not appropriate or feasible to do so. 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 wellbeing of the public.

SECTION 205 LOCATION OF POSTS, POLES, CABLES AND CONDUITS

In general, all posts, poles, equipment, 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 removed by the Company in a reasonably prompt period at the discretion of the Director 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, as well as other circumstances including whether the PROW can be accessed by the Company, particularly during times of emergency. 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 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 pursuant to Section 1202 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 response 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 with a reasonable level of specificity 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 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 at the discretion of the Director within a reasonably prompt period 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 thirty (30) 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 the reasonable, actual and documented 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, officials 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, conditioned or delayed. 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 execution of this franchise.

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, defend and hold harmless the City, its agents, or employees, for the negligence or intentional acts of the City, its Council members, 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 twenty-five thousand dollars (\$25,000). The bond shall be written by a corporate surety acceptable to the City and authorized to do business in the Commonwealth of Virginia. The Performance Bond shall be maintained at this amount through the term of this franchise.

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 RESERVED

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 56-468.1 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:

Brightspeed of Virginia LLC
4701 Cox Rd Ste 285
Glen Allen, VA, 23060

To the City:

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

Copy to:
Brightspeed
Attn: Legal
1120 S Tryon St Ste 700
Charlotte, NC, 28203

Copy to: City of Charlottesville
Attn: City Attorney
605 East Main Street
Charlottesville, VA 22902

All correspondence 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 via telephone and by facsimile to the following:

To the Company:
Emergency contact for
afterhours/weekends/holidays:
833-692-7773 (MYBRSPD)
Brightspeed.com

To the City:
Gas Dispatchers
(434) 970-3800 (office)
Emergency (434)293-9164 (leaks)
(434) 970-3817 (facsimile)

Steven Hicks, Director of Public Works
(434) 970-3301 (office)
(434) 970-3817 (facsimile)

SECTION 1203 REGISTRATION OF DATA

The Company, including any sublease 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 upon prior request a copy of the insurance policy.

The Company shall update all 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

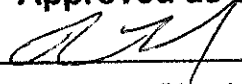
ACCEPTED: This franchise is accepted, and we agree to be bound by its terms and conditions.

BRIGHTSPEED OF VIRGINIA LLC

By _____

Its _____

Date _____

Approved as to form:


Deputy City Attorney



FIBER OPTIC OVERBUILD
PROJECT CHVLVAXA SE
PERMIT 27000
AERIAL PERMIT DRAWING
CITY OF CHARLOTTESVILLE, VA



3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLVAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: C1 OF C3				

LEGEND & LINETYPES

	AERIAL
	BURIED
	RIGHT OF WAY
	GUARD RAIL
	LOC/CLUSTER BOUNDARY
	RR TRACKS
	EDGE OF PAVEMENT
	GAS
	WATER
	ELECTRICITY
	SEWER
	STORM DRAIN

	GAS TAP/MARKER
	RISER
	TELEPHONE
	POWER VAULT
	GROUND/BOND
	CULVERT
	WING WALL
	SPAN MEASUREMENT
	EXISTING DOWN GUY & ANCHOR
	PROPOSED DOWN GUY & ANCHOR

	UTILITY POLE - EXISTING
	HANDHOLE - PROPOSED
	PROPOSED BORE PIT 4'x14'
	WATER METER
	GAS METER
	FIRE HYDRANT
	VALVE COVER
	AERIAL CROSSOVER

ABSTEVATION DESCRIPTION


ASW	ASPHALT SIDEWALK
BIP	BLACK IRON PIPE
BOS	BACK OF SIDEWALK
CSW	CONCRETE SIDEWALK
ASPH	ASPHALT DRIVEWAY
CONC	CONCRETE DRIVEWAY
GRVL	GRAVEL DRIVEWAY
GRSS	GRASS DRIVEWAY
EOP	EDGE OF PAVEMENT
EOTW	EDGE OF TRAVEL WAY
FOC	FIBER OPTIC CABLE
HDPE	HIGH DENSITY POLYETHYLENE
HH	HANDHOLE
JB	JUNCTION BOX
MH	MANHOLE
MP	MILE POST
O/S	OFFSET
PVC	POLY VINYL CHLORIDE
RGS	RIDGID GALVANIZED STEEL
RW	RIGHT OF WAY
CL	CENTERLINE



3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: 02 OF 08				

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3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
 BYERS ENGINEERING COMPANY				
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: C3 OF C8				

GENERAL NOTES / ADDENDUM NOTES

- | | | |
|--|---|---|
| <p>1. THE CONTRACTOR IS REQUIRED TO CONTACT THE APPROPRIATE UTILITY COMPANIES INVOLVED AND MAKE SATISFACTORY ARRANGEMENTS TO ADJUST THE UTILITIES IN CONFLICT WITH THE PROPOSED WORK PRIOR TO BEGINNING CONSTRUCTION.</p> <p>2. THE CONTRACTOR SHALL COMPLY WITH ALL FEDERAL, STATE, AND LOCAL ENVIRONMENTAL REGULATIONS AND SHALL OBTAIN ALL NECESSARY FEDERAL, STATE, AND LOCAL ENVIRONMENTAL PERMITS, INCLUDING BUT NOT LIMITED TO, THOSE RELATED TO SEDIMENT CONTROL, STORMWATER, WETLAND, STREAMS, ENDANGERED SPECIES, AND HISTORICAL SITES.</p> <p>3. TRENCHING, BORE PITS, AND/OR OTHER EXCAVATIONS SHALL NOT BE LEFT OPEN OR UNSAFE OVERNIGHT. THE CONTRACTOR SHALL COMPLY WITH ALL OSHA REQUIREMENTS AND PROVIDE A COMPETENT PERSON ON SITE TO SUPERVISE EXCAVATION AT ALL TIMES.</p> <p>4. ALL FILL AREAS/BACKFILL SHALL BE COMPACTED TO 95% DENSITY IN ACCORDANCE WITH AASHTO T99 AS MODIFIED BY THE NCDOT. ALL MATERIAL TO A DEPTH OF 8 INCHES BELOW THE FINISHED SURFACE OF THE SUBGRADE SHALL BE COMPACTED TO DENSITY EQUAL TO AT LEAST 100% OF THAT OBTAINED BY COMPACTING A SAMPLE OF THE MATERIAL IN ACCORDANCE WITH AASHTO T99.</p> <p>5. VEGETATIVE COVER SHALL BE ESTABLISHED ON ALL DISTURBED AREAS IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE DIVISION ROADSIDE ENVIRONMENTAL ENGINEER.</p> <p>6. ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE N.C.D.O.T. STANDARDS AND SPECIFICATIONS MANUALS.</p> <p>7. ANY DRAINAGE STRUCTURE DISTURBED OR DAMAGED SHALL BE RESTORED TO ITS ORIGINAL CONDITION AS DIRECTED BY THE DISTRICT ENGINEER.</p> <p>8. ALL DRIVEWAYS ALTERED DURING CONSTRUCTION SHALL BE RETURNED TO A STATE COMPARABLE WITH THE CONDITION OF THE DRIVEWAYS PRIOR TO CONSTRUCTION.</p> <p>9. RIGHT OF WAY MONUMENTS DISTURBED DURING CONSTRUCTION SHALL BE REFERENCED BY A REGISTERED LAND SURVEYOR AND RESET AFTER CONSTRUCTION.</p> | <p>10. PROPER TRAFFIC CONTROL DEVICES, SIGNS, ETC., SHALL BE INSTALLED TO ENSURE PUBLIC SAFETY IN ACCORDANCE WITH THE LATEST EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES AND ANY SUPPLEMENTS THERETO AND NCDOT ROADWAY STANDARD DRAWINGS.</p> <p>11. ALL LANES OF TRAFFIC ARE TO BE OPEN DURING THE HOURS OF 6:00AM TO 9:00AM AND FROM 4:00PM TO 7:00PM MONDAY THRU FRIDAY. TWO WAY TRAFFIC WILL BE MAINTAINED AT ALL TIMES.</p> <p>12. INGRESS AND EGRESS SHALL BE MAINTAINED TO ALL BUSINESSES AND DWELLINGS AFFECTED BY THE PROJECT.</p> <p>13. ANY WORK REQUIRING EQUIPMENT OR PERSONNEL WITHIN 5' OF THE EDGE OF ANY TRAVEL LANE OF AN UNDIVIDED FACILITY AND WITHIN 10' OF THE EDGE OF ANY TRAVEL LANE OF A DIVIDED FACILITY SHALL REQUIRE A LANE CLOSURE WITH APPROPRIATE TAPERS.</p> <p>14. NO PARKING OR MATERIAL STORAGE SHALL BE ALLOWED ALONG THE SHOULDERS OF ANY ROADWAY.</p> <p>15. DURING NON-WORKING HOURS, EQUIPMENT SHALL BE REMOVED FROM THE RIGHT OF WAY.</p> <p>16. ALL ROADWAY SIGNS THAT ARE REMOVED DUE TO CONSTRUCTION SHALL BE REINSTALLED AS SOON AS POSSIBLE.</p> <p>17. EXCAVATION MATERIAL SHALL NOT BE PLACED ON THE PAVEMENT. DRAINAGE STRUCTURES SHALL NOT BE BLOCKED WITH EXCAVATION MATERIALS.</p> <p>18. ALL MANHOLES, SPLICE BOXES AND OTHER APPURTENANCES WITHIN THE NCDOT RIGHT OF WAY SHALL BE LOCATED AT/OUTSIDE THE RIGHT OF WAY LINE. MANHOLES AND/OR VAULTS SHALL NOT BE PLACED IN THE DITCH LINE, SIDE SLOPES OF THE DITCHES OR IN THE PAVEMENT.</p> <p>19. ALL MANHOLES, SPLICE BOXES, AND/OR VAULTS WITHIN NCDOT RIGHT OF WAY SHALL BE OF A PRE-APPROVED DESIGN.</p> <p>20. PROPOSED TRAFFIC-BEARING MANHOLES AND VALVE COVERS SHALL BE FLUSH MOUNTED AND SHALL BE OF A NCDOT APPROVED DESIGN FOR HS-20 LOADING.</p> | <p>21. ALL WORK TO BE PERFORMED IN STRICT ACCORDANCE WITH THE APPLICABLE CODES OR REQUIREMENTS OF ANY REGULATING GOVERNMENTAL AGENCY, DUKE ENERGY, AND THE RIGHT-OF-WAY GRANTOR.</p> <p>22. LOCATIONS OF SOME OF THE PHYSICAL FEATURES WERE OBTAINED FROM DATED EVALUATION MAPS OR OTHER DRAWINGS AND MAY NOT SHOWN OR DEPICTED ON THESE DRAWINGS.</p> <p>23. UNDERGROUND UTILITIES HAVE BEEN PLOTTED FROM AVAILABLE RECORDS AND FIELD OBSERVATIONS BUT ARE NOT NECESSARILY EXACT. THEREFORE, UTILITY LOCATIONS WILL BE VERIFIED AT LEAST 100 FEET IN ADVANCE OF TRENCHING OR FLOWING, SO THAT CHANGES IN CABLE PLACEMENT CAN BE MADE IN THE EVENT OF CONFLICT.</p> <p>24. ALL KNOWN BURIED OBSTRUCTIONS ARE SHOWN ON THE CONSTRUCTION DRAWINGS. ANY AND ALL OTHERS ENCOUNTERED ARE THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE, PROTECT, AND REPAIR IF DAMAGED.</p> <p>25. ANY AND ALL IMPROVEMENTS, SUCH AS ASPHALT OR CONCRETE PAVEMENT, CURBS, CUTTERS, WALKS, DRAINAGE DITCHES, EMBANKMENTS, SHRUBS, TREES, GRASS SOD, ETC., IF DAMAGED, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND RESTORED TO ORIGINAL CONDITION.</p> <p>26. EQUIPMENT TYPES SPECIFIED HEREIN (IE: "BACKHOE," "SWAMP PLOW" ETC.) ARE SUGGESTIONS ONLY AND ARE NOT INTENDED AS REQUIREMENTS. CONTRACTOR WILL BE NOTIFIED AS TO EXPECTATIONS.</p> <p>27. SHORING OF BORE PITS AND TRENCHES IN ACCORDANCE WITH OSHA REGULATIONS SHALL BE MANDATORY.</p> <p>28. BURIED CABLE MARKERS WILL BE PLACED AT ALL UNDERGROUND UTILITY LOCATIONS AND ALL OTHER LOCATIONS IN ACCORDANCE WITH THE PERMIT DRAWINGS AND THE OUTSIDE PLANT HANDBOOK.</p> <p>29. ALL CONDUIT WILL BE SDR 11 OR AS SPECIFIED.</p> <p>30. UNDERGROUND CONDUIT WILL BE PLACED AT 36" MINIMUM COVER UNLESS SPECIFIED ON THE CONSTRUCTION DRAWINGS.</p> |
|--|---|---|

ADDENDUM NOTES

3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
				
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: 04 OF 08				

TYPICAL DETAIL "A"

CROSS SECTION OF IMPOSED HOPE

(1) 2' HOPE
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "B"

DIRECTIONAL BORE CROSS SECTION FOR CONDUIT

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "C"

DIRECTIONAL BORE CROSS SECTION FOR CONDUIT PLACED PARALLEL/PERPENDICULAR TO EXISTING UTILITIES

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "D"

HANDHOLE CONSTRUCTION DETAILS CONDUIT TO HANDLE PEOPLE

120" DIA.

36" MIN.

TYPICAL DETAIL "E"

DIRECTIONAL BORE TYPICAL DETAIL

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "F"

CROSSING SECONDARY ROADWAY AND DRIVEWAY

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "G"

CROSSING PRIMARY ROADWAY

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "H"

CROSSING PRIMARY ROADWAY

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "I"

PARALLEL ROAD CROSS SECTION FOR HNDOT RIGHT OF WAY

(1) 2' HOPE CONDUIT
FEEDER PIPER

36" MIN.

TYPICAL DETAIL "J"

CULVERT CROSSING DETAIL

(1) 2' HOPE CONDUIT
FEEDER PIPER

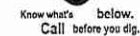
36" MIN.

* BORE FROM EACH DIRECTION IS RUN AT DOWN DITCH TO SOME POINT PAST THE INTERSECTION POINT, THEN TURNED UP TO SURFACED.

* THE TIE-IN POINT IS EXCAVATED, PIPES CUT OFF WHERE THEY CROSS EACH OTHER AT DOWN DITCH, AND A COUPLER IS INSTALLED TO CONNECT THE TWO PIPES AT THE DOWN DITCH.

* USE ALUMINUM HYDRAULIC PRESS - ON BARRED RING COUPLER TO CONNECT PIPE.

* ALL EXCAVATIONS OF THIRTYFOUR FEET OR GREATER IN DEPTH SHALL BE APPROPRIATELY BRACED, SHORED, OR SHIELDED ACCORDING TO THE PRECEDENCES AND REQUIREMENTS SET FORTH IN DOW'S EXCAVATION STANDARDS, OF THE TRENCH, 1981, AND 1982.

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BONDING AND GROUNDING DETAILS

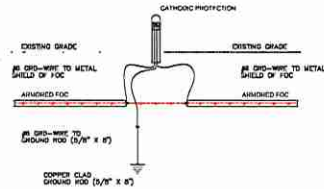
AERIAL NOTES:

1. Establish and maintain continuity of all metallic components (strength member, shield, moisture barrier, armor) across all aerial splices.
2. Bond metallic components to the support strand at all splice locations.
3. Bond support strand to pole MOHW at all riser poles, fiber loop (2,000') locations for future splice and fiber splice locations.
4. Place bonds between all metallic cable components and the support strand at least once every 1 1/4 miles (5,000 feet).

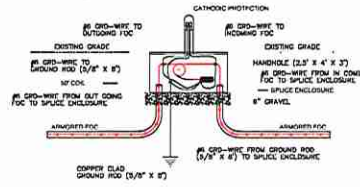
BURIED NOTES:

1. Establish and maintain continuity of all metallic sheath components and strength members in the cable and across all buried splices.
2. Bond metallic sheath components and strength members to 5/8" x 8' copper clad ground rod at all buried splices.
3. Place 5/8" x 8' copper clad ground rods at all handholes for future splicing and grounding.
4. Place bonds between all metallic cable components and copper clad ground rods at least once every 1 1/4 miles (5,000 feet).
5. Place Cathodic Protection Test Station at all buried fiber cable splices and when bonding fiber metallic cable components to copper clad ground rods every 1 1/4 miles.

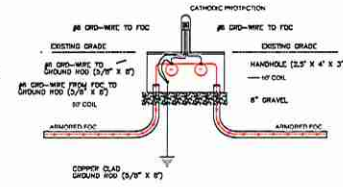
TEST STATION DETAIL SCHEMATIC



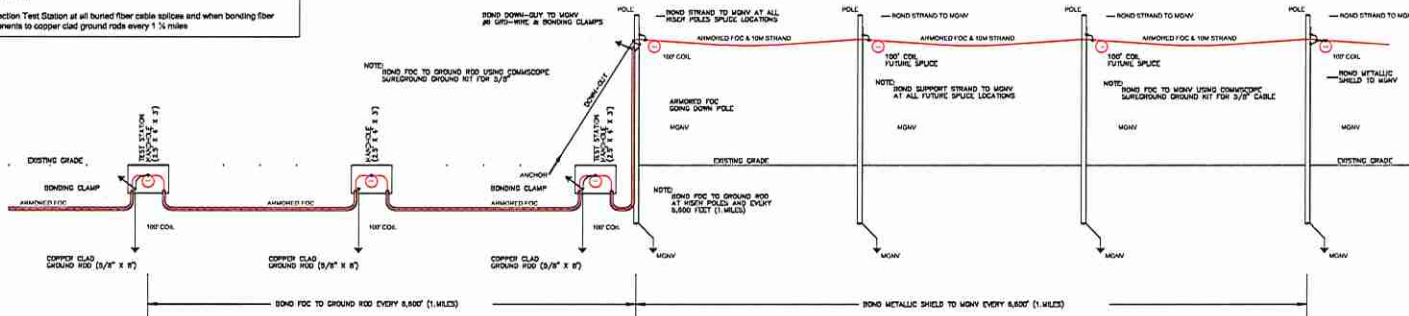
TEST STATION WITH FIELD SPICE



TEST STATION WITH COIL FOR FUTURE SPICE



LAYOUT DETAIL




Know what's below.
Call before you dig.

