



PHYSICAL DEVELOPMENT COMMITTEE
City Council Committee

Tuesday, July 11, 2023 | 3:00 PM
2nd Floor Training Room- City Hall
900 Church Street
Lynchburg, VA 24504

PHYSICAL DEVELOPMENT COMMITTEE AGENDA

- I. Welcome** *Councilmember Larry Taylor, Chair*
- II. Information Items**
- III. General Business**
 - III.1.** LU Plaza Holdings LLC License Agreement
 - III.2.** Cabel Street License Agreement
- IV. Roll Call**
- V. Next Regular Meeting**

AGENDA ITEM SUMMARY

MEETING DATE

July 11, 2023

PRESENTED BY

Gaynelle Hart, Director of Public Works

AGENDA ITEM # III.1

LU Plaza Holdings LLC License Agreement

RECOMMENDATION

Approve the License Agreement with LU Plaza Holdings LLC to permit the City to use the Plaza parking lot for commercial driver's license (CDL) training.

SUMMARY

The City has been holding hands-on CDL training (driving range) in the Plaza Shopping Center parking lot owned by LU Plaza Holdings. The Department of Motor Vehicles (DMV) has specific requirements for the size of the driving range. This is the only property we have identified that meets those requirements. Recently, LU Plaza Holdings asked that we formalize an agreement for its use. The City Attorney wrote and LU Plaza Holdings approved the attached license agreement. They have made the parking lot available for City use at no cost. This item will appear at the August 8th, 2023 Regular City Council meeting for approval.

PRIOR ACTION(S)

None

FISCAL IMPACT

None

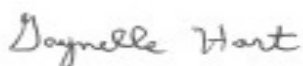
CONTACT(S)

Gaynelle Hart, Director of Public Works

ATTACHMENT(S)

1. City of Lynchburg CDL Driver Training FACILITY USER AGREEMENT
2. CDL Training Area Map

REVIEWED BY



Gaynelle Hart, Director of Public Works

Date: July 05, 2023



Greg Patrick, Deputy City Manager

Date: July 06, 2023



Alicia Finney, Clerk of Council

Date: July 06, 2023

License Agreement

This License Agreement ("Agreement") is dated _____, **2023**, and is by and between **LU Plaza Holdings, LLC** ("Owner") and the **City of Lynchburg, Virginia** ("User").

Owner owns and operates The Plaza Shopping Center in Lynchburg, Virginia. User desires to secure permission to use such facilities as hereinafter described. NOW, THEREFORE, WITNESSETH: in consideration of the mutual covenants herein contained, such consideration being deemed sufficient by the parties, the parties agree as follows:

Grant of Right to Use Facilities. Subject to the terms and conditions hereof, Owner grants to and User accepts from Owner the non-exclusive revocable right to use the herein described facilities located at The Plaza Shopping Center-2323 Memorial Ave, Lynchburg, VA 24501. The term "facilities" includes all related equipment and fixtures. Specifically, such license is for use of the room(s), space(s), building(s) or area(s) listed below.

Terms and Purposes. User may only use the facilities on the date(s) and time(s), according to the procedures, and for the purposes listed below. Either party may terminate this Agreement for any or no reason by giving thirty (30) days written notice to the other of its intent to terminate and all obligations hereunder shall terminate.

Event Details:

Name of Event:	City of Lynchburg-CDL Driver Training
Department/Organization:	City of Lynchburg-CDL Driver Training
Description of Event:	CDL Driver Training
Date(s):	Periodic during the term of one (1) year from the Effective Date of this Agreement upon 1) at least seven (7) days written notice to Owner prior to the proposed date of the Event and 2) subject to use availability on the proposed date(s).
Times:	8:00am-5:00pm
Room(s), space(s), building(s), or area(s)	Lower parking lot adjacent to Mosaic Church & High Peak Sportswear as designated by Owner.

1. **"As Is" Condition.** User has inspected the facilities which are the subject of this Agreement and accepts the same in their presently existing condition. User acknowledges that Owner need not make any alterations or improvements to the facilities in order for User to perform the activities related to the Event.

2. **User's Covenants with Respect to Use.** User shall comply with the following rules and regulations of Owner with respect to the use of the facilities:

a. *Sale of Alcohol.* The sale or use of liquor, beer, or other alcoholic beverages on the premises is expressly forbidden.

b. *Parking.* Parking will be free and on a first-come, first-served basis in spaces or lots designated for use for visitors or as otherwise designated for use under this Agreement by Owner's personnel. No other representations are made as to the availability of parking. User agrees that no visitors will be allowed to park in any area that is marked as reserved or designated by Owner as being unavailable for general parking. User agrees to do everything within User's power, up to and including utilizing signage and parking attendants, to direct event visitors away from those cross-hatched parking areas which are reserved for the tenants of Mosaic Church & High Peak Sportswear. User shall not permit or allow any vehicles to be parked in roadways, rights of way, or other means of ingress or egress into or within the Shopping Center. All vehicles which are part of the event must be parked in designated parking spaces.

c. *No Entry Charges or Merchandizing.* User shall not charge for parking or charge admission or fee to the public without the prior written consent of Owner.

d. *Limited Promotion.* User shall not permit any institution of higher education (other than Liberty University) to be affiliated with its event, including sponsorship, literature distribution, recruiting, promotional giveaways, merchandise, signage, or presentation.

e. *Animals and other Prohibited Items.* User shall not permit anyone using the facilities to bring or possess on the premises any animals (other than assistance animals for the disabled or animals in the petting zoo), alcohol, explosives, fireworks or any non-prescription controlled substances.

f. *Protective Measures Related to Minors.* Minors shall be under adult supervision at all times while on campus.

