

**Certifications**

**CITY COUNCIL AGENDA**  
**Monday, October 21, 2019**



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

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

**PLEDGE OF ALLEGIANCE**  
**ROLL CALL**  
**ANNOUNCEMENTS**  
**PROCLAMATIONS**

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

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

**CITY MANAGER RESPONSE TO COMMUNITY MATTERS (FROM PREVIOUS MEETINGS)**

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

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

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

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

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

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

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

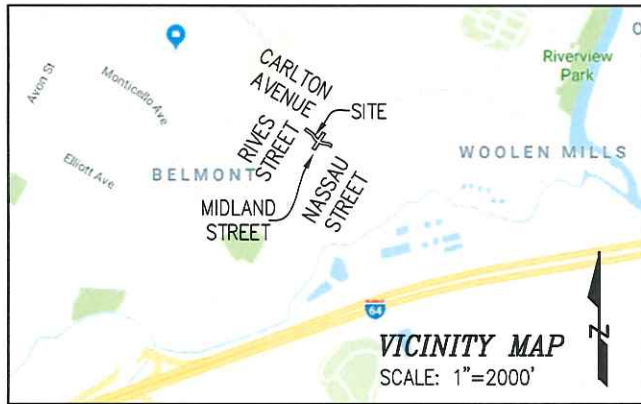
**OTHER BUSINESS**

**MATTERS BY THE PUBLIC**  
\*ACTION NEEDED

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

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

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



**STATEMENT OF TITLE: SUNRISE PARK LANE & CARL SMITH STREET LOCATED BETWEEN CARLTON AVENUE AND MIDLAND STREET, SHOWN HERE AS PARCEL Z**

THE LAND SHOWN WAS OBTAINED BY SUNRISE PARK, LLC & AS RECORDED IN DEED BOOK 1003 PAGE 752, PLAT RECORDED IN INSTRUMENT #2011:3987, AND TO THE BEST OF MY KNOWLEDGE MEETS ALL THE REQUIREMENTS REGARDING THE PLATTING OF SUBDIVISIONS.

**STATEMENT OF CONSENT TO DIVISION**

THE PLATTING OR DEDICATION OF THE FOLLOWING DESCRIBED LAND, KNOWN AS SUNRISE PARK LANE AND CARL SMITH STREET BETWEEN CARLTON AVENUE AND MIDLAND STREET, SHOWN HERE AS PARCEL Z, ACCORDING TO CITY RECORDS, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND/OR TRUSTEES, IF ANY.

**NOTES:**

1. THE INTENT OF THIS PLAT IS TO DEDICATE TO THE CITY OF CHARLOTTESVILLE SUNRISE PARK LANE AND CARL SMITH STREET LOCATED BETWEEN CARLTON AVENUE AND MIDLAND STREET, SHOWN HERE AS PARCEL Z FOR PUBLIC RIGHT-OF-WAY PURPOSES.
2. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY SHOWN HEREON.
3. THIS PLAT HAS BEEN PREPARED FROM RECORD INFORMATION.
4. THE AREA SHOWN HEREON IS LOCATED IN ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN AS SHOWN ON FEMA MAP NO 51003C0289D, EFFECTIVE DATE FEBRUARY 4, 2005. THIS DETERMINATION HAS BEEN MADE BY GRAPHIC METHODS, NO ELEVATION STUDY HAS BEEN PERFORMED AS A PORTION OF THIS PROJECT.
5. LOCATIONS OF SIDEWALK AND CURB PER AS-BUILT CREATED BY ROUDABUSH, GALE & ASSOCIATES, INC. TITLED "SUNRISE PARK PUD - PHASE III FINAL ASBUILT SITE DEVELOPMENT PLAN, CHARLOTTESVILLE, VA", DATED AUGUST 24, 2016.
6. OWNER OF RECORD: SUNRISE PARK, LLC; SOURCE OF TITLE: DB 1003 PG 752, PLAT AT INSTRUMENT #2011:3987.

\_\_\_\_\_  
 SUNRISE PARK, LLC  
 919 WEST MAIN STREET  
 CHARLOTTESVILLE, VA 22903

COMMONWEALTH OF VIRGINIA -  
 CITY/COUNTY OF: \_\_\_\_\_  
 TO WIT: THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED  
 BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
 SIGNATURE OF NOTARY PUBLIC



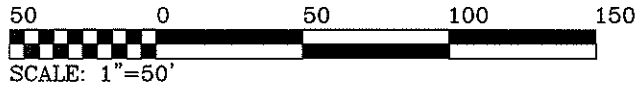
PREPARED BY:  
 WILLIAM W WHITE

**ROUDABUSH, GALE & ASSOCIATES, INC.**  
 ENGINEERS, SURVEYORS AND LAND PLANNERS  
 A PROFESSIONAL CORPORATION  
 SERVING VIRGINIA SINCE 1966

914 MONTICELLO ROAD - CHARLOTTESVILLE, VIRGINIA 22902  
 PHONE 434-977-0205 FAX 434-296-5220  
 EMAIL: INFO@ROUDABUSH.COM

RIGHT-OF-WAY DEDICATION  
 SUNRISE PARK LANE AND CARL  
 SMITH STREET LOCATED  
 BETWEEN CARLTON AVENUE  
 AND MIDLAND STREET, PHASE  
 THREE OF SUNRISE PARK  
 CITY OF CHARLOTTESVILLE, VIRGINIA

