



CITY COUNCIL AGENDA

May 1, 2023

CERTIFICATIONS

J. Lloyd Snook, III, Mayor
Juandiego Wade, Vice Mayor
Michael K. Payne, Councilor
Brian R. Pinkston, Councilor
Leah Puryear, Councilor
Kyna Thomas, Clerk

4:00 PM OPENING SESSION

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

Call to Order/Roll Call

Agenda Approval APPROVED 5-0 (PINKSTON/WADE)

Reports

1. Discussion: Focus on Homelessness: The State of the Unhoused and Unhoused Services

5:30 PM CLOSED SESSION pursuant to Sections 2.2-3711 and 2.2-3712 of the Virginia Code (TBD)

6:30 PM BUSINESS SESSION

Moment of Silence

Announcements

Recognitions/Proclamations

- Proclamation: Older Americans Month
- Proclamation: Alpha Kappa Alpha Sorority, Inc. - Eta Phi Omega Chapter 60th Anniversary
- Proclamation: The Links, Inc. - The Charlottesville Chapter 25th Anniversary

Consent Agenda* APPROVED 5-0 (PINKSTON/WADE)

2. Minutes: April 3 regular meeting
3. Resolution: 2023 City Climate Protection Program – Program Support Grant with LEAP - \$78,833 (2nd reading)
 - a. Resolution: Appropriating \$78,833 from the 2023 Climate Protection Program Support Grant to the LEAP (Local Energy Alliance Program) (2nd reading)
#R-23-055
 - b. Resolution: Authorizing the city manager to sign a Memorandum of Understanding between the City and the Local Energy Alliance Program (LEAP) for grant funds to support the Climate Protection Program and promote energy performance improvements (2nd reading)
#R-23-056
4. Resolution: Resolutions to award FY23 Charlottesville Affordable Housing Funds (CAHF) (2nd reading)
 - a. Resolution: \$187,500 to the Charlottesville Redevelopment and Housing Authority (CRHA) for a Public Housing HVAC Equity Project (2nd reading)
#R-23-057
 - b. Resolution: \$67,806 to Community Services Housing, Inc. for rehabilitation repairs to preserve Community Services Housing Properties (2nd reading)
#R-23-058
 - c. Resolution: \$225,000 for the Habitat for Humanity of Greater Charlottesville

#R-23-059 Transitions to Homeownership 2023 project (2nd reading)

d. Resolution: \$167,972 for the Piedmont Housing Alliance Anti-displacement through Prospect Homeownership Project (2nd reading)
#R-23-060

e. Resolution: \$186,722 for the Virginia Supportive Housing Premier Circle PSH Project, with conditions (2nd reading)
#R-23-061

5. Resolution: Appropriating Rescue Squad Assistance Fund (RSAF) grant funding for AEDs in the amount of \$14,550 (1 of 2 readings)

6. Resolution: Authorizing Participation in a Cooperative Partnership Application for State Opioid Abatement Authority Grant Funding (1 reading)
#R-23-062

7. Ordinance: Amending City Code Section 22-4. Methods of Procurement Authorized, to increase the bid bond limit from \$100,000 to \$200,000 (1 of 2 readings)

City Manager Report

- Report: May 2023 City Managers Report

Community Matters

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

Action Items

8. Public Hearing/Res.: TJPDC HOME Consortium Five-Year Consolidated Plan (Program Years 2023 - 2027) and the City of Charlottesville Annual Action Plan (FY 2023 - 2024)
#R-23-063
#R-23-064
#R-23-065
APPROVED 5-0 (PAYNE/PINKSTON)

9. Resolution: Resolution Transferring \$1,710,854 of Unallocated American Rescue Plan (ARP) funds (1 reading) **APPROVED 4-1 (PINKSTON/WADE; Payne opposed)**
#R-23-066

10. Resolution: Appropriating \$2,000,000 in FY23 Capital Improvement Program for Stribling Avenue Sidewalk and Buford School Reconfiguration Projects (1 of 2 readings)

11. Ordinance: Continuity of Government during the Covid-19 Pandemic disaster; supplemental changes and ratification (1 reading with four-fifths vote; or 2 readings) **APPROVED 5-0 (PAYNE/PINKSTON)**
#O-23-067

12. Resolution: Amending the FY 2024 Budget for the City's contribution to Jaunt **APPROVED 5-0 (PINKSTON/WADE)**
#R-23-068

General Business

Other Business

Community Matters (2)

Adjournment

RESOLUTION
2023 Climate Protection Program Support Grant
\$78,833

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$78,833 is hereby paid to LEAP from previously appropriated funds in the Gas Fund, Environmental Sustainability Cost Center as follows:

\$78,833 Fund: 631 Cost Center: 2711001000 G/L Account: 599999

RESOLUTION

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

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

RESOLUTION
Allocation of Charlottesville Affordable Housing Fund (CAHF) for Charlottesville
Redevelopment and Housing Authority (CRHA)
Public Housing HVAC Equity Project - \$187,500

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$187,500 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund (CAHF) to Charlottesville Redevelopment and Housing Authority (CRHA) for the purpose of providing funds for the Public Housing HVAC Equity Project.

