Jim Halasz

From:	Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent:	Monday, April 25, 2022 4:15 PM
To:	Jim Halasz
Cc:	Randy Cosby; Jared Jenkins
Subject:	Fwd: FW: Echelon Docs
Attachments:	21-03-12 v2 Project Expectations - clean.docx; 21-03-12 v2 Project Expectations - JRJ edits.docx; 21-03-12 v2 Purchase Agreement - clean.docx; 21-03-12 v2 Purchase Agreement - JRJ edits.docx

Jim, good speaking with you earlier. Here is the last version of the purchase agreement I could find. Can we start with this document?

I guess we would ask you all to update as needed from your end and then we will do a final review.

I'm copying Jared here, and thanks to you both.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

---------- Forwarded message ---------
From: **Jared Jenkins** <jjenkins@lexingtonva.gov>
Date: Fri, Mar 12, 2021 at 1:42 PM
Subject: RE: FW: Echelon Docs
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>, Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>

Edwin,

We're fine with these. I've attached updated drafts. The redlines compare to the last publicly released version, not this morning's versions. For the lease language I changed it to "Buyer is aware of the current leases Seller has with two organizations leasing the building on the Property. Those leases are attached hereto as Exhibit B. As of the Closing Date, the Property will be unencumbered by any lease." I think that's the cleanest way to account for any possible extension of the study period. We'll attach them when we have them (prior to signing this agreement).

~~+/- 3.24 acre~~ Spotswood Drive Parcel (TM# 29-1-29, 29-1-30, 29-1-31, 29-1-31A)
PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, 2021, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.,** a Virginia corporation (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain portions of four parcels of real property totaling more than 3~~.24+-~~ acres along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as certain portions of Tax Map #s 29-1-29, 29-1-30, 29-1-31, 29-1-31A (the "Property"), subject to all the terms and conditions contained herein.

ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00) ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a non-refundable deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession (**"Property Documents"**). The **"Effective Date"** shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written communications with the Environmental Protection Agency ("EPA") or the Virginia

Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. ~~Process site plan and building permit approvals for the Project of the City prior to the sale of the Property~~.
b. Provide, at City cost, a current title report for the Property.
c. Provide, at City cost, a Phase 1 Environmental Site Assessment of the Property.
d. ~~Cooperate and support~~ Consider any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer.
e. Process an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan") and the Project, as defined in Section 5.1, below.
f. Process an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
~~f.~~g. Process any building permit approvals necessary for completion of the Project.
~~g.~~h. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional

tap privileges or requirements to extend the water and wastewater system beyond the Property by Buyer.

~~h.~~i. Provide written verification of water and wastewater utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, as described in Article V, below.

~~i.~~j. Waive any applicable utility tap or connection fees.

~~j.~~k. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

~~k.~~l. Confirm high-speed Internet service availability to the Property.

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.3.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Amend the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that is compatible with the Project; or ~~.~~ ~~R~~rezone the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and

Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post Closing.

c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.
d. Build the project as generally described in Section 5.1.
e. Commence construction on Property within three hundred sixty (360) days from the date of the Closing.
f. Complete construction of the first building of the Project within twenty-four (24) months after construction begins. Later phases to be constructed as the market dictates.

4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the purpose of comprehensively developing the Property into market-rate new construction multi-family buildings, related amenities and open space in accordance with Site Plan (the "Project").

5.2 Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations" will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.3.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed")

subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.3, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months by giving written Notice to the Seller within the original Study Period. Any further extension of the Study Period shall be by written agreement of the Buyer and Seller. The Buyer

may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.3.

6.6 Initiate Construction. Buyer will commence construction on the Property within three hundred sixty (360) days from the date of the Closing ("the Construction Period"). If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing. If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such inspections are not satisfactory to Buyer, as foresaid. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement.

6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record and existing leases. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, ~~agreements,~~ or easements of record~~, or leases~~ as of the Effective Date of this Agreement. Buyer is aware of the current leases Seller has with two organizations leasing the building on the Property. Those leases are attached hereto as Exhibit B. As of the Closing Date, the Property will be unencumbered by any lease. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this

Agreement, except for the work required of the Parties under this Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.1 and 7.3 hereof.

6.11 Intentionally Omitted

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four months of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If, for any reason, the purchase herein is not consummated, the Five Thousand Dollar ($5,000.00) non-refundable deposit shall remain the property of the seller.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties.

7.5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate, to Buyer at Closing.

7.6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are

superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.10 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.11 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.12 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.13 Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

7.14. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.15 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.16 Counterparts. This Agreement may be executed in any number of counterparts,

each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.17 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the City Manager James M. Halasz, ~~the Mayor _____,~~ as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

[SIGNATURES ON THE FOLLOWING PAGES]

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____
James M. Halasz, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2021, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____

_____
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc. Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2021, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____.

_____
Notary Public

EXHIBIT A

Spotswood Drive Parcel – Project Expectations

Bike and Pedestrian Amenities: Maximize opportunities for biking and pedestrian connections to the community through paths/walks along the street frontage, within the site and across other connecting properties with the consent of the owners of those properties. Include bike amenities on site, such as bike storage and/or parking areas.

Access Management: No more than 2 access points will be provided onto Spotswood Street, with one to align with Taylor Street if two points are provided. Additional access to Health Lane should be considered with the adjacent owner to promote cross-access. Pedestrian access should be designed to line-up across from the cemetery entrance.

Lighting Features: Provide dark sky lighting only on the site. Focus (or shield) lighting away from adjacent residential property. Use energy-efficient lighting, to include consideration of photovoltaic and/or solar-charged lighting.

