

A special meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 3, 2018 at 4:30 p.m., at the southwest corner of Park Street and East High Street in Charlottesville, Virginia, on the grounds of the Albemarle County Courthouse. This meeting was called by the Chair, Ms. Mallek, for the purpose of allowing a quorum of Board members to convene an open meeting and to announce a pending Memorandum of Agreement between the County of Albemarle and the City of Charlottesville concerning construction of a new General District Courts complex and a parking structure that will serve both localities.

The special meeting will then move to the Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia, where the Board will consider and act on a Memorandum of Agreement to Facilitate the Expansion, Renovation, and Efficient and Safe Operation of the Albemarle Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court.

PRESENT: Mr. Norman G. Dill, Mr. Ned Gallaway, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Rick Randolph.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 4:35 p.m., by the Chair, Ms. Mallek.

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CHARLOTTESVILLE CITY COUNCIL PRESENT: Mr. Wes Bellamy, Ms. Kathy Galvin, Ms. Heather Hill, Mr. Mike Signer, and Ms. Nikuyah Walker.

City Council was called to order at 4:35 p.m., by the Mayor, Ms. Walker.

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Agenda Item No. 2. City/County Joint Announcement.

Ms. Mallek and Ms. Walker shared a joint announcement of an agreement reached between Albemarle County and the City of Charlottesville concerning construction of a new General District Courts complex and a parking structure that will serve both localities.

Ms. Mallek introduced herself and members of the Board of Supervisors. She welcomed everyone who had come to participate in this historic event for both Albemarle County and the City of Charlottesville.

Ms. Mallek then made the following announcement:

*"It is with great pleasure that the Albemarle County Board of Supervisors stand here today with the Charlottesville City Council to announce that together, we have reached agreement on the expansion and renovation of the Albemarle County Circuit Court, the Albemarle County General District Court, and the Charlottesville General District Court- to meet our future needs, right here, in Court Square. The need for updated Court facilities has never been in dispute. Population growth has brought increased caseloads and the existing court facilities do not meet contemporary standards for safety, security, and ADA accessibility.*

*After more than ten years of effort, this capital project represents the largest investment in any project since I have served on the Board of Supervisors. The priority of the Board of Supervisors has been from the start to ensure the fair and equitable administration of justice and access to that justice. We have studied as many as five different courts location options over the past two years. At the public hearing last December and in countless emails to the Board we heard strong support for the continued adjacency of City and County courts.*

*Throughout 2018, elected officials and City and County staff have worked tirelessly to negotiate a mutually supportive outcome here in Court Square- to create a plan for a modern court facility across the street at the Levy Building property and with adequate, accessible parking just around the corner at 7<sup>th</sup> and East Market Streets. We have achieved that with the Memorandum of Agreement that our bodies have agreed to in principle and will consider formalizing in our respective chambers later this evening.*

*I want to thank the City of Charlottesville, the City Council, and the City staff, for the time and devoted effort over the past year to reach this monumental agreement. I would also echo my sincere thanks to our County staff for their leadership and expertise to help make today a reality. And finally, to my colleagues on the Board of Supervisors, I thank each of you for your ideas, your contributions, and your hard work, for without each of you, we would not have been able to reach the milestones reflected in this agreement."*

Ms. Mallek then recognized Mayor Walker, who offered comments on behalf of the Charlottesville City Council.

Following Mayor Walker comments, both bodies recessed to meet with their respective members to discuss the specifics of the agreement.

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**Recess.** At 4:42 p.m., the Board recessed and reconvened at 5:03 p.m., at the Lane Auditorium in the County Office Building.

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Agenda Item No. 3. Resolution Approving A Memorandum of Agreement Between the Count of Albemarle and the City of Charlottesville to Facilitate the Expansion, Renovation, and Efficient and Safe Operation of the Albemarle Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court.

Mr. Richardson stated that he, along Mr. Trevor Henry and Mr. Kamptner, would be making the presentation for the Board's consideration. He stated that Albemarle County has studied the expansion, renovation and operation of the circuit and general district courts and related facilities since around 1999 - - so this is an issue that has been around for both the City and County in terms of adjacency of the courts. He said that they have considered multiple options over the years, including downtown in the central business district and other locations outside of that. Mr. Richardson stated that County and City staff began the latest round of negotiations in January, 2018, and before the Board tonight is a draft Memorandum of Agreement for consideration and action.

Mr. Richardson reported that there are several goals focused on with the City over the past year and the potential for relocation of the courts in the central business district adjacent to the City. He stated that those goals are court security and building functionality, capacity to meet current and future needs, costs, accessibility for all users, good and efficient customer service, and managing what will be a huge capital investment for the County. He added that this should be recognized as a regional economic driver.

Mr. Trevor Henry, Assistant County Executive, presented a map showing the general district and circuit court locations, noting that to the east is the Levy property, which was the backdrop of the announcement today. He mentioned that the property is co-owned with the City, and just to the east of that is the Jessup property. He also pointed out the 7th Street and East Market Street lot, also co-owned with the City, and the Market Street garage. Mr. Henry indicated that staff would present slides of the concepts of what the collocated general district court would look like.

Regarding security and functionality, there have been many studies around the courts and what is being proposed with the project is to bring them up to design standards developed by the State Supreme court, using "The Virginia Courthouse Facility Guidelines" as a governing document for the design process. He stated that the County's study by Dewberry & Moseley have noted current issues with accessibility, ADA, issues with security in terms of multiple entrances, and lack of access control between user types. Mr. Henry said that this project would resolve all of these issues and would do so in a way that allows them to bring the systems up to current condition -- many of which are circa 1980s elevator and HVAC systems -- so this is the right time for an overall modernization.