3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: 08 OF 08				

VICINITY MAP



3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
				
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: C/ OF C8				

BOM

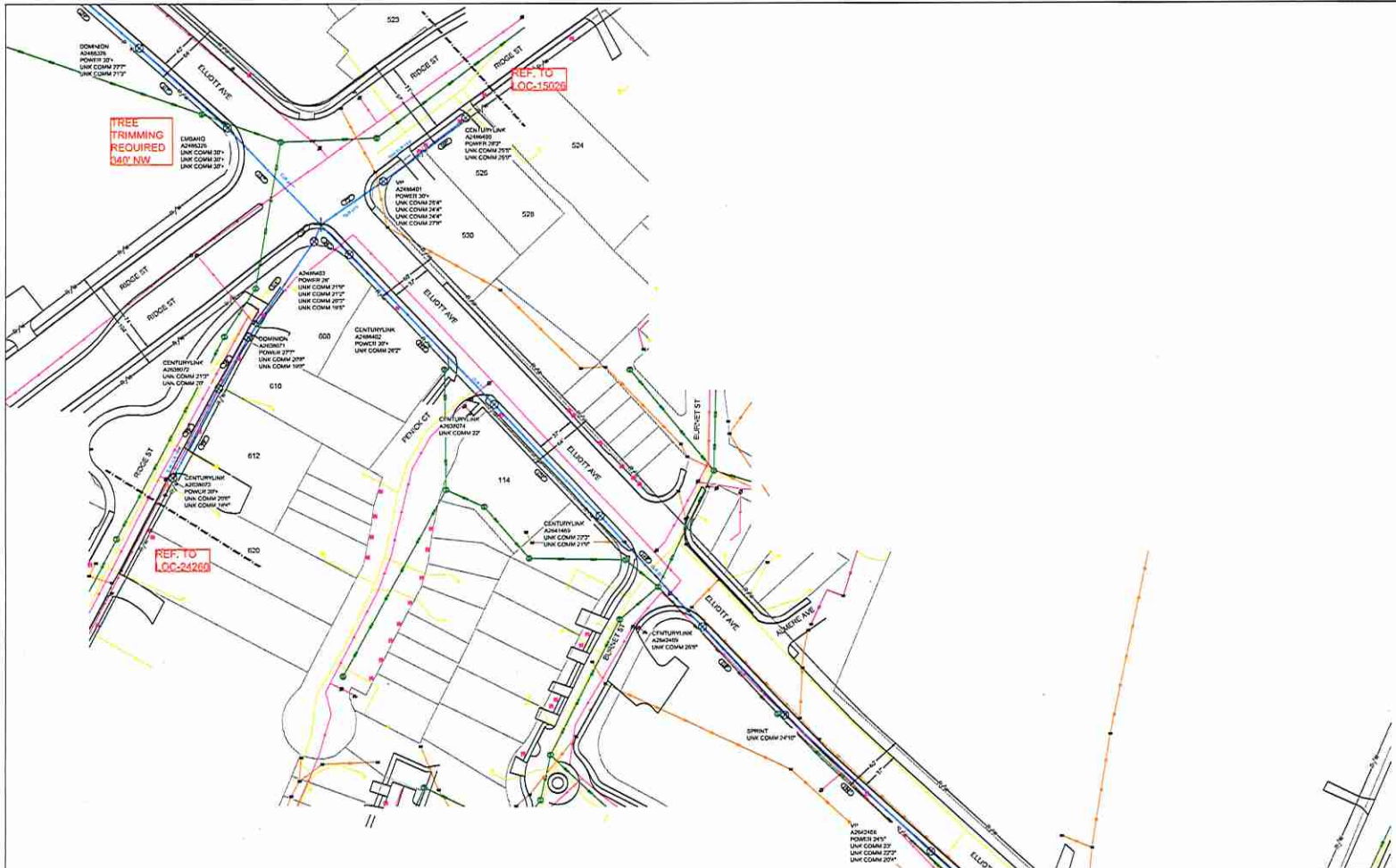
Unit Description	UOM	ESTIMATED QTY	ACTUAL QTY
FEEDER CABLE - 24 CT	FOOT		
FEEDER CABLE - 48 CT	FOOT		
FEEDER CABLE - 72 CT	FOOT	1588	
FEEDER CABLE - 96 CT	FOOT		
FEEDER CABLE - 144 CT	FOOT		
FEEDER CABLE - 288 CT	FOOT	2383	

Unit Description	UOM	ESTIMATED QTY	ACTUAL QTY
(1) 2" HDPE INNERDUCT	FOOT	198	
24"DX24"WX36"L HANDHOLE	EACH		
18"DX17"WX30"L HANDHOLE	EACH		

Unit Description	UOM	ESTIMATED QTY	ACTUAL QTY
PLACE DTAP - AERIAL	EACH		
PLACE DTAP - IN HANDHOLE	EACH		
PLACE OPTICAL TAP/EVOLVE - AERIAL	EACH		
PLACE OPTICAL TAP/EVOLVE - IN HANDHOLE	EACH		
AERIAL PRIMARY 10FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 75FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 150FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 300FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 500FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 800FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 1000FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 1500FT PUSHLOCK DROP	EACH		
AERIAL PRIMARY 2000FT PUSHLOCK DROP	EACH		
PULLING PRIMARY JUMPER 10FT	EACH		
PULLING PRIMARY JUMPER 75FT	EACH		
PULLING PRIMARY JUMPER 150FT	EACH		
PULLING PRIMARY JUMPER 300FT	EACH		
PULLING PRIMARY JUMPER 500FT	EACH		
PULLING PRIMARY JUMPER 800FT	EACH		
PULLING PRIMARY JUMPER 1000FT	EACH		
PULLING PRIMARY JUMPER 1500FT	EACH		
PULLING PRIMARY JUMPER 2000FT	EACH		

3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
				
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: CB OF CB				

MATCH TO SHEET 03



MATCH TO SHEET 02


CONTACT CITY ARBORIST
STEVE GAINS
434-970-3260
BEFORE TRIMMING

**ALL PROPOSED AERIAL
IS TO BE OVERLASHED
TO EXISTING STRAND**

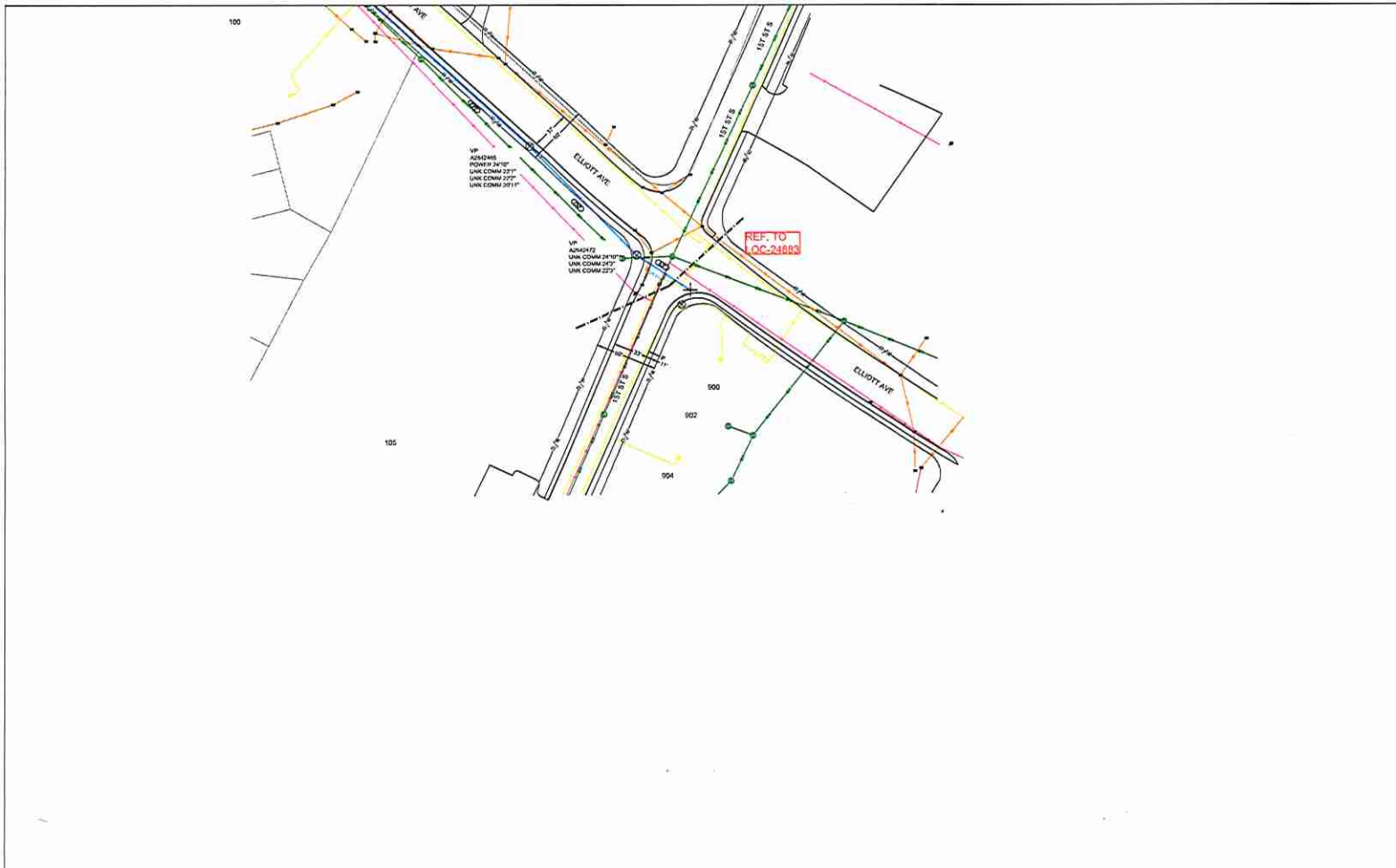
ALL UTILITY PLACEMENTS ARE FOR REFERENCE

SCALE IS FOR REFERENCE PURPOSES ONLY. THE CABLE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE APPROPRIATE PERMITTING MUNICIPALITY PRIOR TO BEGINNING CONSTRUCTION, IN ORDER TO VERIFY THAT THE CABLE IS BEING PLACED WITHIN THEIR RIGHT-OF-WAY.



3				AS-BUILT	
2				REVISION # 1	
1	3/27/2024	BEC	JRC	ORIGINAL	
NO.	DATE	ENG	DESIGN	DRAFTING	COMMENT
					
PROJECT MANAGER: JAMES COSTNER					
ENGINEERING FIRM: BYERS ENG. CO.					
PROJECT: CHVLAXA SE					
ADDRESS: CITY OF CHARLOTTESVILLE VA					
PERMIT NUMBER: 27000					
					SHEET: 01 OF 04

MATCH TO SHEET 01




CONTACT CITY ARBORIST
STEVE GAINS
434-970-3260
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3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG. DESIGN	DRAFTING	COMMENT
				
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: 02 OF 04				



MATCH TO SHEET 04

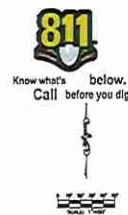
MATCH TO SHEET 01

CONTACT CITY ARBORIST
STEVE GAINS
434-970-3260
BEFORE TRIMMING

**ALL PROPOSED AERIAL
IS TO BE OVERLASHED
TO EXISTING STRAND**

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SCALE IS FOR REFERENCE PURPOSES ONLY. THE CABLE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE APPROPRIATE PERMITTING MUNICIPALITY PRIOR TO BEGINNING CONSTRUCTION, IN ORDER TO VERIFY THAT THE CABLE IS BEING PLACED WITHIN THEIR RIGHT-OF-WAY.



3				AS-BUILT
2				REVISION # 1
1	3/27/2024	BEC	JRC	ORIGINAL
NO.	DATE	ENG DESIGN	DRAFTING	COMMENT
PROJECT MANAGER: JAMES COSTNER				
ENGINEERING FIRM: BYERS ENG. CO.				
PROJECT: CHVLAXA SE				
ADDRESS: CITY OF CHARLOTTESVILLE VA				
PERMIT NUMBER: 27000				
SHEET: 03 OF 04				

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



Agenda Date:	June 17, 2024
Action Required:	Approval
Presenter:	Chris Cullinan, Director of Finance
Staff Contacts:	Chris Cullinan, Director of Finance
Title:	Resolution for a Water and Wastewater Leak Credit for 2PIC LLC - \$18,212.63.

Background

Discussion

Utility customer 2PIC LLC at 178 Zan Road experienced a leak in their main water line in January and February. The leak resulted in usage approximately 25x their normal consumption. Per the City's leak credit procedures, the customer has requested a credit to their water and wastewater accounts for this location.

Utility billing staff have calculated the water and wastewater credit to total \$18,212.63. The amount of the credit is greater than \$10,000, thus City Code Section 11-132 (4) requires City Council authorization.

Alignment with City Council's Vision and Strategic Plan

The City's Leak Credit Policy aligns with "*Organizational Excellence*" by encouraging residents and businesses to minimize water loss by making timely leak repairs and such a leak credit policy is considered a best practice for utilities.

Community Engagement

N/A

Budgetary Impact

The fiscal impact of the compromise of claim is \$18,212.63 reduction in revenues to the Water and Wastewater Funds.

Recommendation

Staff recommends approval for the compromise of the claim and granting of the leak credit.

Alternatives

City Council could deny the compromise of claim and therefore the leak credit would not be granted.

Attachments

1. 6.17.24 Resolution Water and Wastewater Credit for 2PIC LLC

RESOLUTION
Approval of a Compromise of Claim in the Form of a
Leak Credit of \$18,212.63 for Water and Wastewater
Charges to the Utility Account of 2PIC LLC.”

WHEREAS, the Director of Finance, City Attorney, and City Manager concur that circumstances associated with a leak at 178 Zan Road warrant a credit in the amount of \$18,212,.63 for water and wastewater charges, and in accordance with City Code Sec. 11-132(4), City Council has authority to grant such a compromise of claim; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the Director of Finance is hereby authorized to apply a credit of \$18,212.63 to the utility account of “2PIC LLC”.



City Manager's Report

City Departments

6-17-2024

City Manager – Sam Sanders (he/him)

- We are pleased to announce that Charlottesville was selected as part of the ICMA (International City/County Management Association) 2024 Economic Mobility and Opportunity Cohort. Fifteen cities, towns, and counties representing diverse populations, geographies, operating budgets, and other local conditions were selected. In addition to professional development and networking opportunities, we will each receive a \$20,000 grant to advance a local assessment, planning process, or program aimed at boosting upward mobility of residents.
- I attended the Virginia Local Government Management Association (VLGMA) summer conference June 5th – 7th focused on thriving together: nurturing health and wellness across Virginia communities. I made positive connections with peers across the state and will follow up on these connections for future exchanges.

Deputy City Manager for Social Equity – Ashley Marshall (she/her)

- **Happy Pride Month!** Information on various June 2024 Pride events in our community can be found on the Charlottesville Albemarle Convention & Visitors Bureau website at: <https://www.visitcharlottesville.org/blog/pride-month-events-and-happenings-in-charlottesville-albemarle-county/>. Community members can also visit CvillePride for more information about future Pride events in Fall 2024: <https://www.cvillepride.org>
- **Parks and Recreation Host Free Community Events in July**
 - The Parks and Recreation department will host several free events for the community.
 - July 13, 2024: Sounds of Summer program from 6-8pm at Tonsler Park (500 Cherry Avenue). Come and enjoy live music, free food (while supplies last), and games co-sponsored by Bamma Works.
 - July 21, 2024: Sunday Sundowns will be held at Booker T. Washington Park (1001 Preston Avenue) from 12-2pm. Come enjoy free music, food (while supplies last), games, and activities for the whole family including free swimming at the pool. Parking is available at the lot located next to the swimming pool or at the lower level at the park.

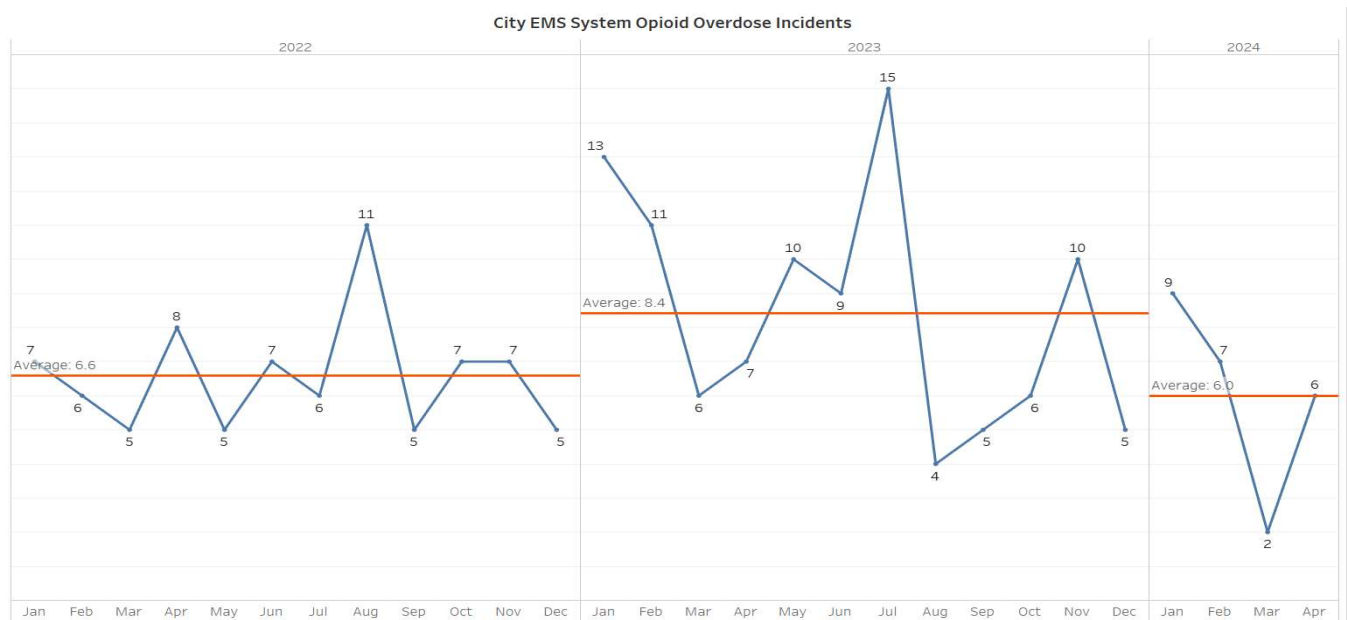
Charlottesville Fire Department – Chief Michael Thomas (he/him)

- Girl fire camp begins June 26th-28th with 11 participants aged 12-16.
- Key Operations Metrics:

CFD Incident Comparison: FY22 to FY24 YTD April			
	FY 2022	FY 2023	FY 2024
EMS/Rescue	4,671	4,698	4,328
Fire	158	163	135
Other Type	2,047	2,194	1,907
Grand Total	6,876	7,055	6,370

Looking at the period of July-April compared to the same months in FY23, CFD incidents are down about 10% across all categories.

Comparing FY24 YTD to same months in FY23, fire incidents have decreased by 17%, EMS incidents decreased by 8%, and all other types of incidents decreased by 13%.



Opioid overdoses in the city have declined in 2024. CFD and CARS are running an average of six overdoses each month compared to 8.4 each month in 2023.

Charlottesville Area Transit – Director Garland Williams (he/him)

- Bruce White joined CAT as the Senior Project Manager, effective June 3, 2024. In this role, Bruce will be responsible for overseeing key projects and driving the development and success of major transit initiatives. He maintains a Project Management Professional (PMP) certification and recently worked for national homebuilders Toll Brothers and D.R. Horton in Seattle, WA.