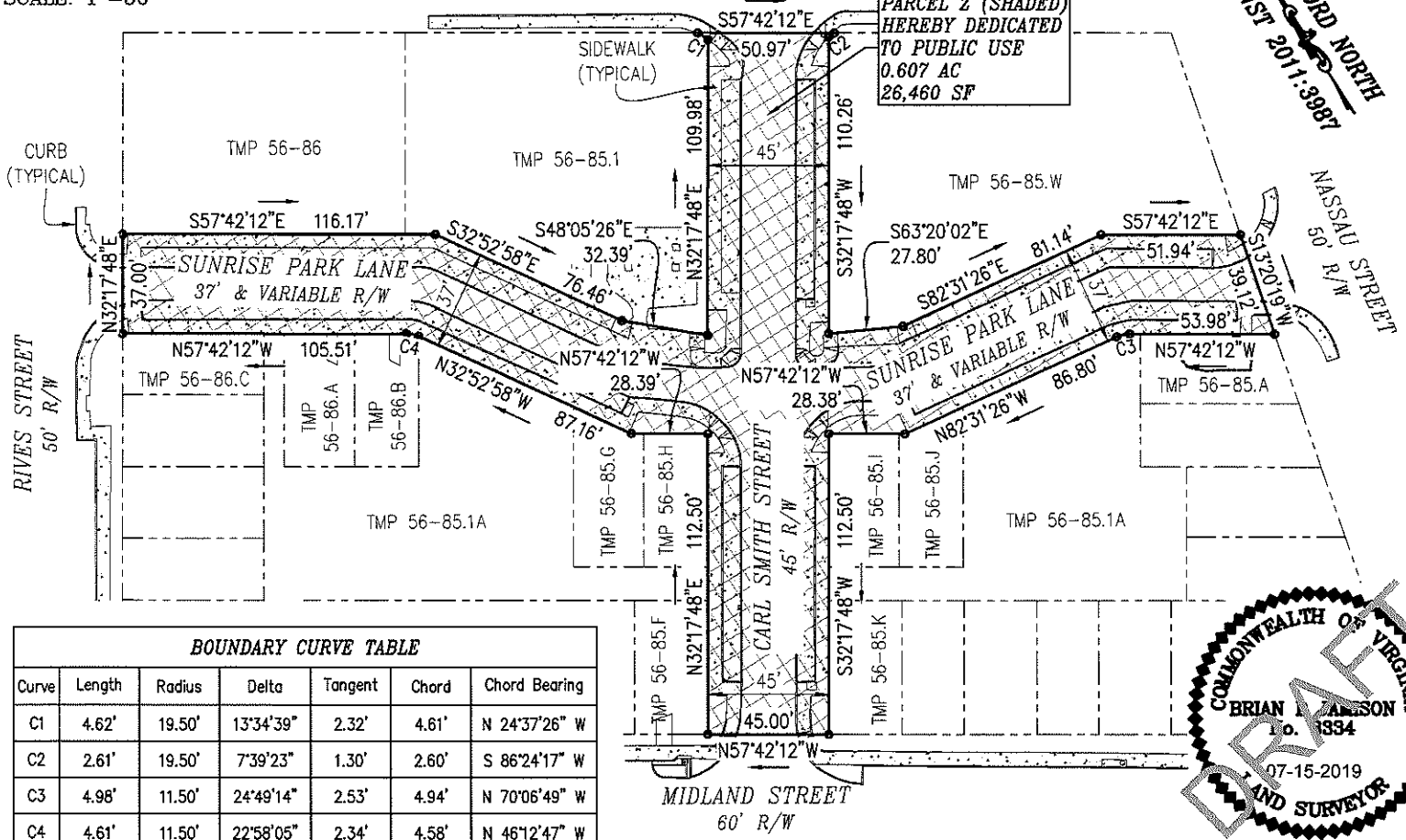
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SHEET:	01 OF 02



CARLTON AVENUE  
50' R/W

**RECORD NORTH**  
INST 2011-3987

**PARCEL Z (SHADED)**  
**HEREBY DEDICATED**  
**TO PUBLIC USE**  
0.607 AC  
26,460 SF



**BOUNDARY CURVE TABLE**

Curve	Length	Radius	Delta	Tangent	Chord	Chord Bearing
C1	4.62'	19.50'	13°34'39"	2.32'	4.61'	N 24°37'26" W
C2	2.61'	19.50'	7°39'23"	1.30'	2.60'	S 86°24'17" W
C3	4.98'	11.50'	24°49'14"	2.53'	4.94'	N 70°06'49" W
C4	4.61'	11.50'	22°58'05"	2.34'	4.58'	N 46°12'47" W

COMMONWEALTH OF VIRGINIA  
**BRIAN J. JAMESON**  
No. 1334  
07-15-2019  
**LAND SURVEYOR**

PREPARED BY:  
WILLIAM W WHITE

**ROUDABUSH, GALE & ASSOCIATES, INC.**  
ENGINEERS, SURVEYORS AND LAND PLANNERS  
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EMAIL INFO@ROUDABUSH.COM

RIGHT-OF-WAY DEDICATION  
SUNRISE PARK LANE AND CARL  
SMITH STREET LOCATED  
BETWEEN CARLTON AVENUE  
AND MIDLAND STREET, PHASE  
THREE OF SUNRISE PARK  
CITY OF CHARLOTTESVILLE, VIRGINIA

DATE:	07-15-2019
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SCALE:	1"=50'
JOB:	8174
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SHEET:	02 OF 02

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

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

\$2,000

Fund: 105

Cost Center: 10110010000

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

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

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

## **RESOLUTION**

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

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

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

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

WITNESSETH:

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

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



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

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

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

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

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

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

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

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

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

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

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

AGREEMENT:

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

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

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

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

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

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

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

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

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

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

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

Witness the following duly authorized signatures and seals:

CITY OF CHARLOTTESVILLE

By: \_\_\_\_\_  
Mayor

ALBEMARLE COUNTY SERVICE AUTHORITY

By: \_\_\_\_\_  
Chairman

RIVANNA WATER AND SEWER AUTHORITY

By: \_\_\_\_\_  
Chair

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

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

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

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

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

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

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

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

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

**ARTICLE I**

**SECTION 101 PURPOSE AND SCOPE**

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

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

**SECTION 102 AUTHORITY TO MANAGE THE RIGHT OF WAY**

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

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



**SECTION 103 DEFINITIONS**

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

**ARTICLE II**

**SECTION 201 INITIAL INSTALLATION**

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

**SECTION 202 SUBSEQUENT INSTALLATION**

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

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

#### **SECTION 203 INSPECTION BY THE CITY**

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

#### **SECTION 204 AUTHORITY OF THE CITY TO ORDER CESSATION OF EXCAVATION**

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

#### **SECTION 205 LOCATION OF POSTS, POLES, CABLES AND CONDUITS**

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

#### **SECTION 206 OBSTRUCTION OF THE PROW**

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

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

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

- 206.2 NO OBSTRUCTION OF WATER:** The Company shall not obstruct the PROW in a manner that interferes with the natural free and clear passage of water through the gutters, culverts, ditches tiles or other waterway.
- 206.3 PARKING, LOADING AND UNLOADING OF VEHICLES SHALL NOT OBSTRUCT THE PROW:** Private vehicles of those doing work for the Company in the PROW must be parked in a manner that conforms to the City's applicable parking regulations. The loading or unloading of trucks must be done in a manner that will not obstruct normal traffic within the PROW, or jeopardize the safety of the public who use the PROW.

### ARTICLE III

#### SECTION 301 ADMINISTRATION OF THE PUBLIC RIGHTS OF WAY

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

#### SECTION 302 SUBMISSION OF PROW PLAN

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

#### SECTION 303 GOOD CAUSE EXCEPTION

- 303.1 WAIVER:** The Director, at his or her sole judgment, is authorized to waive the thirty (30) day requirement in Section 302 for good cause shown.
- 303.2 EMERGENCY WORK:** The Company shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The Company will proceed to take whatever actions are necessary to respond to the emergency, or as directed by the Director.

