



CITY COUNCIL AGENDA
April 18, 2016

6:00 p.m. **Closed session as provided by Section 2.2-3712 of the Virginia Code**
Second Floor Conference Room (Boards and Commissions; consultation with legal counsel regarding the negotiation of terms and conditions of an agreement for co-located General District Courts.)

7:00 p.m. **Regular Meeting**

CALL TO ORDER *Council Chambers*
PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS ANNOUNCEMENTS Tom Frederick; Arbor Day; Fair Housing

APPOINTMENTS TO BOARDS & COMMISSIONS

MATTERS BY THE PUBLIC Public comment provided for up to 12 speakers publicized at noon the day of the meeting (limit 3 minutes per speaker) and for an unlimited number of speakers at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

CITY MANAGER RESPONSE TO MATTERS BY THE PUBLIC

- 1. CONSENT AGENDA*** (Items removed from consent agenda will be considered at the end of the regular agenda.)
- a. Minutes for April 4
 - b. APPROPRIATION: Department of Criminal Justice Byrne Special Fund Grant – \$9,991 (2nd of 2 readings)
 - c. APPROPRIATION: Housing Opportunities Made Equal (HOME) – \$40,000 Appropriation of Program Income (2nd of 2 readings)
 - d. APPROPRIATION: University of Virginia Contribution to Reward and Transfer from Citywide Reserve – \$20,000 (2nd of 2 readings)
 - e. APPROPRIATION: \$200,000 to the Charlottesville Redevelopment & Housing Authority Marriott Proffer/Inn at Vinegar Hill and \$70,000 to the Charlottesville Affordable Housing Fund (1st of 2 readings)
 - f. RESOLUTION: Initiate Zoning Text Amendments – Communication Facilities (1st of 1 reading)
 - g. ORDINANCE: Lightower Fiber Networks II, LLC Telecommunications Franchise (2nd of 2 readings)
 - h. ORDINANCE: YMCA Utility Right-of-Way Agreement (2nd of 2 readings)
 - i. ORDINANCE: Underground Utility Right-of-Way Agreement Across City Yard (2nd of 2 readings)
 - j. ORDINANCE: New Permit to Authorize Operation of Valet Parking within Public Rights-of-Way (2nd of 2 readings)

2. RESOLUTION* Police Chief Appointment (1st of 1 reading)

3. REPORT* Customer Service System Request For Proposal (RFP) Update

4. PUBLIC HEARING / RESOLUTION* Blue Ribbon Commission on Race, Monuments and Public Spaces (1st of 1 reading)

OTHER BUSINESS
MATTERS BY THE PUBLIC

*ACTION NEEDED

Persons with disabilities may request reasonable accommodations by contacting ada@charlottesville.org or (434)970-3182.

GUIDELINES FOR PUBLIC COMMENT

**We welcome public comment;
it is an important part of our meeting.**

Time is reserved near the beginning and at the end of each regular City Council meeting for Matters by the Public.

Please follow these guidelines for public comment:

- If you are here to speak for a **Public Hearing**, please wait to speak on the matter until the report for that item has been presented and the Public Hearing has been opened.
- Each speaker has **3 minutes** to speak. Please give your name and address before beginning your remarks.
- Please **do not interrupt speakers**, whether or not you agree with them.
- Please **refrain from using obscenities**.
- If you cannot follow these guidelines, you will be escorted from City Council Chambers and not permitted to reenter.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 4, 2016
Action Required:	Appropriate Grant Funds
Presenter:	Thomas von Hemert, Crisis Intervention Team Coordinator, Charlottesville Police Department
Staff Contacts:	Thomas von Hemert, Crisis Intervention Team Coordinator, Charlottesville Police Department Lt. C. S. Sandridge, Charlottesville Police Department
Title:	Department of Criminal Justice Byrne Special Fund Grant - \$9,991

Background:

The Department of Criminal Justice Services has awarded the City of Charlottesville Crisis Intervention Team Program a Byrne Special Fund Grant in the amount of \$9,492, with a \$499 local match required.

Discussion:

The Department of Criminal Justice Services has awarded a one-time Byrne Special Fund Grant. These funds are to be used to bring a national speaker (Dr. Kevin Gilmartin) to the area for training that will benefit C.I.T. members, Law Enforcement and other first responders. Dr. Gilmartin is a behavioral scientist specializing in law enforcement related issues. His instruction will provide information for officers to use in handling personal situations and C.I.T. work related situations surrounding events that may affect mental health and well-being.

Alignment with Council Vision Areas and Strategic Plan:

This funding will support Goal 2 of the Strategic Plan, to be a safe, equitable, thriving, and beautiful community. This training aligns itself with the Objective 2.1, to provide an effective and equitable public safety system, and 2.3 to consider health in all policies and programs. It provides information for Officers to use to more effectively evaluate and handle mental health related situations.

Community Engagement:

N/A

Budgetary Impact:

There is no impact on the General Fund. The funds will be expensed and reimbursed to a Grants Fund. The matching \$499 will come from the C.I.T. operating budget.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

The alternative is to not approve this grant, consequently canceling the training.

Attachments:

N/A

APPROPRIATION

**Department of Criminal Justice Services, Byrne Special Fund Grant
\$9,991**

WHEREAS, the City of Charlottesville, through the Thomas Jefferson Area Crisis Intervention Team, has received from the Department of Criminal Justice Services, a Byrne Special Fund Grant, to be used for training.

WHEREAS, the grant award covers the period from period January 1, 2016 through September 30, 2016.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$9,492, received from the Department of Criminal Justice Services is hereby appropriated in the following manner:

Revenue

\$9,492	Fund: 209	IO: 1900261	G/L: 430120 State (Fed pass-thru)
\$ 499	Fund: 209	IO: 1900261	G/L: 498010 Transfer from Other

Expenditure

\$9,991	Fund: 209	IO: 1900261	G/L: 530010 Professional Service
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Transfer

\$ 499	Fund: 209	IO: 1900225	G/L: 561209 Transfer to State Grant
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BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$9,492 from the Department of Criminal Justice Services.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 4, 2016
Action Required:	Approval and Appropriation
Presenter:	Tierra Howard, Grants Coordinator, Neighborhood Development Services
Staff Contacts:	Tierra Howard, Grants Coordinator, Neighborhood Development Services
Title:	Housing Opportunities Made Equal (HOME) - \$40,000 Appropriation of Program Income

Background:

Neighborhood Development received \$40,000 from Charlottesville Redevelopment & Housing Authority to repay two \$20,000 loans on properties – 919 Montrose & 1405 Hampton - made in prior years. The loans were made through the City’s Housing Opportunities Made Equal (HOME) program, and the repayment has been posted back to the HOME program. These funds are in addition to the FY2016 HOME funds of \$59,652 appropriated on April 20, 2015.

Discussion:

By using the funds from the repaid loans for existing HOME programs, previously appropriated HUD entitlement and matching funds are freed to use on other programs to assist city residents. To meet HUD requirements, the program income funds must be formally committed by July 1, 2016. As a result, the C.D.B.G Task Force made a recommendation to fund Habitat for Humanity with the program income, along with previously reprogrammed HOME funds to go towards down payment assistance activities based upon Habitat’s proposal to assist 12 homebuyers within the commitment deadline. Down payment assistance is an eligible activity under HOME, meets a council priority, and is consistent with the Consolidated Plan. In order for these funds to be committed and expended with HUD deadlines, City Council needs to appropriate the program income funds.

Community Engagement:

A request for proposals was held for housing projects. As required by the Citizen Participation Plan applications received were reviewed by the C.D.B.G Task Force. A 15-day public comment period was also held. The C.D.B.G Task Force reviewed and provided support for the MACAA recommendation. As required by the Citizen Participation Plan, a 15-day public comment period was held.

Alignment with City Council’s Vision and Strategic Plan:

Approval of this agenda item aligns directly with Council’s vision for **Quality Housing**

Opportunities for All. Expected outcomes include access to affordable housing. The project also will help realize the following Strategic Plan objective: *1.3. Increase affordable housing options.*

Budgetary Impact:

The addition of these funds frees HUD entitlement funds for use in other programs to assist city residents. If these funds are not appropriated, then HUD entitlement funds will be lost. There is no budget impact for the City of Charlottesville.

Recommendation:

The C.D.B.G Task Force recommends approval of the appropriation of the HOME program income.

Alternatives:

If the HOME program income is not appropriated, the City will not meet the HUD HOME/C.D.B.G project commitment/timeliness deadline and will lose entitlement funds.

APPROPRIATION
Housing Opportunities Made Equal
\$40,000

WHEREAS, The City of Charlottesville has received \$40,000 from Charlottesville Redevelopment and Housing Authority as repayment for loans made through the HOME program in prior years;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$40,000 is hereby appropriated in the following manner:

\$40,000 Revenues

\$ 1,631.00	Fund: 210	IO: 1900167	G/L: 451070 C.D.B.G/HOME Program Income
\$33,133.34	Fund: 210	IO: 1900184	G/L: 451070 C.D.B.G/HOME Program Income
\$ 5,235.66	Fund: 210	IO: 1900249	G/L: 451070 C.D.B.G/HOME Program Income

\$40,000 Expenditures

\$ 1,631.00	Fund: 210	IO: 1900167	G/L: 530670 Other Contractual Services
\$33,133.34	Fund: 210	IO: 1900184	G/L: 530670 Other Contractual Services
\$ 5,235.66	Fund: 210	IO: 1900249	G/L: 530670 Other Contractual Services

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



Agenda Date:	April 4, 2016
Action Required:	Appropriation and Transfer of Funds
Presenter:	Captain Gary Pleasants, Support Services Division, Police Department
Staff Contacts:	Gary Pleasants, Police Department Leslie Beauregard, Assistant City Manager
Title:	University of Virginia Contribution to the reward for the Hannah Graham Homicide Case and Transfer from Citywide Reserve - \$20,000

Background:

On September 12, 2014, University of Virginia student Hannah Elizabeth Graham went missing from the City of Charlottesville. City police were notified on September 14, 2014 and started a criminal investigation. During the course of the investigation, the City of Charlottesville Police Department, with the approval of the City Manager, offered a reward of \$10,000 for information leading to the cause of Hannah's disappearance. The University of Virginia then added \$10,000 to the reward fund. Jesse Leroy Matthew was arrested and charged with the abduction and murder of Hannah and has since been sentenced to four life terms in prison.

Discussion:

During the investigation, several individuals came forward with information that was deemed important or critical, to solving this case. The Charlottesville Police Department is now ready to issue the reward money that was offered. The University of Virginia is providing a check in the amount of \$10,000 for distribution as seen appropriate by Charlottesville Police officers. This money, along with the \$10,000 offered by the City of Charlottesville, to be transferred from the Citywide Reserve account, will be paid out to the appropriate individuals.

Alignment with Council Vision Areas and Strategic Plan:

This funding will support Goal 2 of the Strategic Plan, to be a safe, equitable, thriving, and beautiful community. It specifically supports Goal 2.1, to provide an effective and equitable public safety system, wherein citizens are encouraged and supported in their participation with the Police Department.

Community Engagement:

Several reward posters were distributed to the community and numerous pleas for assistance were put out through the local and national media. Our citizens responded and provided over 6,000 tips.

Budgetary Impact:

There is no budgetary impact as \$10,000 will be received from the University of Virginia and \$10,000 will be paid from previously appropriated citywide reserve funds in the General Fund.

Recommendation:

Staff recommends the appropriation of these funds.

Alternatives:

N/A

Attachments:

N/A

APPROPRIATION AND TRANSFER OF FUNDS.

**University of Virginia Contribution to the Reward for the Hannah Graham Homicide Case
and Transfer from Citywide Reserve.
\$20,000.**

WHEREAS, the City of Charlottesville, through the Police Department, has received a contribution from the University of Virginia to be used for the rewards offered in the Hannah Graham Homicide Case;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville funding is hereby appropriated and a transfer made in the following manner:

Revenue

\$10,000 Fund: 105 Cost Center: 3101001000 G/L Account: 451020

Expenditures

\$10,000 Fund: 105 Cost Center: 3101001000 G/L Account: 599999

Transfer Out

\$10,000 Fund: 105 Cost Center: 1631001000 G/L Account: 599999

Transfer In

\$10,000 Fund: 105 Cost Center: 3101001000 G/L Account: 599999

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



Agenda Date:	April 18, 2016
Action Required:	Approval of Appropriations
Staff Contacts:	Kathy McHugh, Housing Development Specialist
Presenter:	Kathy McHugh, Housing Development Specialist
Title:	Appropriation of Funds - \$200,000 to the Charlottesville Redevelopment & Housing Authority Marriott Proffer/Inn at Vinegar Hill Fund (P-00904) and \$70,000 to the Charlottesville Affordable Housing Fund (CP-084)

Background:

The City has received funds from two distinct sources that need to be appropriated.

The developer of The Inn at Vinegar Hill, LLC was subject to a proffer dated August 20, 2007, related to the rezoning of the property now associated with the Residence Inn Marriott Hotel at 315 West Main Street. This proffer required that \$300,000 be paid to the Charlottesville Redevelopment and Housing Authority (CRHA) to be used for the redevelopment of the Westhaven Housing Complex or other CRHA housing sites. In conformity with approval from former Neighborhood Development Services (NDS) Director Jim Tolbert dated June 17, 2013, the City has received \$200,000 in cash (by check dated March 1, 2016) and a note for the remaining \$100,000 which will need to be paid within one year (i.e., March 1, 2017). Said proffer is also subject to refund if it has not been expended after five (5) years from the date of receipt. Given that the proffer was made to the City, we will need to work with CRHA to identify an eligible project(s) and expense funds for a redevelopment project(s), as stipulated by the proffer, within five years. For the purposes of tracking \$200,000 received on March 1, 2016, funds will need to be expended by March 1, 2021. The remaining \$100,000 will need to be expended within five years of the date of receipt of those funds.

The City has also received \$70,000 from the Piedmont Housing Alliance (PHA) as a voluntary payment in lieu of providing a mixed use private development incorporating 25% affordable housing as contemplated within the Contact between PHA and City Council for Development at 9th -10th Street dated August 1, 1999. The Contract did not clearly address action or future repayment at the end of the five (5) year development period (ended on December 31, 2004) in the event the development did not progress, and the City's option to purchase expired ninety

days (90) after this development period. However, PHA has offered to donate these funds which represent the profit it will receive from the sale of the land to another developer. Because the Contract did not clearly specify what should happen if PHA did not successfully establish the proposed development following expiration of the initial “development period”, PHA is offering the \$70,000 on a voluntary basis as an expression of appreciation for the original financial assistance from the City providing funds for carrying costs, administrative costs and demolition costs. PHA has indicated that it was unable to identify a private developer to complete the project as contemplated by the 1999 Contract, due to market and financing challenges as well as complications and unforeseen expenses associated with environmental contamination issues.

Discussion:

The proffer payment received from The Inn at Vinegar Hill, LLC will need to be appropriated to the Charlottesville Redevelopment & Housing Authority Marriott Proffer/Inn at Vinegar Hill Fund designated for CRHA redevelopment purposes (i.e., P-00904) and the voluntary cash contribution received from PHA will need to be appropriated to the Charlottesville Affordable Housing Fund (CP-084).

Community Engagement:

There has been no direct community engagement on this issue, as the payment received from The Inn at Vinegar Hill, LLC was made to satisfy the requirements of the August 20, 2007 proffer and the cash contribution received from PHA is being made on a strictly volunteer basis.

Alignment with City Council Vision and Strategic Plan:

Approval of this item aligns with the City Council Vision of ‘Quality Housing for All’ and with the Strategic Plan Goal 1.3 to “Increase affordable housing options.”

Budgetary Impact:

The proffer payment from The Inn at Vinegar Hill, LLC for CRHA redevelopment will not directly impact the City’s budget; however, given the need for redevelopment of public housing properties, these funds will potentially lessen the need for future public assistance from the City. The voluntary contribution from PHA will have a positive impact on the Charlottesville Affordable Housing Fund, but will not directly impact the City’s budget.

Recommendation

Staff recommends approval of the appropriation as outlined herein. Staff further recommends that before allocation / disbursement of proffer funds received from The Inn at Vinegar Hill, LLC that any request for expenditure from CRHA come back to Council for review and approval.

Alternatives:

The funds received from the The Inn at Vinegar Hill, LLC must be expensed for CRHA redevelopment; however, Council could authorize direct disbursement to CRHA, with the understanding that the City would still be obligated to repay these funds if not expensed for an eligible CRHA redevelopment project within five years. Accordingly, to facilitate due diligence and oversight related to this matter, staff believe it would be best for the City to hold the funds pending a request from CRHA for a valid expenditure(s). Upon approval of this appropriation by Council, staff will notify CRHA of the availability of funds and associated restrictions on the use of funds.

As an alternative, Council could appropriate the voluntary contribution from PHA in a different manner, as these funds are not tied to a contractual or other obligation. This noted, the PHA contribution is primarily being offered as a payment in lieu of the affordable housing aspects of the original proposed project and therefore the Charlottesville Affordable Housing Fund appears to be the most appropriate placement.

Attachments: N/A

APPROPRIATION
Charlottesville Redevelopment & Housing Authority
Marriott Proffer / Inn at Vinegar Hill Fund \$200,000
and the
Charlottesville Affordable Housing Fund \$70,000

WHEREAS, the City of Charlottesville has received payment from The Inn at Vinegar Hill, LLC on behalf of 315 West Main Street (\$200,000) as required by the Petition for Rezoning (City Application No ZM-07-08-20) Statement of Final Proffer Conditions for the Ridge/McIntire/West Main Street Rezoning; and

WHEREAS, the City of Charlottesville has received a voluntary contribution from Piedmont Housing Alliance (\$70,000) in lieu of affordable housing as contemplated in the Contact for Development at 9th -10th Street dated August 1, 1999; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$200,000 be received as payment from The Inn at Vinegar Hill, LLC and the sum of \$70,000 be received as a contribution from Piedmont Housing Alliance, to be appropriated as follows:

Revenues

\$200,000	Fund: 426	Project: P-00904	G/L Code: 434675
\$70,000	Fund: 426	Project: CP-084	G/L Code: 451020

Expenditures

\$200,000	Fund: 426	Project: P-00904	G/L Code: 599999
\$70,000	Fund: 426	Project: CP-084	G/L Code: 599999

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 18, 2016
Action Required:	Approval of Resolution
Presenter:	Lisa Robertson, Chief Deputy City Attorney
Staff Contacts:	Lisa Robertson
Title:	Initiation of Zoning Text Amendments: Communications Facilities

Background:

Local attorneys for wireless service providers have requested City Council to make several changes to zoning ordinance provisions that regulate “telecommunications facilities.” Requested changes that have been received over the course of the past couple of years may be summarized as: **(i)** deletion of the provision that prohibits antennas on buildings that are less than 40 feet tall; **(ii)** allowance of microcells throughout the city, and **(iii)** a request to allow a specific type of support structure (an “alternative tower”) in every zoning district. Additionally, our ordinance has not been updated since 2003. Federal law, and communications technologies, have changed significantly during that time.

If you are interested in commencing a public process to discuss possible zoning ordinance amendments, you can approve the attached Resolution.

Discussion:

At a minimum, the city should consider updating terminology/ definitions within its zoning ordinance, and should incorporate references to mandatory federal procedural requirements. We have prepared the attached Discussion Draft Ordinance containing our recommendations:

(i) We do recommend that you should **consider removing the 40-foot limitation** on the height of a support structure, unless you determine that it’s serving a desirable land use objective. Although variations of this type of restriction can be found in other localities’ ordinances, we have been unable to locate any staff with an institutional memory (or current opinion) as to the objectives furthered by the height requirement here in Charlottesville. Some of the more recent technologies (e.g., deployment of broadband services) utilize smaller antennas/ cells, but those facilities need to be mounted closer to ground level, at regular intervals.

(ii) We do not recommend adding special provisions for microcells. However, we do recommend updating the current definition of “antenna” to encompass a broad range of technologies, and then, within use matrices and substantive regulations, focus the regulations on siting issues and historic district impacts of communications facilities, of any nature. **We do recommend that** the provisions of **34-1073 (facilities by district) should be modified** to avoid

repeating references to uses allowed by the use matrices in *all* zoning districts (*i.e., attached facilities (i) mounted on utility poles, and (ii) mounted on other support structures, not visible*).

(iii) We do not recommend permitting “alternative towers” within any zoning district, at least not as that term is currently defined. If you’d like to offer providers an option for installing disguised freestanding structures, built solely for the purpose of supporting an antenna (for example: a monopole disguised to look like a tree), then, at your option, the “alternative tower” definition can be revised to clarify that.

(iv) We do recommend substantially editing the sections governing the permitting and approval processes, to reflect requirements of federal law.

Alignment with Council Vision Areas and Strategic Plan:

The changes reflected in the attached Discussion Draft ordinance align with City Council’s vision to be a great place for all citizens to live (be a leader in innovation, flexible and progressive in anticipating needs of citizens); to achieve economic sustainability (access to broadband internet services is widely recognized as necessary for a business-friendly environment and small-business opportunities);

Community Engagement:

If you initiate the zoning text amendments, that will allow for community engagement through the public hearing process.

Budgetary Impact:

No budgetary impacts are anticipated.

Recommendation:

The City Attorney’s Office recommends that Council adopt the attached Resolution.

Alternatives:

Only city council and the planning commission may initiate zoning text amendments. The planning commission has previously reviewed the requests received from the providers’ attorneys, and indicated a willingness to consider possible amendments to the communications ordinance, but has not elected to initiate amendments. The Mayor requested that the matter be presented to City Council for its consideration.