3. **Return of Facilities, Damage Deposit.** User, at its expense, shall leave the premises clean and free of all trash and litter, and shall leave all fixtures, if any, in good working condition. To the extent permitted by Virginia law, User agrees to reimburse Owner for any and all damages negligently or intentionally caused to the facilities and the fixtures and equipment therein by User, its employees, and/or its agents, but such reimbursement will in no event exceed an amount of \$10,000 for any one instance or event. Otherwise, Owner and User will be independently responsible for their own respective liabilities.

4. **Employees of User.** Persons engaged by User to provide labor and/or service will not be deemed or considered employees, agents, or independent contractors of Owner.

5. **Insurance.** User is a partially self-insured entity and shall maintain such status during the term of this Agreement. User shall provide Owner with documentation illustrating such status. To the extent permitted by Virginia law, User waives its rights to subrogate against Owner for third-party liabilities arising against User as a result of this Agreement.

6. **Miscellaneous.**

a. *Assignment.* Neither party will have the right to assign this Agreement without

the prior written consent of the other party.

b. *Choice of Law; Forum Selection.* This Agreement will be construed in accordance with and governed by the laws of the Commonwealth of Virginia without regard to conflicts of laws principles. Each party to this Agreement hereby irrevocably and unconditionally consents and submits to the nonexclusive jurisdiction of the courts located in the City of Lynchburg in the Commonwealth of Virginia. Any action arising from this Agreement must be brought in a court sitting in Lynchburg, Virginia.

c. *Modification.* This Agreement may be modified, but no modification shall be valid or enforceable unless made in writing and signed by both parties.

d. *Execution of Agreement.* This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which, when taken together, shall constitute one and the same enforceable document. Further, this Agreement may be executed and/or sealed electronically. An electronic signature and/or seal shall be equally as enforceable as an original signature or seal.

e. *Successors/Assigns.* This Agreement shall bind and inure to the benefit of the parties and their representatives, successors, and permitted assigns.

f. *Entire Agreement.* This Agreement constitutes the entire agreement and understanding between and among the parties with respect to the subject matter hereof and supersedes all other prior or contemporaneous oral agreements, understandings, undertakings and negotiations of the parties.

g. *Severability.* If any term in this Agreement is found by competent judicial authority to be unenforceable in any respect, the validity of the remainder of this Agreement will be unaffected, provided that such unenforceability does not materially affect the central purpose of this Agreement.

h. *Notice.* Notice to a party will be deemed received within three (3) days of being deposited in the US Mail certified mail, return receipt requested to the address listed below such party's signature hereto or when hand-delivered.

i. *Representations of Signatories.* The person(s) signing this Agreement on behalf of User and Owner represent to one another that they are fully empowered by appropriate action, if necessary, to execute this Agreement on its behalf.

Contact Information of User:

Name of User:	City of Lynchburg
Address:	900 Church Street
City, State, Zip Code:	Lynchburg, VA 24504
Name of User's Point of Contact: a. Day Phone Number b. Cell Phone Number c. E-mail of User's Point of Contact	Name: Belton Hamlett-Streets & Public Works Training Coordinator a. 434-455-4461 b. 434-327-3162 c. belton.hamlett@lynchburgva.gov

Witness the following signatures and seals.

OWNER

*By:*_____ *(seal)*

*Its:*_____

*Address:*_____

USER

*By:*_____ *(seal)*

Wynter C. Benda

Its: City Manager

Address:

City of Lynchburg, Virginia

Attn: City Manager

900 Church Street – 3rd Floor

Lynchburg, VA 24504

Approved as to Form:

City Attorney/Designee



Venue
Cinemas

Lakeside Dr

Rent-A-
Center

Citi
Trends

Centra
College

Health
Department

CDL Training Area
320' x 110'

AGENDA ITEM SUMMARY

MEETING DATE

July 11, 2023

PRESENTED BY

Clay Simmons, Deputy Director of Public Works

AGENDA ITEM # III.2

Cabel Street License Agreement

RECOMMENDATION

Approve Cabell Street license agreement for Mr. Clancey Wilson located at 1106 Cabell Street to have a driveway, a concrete slab and an above- ground pool on City property at 1200 Rivermont Avenue.

SUMMARY

Clancey Wilson has owned the house and property located at 1106 Cabell Street since December of 1989. At the time of the purchase, Mr. Wilson was under the impression that his property extended all the way to the adjacent parcel located at 1204 Rivermont Ave. In reality, a vacant parcel of land (address 1200 Rivermont Ave.) extended between Mr. Wilson's parcel and the neighboring occupied property at 1204 Rivermont Ave (see attached survey). The City was gifted the vacant parcel located at 1200 Rivermont Avenue in September of 1993 for the creation of a small park which is the current use of the front portion of the property.

Operating under the assumption that the vacant land was his, Mr. Wilson made improvements in the form of a gravel driveway, an above ground pool and a concrete slab for parking on portions of the parcel remaining outside of the footprint of the park. As a result, a portion of the driveway, pool and concrete slab have created an encroachment on the City's land.