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

#### **SECTION 304 DECISION ON PROW PLAN BY THE DIRECTOR**

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

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

#### **SECTION 305 MAPPING DATA**

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

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

### **ARTICLE IV**

#### **SECTION 401 COMPLIANCE WITH ALL LAW AND REGULATIONS**

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

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

## **ARTICLE V**

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

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

### **SECTION 502 RIGHTS-OF WAY PATCHING AND RESTORATION**

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

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

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

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

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

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

## ARTICLE VI

### SECTION 601 INDEMNIFICATION AND LIABILITY

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

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

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

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

## **SECTION 602 WAIVER BY THE CITY**

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

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

## **SECTION 603 INSURANCE**

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

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



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

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

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

## **SECTION 604 NEGLIGENCE AND INTENTIONAL ACTS**

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

## **ARTICLE VII**

### **SECTION 701 GENERAL REQUIREMENT OF A PERFORMANCE BOND**

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

### **SECTION 702 CHANGED AMOUNT OF THE PERFORMANCE BOND**

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

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

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

### **SECTION 703 PURPOSE OF PERFORMANCE BOND**

The Performance Bond shall serve as security for:

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

### **SECTION 704 FEES OR PENALTIES FOR VIOLATIONS OF THE ORDINANCE**

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

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

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

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

## **ARTICLE VIII**

### **SECTION 801 COMPENSATION/PROW USE FEE.**

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

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

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

### **SECTION 802 FRANCHISING COSTS**

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

### **SECTION 803 NO CREDITS OR DEDUCTIONS**

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

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

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

## **ARTICLE IX**

### **SECTION 901 RESERVATION OF ALL RIGHTS AND POWERS**

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

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

### **SECTION 902 SEVERABILITY**

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

## **ARTICLE X**

### **SECTION 1001 MAINTENANCE OBLIGATION**

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

### **SECTION 1002 TREE TRIMMING**

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

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

## **ARTICLE XI**

### **SECTION 1101 INITIAL TERM OF TELECOMMUNICATIONS FRANCHISE**

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

### **SECTION 1102 APPLICATION FOR NEW TELECOMMUNICATIONS FRANCHISE**

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

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

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

## **ARTICLE XII**

### **SECTION 1201 NOTICE**

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

**To the Company:**

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

**To the City:**

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

**With a copy to:**

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

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

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

## **SECTION 1202 EMERGENCY NOTIFICATION**

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

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

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

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

Paul Oberdorfer, Director of Public Works  
(434) 970-3301 (office)  
(434) 970-3817 (facsimile)  
(434) 971-6645 (home)

## **SECTION 1203 REGISTRATION OF DATA**

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

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

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

## **ARTICLE XIII**

### **SECTION 1301 TERMINATION OF TELECOMMUNICATIONS FRANCHISE**

The franchise granted by this Ordinance may be terminated:

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

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

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

#### **ARTICLE XIV**

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

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

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

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

#### **ARTICLE XV**

##### **SECTION 1501 PRIOR WRITTEN CONSENT FOR ASSIGNMENT**

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

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

## **SECTION 1502 SUCCESSORS AND ASSIGNS**

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

## **ARTICLE XVI**

### **SECTION 1601 NONEXCLUSIVE FRANCHISE**

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

## **ARTICLE XVII**

### **SECTION 1701 ALL WAIVERS IN WRITING AND EXECUTED BY THE PARTIES**

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

### **SECTION 1702 NO CONSTRUCTIVE WAIVER RECOGNIZED**

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

## **ARTICLE XVIII**

### **SECTION 1801 NO DISCRIMINATION**

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

## **ARTICLE XIX**

### **SECTION 1901 FORCE MAJEURE**

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



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

**ARTICLE XX**

**SECTION 2001 EFFECTIVE DATE**

This Ordinance shall be effective upon its passage.

Adopted by the Council of the City of Charlottesville on the 21<sup>st</sup> day of October, 2019.

  
Kyna Thomas, Clerk of Council

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

PEG BANDWIDTH VA, LLC

Date: \_\_\_\_\_, 2019

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

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

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

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

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

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

Tax Map Parcel 340090200  
Consideration: \$0

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

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

**WITNESSETH:**

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

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

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

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

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

WHEREAS, by ordinance adopted \_October 21\_, 2019, City Council authorized the City Manager to execute this Deed of Vacation of Easement;

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

IN WITNESS WHEREOF, the Mayor of the City of Charlottesville, Virginia, has signed this Deed pursuant to an ordinance adopted \_\_October 21\_\_, 2019.

WITNESS the following signatures and seals.

**CITY OF CHARLOTTESVILLE, VIRGINIA**

By: \_\_\_\_\_  
Nikuyah Walker, Mayor

COMMONWEALTH OF VIRGINIA  
City of Charlottesville, Virginia

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

\_\_\_\_\_  
Notary Public

Registration #: \_\_\_\_\_

*Approved as to form:*

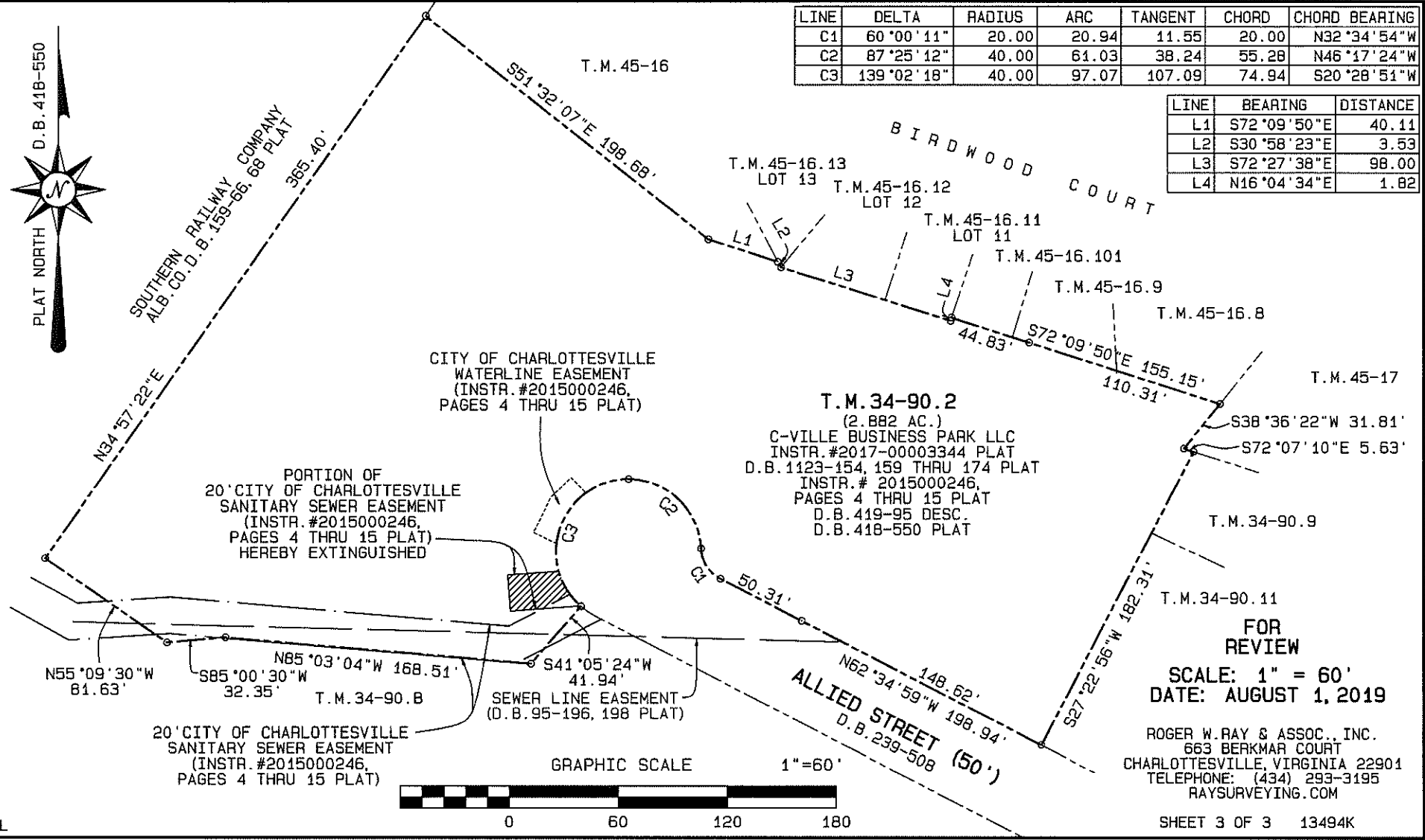
\_\_\_\_\_  
*John C. Blair, II, City Attorney*