Addressing capacity, Mr. Henry said there have been a lot of studies around caseloads, which currently exceed the need of one courtroom in both the general district and circuit courts, handled through various means. He stated that the new design would accommodate a 30-40 year horizon for both circuit and general district courts. The intent is to renovate the existing court complex that currently houses circuit court and general district court -- and that would eventually become a circuit court complex. Mr. Henry said it would be renovated into having two courtrooms and chambers dedicated just for the circuit court, and the Clerk's office, along with storage, etc., which is a renovation project of approximately 3,200 square feet.

He said that the general district court would be housed at the Levy Building, and he noted the historic component of the old opera house, which would be retained and eventually house the Commonwealth's Attorney offices. Mr. Henry stated that the connecting building, referred to as the 70s addition, which is not historic, would be demolished and replaced with a new three-story building to house Clerk's offices and court sets for general district court, which would be collocated with the City's court set. He stated that the parking lot area would be demolished and landscaped and hardscaped, with a connection to the historic court building and circuit court complex. Mr. Henry said that the Levy general district court project is just under 61,000 square feet, which will include a significant addition of nearly 51,000 square feet and a renovation project of around 9,000 square feet for the Commonwealth's Attorney renovation.

Mr. Henry referenced several floor plans, stating that there would be an underground portion and secured access for parking for judiciary and attorneys. He mentioned that these were based on a Moseley study update in 2015 that was co-sponsored between the City and the County, with multiple options and one presented from the stakeholder group as the one that seemed to meet the needs of both the City and the County. Mr. Henry said that the bottom floor would have 10 parking spaces, a holding cell for prisoner transport, sally port access, and separate access throughout the building for judiciary and prisoners.

Mr. Henry presented a conceptual layout of what the first floor would look like, noting that the site would be hardscaped and landscaped to create a secured main entrance into the general district court complex -- which is where most business would occur. He said that the first level would host the two different clerk's offices for the City and the County, and the Commonwealth's Attorney would have a separate secured entrance, which would face the existing circuit court. He added that there would be a connector envisioned for staff-only use. Mr. Henry stated that the second floor would host the court sets, which include the courtroom, judge's chambers, meeting space, and all adjacencies that would go with that. He said they are looking at a parallel structure with two court sets on both the second and third floors, and staff is proposing that the City would have one dedicated court set and the County would have two finished court sets, with the City's court set likely to be housed on the second floor. He stated that the third County court set for future expansion would make the fourth court set, which could be shelled or used for a different purpose until it is needed. He noted that this was in the Moseley study and the budget numbers considered in 2015, refreshed a year ago through the work of Stantec.

Mr. Henry reported that the overall cost for the project is estimated at \$44 million, including approximately \$14 million to do the renovation of the circuit court; the general district court project cost is just under \$30 million, based on work done in the fall. He reiterated that the total cost is \$44 million, with the City's contribution is at \$6.8 million and a net cost of \$37 million for the County. Mr. Henry said the costs were revised last fall based on an update to the program and study, with costs assuming some contingency, escalation for several years out, and factors such as downtown construction and working in confined spaces.

Mr. Richardson reported that the two remaining issues to be covered are accessibility and economics of the agreement. As it relates to accessibility, he said, they are looking at the safe and convenient parking provided to court workers and users, and it is one of the most central issues within the agreement. He stated that it is logical for this to be the case because central downtown districts are dense by nature, and oftentimes citizens who do not navigate that regularly dread that task. Mr. Richardson said that staff payed close attention to that and feels that the agreement captures what was needed moving forward should the Board support the agreement. The agreement provides that the County would sell one-half of its joint interest in the piece of property owned with the City that is at the corner of 7th and East Market Street.

Mr. Richardson cited the reason for the sale as the City's intention to construct and operate a multi-level parking structure at the corner. Mr. Richardson said that Mr. Henry showed the overview map earlier in close proximity to the 7th and Market Street piece of property when looking at that versus the future court location, and this is easy access. He stated that the City would provide the County with 90 structured parking spaces inside the new parking structure, with the County holding a 20-year lease for those spaces at \$1 per year. He stated that the County would have the option to extend the lease for another 20 years at an additional \$1 per year, making a 40-year solution for parking for County courts. Mr. Richardson said that the additional feature of the parking includes 15 on-street parking spaces abutting to Court Square that the County would be able to program Monday through Friday when court is in session. The County will work over the next year to learn and understand operationally how those spaces can be best utilized -- in an effort to increase customer service and efficiencies in and around the court area.

Mr. Richardson said that in the off chance the City is unduly delayed with the parking structure at the corner of 7th and East Market Street, the County has also negotiated that after a certain period of time as the courts open that it would have a fallback plan the ability to move into the Market Street Parking Garage and take 100 spaces in that deck. He stated that the County is expecting the City parking structure project and County courts project would conclude at about the same time, with the parking capacity addition being the heart of the Memorandum of Agreement.

Mr. Richardson reported that having the courts remain downtown is an economic stimulus to the downtown economy, which the City agrees with and as such has made a financial contribution to the general district courts project that allows the County to achieve its goals of providing safe, functional and accessible court facilities at the lowest possible cost to County taxpayers. He said the City would be building the structured parking and providing the 90 spaces at no cost to the County. The County would be responsible for a pro-rata share of maintenance of the parking structure based on the number of spaces assigned -- but the City would assume capital costs of building the structure and maintenance, with the risks and liability that come with that. He reiterated that the City would provide the spaces for \$1 a year for two 20-year leases.

Mr. Richardson noted that the 15 on-street parking spaces also have significant value to the County, and the downtown location is attractive from an economic standpoint. He stated that the Stantec cost-benefit analysis report discussed the fact that the less expensive option of the downtown renovation might position the County better to preserve funding for other economic development programs and projects outside of the City that might provide a higher return on investment, specific to jobs, placemaking, and other initiatives in the County. He emphasized that County staff is very excited about the partnership.