- Bruce holds degrees from multiple universities in civil engineering, real estate, and finance. As a retired Colonel and judge advocate of the U.S. Marine Corps, he brings a distinguished background and a wealth of experience to his new role at CAT.

Parks & Recreation – Acting Director Riaan Anthony (he/him)

- The Parks & Recreation Master Plan continues to gather input and will be hosting public comment sessions in June & July for Court Square, Market Street, Booker T. Washington and Benjamin Tonsler Parks. Once dates/times are finalized the information will be posted on the Parks & Recreation Master Plan website at: www.charlottesville.gov/parksandrec.
- The City Amateur Golf Championship is scheduled for June 29 – 30 and registration is open. You can register online at: www.meadowcreekgolf.org.
- City Market and Farmers in the Park are in full swing. City Market is every Saturday, 9:00 am – 1:00 pm, 100 Water Street and Farmers in the Park is every Wednesday, 3:00 – 7:00 pm, 1400 Pen Park Road. Come support local vendors.
- Don't miss the Silent Disco at Carver Recreation Center on June 22 from 5 PM to 8 PM

Utilities – Director Lauren Hildebrand (she/her)

- Charlottesville Gas has been evaluating pathways to the decarbonization of the City's natural gas utility and their impacts on emissions, reliability of service, and cost to customers. Vital to the gas decarbonization study is community involvement, and three engagement sessions have been scheduled for this summer. Postcards with instructions on how to register for a session, including information on specific dates and times, will be sent to those in the community who receive a paper utility bill in the mail. Paperless utility bill customers can expect to receive information on the sessions in Utilities' electronic newsletter. Other outreach efforts will also be used to promote these events. To register for one of the sessions now, please go to www.tinyurl.com/CvilleGasStudy. If you need assistance in registering, please call Utilities Outreach at (434) 970-3686. Utilities encourages all residents to take part in helping to shape the outcomes of an initiative with community-wide impacts!

Public Works – Director Steven Hicks (he/him)

- Eight employees of the Charlottesville Public Works Department competed in the Mid-Atlantic APWA (American Public Works Association) "Roadeo" event in Roanoke on May 1st. Representatives from Public Works Departments across the Mid-Atlantic states participated on various pieces of equipment to measure skill and speed of operation. Charlottesville had two employees, Calvin Henderson and Bryan Frazier Jr., place in the top five in their respected events.
- Charlottesville Middle School - the steel has been erected and the floor decks poured on the first building.

- Drewary Brown Bridge - the memorial plaques have been removed for cleaning and repairs, additional beautification work will be completed this summer, including cleaning, painting and additional signage.
- City Hall Lobby should be opened in July. Long lead-time materials are on their way.

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



Agenda Date:	June 17, 2024
Action Required:	Adopt Amendments
Presenter:	James Freas, Deputy City Manager
Staff Contacts:	David Frazier Dan Frisbee
Title:	Ordinance amending and reordaining Chapter 10 (Water Protection) of the Code of the City of Charlottesville, to establish a Virginia Erosion and Stormwater Management Program consistent with the Code of Virginia

Background

Effective July 1, 2024, Virginia's MS4 localities are required to combine the Virginia Erosion and Sediment Control Program (VESCP) and the Virginia Stormwater Management Program (VSMP) to create the Virginia Erosion and Stormwater Management Program (VESMP). Council will be considering state mandated revisions to our local code - Chapter 10 of the City Code (Water Protection Ordinance) which has been updated to comply with Virginia State Code § 62.1-44.15:27.

Discussion

To ensure that the new local VESMP will maintain authority over existing and future projects, Chapter 10 of City Code has been edited to include the provisions in the VESMP model ordinance provided by the Virginia Department of Environmental Quality (DEQ). The design standards will continue to follow Virginia State Administrative Code regulations, and the administration of Erosion and Sediment Control requirements and Stormwater Management requirements will be combined.

The new proposed ordinance language uses the model ordinance provided by the state, incorporating Charlottesville's more stringent standards. There are no proposed policy changes in this amendment, only changes necessary to effectuate the merger of the Erosion and Sediment Control Program with the Stormwater Management Program. The current ordinance language may be found here:

https://library.municode.com/va/charlottesville/codes/code_of_ordinances?nodeId=CO_CH10WAPR

Alignment with City Council's Vision and Strategic Plan

Aligns with organizational excellence and climate objectives.

Community Engagement

None

Budgetary Impact

N/A

Recommendation

Adopt the proposed amendments. Staff is requesting that the 2nd reading be waived in order to meet the July 1 State deadline for implementation of these amendments.

Alternatives

Attachments

1. Final Draft Ordinance - Ch. 10 ART_I_II_III_IV 6.12.24

AN ORDINANCE AMENDING AND REORDAINING CHAPTER 10 (WATER PROTECTION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE, TO ESTABLISH A VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM

WHEREAS, the Council of the City of Charlottesville, Virginia (the “Council”) has adopted ordinances for the regulation of land disturbing activity within the City of Charlottesville (the “City”), and to protect local and state waters and the general health, safety, and welfare of the citizens of the City, which ordinances are codified in Chapter 10 of the City Code, known as the city's Water Protection Ordinance; and

WHEREAS, ordinances for the control of erosion and sediment, codified in Article II of Chapter 10, and for stormwater management, codified in Article III of Chapter 10, are critical components of the Water Protection Ordinance and the Council’s efforts to protect local and state waters; and

WHEREAS, the Virginia Erosion and Stormwater Management Act, which is Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the Code of Virginia, as amended, and the implementing state regulations found at 9 Va. Admin. Code 25-875-10 *et seq.* (collectively the “VESMA”) become effective July 1, 2024 and create a combined statutory and regulatory framework applicable to the City’s erosion and sediment control and stormwater management; and

WHEREAS, amendments to Chapter 10 are necessary in order for the City to implement a Virginia Erosion and Stormwater Management Program (“VESMP”) consistent with the requirements of the VESMA; and

WHEREAS, certain cross-references within Article IV of Chapter 10 also need to be amended to correctly refer to the VESMA; and

WHEREAS, on June 18, 2024 the Council held a duly noticed public hearing on the adoption of an ordinance to amend Chapter 10 to establish a VESMP consistent with the VESMA and to establish local fees; and

WHEREAS, the Council finds that adoption of this ordinance and establishment of a VESMP is in the best interests of the City and its citizens and further protects the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Chapter 10 (Water Protection) of the Code of the City of Charlottesville is hereby amended and reordained as follows:

Amend Article I, by amending Sections 10-2, 10-3, 10-5, 10-6, 10-9, and 10-10;

Amend Article II by renaming to Virginia Erosion and Stormwater Management Program, and deleting Sections 10-21 to 10-43, and adding new Sections 10-21 to 10-39, and reserving Sections 10-40 to 10-49;

Amend Article III by deleting and reserving Sections 10-50 to 10-70; and

Amend Article IV by amending Section 10-73.

All as shown, stated, and ordained below:

CHAPTER 10. WATER PROTECTION

ARTICLE I. IN GENERAL

...

Sec. 10-2. Authority.

This chapter is adopted pursuant to authority conferred by: (i) the Virginia State Water Control Law, set forth within the Virginia Code, Title 62.1, Chapter 3.1, ~~as amended (§§ 62.1-44.2 through 62.1-44.34:28), including, without limitation, §§ 62.1-44.15:27 and 62.1-44.15:54;~~ (ii) Virginia Code, Title 15.2, Chapters 21 and 22; and (iii) the federal Clean Water Act (33 U.S.C. § 1251 et seq.).

Sec. 10-3. Purpose.

The purposes of this chapter are:

- (1) To ensure the general health, safety, and welfare of the citizens of the City of Charlottesville by (i) protecting the quality and quantity of state waters from the potential harm of unmanaged erosion and stormwater, including protection from land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced, and (ii) preventing degradation of properties, stream channels, waters and other natural resources of the city, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff; and
- (2) To provide a framework for the administration, implementation, and enforcement of the provisions of the Virginia Erosion and Stormwater Management Act ~~and the Virginia Erosion and Sediment Control Law~~, and to delineate the procedures and requirements to be followed in connection with permits issued by the city, acting as a VESMP ~~and VESCP~~ authority, ~~respectively~~; and
- (3) To establish procedures whereby the requirements of the city's VESMP, ~~VESCP~~ and MS4 programs shall be enforced in conjunction with one another, and to ensure integration of those program requirements with flood insurance, floodplain management and other programs requiring compliance prior to authorization of construction, in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the city and for those persons responsible for compliance with the programs.

...

Sec. 10-5. Definitions.

In addition to the definitions set forth within the Virginia Administrative Code (VAC) at 9VAC25-84075-120, ~~as amended 9VAC25-850-10 and 9VAC25-870-10~~, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified herein. In the event of a conflict between any definition incorporated by reference and any definition following below, the definition incorporated by reference shall have precedence.

Act means, according to the context of its use, (1) the Stormwater Management Act set forth within Title 62.1, Chapter 3.1, Article 2.3 (§ 62.1-44.15:24 et seq.) of the Virginia Code or (2) the Erosion and Sediment Control Law set forth within Title 62.1, Chapter 3.1, Article 2.4 (§ 62.1-44.15:51 et seq.) of the Virginia Code.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

Administrator means, when referring to a person performing duties relative to the city's VSMP or VESCP programs as set forth within this chapter, the city's designated department of neighborhood development services. The department of neighborhood development services shall have authority to act by and through the director of neighborhood development services and any city official, employee, contractor or other agent designated by the director of neighborhood development services to perform any responsibilities or functions assigned to the VSMP or VESCP Administrator. Whenever the term "administrator" is used within any of the regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those regulations or VAC sections.

Agreement in lieu of a plan means (i) a contract between the VESCP administrator and a property owner which specifies conservation measures which must be implemented in the construction of an individual single-family residence, not part of a common plan of development or sale; or (ii) a contract between the VSMP administrator and a property owner which specifies methods that will be implemented to comply with the requirements of Article III of this chapter in the construction of an individual single-family residence, not part of a common plan of development or sale. Such contract may be executed by the administrator in lieu of a formal erosion and sediment control plan or stormwater management plan, as applicable.

Agreement in lieu of a plan" means a contract between the VSMP administrator and a property owner that specifies methods that shall be implemented to comply with the requirements of the VESMA and this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; such contract may be executed by the City in lieu of a soil erosion control and stormwater management plan.

Applicant means any person submitting an application for a permit or requesting the issuance of a permit under any provision of this chapter, including a person submitting a soil erosion control and stormwater management plan to a VSMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

Best management practice ("BMP") means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the runoff volume and pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"Best management practice" or "BMP" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems.

1. "Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.

2. "Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.

Board or "state board" means the State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Channel" means a natural stream or manmade waterway.

"City" means the City of Charlottesville, Virginia.

Clean Water Act or CWA means the federal Clean Water Act, 33 U.S.C. 1251 et seq., formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Clearing means any activity which removes vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

Common plan of development or sale refers to a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

Conservation standards, criteria or specifications means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the State Water Control Board, or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia Department of Environmental Quality.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

Control measure means any BMP or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"CWA and regulations" means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this ordinance, it includes state program requirements.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

DEQ and department mean the Virginia Department of Environmental Quality.

Development, land development and land development project as used within this chapter each refer to land improved or to be improved as a unit, under single ownership or unified control, such improvement(s) including all of the land disturbance, and the resulting landform, associated with the construction of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and or the clearing of land for non-agricultural or non-silvicultural purposes. The term shall include the entire area within a common plan of development or sale. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

Director, as used in each Article V of this chapter, shall mean and include the respective city's director of the city department identified in Section 10-6~~public works and director of neighborhood development services~~, and the employees and agents authorized by either of them to exercise authority or to take enforcement action ~~under the provisions of Article V~~. The term director as used within Articles II and III of this chapter, shall mean the

~~director of neighborhood development services.~~ Whenever the term "director" is used within any of the regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those regulations or VAC sections.

"Discharge" when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or
2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Energy dissipator" means a non-erodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

Erosion and sediment control plan means a document containing materials and provisions for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of six thousand (6,000) square feet or less used for residential purposes.

"ESC" means erosion and sediment control.

"ESM plan" means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

Excavating means any digging, scooping, or other method(s) of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes the floodway designated by the Federal Emergency Management Agency.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

General permit means the state general permit, defined following below.

"General permit" means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

Grading means any excavating or filling, and any combination thereof, including the land in its excavated or filled conditions.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

Illegal discharge and *illicit discharge* each means and refers to any discharge to the city's municipal storm sewer system ("MS4") that is not composed entirely of stormwater, except: (i) discharges pursuant to a VPDES permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this chapter.

Illicit connection means any connection to the city's municipal storm sewer system ("MS4") made without the express written approval of an authorized city official.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Inspection" means an on-site review of the project's compliance with any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA and applicable regulations.

Land disturbance or *land-disturbing activity* means any a manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land human caused change to the land surface that (i) actually or potentially changes its runoff characteristics, including, without limitation, clearing, grading, or excavation, or (ii) that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, without limitation, clearing, grading, excavating, transporting and filling. The entire land area within a common plan of development or sale, as a whole, shall be considered to be a single land-disturbing activity.

"Land-disturbance approval" means an approval allowing a land-disturbing activity to commence issued by the VESMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia and Chapter 10 of the City Code have been met.

"Large construction activity" means construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Layout means a conceptual drawing sufficient to identify and provide for specific stormwater management facilities required at the time of approval.

Licensed professional means an individual who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

Local erosion and sediment control program or VESCP means an outline of the various methods employed by the city to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, city ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

"Locality" means the City of Charlottesville, Virginia.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Manmade" means constructed by man.

"Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

Minor modification means, in relation to the state general permit, an amendment to an existing state general permit, before its expiration, not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor state general permit modification or amendment is one that does not substantially alter state general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Mitigation plan means a plan, a component of a stormwater management/BMP plan, an erosion and sediment control plan, or an agreement in lieu of a plan, that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

MS4 means the city's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-8705-120.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or

recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

~~Operator means the owner or operator of any facility or activity subject to regulation under this chapter.~~

"Operator" means the owner or operator of any facility or activity subject to the VESMA and Article II of this Chapter. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

Owner means the owner(s) of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property and, or a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property. As used herein, "owner" also refers to, in the appropriate context, any person authorized to act as the agent for the owner. Where the context requires within Article II, it shall also mean the same as that term is defined in § 62.1-44.3 of the Code of Virginia.

Peak flow rate means the maximum instantaneous flow from a given prescribed design storm condition at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

Permit means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the city as a prerequisite to any land-disturbing activity or development. In relation to the provisions of Articles II and III of this chapter the term shall mean an approval issued by the VSMP/VESCP administrator for the initiation of a land-disturbing activity in accordance with this chapter, after evidence of state general permit coverage has been received, and means a VPDES permit issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity where the context requires.

Permittee means the person to whom a permit is issued~~permit authorizing a land-disturbing activity is issued,~~ and, in the appropriate context the term may refer to the person who certifies that an approved erosion and sediment control plan will be followed.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this ordinance.

Pollution prevention plan shall mean a plan for implementing pollution prevention measures during construction activities, which meets the requirements of 9VAC25-8705-5620.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Predevelopment" refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the VESMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the commencement of land-disturbing activity shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

Project shall have the same meaning as set forth above for the term development.

Public waters means and refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

Redevelopment for purposes of this chapter, means and refers to construction of buildings, structures, fixtures or other improvements to land as replacement(s) for existing improvements.

Regulations means (1) in the context of the provisions of Article II, the Virginia Erosion and Sediment Control Stormwater Management Regulations set forth within 9VAC25-840-10 9VAC25-875-10 et seq. of the Virginia Administrative Code, or (2) in the context of the provisions of Article III, the Virginia Stormwater Management Regulations set forth within 9VAC25-870-10 et seq. of the Virginia Administrative Code.

Residential development means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three (3) or more residential dwelling units.

Responsible land disturber or RLD means an individual holding a certificate of competence issued by the department, who is responsible for the operations of carrying out land-disturbing activity in accordance with an

approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor or any other project or development team member; however, the identity of the RLD must be designated on the approved erosion and sediment control plan or permit.

"Responsible land disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan or ESM plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" includes maximum velocity, peak flow rate, volume, and flow duration.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. All of the land that is part of a development, or of common plan of development or sale shall be considered as a single site.

"Site hydrology" means the movement of water on, across, through, and off the site as determined by parameters including soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The department may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the

TMDL or provide an equivalent analysis. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil erosion control and stormwater management plan," commonly referred to as the erosion control and stormwater management plan, or "ESM plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this ordinance.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

State means the Commonwealth of Virginia, inclusive of its departments, boards, agencies and divisions.

"State application" or "application" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the department for applying for a permit.

State board means the Virginia State Water Control Board.

State general permit means the state permit titled "General Permit for Discharges of Stormwater From Construction Activities" referenced within the Virginia Administrative Code at 9VAC25-880-1 et seq., authorizing a category of discharges under the CWA and the Act VESMA within a geographical area of the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the state board. Under a state permit, the state imposes and enforces requirements pursuant to the federal Clean Water Act and related regulations and the Virginia Erosion and Stormwater Management Act and related regulations.

~~*State waters* means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.~~

State Water Control Law means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Virginia Code.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

Stormwater and stormwater runoff mean precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways. The term may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;

2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or

3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"Stormwater detention" means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater management facility" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

Stormwater management plan means any document(s) containing material that describes method(s) for complying with the requirements of Article III of this chapter.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of the VESMP.

Stormwater pollution prevention plan or SWPPP means a document or set of documents prepared in accordance with good engineering practices, meeting the requirements set forth within 9VAC25-870-54, in which potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site are described, and control measures are identified.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VESMP for construction activities shall identify and require the implementation of control measures and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Stream buffer means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

"Subdivision" means the same as defined in Section 29-3 of the City Code.

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate wetlands;

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. That are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. That are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as surface waters under this definition;

5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"SWM" means stormwater management.

"Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

Total maximum daily load or TMDL means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs may be expressed in terms of either mass per time, toxicity, or other appropriate measures. The TMDL process provides for point source versus nonpoint source trade-offs.

Transporting means any moving of earth materials from one place to another place, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

"Two-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

VAC means the Virginia Administrative Code. References to specific sections of the Virginia Administrative Code appear in the following format: e.g., 9VAC25-8705-120. Whenever reference to a specific VAC section is given, the provisions of that VAC section shall be deemed incorporated into this chapter by reference, as if set forth herein verbatim.

Virginia Erosion and Sediment Control Program or VESCP means a program approved by the state that has been established by the city for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and shall include such items, where applicable, as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in Article II of this chapter, and evaluation consistent with the requirements of this chapter and related federal, state and local regulations.

Virginia Erosion and Sediment Control Program Authority or VESCP Authority shall mean the City of Charlottesville, acting pursuant to authority granted by the state to operate a VESCP.

"Virginia Erosion and Stormwater Management Act" or "VESMA" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia, as amended.