Attachments:

- (1) Proposed Resolution
- (2) Discussion Draft Ordinance

RESOLUTION
TO INITIATE CONSIDERATION OF ZONING ORDINANCE TEXT AMENDMENTS
TO AMEND REGULATIONS SET FORTH WITHIN THE CITY CODE, CHAPTER 34
(ZONING), ARTICLE IX (GENERAL REGULATIONS), DIVISION 5
(TELECOMMUNICATIONS FACILITIES)

WHEREAS, upon consideration of the matters set forth within a staff report received from the City Attorney's Office, setting forth several reasons why the City's zoning regulations governing the siting and approval of wireless communications facilities should be reviewed and updated; and

WHEREAS, this Council believes that initiation of zoning text amendments, to commence debate and consideration within the context of a public hearing process, is advisable; and

WHEREAS, this Council finds that consideration of the zoning text amendments set forth within the attached Discussion Draft Zoning Text Amendments ("Discussion Draft") is required by the public necessity, convenience, general welfare or good zoning practice; now, therefore,

BE IT RESOLVED THAT this City Council hereby initiates amendments of the Charlottesville City Code, Chapter 34 (Zoning), as set forth within the attached Discussion Draft; and

BE IT FURTHER RESOLVED THAT this matter is hereby referred to the Planning Commission for its recommendations, and for an advertised joint public hearing with Council. In the interest of expediting the public hearing process by which these zoning text amendments may be considered, the Planning Commission is requested to utilize the attached Discussion Draft as a starting point for their discussions; **HOWEVER**, the Commission's consideration of zoning text amendments for communications facilities need not be limited to the specific provisions within the Discussion Draft. Based on input received during the public hearing process, and the Planning Commission's own deliberations, the Planning Commission should report back to Council its specific recommendations, within 100 days after the first regular meeting of the Commission following the adoption of this Resolution.

Discussion Draft Zoning Text Amendments—Part 1 of 2

ARTICLE X. - DEFINITIONS

Sec. 34-1200. - Definitions.

The following words, terms and phrases, when used in this chapter, will have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Antenna or antenna array as used in Article IX, section 34-1070, et seq. means communications equipment mounted on a support structure for the purpose of transmitting, receiving, or transmitting and receiving electromagnetic radio signals used in the provision of all types of wireless communications services one (1) or more whips (omni-directional antenna), panels (directional antenna), discs (parabolic antenna) or similar devices used for broadcast, transmission and/or reception of radio frequency signals. Reference to an antenna or antenna array does not include the support structure. The following shall be excluded for the purposes of this division, from the definition of antenna and antenna array: amateur radio antennas, satellite earth station antennas one (1) meter in diameter or less; receive-only home television antennas; and satellite earth station antennas two (2) meters or less in diameter located in a commercial or industrial zoning district.

Attached communications facility and *attached facility* as used in Article IX, section 34-1070, et seq. and any zoning use matrix, shall mean a communications facility an antenna or other communications equipment (broadcasting or receiving, including any PWSF or microcell) that uses is attached to an existing building or structure, ("attachment structure") as its support structure. For the purposes of this definition, the term structure shall include, without limitation: utility poles, signs, and water towers; however, the term shall exclude communications towers. Where reference is made to an attached facility, unless otherwise specified the reference will be deemed to include any accompanying pole or device ("attachment device") which attaches the antenna array or communications equipment to the existing building or structure, any concealment element(s), as well as transmission cables and any equipment shelter which may be located either inside or outside the attachment structure.

Attachment structure as used in Article IX, section 34-1070, et seq. refers to the structure to which an attached communications facility is affixed.

Base station means a structure or equipment at a fixed location that enables FCC-licensed or authorized communications between user equipment and a communications network. The term does not encompass a "tower" or any equipment associated with a tower.

Carrier On Wheels ("COW") means a portable, self-contained wireless facility that can be moved to a location and set up to provide wireless communications services on a temporary or emergency basis.

Collocation, ~~Co-location (collocation)~~ for purposes of Article IX, section 34-1070, et seq. shall mean the mounting or installation of antennas on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes use of an attachment structure or support structure by (i) two (2) or more wireless license holders, radio stations or television stations, or combination thereof, (ii) one (1) wireless license holder, radio station or television for more than one (1) type of communications technology, or (iii) two (2) or more communications facilities owned or operated by government or other public and quasi-public users.

Communications facility for purposes of Article IX, section 34-1070, et seq. means any antenna, antenna array or other communications equipment (including any PWSF) used by any commercial, governmental, or other public or quasi-public user(s). Where reference is made to a communications facility, unless otherwise specified or indicated by context, such reference will be deemed to include any base station, tower or other support structure on which the antenna or other communications equipment is mounted, any concealment element(s), and any attachment device and other equipment referenced within 47 C.F.R. §4.0001(b)(1)(i)-(ii) transmission cables, and any associated equipment shelter.

Discussion Draft Zoning Text Amendments—Part 1 of 2

Concealment element means an architectural feature or treatment (paint, for example), landscaping, screening or other means or method of rendering a communications facility invisible, or minimally visible, from adjacent streets and properties, as may be required by Article IX, sec. 34-1070 et seq.

Communications facility, freestanding for purposes of Article IX, section 34-1070, et seq. means any communications facility other than an attached communications facility or a microcell located on an existing building, pole or other existing support structure.

Dish antennas means a satellite antenna, also known simply as a "dish," used for satellite communication and broadcast reception.

Eligible Facility means an eligible support structure proposed to be modified in a manner that does not result in a Substantial Change, and such modification involves: (i) collocation of transmission equipment, (ii) removal of transmission equipment; or (iii) replacement of transmission equipment. As used in Article IX, sec. 34-1070 et seq. of this chapter, the term "Eligible Facility request" means a request seeking a determination that the proposed modification of an existing tower or base station is an Eligible Facility.

Eligible support structure means any tower or base station that is existing at the time of an Eligible Facility request. For the purposes of this definition, a constructed tower or base station is "existing", if it has been reviewed and approved under the applicable zoning or siting process, or another state or local regulatory review process (provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition).

Freestanding communications facility means any tower.

Microcell for purposes of Article IX, section 34-1070, et seq. means a facility for wireless communications, consisting of an antenna that is either: (i) not more than four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or (ii) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.

Personal wireless service facility (PWSF) means an unstaffed communications facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, transmission cables, an equipment shelter and a support structure to achieve necessary elevation.

Radio and television broadcasting station means an establishment engaged in transmitting oral and visual programs to the public and that consists of a studio, transmitter, and antennas.

Tower, alternative means for purposes of Article IX, section 34-1070, et seq. means a support structure that camouflages or conceals the presence of the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, to an extent that the communications facility is either invisible or otherwise made an integrated part of the feature enclosing it. Examples of an alternative tower structure include, but are not limited to: clock towers, bell towers, church steeples, water towers, and light poles.

Substantial Change, for purposes of Article IX, section 34-1070 et seq., means a modification of an existing tower or base station, if (i) for a tower outside a public right-of-way: the modification increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet, whichever is greater; and, for a tower located within a public right-of-way, and for a base station: the increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater; (ii) for a tower outside a public right-of-way: the modification protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; and, for a tower located within a public right-of-way, and for a base station, it protrudes from the edge of the structure more than 6 feet; (iii) the modification involves installation of more than the standard number of new equipment cabinets for the

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technology involved, but not to exceed 4 cabinets; (iv) the modification entails any excavation or deployment outside the current site of the tower or base station; (v) the modification would defeat the existing concealment elements of the tower or base station; OR (vi) the modification does not comply with conditions associated with the prior approval of construction or modification of the tower or base station (provided that this limitation does not apply to any modification that is non-compliant only in a manner that does not exceed the thresholds identified in (i)-(iv) preceding above). As used in this definition, the term “site” means: for towers other than towers in a public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures: further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Tower, communications refers to a support structure a structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities.

Tower, guyed means a monopole or lattice tower support structure that is secured and stabilized by diagonal cables (guy wires) anchored to the ground or other surface.

Tower, lattice means a support structure that is self-supporting with multiple legs and cross-bracing of structural steel.

~~Tower, monopole means a support structure consisting of a single pole, constructed without any guy wires and ground anchors.~~

Tower, self-supporting means a support structure that is self-supporting with a single shaft of wood, steel or concrete and antennas or other communications facilities at the top. Structures commonly referred to as “monopoles” are included in this definition.

Transmission equipment means equipment that facilitates transmission for any FCC-licensed or authorized wireless communications service, including, but not limited to antennas, radio receivers, co-axial or fiber-optic cable, and regular and backup power supply.

Utility pole, for purposes of Article IX, section 34-1070 et seq. means a structure owned or operated by a public utility, municipality, electric membership corporation, or similar entity, that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, electricity, or to provide street lighting.

~~Wireless communications means any FCC-licensed or authorized communications, including personal wireless services, as defined in the Federal Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and paging, as well as unlicensed wireless services and common carrier wireless exchange access services, and similar services that currently exist or that may in the future be developed. The term does not mean the provision of direct-to-home satellite services, as defined in Section 303(v) of the Act.~~

CHANGES PROPOSED FOR DISCUSSION

USE MATRIX FOR

ARTICLES III (RESIDENTIAL DISTRICTS), IV (COMMERCIAL DISTRICTS), AND VI (MIXED USE DISTRICTS)

Recommend: Update the List of Use Types in each Article (no changes to any columns other than the one titled “Use Types”), as follows:

USE TYPE—PROPOSED CHANGES/ UPDATES	REASONS FOR PROPOSED CHANGES/ UPDATES

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Communications facilities and towers:	See proposed updated definitions of “communications facility” and “antenna”
Antennae or microcells mounted on existing towers established prior to 02/20/01	Federal law (the Spectrum Act) now prescribes a definition of an “existing” tower or “base station”. The city’s current provision is inconsistent with the mandatory federal definition and is suggested for deletion. Also, due to the broad definitions of the Spectrum Act, microcells should not be distinguished from other types of antennas, in relation to existing facilities. <i>Ref.</i> 47 C.F.R. §1.40001.
Attached facilities utilizing utility poles or other electric transmission facilities as the attachment structure	See proposed updated definition of “utility pole”
Attached facilities not visible from any adjacent street or property	No change proposed
Attached facilities visible from an adjacent street or property	No change proposed
<u>COWs</u>	See proposed definition of “COW”
<u>Towers</u> Alternative tower support structures	See proposed updated definition of “tower”, derived from federal law (47 C.F.R. §1.40001) It is suggested that, at this time, reference in the use matrix to “alternative tower” is not necessary, since the facilities referenced in our current definition of “tower, alternative” can already be accommodated by the definition of “attached facility” or simply “tower”. Some localities authorize installation of “alternative towers” as freestanding support structures disguised as trees, silos, etc.
Monopole tower support structures	Proposed deletion, see above.
Guyed tower support structures	Proposed deletion, see above.
Lattice tower support structures	Proposed deletion, see above.
Self-supporting tower support structures	Proposed deletion, see above.

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ARTICLE IX (GENERALLY APPLICABLE REGULATIONS), DIVISION 5. - TELECOMMUNICATIONS FACILITIES

Sec. 34-1070. - Purpose and intent.

The purpose and intent of this division is to provide regulations that will serve the interests of the public necessity, convenience, general welfare and good zoning practice, by ensuring that residents, businesses and public safety operations within the City of Charlottesville have reliable and convenient access to communications networks, while also ensuring a convenient, attractive and harmonious community; protection against destruction of or encroachment upon historic areas; and encouragement of economic development. The provisions of this division are also intended to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including, without limitation, Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, establish guidelines for the siting of communications towers and personal wireless service facilities. The goals of this division are to:

(1) —

- ~~Allow for a range of locations for communications towers and personal wireless service facilities, subject to clear buffering and safety standards.~~
- ~~(2) Encourage the joint use of new and existing support structures, and minimize the total number of communications towers and personal wireless service facilities throughout the community.~~
- ~~(3) Encourage users of communications towers and personal wireless service facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.~~
- ~~(4) Minimize adverse visual impacts of towers and antenna through careful design, siting, landscaping screening and innovative camouflaging techniques.~~
- ~~(5) Encourage users of communications towers and personal wireless service facilities to configure them in a way that minimizes adverse visual impact;~~
- ~~(6) Promote compatibility of communications towers and personal wireless service facilities with surrounding land uses, and protect the attractiveness, health, safety, general welfare and property values of the community.~~
- ~~(7) Avoid potential damage to adjacent properties from tower failure through responsible engineering practices and careful siting of tower structures.~~
- ~~(8) Minimize traffic impacts on surrounding residential areas.~~
- ~~(9) Maximize and encourage use of alternative tower structures as a primary option rather than construction of additional single use towers.~~

Sec. 34-1071. - Definitions.

For definitions of special terms utilized within this division, refer to Article X (Definitions), section 34-1200.

Sec. 34-1072. Nonconforming facilities Applicability.

- (a) Communications facilities that were legally permitted on or before the date this ordinance was enacted, but which do not conform to current zoning regulations, shall be considered lawful.

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~~nonconforming uses. A communications facility or tower that was completely constructed on a site prior to February 20, 2001, in any zoning district, shall be considered a conforming use.~~

- (b) ~~A collocation shall not be construed as an expansion, enlargement or increase in intensity of an existing nonconforming tower or base station, provided that the collocation does not involve any Substantial Change. A communications facility, in any zoning district, which has received city approval in the form of either a building permit, site plan approval or special use permit, but which has not yet been constructed or placed into operation on February 20, 2001, shall be considered an existing, conforming use if the building permit, site plan approval or special use permit remains valid, and has not expired.~~
- (c) ~~City Council may, by special use permit, authorize a Substantial Change of a nonconforming tower or base station. Placement of an attached communications facility on a legally non-conforming structure shall not be considered an expansion of the non-conforming structure.~~
- (d) ~~The requirements of this division shall supersede conflicting requirements contained in other city zoning or site plan ordinances regarding the siting and permitting of communications facilities.~~

Sec. 34-1073. — ~~Design control~~ Facilities by districts.

- (a) Within the city's historic and entrance corridor overlay districts ~~attached communications facilities that are visible from any adjacent street or property are prohibited; provided, however, that by special use permit, City Council may authorize such facilities on a specific lot.:~~
 - (1) ~~The following shall be permitted uses: antennae or microcells mounted on existing communications towers established prior to February 20, 2001; attached communications facilities utilizing utility poles or other electric transmission facilities as the attachment structure; and other attached communications facilities if such other attached communications facilities are not visible from any adjacent street or property.~~
 - (2) ~~The following shall be prohibited uses: attached communications facilities where such facilities are visible from any adjacent street or property, and communications facilities utilizing alternative tower, monopole tower, guyed tower, lattice tower and self-supporting tower support structures.~~
- (b) ~~In the event of a conflict between the provisions of this section and the provisions of the use matrix for any applicable zoning district, the provisions of this section shall govern.~~
- (b) ~~Within other zoning districts of the city, the permitted communications facilities are identified within the use matrix for the applicable districts. Facilities other than those identified within the use matrix for a particular district shall be prohibited.~~

Sec. 34-1074. — Height; measurement of changes.

- (a) Where attached communications facilities are permitted within a zoning district, ~~the attachment structure shall be at least forty (40) feet in height, and~~ the total height of the communications facility (including the attachment structure, antenna and any attachment devices) shall not be more than twenty (20) feet greater than the original height of the attachment structure.
- (b) The following ~~height~~ restrictions shall apply to freestanding communications facilities, wherever located:
 - (1) Where a support structure is used by and for a single ~~antenna~~ communications facility, maximum height shall not exceed seventy (70) feet.

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- (2) Where a support structure is used by and for two (2) co-located ~~antennas~~communications facilities, then maximum height shall not exceed one hundred (100) feet.
- (3) Where a support structure is used by and for three (3) or more co-located ~~antennas~~communications facilities, then maximum height shall not exceed one hundred fifty (150) feet.
- (4) The height of a freestanding communications facility shall be determined by the number of antennas for which binding commitments can be demonstrated at the time of approval. No freestanding communications facility shall be permitted to be constructed when the number of antennas that may be installed on it is speculative at the time of any approval.
- (c) ~~By special use permit, City Council may modify Any communications facility that the requirements of exceeds the height restrictions or dimensions allowed by right under paragraphs (a) or (b)(1)-(3), above, shall require a special use permit.~~
- (d) When an application involves or proposes a change in the height of any communications facility, the change in height will be measured from the original support structure, in cases where deployments are or will be separated horizontally (such as on the rooftop of a building); in other circumstances, changes in height will be measured from the dimensions of the tower or base station—inclusive of originally-approved appurtenances and any modifications that were approved prior to the passage of the federal Spectrum Act (P.L. 112-96, signed February 22, 2012).

Sec. 34-1075. - Setback requirements.

- (a) All communications facilities shall comply with the minimum setback and yard requirements of the zoning district in which they are located.
- (b) ~~Each tower and base station Support structures shall be set back from all property lines a distance equal to its engineered fall zone for freestanding communications facilities shall be located on a lot in such a manner that, in the event of collapse, the structure and supporting devices shall be contained within the confines of the property lines.~~
- (c) No ~~above-ground~~ portion of any freestanding communications facility shall project into a required setback more than the maximum projection permitted in the zoning districts in which the facility or antenna is located. Any communications facility that projects over a public right-of-way shall have a minimum clearance of sixteen feet six inches, and is subject to city council's approval of a right-of-way use agreement for the facility itself, or for the structure to which it is attached.
- (d) Where ~~alternative tower,~~ monopole tower, lattice tower or other self-supporting tower support structures are permitted, either by right or by special use permit:
 - (1) The communications facility shall be set back from any existing residence, residentially-zoned property, public street or other public property, a distance of at least the height of the PWSF or communications facility, but in no event less than one hundred (100) feet.
- (e) By special use permit, City Council may modify the requirements of paragraph (a) or (b).

Comment [RL1]: See Va. Code 15.2-2030

Sec. 34-1076. - Separation requirements.

- ~~(a)~~ Freestanding communications facilities shall conform to the following separation requirements (i.e., minimum distance from the nearest established freestanding communications facility):

<u>Structure Facility</u> Height	Minimum Separation

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	Requirement
<50 feet	300 feet
50—100 feet	500 feet
101—150 feet	750 feet

~~(b) Alternative tower structures, and attached communications facilities, shall be exempt from the provisions of section (a), above.~~

(c) When a freestanding communications facility is located on a lot site containing one (1) or more other buildings principal uses or other uses, the minimum distance between the facility tower support structure and any principal other building or principal use located on the same lot site shall be the greater of: Hey, twenty (20) percent of the height of the facility communications facility, or twenty-five (25) feet.

Sec. 34-1077. - Screening and landscaping.

(a) Landscaping shall be used at ground level to screen the view of towers and base stations freestanding communications facilities from adjacent public streets and public property, and from adjacent residentially-zoned property and adjacent residences. The minimum landscaping requirements shall be as follows:

(1) For towers and base stations facilities one hundred fifty (150) feet in height or less, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting shall be spaced not more than five (5) feet apart within ten (10) feet of the perimeter of the required setback area.

(2) For towers and base stations more than one hundred fifty (150) feet in height, in addition to the requirements set forth in subsection (a)(1), above, at least one (1) row of deciduous trees, with a minimum caliper of two and one-half (2½) inches at the time of planting, and spaced not more than forty (40) feet apart, shall be provided within twenty (20) feet of the perimeter of the required setback area.

(3) All security fencing shall be screened from view.

(b) Landscaping materials shall consist of drought-resistant native species.

(c) Landscaping materials shall be maintained by the owner and operator of the lot on which the support structure is constructed or installed, for the life of the support structure installation.

(d) Existing vegetation on the site shall be preserved to the greatest practical extent. Existing vegetation, topography, walls and fences, etc., combined with shrubs or other features may be substituted for the required shrubs or trees, if the director of neighborhood development services or his designee finds that they achieve the same degree of screening as the required shrubs or trees.

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(e) The requirements of this section shall not apply to an existing building that serves as the support for an antenna, but they shall apply to any related equipment and shelters placed on the ground adjacent to such buildings.

Sec. 34-1078. - Lighting and security fencing.

- (a) No communications facility shall be artificially lighted, except for:
- (1) Security and safety lighting of equipment and shelters/buildings, if such lighting is appropriately down-shielded to keep light within the boundaries of the site.
 - (2) Such lighting as may be required by the FAA, FCC or other applicable governmental authority, installed in such a manner as to minimize impacts on adjacent residences. Where the FAA or FCC requires lighting "dual lighting" (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA or FCC guidelines.
- (b) Security fencing shall be required around the perimeter of towers and base stations (but not for existing buildings that serve as the support for an antenna) support structures and any accessory utility structures associated with freestanding communications facilities, in accordance with the following minimum requirements:
- (1) Security fencing shall be maintained by the owner and operator(s) of the communications facility, for the life of the facility. Security fencing shall be constructed of decay-resistant materials, and shall be not less than six (6) feet in height.
 - (2) Security fencing shall be equipped with anti-climbing devices.
 - (3) When a For alternative tower structures where the support structure is secured so that the public cannot access any component of a wireless facility the antenna array, equipment shelter and other apparatus for a PWSF or other communications facility, security fencing shall not be required.

Sec. 34-1079. - Signs and advertising.

- (a) No sign(s) shall be permitted on any communications facility, except as may be required for public safety purposes, or as required by the FAA or FCC.
- (b) No materials or markings containing any advertising or advertisement shall be permitted on any communications facility.

Sec. 34-1080. - Visibility and placement.