Mr. Richardson explained that staff is before the Board tonight to ask them to consider and act on the proposed Memorandum of Agreement. He said they are aware this would require some amendments

to State law to allow the County courts project to happen as it is proposed, and this is because the general district court site is jointly owned by the County and the City, and because it would be relocated across the street but outside of the current County seat. Mr. Richardson noted that Mr. Kamptner has briefed the Board on the necessary legislative asks of the local delegation, which hopefully would be considered as they moved forward.

Ms. Mallek invited anyone from the audience who wished to make a comment. No one came forward to speak.

Ms. Palmer thanked staff for their work on this project over many years, and the Board for its work, adding that this effort would be greatly appreciated in the future, as it is now by the community. She commented that she is very happy to see the parking worked out.

Mr. Randolph acknowledged the persistence, determination and commitment of Supervisors Mallek, McKeel and Gallaway, and former Supervisor Sheffield for seeking the best possible negotiating position for the County on the issue of the location of the County courts. He said that added to those four Supervisors, he commended Mr. Richardson and Mr. Kamptner for their skillful negotiations. Mr. Randolph also thanked elected peers on City Council for following the advice and guidance provided by Interim City Manager, Mr. Mike Murphy and City Attorney, Mr. John Blair.

Mr. Randolph said that regardless of the positives, he would be voting against the legally binding memorandum with the City, citing four reasons. He explained that the County had an opportunity with this court location decision to steer its own independent path towards its own strategic objectives and release itself from the omnipresent past in its midst. Mr. Randolph said that this decision delays the County in its ability to fully embrace its future. The relocation of the County courts to this County Office Building would have consolidated County services in one convenient, accessible location. He stated that he is convinced that a future Board will now have to make the decision this Board deferred making, and in the future the Board would yet vote to move the courts out in the County -- where they really deserve to be located for the convenience of citizens.

Mr. Randolph said that in his nearly three years as a Supervisor, a continuing majority of this Board that has sought to maximize the County's leverage in the negotiating process with the City has faced substantial headwinds from three quarters. He stated that some members of the local legal community have resorted to threatening members of the Board with political retribution, and they significantly underwrote the reelection of a pro-status quo supervisor. He said that local members of the General Assembly, who placed the status quo and interests of the legal community ahead of the County's interests, supported the establishment of legal barriers at the State level that intruded on and superseded the Board's rights of local governance. Mr. Randolph stated that the local press constantly and consistently beat the drum of opposition to the relocation of the County courts, seeking to sway public opinion against the Board majority that consistently placed the interest of citizens first and foremost.

Mr. Randolph stated that rationally, he thinks the memorandum is a good outcome for citizens, but in his heart he does not believe it is the ideal outcome. He commented that City Council in recent years has not demonstrated a governing capacity to attain agreements and execute them in good faith. He explained that he is concerned that the parking garage in the memorandum would not be built by the City, and the Market Street Parking Garage -- while close to the County court complex -- would be permitted to deteriorate without the upkeep and maintenance necessary to assure an ongoing attractive facility for County residents to use. He stated that having 90 indoor parking spaces downtown under those circumstances would be only a marginal improvement for citizens. He emphasized that he believes they owe residents more than that.

Mr. Randolph said that omitted from the memorandum is any mention of revising the annexation agreement to acknowledge the land use subsidy to the City. He stated that currently, County property under land use is included in payments owed to the City -- but at their actual market value, rather than at their land use taxed value. He said the negotiating process with the City was perhaps the last best opportunity to make this illegitimate subsidy an item of prime attention and renegotiation. He stated that this injustice is permitted to remain part of the current status quo.

Mr. Randolph observed that Albemarle County is better than it give itself credit for, has the capacity to be even better and more inclusive, diverse, economically vibrant, environmentally preserved, recreationally active, educationally excellent, nationally attractive community. He asked that the County not hold back from pursuing that bright future and to not let other opportunities escape its grasp. Mr. Randolph urged the County not to be afraid of what it can and will become -- a destination in its own right, and a place known for more than just surrounding a City, but as a shining county among the hills. He stated that they need not shirk the vision for the County's future, but instead need to embrace it.

Ms. Mallek commented that tremendous recognition and thanks need to go to the new faces who have joined the efforts of longtime staff who have been working on this for 11 years, and Mr. Kamptner and Mr. Richardson have been spectacular at carrying the ball forward -- for which she is grateful. She stated that she does not feel there is a realistic different path for the County because of the General Assembly control of the legislative aspects, as well as the referendum process. Ms. Mallek said that her

support for the memorandum is with the entity of the City government making the arrangement, just as they are not signing it as individuals but are considering it as an entity of government.

She stated that the access to justice for County citizens, who often traveled 30 miles or more, to reach the Court precinct, has been the main core of her concern. She said that their inability to conveniently find a place to park and get to court on time has been a real burden. Ms. Mallek stated that since the first CIP she participated in, in 2008, the moving of the courts has been the top placeholder in the budget, and it has taken a long time to get there. She said that the variables of security and function, as well as the capacity for the future, needs to be done as economically as possible -- and this agreement achieves effective management of taxpayer funds.

Ms. Mallek commented that she sees the value in establishing a court in the County to ease access for citizens with no access to transit, the cooperation of the City to provide the capital and carry out construction of the parking garage will reduce the cost to taxpayers by millions of dollars and preserve the possibility of investing in other programs that benefit residents and the economy. She stated that those are important issues to deal with for all the reasons already described.

Ms. McKeel stated that this decision and discussion has been around almost as long as she has, as she was first elected in 1996, with this discussion starting in 1999. She said that compromise is a lynchpin for regional projects, and while she was hoping for a different compromise of the County Office Building, there were many powerful entities -- including General Assembly representatives and powerful people in the community -- who did not feel that compromise was acceptable. Ms. McKeel said that from that time on, her focused has been to assure citizens an agreement that has adequate parking and accessibility, while bounding the costs. She added that this MOU is light years away from the agreements the County considered just a few years ago, and this agreement is much more advantageous to County residents and users. Ms. McKeel added her thanks for new leadership and Mr. Henry, Mr. Richardson, and Mr. Kamptner for working so hard to get the agreement in place.