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the City of Charlottesville, being approved by the department to operate the VESMP.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the department pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

Virginia Stormwater BMP Clearinghouse Website means a state website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

"Virginia Stormwater BMP Clearinghouse" means a collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

Virginia Stormwater Management Act means Article 2.4 (§ 62.1-44.15:24 et seq.) of the State Water Control Law and the related state regulations set forth within 9VAC25-870-10 et seq.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

VSMP or Virginia Stormwater Management Program means a program approved by the state board after September 13, 2011, that has been established by the city to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in Article III, and evaluation consistent with the requirements of Article III.

VSMP Authority or Virginia Stormwater Management Program Authority means the City of Charlottesville, acting pursuant to authority granted by the state to operate a VSMP.

"Wasteload allocation" or "wasteload" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. Wasteload allocations are a type of water quality-based effluent limitation.

Water dependent facility refers to land development that cannot exist outside the stream buffer and must be located on a shoreline because of the intrinsic nature of its operation, including, without limitation: intake and outfall structures of water and sewage treatment plants and storm sewers; water-oriented recreation areas; and boat docks and ramps.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 10-6. Program administration.

- (a) The city council hereby designates the following departments, acting through its director, of neighborhood development services as its administrator for the programs referenced in Articles II, III, and IV. Administration and enforcement of Article V shall be as set forth within sections 10-92 and 10-93. in this chapter:
- (1) Article II – Department of Public Works
 - (2) Article IV – Department of Neighborhood Development Services
 - (3) Article V – Department of Utilities
 - (4) Article VI – Department of Utilities
- (b) The administrator shall administer and enforce the provisions of this chapter, acting by and through its director. The director may enter into agreements or contracts with the local soil and water conservation district, an adjacent locality, or another public or private entity, to carry out or assist with the responsibilities of this chapter. The director of the designated department of ~~neighborhood development services~~ shall have authority to assign specific responsibilities or functions of the administrator to authorized agents of such department, such as another city official, employee, or an independent contractor, consistent with requirements of this chapter and applicable state laws and regulations.
- (c) The administrator shall establish reasonable regulations and interpretive guidelines for the administration of this chapter, subject to approval of city council. Such regulations and guidelines shall be consistent with this chapter and all applicable federal and state statutes and regulations.
- (d) The administrator shall assure that the ~~erosion and sediment control program~~ VESMP set forth in Article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person. The administrator shall assure that persons reviewing stormwater management plans and conducting related inspections shall hold a certificate of competence issued by the board.
- (e) The administrator shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land-disturbing activities and developments.
- (f) The administrator is authorized to cooperate with any federal or state department, agency, or official in connection with plans for erosion and sediment control or stormwater management. The administrator may also recommend to the city manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the city manager on behalf of the city.

...

Sec. 10-9. Compliance with chapter required prior to issuance of permits for development involving land-disturbing activities.

- (a) A person shall not commence, conduct or engage in any land-disturbing activity until such person has submitted a permit application to the administrator and has obtained the administrator's approval of a permit authorizing commencement of land-disturbing activity.
- (1) The applicant shall submit with the application for a permit:
 - a. A proposed erosion and sediment control plan;

- b. A proposed stormwater management plan, if required;
- c. A state general permit registration statement, if required;
- d. For the land that is proposed to be disturbed, (i) a valid, approved preliminary site plan that provides a layout, as defined in 9VAC25-8705-10670, or a valid approved site plan, (ii) a valid, approved preliminary subdivision plat that provides a layout, as defined in 9VAC25-8705-10670, or a valid, approved final subdivision plat, or (iii) for land use or construction not subject to the requirement of an approved site plan or subdivision plat, the applicant shall submit a written certification of the purpose of the proposed land-disturbing activity together with a zoning administrator determination stating that the use sought to be established on the land is permitted under applicable zoning district regulations and will comply with applicable requirements of the city's zoning and other local ordinances;
- e. Any request for exception(s) from applicable technical requirements; and
- f. Payment of required application fee(s), pursuant to section 10-10.

The administrator shall not issue any approval(s) for commencement of any land-disturbing activity until all such required submissions and plans have been received and approved.

(2) ~~The administrator shall act on each plan included within the application, in accordance with the following:~~

- a. ~~The administrator, or any duly authorized agent of the administrator, shall promptly review the materials submitted with an application. The administrator or their agent shall determine the completeness of the application within fifteen (15) calendar days of receipt, in accordance with the procedure referenced in 9VAC25-870-108(B).~~
- b. ~~The administrator or their agent shall act on a plan within the time period(s) and in accordance with the procedures referenced within 9VAC25-870-108(B). However, when a proposed erosion and sediment control plan is determined to be inadequate, notice of disapproval, stating the specific reasons for disapproval, will be communicated to the applicant within forty-five (45) days.~~
- c. ~~Approval or denial of a plan shall be based on compliance with the requirements of this chapter. Any decision shall be communicated in writing to the person responsible for the land-disturbing activity or the person's agent. Where available to the applicant, electronic communication will be deemed communication in writing. If a plan meeting all of the requirements of this chapter is submitted and no action is taken within the required time period, the plan shall be deemed approved. If a plan is not approved, the reasons for not approving the plan shall be provided in writing.~~
- d. ~~When all requirements have been satisfied and all required plans have been approved, the administrator shall issue a consolidated stormwater management and erosion and sediment control permit, when all of the following requirements have been satisfied:~~
 - 1. ~~Upon the development of an online reporting system by DEQ, but no later than July 1, 2014, the administrator shall not issue a permit to authorize any land-disturbing activity until evidence has been obtained of state general permit coverage, where required; and~~
 - 2. ~~The administrator must receive the performance guarantee(s) and other instruments and documentation specified in subparagraphs (3) through (6), following below; and~~
 - 3. ~~All fees required by section 10-10 shall be paid by the applicant.~~

(32) Prior to issuance of any approval or permit, the administrator shall require (or in the case of an agreement in lieu of a plan, may require) the applicant to submit a reasonable performance bond with surety, a cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the administrator (individually, and collectively, "performance guarantee"), to ensure

that measures could be taken by the city at the applicant's expense, upon the applicant's failure, after proper notice, within the time specified, to initiate or maintain appropriate actions which may be required of applicant by the approved plan(s) and permit(s) or permit conditions as a result of applicant's land-disturbing activity. Separate performance guarantees shall be established and required to assure compliance with the approved stormwater management plan and with the erosion and sediment control plan, except as provided in subparagraph (eb), below.

- a. Each performance guarantee shall be effective from a date prior to the issuance of any permit or approval until sixty (60) days after completion of the requirements of approved plan(s) and permit(s) or permit conditions. The instrument(s) of security shall provide that the performance guarantee for stormwater requirements shall be and remain in effect until satisfactory completion of all permit conditions has been achieved. Within sixty (60) days of the satisfactory completion of the requirements of the permit conditions, such security, or the unexpended or unobligated portion thereof, if any, shall be refunded to the applicant or terminated.
 - b. If approved by the administrator, the applicant may submit any required performance guarantee as part of, or included in, any other performance guarantee(s) required in connection with a site plan, subdivision plat or other required approval. In cases where any such consolidated performance guarantee is authorized, the administrator shall separately establish the specific amount(s) attributable to erosion and sediment control requirements, stormwater management requirements, construction of public facilities and improvements, and other activities for which a performance guarantee is to be provided.
 - c. The permit and/or instrument(s) of security shall provide the administrator and its authorized agents with a right of entry, for the purpose of initiating or maintaining appropriate actions that are required by the permit, or permit conditions associated with a land-disturbing activity when the applicant, a permittee, or other person responsible for carrying out the land-disturbing activities or the requirements of a permit and permit conditions, after proper notice, has failed to take acceptable action within the time specified.
 - d. This requirement for performance bonding/ security is in addition to all other provisions and requirements of this article, state law and state regulations, relating to the issuance of permits, and is not intended to otherwise affect the requirements for such permits.
 - e. If the administrator is required to take action upon a failure of the permittee, the administrator may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the performance guarantee held by the administrator.
 - f. The administrator may require submission of other materials and supporting documentation as the administrator deems necessary in order for the applicant to demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (4) ~~Prior to issuance of any approval or permit for land-disturbing activity involving one (1) or more acres of land, the administrator shall require the applicant to submit a stormwater pollution prevention plan (SWPPP). The SWPPP shall include the content specified by 9VAC25-870-54, 9VAC25-870-55 and 9VAC27-870-56, as well as the requirements and general information specified by 9VAC25-880-70, Section II.~~
- a. ~~The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.~~
 - b. ~~The SWPPP must be maintained by the operator at a central location at the site of the development. If no onsite location is available, notice of the SWPPP's location must be posted near the main entrance at the development site. Operators shall make the SWPPP available for~~

public inspection in accordance with ~~9VAC25-880-70~~, Section II, either electronically or paper copy.

- (5) ~~Except as provided in section 10-56(d), prior to issuance of any approval or permit for land-disturbing activity associated with development for which permanent stormwater management facilities are required, the administrator shall require the applicant to submit a proposed written instrument, in a form suitable for recordation in the city's land records, specifying long-term responsibility for and maintenance of the stormwater management facilities and other techniques specified within the proposed stormwater management plan for management of the quality and quantity of runoff.~~
- (b) No site plan shall be granted final approval, and no final subdivision plat shall be signed by any city board, commission, agency, department, official or employee, unless and until such final site plan or final subdivision plat includes improvements, facilities and treatments identified within a stormwater management plan approved by the administrator in accordance with this chapter.
- (c) No authorization or permit for any construction, land use or development involving any land-disturbing activity, including any grading permit, building permit, foundation permit, demolition permit, or other city-issued development permit, shall be issued by any city board, commission, agency, department, official or employee, unless and until a stormwater management plan has been approved and a permit has been issued by the administrator in accordance with this chapter.

Sec. 10-10. Fees for review and approval of plans.

- (a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, actions, inspections, permits and approvals required by this chapter in connection with the review of plans, issuance of ~~VESMP and VESCP~~ Authority permits, issuance of state general permit coverage, and implementation of the ~~VESMP and VESCP~~ related to land-disturbing activities. Prior to the issuance of any permit authorizing commencement of any land-disturbing activity, and prior to conducting any inspection or other action required by this chapter for which a fee is specified, the administrator shall assess, collect and administer the applicable fees and charges set forth within the most recent fee schedule adopted by city council.
- (b) The city council hereby adopts and incorporates by reference the statewide fee schedule(s) enacted by the state board pursuant to Virginia Code § 62.1-44.15:28 and ~~9VAC25-8705-7001400~~ et seq., and said fee schedule(s) shall be deemed included within the local fee schedule referenced in paragraph (a), above as if it were restated fully therein. Prior to the issuance of any permit authorizing the commencement of any land-disturbing activity, the administrator shall assess, collect and administer the fees as set forth within ~~9VAC25-8705-700-7001400~~ et seq., including, without limitation:
- (1) Fees for the modification or transfer of registration statements from the state general permit issued by the state board; provided, however, that if the state general permit modifications result in changes to stormwater management plans that require additional review by the administrator, then, in addition to the state general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference between the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage. No such modification fee shall be assessed to (i) permittees who request minor modifications to a state general permit, or (ii) permittees whose general permits are modified or amended at the initiative of DEQ (excluding errors in the registration statement identified by the administrator and errors related to the acreage of the site); and
- (2) Annual fees for maintenance of the state general permit, including fees on expired permits that have been administratively continued. State general permit maintenance fees shall be paid annually to the city, on or before the anniversary date of general permit coverage. State general permit maintenance fees shall apply, and shall continue to be paid, until state general permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee for state general permit coverage.

- (3) Payment of the state's portion of the statewide permit fee shall not be required for coverage under the state general permit, for construction activity involving a single-family detached residential structure, when such activity is exempted from such fee pursuant to regulations established by the state board.

State general permit coverage and maintenance fees may apply to each state general permit holder. Persons whose coverage under the state general permit has been revoked shall apply to DEQ for an individual permit for discharges of stormwater from construction activities. All persons seeking approval of a stormwater management plan, all persons seeking coverage under the state general permit, and all permittees who request modifications to or transfers of their existing registration statement for coverage under a state general permit, shall be subject to the fees referenced within this paragraph, in addition to any separate fees that may apply under paragraph (a) of this section.

- (c) Fees shall be paid when due, by applicants, permittees, and other persons responsible for carrying out conditions of a permit. An incomplete payment will be deemed a nonpayment. Interest shall be charged for non-payments and for late payments, at the rate set forth in Virginia Code § 58.1-15, calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent account that is more than ninety (90) days past due. The city shall be entitled to all remedies available under the Virginia Code in collecting any past due amount.

ARTICLE II. VIRGINIA EROSION AND SEDIMENT CONTROL STORMWATER MANAGEMENT PROGRAM

DIVISION 1. IN GENERAL

Sec. 10-21. Purpose and authority; applicability.

- (a) ~~The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the city, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff, and by establishing procedures by which these requirements shall be administered and enforced.~~
- (b) ~~This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1 (State Water Control Law) article 2.4, § 62.1-44.15:51 et seq. (Erosion and Sediment Control Law).~~
- (c) ~~This article shall apply to any land-disturbing activity within the city, except that state agency projects shall be subject to the requirements of Virginia Code § 62.1-44.15:56. Each owner of land within the city shall comply with the requirements of this article, as provided herein:~~
 - (1) ~~Prior to engaging in any land-disturbing activity, or allowing any land-disturbing activity to occur, on such owner's property;~~
 - (2) ~~At all times during any land-disturbing activity until it is completed, including all times when the land-disturbing activity is performed by a contractor engaged in construction work; and~~
 - (3) ~~When notified by the administrator that an erosion impact area exists on such owner's land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.~~
- (d) ~~This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of Article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of Article I of this chapter, and (ii) the provisions, criteria, and~~

requirements of each federal or state statute, regulation, standard and specification adopted or referred to within Articles I and II of this chapter.

Sec. 10-22. Determination of land-disturbing activity.

- (a) The determination of whether an activity is a land-disturbing activity for purposes of this article shall be made by the administrator. Except as may otherwise be required by federal or state law or regulations, the term "land-disturbing activity" shall not include:
- (1) Disturbed land areas of less than six thousand (6,000) square feet;
 - (2) Home gardens, individual home landscaping, repairs or maintenance work;
 - (3) Individual service connections; administrator;
 - (4) Installation, maintenance, or repair of any underground public utility lines, when such activity occurs on an existing hard surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced;
 - (5) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of a building to be served by the septic tank system;
 - (6) Surface or deep mining operations and projects, or oil and gas operations and projects, conducted in accordance with a permit issued pursuant to Code of Virginia Title 45.1; however, such activities shall not be conducted unless allowed by the city's zoning ordinance;
 - (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Code of Virginia § 10.1-1100 et seq., or is converted to bona fide agricultural or improved pasture use, as described in subsection B of § 10.1-1163. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
 - (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
 - (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 - (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
 - (12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if there were

no emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this article.

- (b) Upon the determination by the administrator that an activity is a land-disturbing activity the owner shall submit an erosion and sediment control plan to the administrator for review and approval, and shall otherwise take all actions necessary to comply with the requirements of this article.
- (c) Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either:
 - (1) Consider the off-site activity as being part of the proposed land-disturbing activity; or
 - (2) If the off-site activity is already covered by an approved erosion and sediment control plan, the administrator may require the applicant to provide proof of such approval and to certify that the plan will be implemented in accordance with the requirements of this article.
- (d) An erosion and sediment control plan shall be submitted and approved for a development and the buildings constructed within, regardless of the phasing of construction.

Sec. 10-23. Determination of erosion impact area.

- (a) In order to prevent further erosion, the administrator may require submission and approval of an erosion and sediment control plan for any land determined to be an erosion impact area, regardless of the size of such area. The determination of whether an erosion impact area exists shall be rendered by the administrator.
- (b) The administrator shall determine whether an erosion impact area exists on a property. The administrator shall make this determination after an investigation initiated by the administrator or upon the complaint of any citizen.
- (c) Upon making a determination that an erosion impact area exists, the administrator shall immediately notify the owner of the property, in writing, of the determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the city, or by personal delivery. The written notice shall (i) instruct the owner to submit an erosion and sediment control plan for review and approval as provided in this article, and (ii) state the date by which the plan must be submitted.
- (d) Upon receipt of the notice required by this section the owner shall submit to the administrator for approval an erosion and sediment control plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.
- (e) For good cause shown, the administrator may grant to an owner an extension of time to comply with the requirements of this section and this article.

Secs. 10-24—10-30. Reserved.

DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 10-31. Permit required for land-disturbing activities.

No person shall engage in any land-disturbing activity within the city until an erosion and sediment control plan has been approved and a land-disturbing permit has been issued by the administrator in accordance with

section 10-9 of the city code. The land-disturbing permit is required in addition to any other approval required by this chapter, by the city's zoning or subdivision ordinances, or from the city's building official (including, without limitation, any building permit, foundation permit, or demolition permit).

Sec. 10-32. Responsibilities of owner of land when work to be conducted by contractor.

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

Sec. 10-33. Conformity to state handbook and regulations.

Pursuant to Code of Virginia § 62.1-44.15:54 the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state board, and the City's Design and Standards Manual, for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the Virginia Erosion and Sediment Control Regulations set forth within the Virginia Administrative Code at 9VAC25-840-10 et seq. and the Virginia Erosion and Sediment Control Handbook, including all amendments thereto. The regulations, references, guidelines, standards and specifications referenced within this paragraph shall be used (i) by an applicant when preparing and submitting an erosion and control plan for review and approval of the administrator under the provisions of this article, and (ii) by the administrator, in considering the adequacy of a submitted plan.

Sec. 10-34. Fees.

Fees shall be submitted at the time of filing any erosion and sediment control plan, and thereafter, as specified within the most recent fee schedule approved by city council. Each re-submission of a plan following rejection by the administrator shall constitute a new application requiring an additional application fee.

Sec. 10-35. Erosion and sediment control plan.

- (a) No person shall engage in any land-disturbing activity until such person has submitted to the administrator for review and approval an erosion and sediment control plan, along with an application for a land-disturbing permit in accordance with Article I.
- (b) The owner shall submit four (4) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.
- (c) The standards contained within the regulations, and within the Virginia Erosion and Sediment Control Handbook, as amended, and the City's Standards and Design Manual, shall be used by the applicant in preparing and submitting an erosion and sediment control plan.
- (d) The administrator may require additional information as may be necessary for its complete review of the plan.
- (e) In lieu of paragraphs (b)–(d), above, where land-disturbing activity will involve land under the jurisdiction of more than one (1) locality's program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state board or its agent (DEQ) for review and approval, rather than to each locality.
- (f) In lieu of paragraphs (b)–(d), above, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of

mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the DEQ for review and approval consistent with guidelines established by the board.

- (g) Pursuant to Virginia Code § 62.1-44.15:55(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies shall, and railroad companies shall, and authorities created pursuant to Code of Virginia § 15.2-5102 may, file general erosion and sediment control specifications annually with the Board for review and approval.

Sec. 10-36. Review and approval of erosion and sediment control plan.