Mr. Wilson parks on a gravel driveway of which a portion also falls on City property but this appears to have existed at least as far back as 1997 in the available aerial imagery. The pool appears to have been constructed in 2012, and the concrete slab has existed since 2021.

Staff recommends authorization of the attached license agreement permitting the existing driveway, concrete slab and above ground pool to remain given that the encroachments cause no undue hardship to the City and the City has no current need for the area of the parcel where the encroachments exist.

This item will appear on the August 8th , 2023 City Council Regular Meeting for approval.

PRIOR ACTION(S)

None

FISCAL IMPACT

None

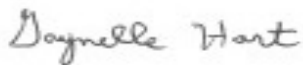
CONTACT(S)

Clay Simmons, Deputy Director of Public Works
Gaynelle Hart, Director of Public Works

ATTACHMENT(S)

1. Proposed License Agreement Draft - Clancey Wilson
2. D-2442 Plat Showing Resurvey for Property of Clancy D. Wilson Part of Lots 78 and Vacated Alley Blk 20 Rivermont Plan A

REVIEWED BY



Gaynelle Hart, Director of Public Works

Date: July 05, 2023



Greg Patrick, Deputy City Manager

Date: July 06, 2023



Alicia Finney, Clerk of Council

Date: July 06, 2023

A RESOLUTION GRANTING A NON-EXCLUSIVE LIMITED REVOCABLE LICENSE TO CLANCEY D. WILSON TO PERMIT ENCROACHMENTS ON PROPERTY OF THE CITY OF LYNCHBURG, VIRGINIA AT 1200 RIVERMONT AVENUE, LYNCHBURG, VIRGINIA 24504

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

ARTICLE I. GRANT AND PURPOSE

Subject to the provisions, conditions, and restrictions hereafter set forth in this document, hereafter referred to as this "License", the **CITY OF LYNCHBURG**, a Virginia municipal corporation, hereafter the "City", herein and hereby grants a non-exclusive limited revocable license, right, privilege, and authority to **CLANCEY D. WILSON**, hereafter the "Licensee", to maintain certain encroachments on City-owned real estate, namely 1200 Rivermont Avenue, Lynchburg, Virginia 24504 ("the Property"), hereafter collectively called the "Encroachments", in the City of Lynchburg, Virginia, as shown on a plat attached hereto to be recorded herewith, made by the Engineering Division of the City, dated May 9, 2023, entitled "PLAT SHOWING RESURVEY FOR PROPERTY OF CLANCY D. WILSON PART OF LOTS 7, 8 AND VACATED ALLEY BLOCK 20 RIVERMONT PLAN 'A' AND NEW ENCROACHMENT AREA AGREEMENT TO SERVE PROPERTY OF CLANCY D. WILSON LYNCHBURG, VIRGINIA", designated City File No. D-2442, with the Encroachments being bounded and described as follows, *to-wit*:

A portion of a pool, concrete pad, and/or related facilities constructed upon and encroaching into the Property at 1200 Rivermont Avenue, Lynchburg, Virginia 24504 within the following metes and bounds:

COMMENCING AT A MAGNETIC NAIL IN CONCRETE WALK AT THE INTERSECTION OF NORTHERLY RIGHT OF WAY OF CABELL STREET AND EASTERLY RIGHT OF WAY OF RIVERMONT AVENUE, THENCE ALONG NORTHERLY RIGHT OF WAY OF CABELL STREET SOUTH 71 DEGREES 20 MINUTES 02 SECONDS EAST 77.97 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE AND THROUGH THE PROPERTY OF CITY OF LYNCHBURG THE FOLLOWING COURSES, NORTH 28 DEGREES 47 MINUTES 19 SECONDS EAST 51.48 FEET TO A POINT, NORTH 01 DEGREES 01 MINUTES 55 SECONDS EAST 9.31 FEET TO A POINT, NORTH 45 DEGREES 50 MINUTES 15 SECONDS WEST 9.86 FEET TO A POINT, NORTH 69 DEGREES 51 MINUTES 44 SECONDS WEST 11.63 FEET TO A POINT, SAID POINT BEING ON COMMON LINE OF PROPERTY OF CITY OF LYNCHBURG AND JOHN D. MORGAN & CHARLOTTE G. MORGAN; THENCE ALONG SAID LINE THE FOLLOWING COURSES, NORTH 76 DEGREES 41 MINUTES 32 SECONDS EAST 14.83 FEET TO A 1/2 INCH REBAR, SOUTH 12 DEGREES 49 MINUTES 21 SECONDS EAST 0.18 FEET TO A 1/2 INCH REBAR, NORTH 77 DEGREES 10 MINUTES 39 SECONDS EAST 47.47 FEET TO A PIPE FOUND, NORTH 77 DEGREES 20 MINUTES 15 SECONDS EAST 7.46 FEET TO A 1/2 INCH REBAR IN LINE COMMON WITH PROPERTY OF RHONDA M. COLLINS; THENCE ALONG SIDE LINE SOUTH 12

DEGREES 39 MINUTES 45 SECONDS EAST 12.98 FEET TO A 1/2 INCH REBAR, COMMON CORNER TO PROPERTY OF CLANCY D. WILSON; THENCE ALONG LINE COMMON WITH CLANCY D. WILSON THE FOLLOWING COURSES, SOUTH 77 DEGREES 10 MINUTES 39 SECONDS WEST 37.45 FEET TO A PIPE FOUND, SOUTH 30 DEGREES 00 MINUTES 50 SECONDS WEST 71.21 FEET TO A PIPE FOUND IN CONCRETE WALK IN NORTHERLY LINE OF CABELL STREET; THENCE ALONG SAID LINE NORTH 71 DEGREES 20 MINUTES 02 SECONDS WEST 6.03 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 1289.60 SQUARE FEET.