- (a) Attached communications facilities that are permitted to be visible from adjacent streets or properties shall comply with the following standards/requirements as to visibility and placement:
- (1) Where Such facilities are visible from adjacent properties, or from public rights-of-way, they shall be designed and located so as to blend in with the existing support structure. The facilities shall be attached to the support structure to the maximum extent feasible, through measures such as placement in the least visible location that which is consistent with proper functioning of

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- ~~the communications~~ equipment. ~~The –and colors of the facility and the attachment structure will be coordinated, and use of~~ compatible ~~or~~ neutral colors ~~shall be utilized.~~
- (2) Where such facilities are visible to adjacent residences, but have a visual impact that cannot reasonably be mitigated by placement and color solutions, the facilities shall be screened by planted materials or building appurtenances, to an extent that they are not readily apparent to the occupants of the adjacent residence~~from view or concealed.~~
- (3) Antennas and any supporting electrical and mechanical equipment shall be of a neutral color that is compatible with the color of the attachment structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- (b) Attached communications facilities that are permitted only if **not visible** from adjacent streets or properties shall comply with the following standards:
- (1) Such facilities must be concealed by an architectural feature or lawful appurtenance of the support structure, provided that ground-level equipment may be concealed by landscape screening.
- (2) The concealment referenced in (b)(1), above, shall be provided to such an extent that the communications facilities cannot be distinguished from the architectural feature, appurtenance, or landscape plantings used to conceal them.
- (3) Within a design control district, any exterior construction, reconstruction, and alteration proposed for the purpose of providing concealment for any component of a communications facility requires a certificate of appropriateness.
- (c) In addition to the requirements of paragraphs (a) and (b), above:
- (1) Portions of towers and base stations that extend ~~All support structures shall be of a galvanized finish, or painted gray,~~ above ~~a the~~ surrounding treeline or built environment ~~shall be painted gray or shall have a galvanized finish.~~ Below the surrounding treeline such facilities support structures shall be painted gray or green. ~~Below –or, below–~~ the line of the surrounding built environment, such ~~facilities structures~~ shall be painted in a neutral color that will blends with the surrounding built environment.
- (2) Alternative coloring or marking may be utilized if an applicant identifies. ~~These requirements shall apply unless other coloring or marking is required by~~ FAA or FCC regulations requiring such alternative coloring or marking.
- (e) (2) Equipment shelters shall ~~to the extent practicable, use be~~ fabricated, constructed and installed using materials, colors, textures, screening and landscaping that will blend with the natural setting and built environment. ~~Equipment The equipment shelters and/or cabinets used ancillary to a microcell~~ shall be contained wholly within a building, ~~–or–~~ structure, or enclosure, unless otherwise concealed and/or camouflaged, as may be required, or located underground.
- (d) (3) Collocated antennas ~~Antennas and other broadcasting or receiving equipment collocated on a single support structure or attachment structure~~ shall, to the greatest extent feasible, be of similar size, design, coloring and appearance.
- (4) For towers having a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.
- (de) As long as all siting, setback, separation and general requirements of this division are met, towers, where permitted, freestanding communications facilities may occupy a parcel meeting the minimum lot size requirements for the zoning district in which they are located.

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- (f) ~~For freestanding communications facilities with a height in excess of one hundred fifty (150) feet, the number and placement of antennas or other receiving or transmitting devices collocated on a single support structure shall be limited so that, in the aggregate, the facility(ies) will not have an excessive adverse visual impact on adjacent properties, or on the view from any historic or entrance corridor overlay district.~~

Sec. 34-1081. - Construction and operational standards.

- (a) ~~All towers and base stations shall comply with requirements of the applicable version of the Virginia Uniform Statewide Building Code (USBC). All support structures shall be constructed to comply with the Electronic Industries Association (EIA) current standards (EIA222-D, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by EIA, effective June 1, 1987, as from time to time amended or revised).~~
- (b) ~~All support structures shall be constructed to comply with the Virginia Uniform Statewide Building Code (USBC), effective September 1, 1973, as from time to time amended or revised, and with the provisions of any applicable city ordinance(s). Structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed as accessories to the communications facility, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility~~
- (~~b~~e) ~~All communications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal or state government having authority to regulate such facilities. An applicant seeking approval of a communications facility shall be required to certify such compliance. Every twelve (12) months from the date of issuance of a building permit, or, where required, from the date of final approval of a site plan, the owner or operator of an approved communications facility shall submit to the director of neighborhood development services or his designee documentation that the communications facility complies with all applicable federal and state standards and regulations.~~
- (d) ~~The owner and operator of a tower freestanding communications facility shall provide for and conduct an inspection of the tower support structure at least once every three (3) years. Such inspection shall be conducted by a structural engineer authorized licensed to practice within the Commonwealth of Virginia. A written report of the results of the inspection shall be provided to the City's Building Official/director of neighborhood development services or his designee, verifying structural integrity and the name(s) and address(es) of any tenant(s) having equipment located on the structures.~~
- (e) ~~Machinery and equipment used ancillary to a communications facility shall be automated to the greatest extent possible. Communications facilities may be located on sites containing one (1) or more other principal uses, or such facilities may be the principal use of a lot. However, multiple uses of a single lot shall be prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~
- (~~f~~) ~~Areas sufficient for the temporary off-street parking of at least two (2) vehicles shall be provided for freestanding communications facilities. The type and configuration of parking may be approved by the director of neighborhood development services or his designee.~~
- (~~f~~g) ~~A copy of any road maintenance agreement for any site accessed by private easement shall be provided as part of any application for a freestanding communications facility, or for a modification of an existing such facility. Where a freestanding communications facility site abuts or has access to a~~

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collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.

~~(h) Freestanding communications facilities in excess of one hundred fifty (150) feet of height (including antenna arrays) shall be constructed to accommodate no less than three (3) telecommunications carriers or service providers.~~

Comment [RL2]: Moved to a different section

Sec. 34-1082. - Collocation.

(a) Providers of communications services are encouraged to design, construct and site their facilities PWSF and other communications facilities, attached or freestanding, in a manner that will promote with a view towards sharing facilities and support structures with other utilities, collocation with other providers, and to accommodating the future collocation of other future facilities, wherever technically, practically and economically feasible. ~~The city shall work with telecommunications providers to facilitate the siting of PWSF or other communications facilities on city-owned and other publicly-owned property, by identifying existing facilities, the appropriate contact persons, and the appropriate leasing procedures.~~

(b) A person seeking approval of a site plan or special use permit for a new freestanding communications facility shall document that reasonable attempts have been made to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.

~~(c) Accessory structures necessary for the housing or shelter of equipment used in direct support of a communications facility shall be allowed, but such structures may not be used for offices, vehicle storage or other storage. No equipment, machinery or vehicles other than that which is utilized in direct support of a communications facility shall be stored or parked at the site, except when necessary in connection with repairs to the facility.~~

Comment [RL3]: Moved to a different section.

~~(d) Communications facilities may be located on sites containing one (1) or more other principal uses; however, such joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas or dangerous chemicals.~~

Comment [RL4]: Moved to a different section

(c) Proposed collocations shall be reviewed by the city in accordance with (i) requirements of federal law, and (ii) unless pre-empted by federal law, the applicable requirements of this division.

Sec. 34-1083. — Required approvals Permit processes.

(a) ~~Building permit. The facilities listed below may be authorized by Zoning Verification pursuant to paragraph (b), below, and issuance of a building permit, if required by the USBC): Where a microcell or attached communications facility is a permitted use, and will not exceed the by-right height restrictions or dimensions set forth within this division, only a building permit shall be required.;~~

(1) Eligible Facility requests;

(2) A new attached communications facility permitted by right, if such new facility meets all applicable requirements of this division;

(3) Ordinary maintenance of a communications facility in existence on the date of an application; or

(4) Placement of a COW at any location within the City, (i) for a single, temporary period of not more than one hundred twenty (120) days, or (ii) for any period corresponding with the duration of an emergency or disaster declared by the Governor or City Council.

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(b4) Zoning Verification: upon receipt of an application seeking approval for a facility, or modification, listed in paragraph (a), above. Prior to issuance of a building permit, the zoning administrator shall verify in writing that the certify that the proposed facility or modification meets applicable requirements of the zoning ordinance (“Zoning Verification”). If the zoning administrator determines that facility or modification is not within the scope of (a)(1)-(4), above, or does not meet applicable zoning requirements, the zoning administrator shall notify the applicant in writing of the basis of his determination, and the facility or modification shall not be permitted until all applicable requirements have been satisfied. microcell or attached communications facility meets all applicable standards and requirements set forth within this division.

(1) The zoning administrator may require documentation and information to the extent reasonably related to determining whether a request is within the scope of (a)(1)-(4) above and otherwise meets applicable zoning requirements.

(2) Within 60 days of the date on which an applicant submits an Eligible Facility request, the request shall be approved, unless the zoning administrator determines, with the concurrence of the city attorney, that the application does not involve an Eligible Facility. For the purposes of this paragraph “approved” refers to issuance of the required Zoning Verification and approval of any certificate of appropriateness that may be required for a concealment element. All aspects of the city’s review of an Eligible Facility request shall be conducted in accordance with, and shall be governed by, the mandates set forth within 47 C.F.R. § 1.40001 (April 8, 2015), as such regulations may subsequently be amended.

(4)(3) The 60-day review period (“shot clock”) begins to run from the date on which the application is filed, and it may be suspended only by mutual agreement or in cases where the city determines the application is incomplete. To suspend the running of the shot clock for incompleteness, the city must give written notice to the applicant within 30 days after the date on which the application is filed. The notice must reference all missing documents and information. Thereafter, the shot clock will begin running again when the applicant makes a supplemental submission in response to the notice. Following a supplemental submission, the city will have 10 days to notify the applicant in writing, if the supplemental submission did not provide all of the information required in the original notice. If a second or subsequent notice of incompleteness is given, the shot clock will be suspended until the next resubmission. Second and subsequent notices of incompleteness may not specify missing documents or information that were not referenced in the original notice of incompleteness.

(c)(2) Upon application for a building permit, review will be conducted by the department of neighborhood development services and the zoning administrator, with support from other city staff and/or city retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee. The city shall have the right to obtain retain independent technical consultants and experts that it deems as necessary to render the required determination, and the city may properly evaluate such applications, and to require an applicant to bear the reasonable cost of such services, charge a reasonable fee for such services to the applicant as part of the required application fee. Such reasonable costs fee shall include but shall not be limited to, the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.

(d) Materials required for a Zoning Verification:

(1) Application form and related information completed and signed by the applicant, accompanied by the application fee(s) set forth within the most recent fee schedule adopted by city council;

(2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding

Comment [RL5]: Mandated by The Spectrum Act (federal law)

Comment [RL6]: This procedure for incomplete submissions is DIFFERENT than state-law provisions for reviewing site plans. (A site plan is not deemed “officially submitted” until it is complete; the clock does not start running until the date of official submission.)

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representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

c. An Eligible Facility request shall also be accompanied by (i) a written opinion of an attorney licensed to practice within Virginia, certifying that the facility is an Eligible Facility, (ii) drawings prepared by an engineer authorized to practice within Virginia, setting forth all dimensions, elevations and other details establishing the factual basis for the attorney's opinion, and illustrating all proposed changes in dimension—including all existing and proposed concealment elements, (iii) the date(s) and type(s) of approvals previously granted by the city for the existing facilities, and (iv) for applications involving towers or base stations within a design control district, a comprehensive concealment plan, consisting of drawings prepared by an architect or engineer authorized to practice within Virginia, demonstrating how the concealment elements for all antennas and related equipment, in the aggregate, will satisfy the standards set forth within City Code 34-276, 34-310, or 34-342, as applicable.

(e) Zoning approval shall be required for any proposed communication facility other than those referenced within paragraph (a)(1)-(4), above. Each application seeking zoning approval of a proposed communication facility shall include the following:

(1) An application form and such related materials as may be required by the director of neighborhood development services for a proper review of the request, accompanied by the application fee set forth within the most recent fee schedule adopted by city council;

(2) Copy of a property lease or notarized power of attorney from the property owner (if the applicant is not the property owner) expressly authorizing the applicant to apply for and make binding representations as the legal agent of the owner in relation to the proposed communications facility (alternatively, the property owner may co-sign the application form);

(3) A proposed final site plan in accordance with sec. 34-1084; and

(4) An application for approval of a certificate of appropriateness, and related fees and supporting materials, when required by sec. 34-275, 34-309, or 34-340.

~~Site plan. All freestanding communications facilities, all microcells or attached communications facilities exceeding the height or dimensions specified in section 34-696, and all modifications of existing such facilities, shall require an approved site plan. For the purpose of this requirement, location of additional antennas or microcells on a previously approved facility shall not be deemed a modification of an existing facility requiring a new site plan, so long as such additional antennas or microcells themselves meet any applicable requirements of this division.~~

~~(1) Upon application for site plan review, review will be conducted by the department of neighborhood development services, with support from other city staff and/or city retained consultants as may be designated or deemed necessary by the director of neighborhood development services or his designee.~~

~~(2) The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate such applications, and to charge a reasonable fee for such services to the applicant as part of the required application fee. Such fee shall include but shall not be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate such applications.~~

~~(e) Site plan applications. Each applicant requesting site plan review under this division shall submit the following information as part of the application:~~

~~(1) A site plan and elevations, drawn to scale, and other supporting drawings or photographic simulations, specifying the appearance, height, location and dimensions of the proposed facility, including: support structure; equipment shelters; accessory uses; coloring of materials; parking; access; landscaped areas; fences; adjacent land uses; separation and setback calculations; and property boundaries. A cross section of the support structure shall be included.~~

Comment [RL7]: Site plan requirements have been moved to Sec. 34-1084

Discussion Draft Zoning Text Amendments—Part 2 of 2

- ~~(2) A landscape plan to scale, indicating the size, spacing and type of plantings, and indicating existing significant vegetation to be removed, and vegetation proposed for planting to replace any lost vegetation; and a natural resources screening, based upon direct observation and/or generally available data sources, of the proposed support structure site; and information as to how the applicant will implement practical measures to avoid, minimize and/or mitigate (in that order of preference) potential adverse impacts.~~
- ~~(3) A utilities inventory showing the location of all water, sewer, drainage, gas, and power lines at the site.~~
- ~~(4) Information concerning support structure specifications, and compliance with applicable EIA, ANSI and USBC standards, as applicable.~~
- ~~(5) Demonstration of the structural integrity of the proposed facility and its support structure; information as to the failure characteristics of the proposed facility and its support structure; demonstration that site conditions and setbacks are adequate to contain debris within the boundaries of the site in the event of structural collapse.~~
- ~~(6) A description of anticipated maintenance and operational needs, including frequency of necessary maintenance services, personnel needs, equipment needs, and traffic, noise or safety impacts of the maintenance and operation of the facility.~~
- ~~(7) Total anticipated capacity of the support structure as proposed, including a description of the number, type, technical capabilities and limitations, and the placement of antenna or other receiving or transmitting devices to be located on the support structure, and information sufficient to enable the city to evaluate the visual impact of the proposed facility on adjacent properties and views.~~
- ~~(8) Information as to the additional tower capacity anticipated, including the approximate number and types of antennas or other equipment the structure could ultimately accommodate, together with a description of any limitations on the ability of the facility to accommodate other facilities or uses (e.g., radio frequency interference, mass height, frequency or other characteristic). The applicant shall include a description of the technical options available to overcome any listed limitations, and reasons why such technical options were not chosen to be incorporated in the proposed facility.~~
- ~~(9) A certification that the applicant has made reasonable efforts to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.~~
- ~~(10) A statement from a qualified radio frequency engineer licensed to practice in the Commonwealth of Virginia, or from the FCC, certifying that, as proposed, a communications facility complies with FCC guidelines concerning radio frequency radiation and emissions.~~
- ~~(11) Written statements from the FAA, FCC and any state governmental authority having jurisdiction or regulatory authority over the proposed facility, verifying that the proposed facility complies with all applicable regulations administered by that agency or authority, or that the proposed facility is exempt from any such regulations.~~
- ~~(12) Any other information which may be requested by the city to facilitate evaluation and review of the application.~~

(f) Special use permits.

The following uses may be permitted with a special use permit:

- ~~(1) A microcell which exceeds the dimensions specified within section 34-683 (the definition of microcell), or which is mounted on a support structure exceeding the height restrictions set forth within section 34-1074.~~

Discussion Draft Zoning Text Amendments—Part 2 of 2

- ~~(2) An attached communications facility that exceeds the height or dimensions specified in section 34-1074.~~
- ~~(3) A freestanding communications facility that exceeds the height specified in section 34-1074.~~
- (1e) ~~Where a facility is permitted by special use permit approval, receipt of final site plan approval and a building permit shall also be required. Each application for a special use permit seeking approval of a special use permit for a communications facility under this division shall include the following information and materials, in addition to the information required as part of a site plan or building permit application:~~
- (1) ~~(4)~~—A proposed final site plan, in accordance with 34-1084;
- ~~(4)(2)~~ Demonstration that the proposed site is appropriate for the location of the facility. Information relevant to this factor includes, without limitation: topographic features or advantages of the site; site location in relation to provision of adequate wireless communications transmission or other type of communications broadcast, transmission or receipt; physical site characteristics in relation to the construction of the facility, including potential impacts on adjacent land uses; technical capabilities and limitations of the facility to be established; adequacy of setbacks to protect adjacent residential or public properties, or public streets in the event of a support structure failure; the ability to buffer, through use of vegetative, topographic or other measures, the impact of the use on adjacent residential or public streets or properties; impact on adjacent buildings, structures or sites of historic significance.
- (32) A list of all existing support structures and antenna sites within a two-mile radius from the proposed site (list to include street address, tax parcel number, existing uses and existing height), outlining opportunities for shared use as an alternative to the proposed use. The applicant shall demonstrate that the proposed support structure, antenna or microcell cannot be accommodated by other existing approved facilities due to one (1) or more of the following reasons:
- Unwillingness of the owner of the existing facilities to entertain a wireless communication facility proposal, or unwillingness of such owner to provide space on economically reasonable terms;
 - The planned equipment would exceed the structural capacity of existing and approved support structures and facilities, considering existing and planned use for those facilities;
 - The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
 - Existing or approved support structures of facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - Other reasons, described in specific factual detail, make it impracticable to place the equipment on existing and approved support structures or facilities;
 - The proposed co-location of an existing support structure or antenna site would be, by virtue of the requirements of this division, any city ordinance or the city's comprehensive plan, considered a prohibited use.
- (43) A statement certifying that, as proposed, the facility is consistent with provisions of Subchapter I of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321—4335. If an environmental assessment is performed pursuant to 47 C.F.R. Chapter I, Part I, Subpart I, a copy shall be provided to the city.
- (54) Technical, engineering, and other pertinent factors which led to the selection of the particular design and proposed height of the facility.

Discussion Draft Zoning Text Amendments—Part 2 of 2

- (65) An inventory of the applicant's existing ~~PWSFs or other~~ communications facilities located within the city ~~and or~~ within one (1) mile of the city's boundaries, including specific information about the location, height and design of each facility.
- (76) A detailed description of ~~any the~~ gap in service (described in technical terms and geographic area) that a proposed ~~communications facility PWSF~~ is designed to serve, together with documentation that the ~~proposed PWSF is the least intrusive alternative available (e.g., that the applicant has considered alternatives that would obviate any need for the proposed installation, including, without limitation: collocation at alternative less sensitive sites, alternative system designs, alternative tower designs, etc.).~~
- (87) Any other information requested by the city to enable it to fully evaluate and review the application and the potential impact of the proposed facility.
- (9f) The criteria to be applied by the city in reviewing an application for a special use permit are as follows:
- (1) Whether the proposed facility has been designed and configured in a way that minimizes the adverse visual impact of support structures, antenna arrays and other associated structures and equipment on adjacent properties, particularly any adjacent residentially-zoned properties or any conservation or historic districts or protected properties, or any entrance corridors;
 - (2) Whether the proposed facility has been designed and configured to promote compatibility with surrounding land uses and to protect the health, safety, general welfare and property values of the community;
 - (3) Whether the proposed facility has been designed and configured so that it will not have undue adverse impact on traffic or parking congestion in the surrounding neighborhood or the community;
 - (4) Whether the applicant has made all reasonable efforts to identify and locate opportunities for shared use (co-location) of existing support structures and antenna sites within an appropriate radius from the proposed site, as an alternative to the proposed use;
 - (5) Whether the proposed facility will meet all applicable federal, state and local laws and regulations, including building, fire and safety regulations; and
 - (6) Whether the proposed facility meets the applicable requirements and standards set forth within this division and within article I, division 8 of this chapter.
- (fg) The planning commission shall review and make recommendations to city council concerning approval or disapproval of the application for a special use permit ~~for a PWSF or other communications facility~~, based upon ~~its the~~ review of the application materials and site plan for the proposed facility and upon the criteria set forth in this division ~~and chapter.~~
- (1) ~~The planning commission may concurrently approve a site plan subject to city council's approval of a special use permit, and subject to the necessary amendments to the site plan as a result of the city council action; or, alternatively,~~
 - (2) ~~The planning commission may choose to consider the site plan after the approval of the special use permit by the city council.~~
- (gh) Except as set forth above, ~~The~~ procedure for ~~filing and~~ consideration of an application for a special use permit for a communications facility is the same as that required by Article I, division 8 of this chapter ~~for a rezoning petition, except that each application for a special use permit under this division shall, in addition, contain a site plan and other supporting data sufficient to demonstrate compliance with the purposes and standards of this division and the other requirements set forth in this division.~~

Comment [RL8]: See paragraph (k), below

Discussion Draft Zoning Text Amendments—Part 2 of 2

- (hi) Each application for a special use permit for a ~~PWSF or other~~ communications facility, or an amendment to such a special use permit, shall be accompanied by a fee as set forth within the most recent fee schedule adopted by city council~~in the amount of one hundred dollars (\$100.00)~~, plus an additional amount specified by the director of neighborhood development services or his designee, as and for the cost of technical consultant(s) and experts deemed necessary by the city. Such fee shall include but shall not necessarily be limited to the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate the application.
- (ij) In granting any special use permit for a communications facility the city council may expand, modify, reduce or otherwise grant exceptions to the setback regulations, landscaping and screening requirements, height restrictions or visibility and placement restrictions set forth within this division, provided that the city council determines that such conditions are reasonable and will serve approval of the proposed facility meets~~the purpose and goals of this chapter~~. The resolution adopted by city council to grant any such special use permit shall include any exceptions or modifications as specific conditions of such permit.
- (jk) Special use permits issued under the terms of this division shall be reviewed by the department of neighborhood development services no less than every five (5) years from the date of issuance for compliance with this division and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities are being violated.
- (kl) Special use permits for communications facilities ~~granted by the city council~~ shall be subject to the provisions of City Code Sec. 34-156 et seq., except as follows:
- (1) Application materials shall be reviewed, and zoning decisions rendered, in the following order: (i) the City's agent for approval of a site plan shall take action on the proposed final site plan, as submitted, and any approval shall be subject to the approval of a special use permit, (ii) the BAR or ERB, as applicable, shall make a decision on any required certificate of appropriateness. Approval of a COA shall be conditioned upon approval of a special use permit, and a denial of a COA shall be deemed appealed to city council for resolution in connection with its decision on the special use permit; and (iii) the planning commission and city council shall take final action on the proposed special use permit, subject to final approval of the site plan.
- (2) All required zoning decisions referenced within paragraph (1), above, shall be completed by the City within 150 days of receipt of an application, or within 90 days if the application involves a collocation (other than an Eligible Facility request). The City's review and responses to the application shall be in accordance with requirements of federal and state law. Denial of a special use permit by city council shall be set forth in writing and must be supported by substantial evidence in the record of the proceedings.
- (l) ~~Notwithstanding the provisions of Sec. 34-164, if a tower or base station is abandoned, and it remains abandoned for a period of at least twelve (12) consecutive months, then upon written notice to the owner, the city may require that the tower be removed, or that all communications equipment be removed from the base station, within six (6) months after the date of such notice, expire eighteen (18) months from the date of permit approval, if construction of improvements necessary to the use for which the permit was granted has not commenced to a degree that, in the opinion of the zoning administrator, clearly establishes the intent to utilize the granted special permit in a period of time deemed reasonable for the type and scope of improvements involved.~~
- (m) Procedures for the amendment of a special use permit shall be the same for the original special use permit application.
- (n) In the event of a conflict between any provisions of this article and the provisions of any applicable federal law, regulation, or binding regulatory interpretation or directive, the federal requirement(s) shall govern.