Ms. Mallek then reread the statement she read during joint announcement at Court Square.

Ms. Palmer commented that she strongly believes this agreement is the best thing for citizens.

Ms. Palmer **moved** to adopt the Resolution approving a Memorandum of Agreement between the County of Albemarle and the City of Charlottesville to facilitate the expansion, renovation, and efficient and safe operation of the Albemarle County Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court. Ms. Mallek **seconded** the motion.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Dill, Mr. Gallaway, Ms. Mallek, Ms. McKeel and Ms. Palmer.

NAYS: Mr. Randolph.

**RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN  
THE COUNTY OF ALBEMARLE AND THE CITY OF CHARLOTTESVILLE  
TO FACILITATE THE EXPANSION, RENOVATION, AND EFFICIENT AND  
SAFE OPERATION OF THE ALBEMARLE CIRCUIT COURT,  
THE ALBEMARLE GENERAL DISTRICT COURT,  
AND THE CHARLOTTESVILLE GENERAL DISTRICT COURT**

**WHEREAS**, the Board finds it is in the best interest of the County to enter into a Memorandum of Agreement with the City of Charlottesville to facilitate the expansion, renovation, and efficient and safe operation of the Albemarle Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the Chair to execute a Memorandum of Agreement between the County of Albemarle and the City of Charlottesville to facilitate the expansion, renovation, and efficient and safe operation of the Albemarle Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court, once the Memorandum of Agreement has been approved as to form by the County Attorney.

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**MEMORANDUM OF AGREEMENT TO FACILITATE THE EXPANSION, RENOVATION, AND  
EFFICIENT AND SAFE OPERATION OF THE ALBEMARLE CIRCUIT COURT, THE ALBEMARLE  
GENERAL DISTRICT COURT, AND THE CHARLOTTESVILLE GENERAL DISTRICT COURT**

**THIS AGREEMENT** is entered into this 17<sup>th</sup> day of December, 2018, by and between the **COUNTY OF ALBEMARLE, VIRGINIA** (the "County") and the **CITY OF CHARLOTTESVILLE, VIRGINIA** (the "City"), both of whom are political subdivisions of the Commonwealth of Virginia. This agreement may be referred to as the "Agreement." The County and the City may be referred to collectively as the "Parties."

**RECITALS**

**R-1** Court Square is an approximately three-quarter acre parcel located in a part of the County that is now surrounded by the incorporated territory of the City near the City's downtown that has served as the

Albemarle County courthouse since the Eighteenth Century, and the building in Court Square in which the Albemarle County Circuit Court is located has continuously served as a County court since the early Nineteenth Century; and

- R-2 The County's General District Court, as well as related County offices, are also located within Court Square; and
- R-3 The City's Circuit and General Districts Courts are located near the County's Courts and the City's downtown, respectively; and
- R-4 As a result of the proximity of these County and City Courts to one another, as well as the location of the United States District Court in the City's downtown, many law offices and other court-related businesses, organizations, and court-system related service providers are located in the City's downtown area; and
- R-5 The County and the City agree that an economically strong City benefits the residents of the City, the County, and the region; and
- R-6 The County has studied the expansion, renovation, and efficient and safe operation of the Albemarle County Circuit Court and General District Courts (the "County Courts") and related facilities since at least 1999, and more recently has studied and considered the relocation of the County Courts to the County Office Building at 401 McIntire Road, which is within the City, and to locations within the County other than Court Square; and
- R-7 This Agreement is premised on the City's stated intention to construct a parking structure in downtown Charlottesville and the availability of those parking spaces for those persons working in and using the County Courts and their related offices, and the City's stated intention to contribute funds for the full cost of a City General District Court court set and clerk's office within the proposed General District Court Building, as those terms are described in this Agreement; and
- R-8 The availability of adequate and convenient parking for persons working in and using the County Courts and their related offices is essential for the current and future safe, convenient, and practical operation of the County Courts in Court Square and its immediate vicinity; and
- R-9 The County's Board of Supervisors has determined, as stewards of the revenues received from the County's taxpayers, that it is fiscally prudent to enter into this Agreement and affirm the County's commitment for the County Courts to remain in Court Square and its immediate vicinity.

#### STATEMENT OF AGREEMENT

The County and the City agree to the following:

1. **Sale of the County's One-Half Interest in the Jointly-Owned East Market Street Parcel.**

The City and the County each own a one-half interest in the parcel located at 701 East Market Street, which is identified as City Parcel Identification Number 530159000 (the "East Market Street Parcel"). Subject to the requirement of Virginia Code § 15.2-1800(B) for the County's Board of Supervisors to first conduct a public hearing and the decision of the County's Board of Supervisors following the public hearing, the County agrees to sell its one-half interest in the East Market Street Parcel to the City pursuant to the following terms:

  - A. **Purpose.** The purpose for the County selling its one-half interest in the East Market Street Parcel is to facilitate the City's construction of a multi-level public parking structure on the parcel (the "Parking Structure"). The Parties understand that any necessary City financing and ongoing operation and maintenance of the Parking Structure is simplified if the County is not a co-owner of the East Market Street Parcel. In addition, as set forth in Section 2, the Parking Structure alleviates the County's need for ongoing ownership of the parcel.
  - B. **Value of the East Market Street Parcel; Independent Appraisal.** The fair market value of the East Market Street Parcel shall be determined by an independent appraisal. The Parties shall jointly select an appraiser to appraise the Parcel to determine its fair market value at the time of the appraisal. The Parties shall each contribute one-half of the cost of the independent appraisal. The City shall manage the appraisal process by ensuring that all applicable requirements are satisfied in procuring the services of an independent appraiser. Notwithstanding Section 5(1)(2), the Parties may agree to share the cost of the independent appraisal before all State legislation required to enable the County to lawfully pursue the General District Court Project described in Section 5 is signed by the Governor.
  - C. **Sales Price.** The County agrees to sell its one-half interest in the East Market Street Parcel for one-half the appraised value determined by the independent appraisal prepared pursuant to Section 1(B).
  - D. **Costs.** Each Party shall bear its own costs and expenses associated with the sale of the East Market Street Parcel, except for the cost of the independent appraisal.