SOUTHERN RAILWAY COMPANY  
ALB. CO. D.B. 159-65, 66, 68 PLAT  
365.40'

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

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



CITY OF CHARLOTTESVILLE  
WATERLINE EASEMENT  
(INSTR. #2015000246,  
PAGES 4 THRU 15 PLAT)

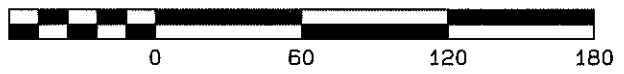
PORTION OF  
20' CITY OF CHARLOTTESVILLE  
SANITARY SEWER EASEMENT  
(INSTR. #2015000246,  
PAGES 4 THRU 15 PLAT)  
HEREBY EXTINGUISHED

T.M. 34-90.2  
(2.882 AC.)  
C-VILLE BUSINESS PARK LLC  
INSTR. #2017-00003344 PLAT  
D.B. 1123-154, 159 THRU 174 PLAT  
INSTR. # 2015000246,  
PAGES 4 THRU 15 PLAT  
D.B. 419-95 DESC.  
D.B. 418-550 PLAT

20' CITY OF CHARLOTTESVILLE  
SANITARY SEWER EASEMENT  
(INSTR. #2015000246,  
PAGES 4 THRU 15 PLAT)

SEWER LINE EASEMENT  
(D.B. 95-196, 198 PLAT)

GRAPHIC SCALE 1"=60'



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

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

SHEET 3 OF 3 13494K

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

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

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

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

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

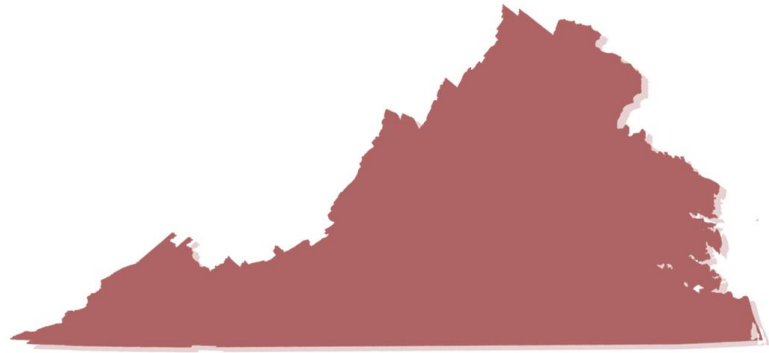
**WHEREAS**, the Council fully deliberated and considered all such matters; now

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

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

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

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



**Thomas Jefferson Planning District**  
**2020 LEGISLATIVE PROGRAM**

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

**DRAFT**

**October 2019**

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

# TOP LEGISLATIVE PRIORITIES

## State Budget and Funding Obligations

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

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

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

We take the following positions:

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

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

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

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

## Public Education Funding

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

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



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

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

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## Broadband

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

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

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

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

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

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

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

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

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

## OTHER PRIORITY ITEMS

### Local Revenue Authority

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

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

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

We take the following positions:

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

### Children's Services Act

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

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

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

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

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

We also support the following:

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

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## Land Use and Growth Management

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

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

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

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

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

## LEGISLATIVE POSITIONS

### Economic and Workforce Development

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

**Economic Development:**

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

**Workforce Development:**

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

**Planning District Commissions:**

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

**Agricultural Products and Enterprises:**

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

### Education

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

**School Division Finances:**

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

**Literary Fund:**

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

**Safety and Security at Schools:**

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

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## Environmental Quality

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

**Chesapeake Bay Preservation Act:**

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

**Biosolids:**

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

**Alternate On-Site Sewage Systems:**

- We support legislative and regulatory action to 1) ensure operation and maintenance of alternative on-site sewage systems in ways that protect public health and the environment; and 2) increase options for localities to secure owner abatement or correction of system deficiencies.

**Dam Safety:**

- We support dam safety regulations that do not impose unreasonable costs on dam owners whose structures meet current safety standards.

**Water Supply:**

- The State should be a partner with localities in water supply development and should work with and assist localities in addressing water supply issues, to include investing in regional projects.

**Program Administration:**

- The State should not impose a fee, tax or surcharge on water, sewer, solid waste or other local services to pay for state environmental programs.

**Solar:**

- We support the creation of stronger markets for distributed solar.
- We support authority for local governments to install small solar facilities on government-owned property and use the electricity for schools or other government-owned buildings located nearby.
- We support action to move up the sunset date for property tax exemptions for solar energy projects, or that a reasonable compromise be reached.
- We support eliminating or relaxing the net metering limit of one percent on the total amount of solar that can be net metered in a utility territory.

**Recycling:**

- We support state incentives to improve recycling markets and provisions that provide for accurate reporting of recycling data.
- We support local authority to develop incentives to decrease the distribution, sale or offer of disposable plastic bags.

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## General Government

The Planning District's member localities believe that since so many governmental actions take place at the local level, a strong local government system is essential. Local governments must have the freedom, flexibility and tools to carry out their responsibilities.

**Internet-based Businesses and Services:**

- We oppose legislation that would single out internet-based businesses and services for special treatment or exceptions. Rather, the State should support local authority concerning collection and auditing of taxes, licensing and regulation. There should be a level playing field for competition among businesses offering goods and services to ensure safety, reliability and fair access to such offerings by consumers and the general public.

**Local Government Operations:**

- We oppose intrusive legislation involving purchasing procedures; local government authority to establish hours of work, salaries and working conditions for local employees; matters that can be adopted by resolution or ordinance; procedures for adopting ordinances; and procedures for conducting public meetings.
- We support allowing localities to use alternatives to newspapers for publishing various legal advertisements and public notices.
- We oppose attempts to reduce sovereign immunity protections for localities and their employees, to include regional jail officers.