The sole purpose of this License is to permit the Licensee to maintain the Encroachments exclusively shown on the above stated plat. This License shall in no way be construed to permit the Licensee to expand or extend the Encroachments nor to create additional encroachments upon the Property in any way unless a written amendment to this License is executed. The Licensee shall not become vested with any further rights beyond what is previously described due to the existence of this License or the Encroachments.

ARTICLE II. TERM

Unless this License is sooner terminated in accordance with the terms described herein, this License will be in effect for a term of five (5) years, beginning on [REDACTED], and ending [REDACTED], at 11:59 p.m. At the end of the said term, the Licensee and the City may extend this License for four (4) additional five (5) year terms unless the City or the Licensee terminates it at the end of the then-current term by giving the non-terminating party at least ninety (90) days' written notice. At least thirty (30) days prior to the end of the initial term or any subsequent renewal of this License, the Licensee and the City will review this License and discuss its renewal. The City Manager, in his discretion, may approve an extension to this License or terminate this License without approval of the Lynchburg City Council.

ARTICLE III. CONSTRUCTION, WORK, AND REPAIR

All work, maintenance, repair, improvements, and/or changes to the Encroachments shall be the Licensee's sole responsibility. The City shall have no duty whatsoever to inform the Licensee of any needed maintenance, work, repair, improvements, and/or changes to the Encroachments. The Encroachments shall be and remain the property of the Licensee. Further, within the licensed area of the Encroachments, a fence will be constructed, installed, and maintained around the pool at the Licensee's sole expense. The construction, installation, and maintenance of the fence by the Licensee shall adhere to applicable industry standards for pool fences as well as applicable laws and ordinances. Additionally, the Licensee, at its sole expense and where required, shall obtain all necessary permits and/or approvals from all City, State, and Federal agencies. Additionally, the Licensee shall perform all maintenance, work, repair, improvements, and/or changes hereunder in accordance with all reasonable and applicable workman-like standards as well as in accordance with any applicable City, State, and Federal regulations. In the event any maintenance, work, repair, improvements, and/or changes are required on the Encroachments, and such maintenance, work, repair, improvements, and/or changes materially interfere with the City's operations in any way, as determined in good faith by the City, then the Licensee shall be solely responsible for the actual costs of such additional work that results from the interference by the Encroachments.

ARTICLE IV. MAINTENANCE, INSPECTION AND REPAIR

During the term of this License, the City, its agents, and its employees shall have the right, but no obligation, to enter upon the Licensee's property and inspect the Encroachments. The City will provide the Licensee with reasonable notice of such entry and inspections, and if the City in its sole discretion determines it appropriate, the City, its employees, or its agents may take such actions as may be reasonably necessary to protect the Property and/or any related facilities from damage that has resulted or may result from any condition or circumstances imposed by the Encroachments. The Licensee shall be solely liable for the costs actually incurred in connection with the same.

ARTICLE V. DAMAGE TO PROPERTY

Unless caused by the negligence or intentional misconduct of the City, the City shall in no way be liable for any damage to or loss of any of the Licensee's buildings, facilities, property, or the Encroachments. It is expressly agreed and understood that the Encroachments encroach into the Property at the Licensee's own risk. Further, the Licensee shall be responsible for repairing or replacing any damages to the City's property or the like that are caused by the acts or omissions of the Licensee, his agents, invitees, family, or trespassers due to the existence of the Encroachments.

ARTICLE VI. INDEMNIFICATION AND INSURANCE

INDEMNIFICATION. The Licensee shall indemnify, hold harmless, and defend the City, its employees, officials, and agents, from and against any and all lawsuits, claims, causes of action, liabilities, demands, damages, disability, losses and expenses, of any nature whatsoever, including reasonable attorneys' fees ("Liabilities"), resulting or in any manner arising out of injuries (including death) to any person or damage to or destruction of any property suffered as a result of (i) the Licensee's actions/inactions and/or (ii) the existence of the Encroachments on the Property, unless such Liabilities are a result of the negligence or intentional misconduct of the City. The City shall promptly notify the Licensee of any Liabilities subject to indemnification and defense hereunder, and shall cooperate with all reasonable requests by the Licensee for information, documents, testimony, or other assistance appropriate to a resolution of such Liabilities. The Licensee shall have full responsibility for and control of any action or undertaking directed at the resolution of such Liabilities.

INSURANCE. While this License is in effect, the Licensee shall obtain and maintain at its sole expense, with financially reputable insurers authorized to do business in the Commonwealth of Virginia, all the following minimum insurance coverage:

- (a) A general liability insurance policy for bodily injury, property damage, and all risk fire and casualty insurance coverage (multi-peril) in a limit of not less than USD\$1,000,000 (One Million Dollars) per occurrence and USD\$2,000,000 (Two Million Dollars) in the annual aggregate (such insurance must cover and insure the pool, concrete pad, and any related facilities);
- (b) An automobile liability insurance policy in a limit of not less than USD\$1,000,000 (One Million Dollars) per occurrence and USD\$2,000,000 (Two Million Dollars) in the annual aggregate; *and*
- (c) An "all risk" property liability insurance policy covering not less than the full replacement costs of any damage the Licensee, his agents, invitees, family, or trespassers may cause to the City's property.