Fund: 426

Project:

CP-084

G/L Account: 530670

Charlottesville Redevelopment and Housing Authority (CRHA)

\$187,500

RESOLUTION

Allocation of Charlottesville Affordable Housing Fund (CAHF) for Community Services Housing, Inc. Rehabilitation Repairs to Preserve Community Services Housing Properties - \$67,806

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$67,806 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund (CAHF) to Community Services Housing, Inc. for the purpose of providing funds for the Rehabilitation Repairs to Preserve Community Services Housing Properties program.

Fund: 426	Project:	CP-084	G/L Account: 530670
Community Services Housing, Inc.			\$67,806

RESOLUTION

Allocation of Charlottesville Affordable Housing Fund (CAHF) for Habitat for Humanity of Greater Charlottesville Transitions to Homeownership 2023 - 225,000

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$225,000 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund (CAHF) to Habitat for Humanity of Greater Charlottesville for the purpose of providing funds for the Transitions to Homeownership 2023 project.

Fund: 426

Project: CP-084

G/L Account: 530670

Habitat for Humanity of Greater Charlottesville

\$225,000

RESOLUTION

Allocation of Charlottesville Affordable Housing Fund (CAHF) for Piedmont Housing Alliance Anti-displacement through Prospect Homeownership - \$167,972

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$167,972 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund (CAHF) to Piedmont Housing Alliance for the purpose of providing funds for the Anti-displacement through Prospect Homeownership program.

Fund: 426

Project: CP-084

G/L Account: 530670

Piedmont Housing Alliance

\$167,972

RESOLUTION

Allocation of Charlottesville Affordable Housing Fund (CAHF) for Virginia Supportive Housing, Premier Circle PSH - \$186,722

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia that the sum of \$186,722 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund (CAHF) to Virginia Supportive Housing for the purpose of providing funds for the Premier Circle PSH project, with the condition that all funding be used for capital expenses only.

Fund: 426

Project: CP-084

G/L Account: 530670

Virginia Supportive Housing

\$186,722

RESOLUTION AUTHORIZING THE CITY OF CHARLOTTESVILLE, VIRGINIA'S PARTICIPATION IN A VIRGINIA OPIOID ABATEMENT AUTHORITY (OAA) COOPERATIVE PARTNERSHIP AGREEMENT WITH REGION 10 COMMUNITY SERVICE BOARD AND VARIOUS OTHER LOCALITIES

WHEREAS, the mission of the Virginia Opioid Abatement Authority (OAA) is to abate and remediate the opioid epidemic in the Commonwealth through financial support in the form of grants, donations, or other assistance; and

WHEREAS, the OAA operates a financial assistance program to support certain cooperative partnerships of cities and/or counties in Virginia that implement regional efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids; and

WHEREAS, the cities and/or counties listed below, including the City of Charlottesville, have committed to work together to develop and jointly submit an application for regional cooperative partnership funding from the OAA; and

WHEREAS, at least two of the cities and/or counties listed below are located within the same region of the Department of Behavioral Health and Developmental Services; and

WHEREAS, the cities and/or counties and other organizations listed below agree they will execute a legally binding agreement formalizing the cooperating partnership if the application for financial assistance is approved; and

WHEREAS, the cities and/or counties and other organizations listed below agree that the signatory cities, counties and other organizations will designate the County of Albemarle as a fiscal agent for the cooperative partnership if it is awarded; and

WHEREAS, the cities and/or counties and other organizations listed below seek to mutually pursue grant funding collaboratively from the OAA for Fiscal Year 2024.

NOW, THEREFORE, BE IT RESOLVED, the cities and/or counties and other organizations listed below hereby authorize the County of Albemarle, Virginia, acting as fiscal agent to execute the cooperative partnership grant application to the Virginia Opioid Abatement Authority and to execute all documents in connection therewith.