Comment [RL9]: Time periods mandated by federal law: (1) the Federal Telecommunications Act of 1996, and (2) The Spectrum Act.

Discussion Draft Zoning Text Amendments—Part 2 of 2

34-1084. Site plans—required contents.

- (a) Each proposed final site plan required by applicant requesting site plan review under this division shall contain the submit the following information and materials as part of the application:
- (1) A site plan and elevations, drawn to scale, and other supporting drawings or photographic simulations, specifying the appearance, height, location and dimensions of the proposed facility, including: support structure; equipment shelters; accessory uses; coloring of materials; parking; access; landscaped areas; fences; adjacent land uses; separation and setback calculations; and property boundaries. A cross section of the support structure shall be included.
 - (2) For Substantial Changes, scaled drawings depicting the improvements and related equipment and concealment elements, including their appearance, characteristics and dimensions.
 - (3) A landscape plan to scale, indicating the size, spacing and type of plantings, and indicating existing significant vegetation to be removed, and vegetation proposed for planting to replace any lost vegetation; and a natural resources screening, based upon direct observation and/or generally available data sources, of the proposed support structure site; and information as to how the applicant will implement practical measures to avoid, minimize and/or mitigate (in that order of preference) potential adverse impacts.
 - (3) A utilities inventory showing the location of all water, sewer, drainage, gas, and power lines at the site.
 - (4) Information concerning support structure specifications, and compliance with applicable EIA, ANSI and Virginia USBC standards, as applicable.
 - (5) Written verification from an engineer certifying that the support structure is structurally and mechanically capable of supporting the proposed facility, together with other facilities located, on the same structure. The site plan shall include ~~Demonstration of the structural integrity of the proposed facility and its support structure;~~ information as to the failure characteristics of the proposed facility and its support structure;
 - (6) Engineering calculations of the fall zone for the communications facility, and scaled drawings depicting the area of the fall zone in relation to the boundaries of the lot on which the facility is located. The scaled drawings shall demonstrate ~~demonstration~~ that site conditions and setbacks are adequate to contain debris within the boundaries of the site in the event of structural collapse.
 - (6) A description of anticipated maintenance and operational needs, including frequency of necessary maintenance services, personnel needs, equipment needs, and traffic, noise or safety impacts of the maintenance and operation of the facility.
 - (7) Total anticipated capacity of the support structure as proposed, including a description of the number, type, technical capabilities and limitations, and the placement of antenna or other receiving or transmitting devices to be located on the support structure, and information sufficient to enable the city to evaluate the visual impact of the proposed facility on adjacent properties and views.
 - (8) Information as to the additional tower capacity anticipated, including the approximate number and types of antennas or other equipment the structure could ultimately accommodate, together with a description of any limitations on the ability of the facility to accommodate other facilities or uses (e.g., radio frequency interference, mass height, frequency or other characteristics). The applicant shall include a description of the technical options available to overcome any listed limitations, and reasons why such technical options were not chosen to be incorporated in the proposed facility.

Discussion Draft Zoning Text Amendments—Part 2 of 2

- (9) A certification that the applicant has made reasonable efforts to find a collocation site acceptable to engineering standards, and that none was practically or economically feasible.
- (10) A statement from a qualified radio frequency engineer licensed to practice in the Commonwealth of Virginia, or from the FCC, certifying that, as proposed, a communications facility complies with FCC guidelines concerning radio frequency radiation and emissions.
- (11) Written statements from the FAA, FCC and any state governmental authority having jurisdiction or regulatory authority over the proposed facility, verifying that the proposed facility complies with all applicable regulations administered by that agency or authority, or that the proposed facility is exempt from any such regulations.
- (12) Any other information which may be requested by the city to facilitate evaluation and review of the application.

Secs. 34-1084—34-1099. - Reserved.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 4, 2016
Action Required:	Ordinance Approval (Consent Agenda – 1 st of 2 readings)
Presenter:	Lisa A. Robertson, Chief Deputy City Attorney
Staff Contacts:	Andrew Gore, Assistant City Attorney
Title:	Lightower Fiber Networks II, LLC Telecommunications Franchise

Background: Lightower Fiber Networks II, LLC, has requested a telecommunications franchise with the City to install and maintain fiber lines and equipment. The proposed route is shown on the attached map, with the franchise applicable to those areas that are within the public rights of way (Emmet Street North and Hydraulic Road). Public Utilities staff, NDS staff and the City Engineer have reviewed the general plan submitted by Lightower, and have no objection to the franchise agreement. Lightower has secured an easement for that portion of the route that crosses private property (Kroger store property on Emmet Street).

Discussion: The proposed franchise ordinance contains the same terms as the model telecommunications franchise ordinance developed by the City Attorney's Office and used in other franchises granted by the City. In accordance with the franchise terms, Lightower is prepared to comply with the bonding and insurance requirements set forth in the agreement.

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

Recommendation: Approve the franchise agreement.

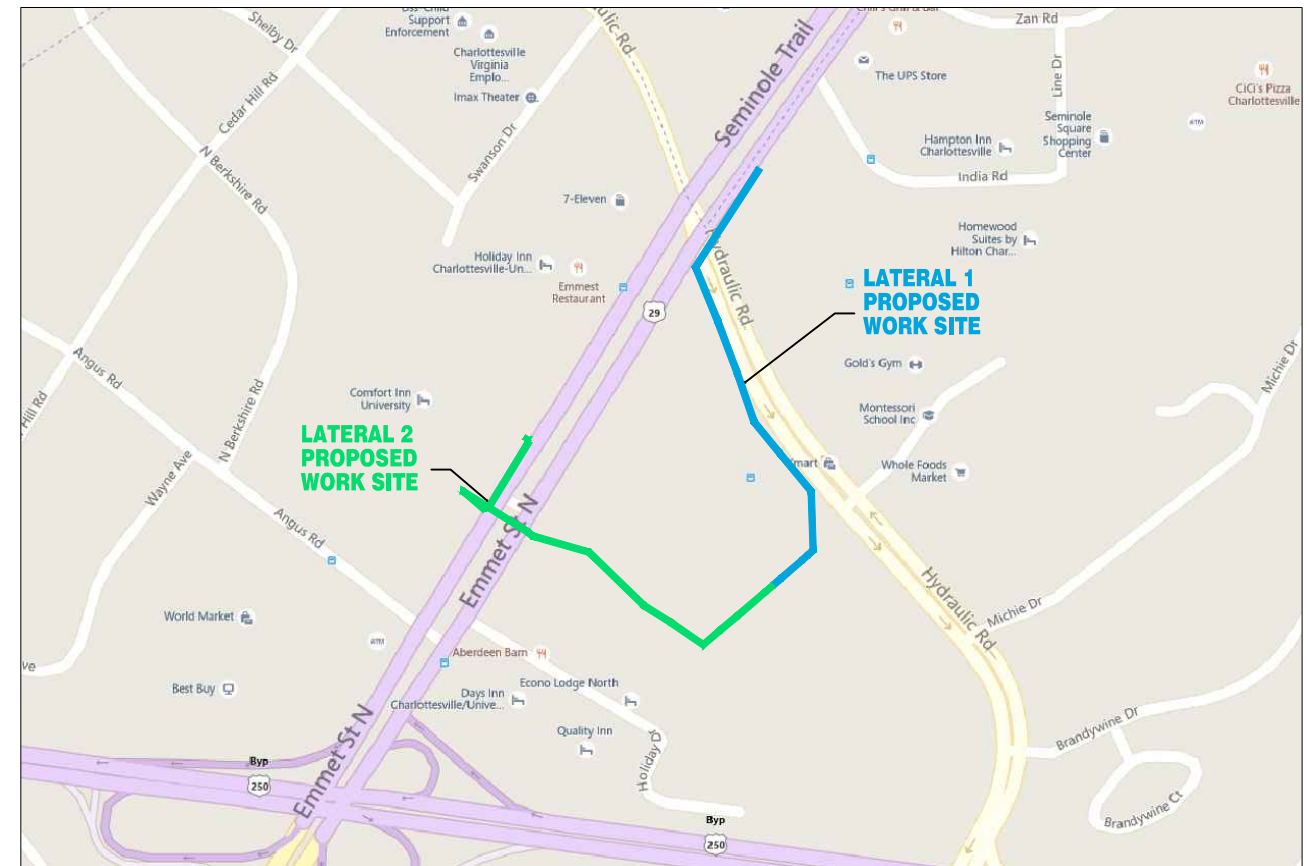
Alternatives: Council may decline to adopt the ordinance and decline to grant the franchise agreement with Lightower Fiber Networks.

Attachments: Map
Proposed Lightower Franchise Agreement Ordinance



*HYDRAULIC RD
PROPOSED FIBER ROUTE
CHARLOTTESVILLE, VA*

JANUARY 5, 2016



SITE MAP

CONTACTS

EXPRESS-TEK:

KLAUS SCHMIDT (540) 752-6691
ENGINEERING MANAGER

KEITH WARD (540) 752-6691
OSP ENGINEER

MATT NORRIS (540) 752-6691
PERMITTING

ISAAC HERRERA (540) 752-6691
PERMITTING

TRVIS STAPLES (540) 752-6691
DRAFTER

UTILITIES:

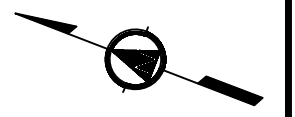
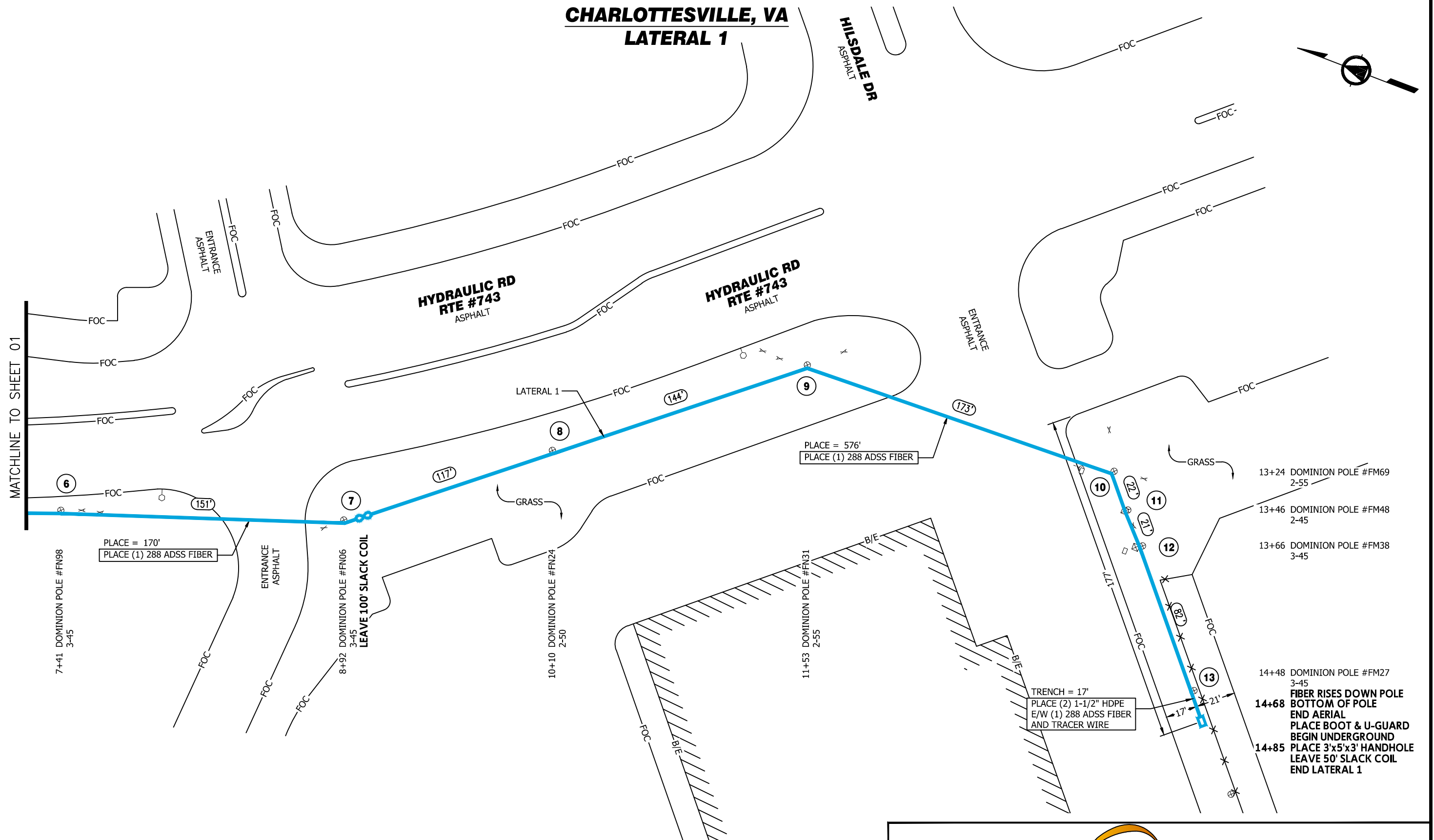
MISS UTILITY (VA)	24 HOUR NUMBER	(800) 552-7001
WILLIAMS PIPE LINE (TRANSCONTINENTAL)	WILLIAM POOLE	(703) 368 3255 X2223
EMERGENCY 24 HOUR NUMBER		(800) 257-7777
VIRGINIA POWER	GARY DORMAN	(540) 341-3159
EMERGENCY 24 HOUR NUMBER	TRANS. R/W ENCROACHMENT	(888) 667-3000
<u>NATURAL GAS</u>		
WASHINGTON GAS	DON JONES	(703) 750-5510
EMERGENCY 24 HOUR NUMBER	SUPERVISOR OF DAMAGE PREVENTION	(703) 750-1000
COLONIAL PIPE LINE	LARRY LOAR	(703) 504-5112
EMERGENCY 24 HOUR NUMBER		(800) 926-2728
COLUMBIA GAS	STEVE STIMSON	(540) 270-0694
EMERGENCY 24 HOUR NUMBER		(800) 835-7191

PERMITTING AGENCIES:

VDOT (ALBEMARLE) JOEL DENUNZIO (434) 293-0011

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

**CHARLOTTESVILLE, VA
LATERAL 1**



MATCHLINE TO SHEET 01

7+41 DOMINION POLE #FN98
3-45

PLACE = 170'
PLACE (1) 288 ADSS FIBER

8+92 DOMINION POLE #FN06
3-45
LEAVE 100' SLACK COIL

10+10 DOMINION POLE #FN24
2-50

11+53 DOMINION POLE #FN31
2-55

PLACE = 576'
PLACE (1) 288 ADSS FIBER

TRENCH = 17'
PLACE (2) 1-1/2" HDPE
E/W (1) 288 ADSS FIBER
AND TRACER WIRE

13+24 DOMINION POLE #FM69
2-55
13+46 DOMINION POLE #FM48
2-45
13+66 DOMINION POLE #FM38
3-45

14+48 DOMINION POLE #FM27
3-45
14+68 FIBER RISES DOWN POLE
BOTTOM OF POLE
END AERIAL
PLACE BOOT & U-GUARD
BEGIN UNDERGROUND
14+85 PLACE 3'x5'x3' HANDHOLE
LEAVE 50' SLACK COIL
END LATERAL 1

NOTE:
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' IN ADVANCE OF TRENCHING, PLOWING OR BORING, SO THAT CHANGES IN CABLE PLACEMENT CAN BE MADE IN THE EVENT OF CONFLICT.



**ISSUED FOR
CONSTRUCTION**



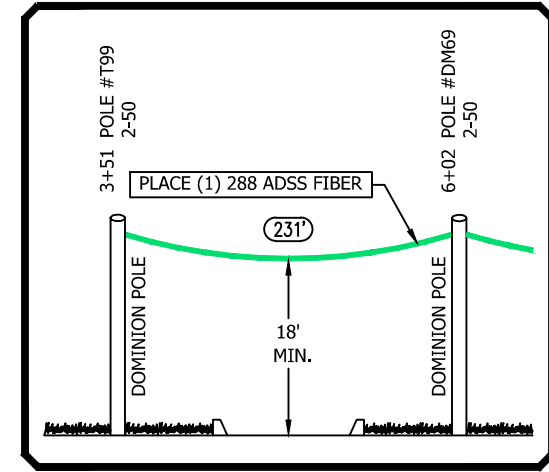
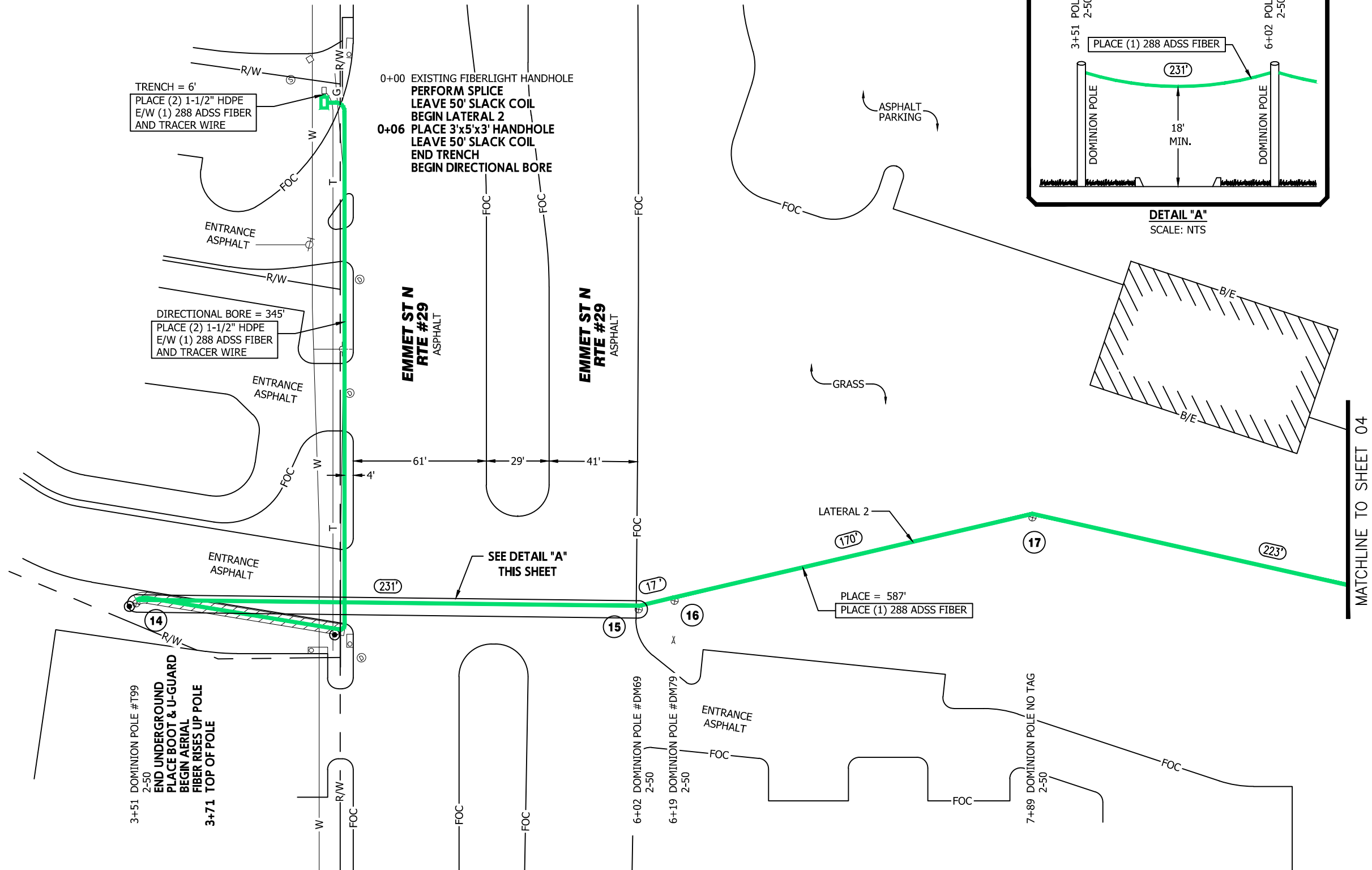
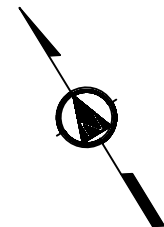
HYDRAULIC RD
PROPOSED FIBER ROUTE
CHARLOTTESVILLE, VIRGINIA

NOT FOR OUTSIDE DISCLOSURE
WITHOUT EXPLICIT PERMISSION
FROM LIGHTTOWER.