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

- (1) The plan shall be submitted along with the application required by section 10-9 of Article I, and shall be reviewed by the administrator to determine its compliance with the requirements of this article and with applicable state laws and regulations.
- (2) During review of the plan the administrator may correspond with the owner from time to time to review and discuss the plan with the owner, and may require additional information from the owner as necessary in order for the plan to be approved.
- (3) The administrator shall review erosion and sediment control plans submitted, and shall either grant written approval or written notice of disapproval in accordance with the time periods and other requirements set forth within Code of Virginia § 62.1-44.15:55 and Article I of this chapter.
- (4) Applicants for land disturbing permits may be required to provide a performance bond, cash escrow or other financial guarantee, determined in accordance with section 10-9 of this chapter, to ensure that measures could be taken by the administrator at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate measures required by the approved erosion and sediment control plan as a result of applicant's land disturbing activity.
- (5) If the owner is required to obtain approval of a site plan or subdivision plat for a development, the administrator shall not approve an erosion and sediment control plan or authorize the commencement of any land disturbing activity, unless and until the site plan or plat has received final approval as provided by law. Notwithstanding the foregoing, the administrator may approve an erosion and sediment control plan and may authorize commencement of land disturbing activity, prior to approval of a required final site plan or final subdivision plat only in the following circumstances:
 - a. To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
 - b. To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have previously been approved by the operating public utility or public service corporation and have previously been approved by the city as being substantially in accord with the comprehensive plan, where required by Code of Virginia § 15.2-2232.

Sec. 10-36.1. Variances.

The administrator may waive or modify any of the standards that are deemed inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the administrator shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the administrator. The administrator shall respond in writing either approving or disapproving such a request. If the administrator does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (3) The administrator shall consider variance requests judiciously, keeping in mind both the need of an applicant to maximize cost effectiveness and the public interest and need to protect off-site properties and resources from damage.

Sec. 10-37. Agreement in lieu of a plan.

- (a) If land-disturbing activity is for the purpose of establishing or modifying a single-family detached dwelling, then, in lieu of an erosion and sediment control plan, the administrator may enter into a contract with the property owner that specifies conservation measures that must be implemented in the construction of the single-family dwelling.
- (b) In determining whether to allow an agreement in lieu of a plan, the administrator shall consider the potential threat to water quality and to adjacent land resulting from the land-disturbing activity, as well as applicable provisions of state law and regulations. When an agreement in lieu of a plan is authorized and approved by the administrator, the administrator and the owner shall have all of the rights, responsibilities and remedies set forth in this article as though such agreement in lieu of a plan was an erosion and sediment control plan.
- (c) The administrator may waive the requirement for a responsible land disturber holding a certificate of competence, in connection with an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and shall provide the name of an responsible land disturber holding a certificate of competence, as provided by Code of Virginia § 62.1-44.15:55.

Sec. 10-38. Amendment of approved plan.

The administrator may require changes to an approved erosion and sediment control plan, and require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this article;
- (2) The person responsible for carrying out the plan finds that, because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out and proposed amendments to the plan, consistent with the requirements of this article are agreed to by the administrator and the person responsible for carrying out the plan; or
- (3) In the event that land-disturbing activity has not commenced during the one hundred eighty-day period following plan approval, or if land-disturbing activity pursuant to an approved plan has ceased for more than one hundred eighty (180) days, the administrator may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies the requirements of this article and state erosion and sediment control criteria, and to verify that all design factors are still valid. If the administrator finds the previously approved plan to be inadequate, a modified plan shall be submitted for approval by the administrator prior to the commencement or resumption of land-disturbing activity.

Sec. 10-39. Duty to comply, maintain and repair.

Upon approval by the administrator of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land-disturbing activities, or activities to correct an erosion impact area;
- (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;
- (3) Comply with all requirements of this article, and with applicable state laws and regulations; and
- (4) Provide the name of a responsible land disturber, as defined in Article I of this chapter, who will be in charge of and responsible for carrying out the land-disturbing activity.

Sec. 10-40. Inspection and monitoring.

- (a) As a condition of approval of an erosion and sediment control plan, the administrator may require the person responsible for carrying out the plan to monitor the land-disturbing activity as provided herein:
 - (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
 - (2) The condition requiring monitoring and reporting shall state: (i) the method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.
 - (3) The person responsible for carrying out the plan will maintain records of inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (b) The administrator shall periodically inspect the land-disturbing activity in accordance with 9VAC25-840-60, to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation as provided herein. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.
 - (1) Monitoring, reports and inspections required by the administrator shall be conducted in accordance with the requirements of Code of Virginia § 62.1-44.15:58 and 62.1-44.15:60, and applicable provisions of state regulations.
 - (2) If the administrator determines that there is a failure to comply with the approved plan, notice shall be served on the permittee or person responsible for carrying out the plan, in accordance with the requirements of Code of Virginia § 62.1-44.15:58. Upon failure to comply within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided herein.
 - (3) Upon determination of a violation of this article the administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. In cases where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Any such order shall be served in the same manner as a notice to comply. A stop order shall have the effects, shall remain in effect, as set forth within Code of Virginia § 62.1-44.15:58. Upon completion and approval of corrective action, or obtaining an approved plan and any required permits, the order shall be lifted. Upon failure to comply with any such order

within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided herein.

- (4) Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (5) Nothing in this section shall prevent the administrator from taking any other action authorized by this article.

Sec. 10-41. Determination of noncompliance with plan; stop work orders.

Upon a determination by the administrator that an owner has failed to comply with an approved erosion and sediment control plan, the administrator shall provide notice to a permittee or person responsible for carrying out the erosion and sediment control plan, and may issue an order requiring that all or part of the land-disturbing activities be stopped, in accordance with the provisions of Code of Virginia § 62.1-44.15:58 and applicable state regulations

Sec. 10-42. Program personnel requirements.

- (a) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer.
- (b) Inspections of land-disturbing activities shall be conducted by a certified inspector.
- (c) The city's erosion and sediment control program may be carried out by one (1) or more persons; however, at all times the city's program, at a minimum, shall consist of a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.
- (d) The certifications required by this section shall be those granted by the state board, as set forth within Code of Virginia § 62.1-44.15:53.

Sec. 10-43. Penalties, injunctions and other legal actions.

- (a) Any person violating the provisions of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.
- (b) The following may apply to the circuit court for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist:
 - (1) The city; and
 - (2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) owner has notified in writing both the administrator and the person who has violated the provisions of this article, that a violation of this article has caused, or creates a probability of causing, damage to owner's property, and (ii) neither the person who has violated this article nor the administrator has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.
- (c) In addition to any criminal penalties provided under this section, any person who violates any provision of this article may be liable to the city in a civil action for damages.
- (d) Any person who violates any provision of this article shall, upon a finding of the Charlottesville General District Court, be issued a civil penalty. The civil penalty for any one (1) violation shall be not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). The civil penalty for violations listed within the schedule set forth following below shall be as set forth within the schedule. The administrator may issue a summons for collection of any civil penalty.

- (1) — There is hereby established a schedule of civil penalties for certain violations of this article, and any civil penalty assessed by a court to a person who is found to have violated the sections referenced in the schedule shall be in accordance with the schedule.

Schedule of Violations Subject to Prescribed Civil Penalties	Section	Penalty
Additional measures – failure to install additional measures as deemed necessary by the administrator or their inspector once work has commenced	10-38	\$100.00
Bond – failure to obtain bond	10-36	\$100.00
E&S plan – failure to submit if required by administrator	10-35	\$1,000.00
E&S plan – failure to comply with approved plan	10-35 10-39	\$500.00
Corrections – failure to comply with mandatory corrections as issued on an E&S inspection notice or report	10-40	\$500.00
Existing conditions – failure to submit plan or provide controls after receipt of notice	10-21 10-23	\$500.00
Inspection – failure to request at the time(s) required by approved plan	10-39 10-24	\$100.00
Land-disturbing permit or approved plan – commencement of land-disturbing activities without an approved permit or plan	10-31	\$1,000.00
Land-disturbing permit or approved plan – failure to comply with provisions	10-39	\$500.00
Live waterway – causing silt or debris to enter when engaged in land-disturbing activity without an approved plan and permit	10-31	\$500.00
Stop work order – failure to cease work after issuance	10-40	\$1,000.00

- (2) — Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00), except a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site. The assessment of a civil penalty pursuant to this subsection (d) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor. In any trial for a scheduled violation, it shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.
- (e) — Without limiting the remedies which may be obtained under this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city against such person.
- (f) — With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the administrator; any condition of a permit; or any provision of this article or associated regulations, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000.00). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.

- (g) — Any civil penalties assessed by a court pursuant to this section shall be paid into the city treasury. However, where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

Secs. 10-44—10-49. Reserved.

Pursuant to § 62.1-44.15:27 of the Code of Virginia, this article is adopted as part of an initiative to integrate the City's stormwater management requirements with the City's erosion and sediment control, flood insurance, and flood plain management requirements into a consolidated erosion and stormwater management program. The erosion and stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the City and those responsible for compliance with these programs.

Section 10-21. Title, Purpose, and Authority

- (a) This ordinance shall be known as the "Erosion and Stormwater Management Ordinance of the City of Charlottesville."
- (b) The purpose of this ordinance is to ensure the general health, safety, and welfare of the citizens of the City, protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (c) This ordinance is authorized by § 62.1-44.15:27 of the Code of Virginia.

Section 10-22. Definitions.

The definitions set forth in 9VAC25-875-20, as amended, and Section 10-5 of this Chapter apply to this Article unless the context clearly indicates otherwise.

Section 10-23. Virginia and Erosion Stormwater Management Program Established.

Pursuant to § 62.1-44.15:27 of the Code of Virginia, The City of Charlottesville hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulation that specify standards and specifications for VESMPs promulgated by the State Water Control Board for the purposes set out in Section 10-21 of this Ordinance. The City Council hereby designates the Department identified in Section 10-6 as its Administrator of the Virginia Erosion and Stormwater Management Program established by this Ordinance.

Section 10-24. Regulated Land Disturbing Activities

- (a) Land-disturbing activities that meet one of the criteria below are regulated as follows:
- (1) Land-disturbing activity that disturbs 6,000 square feet or more, is less than one acre, and not part of a common plan of development or sale is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation.

- (2) Land-disturbing activity that disturbs less than one acre, but is part of a larger common plan of development or sale that disturbs one acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.
- (3) Land-disturbing activity that disturbs one acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.
- (b) Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law.

Section 10-25. Review and Approval of Plans (§ 62.1-44.15:34 of the Code of Virginia); Prohibitions.

- (a) The City shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA), pursuant to § 62.1-44.15:34 of the Code of Virginia. Activities not required to comply with VESMA are defined in 9VAC25-875-90.
- (b) A person shall not commence, conduct, or engage in any land-disturbing activity in the City until:
 - (1) An application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to the City.
 - (2) The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia is submitted to the City. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and
 - (3) The City has issued its land-disturbance approval.
- (c) The City may require changes to an approved ESM plan in the following cases:
 - (1) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or
 - (2) Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the Act, are agreed to by the VESMP authority and the owner.
- (d) In order to prevent further erosion, the City may require approval of an erosion and sediment control plan and a stormwater management plan for any land it identifies as an erosion impact area. (Va. Code § 62.1-44.15:34)
- (e) Prior to issuance of any land-disturbance approval, the City may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement it finds acceptable, to ensure that it can take measures at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions it imposes as a result of his land-disturbing activity. If the City takes such action upon such failure by the applicant, it may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of

the completion of the City's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

- (f) The City may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.
- (g) No exception to, or waiver of, post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with subsection D of § 62.1-44.15:35 of the Code of Virginia.
- (h) The City is authorized to cooperate and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities in accordance with § 62.1-44.15:50 of the Code of Virginia.

Section 10-26. Review of a Soil Erosion Control and Stormwater Management Plan (ESM Plan).

This City shall approve or disapprove an ESM plan according to the following:

- (1) The City shall determine the completeness of any application within 15 days after receipt and shall act on any application within 60 days after it has been determined by the to be complete.
- (2) The City shall issue either land-disturbance approval or denial and provide written rationale for any denial.
- (3) Prior to issuing a land-disturbance approval, the City shall be required to obtain evidence of permit coverage when such coverage is required.
- (4) The City also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

Section 10-27. Stormwater Permit Requirement; Exemptions.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a permit has been issued by the City in accordance with the provisions of this ordinance and the Regulation.
- (b) Notwithstanding any other provisions of this ordinance, the following activities are not required to comply with the requirements of this ordinance unless otherwise required by federal law:
 - (1) Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;
 - (2) Installation, maintenance, or repair of any individual service connection;
 - (3) Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;
 - (4) Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

- (5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;
 - (6) Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq. of the Code of Virginia) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia;
 - (7) Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
 - (8) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to the VESMA and the regulations adopted pursuant thereto;
 - (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;
 - (10) Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the City shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and
 - (11) Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.
- (c) Notwithstanding this ordinance and in accordance with the Virginia Erosion and Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:
- (1) Where such use is permitted by the city's zoning regulations: single-family residences separately built and disturbing less than one (1) acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
 - (2) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
 - (3) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
 - (4) Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Section 10-28. Stormwater Pollution Prevention Plan; Contents of Plans. (9VAC25-875-500)

- (a) A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for

regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection D of this section.

- (b) A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the City in accordance with the VESMA, this ordinance, and attendant regulations.
- (c) A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences.
- (d) In addition to the requirements of subsections A through C of this section, if a specific wasteload allocation for a pollutant has been established in an approved TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the wasteload allocation.
- (e) The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:
 - (1) Control stormwater volume and velocity within the site to minimize soil erosion;
 - (2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
 - (3) Minimize the amount of soil exposed during construction activity;
 - (4) Minimize the disturbance of steep slopes;
 - (5) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 - (6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
 - (7) Minimize soil compaction and, unless infeasible, preserve topsoil;
 - (8) Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the VESMP authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the VESMP authority; and
 - (9) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.
- (f) The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

Section 10-29. Stormwater Management Plan; Contents of Plan. (9VAC25-875-510)

- (a) A stormwater management plan shall be developed and submitted to the City. The stormwater management plan shall be implemented as approved or modified by the City and shall be developed in accordance with the following:
 - (1) A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this ordinance and Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities.
 - (2) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- (b) A complete stormwater management plan shall include the following elements:
 - (1) Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment and post-development drainage areas;
 - (2) Contact information including the name, address, telephone number, and email address of the owner and the tax reference number and parcel number of the property or properties affected;
 - (3) A narrative that includes a description of current site conditions and final site conditions or if allowed by the VESMP authority, the information provided and documented during the review process that addresses the current and final site conditions;
 - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
 - (5) Information on the proposed stormwater management facilities, including (i) detailed narrative on the conversion to a long-term stormwater management facility if the facility was used as a temporary ESC measure; (ii) the type of facilities; (iii) location, including geographic coordinates; (iv) acres treated; and (v) the surface waters or karst features into which the facility will discharge;
 - (6) Hydrologic and hydraulic computations, including runoff characteristics;
 - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of these regulations;
 - (8) A map of the site that depicts the topography of the site and includes:
 - a. All contributing drainage areas;
 - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - d. Current land use including existing structures, roads, and locations of known utilities and easements;
 - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - f. The limits of clearing and grading, and the proposed drainage patterns on the site;
 - g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

- h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including planned locations of utilities, roads, and easements;
- (9) If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
- (10) If the City requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with Section 5-8 of this ordinance must have been submitted.
- (c) All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1- 2200 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.

Section 10-30. Pollution Prevention Plan; Contents of Plans. (9VAC25-875-520)

- (a) A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
 - (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e):
 - (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls in accordance with 40 CFR 450.21(c).

Section 10-31. Erosion and Sediment Control Plan; Contents of Plans. (9VAC25-875-550)

- (a) An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall contain all major conservation decisions to ensure that the entire unit or

units of land will be so treated to achieve the conservation objectives in 9VAC25-875-560. The erosion and sediment control plan may include:

- (1) Appropriate maps;
 - (2) An appropriate soil and water plan inventory and management information with needed interpretations; and
 - (3) A record of decisions contributing to conservation treatment.
- (b) The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the City.
- (c) If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan, an Agreement in Lieu of a Plan. An Agreement in Lieu of a Plan must signed by the property owner.
- (d) Land-disturbing activity of less than 6,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 6,000 square feet.

Section 10-32. Technical Criteria for Regulated Land Disturbing Activities.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875-600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC25-875-620 [design storms and hydrologic methods]; 9VAC25-875-630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and, 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in Subsection B of this Section.
- (b) Any land-disturbing activity shall be considered grandfathered and shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation provided:
- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the City to be equivalent thereto (i) was approved by the City prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of Article 4 of Part V of 9VAC25-875, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
 - (2) A permit has not been issued prior to July 1, 2014; and
 - (3) Land disturbance did not commence prior to July 1, 2014.
- (c) Locality, state, and federal projects shall be considered grandfathered by the City and shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875 provided:
- (1) There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;
 - (2) A permit has not been issued prior to July 1, 2014; and
 - (3) Land disturbance did not commence prior to July 1, 2014.

- (d) Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the technical criteria of Article 4 of Part V of 9VAC25-875 for one additional permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.
- (e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875.
- (f) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

Section 10-33. Long-Term Maintenance of Permanent Stormwater Facilities.

- (a) The operator shall submit a construction record drawing for permanent stormwater management facilities to the City in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the Stormwater Management Plan made during construction and serve as a permanent record of the actual location of all constructed elements.
- (b) The administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:
 - (1) Be submitted to the City for review and approval prior to the approval of the stormwater management plan;
 - (2) Include an express statement that the maintenance responsibility shall run with the land;
 - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
 - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the City; and
 - (5) Be enforceable by all appropriate governmental parties.
- (c) Except as provided below, the city shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a "facility") designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, "maintenance, repair or replacement" shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.
 - (1) In the event that any common interest community, as defined in Virginia Code § 55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.

- (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city's approval and acceptance of such responsibility shall be the same as specified in subparagraph (c)(1), preceding above.
- (d) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and -operated public storm sewer system and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.
- (e) If the administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (b), above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

Section 10-34. Monitoring and Inspections.

- (a) The City or its duly authorized representative shall inspect the land-disturbing activity during construction for:
 - (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan;
 - (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
 - (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.
- (b) The City shall conduct periodic inspections on all projects during construction. The City shall either:
 - (1) Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
 - (2) Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:
 - a. Approved by the department prior to implementation;
 - b. Established in writing;
 - c. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
 - d. Documented by inspection records.
- (c) The City shall establish an inspection program that ensures that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. Inspection programs shall:
 - (1) Be approved by the department;
 - (2) Ensure that each stormwater management facility is inspected by the City, or its designee, not to include the owner, except as provided in subsections D and E of this section, at least once every five years; and

(3) Be documented by records.

- (d) The City may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the department.
- (e) If a recorded instrument is not required pursuant to 9VAC25-875-130, the City shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the City.

Section 10-35. Hearings and Appeals.

Any permit applicant or permittee, or person subject to the requirements of this ordinance, aggrieved by any action or inaction of the City has the rights set forward in Section 10-8 of this Chapter.

Section 10-36. Right of Entry.

- (a) The City or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this ordinance.
- (b) In accordance with a permit, performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, the City may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by conditions imposed by the City on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified.

Section 10-37. Enforcement.