Name of City, County, or Organization	Printed Name of Authorized Signor	Title of Authorized Signor Signature	Signature
Albemarle County	Jeffrey Richardson	Albemarle County Executive	
Nelson County	Candice McGarry	Nelson County Administrator	
City of Charlottesville	Michael C. Rogers	Interim City Manager	

RESOLUTION**Appropriation of Community Development Block Grant Funds Anticipated from the U.S. Department of Housing and Urban Development as part of the City's FY 2023-2024 Annual Action Plan, in the Amount of Approximately \$410,468**

WHEREAS the City of Charlottesville has been advised by the U.S. Department of Housing and Urban Development of an anticipated Community Development Block Grant (CDBG) allocation for the 2023-2024 fiscal year in the approximated amount of \$410,468; and

WHEREAS City Council has received recommendations for the expenditure of funds from the city's CDBG/HOME Task Force, as reviewed and approved by the City Planning Commission, which conducted a public hearing thereon as provided by law; now, therefore

BE IT RESOLVED by the City Council of Charlottesville, Virginia, that upon receipt of anticipated CDBG funding from the U.S. Department of Housing and Urban Development (HUD), said funds are hereby appropriated to the following individual expenditure accounts in the Community Development Block Grant Fund in accordance with the respective purposes set forth; provided, however, that the City Manager is hereby authorized to transfer funds between and among such individual accounts as circumstances may require, to the extent permitted by applicable federal grant regulations, as set forth below:

Community Services

<i>Fund</i>	<i>Account Code</i>	<i>Funding Recommendation</i>	<i>Proposed Award</i>
218	1900514	Resident-Centered Redevelopment (Charlottesville Public Housing Association of Residents)	\$40,000.00

Economic Development

<i>Fund</i>	<i>Account Code</i>	<i>Funding Recommendation</i>	<i>Proposed Award</i>
218	1900515	Microenterprise Entrepreneur Programs (Community Investment Collaborative)	\$25,000.00
218	1900516	Beginning Level Workforce Development (Literacy Volunteers of Charlottesville/Albemarle)	\$64,477.89

CDBG Housing

<i>Fund</i>	<i>Account Code</i>	<i>Funding Recommendation</i>	<i>Proposed Award</i>
218	1900517	Charlottesville Critical Rehab Program (Albemarle Housing Improvement Program)	\$40,000.00
218	1900518	Coordinated Entry into Homelessness System of Care (The Haven at First & Market St.)	\$45,000.00

Programmatic Funds

<i>Fund</i>	<i>Account Code</i>	<i>Funding Recommendation</i>	<i>Proposed Award</i>
218	3914001000	Planning & Admin	\$82,093.60

218	1900520	Council Priority: Public Facilities & Improvements	\$89,896.51
<i>Subtotal CDBG Funding Recommendations</i>			<i>\$410,468.00</i>

In the event that funding received from the U.S. Department of Housing and Urban Development for FY 2023-2024 differs from the amounts referenced above, all appropriated amounts may be administratively increased/reduced at the same prorated percentage of change to actual funding received. No sub-recipient's grant may be increased above their initial funding request without further consideration by Council.

BE IT FURTHER RESOLVED that this appropriation is conditioned upon the receipt of not less than \$410,468 in CDBG funds from the Department of Housing and Urban Development for FY 2023-2024, and all sub-recipient awards are also conditioned upon receipt of such funds.

BE IT FURTHER RESOLVED that the amounts appropriated above within this resolution will be provided as grants to public agencies or private non-profit, charitable organizations (individually and collectively, "sub-recipients") and shall be utilized by the sub-recipients solely for the purpose stated within their grant applications. The City Manager is hereby authorized to enter into agreements with each sub-recipient as deemed advisable, to ensure that the grants are expended for their intended purposes and in accordance with applicable federal and state laws and regulations. To this end, the City Manager, the Director of Finance, and public officers to whom any responsibility is delegated by the City Manager pursuant to City Code Section 2-147, are authorized to establish administrative procedures and provide for guidance and assistance in the sub-recipients' execution of the funded programs.