FILE: E1540	ENGINEER: K. WARD	DRAWN BY: T. STAPLES	DATE: 01/05/16
REV:	PN#:	SCALE: 1"=50'	SHEET: 02 OF 04

RIGHT OF WAY DERIVED FROM SUBDIVISION PLAT SHOWING LOTS 2A-1 & 2B-1, A REDIVISION OF LOTS 2A & 2B, RECORDED IN D.B. 454 P.837.

CHARLOTTESVILLE, VA LATERAL 2



DETAIL "A"
SCALE: NTS

MATCHLINE TO SHEET 04

NOTE:
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' IN ADVANCE OF TRENCHING, PLOWING OR BORING, SO THAT CHANGES IN CABLE PLACEMENT CAN BE MADE IN THE EVENT OF CONFLICT.



**ISSUED FOR
CONSTRUCTION**

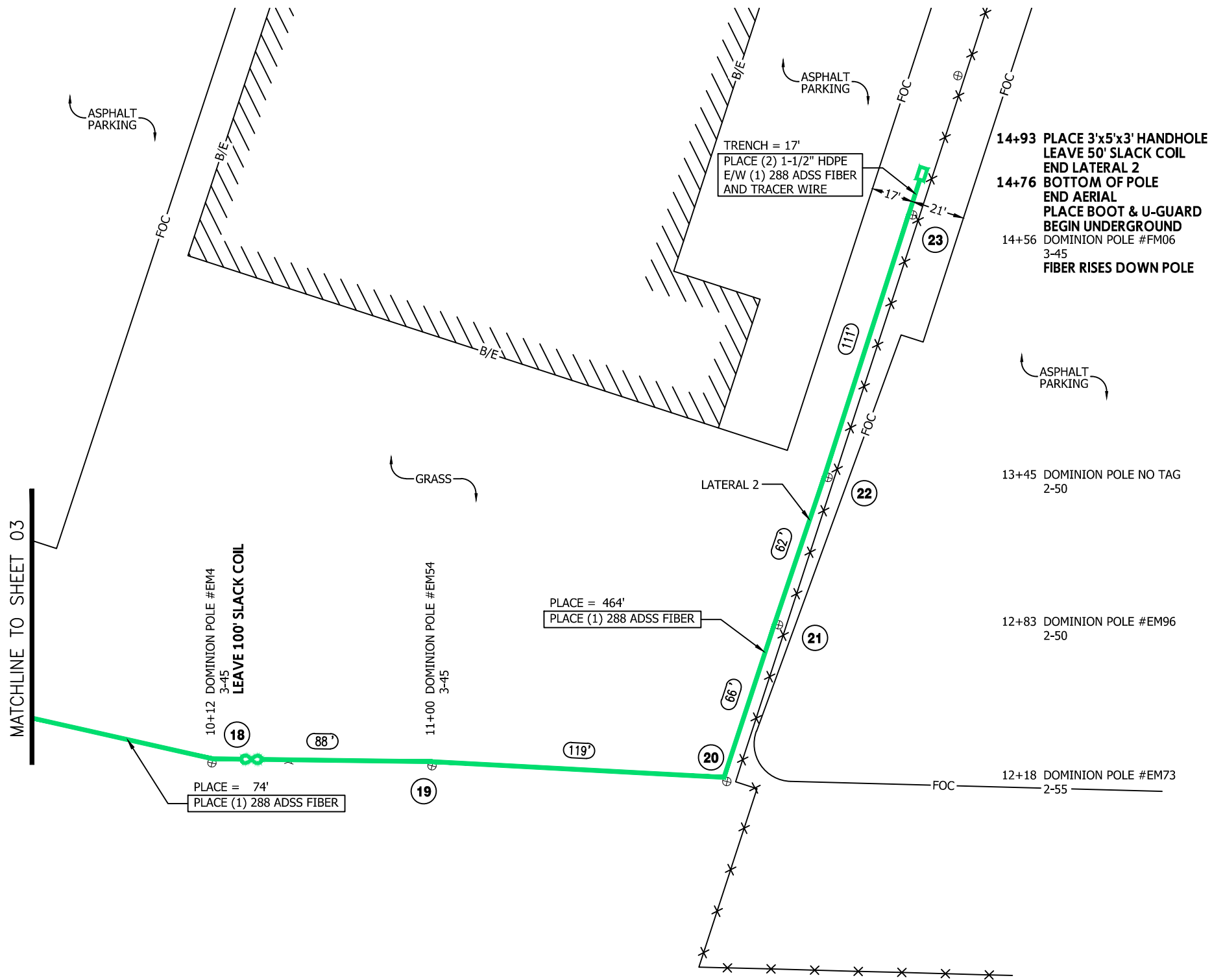
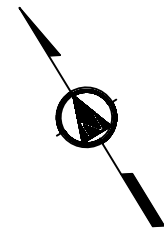


HYDRAULIC RD
PROPOSED FIBER ROUTE
CHARLOTTESVILLE, VIRGINIA

NOT FOR OUTSIDE DISCLOSURE
WITHOUT EXPLICIT PERMISSION
FROM LIGHTTOWER.

FILE: E1540	ENGINEER: K. WARD	DRAWN BY: T. STAPLES	DATE: 01/05/16
REV:	PN#:	SCALE: 1"=50'	SHEET: 03 OF 04

**CHARLOTTESVILLE, VA
LATERAL 2**



NOTE:
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' IN ADVANCE OF TRENCHING, PLOWING OR BORING, SO THAT CHANGES IN CABLE PLACEMENT CAN BE MADE IN THE EVENT OF CONFLICT.



Know what's below.
Call before you dig.

**ISSUED FOR
CONSTRUCTION**



HYDRAULIC RD
PROPOSED FIBER ROUTE
CHARLOTTESVILLE, VIRGINIA

NOT FOR OUTSIDE DISCLOSURE
WITHOUT EXPLICIT PERMISSION
FROM LIGHTTOWER.

FILE: E1540	ENGINEER: K. WARD	DRAWN BY: T. STAPLES	DATE: 01/05/16
REV:	PN#:	SCALE: 1"=50'	SHEET: 04 OF 04

**AN ORDINANCE
GRANTING A TELECOMMUNICATIONS FRANCHISE TO
LIGHTOWER FIBER NETWORKS II, 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 Lightower Fiber Networks II, 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 be and is hereby authorized and empowered to erect, maintain and operate certain telephone lines and associated equipment, including conduit, cabinets, posts, poles, cables, radios, antennas, wires and all other necessary overhead or underground apparatus and associated equipment on, over, along, in, under and through the streets, alleys, highways and other public places of the City of Charlottesville, Virginia (the “City”) as its business may from time to time require; provided that:

ARTICLE I

SECTION 101 PURPOSE AND SCOPE

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

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

SECTION 102 AUTHORITY TO MANAGE THE RIGHT OF WAY

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

This Ordinance and any right, privilege or obligation of the City or Company hereunder, shall be interpreted consistently with state and federal statutory, administrative and common law, and such statutory, administrative or common law shall govern in the case of conflict. This Ordinance shall not

be interpreted to limit the regulatory and police powers of the City to adopt and enforce other general ordinances necessary to protect the health, safety, and welfare of the public.

SECTION 103 DEFINITIONS

103.1 CITY means the City of Charlottesville, Virginia, a municipal corporation.

103.2 COMPANY means Lightower Fiber Networks II, 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 as shown on the attached drawing/map, subject to final approval by the Director. 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 representative.

Section 302 Submission of PROW Plan

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

Section 303 Good Cause Exception

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

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

If the City becomes aware of an emergency regarding the Company's facilities, the City will attempt to contact the person whose facilities occasioned the emergency. The costs associated with the City's respond shall be borne by the person whose facilities occasioned the emergency.

Section 304 Decision on PROW Plan by the Director

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

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

Section 305 Mapping Data

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

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

Article IV

Section 401 Compliance with all Law and Regulations

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

Article V

Section 501 Relocation of Company Facilities within the Public Rights-of-Way

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

Section 502 Rights-of-Way Patching and Restoration

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

- (a) the number, size, depth and duration of the excavations, disruptions or damage to the Public Rights-of-Way;
- (b) the traffic volume carried by the Public Rights-of-Way; the character of the neighborhood surrounding the right-of-way;
- (c) the pre-excavation condition of the Public Rights-of-Way and its remaining life expectancy;
- (d) the relative cost of the method of restoration to the Company balanced against the prevention of an accelerated deterioration of the right-of-way resulting from the excavation, disturbance or damage to the Public Rights-of-Way; and

- (e) the likelihood that the particular method of restoration would be effective in slowing the depreciation of the Public Rights-of-Way that would otherwise take place.

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

502.3 TIMING: After any excavation by the Company pursuant to this Ordinance, the patching and restoration of the Public Rights-of-Way must be completed promptly and in a manner determined by the Director.

502.4 GUARANTEES: The Company guarantees its restoration work and shall maintain it for twenty-four (24) months following its completion. The previous statement notwithstanding, the Company will guarantee and maintain plantings and turf for twelve (12) months. During these maintenance periods, the Company shall, upon notification by the City, correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of notice from the Director, within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure. Notwithstanding the foregoing, the Company's guarantees set forth hereunder concerning restoration and maintenance, shall not apply to the extent another company, franchisee, licensee, permittee, other entity or person, or the City disturbs or damages the same area, or a portion thereof, of the Public Rights-of-Way.

502.5 DUTY TO CORRECT DEFECTS: The Company shall correct defects in patching, or restoration performed by it or its agents. Upon notification from the City, the Company shall correct all restoration work to the extent necessary, using the method determined by the Director. Such work shall be completed after receipt of the notice from the Director within a reasonably prompt period, with consideration given for days during which work cannot be done because of circumstances constituting force majeure.

502.6 FAILURE TO RESTORE: If the Company fails to restore the Public Rights-of-Way in the manner and to the condition required by the Director pursuant to Section 502.5, or fails to satisfactorily and timely complete all restoration required by the Director pursuant to the foregoing, the City shall notify the Company in writing of the specific alleged failure or failures and shall allow the Company at least ten (10) days from receipt of the notice to cure the failure or failures, or to respond with a plan to cure. In the event that the Company fails to cure, or fails to respond to the City's notice as provided above, the City may, at its election, perform the necessary work and the Company shall pay to the City its reasonable costs for such restoration within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within the thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such restoration.

502.7 DAMAGE TO OTHER FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY: The Company shall be responsible for the cost of repairing any Facilities existing within the Public

Rights-of-Way that it or the Facilities owned by the Company damage. If the Company damages the City's Facilities within the Public Rights-of-Way, such as, but not limited to, culverts, road surfaces, curbs and gutters, or tile lines, the Company shall correct the damage within a prompt period after receiving written notification from the City. If the Company does not correct the City's damaged Facilities pursuant to the foregoing, the City may make such repairs as necessary and charge all of the reasonable costs of such repairs within thirty (30) days of billing accompanied by an itemized statement of the City's reasonable costs. If payment is not received by the City within such thirty (30) day period, the City Attorney may bring an action to recover the reasonable costs of the restoration and reasonable attorney's fees in a court of competent jurisdiction pursuant to Section 56-467 of the Virginia Code. Reasonable costs may include, but are not limited to, administrative, overhead mobilization, material, labor, and equipment related to such repair.

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

Article VI

Section 601 Indemnification and Liability

601.1 SCOPE OF INDEMNIFICATION: Subject to the following, the Company agrees and binds itself to indemnify, keep and hold the City council members, 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 or delayed more than thirty (30) days. If, in such a suit, a final judgment is obtained against the City, either independently or jointly with the Company, the Company will pay the judgment, including all reasonable costs, and will hold the City harmless therefrom.

Section 602 Waiver by the City

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

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

Section 603 Insurance

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

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

amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Ordinance; and

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

The policy shall include the City as an additional insured party, and the Company shall provide the City Attorney with a certificate of such coverage before 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 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:

Lightower Fiber Networks
Attn: COO
80 Central Street
Boxborough, MA 01719

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:

Lightower NOC: 888-LT-FIBER (888-583-4237), Option #1. (Staffed by Lightower personnel 24x7x365).

To the City:

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

Judith Mueller, Director of Public Works
(434) 970-3301 (office)
(434) 970-3817 (facsimile)

Section 1203 Registration of Data

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

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

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

Article XIII

Section 1301 Termination of Telecommunications Franchise

The franchise granted by this Ordinance may be terminated:

- (a) by the Company, at its election and without cause, by written notice to the City at least sixty (60) days prior to the effective date of such termination; or
- (b) by either the Company or the City, after thirty (30) days written notice to the other party of the occurrence or existence of a default of the franchise granted by this Ordinance, if the defaulting party fails to cure or commence good faith efforts to cure, such default within sixty (60) days after delivery of such notice.

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

Article XIV

Section 1401 Removal of Facilities from the Public Rights-of-Way

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

Section 1402 Abandonment of Facilities Owned by the Company in the Public Rights-of-Way

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

Article XV

SECTION 1501 Prior Written Consent for Assignment

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

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

Section 1502 Successors and Assigns

Notwithstanding Section 1501, the Company may assign, transfer, or sublet its rights, without the consent of the City, to any person or entity that controls, is controlled by or is under common

control with the Company, any company or entity with which or into which the Company may merge or consolidate, to any lender of the Company provided the City is advised of the action prior to enactment. Any successor(s) of the Company shall be entitled to all rights and privileges of this franchise granted by this Ordinance and shall be subject to all the provisions, obligations, stipulations and penalties herein prescribed.

Article XVI

Section 1601 Nonexclusive Franchise

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

Article XVII

Section 1701 All Waivers in Writing and Executed by the Parties

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

Section 1702 No Constructive Waiver Recognized

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

Article XVIII

Section 1801 No Discrimination

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

Article XIX

Section 1901 Force Majeure

Neither the Company nor the City shall be liable for any delay or failure in performance of any part of the franchise granted by this Ordinance from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority,

government regulations embargoes, epidemics, terrorist acts, riots insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions.

Article XX

Section 2001 Effective Date

This Ordinance shall be effective upon its passage.

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

Paige Rice, Clerk of Council

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

LIGHTOWER FIBER NETWORKS II, LLC

By _____

Its _____

Date _____

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



Agenda Date:	April 4, 2016
Action Required:	Public Hearing/ Adopt Ordinance Granting an Electric Underground Utility Easement to Dominion Virginia Power, in McIntire Park
Presenter:	Lisa Robertson, Chief Deputy City Attorney
Staff Contacts:	Lisa Robertson
Title:	YMCA Utility Right-of-Way Agreement

Background:

Dominion Virginia Power (“Dominion”) has requested the City to grant an easement for an electric utility installation on City property. The easement is needed to provide adequate electric service for the new YMCA facility being constructed in McIntire Park. (Separately, Dominion will also need to obtain a similar easement from the City School Board).

Discussion:

In order for the YMCA to be served by “three phase” electricity, Dominion says that it must install a new line running from the YMCA building, across City property (underground) and across a stream (running underneath an existing pedestrian trail and pedestrian bridge), for a distance of about 500 feet. After the line crosses over onto School Board property, Dominion plans to run the line along the edge of the property line/ stream, for about 1,728 feet, over to an existing overhead line near Grove Road. According to Dominion staff, they do not plan to cut any trees down, or trim any tree limbs, in order to do this work. Attached are a GIS/Aerial Photo view of the School Board property and adjacent City land. Also attached are two drawings providing the general locations of (1) the 500-foot length of easement requested from the City, and (2) the easement area that will separately be requested by Dominion from the School Board. (The written easement documents will be similar, but only the proposed City easement is attached to this Memo).

Alignment with Council Vision Areas and Strategic Plan:

The proposed YMCA, and actions necessary to complete that project, align with Council’s Vision to be America’s Healthiest City.

Community Engagement:

The required public hearing allows for community engagement in this matter.

Budgetary Impact:

No budgetary impacts are anticipated at this time.

Recommendation:

Staff recommends approval.

Alternatives:

City Council's alternatives, after conducting a public hearing, are (1) grant the requested easement, by motion to approve the attached ordinance, or (2) by motion, deny the requested easement.

Attachments:

- (1) Proposed Ordinance
- (2) GIS View of Charlottesville High School Property adjacent to McIntire Park
- (3) Plat to Accompany [the City's] Right-of-Way Agreement (**Plat No. 80-16-0014**)
- (4) Plat of the Proposed Easement across School Property (FYI only—not for action)
- (5) Proposed Right-of-Way Agreement between Dominion and the City




**AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF AN EASEMENT
TO DOMINION VIRGINIA POWER
TO PERMIT ELECTRIC UTILITY LINES
ACROSS CITY PROPERTY WITHIN MCINTIRE PARK**

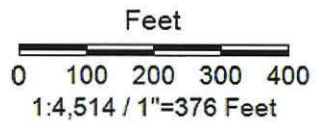
WHEREAS, the Virginia Electric and Power Company, a Virginia public service corporation doing business in Virginia as Dominion Virginia Power, has requested this Council to grant an easement across property owned by the City of Charlottesville within McIntire Park (Tax Map Parcel Identification No. 450001000), as described within a Right of Way Agreement (DVPIDNo(s) 80-16-0014) and accompanying Plat, for the installation and maintenance of electric utility lines and equipment; and

WHEREAS, on April 4, 2016, this City Council conducted a public hearing on the requested easement; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the Mayor is hereby authorized to execute a Right-of-Way Agreement, in a form approved by the City Attorney, granting the above-described easement to Dominion Virginia Power.

Legend

-  City Limits
-  Bodies of Water
-  Streams & Rivers

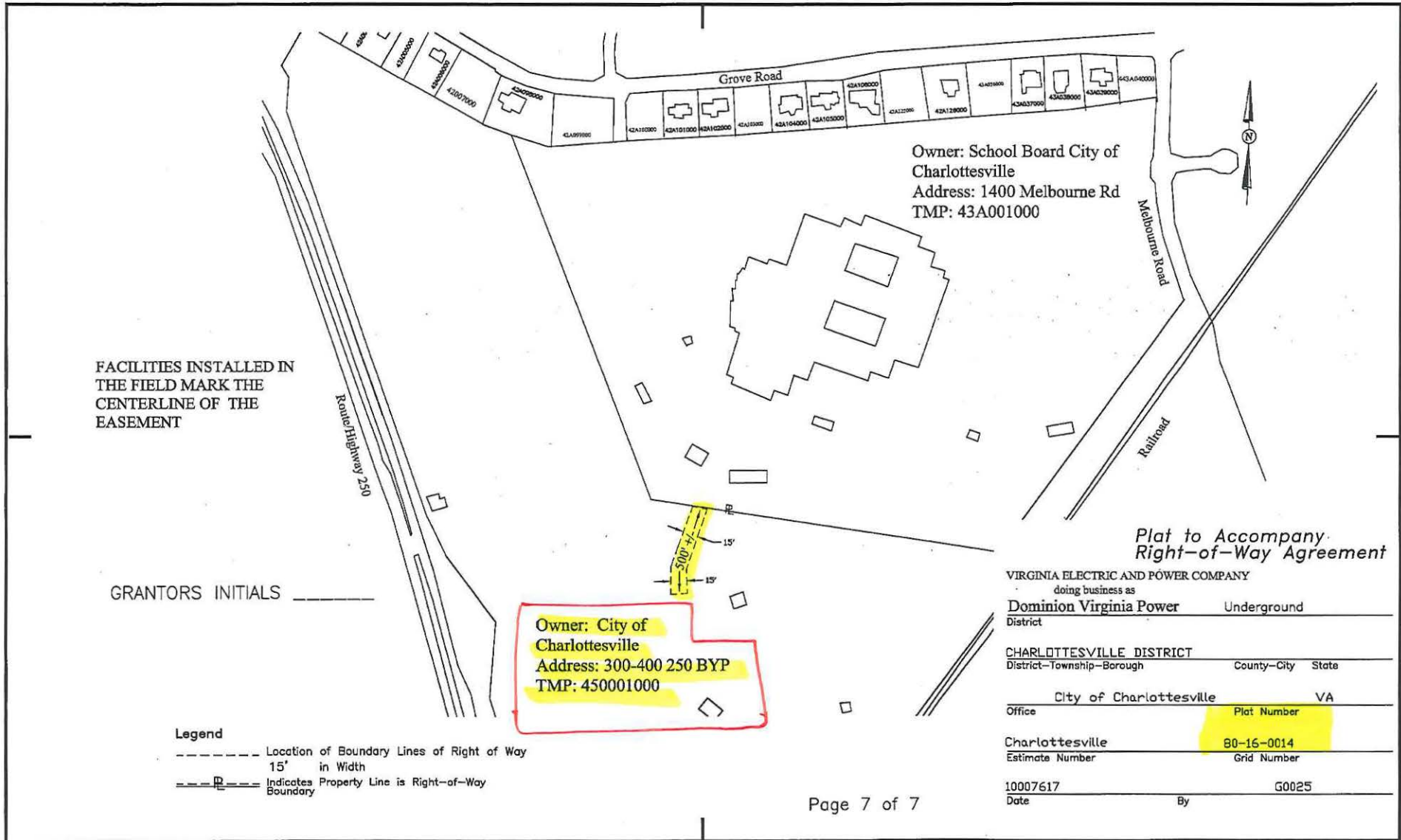


Title:

Date: 3/23/2016

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Charlottesville is not responsible for its accuracy or how current it may be.