The Licensee shall further deliver to the City certificates of Insurance, satisfactory in form and content to the City, evidencing that the above insurance is in full force and effect. The insurance required herein shall require that the Licensee give the City thirty (30) days advance written notice of any cancellation, nonrenewal, or modification of coverage and a binder or certificate verifying new coverage in accordance with the requirements herein prior to any change, cancellation, or nonrenewal date. In the event of such cancellation or nonrenewal notice, the Licensee shall pay all premiums for the renewal or replacement of the insurance required hereunder. The Licensee shall, at least thirty (30) days prior to the expiration of the policies, furnish the City with renewals or binders for the policies, or the City may order the required insurance and charge the cost to the Licensee. Any and all such insurance policies shall name the City, its employees, officials, and agents as additional insureds and shall include or be endorsed to include contractual liability.

The insurance required hereunder shall be primary, and any insurance or self-insurance maintained by the City shall be in excess of and shall not contribute with any insurance required of the Licensee under this License. Any deductibles or self-insured retentions applicable to the required coverage shall be paid by the Licensee, and the City shall not be required to participate therewith. All rights of subrogation against the City, its employees, officials, and agents are hereby waived, and such waiver of subrogation rights shall be shown on the aforesaid certificates of Insurance.

Nothing contained in this License shall limit the Licensee's liability to the City to the limits of the insurance certified or carried.

Notwithstanding any of the other provisions of this License, the Licensee's failure to maintain the required insurance coverage while this Licensee is in effect or the failure of the Licensee to deliver a new and valid binder or certificate verifying such coverage is grounds for the immediate termination of this License without prior notice.

The indemnification requirements described hereunder shall survive termination or expiration of this License for a period of five (5) years beyond the same.

ARTICLE VII. COMPLIANCE WITH LAWS

The grant of this License is subject to all ordinances, resolutions, and procedures of the City as the same now exist or may be hereafter adopted, amended, revised, or codified, in lawful exercise of any power granted to the City by the Virginia General Assembly or any other lawful body. The City agrees that, except in cases of emergency, it will give the Licensee thirty (30) days advance written notice of all such rules and regulations adopted by the City before the Licensee shall be required to comply therewith. In performing its responsibilities under this License, the Licensee will comply with all applicable State and Federal laws and regulations and all Federal, State and local laws, ordinances, rules, and regulations currently in force or subsequently adopted that may apply to its activities.

ARTICLE VIII. AMENDMENTS TO LICENSE

The City and the Licensee may modify this License from time to time; however, such modifications will be in writing and approved by the Lynchburg City Council.

ARTICLE IX. TERMINATION OF LICENSE

The City retains the right to withhold or withdraw any and all privileges granted under this License and to terminate this License at any time if the Licensee fails to comply with any of the provisions of this License. Exercise of this right by the City shall be in addition to and not in place of any other rights which the City has under the terms of this License. Prior to exercising this right, the City Manager, or such other person or persons as the City Manager may from time to time designate, shall provide the Licensee with written notice of the Licensee's failure to comply with the terms of this License or default. The Licensee shall have thirty (30) days from the date of such notice to remedy any such default. The Licensee may make a written request for a reasonable extension of the period in which it may remedy any such default to the City Manager, or such other person or persons as the City Manager may from time to time designate. Any such request by the Licensee shall be in writing and must be made at least fifteen (15) days prior to the expiration of the initial thirty (30) day period stated previously. Any subsequent request shall be in writing and must be made prior to the expiration of any subsequent period.

If there are instituted by or against the Licensee proceedings in bankruptcy or insolvency during the term of this License, the City may terminate this License at any time thereafter. The exercise of this right by the City shall be in addition to and not in place of any other rights which the City has under the terms of this License. Any successors, assignee or assignees, trustee, or receiver of the Licensee resulting from proceedings in bankruptcy or under any insolvency law shall be subject to and bound by all of the provisions, terms, conditions, and limitations of this License.

The City retains the right to withhold or withdraw any and all privileges under this License and to terminate this License at any time if there is a taking of the Licensee's property by way of a court of competent jurisdiction. Exercise of this right by the City shall be in addition to and not in place of any other rights which the City has under the terms of this License.

ARTICLE X. NOTICES

Notices to the City and the Licensee shall be sufficient if sent to the following persons and addresses or to such other persons and addresses as the City or the Licensee may designate in writing from time to time.