RESOLUTION
Appropriation of HOME Investment Partnership Program Funds Anticipated from the U.S. Department of Housing and Urban Development as part of the City’s FY 2023-2024 Annual Action Plan, in the Amount of Approximately \$98,161

WHEREAS the City of Charlottesville has been advised by the U.S. Department of Housing and Urban Development that the region served by the Thomas Jefferson Area HOME Consortium will be receiving an anticipated HOME Investment Partnerships (HOME) allocation for fiscal year 2023-2024, of which the City will receive approximately \$98,161 to support affordable housing initiatives; and

WHEREAS City Council has received recommendations for the expenditure of funds from the city’s CDBG/HOME Task Force, as reviewed and approved by the City Planning Commission, which conducted a public hearing thereon as provided by law; and

WHEREAS it is a requirement of this grant that projects funded with HOME initiatives money must be matched with local funding in varying degrees; now, therefore,

BE IT RESOLVED by the City Council of Charlottesville, Virginia, that upon receipt of anticipated HOME funding from the U.S. Department of Housing and Urban Development (HUD), said funds are hereby appropriated to the following individual expenditure accounts in the HOME Fund in accordance with the respective purposes set forth; provided, however, that the City Manager is hereby authorized to transfer funds between and among such individual accounts as circumstances may require, to the extent permitted by applicable federal grant regulations, as set forth below:

HOME Investment Partnerships

<i>Fund</i>	<i>Account Code</i>	<i>Funding Recommendation</i>	<i>Proposed Award</i>
210	1900519	Permanent & Long-Term Affordable Homeownership Opportunities (Piedmont Housing Alliance)	\$98,161.00
Subtotal HOME Funding Recommendations			\$98,161.00

HOME Local Match Funds

Transfer from:			
<i>Fund</i>	<i>Cost Center</i>	<i>G/L Account</i>	<i>Amount to Transfer</i>
426	CP-084	561425	\$19,632.20
Transfer to:			
<i>Fund</i>	<i>Cost Center</i>	<i>G/L Account</i>	<i>Receiving Amount</i>
425	P-00507	498010	\$19,632.20
Subtotal HOME Local Match Funding			\$19,632.20

BE IT FURTHER RESOLVED by the Council of the City of Charlottesville, Virginia that the amount of \$19,632.20 is hereby appropriated from the Charlottesville Housing Fund for expenditure as the local match for HOME funding received from HUD (a transfer from Fund 426 to Fund 425; from Lump Sum: CP-084 to WBS: P-00507; from GL: 561425 to GL: 498010); and

BE IT FURTHER RESOLVED that this appropriation is conditioned upon the receipt of not less than \$98,161 in HOME funds from the Department of Housing and Urban Development for FY 2023-2024, and all sub-recipient awards are also conditioned upon receipt of such funds, and

In the event that funding received from the U.S. Department of Housing and Urban Development for FY 2023-2024 differs from the amounts referenced above, all appropriated amounts may be administratively increased/reduced at the same prorated percentage of change to actual funding received. No sub-recipient's grant may be increased above their initial funding request without further consideration by Council.

BE IT FURTHER RESOLVED that the amounts appropriated above within this resolution will be provided as grants to public agencies or private non-profit, charitable organizations (individually and collectively, "sub-recipients") and shall be utilized by the sub-recipients solely for the purpose stated within their grant applications. The City Manager is hereby authorized to enter into agreements with each sub-recipient as deemed advisable, to ensure that the grants are expended for their intended purposes and in accordance with applicable federal and state laws and regulations. To this end, the City Manager, the Director of Finance, and public officers to whom any responsibility is delegated by the City Manager pursuant to City Code Section 2-147, are authorized to establish administrative procedures and provide for guidance and assistance in the sub-recipients' execution of the funded programs.

**Resolution Approving the Thomas Jefferson Area HOME Consortium
Five-Year Consolidated Plan (FY 2023-2027) and the City of Charlottesville
One-Year Annual Action Plan (FY 2023-2024)**

WHEREAS the City of Charlottesville is a designated Entitlement Community by the United States Department of Housing and Urban Development (HUD), and as such is a recipient of federal Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) funds, and

WHEREAS the City of Charlottesville is a contributing member of the Thomas Jefferson Planning District Commission Area HOME Consortium, in partnership with the counties of Albemarle, Fluvanna, Greene, Louisa and Nelson, and through the Consortium shares in the benefits of participation in HUD's HOME program,

NOW, THEREFORE, BE IT RESOLVED that the City Council of Charlottesville, Virginia, hereby approves the Thomas Jefferson Area HOME Consortium Five-Year Consolidated Plan (FY 2023-2027) and the City of Charlottesville One-Year Annual Action Plan (FY 2023-2024), as presented at the May 1, 2023, meeting of the City Council.