FACILITIES INSTALLED IN THE FIELD MARK THE CENTERLINE OF THE EASEMENT

GRANTORS INITIALS _____

Legend

- Location of Boundary Lines of Right of Way 15' in Width
- Indicates Property Line is Right-of-Way Boundary

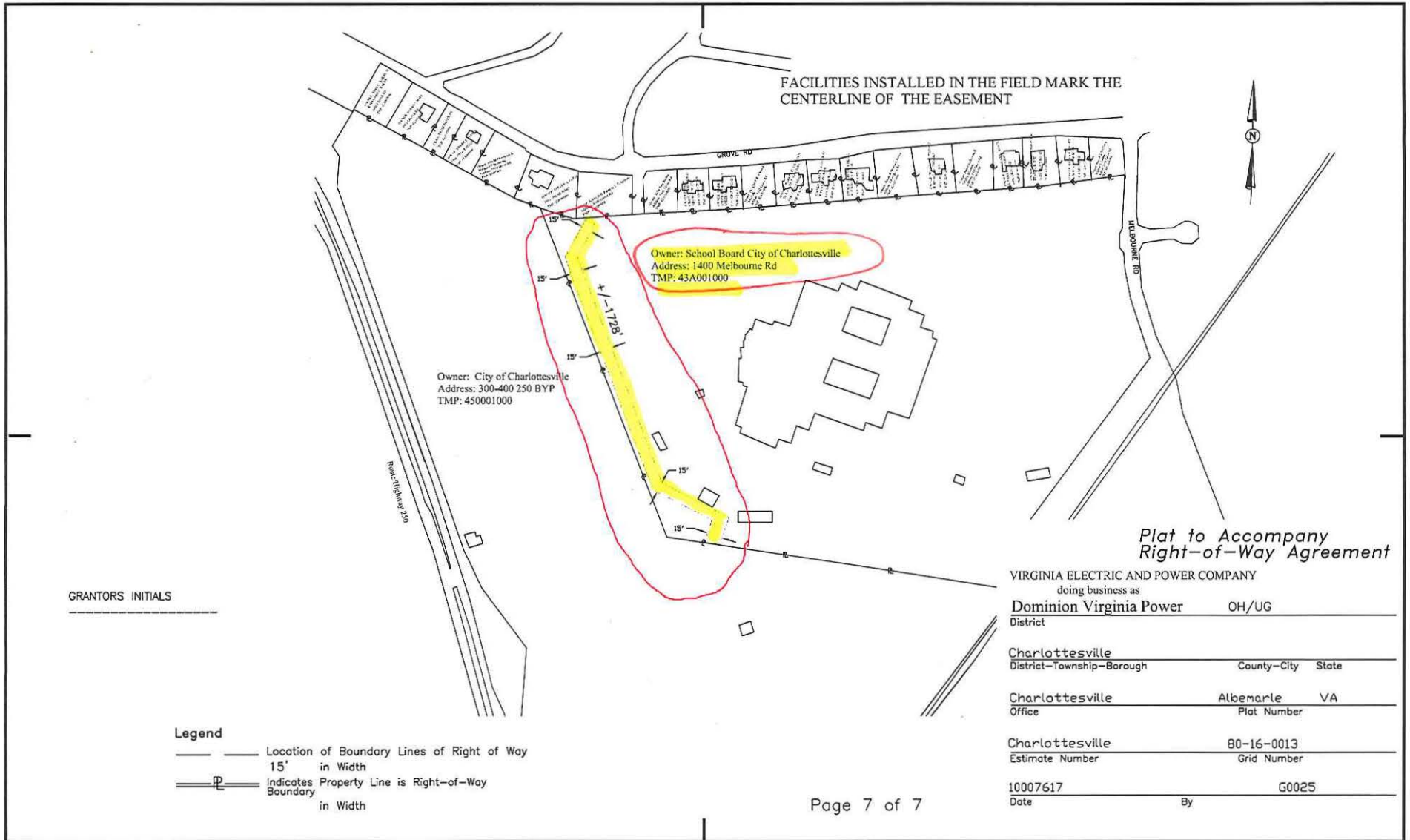
Owner: School Board City of Charlottesville
 Address: 1400 Melbourne Rd
 TMP: 43A001000

Owner: City of Charlottesville
 Address: 300-400 250 BYP
 TMP: 450001000

Plat to Accompany Right-of-Way Agreement

VIRGINIA ELECTRIC AND POWER COMPANY doing business as		
Dominion Virginia Power	Underground	
District		
CHARLOTTESVILLE DISTRICT		
District-Township-Borough	County-City	State
	City of Charlottesville	VA
Office	Plat Number	
	80-16-0014	
Charlottesville	Grid Number	
Estimate Number		
10007617	G0025	
Date	By	

FYI Only: Location of Proposed School Board Easement



FACILITIES INSTALLED IN THE FIELD MARK THE CENTERLINE OF THE EASEMENT

Owner: School Board City of Charlottesville
Address: 1400 Melbourne Rd
TMP: 43A001000

Owner: City of Charlottesville
Address: 300-400 250 BYP
TMP: 450001000

Plat to Accompany Right-of-Way Agreement

VIRGINIA ELECTRIC AND POWER COMPANY
doing business as
Dominion Virginia Power OH/UG
District

Charlottesville
District-Township-Borough County-City State

Charlottesville Albemarle VA
Office Plot Number

Charlottesville 80-16-0013
Estimate Number Grid Number

10007617 G0025
Date By

GRANTORS INITIALS



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this 17th day of March, 2016, by and between

CITY OF CHARLOTTESVILLE

("GRANTOR") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Virginia Power, with its principal office in Richmond, Virginia ("GRANTEE").

WITNESSETH:

1. That for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, GRANTOR grants and conveys unto GRANTEE, its successors and assigns, the ~~perpetual~~ right, privilege and non-exclusive easement over, under, through, upon and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity, including the wires and facilities of any other public service company in aid of or to effectuate such internal telephone or other internal communication purposes; and for lighting purposes; including but not limited to the right:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as GRANTEE may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith; the width of said non-exclusive easement shall extend ~~thirty (30) feet in width~~ across the lands of GRANTOR; and

1.2 to construct, operate and maintain a pole line including, without limitation, all wires, poles, attachments, ground connections, one or more lighting supports and lighting fixtures as GRANTEE may from time to time deem advisable, equipment, accessories and appurtenances desirable in connection therewith, including the right to increase or decrease the number of wires; the width of said non-exclusive easement shall extend ~~thirty (30) feet in width~~ across the lands of GRANTOR.

Initials: _____

This Document Prepared by Virginia Electric and Power Company and should be returned to: Dominion Virginia Power, 1719 Hydraulic Road Charlottesville VA 22901.

(Page 1 of 7 Pages)
DVPIDNo(s). 80-16-0014
Tax Map No. 450001000

Form No. 728493-1 (Sep 2015)
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Width of the easement shall be as shown on the Plat @ p. 7 of 7

Right of Way Agreement

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in The City of Charlottesville, Virginia, as more fully described on Plat(s) Numbered 80-16-0014, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

Initials: _____

(Page 2 of 7 Pages)
DVPIDNo(s). 80-16-0014

Right of Way Agreement

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE'S** exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE'S** rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE'S** exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE'S** exercise of any of its rights granted hereunder, **GRANTEE** may, ~~in its reasonable discretion~~, relocate such facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE'S** right to assign or transfer its rights, privileges and easements, as granted herein, shall be strictly limited to the assignment or transfer of such rights, privileges and easements to any business which lawfully assumes any or all of **GRANTEE'S** obligations as a public service company or such other obligations as may be related to or incidental to **GRANTEE'S** stated business purpose as a public service company; and any such business to which such rights, privileges and easements may be assigned shall be bound by all of the terms, conditions and restrictions set forth herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 3 of 7 Pages)
DVPIDNo(s). 80-16-0014

Form No. 728493-3 (Sep 2016)
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Right of Way Agreement

11. GRANTOR covenants that it is seised of and has the right to convey this easement and the rights and privileges granted hereunder; that GRANTEE shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that GRANTOR shall execute such further assurances thereof as may be reasonably required.

12. The individual executing this Right of Way Agreement on behalf of GRANTOR warrants that GRANTOR is a corporation duly organized and existing under the laws of the state hereinabove mentioned and that he or she has been duly authorized to execute this easement on its behalf. ~~corporation.~~

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, GRANTOR has caused its ~~corporate~~ name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

Corporate Name: City of Charlottesville

By (Signature): _____

Name: Michael Signer

Its: Mayor

State of Virginia
City/County of City of Charlottesville

The foregoing instrument was acknowledged before me this _____ day of _____,

by _____, _____
(Name of officer or agent) (Title of officer or agent)

of City of Charlottesville, a(n) Virginia,
(Name of corporation) (State of Incorporation)

corporation, on behalf of the corporation.

Notary Public (Print Name)

Notary Public (Signature)

Virginia Notary Reg. No. _____ My Commission Expires: _____

(Page 4 of 7 Pages)

DVPIDNo(s). 80-16-0014



Right of Way Agreement

Exhibit A

THIS RIGHT OF WAY AGREEMENT dated _____, 2016, by and between the
CITY OF CHARLOTTESVILLE

a political subdivision of the Commonwealth of Virginia ("**GRANTOR**"), and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation doing business in Virginia as Dominion Virginia Power ("**GRANTEE**") is hereby amended as follows:

1. This Right of Way Agreement shall be limited in duration and shall remain in force for a term of forty (40) years, except for any air rights together with easements for columns for support granted hereunder, in which case such air rights together with easements for columns for support shall exist for a term of sixty (60) years. At the end of any such term, this Right of Way Agreement shall automatically terminate unless **GRANTOR** agrees to renew this Right of Way Agreement for an additional term of years.
2. In the event that this Right of Way Agreement is terminated, or if the removal of **GRANTEE**'s facilities is otherwise desired by **GRANTOR**, then **GRANTOR** agrees that it will pay the cost of removing **GRANTEE**'s wires and facilities, and, if appropriate, the cost of replacing **GRANTEE**'s wires and facilities. Upon the termination of this Right of Way Agreement, **GRANTOR** agrees to provide **GRANTEE**, if needed by **GRANTEE**, a suitable substitute easement subject to the same terms provided for herein for **GRANTEE**'s wires and facilities. In the event that this Right of Way Agreement is revoked or terminated, all facilities constructed hereunder shall remain the property of **GRANTEE**.
3. **GRANTOR** covenants that in the event that **GRANTOR** sells or conveys the real property on which **GRANTEE**'s wires and facilities are located by this Right of Way Agreement, **GRANTOR** will provide **GRANTEE** with a suitable permanent easement for **GRANTEE**'s wires and facilities and, if necessary, pay the cost of relocating **GRANTEE**'s wires and facilities to such permanent easement.

GRANTOR:

The City of Charlottesville

_____ a political subdivision of the Commonwealth of Virginia

By: _____

Michael Signer

Its: Mayor

DVPIDNo(s). 80-16-0014
(Page 5 of 7 Pages)



Right of Way Agreement

EXHIBIT A

This Exhibit A shall be attached to and made a part of the RIGHT OF WAY AGREEMENT executed by the undersigned **GRANTOR(s)** on the _____ day of _____, _____. The following terms and conditions are incorporated therein:

GRANTEE agrees to indemnify, protect, defend and hold GRANTOR, its employees and agents, harmless from and against all claims, actions, losses, damages, costs, expenses, and liabilities arising out of injury to or death of any person or loss of or damage to any property in or upon the easement or GRANTOR'S contiguous area, including the person or property of GRANTOR, its employees, agents, licensees, or others, to the extent such injury, death, loss or damage is caused by the acts or omissions of GRANTEE, its agents or employees. The foregoing indemnity shall not apply to any claims, actions, losses, damages, costs, expenses and liabilities arising from any act or omission of GRANTOR, its agents, employees, licensees or others.

(SEAL)

(SEAL)

(Page 6 of 7 Pages)

DNCPIDNo(s). 80-16-0014

DVPIDNo(s).

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 4, 2016
Action Required:	Public Hearing/ Adopt Ordinance To Grant a Utility Easement to Dominion Virginia Power (City Yard Site, 4 th Street, N.W.)
Presenter:	Lisa Robertson, Chief Deputy City Attorney
Staff Contacts:	Mike Mollica Lisa Robertson
Title:	Underground Utility Right-of-Way Agreement Across City Yard

Background:

Dominion Virginia Power has requested the City to grant a 30-foot easement and right-of-way, for (1) an underground electric utility installation across the City Yard (305 4th Street, NW), to facilitate an upgrade of the electric service provided to the King Lumber Building site, and (2) for an existing overhead utility line.

Discussion:

1. **Easement for Existing Utility Poles and Overhead Lines**—during the process of reviewing the request for underground lines, we have been unable to locate a recorded easement for the existing overhead lines. (We searched only as far back as the 1970s, so it's possible that one exists). (*The existing overhead line is represented by the solid red line that starts in Page Street and terminates at the triangle labeled "HJ88", across the railroad tracks.*) The existing overhead lines are located within the proposed 30-foot easement, but are not proposed to be undergrounded at this time.
2. **New Underground Easement**—as part of the requested 30-foot easement, Dominion includes provisions authorizing installation of a new utility pole and an underground utility line for upgraded service to serve the site of the King Lumber Building. (*The proposed new underground easement is represented by the solid dark blue line on the attached drawing.*) Underground conduit would be installed 30 inches below ground, by boring underneath the paved parking lot on the City Yard site, and the undergrounded lines would run through that conduit. The owner of the King Lumber Building site has been renovating the interior(s) of the existing buildings for tenants.

Pros: As the Owner of the site that will be burdened by the easement, it's difficult to identify any significant benefit to the City. (Granting the proposed easement would not enhance the availability or type of electric service available at the City Yard site). Some of the existing overhead lines could possibly be placed into the underground conduit in the future, at City expense.

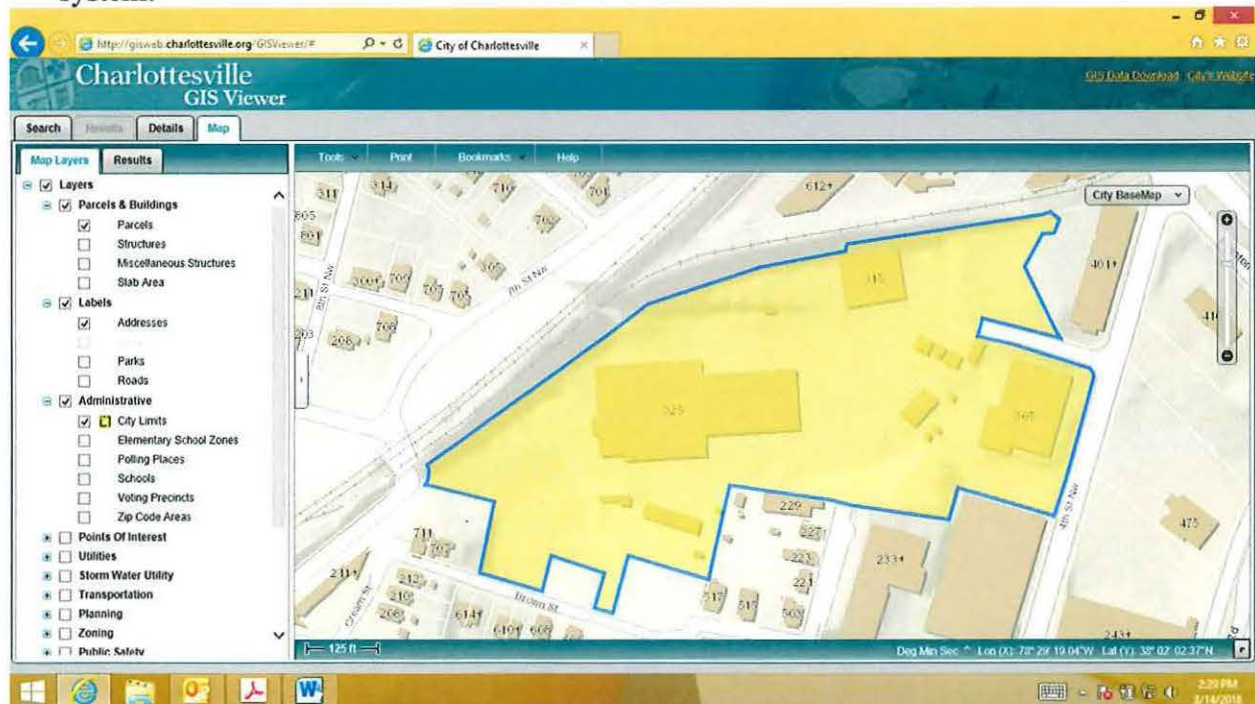
Cons:

- (a) **Cost of Future Relocation**—by granting the proposed easement, the City would commit itself to "suffering" the presence of the electric utility lines, both above-ground and underground,

for the period of the easement (40-60 years), unless the City could find an alternative location and would agree to pay for any desired relocation.

(b) Impact on Re-development Opportunities--Public Works staff have expressed concern about the potential impact of the underground facilities on the potential for future redevelopment of the City Yard site.

- Dominion's standard ROW Agreement contains a provision that would allow the City to request a relocation of the facilities, but only if the City provides a new location (and an equivalent easement) and agrees to reimburse Dominion for all costs of the relocation. Aside from the potential expense, it is likely to be very difficult to identify a suitable alternative underground location on the City Yard site in the future.
- If the requested easement is granted, in effect, an area of approximately 3,966 square feet (SF) will be separated by the easement area from the rest of the City Yard Site. Whether or not this upper corner of the City Yard site could be built upon, or otherwise productively used/ developed, depends in part on its zoning district classification at the time of the proposed use, and whether the area would fall within a required building setback area ("required yard").
 - The City Yard site is currently zoned "MI" (Manufacturing/ Industrial). It's difficult to determine which boundary lines serve as front, side and rear lot lines. In the MI district, there is no required building setback from a side lot line, *except that*, if a side lot line adjoins a residential use (such as The Crossings) a building setback would be required in the amount of 1 foot for every 2 feet of height of the tallest building on the lot. A specific determination would need to be made based on zoning classification and other conditions at the time of a particular proposed development.
- Following below is a screen-shot of the entire City Yard Site, taken from the City's GIS system:



Alignment with Council Vision Areas and Strategic Plan:

The requested easement, if granted, could be characterized as supporting City Council's "Economic Sustainability" vision, by facilitating mixed and infill development of the King Lumber Building site at a future date. At this time, staff is not aware of any specific plan for new (mixed or infill) development; the attached correspondence from King Lumber Partners, LLC, refers to the renovations it's been making of existing buildings, to make them available for use by tenants.

Community Engagement:

The required public hearing allows for community engagement in this matter.

Budgetary Impact:

No immediate fiscal impacts on the General Fund are evident at this time. Future budgetary impacts are possible, either (1) if the City needed to pay for the cost of relocating the utilities to a different location, or (2) if the site were less desirable/ valuable for redevelopment as a result of the burden of the easement and utility lines.

Recommendation:

Public Works staff's analysis is that public benefits are outweighed by the burden on the City Yard parcel.