**State-Supported Positions:**

- Localities should have maximum flexibility in providing compensation increases for state-supported local employees (including school personnel), as local governments provide significant local dollars and additional personnel beyond those funded by the State.

**Elections:**

- We urge funding to address shortfalls in elections administration dollars, as elections administration has become more complex and federal and state financial support for elections has been decreasing. Specifically, we request that the State adequately fund costs associated with new early voting requirements taking effect with the November, 2020 elections.

- We support legislation that allows localities to address concerns and discrepancies regarding voting district boundary lines, including to allow use of a GIS map as a representation of recorded/surveyed parcel lines to determine a county boundary.

**Freedom of Information Act (FOIA):**

- We request that any changes to FOIA preserve 1) a local governing body’s ability to meet in closed session; 2) the list of records currently exempt from disclosure; and 3) provisions concerning creation of customized records.
- We support changes to allow local and regional public bodies to conduct electronic meetings as now permitted for state public bodies.

**Quality of Life Issues:**

- We oppose changes to state law that further weaken a locality’s ability to regulate noise or the discharge of firearms.
- We support expanding local authority to regulate smoking in public places.

**Libraries:** We support enhanced state funding for local and regional libraries.

## Health and Human Services

The Planning District’s member localities recognize that special attention must be given to developing circumstances under which people, especially the disabled, the poor, the young and the elderly, can achieve their full potential. Transparent state policies and funding for at-risk individuals and families to access appropriate services are critical. The delivery of such services must be a collaborative effort by federal, state and local agencies.

**Funding:**

- We support full state funding for the local costs associated with Medicaid expansion, including local eligibility workers and case managers. We oppose any shifting of Medicaid matching requirements from the State to localities, as well as changes in state funding or policies that increase the local share of costs for human services.
- The State should provide sufficient funding to allow Community Services Boards (CSBs) to meet the challenges of providing a community-based system of care. This includes restoration of funding reduced in the current biennium when health care was expanded through Medicaid. Future reductions should be reviewed to ensure that the State’s goal of providing more services at the community level can be achieved without shifting costs to localities.
- We support increased investment in the ID waiver program for adults and young people and Medicaid reimbursement for children’s dental services.
- We support sufficient state funding assistance for older residents, to include companion and in-home services, home-delivered meals and transportation.

**Social Services:**

- We support the provision of sufficient state funding to match federal dollars for the administration of mandated services within the Department of Social Services, and to meet the staffing standards for local departments to provide services as stipulated in state law.
- We support changes to the Code to provide that a judicial finding be controlling of administrative findings in alleged child abuse and neglect cases.

**Prevention:**

- We support continued operation and enhancement of early intervention and prevention programs. This includes the Virginia Preschool Initiative and Part C of the Individuals with Disabilities Education Act (infants and toddlers).

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## Housing

The Planning District's member localities believe that every citizen should have an opportunity to afford decent, safe and sanitary housing. The State and localities should work to expand and preserve the supply and improve the quality of affordable housing for the elderly, disabled, and low- and moderate-income households. Regional planning and solutions should be implemented whenever possible.

### **Affordable Housing:**

- We support the following: 1) local flexibility in the operation of affordable housing programs and establishment of affordable dwelling unit ordinances; 2) creation of a state housing trust fund; 3) grants and loans to low- or moderate-income persons to aid in purchasing dwellings; and 4) the provision of other funding to encourage affordable housing initiatives.

### **Homelessness:**

- We support measures to prevent homelessness and to assist the chronic homeless.

### **Historic Structures:**

- We support incentives that encourage rehabilitation and preservation of historic structures.
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## Public Safety

The Planning District's member localities encourage state financial support, cooperation and assistance for local law enforcement (and state police), emergency medical care, criminal justice activities and fire services responsibilities carried out locally.

### **Funding:**

- We urge the State to make Compensation Board funding a top priority, fully funding local positions that fall under its purview. It should not increase the local share of funding for Constitutional offices or divert money away from them, but increase dollars needed for their operation. Specifically, we urge the State to fully fund currently-authorized positions for Commonwealth's Attorney offices 1) to allow these offices to fully comply with new discovery rules being promulgated by the Virginia Supreme Court; and 2) to be able to effectively incorporate and manage new sources of evidence resulting from new technology, including body worn camera video.
- We urge state funding of the HB 599 law enforcement program in accordance with *Code of Virginia* provisions.
- We support Virginia's transition to Next Generation 911 (NG 911) in way that does not unfairly burden localities.
- The State should increase funding to the Virginia Juvenile Community Crime Control Act program, which has greatly reduced the number of juvenile justice commitments over the past decade.
- We support funding for mental health and substance abuse services at juvenile detention centers.
- We support state funding for alternative transportation options to help individuals in crisis get to evaluation services and treatment, rather than relying on local law enforcement for extended transportation and custody responsibility.

### **Body Worn Cameras:**

- We support the ability of local governments to adopt policies regarding law enforcement body worn cameras that account for local needs and fiscal realities.



**Jails:**

- As the state prisoner reimbursement rate is insufficient to cover actual costs, jail per diem funding should be increased to levels that better represent the costs of housing inmates, and be regularly adjusted for inflation. The State should fund four quarters of payments per year in the budget, and pay for the medical costs and any necessary mental health assessments costs for inmates.
- The State should not shift costs to localities by altering the definition of state-responsible prisoner.
- The State should continue to allow exemptions from the federal prisoner offset.

**Offender Programs and Services:**

- We support continued state funding of the drug court program and the Offender Reentry and Transition Services (ORTS), Community Corrections and Pretrial Services Acts.
- We support continued state endorsement of the role and authority of pretrial services offices.

**Volunteers:**

We support initiatives and authority that enable localities to better support local volunteer firefighting and emergency service organizations.

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## Transportation Funding and Devolution

The Planning District's member localities recognize that revenues for expanding and maintaining all modes of infrastructure are critical for meeting Virginia's well-documented transportation challenges and for keeping pace with growing public needs and expectations. We believe the state should continue to enhance funding for local and regional transportation needs, including the Revenue Sharing Program with localities. We also remain opposed to attempts to transfer responsibility to counties for construction, maintenance or operation of current or new secondary roads.

**Smart Scale:**

- As the State continues to implement the prioritization process established by HB 2 (2014), known as "Smart Scale," and the distribution formula for highway construction projects established by HB 1887 (2015), there should be adequate funding, and local authority to generate transportation dollars, for important local and regional projects across modes.

**Devolution:**

- We believe that efficient and effective transportation infrastructure, including the secondary road system, is critical to a healthy economy, job creation, a cleaner environment and public safety. Accordingly, we oppose shifting the responsibility for secondary roads to local entities, which could result in vast differences among existing road systems in different localities, potentially placing the state at a competitive economic disadvantage with other states when considering business and job recruitment, and movement of goods.