- (a) If the Administrator determines that there is a failure to comply with the permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings, written warnings, inspection reports, notices of corrective action, consent special orders, notices to comply, and stop work orders. Written warnings, inspection reports, and notices of corrective action shall be served by delivery by any method, including facsimile, email, or other technology. Consent special orders, notices to comply, and stop work orders shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities or to a person previously identified to the City by the permittee or owner.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (2) or the permit may be revoked by the Administrator.

- (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 5.7.C.

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with State Code, Erosion and Stormwater Regulations, and the local inspection and enforcement policy.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the circuit court for the City of Charlottesville by the City to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (d) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the City may be compelled in a proceeding instituted in circuit court for the City of Charlottesville by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
- a. No state permit registration;
 - b. No SWPPP;
 - c. Incomplete SWPPP;
 - d. SWPPP not available for review;
 - e. No approved erosion and sediment control plan;
 - f. Failure to install stormwater BMPs or erosion and sediment controls;
 - g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
 - h. Operational deficiencies;
 - i. Failure to conduct required inspections;
 - j. Incomplete, improper, or missed inspections; and
 - k. Discharges not in compliance with the requirements of 9VAC25-880-70.

- (2) The Administrator may issue a summons for collection of the civil penalty of up to \$32,500 for each violation and the action may be prosecuted in the appropriate court. Each day of violation of each requirement shall constitute a separate offense.
- (3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
- (4) Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid into the treasury of the City to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- (e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, any permit condition, or any order of the VESMP authority, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Section 10-37(d)(2). Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code § 62.1-44.15:48(A)(2).
- (f) Notwithstanding any other civil or equitable remedy provided by this ordinance or by law, any person who willfully or negligently violates any provision of this ordinance, any order of the Administrator, any condition of a permit, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.
- (g) Any person who knowingly violates any provision of the State Water Control Law, any regulation or order of the Board, any condition of a certificate or land-disturbance approval of the Board, any land-disturbance approval, ordinance, or order of the City, or any condition of a certificate or any order of a court, or who knowingly makes any false statement in any form required to be submitted under the State Water Control Law or knowingly renders inaccurate any monitoring device or method required to be maintained under the State Water Control Law, shall be subject to the penalties set out in Virginia Code § 62.1-44.32(b), as amended.

Section 10-38. Fees.

Fees to cover costs associated with implementation of a VESMP related to land disturbing activities, or any of its components, and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with the provisions of Section 10-10 of this Chapter. The City adopts the statewide fee schedule(s) enacted by the state board pursuant to Virginia Code § 62.1-44.15:28 and 9VAC25-875-1400 et seq., and said fee schedule(s) shall be deemed included here as if it were fully restated.

Section 10-39. Performance Bond. (9VAC25-875-110)

Prior to issuance of any permit for land disturbance under this Article, the applicant shall be required to submit a reasonable performance bond in accordance with the provisions of Section 10-9 of this Chapter.

Secs. 10-40—10-49. Reserved.

ARTICLE III. STORMWATER MANAGEMENT RESERVED

Sec. 10-50. Intent, purpose and authority.

- (a) Pursuant to Virginia Code § 62.1-44.15:27 and 9VAC25-870-20, this article is adopted to establish a Virginia Stormwater Management Program that will integrate stormwater management requirements with the city's erosion and sediment control program, the city's MS4 permit, flood insurance, floodplain management, and related federal and state permits and requirements, into a unified program. This unified program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the city and those responsible for compliance.
- (b) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of Article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of Article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within Articles I and III of this chapter.

Sec. 10-51. Land-disturbing permit required; exemptions.

- (a) No person shall engage in any land-disturbing activity until a stormwater management plan has been approved and a land-disturbing permit has been issued by the administrator in accordance with section 10-9 of the City Code.
- (b) Except as may otherwise be required by federal law, the following activities are exempt from the provisions of paragraph (a), above:
 - (1) Where such uses are permitted by the city's zoning regulations: permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
 - (2) Where such uses are permitted by the city's zoning regulations: the clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
 - (3) Where such use is permitted by the city's zoning regulations: single-family residences separately built and disturbing less than one (1) acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
 - (4) Land-disturbing activities that disturb less than six thousand (6,000) square feet of land area, but only if the land area to be disturbed is not part of a common plan of development or sale;
 - (5) Discharges to a sanitary sewer or a combined sewer system;
 - (6) Activities under a state or federal reclamation program to return an abandoned property to an open land use, or to an agricultural use where permitted by the city's zoning ordinance;
 - (7) Routine maintenance performed to maintain the original line and grade, hydraulic capacity, or original construction of a project. The paving of an existing road with a compacted or impervious surface and

reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subparagraph; and

- (8) Land-disturbing activities conducted in response to a public emergency, where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the administrator shall be advised of the disturbance within seven (7) days of the commencement of the land-disturbing activity and compliance with the administrative requirements of this chapter is required within thirty (30) days of commencing the land-disturbing activity.

Sec. 10-52. Stormwater management program established.

Pursuant to Virginia Code §§ 62.1-44.15:27 and 62.1-44.15:49, the city hereby establishes a Virginia Stormwater Management Program (VSMP) for land-disturbing activities and adopts the regulations promulgated by the board, specifying standards and specifications for such programs. No grading, building, or other city permit, shall be issued for a property unless a permit has been issued by the administrator pursuant to section 10-9 of this chapter.

Sec. 10-53. Stormwater management plan required; contents.

- (a) A person shall not commence, conduct, or engage in any land-disturbing activity until such person has submitted a stormwater management plan to the administrator as part of the application required by section 10-9 and has obtained approval of the plan and a permit from the administrator authorizing the commencement of land-disturbing activity.
- (b) Every stormwater management plan shall apply the stormwater management technical criteria set forth in section 10-54 to the entire land-disturbing activity. Individual lots within new residential, commercial or industrial subdivisions and developments shall not be considered separate land-disturbing activities, and the stormwater management plan for the entire subdivision or development shall govern the development of the individual parcels, including parcels developed under any subsequent owner(s).
- (c) Every stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff; and shall include the following:
 - (1) A general description of the proposed stormwater management facilities and the mechanism through which the permanent facilities will be operated and maintained after construction is complete;
 - (2) Contact information, including the name, address, and telephone number of the owner and the city tax map reference(s) and parcel number(s) of the property on which the land-disturbing activity is to be conducted;
 - (3) A narrative that includes (i) a description of current site conditions and (ii) a description of final site conditions upon completion of development;
 - (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
 - (5) Information on the proposed stormwater management facilities, including:
 - a. The type of facilities;
 - b. Location, including the address, latitude and longitude, and the sixth-order hydrologic unit code in which the facilities are located;
 - c. Total area (expressed as acreage) treated;
 - d. Impervious area (expressed as acreage) treated;

- e. Amount of pollutants removed (expressed as a number of pounds of phosphorous per year); and
 - f. The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with applicable water quality and quantity requirements. All stormwater runoff controls shall be designed and installed in accordance with the water quality and water quantity design criteria specified in section 10-54, and any additional standards or criteria set forth within the City's Standards and Design Manual;
- (8) A map or maps of the site that depicts the topography and other characteristics of the entire area of the land-disturbing activity and proposed development, including:
- a. All contributing drainage areas;
 - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - d. Current land use, including existing structures, roads, and locations of known utilities and easements;
 - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the development site on such adjacent parcels;
 - f. The limits of clearing and grading, and the proposed drainage patterns on the site;
 - g. Proposed buildings, roads, parking areas, paved surfaces, utilities, and stormwater management facilities;
 - h. Proposed land use(s), with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, streets, paved areas, and public and private easements; and
 - i. A description of the proposed timing and/or phasing of land-disturbing activities and development.
- The land area depicted in the map shall include all land within the limits of a valid, approved preliminary or final site plan, or a valid, approved preliminary or final subdivision plat, for the proposed development, and the proposed land use(s) and improvements shown on such site plan or subdivision plat shall be the same as those depicted within the map.
- (9) Any other information, materials, requirements or provisions required by state regulations, including, without limitation, 9VAC25-870-55 and the City's Standards and Design Manual.
- (10) If an operator intends to meet water quality and/or quantity requirements through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included and the requirements of Virginia Code § 62.1-44.15:35 must be satisfied. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity, except as otherwise allowed by Virginia Code § 62.1-44.15:35.
- (11) Signature and seal by a professional, if any elements of the stormwater management plan includes activities within the scope of the practice of architecture, land surveying, landscape architecture, or engineering, or other activities regulated under Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Virginia Code.
- (d) If land-disturbing activity is for the purpose of establishing or modifying an individual single-family detached dwelling, then, in accordance with applicable state regulations, the administrator may enter into an agreement in lieu of a plan with a property owner. Any such agreement in lieu of a stormwater management

plan shall refer to specific measures that shall be implemented by the property owner to comply with the requirements of this article for the construction of the dwelling.

Sec. 10-54. Technical criteria for regulated land-disturbing activities.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the city hereby adopts the following technical criteria:
 - (1) The technical criteria set forth in Part II B of the Regulations, as amended, §§ 9VAC25-870-62 et seq. ("Part II B Technical Criteria"); and
 - (2) The technical criteria set forth in Part II C of the Regulations, as amended, §§ 9VAC25-870-93 et seq. ("Part II C Technical Criteria").
- (b) The Part II B Technical Criteria shall apply to all regulated land-disturbing activities, except as expressly set forth in subparagraphs (c) through (h), following below.
- (c) Land-disturbing activity shall be subject to the Part II C Technical Criteria, if coverage under the state general permit was obtained, or land disturbance was otherwise lawfully commenced, prior to July 1, 2014.
- (d) Land-disturbing activity shall be considered grandfathered, and therefore subject to the Part II C Technical Criteria, as set forth within the provisions of 9VAC25-870-48.
- (e) The administrator may grant exceptions to the Part II B Technical Criteria or Part II C Technical Criteria, provided that (i) the exception is the minimum necessary to afford relief; (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the regulations, and this article are preserved; (iii) granting the exception will not confer any special privileges, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason or justification for granting an exception. Notwithstanding the foregoing, the administrator shall not have authority to approve the following:
 - (1) Waiver of the requirement of a permit for any land-disturbing activity;
 - (2) Permission to use any BMP not found on the Virginia Stormwater BMP Clearinghouse Website; or a waiver or exception to the requirement for any control measure specifically approved by the director of DEQ or the board, except in accordance with Virginia Code § 62.1-44.15:33(C). Notwithstanding the foregoing, the administrator may approve the use of BMPs not found on the Virginia Stormwater BMP Clearinghouse Website for projects less than one (1) acre in size; or
 - (3) Exceptions to, or waiver of, post-development nonpoint nutrient runoff compliance requirements, unless the administrator determines that offsite options permitted pursuant to 9VAC25-870-69 have been considered and found not available.
- (f) Nothing in this section shall preclude construction of a stormwater management facility or BMP, or implementation of any technique or practice, to a more stringent standard at the developer's option.

Sec. 10-55. Permit conditions.

- (a) Every land-disturbing permit approved by the administrator for activities regulated by this article shall be subject to the following conditions, which shall be deemed incorporated into such permit, as if set forth therein verbatim:
 - (1) The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment;
 - (2) The permittee shall at all times conduct land-disturbing activities in accordance with the approved stormwater management plan and, when required, the SWPPP and all of its component parts and requirements;

- (3) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and all related appurtenances, that are constructed, installed or used to achieve compliance with the requirements of this article and the approved stormwater management plan. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures;
- (4) The permittee shall promptly furnish to the administrator any information that the administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit, or to determine the effect of a discharge on the quality of state waters, or such other information as the administrator deems necessary to accomplish the purposes of this article;
- (5) The permittee shall allow the administrator, or an authorized representative, to:
- a. Enter upon the site where regulated land-disturbing activity or stormwater management facility is located, or where records are required to be kept;
 - b. Have access to and copy, at reasonable times, any records kept by the permittee in relation to the conduct and operations of any land-disturbing activity and the design, specifications, installation, construction, and operation of stormwater management facility;
 - c. Sample or monitor, at reasonable times, for the purposes of determining compliance with requirements of this article, any substances or parameters at any location within the site;
- (6) Samples and measurements taken by the permittee for the purpose of monitoring shall be representative of the monitored activity. Monitoring results must be conducted according to test procedures and methods accepted by the state; analysis or analyses required to be performed by a laboratory shall be performed by an environmental laboratory certified under regulations adopted by the state's department of general services. Monitoring results shall be reported to the administrator on a discharge monitoring report (DMR) form provided by the administrator. If the permittee monitors any pollutant more frequently than required, using test procedures accepted by the state, the results of such monitoring shall be included in the calculation and reporting of data submitted within a required discharge monitoring report;
- (7) The permittee shall retain records of all monitoring, including all monitoring information, calibration and maintenance records, and original strip chart recordings for continuous monitoring instrumentation, copies of monitoring reports, and records of all data used to complete any submission required by this article. In addition to the foregoing, records of monitoring shall include:
- a. Date, exact place, and time of sampling or measurements;
 - b. Identity of the individual(s) who performed the sampling or measurements;
 - c. The date(s) on which analyses were performed;
 - d. The analytical technique(s) or method(s) used;
 - e. Results of analysis/ analyses; and
 - f. Copies of discharge monitoring reports.
- (8) The permittee shall give advance notice to the administrator:
- a. Of any planned physical alteration(s) or addition(s) to the site or to the stormwater management facilities described within the permit, when such alteration(s) or addition(s) may meet state criteria for determining whether a facility is a new source, or when such alteration(s) or addition(s) could significantly change the nature of, or increase the quantity of, pollutants discharged.
 - b. Of any planned changes to the stormwater management facilities described within the permit, and

- c. Of any activity that may result in noncompliance with the requirements of this article or with any of the conditions set forth within this section;
- (9) The permit issued by the administrator is not transferable to any other person, unless the permittee provides evidence to the administrator that the requirements of 9VAC25-870-620 have been satisfied in relation to a transfer of any required state general permit;
- (10) Reports of compliance or noncompliance with, or any progress reports in regard to, any compliance schedule established by the administrator shall be submitted no later than fourteen (14) days following each schedule date;
- (11) The permittee shall immediately report any noncompliance which may endanger health or the environment. Information regarding any such noncompliance shall be provided orally within twenty-four (24) hours after the permittee becomes aware of the circumstances. The oral report shall be followed by a written report, which must be received by the administrator no later than five (5) days after the permittee became aware of the circumstances. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. Examples of noncompliance that require reports pursuant to this condition include, without limitation: any unanticipated bypass that exceeds an applicable effluent limitation; any upset that exceeds an applicable effluent limitation; and violation of a maximum daily discharge limitation for any pollutants required by the state to be reported within twenty-four (24) hours.
- (12) Any noncompliance not reported under conditions (9) or (10), above, shall be reported by the permittee to the administrator in writing at the time the next monitoring report is submitted to the administrator. The report of noncompliance shall contain the same information required for reports made pursuant to condition (10), above;
- (13) Where the land-disturbing activity is also subject to coverage under the state general permit, or other state permit, the permittee shall comply with all conditions and requirements of such state permit(s), including, without limitation, those conditions set forth within 9VAC25-870-430. The permittee shall provide to the administrator copies of submissions, reports, and information required to be given to the state, simultaneously with transmittal to the state. In addition to any remedies under state law and the regulations, state permit noncompliance shall be grounds for enforcement action under this article, and for termination, revocation, reissuance or modification of the permit issued by the administrator pursuant to section 10-9 of Article I;
- (14) All applications, reports and information submitted to the administrator shall be signed and certified in the manner, and by such person(s) prescribed within 9VAC25-870-370;
- (15) In the event the permittee becomes aware that it failed to submit any relevant facts in any application to the administrator for a permit, or that it submitted incorrect information to the administrator in any application, or any other submission, report, or document required by this article, the permittee shall promptly submit the relevant facts or correct information to the administrator;
- (16) All stormwater management control devices and facilities, and other techniques for management of the quality and/or quantity of stormwater runoff, shall be designed, installed, implemented, constructed and maintained in accordance with the approved stormwater management plan approved for the development and all other applicable requirements of this article; and
- (17) The permit issued by the administrator may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, shall not operate as a stay of the permittee's obligation to perform the requirements of any condition referenced in this section.

- (b) Within sixty (60) days of the completion of the requirements of all of the permit conditions, the performance guarantee required by section 10-9(3), or the unexpended or unobligated portion thereof, will be refunded or terminated.

Sec. 10-56. Long-term maintenance of permanent stormwater facilities.

- (a) The administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:
- (1) Be submitted to the administrator for review and approval prior to the approval of the stormwater management plan;
 - (2) Include an express statement that the maintenance responsibility shall run with the land;
 - (3) Provide a right of ingress and egress to and from stormwater management facilities and other techniques, sufficient to provide all necessary access to the property for purposes of maintenance and regulatory inspections;
 - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the administrator; and
 - (5) Clearly recognize a right of enforcement by all appropriate public bodies, including state and local authorities.
- (b) Except as provided below, the city shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a "facility") designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, "maintenance, repair or replacement" shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.
- (1) In the event that any common interest community, as defined in Virginia Code § 55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.
 - (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city's approval and acceptance of such responsibility shall be the same as specified in subparagraph (b)(1), preceding above.
- (c) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and -operated public storm sewer system, and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.
- (d) If the administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (a),

above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

Sec. 10-57. Monitoring and inspections; information.

- (a) The administrator, or any authorized agent of the administrator, shall inspect land-disturbing activity during construction for:
 - (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan and applicable permit conditions;
 - (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
 - (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.
- (b) Following completion of the installation or construction of stormwater management facilities, the administrator shall conduct periodic inspections, to determine whether measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. Such post-construction inspections shall be conducted by the administrator at least once every five (5) years.
- (c) A construction record drawing shall be submitted to the administrator upon completion of the installation or construction of any permanent stormwater management facility or facilities, including, without limitation, permanent BMPs. The construction record drawing shall be signed and sealed by a licensed professional, as defined in section 10-5, and shall contain a certification of such professional that the stormwater management facility or facilities have been constructed in accordance with the approved stormwater management plan.
- (d) Consistent with the authority conferred within Virginia Code § 62.1-44.15:39, the administrator, or an authorized agent of the administrator, may, at reasonable times and under reasonable circumstances, enter any site or property, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.
- (e) The administrator may also enter any establishment or upon any property, public or private, at reasonable times and under reasonable circumstances, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity, when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (f) Pursuant to Code of Virginia, § 62.1-44.15:40, the administrator may require every permit applicant or permittee, any operator, or any other person subject to permit requirements, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of their discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

Sec. 10-58. Modification of approved stormwater management plans.

- (a) The administrator may require that an approved stormwater management plan be amended, within a time prescribed by the administrator, to address any deficiencies noted during any inspection.
- (b) Any modification(s) of an approved stormwater management plan shall be allowed only after review and written approval of the administrator. Following receipt of a complete request, supported by such information deemed necessary by the administrator to determine compliance with the requirements of this article and Article I, the administrator shall have sixty (60) days to act on the request, either by approval or by disapproval set forth in writing. The administrator's review and decision shall be based on the requirements set forth within the regulations, and those set forth within this article and within Article I.