Alternatives:

City Council's alternatives, after conducting a public hearing, are (1) grant the requested easement, by motion to approve the attached ordinance, or (2) by motion, deny the requested easement. *(If Council decides to deny the easement, there is a possible alternative route: extending an existing line from Harris Street, underneath Preston Avenue, over to the King Lumber Building site; however, reportedly this option is more expensive for King Lumber Partners, LLC).*

Attachments:

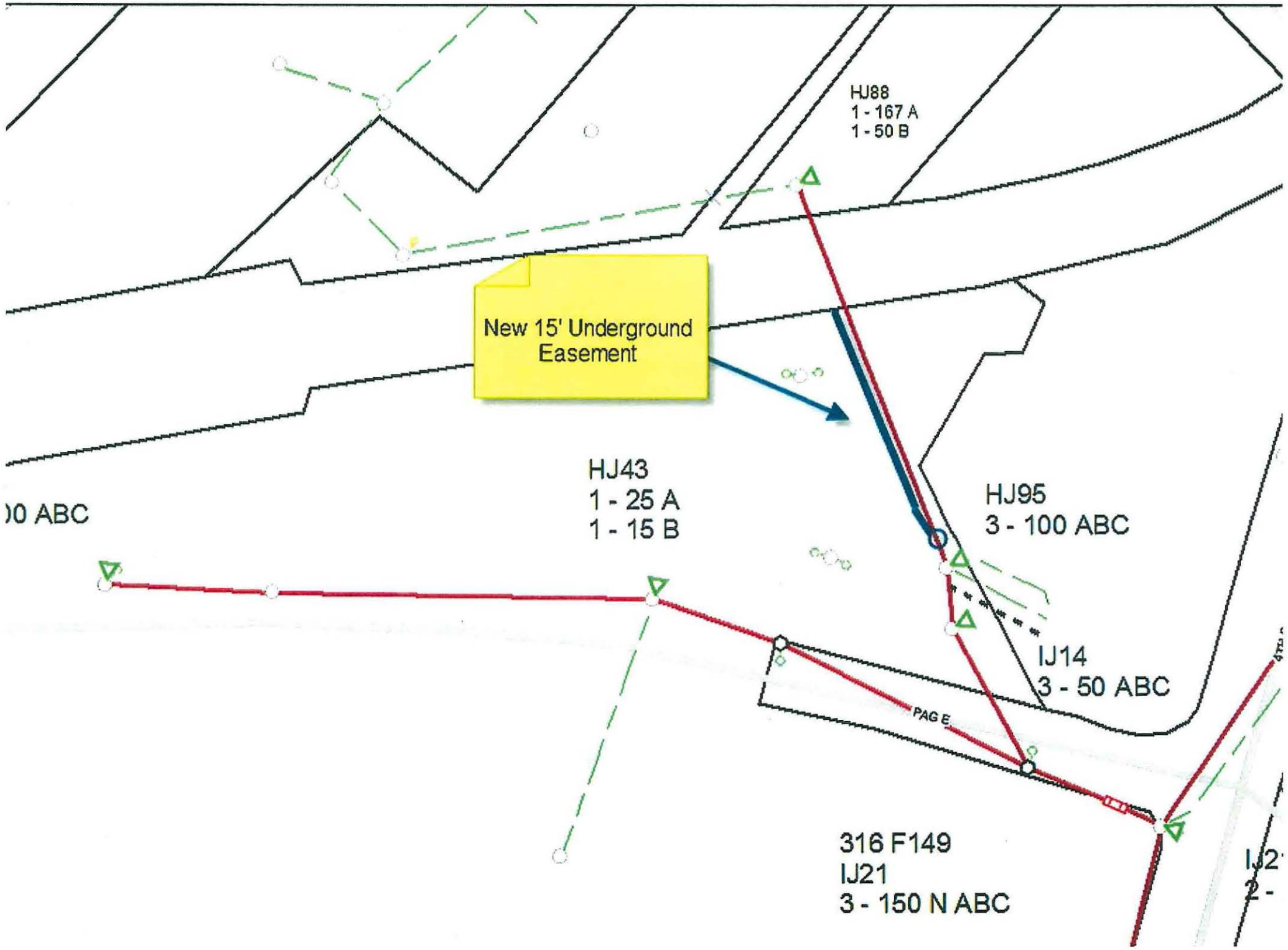
- Proposed Ordinance
- Drawing, labeled "New 15' Underground Easement"
- Staff email to L. Robertson, estimating the square footage of area(s) impacted by the Easement
- March 18, 2016 Letter to City Council from King Lumber Partners, LLC
- Proposed Right-of-Way Agreement, with accompanying easement plat

**AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF AN EASEMENT
TO DOMINION VIRGINIA POWER
TO PERMIT OVERHEAD AND UNDERGROUND ELECTRICAL LINES
ACROSS CITY PROPERTY ON FOURTH STREET (“CITY YARD”)**

WHEREAS, the Virginia Electric and Power Company, a Virginia public service corporation doing business in Virginia as Dominion Virginia Power, has requested this Council to grant a 30-foot wide easement across property owned by the City of Charlottesville, Virginia at 305 Fourth Street, N.W., City Tax Map Parcel Identification No. 320020000 (the “City Yard”), as described within a Right-of-Way-Agreement, DVPIDNo(s) 81-16-0010, for the installation and maintenance of overhead and underground electric lines and equipment; and

WHEREAS, on April 4, 2016, this City Council conducted a public hearing on the requested easement; now, therefore,

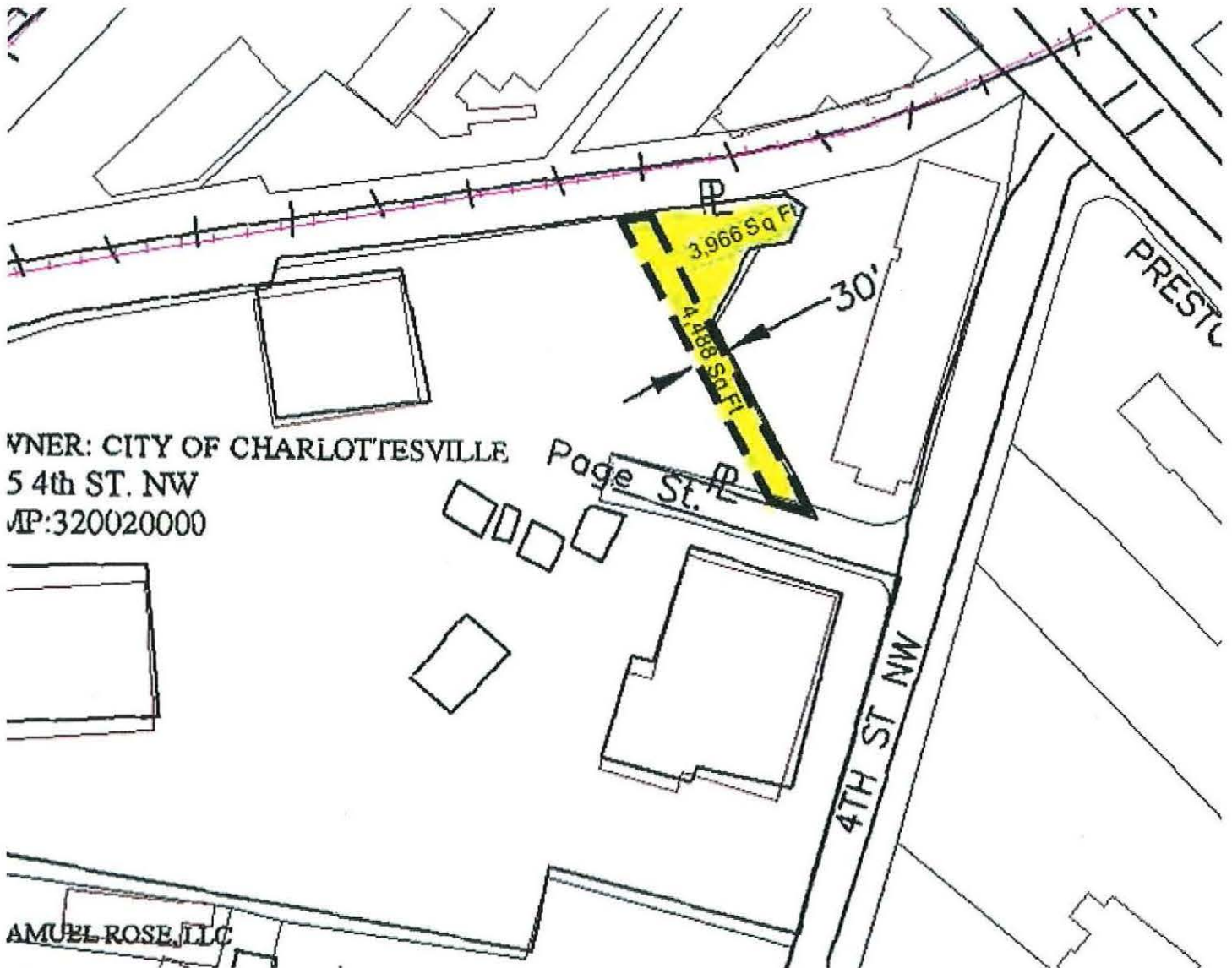
BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that the Mayor is hereby authorized to execute a Right-of-Way Agreement, in a form approved by the City Attorney, granting the above-described easement to Dominion Virginia Power.



Robertson, Lisa

From: Herndon, Jim
Sent: Tuesday, March 15, 2016 9:09 AM
To: Robertson, Lisa
Subject: City Yard Easement

I calculate 4,488 Sq Ft within the easement and 3,966 Sq Ft in the yellow area outside the easement. Here is a screen shot showing the easement.



King Lumber Partners, LLC

1208 Preston Avenue, Charlottesville, VA 22903

March 18, 2016

City Council
City of Charlottesville
610 East Market Street
Charlottesville, VA 22902

Re: Electrical easement for the King Lumber Building renovation

Dear City Councilors:

One would think in the middle of the city it is easy to get electrical service, right?

Unfortunately, it's not.

We've been working with Dominion Power for 10 months trying to get adequate power to our site for the renovations that are underway. As you may know, we renovated the back warehouse which is now home to the Moxie Hair Salon, we are nearly complete with renovations to the historic 3-story brick warehouse, and the old yellow annex building will be a new micro-brewery opening this summer.

Our property is a wedge shape, hemmed in on two sides by railroad lines (the Norfolk Southern main line and the spur that crosses Preston near 4th Street). Between the railroad regulations, Dominion's technical limitations on existing overhead wires, and the lack of overhead wires along Preston, we have been unable to arrive at a practical solution that will deliver adequate power to our site.

The latest plan from Dominion is to run underground beneath the overhead wires in the city yard, underneath the railroad spur, underneath a portion of Reid's parking lot and then to our property. This solution costs in excess of \$60,000 and requires an easement from the city.

We would appreciate your help in solving this vexing problem and allowing us to properly provide power to complete our renovations at King Lumber.

I'm sure city staff will advise there is a downside to granting this easement: that future development in this small corner of the property would be precluded. I would point out the following:

434-409-3313

markg@ecorp-real-estate.com

1. There are already overhead lines above this easement that serve Reid's market so future development of this corner is already constrained by the cost of relocating those lines and relocating the associate easement with the railroad.
2. This is an oddly shaped and relatively small corner of a much larger property and it does not yield access to any public right of way. After taking setbacks into account, it is unlikely that there would be much pressure to build something in this corner. It is more likely to be used for parking, or ancillary uses such as landscaping, trash enclosures, or internal circulation.
3. Providing the underground easement will allow future removal of overhead wires in this area.
4. A developer considering a larger re-development of the city yards will find this limitation minor compared to larger environmental issues, and may actually prefer the possibility of going underground with the overhead wires service properties to the west.

In summation, the downside risk for this city is minimal, and in addition to assisting with an historic renovation of the King Lumber property, there may be future upsides to providing an underground path for utilities. We will greatly appreciate your assistance in finalizing a path for power to the King Lumber property.

Sincerely,



Mark W. Green
Manager

434-409-3313

markg@ecorp-real-estate.com



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this _____ day of _____, 2016, by and between

the CITY OF CHARLETTESVILLE

("GRANTOR") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Virginia Power, with its principal office in Richmond, Virginia ("GRANTEE").

WITNESSETH:

1. That for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, the ~~perpetual~~ right, privilege and non-exclusive easement over, under, through, upon and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity, including the wires and facilities of any other public service company in aid of or to effectuate such internal telephone or other internal communication purposes; and for lighting purposes; including but not limited to the right:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith; the width of said non-exclusive easement shall extend Thirty (30) feet in width across the lands of **GRANTOR**; and

1.2 to construct, operate and maintain a pole line including, without limitation, all wires, poles, attachments, ground connections, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time deem advisable, equipment, accessories and appurtenances desirable in connection therewith, including the right to increase or decrease the number of wires; the width of said non-exclusive easement shall extend Thirty (30) feet in width across the lands of **GRANTOR**.

Initials: _____

This Document Prepared by Virginia Electric and Power Company and should be returned to:
Dominion Virginia Power, 1719 Hydraulic Road Charlottesville VA 22901.

(Page 1 of 7 Pages)
DVPIDNo(s). 81-16-0010
Tax Map No. 320020000

Right of Way Agreement

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in the CITY OF CHARLETTESVILLE, Virginia, as more fully described on Plat(s) Numbered 81-16-0010, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

Initials: _____

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DVPIDNo(s). 81-16-0010

Right of Way Agreement

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE'S** exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE'S** rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE'S** exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE'S** exercise of any of its rights granted hereunder, **GRANTEE** may, ~~in its reasonable discretion~~, relocate such facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE'S** right to assign or transfer its rights, privileges and easements, as granted herein, shall be strictly limited to the assignment or transfer of such rights, privileges and easements to any business which lawfully assumes any or all of **GRANTEE'S** obligations as a public service company or such other obligations as may be related to or incidental to **GRANTEE'S** stated business purpose as a public service company; and any such business to which such rights, privileges and easements may be assigned shall be bound by all of the terms, conditions and restrictions set forth herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 3 of 7 Pages)
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Right of Way Agreement

11. GRANTOR covenants that it is seised of and has the right to convey this easement and the rights and privileges granted hereunder; that GRANTEE shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that GRANTOR shall execute such further assurances thereof as may be reasonably required.

12. The individual executing this Right of Way Agreement on behalf of GRANTOR warrants that GRANTOR is a corporation duly organized and existing under the laws of the state hereinabove mentioned and that he or she has been duly authorized to execute this easement on behalf of said corporation.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, GRANTOR has caused its corporate name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

Corporate Name: CITY OF CHARLOTTESVILLE

By (Signature):

Name: Michael SIGNER

Its: Mayor

State of Virginia

City/County of CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this day of ,

by (Name of officer or agent), (Title of officer or agent)

of CITY OF CHARLOTTESVILLE, a(n) Virginia (Name of corporation) (State of incorporation)

corporation, on behalf of the corporation.

Notary Public (Print Name)

Notary Public (Signature)

Virginia Notary Reg. No. My Commission Expires:

(Page 4 of 7 Pages)

DVPIDNo(s). 81-16-0010



Right of Way Agreement

Exhibit A

THIS RIGHT OF WAY AGREEMENT dated _____, 2016, by and between the
CITY OF CHARLOTTESVILLE

a political subdivision of the Commonwealth of Virginia ("**GRANTOR**"), and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation doing business in Virginia as Dominion Virginia Power ("**GRANTEE**") is hereby amended as follows:

1. This Right of Way Agreement shall be limited in duration and shall remain in force for a term of forty (40) years, except for any air rights together with easements for columns for support granted hereunder, in which case such air rights together with easements for columns for support shall exist for a term of sixty (60) years. At the end of any such term, this Right of Way Agreement shall automatically terminate unless **GRANTOR** agrees to renew this Right of Way Agreement for an additional term of years.
2. In the event that this Right of Way Agreement is terminated, or if the removal of **GRANTEE**'s facilities is otherwise desired by **GRANTOR**, then **GRANTOR** agrees that it will pay the cost of removing **GRANTEE**'s wires and facilities, and, if appropriate, the cost of replacing **GRANTEE**'s wires and facilities. Upon the termination of this Right of Way Agreement, **GRANTOR** agrees to provide **GRANTEE**, if needed by **GRANTEE**, a suitable substitute easement subject to the same terms provided for herein for **GRANTEE**'s wires and facilities. In the event that this Right of Way Agreement is revoked or terminated, all facilities constructed hereunder shall remain the property of **GRANTEE**.
3. **GRANTOR** covenants that in the event that **GRANTOR** sells or conveys the real property on which **GRANTEE**'s wires and facilities are located by this Right of Way Agreement, **GRANTOR** will provide **GRANTEE** with a suitable permanent easement for **GRANTEE**'s wires and facilities and, if necessary, pay the cost of relocating **GRANTEE**'s wires and facilities to such permanent easement.

GRANTOR:

the CITY OF CHARLOTTESVILLE

a political subdivision of the Commonwealth of Virginia

By:

Michael SIGNER

Its: Mayor

DVPIDNo(s). 81-16-0010
(Page 5 of 7 Pages)



Right of Way Agreement

EXHIBIT A

This Exhibit A shall be attached to and made a part of the RIGHT OF WAY AGREEMENT executed by the undersigned **GRANTOR(s)** on the _____ day of _____, _____. The following terms and conditions are incorporated therein:

GRANTEE agrees to indemnify, protect, defend and hold GRANTOR, its employees and agents, harmless from and against all claims, actions, losses, damages, costs, expenses and liabilities arising out of injury to or death of any person or loss of or damage to any property in or upon the easement or GRANTOR'S contiguous area, including the person or property of GRANTOR, its employees, agents, licensees, or others, to the extent such injury, death, loss or damage is caused by the acts or omissions of GRANTEE, its agents or employees. The foregoing indemnity shall not apply to any claims, actions, losses, damages, costs, expenses and liabilities arising from any act or omission of GRANTOR, its agents, employees, licensees or others.

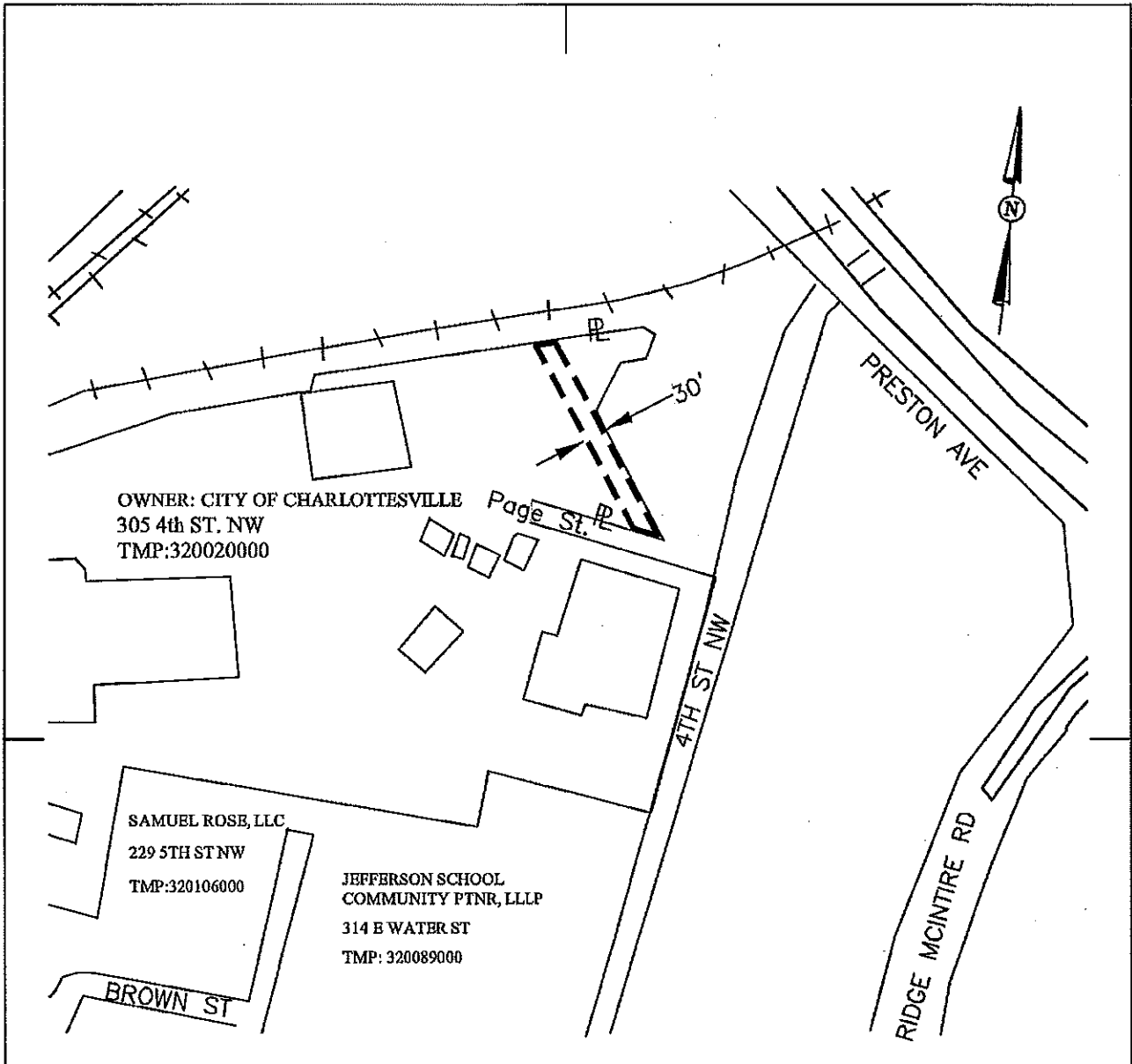
(SEAL)

(SEAL)

(Page 6 of 7 Pages)

DNCPIDNo(s). 81-16-0010

DVPIDNo(s).



Legend

- - - - - Location of Boundary Lines of Right-of-Way 30 ft. in Width.
- - - - - Indicates Property Line is Right-of-Way Boundary

Plat to Accompany Right-of-Way Agreement		
VIRGINIA ELECTRIC AND POWER COMPANY doing business as Dominion Virginia Power OH/UC		
District CHARLOTTESVILLE DISTRICT		
District-Township-Borough City of Charlottesville	County-City City of Charlottesville	State Va.
Office Blue Ridge	Plat Number 81160010	
Estimate Number 7676007	Grid Number G0025	
Date	By	

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



Agenda Date:	April 4, 2016
Action Required:	Adoption of Ordinance, Amending City Code Chapter 28
Presenter:	Chris Engel
Staff Contacts:	Chris Engel, Director of Economic Development Lisa Robertson, Chief Deputy City Attorney
Title:	New Permit to Authorize Operation of Valet Parking within Public Rights-of-Way

Background: Recently, a local limousine service interested in offering valet parking services downtown has inquired what City approval(s) would be necessary in order for the valet parking service to reserve space within the public right-of-way at certain times for drop-off, returns, and queuing of vehicles. At this time, the City has no ordinance specifically addressing this issue and Councilor Galvin has requested that staff provide a mechanism to offer this as an option.

Discussion: As Economic Development Director, I want to ensure that the City's parking needs can be met in a manner that provides as many options as possible to local businesses. In destination oriented downtowns, such as Charlottesville, valet parking services have been found to help ease congestion and parking concerns.

According to the City Attorney's office, state law prohibits any person or corporation from occupying or using city streets in a manner not permitted to the general public, without first having obtained permission from the city's governing body, *see* Va. Code §15.2-2018. A review of the regulatory structure used by municipalities indicates that a permit procedure, authorized by an ordinance adopted by the governing body, is a common way of approaching the issue. The City Attorney's Office has drafted the attached ordinance based on their review of other localities' ordinances.