Notices to the Licensee shall be sufficient if sent by First Class Mail, addressed to:

Clancey D. Wilson
1106 Cabell Street
Lynchburg, VA 24504

Notices to the City shall be sufficient if sent by First Class Mail, addressed to:

City of Lynchburg, Virginia
ATTN: City Manager
900 Church Street – 3rd Floor
Lynchburg, VA 24504

and

City of Lynchburg, Virginia
ATTN: City Engineer
900 Church Street – 2nd Floor
Lynchburg, VA 24504

ARTICLE XI. MISCELLANEOUS

- A. SUCCESSORS. This License and the rights and responsibilities of the same shall run with the title to the land and shall be binding upon and inure to the benefit of the Licensee, successor owners, and assigns of the Licensee's property. Neither the City nor the Licensee may assign this License or any of the rights and/or responsibilities described herein without the written consent of the other, which will not be unreasonably withheld. Notwithstanding any other part of this License, the City Manager, in his discretion, shall have the authority to permit such assignments on behalf of the City without the same being approved by the Lynchburg City Council.
- B. SEVERABILITY. In the event that any provision of this License, or portion of the same, shall be construed to be invalid or unenforceable by a court of competent jurisdiction, then such provision or portion shall be stricken, and the remaining portions of this License shall remain in full force and effect.
- C. GOVERNING LAW. This License shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, and any legal proceedings related to the same shall be filed in the courts of the City of Lynchburg, Virginia and in no other forum.
- D. ENTIRE LICENSE. All provisions with respect to this License are expressly contained herein. Neither the City nor the Licensee has made any representation or promise with respect to this License not contained herein.
- E. RESERVATION OF RIGHTS. It is distinctively understood that all privileges and uses of the Property, except to the extent herein permitted to the Licensee, are expressly reserved by the City to use at its discretion as the City deems advisable.
- F. REMEDIES NOT EXCLUSIVE. All rights and remedies described in this License shall be cumulative and additional to all other rights and/or remedies available at law or in equity.
- G. BINDING EFFECT. This License shall be binding and inure to the benefit of the City and the Licensee, and their respective representatives, successors, and permissible assigns. Further, upon being admitted 'of record' in the Clerk's Office of the Circuit Court of the City of Lynchburg, Virginia, this License shall constitute a covenant running with the land.
- H. MODIFICATION. This License may be modified by the City and the Licensee during its existence, but no modification shall be valid or enforceable unless made in writing and signed by both of the aforesaid entities. The Lynchburg City Council shall approve such modifications.
- I. INDEPENDENT ENTITIES. Nothing contained in this License shall be construed as or deemed to make either the City or the Licensee the agent, partner, or joint venture of the other, except as may otherwise be provided in this License. Nothing contained in this License shall give the Licensee any authority to represent the City before any court or governmental or regulatory agency without the express prior written authorization of the City. Unless otherwise provided in this License, neither the City nor the Licensee shall be responsible or held liable for the acts or omissions of the other. Further, in performing any services or engaging in any actions pursuant to this License, the Licensee is and shall be acting as an independent contractor, responsible to all parties for its acts and omissions, and the City shall not be liable for the same.

- J. THIRD-PARTY RIGHTS. Nothing in this License shall be deemed to create any rights to those who are not expressly made a party to this License. The parties to this License are the City and the Licensee.
- K. COUNTERPARTS AND SIGNATURES. This License may be executed in counterparts. Each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one document. Further, this License may be executed and/or sealed electronically. An electronic signature and/or seal shall be equally as enforceable as an original signature or seal.
- L. HEADINGS. Marginal headings contained in this License are for convenience only and shall not be considered to amplify, relate, modify, or otherwise affect any of the terms, provisions, or conditions of this License.
- M. COVENANT OF NON-DISCRIMINATION. The Licensee does hereby covenant that no person on the grounds of race, sex, color, national origin, or any other basis prohibited by Federal or Virginia law shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the operation of any of the facilities, buildings, or the like which may be connected to this License. The Licensee further covenants it will not discriminate against and will make all reasonable efforts to accommodate persons with disabilities as required by the Americans with Disabilities Act.
- N. PUBLIC HEARING. The grant of this License is conditioned upon the approval of the Lynchburg City Council after a public hearing has been duly held in accordance with Sections 15.2-1800 *et. seq.* of the Code of Virginia, 1950, as amended.

ARTICLE XII. METHOD OF ACCEPTANCE

The Licensee shall accept this License in writing before or within thirty (30) days after its adoption by the Lynchburg City Council.

This Resolution shall be and become effective as a License and shall constitute a contract between the City and the Licensee once adopted by the Lynchburg City Council and executed by the Licensee.

(Remainder of Page Intentionally Left Blank)

ARTICLE XIII. ADOPTION OF RESOLUTION

This Resolution was duly adopted by the Council of the City of Lynchburg, Virginia on the _____ day of _____, 20_____, and shall be

effective as of the _____.

Certified: _____
Clerk of Council

Approved as to Form:

City Attorney/Designee

ARTICLE XIV. ACCEPTANCE OF LICENSE

By joining in this Resolution through signature, the Licensee does hereby accept the entirety of the same as of its adoption date.

CLANCEY D. WILSON

Commonwealth of Virginia, }
City of Lynchburg, Virginia, *to-wit:* }

The foregoing instrument was acknowledged before me by Clancey D. Wilson on this the _____ day of _____, 2023.