Sec. 10-59. Enforcement.

- (a) If the administrator determines that there is a failure to comply with a permit or any permit conditions, or if the administrator determines there is an unauthorized discharge, the administrator shall serve notice upon the permittee or other person responsible for carrying out the permit conditions, by any of the following: verbal warnings, written inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by mailing with confirmation of delivery to the address specified in the permit application, or by delivery at the site of the land-disturbing activities, to the agent or employee supervising such activities.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued, or the permit may be revoked by either the administrator or the board.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the administrator may issue an order ("stop work order") requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit, to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed. A stop work order shall be in writing, and shall become effective upon service on the person (i) by mailing, with confirmation of delivery, sent to the person's address specified in the land records of the city, or (ii) by personal delivery by an agent of the administrator. However, if the administrator finds that any violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or is otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency stop work order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued a stop work order is not complying with the terms thereof, the administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.
- (b) Any person violating or failing, neglecting, or refusing to obey any provision of this article, any order issued hereunder, or any permit condition, may be compelled in a proceeding instituted in the circuit court for the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy, as set forth within Virginia Code §§ 62.1-44.15:42 and 62.1-44.15:48(D). If the administrator applies to a court to enjoin a violation or a threatened violation of the provisions of this article, the administrator shall not be required to show that an adequate remedy at law exists.
- (c) A person who violates this article may be subject to criminal prosecution and criminal penalties, as follows:
- (1) Any person who willfully or negligently violates any provision of this article, any regulation or order of the board, any order of the administrator, any order of DEQ, any permit condition, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than twelve (12) months and a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than thirty-two thousand five hundred (\$32,500.00), either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than ten thousand dollars (\$10,000.000).
- (2) Any person who knowingly violates any provision of this article, any regulation or order of the board, any order of the administrator or of DEQ, or any permit condition, or any order of a court issued as herein provided, or who knowingly makes any false statement in any application, form or submission required by this article, or who knowingly renders inaccurate any monitoring device or method required to be maintained, shall be guilty of a felony punishable by a term of imprisonment of not less

than one (1) year nor more than three (3) years, or in the discretion of the jury, or the court trying the case without a jury, confinement in jail for not more than twelve (12) months and a fine of not less than five thousand dollars (\$5,000.00) or more than fifty thousand dollars (\$50,000.00) for each violation. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than ten thousand dollars (\$10,000.00)

(3) Any person who knowingly violates any provision of this article, and who knows at that time that they thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two (2) years or more than fifteen (15) years and a fine of not more than two hundred fifty dollars (\$250,000), either or both. A defendant that is not an individual shall, upon conviction of a violation under this provision, be sentenced to pay a fine not exceeding the greater of one million dollars (\$1,000,000.00) or an amount that is three (3) times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment, for any subsequent conviction of the same person under this provision.

(d) Any person who violates any provision of this article, any order issued hereunder, or any permit condition, shall be subject to a civil penalty imposed by the administrator, not to exceed thirty-two thousand five hundred dollars (\$32,500.00) per day for each violation. Each day a violation continues shall constitute a separate offense. The administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(1) Violations for which a penalty may be imposed under this paragraph (e) shall be as follows:

- a. No state permit registration;
- b. No approved stormwater management plan;
- c. No SWPPP; an incomplete SWPPP; SWPPP not available for review at the site;
- d. No approved erosion and sediment control plan;
- e. Failure to install stormwater BMPs or erosion and sediment controls;
- f. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- g. Failure to conduct land-disturbing activity in accordance with operational requirements established by regulations or by this chapter;
- h. Failure to conduct required inspections;
- i. Incomplete, improper, or missed inspections; and
- j. Discharges not in compliance with the requirements of Section 9VAC50-60-1170 of the state general permit.

(2) Any civil penalties assessed by a court as a result of a civil summons issued by the administrator shall be paid into the treasury of the city, to be used as specified within Virginia Code § 62.1-44.15:48(A).

(e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, or any permit condition, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d), above. Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code § 62.1-44.15:48(A).

Secs. 10-650—10-70. Reserved.

ARTICLE IV. STREAM BUFFERS

Sec. 10-73. Development exempt from stream buffer requirements.

The following types of development shall not be required to retain, establish or manage a stream buffer, provided that the requirements of this section are satisfied:

- (1) The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the ~~Erosion and Sediment Control Law (Virginia Code § 10.1-560 et seq.)~~ the Virginia Erosion and Stormwater Management Act (Virginia Code (§ 62.1-44.15:24 *et seq.*) and Article II of this Chapter, or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board.
- (2) *The construction...*

BE IT FURTHER ORDAINED by the Council of the City of Charlottesville, Virginia that this ordinance shall be effective as of July 1, 2024.

	<u>Aye</u>	<u>No</u>
Payne		
Pinkston		
Snook		
Wade		
Puryear		

Approved By Council
July ____, 2024

Kyna Thomas, MMC
Clerk of Council

Suggested Motion: I move that Chapter 10 of the Charlottesville City Code be so amended and reordained.

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



Agenda Date:	June 17, 2024
Action Required:	Adopt Amended Ordinance
Presenter:	James Freas, Deputy City Manager
Staff Contacts:	David Frazier Dan Frisbee
Title:	Ordinance amending and reordaining Chapter 10 (Water Protection) of the Code of the City of Charlottesville, to update the City's Stormwater Utility Program consistent with Section 15.2-2114 of the Code of Virginia

Background

In 2014, the City Council adopted a Stormwater Utility Fee to provide a dedicated and stable source of funding for the Water Resources Protection Program (WRPP). The Stormwater Utility Fee helps the City meet its state and federal regulatory requirements related to stormwater management. Fees collected are used to repair and replace public stormwater infrastructure, to implement capital projects related to water quality and drainage improvement, and to preserve, enhance, and restore the integrity of the City's water resources. The Stormwater Utility Fee is billed twice a year and calculated based on the amount of impervious area on every eligible parcel of improved real estate property in the City, regardless of tax status.

Discussion

The Stormwater Utility Fee is enabled at the state level by the Code of Virginia, § 15.2-2114, Regulation of stormwater. The City Code Chapter 10, Water Protection, Article VI, Stormwater Utility, governs the City's implementation of the Stormwater Utility Fee. Article VI has not been updated since 2015 and the state enabling legislation has since been revised. The proposed revisions to Chapter 10, Article VI, are to bring it back into consistency with the Code of Virginia and to reflect the transition of the Stormwater Utility into the Department of Utilities.

Alignment with City Council's Vision and Strategic Plan

Aligns with Organizational Excellence and Climate strategic action areas.

Community Engagement

None

Budgetary Impact

N/A

Recommendation

Adopt the proposed amendments. As the proposed amendments are intended to address consistency with State Code and the administrative change of moving the stormwater program from DPW to Utilities, staff recommends waiving the 2nd reading.

Alternatives

None

Attachments

1. DRAFT Ordinance - Chapter_10_Article_VI_Stormwater_Utility 6.10.24

**AN ORDINANCE AMENDING AND REORDAINING CHAPTER 10
(WATER PROTECTION) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE, TO UPDATE THE CITY’S STORMWATER
UTILITY PROGRAM CONSISTENT WITH SECTION 15.2-2114 OF THE
CODE OF VIRGINIA.**

WHEREAS, the Council of the City of Charlottesville, Virginia (the “Council”) has adopted ordinances for the management of stormwater resulting from land-disturbing activity and impervious surfaces within the City of Charlottesville (the “City”), which ordinances are codified in Chapter 10 of the City Code, known as the city’s Water Protection Ordinance; and

WHEREAS, ordinances establishing a stormwater utility fee for impervious surfaces within the City are codified in Article VI of Chapter 10, and are a critical component of the Water Protection Ordinance and the Council’s efforts to protect local and state waters; and

WHEREAS, Article VI of Chapter 10 is authorized under Section 15.2-2114 of the Code of Virginia, which has been amended by the General Assembly since the City established its stormwater utility program; and

WHEREAS, amendments to Chapter 10, Article VI are desirable in order for the City to implement a stormwater utility program consistent with the authority granted by the Code of Virginia; and

WHEREAS, certain cross-references within Chapter 10, Article VI also need to be amended to correctly refer to Virginia Erosion and Stormwater Management Act (Virginia Code § 62.1-44.15:24 *et seq.* as amended and effective July 1, 2024); and

WHEREAS, on June 17, 2024 the Council held a duly noticed public hearing on the adoption of an ordinance to amend Chapter 10, Article VI consistent with Virginia Code §§ 15.2-1427 and 15.2-2114(B); and

WHEREAS, the Council finds that adoption of this ordinance will support the City’s stormwater management program, is in the best interests of the City and its citizens, and furthers the protection of state waters, stream channels, and other natural resources from the potential harm of unmanaged stormwater.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Chapter 10 (Water Protection) of the Code of the City of Charlottesville is hereby amended and reordained as follows:

Amend Article VI, by amending Sections 10-100, 10-102, 10-103, 10-104, 10-105, and 10-106; all as shown, stated, and ordained below:

Chapter 10 WATER PROTECTION

ARTICLE VI. STORMWATER UTILITY

Sec. 10-100. Authority.

The city is authorized by Virginia Code § 15.2-2114 ~~et seq.~~ to establish a utility and to enact a system of service charges to support a local stormwater management program consistent with ~~the Virginia Stormwater Management Act (Virginia Code § 10.1-603.1 et seq.)~~ Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the Code of Virginia, as amended, or any other state or federal regulation governing stormwater management.

Sec. 10-101. Purpose.

The city council finds...

Sec. 10-102. Definitions.

The following definitions shall apply to this article unless the context clearly indicates otherwise:

Billing unit means five hundred (500) square feet of impervious area.

Director means the director of ~~public works~~utilities or the director's authorized representative.

Impervious area means area covered by hard surfaces such as structures, paving, compacted gravel, concrete, or other human-created features that prevent, restrict, or impede the downward passage of stormwater into the underlying soil.

~~*Impervious area* means area covered by hard surfaces such as structures, paving, compacted gravel, concrete, or other human-caused features that prevent, restrict, or impede the downward passage of stormwater into the underlying soil.~~

Sec. 10-103. Stormwater utility fee.

- (a) A stormwater utility fee is hereby imposed on every parcel of improved real property in the city that appears on the real property assessment rolls as of December 31 of each year. All stormwater utility fees and other income from the fees shall be deposited into the water resources protection fund.
- (b) The rate per billing unit to be used for calculating the stormwater utility fee shall be one dollar twenty cents (\$1.20) per month.
- (c) Except as otherwise provided in this article, the impervious area for a property shall be determined by the city using aerial photography, as-built drawings, final approved site plans, field surveys or other appropriate engineering and mapping analysis tools.
- (d) Notwithstanding subsection (a) above, and consistent with Virginia Code § 15.2-2114, the stormwater utility fee shall be waived in its entirety for the following:
 - (1) A federal, state, or local government, or public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system; except that the waiver of charges shall apply only to property covered by any such permit;
 - (2) For so long as there exists a revenue sharing agreement between the City and the County of Albemarle, Virginia, the waiver authorized by this section shall also apply to the property of each such locality, and to property of each locality's school board that is accounted for within that locality's municipal separate storm sewer system program plan, regardless of whether such property is located within the territorial jurisdiction of the other locality;

- (3) Public roads and street rights-of-way that are owned and maintained by state or local agencies including property rights-of-way acquired through the acquisitions process; and,
- (4) Unimproved parcels.

Sec. 10-104. Stormwater utility fee calculation.

- (a) It is the intent of city council to set the stormwater utility fee at an amount that will be sufficient to provide for a balanced operating and capital improvement budget for the stormwater utility. Income derived from the utility charges shall be dedicated special revenue and may not exceed the actual costs incurred to operate and maintain the city's stormwater management system and implement the city's stormwater management program.
- (b) Unless otherwise specified in this article, the monthly stormwater utility fee for all property in the city shall be calculated in the following manner:
 - (1) Determine the impervious area of each parcel of real property in square feet;
 - (2) Divide the property's impervious area by the billing unit;
 - (3) Round the resulting calculation to the next highest whole number to determine the number of billing units and multiply by the rate established in section 10-103(b) to obtain the monthly stormwater utility fee for the property.
- (c) The stormwater utility fee applicable to property held by a common interest community association, as defined in Virginia Code § 55-528, shall be charged directly to the association based on the methodology established in subsection (a**b**) above, except that the director may develop alternative methodologies for billing fees associated with property held by a common interest community association, including but not limited to dividing the fee among the lots other than the common area that constitute the common interest community.

Sec. 10-105. Stormwater utility fee credits.

- (a) The city council shall adopt by resolution a system of credits in accordance with Virginia Code § 15.2-2114.D that provide for full or partial waivers of charges to any person who installs, operates, and maintains a stormwater management facility that achieves a permanent reduction in stormwater flow or pollutant loadings or other such facility, system, or practice whereby stormwater runoff produced by the property is retained and treated on site in accordance with a stormwater management plan approved pursuant to Chapter 3.1 (62.1-44.2 et seq.) of Title 62.1. The amount of the waiver shall be based in part on the percentage reduction in stormwater flow or pollutant loadings, or both, from pre-installation to post-installation of the facility. The credit policy may also, in accordance with Virginia Code § 15.2-2114.E, provide for full or partial waivers of charges to public or private entities that implement or participate in strategies, techniques, or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public stormwater management system.
- (b) The department of ~~public works~~utilities will develop written policies to implement the system of credits. No credit will be authorized until the city council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the

department of ~~public works~~utilities. Nothing shall prevent the city council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

Sec. 10-106. Water resources protection fund.

- (a) The water resources protection fund is hereby established as a dedicated enterprise fund. The fund shall consist of revenue generated by the stormwater utility fee as well as any other deposits that may be made from time to time by the city council.
- (b) The water resources protection fund shall be dedicated special revenue used only to pay for or recover costs for the following:
 - (1) The acquisition, as permitted in Virginia Code § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate, and maintain stormwater control facilities;
 - (2) The cost of administration of the water resources protection program;
 - (3) Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
 - (4) Facility operation and maintenance, including the maintenance of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
 - (5) Monitoring of stormwater control devices and ambient water quality; ~~and~~
 - (6) Contracts related to stormwater management, including contracts for the financing, construction, operation, or maintenance of stormwater management facilities, regardless of whether such facilities are located on public or private property and, in the case of private property locations, whether the contract is entered into pursuant to a stormwater management private property program adopted in accordance with Virginia Code § 15.2-2114(J) or otherwise; and
 - (67) Other activities consistent with the state or federal regulations or permits governing stormwater management, including, but not limited to, public education, watershed planning, inspection and enforcement activities, and pollution prevention planning and implementation.

Sec. 10-107. Billing, enforcement, and interest.

- (a) *The stormwater utility fee shall...*

BE IT FURTHER ORDAINED by the Council of the City of Charlottesville, Virginia that this ordinance shall be effective as of July 1, 2024.

	<u>Aye</u>	<u>No</u>
Payne		
Pinkston		
Snook		
Wade		
Puryear		

Approved By Council
July ____, 2024

Kyna Thomas, MMC
Clerk of Council

Suggested Motion: I move that Chapter 10 of the Charlottesville City Code be amended so as to update the City's Stormwater Utility Program in a manner consistent with Section 15.2-2114 of the Code of Virginia.

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



Agenda Date:	June 17, 2024
Action Required:	Approve Resolution
Presenter:	Garland Williams, Director of Transit
Staff Contacts:	Garland Williams, Director of Transit Ben Chambers, Transportation Planning Manager
Title:	Resolution authorizing the adoption of the Transit Strategic Plan

Background

Transit service in Charlottesville is a critical component for providing mobility and access throughout the community so it is important that there is course charted for how Charlottesville Area Transit will adapt and expand to accommodate increasing travel demands in the region. Conducting this planning is also a state requirement that CAT must fulfill in order to access state and federal dollars for transit operations. This required document, called a Transit Strategic Plan (TSP), meets guidelines developed by the Commonwealth Transportation Board and is overseen by the Virginia Department of Rail and Public Transportation (DRPT). The TSP serves as a strategic blueprint for service planning, operations, and capital needs (including new bus purchases, technology upgrades, and customer amenities). The TSP replaces CAT previous state-approved planning document, the Transit Development Plan, from 2019, and provides a snapshot of the current plans for CAT over the next 10 years. The TSP is a non-binding document that is meant to be regularly updated and flexible but provides DRPT with a forecast of currently anticipated changes. As discussions about transit in the region continue, CAT will be able to provide annual updates to DRPT on how that forecast has changed over the next five years, when the next cycle of major TSP updates will be required.

Discussion

Planning for CAT's TSP began in early 2023 and aimed to synthesize public feedback on transit service with recommendations from recent planning efforts by CAT and the Thomas Jefferson Planning District Commission. The first round of outreach occurred in the Spring and Summer 2023 and included public survey, pop-up events, stakeholder workshops, and interviews with bus operators and supervisors. Outreach has continued over the past month in May 2024, with briefings to the Regional Transit Partnership and TSP stakeholder group, virtual public meetings, and a print and digital promotion campaign.

The planned improvements in the CAT TSP were drawn from recent transit planning efforts in the region, including CAT's 2021 System Optimization Plan and the 2022 Regional Transit Vision Plan developed by TJPDC. There are over 40 service improvements from these plans that were included in the CAT TSP. This set of improvements is fiscally constrained by projected revenues and expenditures and phased in over the short-, medium-, and long-term. The TSP also includes a set of "unconstrained" projects and additional recommendations for future study. The improvements, while

fiscally constrained, do anticipate a significant increase in operational funding. To meet the requirements of DRPT, the City will need to submit an adopted TSP by June 30, 2024.

Alignment with City Council's Vision and Strategic Plan

This item aligns with the Transportation Strategic Outcome Area.

This planning effort supports the Comprehensive Plan's goal of "supporting a robust and convenient transit system that increases local and regional mobility and provides a reliable and efficient travel option for Charlottesville's residents, workers, and visitors" and continues the work of the strategies identified in the Comprehensive Plan to develop the Regional Transit Vision Plan, ensure financial accessibility to transit service for all residents, and providing opportunities for public input into the transit planning process.

Community Engagement

The first round of public engagement for the CAT TSP occurred in the Spring and Summer 2023. The second round of public engagement occurred during May 2024.

Budgetary Impact

There is no direct impact to the General Fund from the adoption of the plan. Implementation of planned improvements will require additional funds, which will be a mix of local, state, and federal sources, and Council will be asked to commit local funding for these improvements at a later date.

Recommendation

Adoption of the CAT Transit Strategic Plan.

Alternatives

Council may request changes to the TSP over the next two weeks, but ultimately will need to adopt the TSP prior to the June 30th deadline.