**RESOLUTION TRANSFERRING FUNDS FOR
American Rescue Plan for Eligible Local Activities
\$1,710,854**

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$1,710,854 from previously appropriated, unallocated American Rescue Plan funds is hereby designated to be available for expenditure for costs associated with following eligible purposes and amounts:

Transfer from:

Unallocated Revenue Replacement Funds.	I/O 1900498	\$1,375,854.
ARP 1 Unallocated Funds.	I/O 1900480	\$335,000.
TOTAL.		\$1,710,854.

Transfer to:

Success Factors HRIS System and Implementation.		\$1,375,854.
ADA Transition Plan Update.		\$240,000.
Fire Department Uses:		
Public Safety Messaging Materials.		\$30,000.
“Stop the Bleed” kits, training, outreach.		\$5,000.
Ballistic vests.		\$60,000.
TOTAL.		\$1,710,854.

Note: account codes will be established following the first reading and approval of these transfers.

ORDINANCE TO ASSURE CONTINUITY OF GOVERNMENT DURING THE COVID-19 PANDEMIC DISASTER BY ENACTING AND AUTHORIZING SUPPLEMENTAL TEMPORARY CHANGES IN CERTAIN DEADLINES, MODIFIED SUPPLEMENTAL AND REMEDIAL PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES, AND OTHER EMERGENCY ACTIONS NECESSARY TO ASSURE SAFE AND EFFICIENT AND EFFECTIVE GOVERNMENT OPERATIONS

WHEREAS, on March 13, 2020, the former President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19, and also declared the novel Coronavirus (“COVID-19”) emergency which the Federal Emergency Management Agency (“FEMA”) designated as “Disaster #3448” in Virginia (“EM-3448-VA”), with an “incident period” that began on January 20, 2020 and continued until April 10, 2023, when the current President of the United States signed into law House Joint Resolution 7 (“H.J.R.7”), terminating the national emergency and disaster over COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, and according to the International Federation of Red Cross and Red Crescent Societies, pandemics are classified as a natural hazard; and

WHEREAS, on March 12, 2020, former Governor Ralph S. Northam issued his Executive Order Fifty-One (“E.O.-51”) declaring a state of emergency for the Commonwealth of Virginia arising from the COVID-19 pandemic; and

WHEREAS, the former Governor’s E.O.-51 acknowledged the existence of a public health emergency which constitutes a disaster, as defined by Virginia Code § 44-146.16, arising from the public health threat presented by a communicable disease anticipated to spread, and this public health emergency continued to be a state-recognized emergency and a disaster through July 1, 2021, by the former Governor’s E.O.-79 and Order of Public Health Emergency Ten Ending of Commonsense Public Health Restrictions Due to COVID-19 on May 14, 2021; and

WHEREAS, the Governor’s Executive Orders ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and

WHEREAS, by Public Safety Order dated March 12, 2020, the City of Charlottesville City Manager (“City Manager”)/ Director of Emergency Management declared a state of local emergency, based on a threat to the public health and safety of the residents of the City of Charlottesville (the “City”) resulting from the communicable and infectious COVID-19 virus, which threat was and continued to be an emergency as defined in Virginia Code § 44-146.16 for a lengthy time as evidenced by the Center for Disease Control’s weekly positivity rate for the City of Charlottesville; and

WHEREAS, the Virginia Supreme Court unanimously issued a series of emergency orders, beginning with its March 16, 2020, Order Declaring a Judicial Emergency in Response to the

COVID-19 Emergency in reliance on and in response to the former Governor's E.O.-51, and ending with its May 27, 2022, Fortieth Order Extending the Judicial Emergency in Response to the COVID-19 Emergency, which expired on June 22, 2022. Said emergency orders recognized "the ongoing impact and effects of the COVID-19 pandemic [which] continue[d] to impede the operation of Virginia's courts, and to limit the courts' ability to ensure (i) immediate access for litigants and others, and (ii) that schedules or time deadlines imposed by court order, rule, or statute are met," the "public health threat," and "the current COVID-19 emergency," which affected the courts system across Virginia ultimately for a time period from March 16, 2020, through June 22, 2022; and

WHEREAS, the City of Charlottesville City Council ("City Council") found and finds that the COVID-19 virus constituted a real, substantial and continuing threat to public health and safety and constituted a "disaster" in the City as defined by Virginia Code §44-146.16 and as established in Virginia Code § 15.2-1413, said virus being a "communicable disease of public health threat" from at least as far back as March 13, 2020, and lasting through April 10, 2023, when the national pandemic emergency and disaster was terminated; and