- E. **When the Sale Will Close.** The County's sale of its one-half interest in the East Market Street Parcel shall close within six months after completion of the independent appraisal conducted pursuant to Section 1(B), or within two months after all State legislation required to enable the County to lawfully pursue the General District Court Project described in Section 5 is signed by the Governor, whichever is latest.
- F. **Sales Contract.** The Parties may enter into a separate purchase contract for the City's acquisition of the County's one-half interest in the East Market Street Parcel. The contract shall be consistent with the terms in Sections 1(A) through 1(E).
- G. **Section 6 of the July 20, 2004 City-County Agreement is Inapplicable.** The procedures and requirements of Section 6 of the "City of Charlottesville/County of Albemarle Intergovernmental Agreement Regarding the Joint Purchase/Ownership of Real Estate," which pertain to the East Market Street Parcel and other properties when "either party wishes to dispose of its interest in the Property" do not apply to this conveyance.
- H. **Consequences if the County's Board of Supervisors Fails to Approve Sale Following Public Hearing.** If, following the public hearing required by Virginia Code § 15.2-1800, the County's Board of Supervisors does not approve the sale of the East Street Market Parcel to the City as provided in this section, this Agreement is void.

2. **Parking Structure on the East Market Street Parcel.**

The City shall construct the Parking Structure on the East Market Street Parcel pursuant to the following terms:

- A. **Purpose.** The City intends to construct the Parking Structure to meet the parking needs of the City. The Parking Structure is also significantly important to the County because one of the bases for the County investing in the expansion and renovation of the County Courts as described in this Agreement is the availability of convenient vehicular parking for those persons working in and using the County Courts and their related offices.
- B. **Design of the Parking Structure.** The City shall have sole discretion in the design of the Parking Structure, subject to the following:
  - 1. **Providing Parking Structure Design Plans to the County.** During the City's design process for the Parking Structure and until the City's final approval of its design, the City shall provide the original and each revision of the Parking Structure design plans to the County for the County's review and comment. The purpose for the County's review and comment of the Parking Structure design plans is to ensure that the requirements of Section 2(C) are satisfied.
  - 2. **Changes to the Parking Structure Design After Its Approval.** The City shall not change the design of the Parking Structure after the final approval of its plans by change order or otherwise without the County's express written consent if the design change would change or affect in any way the requirements of Section 2(C) being satisfied. County approval shall not be unreasonably withheld.
- C. **Parking Spaces Allocated to the County.** The City shall provide parking spaces to the County within the Parking Structure as follows:
  - 1. **Number of County Parking Spaces.** The City shall provide 90 dedicated parking spaces for exclusive use and control by the County and persons working in and using the County Courts, or any other purpose (the "County Parking Spaces") as provided in this subsection.
  - 2. **Location of the Parking Spaces.** The 90 County Parking Spaces shall be located on the ground level within the Parking Structure to the fullest extent feasible, and exclusive of any parking spaces required to be located on the ground level to comply with the Americans with Disabilities Act. If the design of the Parking Structure does not allow all 90 County Parking Spaces to be located on the ground level, as many of the County Parking Spaces as possible shall be on the ground level and any remaining County Parking Spaces shall be located on the next level above or below the ground level subject to design considerations and applicable State or federal regulatory requirements. For the purposes of this Agreement, "ground level" means the level of the Parking Structure that is at or nearest to the level of the ground around the Parking Structure. Because of the different elevations of East Market Street and 7<sup>th</sup> Street, it is possible for more than one level of the Parking Structure to be ground level.
  - 3. **Access to Sidewalks Outside of the Parking Structure.** All 90 County Parking Spaces shall be located to provide convenient pedestrian access to sidewalks outside of the Parking Structure to allow persons working in and using the County Courts to safely walk to and from the County Courts.
  - 4. **Controlled Access.** The Parking Structure shall be designed to provide controlled access to the fullest extent feasible to the County Parking Spaces when the County has the exclusive right to use the County Parking Spaces for its purposes as provided in Section 2(C)(6). The techniques and systems to control access shall be agreed to between the City and the County

while the Parking Structure is being designed. County approval shall not be unreasonably withheld.