I would draw your attention to the following key elements of the ordinance:

- a) The ordinance creates a process by which applicants can request the use of specific public rights-of-way, including on-street parking spaces, for the purpose of providing valet parking services. The ordinance sets out a series of requirements in section 28-244 that each applicant must address in their application including engaging the surrounding property owners and identifying the location for the stored vehicles. Applications are reviewed by city staff and approved permits are issued by the City Manager for a one-year period.
- b) The City's Risk Manager has confirmed that the following insurance requirements are

necessary to protect the City's interests as the owner of the premises (public right-of-way) on which the activities will be conducted:

(i) worker's compensation; (ii) Commercial General Liability - \$1,000,000 per occurrence, \$2,000,000 aggregate limit. Commercial General Liability is to include bodily injury and property damage, personal injury, and advertising injury. The City of Charlottesville and its officers, employees, and agents must be named as an additional insured and so endorsed on the policy; and (iii) Garage Liability Insurance - for bodily injury (including death) and property damage which provides limits of not less than one million dollars (\$1,000,000) combined single limit (CSL) per occurrence, \$2,000,000 aggregate. Garage Liability Insurance is to include Premises and Operations, Personal Injury liability, and Severability of Interest. The City of Charlottesville and its officers, employees, and agents must be named as an additional insured and so endorsed on the policy.

- c) The City Attorney's Office advises against including specific coverage limits into the ordinance, because the ordinance would likely become outdated over time. Instead, we propose to delegate responsibility to the Director of Finance (who will receive advice from the Risk Manager and the City's insurance provider) for establishing insurance limits on an annual basis, and keeping them updated.

Finally, I have spoken with the proprietor of the valet parking service, and I have shared this proposed ordinance with him. I can confirm that, if council adopts this ordinance, he has stated that he will be able to comply with all of the requirements referenced within the ordinance, as well as with the insurance requirements described below.

Alignment with Council Vision Areas and Strategic Plan: The effort supports City Council's "Economic Sustainability" and "Connected Community" vision statements.

Community Engagement: The applicant and several downtown businesses believe there is sufficient customer demand to support this type of service. If enacted the ordinance would require the applicant to engage the owners/occupants of each premises within the block where public right-of-way is intended to be used for valet parking services prior to receiving a permit.

Budgetary Impact: This ordinance has no impact on the General Fund. The fee associated with the application is intended to cover the staff time needed to adequately review each application.

Recommendation: Staff recommends approval of the ordinance.

Alternatives: If the ordinance is not approved then the opportunity to use the public right-of-way for this purpose will continue to not be an option in the City of Charlottesville.

Attachments: Proposed Ordinance

ORDINANCE

TO AMEND AND RE-ORDAIN THE CODE OF THE CITY OF CHARLOTTESVILLE, CHAPTER 28 (STREETS AND SIDEWALKS), TO ADD ARTICLE VII (VALET PARKING SERVICES)

Sec. 28-221. - Purpose.

City council finds that the use of public streets and rights-of-way for valet parking, while providing a public benefit to some by making parking more convenient, also has the potential to impede travel, interfere with the rights of others using the streets and public rights-of-way, affect the public safety, and create public nuisance conditions. Therefore, valet parking may be permitted within the city as a special privilege, not as a matter of right, subject to the regulations in this article.

Sec. 28-222. - Definitions.

For purposes of this article, the following words shall have the following meanings:

Public right-of-way means any area dedicated for public use as a public street, pedestrian way, or other thoroughfare, including but not limited to streets, roadways, parkways, alleys, sidewalks, and pedestrian ways. For purposes of this article the term excludes (i) areas of the Downtown Mall open to motor vehicle traffic, and (ii) all brick-paved areas of any side street adjacent to the Downtown Mall.

Valet parking means practices associated with, and the act of, driving another person's vehicle to and from a parking location, so that the driver and any passengers originally within the vehicle may unload (drop-off) and load (return) at or near their immediate destination.

Valet parking service means a person engaged in the provision of valet parking, including any employees, contractors, subcontractors, or agents employed or otherwise assisting in the provision of such valet parking.

Sec. 28-223. - Permit required.

A permit is required for any valet parking service that conducts any portion of its operation (including but not limited to: drop-off, queuing, receiving, moving, or return of vehicles) upon any public right-of-way. No permit is required for a valet parking service conducted entirely upon private property solely as a service for patrons of that location.

Sec. 28-224. - Process for permits and renewals.

- (a) New applications for a permit shall be submitted to the city manager for review, and shall include the following information:
 - (1) The name, address, and telephone number of the valet parking service; the name and contact information for a responsible individual who will be immediately available during all hours of the valet parking service's operation; the type of business entity that will be conducting the valet parking service (sole proprietorship; corporation; limited liability company, etc.) and the identity and signature of the individual submitting the application on behalf of the valet parking service (for a corporate entity, an individual

who is an officer or director of the corporation; for a limited liability company, an individual who is authorized to enter into binding agreements on behalf of the company; etc.);

- (2) A letter signed by the owner/proprietor of each premises to be served by the valet parking service, confirming its intention to engage the valet parking service;
- (3) A petition describing the hours and proposed area of operation of the proposed valet parking service, and containing the signature(s) of the owner(s) and occupant(s), if different than the owner(s), of each premises located on or within the same block(s) as the right-of-way area to be served by the valet parking service, on both sides of the public right-of-way proposed to be utilized. The petition shall be in a form provided by the city manager's office, providing signature lines on which such owner(s) and occupant(s) may sign to indicate either support or opposition to the petition. The following person(s) may sign on behalf of a multifamily dwelling: the owner of the premises; a property manager authorized to act as the owner's agent; or the authorized representative of a condominium unit owner's association;
- (4) A description of the location(s): (i) where vehicles would queue while awaiting drop-off and return, (ii) where the valet parking services will receive possession of vehicles from patrons ("drop off point"), and (iii) where the valet parking service would return vehicles to patrons ("return location"). The application shall include a map or aerial photograph illustrating the proposed dimensions of each location, and shall identify any on-street parking space(s) within the desired permit location;
- (5) Identification of the location(s) where vehicles will be parked or stored by the valet parking service ("parking location"). All such locations must meet applicable zoning ordinance requirements for parking lots and other parking facilities;
- (6) A contract or other signed statement from the operator of the parking location, setting forth:
 - a. The total number of parking spaces within the parking location,
 - b. The number of parking spaces within the parking location that will be available to the valet parking service, and
 - c. An estimate of the percent usage of the parking location, taking into account use by the valet parking service;
- (7) The location, dimensions and materials of proposed signs for the valet parking service and any proposed attendant stands;
- (8) Proof of insurance required by this article;
- (9) Payment of a nonrefundable permit application fee. The permit application fee is five hundred dollars (\$500.00) per right-of-way location proposed to be utilized by the valet parking service;
- (10) A copy of the applicant's city business license, and proof of payment of all applicable taxes.

- (b) Applications for renewal of a previously-approved permit shall be submitted to the city manager, and shall include the following information:
 - (1) A cover letter signed by the valet parking service, and indicating whether or not any matters represented within the previous year's permit application have changed;
 - (2) A contract or signed statement for the parking location, (in accordance with subsection (a)(6) above), containing updated information for the period of the proposed renewal;
 - (3) Proof of insurance required by this article;
 - (4) Payment of the permit application fee specified in (a)(9) above; and
 - (5) A copy of the applicant's city business license, and proof of payment of all applicable taxes.
- (c) Not more than one (1) permit will be issued per city block. The individual to whom the permit is granted shall not operate valet parking services at any other location within a public right-of-way unless a permit has been issued for the other location.

Sec. 28-225. - Term of permit.

Every valet parking permit, or renewal of a permit, shall be issued by the City Manager for a specific period of time, not to exceed one year (twelve months) from the date of issuance.

Sec. 28-226. - Operating requirements.

- (a) The valet parking service shall only accept vehicles at, and return vehicles to, the approved drop-off and return locations. Final dimensions of proposed drop-off and return locations shall be determined by the traffic engineer or the City Manager.
- (b) The valet parking service shall provide a level of staffing adequate to receive, park, and return vehicles in a manner that traffic within the public right of way is not impeded by its activities. Vehicle queuing is allowed only within an area approved by the city's traffic engineer for vehicle queuing.
- (d) Each valet parking service shall display at each drop-off and return location within City right-of-way an "A-Frame" sign or movable podium, which may only be displayed during the approved operating hours of the valet parking service and must be removed from public property at all other times. Each location may have only one (1) sign or podium. Each A-frame sign, or the sign on a podium, shall be of dimensions and materials compliant with applicable provisions of the City's zoning ordinance Each A-Frame sign shall contain plainly visible letters and numerals stating:
 - (1) "Valet parking",
 - (2) The name of the valet parking service,
 - (3) The hours of operation of the valet parking service, and
 - (4) The valet parking fees, if any.
- (e) Each individual employed by the valet parking service in the operation of any vehicle shall possess a valid Virginia driver's license.

- (f) If the use of an on-street public parking space is necessary for the valet parking service, that parking space is only reserved during the approved hours of operation for the valet parking service and at all other times the parking space shall be available for public parking. If a permit is granted, the operator of the valet parking service shall not use the parking space for any other purpose other than receiving vehicles from and returning vehicles to customers of the valet parking service. The operator of the valet parking service shall not lease the parking space or allow any person to park a vehicle in the space if such use is not related to the operation of the valet parking service. Any permit for valet parking services along with the use of a parking space associated with the permit shall be temporarily suspended in the event a public street, in the area of the permit authorizing valet parking services, is temporarily closed to vehicular traffic because of a special event, festival or emergency, or other similar occurrence; the temporary suspension of the permit shall be lifted upon termination of the occurrence.

Sec. 28-227. – Required insurance.

- (a) The valet parking service shall maintain the following insurance (“required insurance”): (i) worker’s compensation, in the statutory amounts required by the Commonwealth of Virginia; (ii) commercial general liability insurance, and garage liability insurance, in such form and with such limits of coverage as established annually by the city’s director of finance.
- (b) The valet parking service’s general commercial liability and garage liability insurance policies shall be endorsed to add the city as an additional insured party, and to require (30) days’ prior written notice to the City of any change or cancellation.
- (c) Prior to the issuance of a permit, and at all times while the permit is in effect, the applicant shall maintain on file with the city’s risk manager evidence of the required insurance.
- (e) If evidence of the required insurance is not provided, or if any required insurance is cancelled for any reason, the permit issued shall automatically be deemed revoked, without the requirement for prior notice from the city.

Sec. 28-228. - Indemnification.

The valet parking service to which a permit is issued shall indemnify, hold harmless, release and defend the city, its officers and employees, from any and all liability, loss, suits, claims, damages, costs, judgments, and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of:

- (1) Any act or omission of its employees;
- (2) The operations of the valet parking service;
- (3) Any condition of property used in the operation;
- (4) Any negligence of the valet parking service, its officers, directors, employees, contractors and any individuals or entities engaged in the provision of valet parking services authorized by the permit.

Sec.28-229. - Grounds for revocation and denial.

- (a) The city manager may revoke or deny a permit for any of the following reasons:
 - (1) The valet parking service fails to cooperate with the city police department in the investigation of any crime involving the valet parking service.
 - (2) The valet parking service has made a material misrepresentation in its application.
 - (3) The valet parking service would or does substantially disrupt, impede or affect the safety of pedestrians or any vehicular traffic using the public right of way.
 - (4) The valet parking service at the specified location would be or is incompatible with other uses in the vicinity.
 - (5) The valet parking service, or the owner/ proprietor of any premises served by the valet parking service, fails to comply with any provision set forth within this article, or any condition of a permit, or has done so within the past five (5) years.
 - (6) The valet parking service, as operated or proposed to be operated, causes or would cause a loss of parking spaces during the hours of the valet parking service operations, in such number or for such period(s) of time as would adversely affect other premises located within the same block(s) as the premises served by the valet parking service.
- (b) The city manager shall notify an applicant or permittee in writing when a permit is denied or revoked. Except in circumstances when the public health, welfare, or safety requires more immediate action, revocation shall not be effective until forty-eight (48) hours after written notice is given to the permittee.
- (c) The city manager's revocation of a permit shall be in addition to, and not in lieu of, any penalty provided by Sec. 28-232.

Sec. 28-230. - Conditions imposed on permit.

- (a) The city manager may impose conditions upon a permit issued under this division, as reasonably necessary to protect the peace and tranquility of any residential area, to mitigate adverse traffic impacts, to protect other lawful uses of the public rights of way, or protect the health, welfare, safety or convenience of the public.
- (b) Any valet parking service operating under an approved permit, and the owner/ proprietor of any premises served by that valet parking service, shall comply with all conditions imposed upon the permit pursuant to subsection (a) of this section.
- (c) The following requirement shall be deemed a condition of every permit issued under this division, and each renewal thereof: the valet parking service operating under an approved permit shall be responsible for the cost of any public street signage required in connection with its use of the public right-of-way. The city traffic engineer shall establish the signage requirements for each permitted location.

Sec. 28-231. – Limited privilege conferred by a permit.

- (a) The approval of a permit under this article provides only for the nonpermanent and nonexclusive use of the public right-of-way. Valet parking services, and the owners/

proprietors/ occupants of premises benefiting from the valet parking services shall have no property interest in, or any entitlement to, the granting or continuation of any permit for the use of any public right-of-way.

- (b) Neither a valet parking service, nor the owner/proprietor of any premises benefitting from a valet parking service, shall, by virtue of any permit approved under this article, acquire any right or authority to have any vehicle(s) towed from any public right-of-way that is the subject of such permit.

Sec. 28-232. - Penalties.

Any person violating the provisions of this article or any condition of a permit issued pursuant to this article shall be guilty of a Class 4 misdemeanor.

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



Agenda Date:	4/18/16
Action Required:	Report
Presenter:	Mike Murphy, Assistant City Manager
Staff Contacts:	Mike Murphy, Assistant City Manager
Title:	Customer Service System Request For Proposal (RFP) update

Background:

The City of Charlottesville fields service requests 24 hours a day through a variety of mediums and at many points of contact. Citizens, businesses, visitors, and community partners desire and expect information and responses from the City staff. However, they do not always know where to go to meet those needs or what form of contact might be most appropriate or effective. Many people use electronic mail to contact staff directly or they may use a variety of feedback-related emails, i.e. Feedback@CityManager, Feedback@Transit, etc. Many citizens contact the Council directly through the group email account, although many of these contacts are about operational concerns best routed to staff rather than matters of policy or governance for the elected officials.

A great deal of interactions will continue to take place in City offices, over the phone or via email. Council has discussed customer service in the form of 311 systems in the past. A 311 approach requires call centers and centralized customer service that may be desirable in the future. However, many localities are able to effectively use mobile and web based applications to efficiently and effectively route and resolve customer concerns. These technologies can direct concerns to the appropriate City Departments, lead to effective resolutions, and provide documentation. Currently, the City Manager's office is emphasizing customer service and responsiveness internally and with departments. It may not be clear if one or many staff members have responded to a citizen. Unfortunately, without a data system in place to capture customer service interactions responses must be stored in dozens of email boxes. A customer service tool will provide a history to any user, saving staff and citizens valuable time and focus on providing results. The data in the module may provide insight into areas of concern and allow managers to effectively allocate resources. It may also be used to provide citizens with additional information about local government services.

Discussion:

The requirements that the City intends to state to potential vendors follow:

- The city seeks to acquire customer relationship management tools to improve citizen engagement, monitor project status, collect and centralize data, and improve customer service.
- Input to the database must be available for customers through a web based portal and mobile applications. The ability to link to GIS when applicable is desirable.
- An input mechanism for staff to log calls, face-to-face contacts, and emails in the system is required.
- System must have the ability to upload documents, emails, photographs and other files as required on a case-by-case basis.
- System must have capability for individual concerns to be assigned to multiple parties
- System must have the ability to create reports on past and present interactions.
- System must have the ability to prioritize and escalate customer service interactions.
- System must have the ability to easily change responsible parties.
- System must have option to capture citizen information for the purpose of follow up
- Applicants should expect to make demonstrations for the evaluation group
- Applicants should provide evidence of security measures.
- Security must demonstrate levels of permissions for users and administrators of the system.
- Ideal candidate will have the future capability to provide dashboard for purposes of transparency
- Applicants should demonstrate proven ability to work with localities of comparable size.
- Applicants should detail process and potential cost for changes and/or customization should be specified
- All data must be in a platform where it is owned and transferrable to the city or hosted by the City of Charlottesville
- System must work with City email system, currently Outlook
- Preference may be given to systems that demonstrate the ability to interface with work order systems in SAP

Additional criteria could be considered based on feedback from Council or staff prior to the RFP being issued.

Alignment with Council Vision Areas and Strategic Plan:

Approval of this agenda item aligns directly with Council's vision for Charlottesville to have a **Smart, Citizen-Focused Government** and it aligns with the goals and objectives of the City's Strategic Plan:

Goal 4: Be a well-managed and successful organization

- 4.1 Align resources with the City's strategic plan
- 4.4 Continue strategic management efforts

Goal 5: Foster strong connections

- 5.2. Build collaborative partnerships
- 5.3 Promote community engagement

Community Engagement:

Staff has not specifically engaged citizens about the use of mobile applications and a web portal to improve customer service. A number of citizens have interacted with staff and recommended these technologies as enhancements. In addition, staff is constantly engaged with citizens and we can be certain that clear communication, timeliness, and resolution are of great interest.

Budgetary Impact:

The potential impact on the General Fund will be evaluated through completion of a RFP process

Recommendation:

Staff recommends that the City of Charlottesville issue a RFP solicitation and advise Council on the results after staff review and vendor negotiation.

Alternatives:

Council may determine that they are not interested in the use of technology to advance the City of Charlottesville's customer service strategy and staff will focus solely on advances in data, tracking, and staff training.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 18, 2016
Action Required:	Public Hearing / Direction from Council
Presenter:	Mike Signer, Mayor
Staff Contacts:	Mike Signer, Mayor Maurice Jones, City Manager
Title:	Blue Ribbon Commission on Race, Memorials and Public Spaces

Background:

Council is discussing creating an ad-hoc blue ribbon commission to address questions that have been raised regarding race, memorials and public spaces in Charlottesville.

Discussion:

The proposed mission for the blue ribbon commission is to provide Council with options for telling the **full story of Charlottesville's history of race relations and for changing the City's narrative through our public spaces.**

The blue ribbon commission would be charged with providing options to Council for specific ways in which our public spaces are used, or could be used, to address race, including:

- Removing, or adding context to, existing Confederate statues
- Augmenting the slave auction block at Court Square
- Completing the Daughters of Zion cemetery
- Providing a further narrative for the Vinegar Hill community
- Highlighting and linking existing historic places, such as the Tonsler House and the Drewary Brown Memorial Bridge
- Designing a new memorial to an African-American civil rights leader (e.g., Julian Bond)
- Additional opportunities within the City to enhance a holistic reflection of our history

Council will explore tasking the blue ribbon commission with the following goals:

- 1) Amply engage with the community through public hearings, forums, etc.
- 2) Evaluate and advise Council on the full range of options within the mission
- 3) Coordinate with the City Attorney's office to provide legal review of options

Council may consider appointing members who meet the following criteria:

- Commitment to the mission
- Open-mindedness
- Respected in their area of expertise or representation
- Principled and collegial
- Diverse and reflective of our community

Council may also provide direction to staff on organizing a work session to discuss scope, staffing, timeline, and other logistical issues related to forming a blue ribbon commission.

Alignment with City Council’s Vision and Strategic Plan:

Council’s consideration of the blue ribbon commission reflects our vision to be a “Community of Mutual Respect.” This also aligns with Strategic Plan Goal 5: *Foster Strong Connections*, and the initiative to respect and nourish diversity.

Community Engagement:

Council has received hundreds of messages from community members and others outside the area. A public hearing on the mission and charge of the blue ribbon commission is planned for this report, with sign-up sheets provided at 6:30 p.m. before the meeting. The blue ribbon commission will also be tasked with ensuring robust community engagement throughout the process of developing recommendations for Council’s consideration.

Budgetary Impact:

There may be a very nominal budgetary impact of forming a blue ribbon commission. The impact of the blue ribbon commission’s recommendations cannot be known until they have been developed.

DRAFT RESOLUTION
Formation of an ad hoc
Blue Ribbon Commission on Race, Memorials and Public Spaces

WHEREAS, Council seeks to address questions that have been raised regarding race, memorials and public spaces in Charlottesville;

NOW THEREFORE, BE IT RESOLVED, that City Council does hereby authorize the creation of an ad hoc blue ribbon commission on race, memorials and public space and tasks them with the mission to provide Council with options for telling the full story of Charlottesville's history of race relations and for changing the City's narrative through our public spaces; and

BE IT FURTHER RESOLVED, that the blue ribbon commission is charged with providing options to Council for specific ways in which our public spaces are used, or could be used, to address race, including:

- Removing, or adding context to, existing Confederate statues
- Augmenting the slave auction block at Court Square
- Completing the Daughters of Zion cemetery
- Providing a further narrative for the Vinegar Hill community
- Highlighting and linking existing historic places, such as the Tonsler House and the Drewary Brown Memorial Bridge
- Designing a new memorial to an African-American civil rights leader (e.g., Julian Bond)
- Additional opportunities within the City to enhance a holistic reflection of our history; and

BE IT FURTHER RESOLVED, that the blue ribbon commission is tasked with the following goals:

- 1) Amply engage with the community through public hearings, forums, etc.
- 2) Evaluate and advise Council on the full range of options within the mission
- 3) Coordinate with the City Attorney's office to provide legal review of options; and

BE IT FURTHER RESOLVED, that Council shall appoint members to the blue ribbon commission who meet the following criteria:

- Commitment to the mission
- Open-mindedness
- Respected in their area of expertise or representation
- Principled and collegial
- Diverse and reflective of our community

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