WHEREAS, Virginia Code § 15.2-1413 is a statutory provision dating back to the 1920s, which in light of the then-recent Spanish Flu pandemic and World War I, has since provided through various recodifications that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster such as the COVID-19 pandemic emergency for a period not to exceed twelve months from the date of such disaster, and this method may be in lieu of normal procedures provided by general law; and

WHEREAS, City Council adopted continuity of government ordinances beginning March 25, 2020, in Ordinance # 20-049 and thereafter reenacted, amended and extended its continuity of government ordinances many times by Ordinances # O-20-117, # O-20-135, # O-21-053, # O-21-146, and finally by # O-22-029, which remained in effect until it expired on September 8, 2022, but thereafter City Council and the City Manager continued certain pandemic-indicated measures for some City public bodies including virtual meetings consistent with this Ordinance, the above-named continuity of government ordinances, the Virginia Freedom of Information Act ("FOIA"), including Virginia Code §§ 2.2-3708.2 and 2.2-3708.3, and/or other law; and

WHEREAS, the open public meeting requirements of FOIA allow properly claimed exemptions provided under that Act (e.g., Virginia Code §§ 2.2-3708.2, 2.2-3708.3 and 2.2-3711) or any other statute (e.g., Virginia Code §§ 15.2-1413, and 15.2- 2907(D)), and this ordinance is intended to provide a remedial method by which, if FOIA did not permit the City's public bodies to meet in excess of then-applicable law, that alternative, flexible procedures would be available to allow the work of government to continue unabated and to protect the public health and that of our citizens, staff and the members of the public bodies; and

WHEREAS, City Council, during the time period from March 25, 2020, through September 6, 2022, and many other City public bodies (as defined herein), from March 25, 2020, through April 10, 2023, met virtually due to the danger to the public, applicants, community, staff and City Council from the pandemic disaster pursuant to various authorizations and actions from

national, state and local leaders, and continued local government functions and operations despite that danger and disaster; and

WHEREAS, during that time period, the public was given additional access to public meetings virtually through the internet and other means, which expanded and increased public participation opportunities and the access to public meetings and opportunities afford citizens virtual choices for input in the City, and additionally, from September 8, 2022, onward, in-person access was given to City Council meetings under certain safeguards and conditions, and during those time frames, City Council and other City public bodies conducted the continuing work of local government and acted to serve the good of the community, notwithstanding the ongoing emergency pandemic and the public health concerns; and

WHEREAS, on March 23, 2023, the Virginia Supreme Court issued in its opinion in the case of *Berry v. Board of Supervisors of Fairfax County* (the “Berry Opinion”), which opinion interpreted Virginia Code § 2.2-3708(A)(2) and the Fairfax County continuity of government ordinance which were applicable to the adoption of a Fairfax County zoning ordinance under the facts of that case, and held that the remedy for a violation of FOIA for decisions not authorized by a continuity of government ordinance or other authorized exception is that the vote taken is void ab initio, which was unexpected and a sudden shift in what was otherwise well-understood and well-settled law; and

WHEREAS, the Berry Opinion is not yet final, as it is currently under reconsideration by the Virginia Supreme Court, and in the opinion of the City Attorney, appears to be in conflict with the long-standing precedent of the Virginia Supreme Court that holds “when a statute creates a right and provides a remedy for the vindication of that right, then that remedy is exclusive unless the statute says otherwise.” *Concerned Taxpayers of Brunswick Cnty. v. Cnty. of Brunswick*, 249 Va. 320, 330, 455 S.E.2d 712, 717–18 (1995), quoting *Vansant & Gusler, Inc. v. Washington*, 245 Va. 356, 360, 429 S.E.2d 31, 33 (1993) (quoting *School Bd. v. Giannoutsos*, 238 Va. 144, 147, 380 S.E.2d 647, 649 (1989)). Like the Procurement Act and the other statutes discussed in these cases, FOIA and its rights did not exist at common law, and “confers certain rights and obligations upon citizens of the Commonwealth, nongovernmental contractors, and governmental entities.” See *W.M. Schlosser Co. v. Board of Supervisors*, 245 Va. 451, 456, 428 S.E.2d 919, 922 (1993)(Virginia Public Procurement Act). This rule applies whenever the rights and obligations did not exist in the common law and were created through a statutory scheme. In *Concerned Taxpayers* and *W.M. Schlosser Co.* the Procurement Act was involved; in the Berry Opinion, FOIA was involved, but the same long-standing rule should apply in any case involving an alleged violation of FOIA; and