Attachments

1. CAT's Transit Strategic Plan RESOLUTION v1 (June 2024) 6.10.24

**A RESOLUTION TO
ACCEPT THE TRANSIT STRATEGIC PLAN (“TSP”)**

WHEREAS, the Charlottesville Area Transit system receives funding assistance from the Virginia Department of Rail and Public Transportation, hereafter referred to as the **STATE**, for public transportation; and

WHEREAS, the **STATE** requires that the governing body of the transit system, hereafter referred to as the **CITY COUNCIL**, adopt and submit a Transit Strategic Plan to identify projects, expansions, and capital expenditures that the Charlottesville Area Transit system anticipates pursuing for the following ten-year period; and

WHEREAS, the Charlottesville Area Transit staff have spearheaded the development of the Transit Strategic Document and input has been solicited in collaboration with the Thomas Jefferson Planning District Commission, stakeholders, partners, current and potential patrons; and

WHEREAS, adoption of this plan does not obligate or commit the **CITY COUNCIL** to the recommendations or expenditures of the plan; and

WHEREAS, the **CITY COUNCIL** hereby adopts the Transit Strategic Plan prepared by Kimley-Horn and Associates, Inc.

BE IT RESOLVED by **CITY COUNCIL** that the Transit Director is authorized, for and on behalf of the City of Charlottesville’s City Manager and **CITY COUNCIL** to submit to the **STATE**, the completed Transit Strategic Plan covering fiscal years 2024 through 2034.

	<u>Aye</u>	<u>No</u>
Payne		
Pinkston		
Snook		
Wade		
Puryear		

Approved By Council
July ____, 2024

Kyna Thomas, MMC
Clerk of Council

Suggested Motion: I move to pass this Resolution and adopt the Transit Strategic Plan proposed by Charlottesville Area Transit.

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



Agenda Date:	June 17, 2024
Action Required:	Approval of CDBG funding awards for the upcoming program year 2024-25 to reflect increased allocation from HUD.
Presenter:	Anthony Warn, Grants Analyst
Staff Contacts:	Anthony Warn, Grants Analyst Taylor Harvey-Ryan, Grants Program Manager
Title:	Resolution authorizing a minor budget amendment to Community Development Block Grant Program Year 2024-25 funding awards to reflect an increase in final HUD funds available

Background

The funding awards resolution appropriating CDBG funds for the upcoming year 2024-25 has been amended to reflect a slight increase in the allocation being awarded to the City by HUD (see attached revised appropriations resolution). All subrecipient programs approved for CDBG funding will receive a proportionate increase in funding based on the initial recommendations and no subrecipient will see a decrease in their award.

Discussion

The program year 2024-25 CDBG funding awards previously approved by City Council have been revised to correct an underfunding issue related to the late notice of the final allocation amounts to be received by the City from HUD. The previously approved awards (#R-24-____) did not accurately reflect the full amount increased funding to be received.

Alignment with City Council's Vision and Strategic Plan

Same as previously approved.

Community Engagement

Same as previously approved.

Budgetary Impact

As before, no impacts to the City's budget is anticipated and all Council-approved subrecipients will see a proportional increase in their funding award.

Recommendation

Staff recommends approval of this item with the following recommended resolution:

“I move to approve the RESOLUTION appropriating Community Development Block Grant funds to be received from the U.S. Department of Housing and Urban Development in support of the program year 2024-25 Annual Action Plan, as revised to reflect an increase in anticipated CDBG funding from HUD, in the approximate amount of \$438,617.”

Alternatives

Noe are presented.

Attachments

1. Resolution_HUD Annual Action Plan PY24 Adjusted (revision)
2. CDBG PY24 Annual Action Plan Funding Recommendations, as presented to Council on May 20, 2024

**RESOLUTION to Appropriate
Community Development Block Grant (CDBG) Funds Anticipated from the U.S.
Department of Housing and Urban Development for Program Year 2024-25, in the
Approximate Amount \$438,617, Revised**

WHEREAS the City of Charlottesville has been advised by the U.S. Department of Housing and Urban Development (HUD) that the City of Charlottesville is expected to receive an anticipated Community Development Block Grant (CDBG) allocation for the 2024-25 program year in the approximate amount of \$438,617; and

WHEREAS City Council has received recommendations for the expenditure of funds from the city's CDBG/HOME Taskforce, as reviewed and approved by the City's Planning Commission at a public hearing on May 14, 2024, as provided by law;

AND WHEREAS appropriation resolution #R-24-___ previously approved by Council at a public hearing on June 3, 2024, was submitted prior to the release by HUD of their final CDBG allocations and therefore did not accurately reflect the full award for each approved subrecipient program; now, therefore,

BE IT RESOLVED by the City Council of Charlottesville, Virginia, that upon receipt of anticipated CDBG funding from the U.S. Department of Housing and Urban Development, said funds are hereby appropriated to the following individual expenditure accounts in the Community Development Block Grant Fund in accordance with the respective purposes set forth; provided, however, that the City Manager is hereby authorized to transfer funds between and among such individual accounts as circumstances may require, to the extent permitted by applicable federal grant regulations, as set forth below:

Economic Development Activities

<i>Fund</i>	<i>Account/Internal Order #</i>	<i>Funding Recommendation</i>	<i>Revised Award</i>
218	1900550	CIC Entrepreneur Programs	\$20,168.87
218	1900552	CRHA Economic Opportunity Program Coordinator	\$72,607.93

Housing Activities

<i>Fund</i>	<i>Account/Internal Order #</i>	<i>Funding Recommendation</i>	<i>Revised Award</i>
218	1900553	CRHA Affordable Housing Preservation at Dogwood	\$154,806.00
218	1900554	CRHA Housing Stability Program (TBRA)	\$18,941.54
218	1900555	LEAP Solar Readiness Program	\$18,576.72

Public Services Activities

<i>Fund</i>	<i>Account/Internal Order #</i>	<i>Funding Recommendation</i>	<i>Revised Award</i>
218	1900556	IRC Financial Capabilities Program	\$16,512.64
218	1900557	PACEM Shelter Transportation	\$7,998.31
218	1900558	LVCA Beginning Level Workforce Development Program	\$15,480.60
218	1900559	PHAR Resident-Involved Redevelopment	\$25,801.00

Programmatic Funds

<i>Fund</i>	<i>SAP Cost Center #</i>	<i>Funding Recommendation</i>	<i>Revised Award</i>
218	3914001000	CDBG Planning & Admin	\$87,723.40

In the event that funding received from the U.S. Department of Housing and Urban Development differs from the amounts referenced above, all appropriated amounts may be administratively increased/reduced at the same prorated percentage of change to actual funding received. No subrecipient's grant may be increased above their initial funding request without further consideration by Council.

BE IT FURTHER RESOLVED that this appropriation is conditioned upon the receipt of not less than \$438,617 in CDBG funds from the U.S. Department of Housing and Urban Development for program year 2024-25, and all subrecipient awards are also conditioned upon receipt of such funds.

BE IT FURTHER RESOLVED that the amounts appropriated above within this resolution will be provided as grants to public agencies or private non-profit, charitable organizations (individually and collectively, "subrecipients") and shall be utilized by the subrecipients solely for the purpose stated within their grant applications. The City Manager is hereby authorized to enter into agreements with each subrecipient as deemed advisable so as to ensure that the grants are expended for their intended purposes and in accordance with applicable federal and state laws and regulations. To this end, the City Manager, the Director of Finance, and public officers to whom any responsibility is delegated by the City Manager pursuant to City Code Section 2-147, are authorized to establish administrative procedures and provide for guidance and assistance in the subrecipients' execution of the funded programs.

SUMMARY OF CDBG & HOME FUNDING RECOMMENDATIONS PY24

Recommended by CDBG/HOME Taskforce: Wednesday, April 17, 2024

Taskforce Chair: Phil d'Oronzio Vice-Chair: Syleethia Carr

Funds Available to Commit (anticipated)*

Available to Commit - CDBG	\$ 350,893.60
Available to Commit - HOME	\$ 83,016.66

Subtotal Available to Commit: \$433,910.26

Programmatic Funding & Setasides

CDBG Planning & Admin	\$ 87,723.40
Council Priority: Public Facilities & Imprv.	\$ 89,896.51
Council Priority: Economic Dev.	\$ 89,896.51
Public Services Cap @ 15%	\$ 65,792.55
HOME Program Local Match @ 25% (CAHF)*	\$ 20,754.17

CDBG Economic Development

	Funding Rec. \$	% of Req.
CIC Entrepreneur Programs	\$ 20,168.87	80.68%
CRHA Economic Opportunity Program Coordinator	\$ 72,607.93	80.68%

Subtotal = \$ 92,776.79

CDBG Public Facilities & Infrastructure Improvements

	Funding Rec. \$	% of Req.
NHDC BEACON Shared-Use Kitchen	\$ -	0.00%

Subtotal = \$ -

CDBG Public Service Programs

	Funding Rec. \$	% of Req.
IRC Financial Capabilities Program	\$ 16,512.64	34.41%
PACEM Shelter Transportation	\$ 7,998.31	79.98%
LVCA Beginning Level Workforce Development Program	\$ 15,480.60	23.82%
PCLT Land Trust Stewardship and Community Engagement	\$ -	0.00%
PHAR Resident-Involved Redevelopment	\$ 25,801.00	57.34%
The Haven Coord. Entry into Homelessness System of Care	\$ -	0.00%

Subtotal = \$ 65,792.55

CDBG Affordable Housing

	Funding Rec. \$	% of Req.
AHIP Charlottesville Critical Rehab Program	\$ -	0.00%
CRHA Housing Stability Program (TBRA)	\$ 18,941.54	30.55%
CRHA Affordable Housing Preservation at Dogwood	\$ 154,806.00	103.20%
LEAP Solar Readiness Program	\$ 18,576.72	37.15%
PHA Building Community with Strategic Resident Eng.	\$ -	0.00%

Subtotal = \$ 192,324.26

HOME Investment Partnerships

	Funding Rec. \$	% of Req.	Local Match
CRHA Homeownership Program (DPA)	\$ 37,430.74	106.94%	\$ 9,357.69
Habitat Affordable Housing @ 6 ½ Street	\$ 45,585.92	103.60%	\$ 11,396.48
NHDC Affordable Housing Program	\$ -	0.00%	\$ -

Subtotal = \$83,016.66

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



Agenda Date:	June 17, 2024
Action Required:	Review written report
Presenter:	Written report only
Staff Contacts:	Maxicelia Robinson, Deputy Clerk of Council
Title:	Sister Cities Commission Annual Report

Background

Per Article IX of the Charlottesville Sister Cities Commission Bylaws, "the Commission shall file an annual report on its activities and finances with the Clerk of Council at the conclusion of the fiscal year, which is June 30."

Discussion

Alignment with City Council's Vision and Strategic Plan

Sister Cities Commission work aligns with the city's strategic focus areas of Partnerships, and Recreation, Arts and Culture.

Community Engagement

The annual report outlines a variety of community engagement activities.

Budgetary Impact

This annual report contains no additional funding request. The City has generally allocated \$15,000 annually to fund Sister City initiatives, including project grants.

Recommendation

Acceptance of the annual report

Alternatives

n/a

Attachments

1. Sister Cities Commission Annual Report 2024



2023 - 2024 Annual Report to City Council

Programs and Activities of the Charlottesville Sister Cities Commission

Submitted June 2024



OUR SISTER CITIES

ACTIVE

Poggio a Caiano, Italy: Charlottesville's first Sister City, 1976

Besançon, France: Sister city, 2006

Winneba, Ghana: Sister city, 2010

EXPLORING

Huehuetenango, Guatemala: Friendship city since 2021

EMERITUS

Pleven, Bulgaria: Sister city, 2004, *inactive*



SISTER CITIES COMMISSION MEMBERS (2023/2024)

Alicen Brown (*Vice Chair*)

Claire Denton-Spalding

Casey Eriksen

Nana Ghartey (*Winneba*)

Kimberly Hayes

Edward Herring (*Chair*)

Stella Mattioli (*Poggio a Caiano*)

Salvatore Moschella

Sylvia New Strawn

Elizabeth Smiley (*Besançon*)

Cherry Stewart

Murray Susen (*Youth rep*)

Staff liaison: Maxicelia Robinson



FOREWORD

The City of Charlottesville is an active member of Sister Cities International (SCI), a nonprofit citizen diplomacy network that creates and strengthens partnerships between U.S. and international communities. This network strives to build global cooperation at the municipal level, promote cultural understanding and stimulate economic development.

Appointed by Council, the CSCC as a volunteer-based organization promotes understanding and fosters relationships between citizens and organizations in the Charlottesville area and our sister cities through cultural, economic, educational, and humanitarian activities.

We, as members of the Sister Cities Commission, hold as our mission, the responsibility to bring the benefits of SCI to the citizens of Charlottesville.



YEAR IN REVIEW

The City of Charlottesville welcomed three sister city delegations during this year. The year started with the arrival of the mayor and a contingent from Winneba, Ghana, hosted by the Charlottesville-Winneba Foundation, in summer 2023. This Ghana visit was followed by a mayoral delegation from Huehuetenango, Guatemala, in November 2023.

More recently, in April 2024, we hosted a delegation from our sister city of Besançon, France, and celebrated the 20 years of the signing of the initial Friendship agreement. In addition to the official delegations, the Charlottesville Sister Cities Commission joined Charlottesville High School in welcoming 28 high school students from Besançon to a week at Charlottesville High School in February 2024.



Several public events were planned during each of the visits to provide opportunities for the citizens of Charlottesville to participate.

Together with the events welcoming the delegation from Besançon in April 2024, we informally established our first Sister Cities Week in Charlottesville with presentations and performances by three of our 2023 grant winners.



POGGIO A CAIANO, ITALY

There were no major activities with Poggio during 2023/2024. More recently, the city has reached out to Stella Mattioli, Poggio city representative, to explore sending a new delegation to Charlottesville.

The last Poggio visit was in 2018 during the Charlottesville Film Festival. If that were to happen, it would more than likely occur in the 2025/2026 fiscal year. Stella will travel to Poggio this summer and engage in more discussions and planning regarding an eventful visit.

Poggio a Caiano does not have a local high school; however, Charlottesville City Schools may be able to explore exchanges between middle school aged children.



BESANÇON, FRANCE

With reciprocal biennial student exchanges between Charlottesville High School and the Lycée Pasteur in Besançon, this is our most active relationship focused on the youth of Charlottesville as well as adult members of the community. Charlottesville City Schools, with the support of the Sister Cities Commission, is actively looking at knowledge transfer exchanges and programs which will extend the cross border/cross cultural learning through elementary and middle school levels.

Two of the five funded CSCC Grant projects in 2023-24 focused on the Charlottesville-Besançon relationship. “Sister Revolutions” grantee Benjamin Bernard traveled to Besançon in the summer of 2023 to conduct interviews and gather audio footage for his podcast series, which he co-produced over the subsequent two academic semesters and officially launched this Spring.



“Les Amities Musicales” grantee Daniel Sender previewed his Besançon-inspired violin and piano concert in Charlottesville in April and traveled to Besançon the following month to complete his musician exchange by offering a community concert and a youth master class there.

Several noteworthy events will happen during the coming year concerning Besançon. On September 8th, the city of Besançon will commemorate the 80th anniversary of the liberation of the City of Besançon by the US Third Infantry Battalion. Further ahead, we are hoping to send an official delegation to Besançon in the fall of 2026 to celebrate the 20th anniversary of our sister city proclamation.



WINNEBA, GHANA

Winneba city representative, Nana Gharthey, will complete his final term in that capacity and will be replaced by Kimberly Hayes for 2024/2025. We expect that Kimberly will continue working closely with the Charlottesville-Winneba Foundation to ensure that the relationship continues smoothly.

We are thankful to Mr. Gharthey for his many years of dedication to the Charlottesville Sister Cities Commission. The delegations led by the Foundation to Winneba makes this our most active sister city relationship. Once again in 2023, the Commission provided financial assistance to the Charlottesville-Winneba Foundation in helping fund a shipment of medical supplies and other donated items from Charlottesville to Winneba.



HUEHUETENANGO, GUATEMALA

The commission continues to work with the non-profit Ixtatan Foundation in searching for projects of interest and benefit to both cities as we continue as Friendship Cities.

There are no plans at this time to change the status of the city and we will continue to explore our relationship with the help of the Ixtatan Foundation. An official city visit to Huehuetenango has not yet been scheduled and is not expected to take place in 2024/2025.



PLEVEN, BULGARIA

Pleven was placed in emeritus status in 2018 due to a lack of activity or an active support group in either city. More recently, we have received an inquiry through the American Embassy in Bulgaria to determine if we would have interest in renewing our relationship.

We are now starting to investigate this option to determine if or how we should further explore this request.



THE COMING YEAR 2024/2025

The Commission has refocused its Grants program criteria to ensure that our grant awards provide a clear and evident benefit to the citizens of Charlottesville or that they strengthen the relationships we have with our existing sister cities.

Approximately 50% of our allotment from the City has been earmarked for Grants and Scholarships, with the majority of the remaining budget dedicated to public facing programs and events. City representative travel allotments have been reduced for 2024/2025 and there are no official visits planned for this fiscal year.

The Commission will partner with other City organizations to gain wider exposure to the city and community residents, including a presence at arts and cultural festivals, various observances and celebrations, as well as joining and participating in UVA Global Week 2024 activities.



Additionally, we have initiated cooperation with the Charlottesville-Albemarle Visitors Bureau and the Charlottesville Area Chamber of Commerce.

Respectfully submitted,

Edward Herring, Chair

June 10, 2024

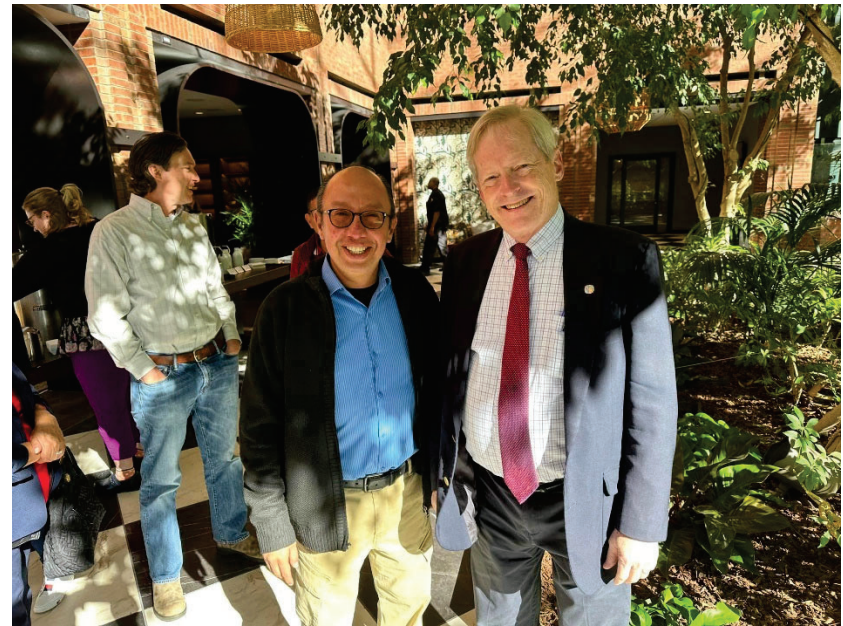


July 2023 - Winneba Delegation Visit





November 2023 - Huehuetenango Delegation Visit





February 2024 – Lycée Pasteur Exchange



April 2024 – Besançon Delegation Visit and Week





Thank you
from the