**Local and Regional Authority:**

- We support additional authority to establish mechanisms for funding transit in our region.
- We support VDOT utilizing Metropolitan Planning Organizations and regional rural transportation staff to carry out local transportation studies.

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## Water Quality

The Planning District's member localities support the goal of improved water quality, but as we face ongoing costs for remedies, including stormwater management and to address revised water quality criteria, we believe major and reliable forms of financial and technical assistance from the federal and state governments is necessary if comprehensive improvement strategies are to be effective.

### **Funding:**

- We urge aggressive state investment in meeting required milestones for reducing Chesapeake Bay pollution to acceptable levels.
- We believe these investments include authority, funding and other resources to achieve success, and must ensure that cost/benefit analyses are conducted of solutions that generate the greatest pollution reductions per dollar spent.
- We support dollars being targeted to stormwater management; for permitted dischargers to upgrade treatment plants and for any retrofitting of developed areas; and to aid farmers with best management practices through the cost share program.

### **Stormwater Management:**

- We request that any stormwater requirements be balanced and flexible, and that adequate funding and training be available for the State and local governments to meet ongoing costs associated with local stormwater programs.
- We support increased and ongoing investment in the Stormwater Local Assistance Fund to assist localities with much-needed stormwater projects and in response to any new regulatory requirements.
- We oppose proposals that would result in new or expanded mandates or requirements (including elimination of current "opt-out" provisions), or financial burdens on local governments.
- We oppose further amendments to the regulation of stormwater which would require a locality to waive stormwater charges.

### **Nutrient Allocations:**

- We oppose efforts that would require re-justification of nutrient allocations for existing wastewater treatment facilities in our region or that would reduce or eliminate nutrient allocation or related treatment capacity serving the region.

## TJPD Legislative Program

### Highlights of proposed changes (for 2020)

#### TOP PRIORITIES:

STATE BUDGET—updated first paragraph with timely topics to be addressed in budget

PUBLIC EDUCATION FUNDING—updated numbers and added a statement about restoring previous cuts

BROADBAND—updated funding amounts; added language supporting local broadband authorities;  
added language supporting use of railroad crossing easements

#### OTHER PRIORITY ITEMS:

LOCAL REVENUE AUTHORITY—deleted position on local sales taxes related to the Wayfair decision, which was accomplished; added position opposing changes to the existing tax assessment appeals process

CHILDREN'S SERVICES ACT—updated funding numbers and status of studies

LAND USE/GROWTH MANAGEMENT—revised language on proffers in light of 2019 legislation; added position supporting local tree preservation

#### LEGISLATIVE POSITIONS:

--ENVIRONMENTAL QUALITY: Added NEW STATEMENTS to the position on solar to support 1) local authority on small solar facilities; 2) easing of the property tax exemption for utility scale solar; and 3) changes in net metering. Also, added a NEW STATEMENT to the position on recycling to support improvements to recycling markets and provision of accurate reporting of recycling data.

--GENERAL GOVERNMENT: Added NEW STATEMENTS to the position on Elections to 1) support state funding for new early voting requirements; and 2) address GIS use in determining county boundaries.

--HEALTH and HUMAN SERVICES: Updated language related to reduced CSB funding that is expected to be recovered from Medicaid expansion

--PUBLIC SAFETY: Added NEW STATEMENTS to the position on Funding to 1) request full state funding for currently authorized positions for Commonwealth's Attorney offices; 2) support fair transitioning to NG911; and 3) support state funding for alternative options for transporting mental health patients. Also, added a NEW POSITION on Volunteers to endorse having additional tools to support emergency services volunteers. Deleted a position on court issuance of restricted driver's licenses, which has been accomplished.

--TRANSPORTATION: Deleted the position on Transit Capital Funding, as bond usage has been extended for several years.

**CHARLOTTESVILLE CITY COUNCIL  
STATEMENT OF LEGISLATIVE POSITIONS  
FOR THE 2020 GENERAL ASSEMBLY SESSION**

**Endorsement of TJPD and VML Priority Statements**

As a member of the **TJPD, Virginia First Cities** and of the **Virginia Municipal League**, we are supportive of the 2020 Legislative Positions presented by those organizations. On a few issues, the City's interests may differ, and those issues are included within our position statements following below.

**Children's Education, Services and Programs**

**Positions:**

1. We endorse state funding provided to support implementation by local school divisions of extended school day/ extended school year programs, and encourage continuation of these dollars.
2. We endorse the **Virginia Education Association (VEA)** requests for a) a statewide education adequacy and equity study; b) salary increases for SOQ-funded positions; c) abolishing staffing caps on support personnel costs enacted during the depths of the recession; and d) lottery funds to be used to cover capital costs.
3. We would support changing the education funding formula ("Local Composite Index") to take poverty within each locality's jurisdiction into account.
4. We support the state authorizing local school divisions to construct housing for teachers on school-board-owned, or local-government-owned property.
5. We support expansion of preschool and after-school programs for children with working parents and provide subsidies for low-income families and state grant money to businesses that institute childcare or other family support programs within the workplace.

**Affordable Housing; Regulation of Development;**

**Local Authority over Local Real Estate**

**Positions:**

1. We endorse the **Virginia Housing Alliance's (VHA)** proposed 2020 legislative priorities, including: VHA's calls for increased state funding for the Virginia Housing Trust Fund; appropriation of state funding for a state-study of the need for a state housing tax credit program; reform of eviction legislation; enhanced non-discrimination laws; and a Constitutional amendment to allow localities to exempt all or part of an affordable housing property from local real estate taxes.
2. We encourage the State to consider enactment of legislation authorizing inclusionary zoning ordinances. In localities where there is an affordable housing crisis, market forces are not delivering new affordable units, and the over-complexity of the density bonus provisions within Virginia Code § 15.2-2305 (the provisions of which do not appear to have been reviewed since 2008 for economic feasibility) make that statute difficult to interpret and apply.
3. We encourage the General Assembly to establish a comprehensive state Affordable Housing Program that delegates authority to all Virginia municipalities the more general authorization within Virginia Code § 15.2-2304.

4. We support any legislative action that would allow localities greater flexibility in (i) the range of methods that may be applied to implement local affordable housing programs, and (ii) in the use of public funding for the promotion and establishment of affordable housing.

5. We support establishment of a statewide rental assistance voucher program, calibrated to fit regional housing market, funded through the state Housing Trust Fund and/or Communities of Opportunity Tax Credit and Vibrant Community Initiative administered by VHDA.

6. The state should enhance funding for affordable homeownership grants and loans, through the Virginia Housing Development Authority, and for public universities, provide funding for housing assistance for university employees who earn less than 60% AMI.

7. We support state funding and incentives to support localities' acquisition, preservation and maintenance of open space.

8. We oppose any legislative action that would limit our local authority to regulate the nature and intensity of specific uses of land, in relation to their location(s) within our city; we oppose any legislation that would single out specific land uses for special treatment throughout the Commonwealth without regard to the impact of such land uses in particular locations.