Notary Public

My Registration No. _____
My Commission Expires _____

Affix Notary Seal:

PLAT SHOWING RESURVEY
FOR PROPERTY OF
CLANCY D. WILSON
PART OF LOTS 7, 8 AND VACATED ALLEY
BLOCK 20 RIVERMONT PLAN 'A'
AND
FOR PROPERTY OF
CITY OF LYNCHBURG
PART OF LOTS 7,8,9 AND VACATED ALLEY
BLOCK 20 RIVERMONT PLAN 'A'
AND
NEW ENCROACHMENT AREA AGREEMENT
TO SERVE
PROPERTY OF CLANCY D. WILSON
LYNCHBURG, VIRGINIA

SOLID GRAY SHADING REPRESENTS NEW ENCROACHMENT
AGREEMENT AREA BETWEEN CITY OF LYNCHBURG AND
PROPERTY KNOWN AS #1106 CABELL STREET

NEW ENCROACHMENT AREA
AGREEMENT LINE TABLE

EAL1	N28°47'19"E	51.48'
EAL2	N01°01'55"E	9.31'
EAL3	N45°50'15"W	9.86'
EAL4	N69°51'44"W	11.63'

NEW ENCROACHMENT AREA AGREEMENT LEGAL DESCRIPTION

COMMENCING AT A MAGNETIC NAIL IN CONCRETE WALK AT THE INTERSECTION
OF NORTHERLY RIGHT OF WAY OF CABELL STREET AND EASTERLY RIGHT OF WAY
OF RIVERMONT AVENUE, THENCE ALONG NORTHERLY RIGHT OF WAY OF
CABELL STREET SOUTH 71 DEGREES 20 MINUTES 02 SECONDS EAST 77.97
FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF
WAY LINE AND THROUGH THE PROPERTY OF CITY OF LYNCHBURG THE
FOLLOWING COURSES, NORTH 28 DEGREES 47 MINUTES 19 SECONDS EAST
51.48 FEET TO A POINT, NORTH 01 DEGREES 01 MINUTES 55 SECONDS EAST
9.31 FEET TO A POINT, NORTH 45 DEGREES 50 MINUTES 15 SECONDS WEST
9.86 FEET TO A POINT, NORTH 69 DEGREES 51 MINUTES 44 SECONDS WEST
11.63 FEET TO A POINT, SAID POINT BEING ON COMMON LINE OF PROPERTY
OF CITY OF LYNCHBURG AND JOHN D. MORGAN & CHARLOTTE C. MORGAN;
THENCE ALONG SAID LINE THE FOLLOWING COURSES, NORTH 76 DEGREES 41
MINUTES 32 SECONDS EAST 14.83 FEET TO A 1/2 INCH REBAR, SOUTH 12
DEGREES 49 MINUTES 21 SECONDS EAST 0.18 FEET TO A 1/2 INCH REBAR,
NORTH 77 DEGREES 10 MINUTES 39 SECONDS EAST 47.47 FEET TO A PIPE
FOUND, NORTH 77 DEGREES 20 MINUTES 15 SECONDS EAST 7.46 FEET TO A
1/2 INCH REBAR IN LINE COMMON WITH PROPERTY OF RHONDA M. COLLINS;
THENCE ALONG SIDE LINE SOUTH 12 DEGREES 39 MINUTES 45 SECONDS EAST
12.98 FEET TO A 1/2 INCH REBAR, COMMON CORNER TO PROPERTY OF CLANCY
D. WILSON; THENCE ALONG LINE COMMON WITH CLANCY D. WILSON THE
FOLLOWING COURSES, SOUTH 77 DEGREES 10 MINUTES 39 SECONDS WEST
37.45 FEET TO A PIPE, SOUTH 30 DEGREES 00 MINUTES 50 SECONDS WEST
71.21 FEET TO A PIPE FOUND IN CONCRETE WALK IN NORTHERLY LINE OF
CABELL STREET; THENCE ALONG SAID LINE NORTH 71 DEGREES 20 MINUTES
02 SECONDS WEST 6.03 FEET TO THE POINT OF BEGINNING AND CONTAINING
APPROXIMATELY 1289.60 SQUARE FEET.

NOTES:

THIS PLAT WAS PREPARED FROM AN ACTUAL FIELD SURVEY.