5. **County Parking Space Circulation, and Dimensions.** The design of the Parking Structure shall provide safe and convenient ingress and egress from the City streets to the County Parking Spaces, access, and internal circulation shall meet the minimum requirements of City Code § 34-975, and the dimensions of each County Parking Space shall meet the minimum dimensions for a parking space for a standard vehicle (8.5 feet by 18 feet) or a compact vehicle (8 feet by 16 feet) as provided in City Code § 34-977. The ratio of County Parking Spaces for standard vehicles and compact vehicles shall be the same as it is for other parking areas within the Parking Structure.
  6. **When the County has Exclusive Right to Occupy the County Parking Spaces.** The County shall have exclusive control over access to and the right to determine the use of the County Parking Spaces as follows:
    - a. **During Regular Court Hours.** Each Monday through Friday, from 7:00 a.m. until 6:00 p.m., unless the day is a court holiday.
    - b. **During Special Court Sessions or Events.** The County shall also have exclusive control over access to and the use of the County Parking Spaces on any weekend day or evening after 6:00 p.m. when the County or any County Court knows that a judicial proceeding or other County Court event will be held on those days or during those times. The County shall provide the City advance notice of the judicial proceeding or other County Court event that will be held on a weekend day or in the evening after 6:00 p.m.
  7. **When the County does not have Exclusive Right to Occupy the County Parking Spaces.** At any time when the County does not have exclusive control of them as provided in Section 2(C)(6), the County Parking Spaces shall be under the control of the City and may be open to the public or otherwise used as the City determines to be appropriate.
  8. **Separate Lease.** Before the County begins using the County Parking Spaces, the County and the City will enter into a lease for the County Parking Spaces. The lease will be for a minimum term of 20 years, for a rent of not more than \$1.00 per year, and will permit the County to renew the lease for one time for a period not to exceed 20 years for a rent of not more than \$1.00 per year and will otherwise be consistent with the terms and conditions of this Agreement. The lease shall contain a section which provides the County with alternative off-street parking spaces if, at any time during the term of the lease, the County Parking Spaces become unavailable. The lease will make proximity as close as possible to the County Courts the City's first priority in providing alternative parking spaces.
- D. **When Construction Shall Begin.** The City shall begin construction of the Parking Structure no later than May 1, 2022.
- E. **When a Certificate of Occupancy Must be Issued and County Entitled Use.** The City shall issue a certificate of occupancy for the Parking Structure, or at least for the County Parking Spaces, by November 30, 2023, subject to the following:
1. **Coordination.** One of the primary objectives of this Agreement is to ensure that parking spaces are available to persons working in and using the County Courts and their related offices when the General District Court Project is completed. The Parties intend for the City's construction of the Parking Structure and for the General District Court Project to be completed as simultaneously as practicable. In furtherance of that intention:
    - a. **Meetings.** Representatives from the County and the City who will be managing the General District Court Project and the construction of the Parking Structure for their respective localities shall meet to discuss coordinating the timely completion of the two projects. The meetings shall begin during the design phases for the respective projects and be held periodically as the representatives determine to be necessary.
    - b. **Schedule for the General District Court Project.** The County shall provide to the City the County's schedule for completing the General District Court Project and provide any revisions to the schedule whenever it changes. The County will provide the original schedule to the City at least three years before the planned completion date of the General District Court Project.
    - c. **Schedule for the Parking Structure.** The City shall provide to the County the City's schedule for completing the Parking Structure and provide any revisions to the schedule whenever it changes. The City shall provide the original schedule to the County within 30 days after the County provides the City its original schedule for the General District Court Project.
  2. **Temporary Alternative Parking if the Parking Structure is not Timely Completed.** If the General District Court Project receives a certificate of occupancy on or after November 30, 2023 and before the certificate of occupancy for the Parking Structure has been issued, the City shall provide 100 parking spaces for the exclusive use for those persons working in and



using the County Courts and their related offices until the County is able to occupy the Parking Structure and use the County Parking Spaces. These 100 parking spaces shall be located in the City-owned parking structure located on Market Street commonly known as the "Market Street Garage."

- F. **Signs.** The City agrees to install and maintain signs in public areas, including along sidewalks, between the Parking Structure, Court Square, and the Project Property as described in Section 5(A) to inform pedestrians how to get to and from those properties.
1. **Sign Plan.** Before the City installs the signs, it shall develop and provide to the County a proposed sign plan, which the County shall review and be subject to approval by the County Executive. The County Executive shall not unreasonably withhold approval of the sign plan.
  2. **Costs.** The City shall pay all costs to make or purchase, install, and maintain the signs required by this section.
- G. **Failure of the City to Complete Construction of the Parking Structure.** If the City fails to complete construction of the Parking Structure so that it is unable to provide to the County the County Parking Spaces by November 30, 2023 or within one year after the General District Court Project is completed, whichever is later, at the option of the County:
1. **Provide Parking in the Market Street Garage.** The City shall provide 100 spaces in the Market Street Garage at or below Level 2 as those levels are identified on the date of this Agreement for the exclusive use by the County, subject to the terms and conditions of Sections 2(C)(4), 2(C)(5), 2(C)(6), 2(C)(7), and 2(F); or
  2. **Reconvey Interest in East Market Street Parcel, Allow the County to Use the Parcel for Parking, and Pay the County.** The City shall convey a one-half Interest in the East Market Street Parcel to the County, allow the County to use the East Market Street Parcel for parking, and pay the County, as follows:
    - a. **Reconveyance.** Subject to a City Council ordinance, the City shall convey to the County a one-half interest in the East Market Street Parcel for the amount it paid to the County pursuant to Section 1 or the then-current appraised value of the one-half interest, whichever is less, less one-half of the fair market rental value for the City's sole occupation of the East Market Street Parcel for the entire time the City was the sole owner of the parcel; and
    - b. **Use.** In addition, the City shall enter into a memorandum of understanding providing the County exclusive control over access to and the use of the East Market Street Parcel for parking for persons working in and using the County Courts and their related offices.
3. **Managing the Parking Structure and Maintaining the County Parking Spaces.** The management of the Parking Structure and the maintenance of the County Parking Spaces are as follows:
- A. **Managing the Parking Structure.** The City anticipates that the Parking Structure will be operated by a third-party vendor. Both the City and the County expect that the Parking Structure will be managed by the selected third-party vendor in a professional manner that will ensure that the Parking Structure, including the County Parking Spaces, are operated to ensure that the Parking Structure is physically sound, clean, and safe. To those ends:
1. **County Participation in the Vendor Selection Process.** A County representative shall serve on all vendor selection committees that are tasked with evaluating the proposals received from vendors to operate the Parking Structure. If the City does not establish a vendor selection committee, a County representative shall be allowed to evaluate any proposals received from vendors and to provide comments and recommendations to the City official charged with selecting a vendor. The City official shall in good faith consider the County representatives comments and recommendations before selecting a vendor.
  2. **Vendor Performance Standards.** The City will seek input from the County on management performance standards for the selected vendor. The management standards will include clear expectations on customer complaints and follow-ups. The County shall be provided with a City representative's contact information for any customer complaints received by the County. Any County complaint shall be responded to within one business day of the City representative receiving the complaint.
  3. **City Contract with the Vendor.** The City's contract with the vendor selected to operate the Parking Structure shall include an express provision that the County is a valued tenant of the Parking Structure and that the County may have unique concerns, complaints, or questions regarding the operation of the Parking Structure. Any County issues will be addressed by the City directly to the Vendor with input by the County.
  4. **Evaluate Vendor Performance.** The County may evaluate the vendor's performance and provide that evaluation to the City.