**Requests:**

*Confederate Monuments*--Sponsor or support legislation that would remove reference to "Confederate or Union monuments or memorials of the War Between the States (1861-1865)" from Va. Code §15.2-1812.

*Rationale:* These monuments are symbols of social and political divisions that run deep within individual communities, and each locality should have the authority to determine, through its own local political process, whether such monuments or memorials should be removed from local-government-owned property. With the exception of Va. Code §15.2-1812, all other decisions as to the use of locally-owned real estate are determined by local governing bodies, in accordance with the Va. Constitution, Article VII, §9. The restrictions of Va. Code §15.2-1812 should be repealed.

*Affordable Housing Enabling Legislation*--Sponsor or support legislation similar to that requested in 2019 by the City of Richmond (HB1670; SB 1192), to add the City of Charlottesville to the list of localities authorized to adopt an affordable housing dwelling unit program under the provisions of Va. Code §15.2-2304.

*Rationale:* Charlottesville is in an affordable housing crisis, and the provisions of Va. Code §15.2-2304 provide much needed flexibility to design a program suited to the particular needs of the City of Charlottesville.

## **Environment**

**Water Quality/ Stormwater Management Positions:**

1. The state should substantially increase funding for the Stormwater Local Assistance Fund (SLAF), the program that provides matching grants to localities for stormwater management projects and best management practices.

2. The state should also provide reliable state funding for Agriculture Best Management Practices Cost-Share programs, as the current FY20 allocation of \$10 million is substantially less than the \$100 million identified by the Virginia Department of Conservation and Recreation as being necessary.

3. We support adequate state funding and training, as well as an expansion of allowable stormwater management “best practices,” that would enable the State and local governments to meet total maximum daily load (TMDL) nutrient and sediment reduction requirements, and ongoing costs associated with local stormwater management programs that became effective in 2014.

4. We oppose any legislation that would require a locality to waive stormwater utility fees, or to exempt railroad companies or other entities from the requirement to pay local Stormwater utility fees--all landowners should be required to share in the cost of stormwater utility programs.

#### **Chesapeake Bay Preservation Act Positions**

The City of Charlottesville does not oppose expansion of the CBPA beyond its current tidal river boundaries. In this regard, our position differs from TJPD’s.

#### **Clean Energy Positions:**

*Background:* The City of Charlottesville is committed to reducing its community-wide greenhouse gas (GHG) emissions associated with energy use. This has been formalized in the recent adoption of updated GHG reduction goals for 45% reduction by 2035 and carbon neutrality by 2050. Increasing the availability of financial resources, including grant programs and incentives, to a broader range of community members is one key to our success. We continue to encourage our representatives to endorse legislation, funding, and data sharing proposals that support energy efficiency and renewable energy use. We supported the 2019 adopted regulation to limit carbon pollution from the electric power sector in Virginia through a market-based emission mechanism, and encourage participation in the existing Regional Greenhouse Gas Initiative (RGGI) with proceeds incentivizing energy efficiency improvements and renewable energy investments as well as addressing public health, integrity of property, and economic and infrastructure resilience amid climate change. We also were pleased that HB-2192 (2019) signaled the General Assembly’s intent that public school buildings and facilities be designed and operated to generate more electricity than consumed, and authorized local school boards to enter into leases with private developers to achieve that goal. Accordingly, we support the following positions:

#### **Solar:**

Ratepayer subscriptions (e.g., community solar) for electricity from solar-produced power for all ratepayers, including community net metering.

#### **Net metering:**

Requests to modify municipal net metering pilot programs to allow for the use of PPAs and to eliminate capacity restrictions based on current electric load in order to allow for future growth. We also support action that would remove the net-metering limit that currently stands as a one percent cap on the total amount of solar that can be net metered in a utility territory.

#### **Renewable Power:**

1. Replacement of current pilot programs for third-party renewable energy power purchase agreements with a permanent provision that allows PPAs to all customer classes without limits on system size or program capacity.
2. A mandatory renewable portfolio standard (RPS) to provide a market incentive for renewable power in Virginia to keep Virginia competitive with neighboring states.

#### **Energy Efficiency:**

1. A mandatory Energy Efficiency Resource Standard (EERS) that requires utilities in Virginia to meet annual, long-term targets for reducing energy use through end-use efficiency.

2. The Department of Mines, Minerals, and Energy (DMME) creating an “Energy and Resiliency Bank” using public and private funds to serve as a catalyst for innovation and implementation of advanced energy efficiency practices, renewable energy deployment, increased resiliency, and other environmental programming throughout the Commonwealth.

3. We support state funding to support localities in their efforts to electrify their fleets (e.g. Dominion’s electric school bus program).

**Landfill Diversion:**

As the City is working to further strategies for reduction, reuse, and recycling in an effort align waste management programs with sustainability related goals and commitments, we support:

1. Local authority to establish regulations addressing strategies such as single use plastic reduction and elimination of straws and styrofoam, with acknowledgement that key exceptions are necessary.

2. Local authority to prohibit yard waste and brush from municipal solid waste (landfill) collection.

## Transportation

**Positions:**

We urge legislators to increase state funding as follows:

1. For the expansion and maintenance of all modes of our transportation infrastructure.

2. For important local and regional Smart Scale projects, including those that promote walking and cycling as viable modes of transportation for commuting (not just recreation) and as a key strategy related to GHG reduction goals. We also support the establishment of a “Smart Scale-type” prioritization for rail and transit projects.

3. For lane-mileage rates for funding of local street maintenance (primary/urban funds).

4. For public transit and transit planning, to leverage local investments in public transit, and for infrastructure that accommodates walking, cycling as well as automobile travel.

We request that the manner in which transportation funding is provided allows localities to have flexibility to apply transportation funding in a manner that they deem most beneficial to their own communities. Localities should have the right to determine whether allocations of state funding should be spent for maintenance of existing streets or for new construction. We also support the state applying equal weight to projects that enhance bicycle and pedestrian mobility as well as public transit systems in determining Smart Scale funding priorities.

## Criminal Justice Reform

**Positions:**

1. The State should increase funding to the Virginia Juvenile Community Crime Control Act (VJCCCA) program, which has demonstrated effectiveness in substantially reducing the number of juvenile justice commitments over the past decade.

2. The State should end mandatory minimum sentencing.

3. The State should revisit Virginia’s policies on parole and decriminalize offenses that do not threaten public safety. Additional funding should be provided to support diversion programs (such as rehabilitative and educational programs) as alternatives to prison for first time offenses, especially for women.

4. The State should repeal all laws that automatically exclude individuals with criminal convictions from public benefits, housing, driver's licenses, civic participation (voting), and educational and employment opportunities.
5. We encourage the state to legalize marijuana safely and responsibly.
6. We encourage legislation that would allow restricted driver licenses to be issued for as long as a court deems appropriate, and to allow courts to issue restricted licenses when necessary to facilitate the employment, or continued employment of an individual who is otherwise subject to revocation of his or her driver license.