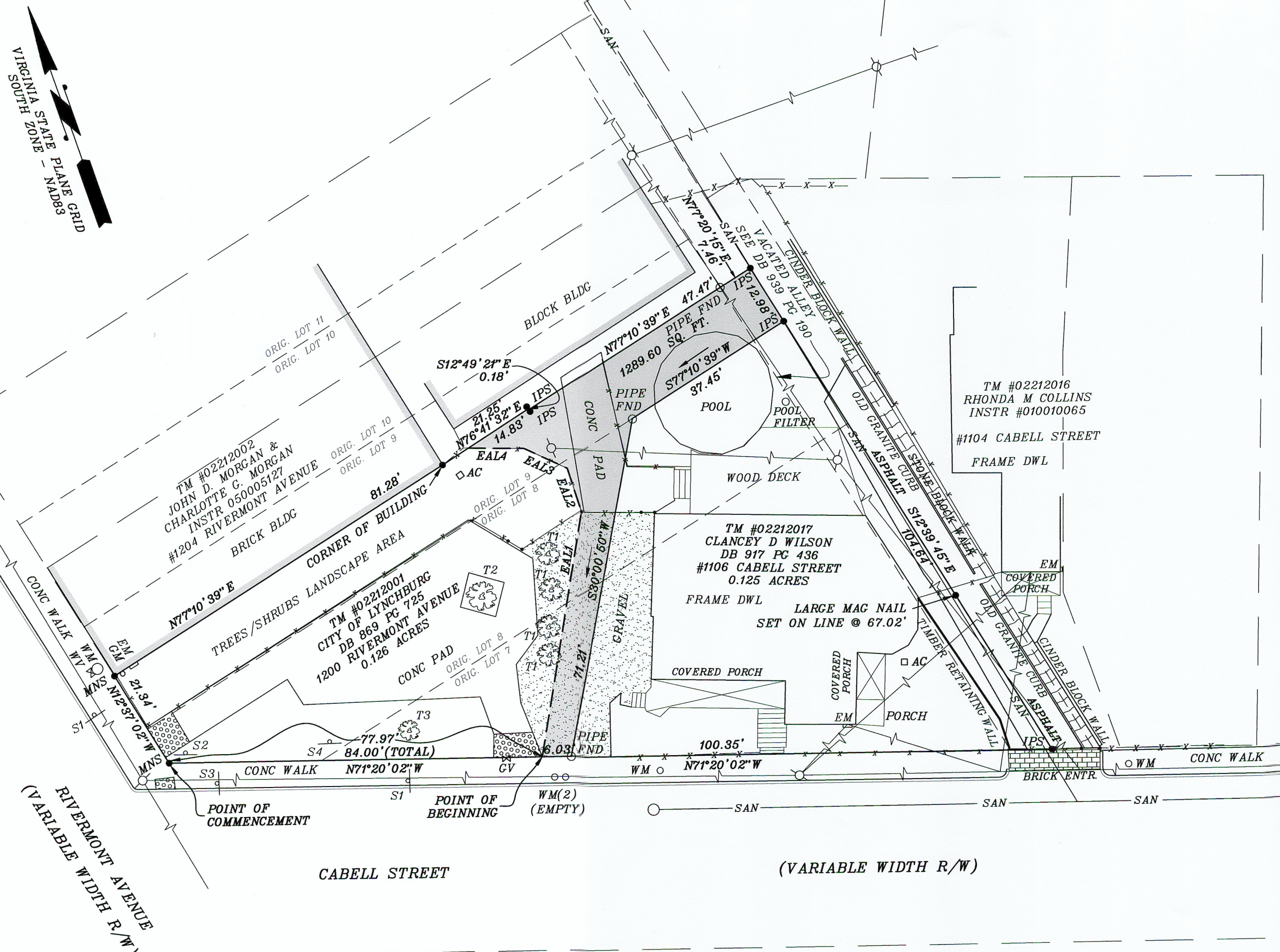
THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT,
THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.

THIS SURVEY WAS COMPLETED AT THE REQUEST OF CITY OF LYNCHBURG PUBLIC WORKS.

THIS SURVEY DOES NOT ADDRESS UNDERGROUND UTILITIES.

SUBJECT LOTS SHOWN ARE LOCATED IN FLOOD HAZARD ZONE 'X' (NON-SHADED) AS
INDICATED ON FLOOD INSURANCE RATE MAP BY FEDERAL MANAGEMENT AGENCY (FEMA),
COMMUNITY PANEL NUMBER 5100930042D, DATED JUNE 3, 2008. NON-SHADED ZONE 'X' IS
DEFINED AS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD.

15' PUBLIC ALLEY VACATED BY DB 939 PG 190. SOME OLDER RECORDS INDICATE ALLEY
WAS 16' IN WIDTH. PC 7 SLIDE 393 INDICATES ALLEY IS 15' WIDE (SEE NOTE #11 ON
SAID PLAT). THEREFORE THIS SURVEY ASSUMES OLD ALLEY WAS 15' WIDE.



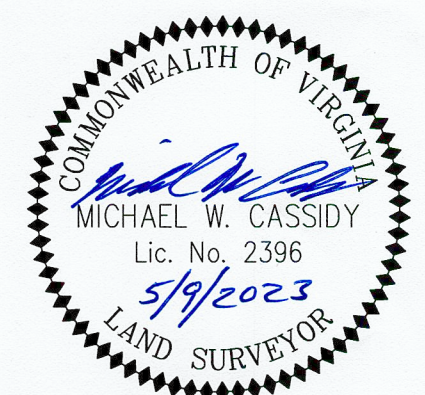
- LEGEND
- WM ○ WATER METER
 - WV ✕ WATER VALVE
 - EM □ ELECTRIC METER
 - GM ○ GAS METER
 - GV ✕ GAS VALVE
 - UTILITY POLE
 - X— FENCE
 - IPF ○ IRON PIN FOUND
(1/2" REBAR UNLESS NOTED OTHER)
 - IPS ● IRON PIN SET
(1/2" REBAR UNLESS NOTED OTHER)
 - MNS ● MAGNETIC NAIL SET
 - BRICK WALK
 - TREE
 - AC □ AIR CONDITION UNIT
 - HANDICAP PAD
 - OVERHEAD UTILITY LINE

- SIGN SCHEDULE
- S1 NO PARKING
 - S2 NO LOITERING
 - S3 STOP/STEET
 - S4 ADOPT A STREET

- TREE SCHEDULE
- T1 7" x 9" HOLLY
 - T2 11" MAPLE
 - T3 8" ORNAMENTAL

PLAT APPROVED
CITY ENGINEER
DATE 6/14/23

SCALE: 1" = 20'
20' 0 20'



CITY OF LYNCHBURG
PUBLIC WORKS
ENGINEERING DIVISION
1700 MEMORIAL AVE
LYNCHBURG, VA 24501
434-455-4452

SCALE: 1" = 20'
DATE: 5/9/2023
SHEET 1 OF 1
CITY FILE NO.: D-2442