- B. The County's Portion of Management Costs.** The County shall pay a portion of the City's costs to the vendor under the contract to manage and maintain the Parking Structure, as follows:
1. **Formula.** The County's portion of management and maintenance costs is the amount equal to the County's pro rata share of the City's annual management and maintenance costs pursuant to its contract with the third-party vendor, less 15 percent.
  2. **How Pro Rata Share Determined.** The County's pro rata share of management costs shall be based on the ratio of the 90 County Parking Spaces to the total number of parking spaces expressly designated or which could be designated, within the Parking Structure. For example, if the Parking Structure has 400 total parking spaces, or is designed and constructed to have sufficient area in which 400 parking spaces could be designated as such, the County's pro rata share is 22.5 percent (90/400). For the purposes of this Agreement, parking spaces "which could be designated" are any areas within the Parking Structure that the City has elected not to stripe as parking spaces or otherwise make them available for parking which could be designated for parking, based on an average parking space size of 8.5 feet by 18 feet, less the minimum area required for safe travelways.
  3. **Reduction.** The amount of the County's pro rata share is thereafter reduced by 15 percent in recognition that the County will not exclusively control the access and use of the County Parking Spaces at all times every day.
  4. **Example.** For example, if the County's pro rata share is 25 percent, and the City's total annual management cost of the Parking Structure is \$200,000, the County's pro rata share is \$50,000. That amount is then reduced by 15 percent (\$7,500) for an annual County payment of \$42,500.
- C. When Payment by the County is Due.** The County shall pay the City its portion of the costs to manage and maintain the Parking Structure once each year, within 30 days after the County receives a written invoice from the City.
- D. Ongoing Assessment of Best Practices.** Upon the request of either party, City and County representatives will meet to identify and discuss City and County Courts parking needs that will inform decisions as to the best practices to address those needs.
- 4. On-Street Parking.**  
The City agrees to provide 15 on-street parking spaces for the County's designated use during the County Courts' operational hours, as follows:
- A. **Location.** The 15 on-street parking spaces are located on the sides of the streets abutting the block containing Court Square and the City park that is bounded by East High Street, Park Street, East Jefferson Street, and 4<sup>th</sup> Street NE (the "On-Street Parking Spaces" and the "Court Square Block").
  - B. **Parking Spaces in Addition to Existing Dedicated Parking Spaces.** The On-Street Parking Spaces provided by the City pursuant to this section are in addition to the 16 on-street parking spaces on the same block that are already dedicated for County and Court personnel and for persons with disabilities. These 16 on-street parking spaces shall remain dedicated for County and Court personnel and for persons with disabilities during the term of this Agreement and the ratio of those parking spaces for their currently-dedicated uses shall not change without the prior written consent of the County.
  - C. **When the County has Exclusive Right to Occupy the On-Street Parking Spaces.** The County shall have exclusive control over access to and the right to determine the use of the On-Street Parking Spaces on the days and during the times as provided in Section 2(C)(6).
  - D. **When County May Begin Use.** The City will make the On-Street Parking Spaces available for County occupation pursuant to this Agreement when the Virginia General Assembly enacts, with the signature of the Governor, all of the amendments to the Code of Virginia listed in Section 5(I) of this Agreement and the County demonstrates, to the City's satisfaction, that all funds necessary for completion of the General District Courts Project are budgeted by the County.
  - E. **Enforcement.** The County will develop an enforcement policy, strategy, or plan, or a combination thereof (collectively, the "Plan"), intended to ensure that all of the on-street parking spaces (both the previously dedicated 16 on-street parking spaces (not including the parking spaces already designated for persons with disabilities) and the 15 On-Street Parking Spaces are available for use by County Court personnel and persons using the County Courts on the days and during the times as provided in Section 2(C)(6). The County will provide the Plan to the City for its review and approval before the Plan is implemented.
  - F. **Reversion.** Alternatively, at the County's sole option, the County may occupy up to 120 parking spaces in the Parking Structure pursuant to Sections 2 and 3 of this Agreement, and up to 15 of the On-Street Parking Spaces described in Section 4 of this Agreement shall revert back to the sole ownership, use, and control of the City, all of which shall be as agreed to between the City and the County before the County executes its option and the on-street parking spaces revert to the City.

**5. The General District Court Project.**

To facilitate the General District Court Project, the County and the City agree as follows:

- A. General District Court Project described.** The “General District Court Project” is the County’s relocation and expansion of its General District Court and other offices from Court Square to the property located at 350 Park Street, which is identified as City Parcel Identification Numbers 530109000 and 530108000, and which is jointly owned by the City and the County (the “Project Property”). The General District Court Project will include two County General District Court court sets, a shell for a third County General District Court set, and one City General District Court court set. The General District Court Project will also include spaces for Court Clerks and for storage, and will renovate the Levy Opera House building so that the County Commonwealth’s Attorney’s Office may be relocated there. For the purposes of this Agreement, a “court set” includes a courtroom, judge’s chambers, and places for people conducting court business to meet. The General District Court Project is part of a larger project that will include renovating and modernizing the existing County Circuit Court buildings located in Court Square.
- B. City Consent to Use the Property.** The City consents to the County using the Project Property and constructing and operating the General District Courts on the Project Property for as long as they are located there.
- C. City Contribution for a City General District Court Court Set.** Within 60 days after receiving a written request from the County, the City shall contribute \$6,838,028 to design and construct the General District Court Project, by which the City will obtain a City General District Court court set and a clerk’s office.
- 1. Consequences if the City Fails to Appropriate and Transfer.** The County acknowledges that the City’s financial contribution to the General District Court Project is subject to appropriation by the City Council. If the City Council does not appropriate the City’s contribution and its contribution is not transferred to the County as provided in this Agreement, the City shall pay any costs incurred by the County to redesign the General District Court Project to accommodate only the three County General District Court court sets, any costs related to the delay in the start of construction of the Project, and the City’s pro rata share, had it made its full contribution, of the costs for the General District Court Building’s foundation, common areas, and circulation elements (access points, entries, lobbies, and hallways that allow people to move around the building).
- 2. Liquidated Damages.** The Parties agree that it would be difficult if not impossible to ascertain the amount of damages sustained by the County arising from the costs related to the delay in the start of construction of the Project caused by the City Council’s failure to make the financial contribution to the County pursuant to this Agreement. It is therefore expressly agreed by the Parties that if the City fails to make the financial contribution to the County pursuant to this Agreement which results in Project delay, the City shall pay to the County as liquidated damages, and not as a penalty, the sum of \$200,000.
- D. Ownership and Maintenance of the Project Property and the General District Court Building.** The County and the City jointly own the Project Property and joint ownership shall continue. The County and the City shall also jointly own the General District Court Building. The County’s ownership interest shall be based on the percentage of its financial contribution to the total General District Court Project cost and the City’s ownership interest shall be based on the percentage of its financial contribution to the total General District Court Project cost.
- 1. Management and Maintenance of the Project Property and the General District Court Building.** The Project Property and the General District Court Building (collectively, the “Project Property”) shall be managed and maintained (collectively “managed”) by the County or a vendor selected by the County, provided that the City and the City General District Court may, at its option, manage and maintain the City General District Court court set.
- 2. Costs.** The City’s portion of management costs is 15.68 percent of the total amount of the County’s annual management costs of the Project Property.
- 3. When Payment by the City is Due.** The City shall pay the County its share of the costs to manage the Project Property in December of each calendar year, within 30 days after the City receives a written invoice from the County.
- E. Future Capital Costs.** Any capital costs to be incurred after the City issues the certificate of occupancy for the General District Court Building are subject to the following:
- 1. Capital Maintenance.** The County shall be responsible for capital maintenance of the Project Property and shall be the fiscal agent for all funding issues pertaining to capital maintenance of the Project Property.
- a. Costs.** The City’s portion of capital maintenance costs is 15.68 percent of the total amount of any capital maintenance project.



- A. **Resolution by the County's Board of Supervisors.** The City acknowledges that the County's Board of Supervisors may not contract away the Board's legislative powers. Therefore, this Agreement shall not be construed to affect in any way the authority of the Board to adopt a resolution pursuant to Virginia Code § 15.2-1644(A) requesting the County's Circuit Court to order an election on the question of removing the County's county seat (referred to in Virginia Code § 15.2-1644(A) as the "courthouse") to one or more places specified in the resolution.
- B. **Petition by County Voters.** The City acknowledges that the County's Board of Supervisors may not infringe upon the right of the County's registered voters to petition the County's Circuit Court pursuant to Virginia Code § 15.2-1644(A) requesting the Court to order an election on the question of removing the County's county seat (referred to in Virginia Code § 15.2-1644(A) as the "courthouse") to one or more places specified in the petition.
- C. **Consequences of a Successful Referendum.** If the referendum on the question requested by the County's Board of Supervisors or petitioned for by the County's registered voters pursuant to Virginia Code § 15.2-1644(A) is approved by the voters as provided by law, this Agreement continues in force and effect only until construction of the County court facilities are relocated pursuant to the referendum and the County court facilities are completed and occupied.

**7. Notices and any Other Communications.**

Any notice or other communication required by this Agreement shall be in writing and be mailed by first class mail or delivered by electronic means, including by email, to the chief administrative officer of the other Party.

- A. **Mailing Addresses.** The mailing addresses of the chief administrative officers are as follows:

County Executive  
County of Albemarle  
401 McIntire Road  
Charlottesville, Virginia 22902

City Manager  
City of Charlottesville  
605 East Main Street  
Charlottesville, Virginia 22902

- B. **Email Addresses.** Email communications shall be addressed using the chief administrative officer's official email address issued by the Party.

**8. Miscellaneous.**

- A. **Amendments.** This Agreement may be amended in writing as mutually agreed by the County and the City.
- B. **Assignment.** Neither Party may assign or transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of the other Party.
- C. **Non-Severability.** The terms and conditions of this Agreement are integrated with one another. However, if any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement is terminated only if it defeats the purposes of this Agreement for each Party as stated in the Recitals.
- D. **Entire Agreement.** This Agreement contains the entire agreement of the County and the City and supersedes any and all other prior or contemporaneous agreements or understandings, whether verbal or written, with respect to the matters that are the subject of this Agreement.
- E. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia.
- F. **Approval Required.** This Agreement shall not become effective or binding upon the County and the City until it is approved by actions of the County's Board of Supervisors and the City Council, and executed by an authorized official of each Party.

**IN WITNESS WHEREOF**, and as authorized by actions of the Albemarle County Board of Supervisors and the Charlottesville City Council, the County and the City each hereby execute this Agreement as of the date first above written, by and through their respective authorized officials:

**COUNTY OF ALBEMARLE, VIRGINIA**

By: (Signed) Ann H. Mallek  
Chair, Board of County Supervisors

Approved as to Form: \_\_\_\_\_  
County Attorney

**CITY OF CHARLOTTESVILLE, VIRGINIA**

By: (Signed) Nikuyah Walker  
Mayor, City Council

Approved as to Form: \_\_\_\_\_  
City Attorney

Agenda Item No. 4. Adjourn Special Meeting.

At 5:40 p.m., Ms. Mallek announced that the Board's adjourned November 14, 2018 regular meeting would continue on December 4, 2018, 9:00 a.m., Room 241, County Office Building.

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Chairman

Approved by Board
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Date 02/06/2019
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Initials CKB
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