WHEREAS, the Berry Opinion has caused uncertainty regarding the validity of certain actions of City Council and other City public bodies, for the City’s citizens, businesses, property owners, and visitors who rely upon the certainty and finality of the actions of City Council and the other City public bodies for decisions, investments, purchases, and other actions and behavior; and

WHEREAS, City Council has the power to adopt retroactive legislation such as this Ordinance as a legislative power, which has been upheld or referenced in such authorities as *Fallon Florist v. City of Roanoke*, 190 Va. 564 (1950)(retroactive tax ordinance upheld as legal and

constitutional); *Gallagher v. Stathis*, 186 Va. 444 (1947)(local building code ordinance stated it would not have retroactive effect unless expressly stated so was not retroactive); *Chesterfield Civic Ass'n v. Board of Zoning Appeals of Chesterfield County*, 215 Va. 399 (1974) (ordinance held not to be retroactive but referencing the general rule on retroactivity that legislation is presumed not to be retroactive unless there is an express intent otherwise); *Barton v. Town of Middlesburg*, 27 Va. Cir. 20 (Loudoun Cir. 1991)(recognizing the general rule that a local legislature can make an ordinance retroactive by clear expression of intent, but holding the ordinance in question was not retroactive); *City of Virginia Beach v. Octo, Inc.*, 30 Va. Cir. 507 (Va. Beach Cir. 1981) (recognizing the potential for the ordinance to be retroactive, but holding it was not in this case); 1986-87 Va. A.G. 242 (localities may adopt retroactive civil ordinances so long as no vested rights are disturbed or contract violated); 1972-73 Va. A.G. 251 (local retroactive line of duty act ordinance valid); *see also* 6 McQuillen, Municipal Corporations § 20.70 (1980); 62 CJS Municipal Corporations § 443(c) (1949); and

WHEREAS, in response to the uncertainty created by the Berry Opinion, and to reassure the community, City Council wishes to retroactively adopt a remedial continuity of government ordinance to assure public health, and ensure certainty and continuity of government to supplement as needed, but not necessarily replace, the authority referenced above to allow City Council and all other public bodies of the City to have met solely virtually by electronic means from March 25, 2020, through the termination of the national emergency and disaster as declared in Virginia on April 10, 2023; and

WHEREAS, the method authorized by Virginia Code § 15.2-1413 and this Ordinance to address the pandemic disaster is a multi-layered method of various, more flexible procedures in addition to what FOIA authorized, recognizing that the pandemic disaster went through various stages and took multiple turns, while at the same time the City Council and public bodies were expected to and did bravely and in good faith continue local government for the good of the community, while attempting to maintain health and safety; and

WHEREAS, this Ordinance is intended to be retroactive and remedial, and is enacted in response to the disaster caused by the COVID-19 pandemic, as recognized by national, state and local authorities; it promotes public health, safety and welfare, and is consistent with the laws of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that City Council finds and ordains the following to retroactively apply in the City of Charlottesville for the emergency and disaster period from March 25, 2020, through April 10, 2023, as if these provisions were in effect for that time period:

1. **THAT** the continuing COVID-19 pandemic and disaster from March 25, 2020, through April 10, 2023, made it unsafe for public bodies to conduct their meetings in accordance with normal practices and procedures, because such practices and procedures required the physical presence of members of a public body and members of the public within the same room and facilities. That such congregate gathering did not allow adequate measures to be taken in accordance with public health requirements and guidelines of the CDC and Virginia Department of Health. For

the purposes of this Ordinance the term “Public Body” means the City Council, and each board, commission, or agency of the City of Charlottesville, including any committee, subcommittee, or other entity, however designated, created by City Council to perform delegated functions of City Council or to advise the City Council, or entities which exist to carry out statutorily-directed duties and powers as a local public body whether appointed by City Council or the Circuit Court for the City of Charlottesville (collectively “Public Bodies”); and

2. **THAT** in accordance with Virginia Code § 15.2-1413, and notwithstanding any other provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of the City government during the COVID-19 emergency and disaster from March 25, 2020, through April 10, 2023, and Public Bodies may utilize these procedures in lieu of, or in addition to other procedures otherwise applicable:

a. Any meeting or activities which normally would require the physical presence of a quorum of members of a Public Body may be held only through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location, and

b. The City Manager is hereby authorized to restrict the number of electronic meetings each Public Body may conduct each calendar month, based on the capacity and availability of the City staff who are capable and qualified to support the meeting to ensure compliance with this Ordinance, and

c. Prior to holding any such electronic meeting, the Public Body shall provide public notice of at least three (3) days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment, and