## **Public Safety and Local Firearms Regulation in Public Places**

### **Positions:**

#### **Management of Local Buildings and Land:**

Localities should have full authority to regulate the use of, and to provide adequate security for local-government-owned buildings and property.

**Requests:** Sponsor or support legislation to amend Va. Code §15.2-915, in order to: **(1)** repeal the provisions which allow local government employees to store, at a local government workplace, possession of firearms and ammunition within a private motor vehicle; **(2)** authorize governing bodies to adopt regulations restricting the possession and carrying of firearms within public buildings and places at which public meetings are being conducted, and within public parks and recreation facilities; and **(3)** authorize localities to include restrictions on the possession and carrying of firearms, as conditions within a permit authorizing the temporary use of public property, during the period of such use.

**Reform of State Firearms Regulations:** We support the General Assembly undertaking a comprehensive reform of Virginia's gun control legislation. We support implementation of the Report and Policy Recommendations of the Safe Virginia Initiative (2019), including raising the minimum age required to purchase a firearm to 21 and requiring universal background checks and closing known loopholes in the background check process.

**Requests:** Continue to advocate the City's strong interest in responsible firearms legislation, by sponsoring or supporting legislation such as that which was introduced in 2019, such as: **HB1956/SB1473** (firearms, permitted events); **SB1482** (firearms, prohibition on carrying in public places); **SB1458** (firearms, removal from persons posing substantial risk); **HB1654** (prohibited public carrying of certain firearms in public areas).

#### **Local policing:**

The state should provide funding for the following: 1) community policing initiatives, including housing assistance payments for local police officers who live within the communities they serve; 2) recruitment of women and minorities into professional policing careers; and 3) police in urban jurisdictions, to support training in uniform, DCJS-approved best practices for crowd management at civil disturbances.

#### **Civil disturbances and riots:**

We encourage the General Assembly to provide funding for a new program within the Department of State Police, to provide 1) monitoring of internet and social media to detect potential threats to public safety; 2) a mechanism for threat assessment; and 3) information sharing and resources to localities faced with events which present a substantial risk of widespread violence.



**Cell Phone Use:**

The City supports legislation that would make it illegal in Virginia to drive with a phone held in one's hand.

**Photo-speed-monitoring:**

We encourage the General Assembly to authorize local law enforcement agencies within urban areas to utilize photo-speed-monitoring devices in school zones and on residential streets. Such devices have been in use within DC and Maryland for years, and state police are now authorized to use them. These devices would enhance safety within urban jurisdictions.

## Public Service Corporations

**Positions:**

1. We oppose any legislative action that would further expand the ability of telecommunications companies or other entities to install new aboveground poles or other support structures in City rights-of-way, on terms or conditions mandated by state law.
2. We support doubling the scope of Dominion Virginia Power's Pilot Program for Undergrounding Utility lines and the utility entering into cost share agreements with local governments for undergrounding lines or "open ditch" policies allowing the burial of power lines either within or adjacent to a public Right of Way (ROW). Dominion also should be allowed to impose a surcharge on affected customers, if undergrounding is requested by a locality, to coincide with local projects removing and replacing natural gas, water and sewer lines within a public ROW.

## Procurement

**Positions:**

1. We oppose legislative action that would restrict our ability to make local procurement decisions that are best for the citizens we serve. Any erosion of local authority to implement the policies of the Virginia Public Procurement Act, through means tailored at the local level to assure acquisition of the best goods and services at the most competitive rates, is contrary to fiscal responsibility objectives.
2. We support legislation that would authorize use of preferences by public bodies in awarding contracts to persons, firms, or corporations having principal places of business in the locality in which the procuring public body is located ("local preference").
3. We support allowing localities the ability to procure goods and service by competitive negotiation (instead of using the lowest-responsible-bid process), in situations where job creation and tax base expansion would be part of a "best value" analysis of competitive proposals.
4. We believe the state should review the SWAM certification program, to ensure greater participation by businesses within each locality, and to make it easier for localities to hire local, small women- and minority-owned businesses within local procurement processes.

## Budget, Revenues and Taxation

**Background:**

We believe the process for evaluating local fiscal impacts of proposed legislation should be improved. Actions that would impose additional administrative burdens on local governments without sufficient financial resources or administrative flexibility will jeopardize the quality of services delivered at the local level, and will ultimately jeopardize the potential success of state programs and initiatives.

***Positions:***

1. We oppose any shift of the cost(s) of state programs to localities.
2. We oppose any legislative or budgetary action that would remove or reduce any existing sources of state and local funding (e.g., HB599 funding for law enforcement; diversion of fines, fees and forfeitures relating to violations of local ordinances; etc.).
3. We oppose across-the-board state cuts to education funding.
4. We support expanded funding for programs such as tuition remission at community colleges, and childcare and transportation assistance that support workers seeking to upgrade their skills or change careers due to layoffs or other job losses.

***Taxation:***

1. The state should direct a study of the effectiveness of state income tax and fee structures in terms of progressivity and capacity to meet growing public needs. The study should include the effectiveness of local real estate taxation, and should give consideration to enabling legislation for localities to enact more progressive local real estate taxes.
2. The state also should expand funding to support programs (such as tuition remission at community colleges, and childcare and transportation assistance) that support workers seeking to upgrade their skills or change careers due to layoffs or other job losses.
3. We oppose any state legislation that would single out any internet-based businesses and services for special treatment for purposes of local taxation, licensing and regulation. We request our legislators to protect our local ability to regulate businesses on a level playing field, whether they are traditional, electronic, internet-based, virtual, or otherwise. Creating a level playing field for competition among businesses offering goods and services is the best way to ensure safety, reliability, and fair access to goods and services for consumers. The state should not carve out exceptions to business licensing, or local taxes, for special interest groups; in doing so, state legislators would harm traditional local businesses and deprive local governments of stable and reliable sources of revenue.

## **Prosperity, Health, and Well-Being**

**Minimum Wage**

We encourage the Commonwealth to raise the minimum wage to \$15 per hour. As part of raising the minimum wage, we encourage the State to provide funding for childcare assistance if federal income-eligibility thresholds are exceeded due to a household member making \$15 per hour.

**Health Care**

We support budgetary and legislative initiatives that will increase access to health care for all Virginia residents and that will reduce the cost of health care—including reduction of insurance premiums; reduction of the cost of

**Women’s Rights**

1. We encourage the General Assembly to vote to ratify the Equal Rights Amendment.
2. The Commonwealth should enact legislation that makes it unlawful for companies, and state and government entities, to maintain pay scale distinctions by outmoded gender roles.

**Health Food Access**

The State should provide financial incentives for the establishment of grocery stores in “food desert” areas.

## Salaries for Members of Local Governing Bodies

**Request:** Sponsor or support legislation to amend Virginia Code §15.2-1414.6 to remove the limitation on annual salaries for city councils. *Rationale:* City councils in Virginia should be permitted to establish the annual salaries for councilors at the local level; each locality's needs are unique and maximum compensation should be a local decision, based on the will of the electorate and the financial resources of a locality.