d. Any such electronic meeting of a Public Body shall state on its agenda the location at which members of the public can obtain information as to the means by which the public may access and participate in such electronic meeting, and

e. Any such electronic meeting of a Public Body shall be open to electronic participation by the public and closed to in-person participation by the public, and each electronic meeting shall be conducted in a manner designed to maximize public participation, and

f. A video recording of all electronic meetings shall be made available on the City’s website within three (3) business days following each electronic meeting, and

g. With respect to any matter which requires a public hearing, the public hearing may be conducted by an open public comment period called for during an electronic meeting, as well as by submission of written comments to the Clerk of City Council prior to, during, and for five (5) business days after the electronic meeting. Notice of the public hearing shall be posted on the City’s website at least five (5) business days prior to the date of the public hearing.

h. The minutes of all electronic meetings shall conform to the requirements of law, shall identify how the meeting was conducted, the identity of the members participating, and shall specify what actions were taken at the meeting. A Public Body may approve minutes of an electronic meeting at a subsequent electronic meeting, and

i. Any provision of Virginia Code §2.2-3708.2 requiring the Public Body's approval of electronic participation due to a member's personal matter or medical condition shall not apply for the duration of the time period that this Ordinance is applicable.

IT IS FURTHER ORDAINED THAT, notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Body or any City officers (including Constitutional Officers) or City employees, within a period of sixty (60) or fewer days, shall be suspended during this emergency and disaster. The Public Bodies, and the City's officers and employees, are encouraged to take all such action as is practical and appropriate to meet those deadlines; however, failure to meet any such deadlines shall not constitute or be deemed to be a default, violation, approval, official recommendation or other action.

IT IS FURTHER ORDAINED THAT any scheduled non-emergency public hearings and action items of a Public Body may be postponed to a date certain if, in the judgment of the Public Body, it would be in the best interests of the public to do so, provided that public notice is given so that the public are aware of how and when to present their views.

IT IS FURTHER ORDAINED THAT this Ordinance shall not operate to preclude any Public Body from making its own decisions and rules regarding the conduct of its meetings either electronically or by means of having a quorum physically assembled, so long as those meetings are in compliance with applicable Executive Orders of the former Governor of Virginia, any local ordinance which may be enacted by this City Council (including this one) in response to the COVID-19 virus emergency within the City locally or statewide, and/or other state and local laws and policies; however, any such Public Body may also elect to conduct its meetings virtually solely electronically within the purview of this Ordinance and/or any other applicable laws and policies.

IT IS FURTHER ORDAINED THAT a continuing emergency existed, and the City Manager's declaration of a local emergency, authorized by resolution of this City Council on March 12, 2020 (#R-20-035) remained in effect through the September 8, 2022, Virginia emergency declaration, which declaration was in effect through July 1, 2021, and the nationally-declared emergency and disaster in Virginia remained in effect from March 12, 2020, through April 10, 2023; and the various actions referred to within this Ordinance are necessary to be taken to address the continuing emergency referenced in one of more of these declarations; and

IT IS FURTHER ORDAINED THAT to the extent permitted by law, City Council hereby ratifies and authorizes all ordinances, resolutions, motions and actions taken by City Council or any Public Body within the City during the timeframe referenced above of emergency and pandemic disaster; and

IT IS FURTHER ORDAINED THAT pursuant to Charlottesville City Code § 2-96, by a four-fifths vote of City Council, this Ordinance is enacted on the date of its introduction, shall be immediately and retroactively effective upon its adoption, shall be applied retroactively as in full force and effect for the time period from March 25, 2020, through April 10, 2023, and supplements (but does not supersede) any other ordinance, statute or law authorizing actions of City Council or any other Public Body in the City.

RESOLUTION
To Reallocate Funds in the FY 2024 for Jaunt
\$530,151

WHEREAS, the FY 2024 City of Charlottesville, VA budget reflected a City Contribution in the amount of \$1,443,081;

WHEREAS, the Charlottesville City Council wishes to fully fund Jaunt's request in the amount of \$1,973,232;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$530,121 is hereby transferred in the following manner:

Transfer from:

\$530,151 Fund: 105 Cost Center: 1631001000 G/L Account: 599999

Transfer to:

\$530,151 Fund: 105 Cost Center: 972300100 G/L Account: 540100

BE IT FURTHER RESOLVED, that a payment from Jaunt is due to the City of Charlottesville as its share of an excess distribution in the amount of \$281,171 based on FY 22 results. Once received, those funds will be deposited in the Citywide Reserve account and remain available for spending in FY 24 accordingly.