Stormwater Management: Provide rain gardens and/or other bio-retention structures on-site, within the required greenspace. Consider the use of pervious pavement to minimize stormwater leaving the site. All stormwater management plans require approval of both the City and DEQ.

Site Buffers: A minimum 25 foot buffer must be maintained on the boundary adjacent to residential properties on Houston Street. Parking will not be allowed in the 10 feet directly adjacent to those properties, but will be allowed within the remaining 15 feet of the buffer. The relocation of the sanitary sewer adds an additional 5 foot buffer in these areas. These buffers must include additional ~~screening~~ fencing and/or landscaping to assure appropriate separation and screening. Existing trees in these buffer areas must be maintained. Waste disposal facilities shall be located to minimize disturbance of directly adjacent residential properties.

Landscaping and Green Spaces: The site developer is to work with the City Arborist to select landscape species best suited to the site and confer with the City Arborist when creating the landscape plan. Landscaping of the site shall, as is practical, conform to the City goals of achieving tree canopy improvements within the City. The City Arborist will review and approve these plans. Additional green spaces are encouraged within the context of the overall site design.

Support for Service Agencies: Provide additional occupancy in the Piovano Building for RARA & the Community Table for at least 12 months after the effective date of the Purchase Agreement. Coordinate relocation activities and services with RARA & the Community Table.

~~**Affordable Housing Goals:** The developer shall make reasonable resources and/or services available within 3 years of completion of the project to further City affordable housing goals.~~

Density: The maximum number of multi-family dwelling units constructed on the subject parcel shall be 90 units and the minimum no less than 75.

Housing Type: The housing constructed on-site will be market-rate, with no addition or conversion of any units to low-income housing.

Building Scale: The buildings on site shall comply with the height limitations of the zoning Ordinances in place.

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Wednesday, April 27, 2022 10:07 AM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: Lexington News Gazette - see story & editorial

Thanks for sending that Jim.

On Wed, Apr 27, 2022, 8:20 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

From: Jani Hostetter
Sent: Wednesday, April 27, 2022 8:01 AM
Subject: Fwd: Your new issue of Lexington News Gazette is available

Best,

Jani L. Hostetter

Executive Assistant, City Manager's Office

Clerk of Council

City of Lexington, VA

300 East Washington Street

Phone: (540)462-3700 | Fax: (540)463-5310

www.lexingtonva.gov |City Manager Weekly|City Council Portal

"Be a RAINBOW in someone else's cloud." –Dr. Maya Angelou

"I slept and I dreamed that life is all joy. I woke and I saw that life is all service. I served and I saw that service is joy." -Khalil Gibran

Begin forwarded message:

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Friday, April 29, 2022 2:45 PM
To: Jim Halasz
Cc: Randy Cosby
Subject: Lexington - Spotswood - Gameplan 4/29/2022

Good afternoon Jim, I hope all is well with you.

I don't have anything anything as organized as a 30/60/90 day plans but this is what we are working on right now regarding Spotswood:

1. City Purchase Contract. This needs to be finalized and executed before any additional expenditures are made. Last version draft circulated on 4/25/22. Hope to finalize this in May.

2. Mapping out the CUP process. We need to better understand the timing of the CUP process and specifically what's required in terms of design to get through the CUP process (elevations, concept plan, etc.). Emailed Arne 4/29/22. Hope to submit for this by late June.

3. Gathering design team proposals. Started asking for formal proposals 4/25/22 (architect). Hope to have the team in place by mid-May.

4. Getting geotech samples for soils analysis. Must do this to determine site soils suitability. Started asking for proposals 4/25/22 (F&R, Triad, ECS). Hope to accomplish this in May.

5. Financial. Just started reworking the financial model to adjust for latest bad news in the marketplace. This will be an ongoing task until things normalize.

6. Financial. We will start reaching out to I-81 corridor (from Winchester to Roanoke) general contractors to provide some SWAG-level pricing. This will circle back to #5, etc.

7. Utilities. We need to get a better handle as to the underground utilities out there. Didn't you mention Jeff Martone was leaving? Who is the best contact now to work with?

I hope this is helpful. If you think of other steps for us to pay attention to that aren't listed here. We would love your feedback and input as we shift our mental gears to re-focus on this terrific site again.

Thanks and have a great weekend.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
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(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

Jim Halasz

From:	Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent:	Monday, May 2, 2022 6:10 AM
To:	Arne Glaeser
Cc:	Randy Cosby; Jim Halasz
Subject:	Re: CUP Process - Lexington

Thanks Arne, this is very helpful. We will start processing all this and circle back with additional questions. Have a great week.

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On Fri, Apr 29, 2022 at 2:44 PM Arne Glaeser <aglaeser@lexingtonva.gov> wrote:

Randy,

Good afternoon and thanks to you and Edwin for your incredible patience. The Spotswood parcel is zoned Residential Light-Commercial (R-LC) and multi-family dwelling units are a conditional use in the R-LC zoning district (see attached use matrix for confirmation). Attached please also find the CUP application and note page 3 of the application provides the conditions for the issuance of a CUP.

Approval of a conditional use permit requires a public hearing by the Planning Commission for a recommendation and a public hearing by the City Council for approval. This process takes at least 2.5 months due largely to the public hearing advertising requirements and partly to the limited number of meetings held by the P.C. and C.C. each month (two meetings each month for P.C. and for C.C.).

There is no requirement to obtain a CUP for first floor residential units located in a R-LC zoning district; the CUP restriction on first floor residential units only applies to units located in the C-1 zoning district and the Spotswood parcel is not in the C-1 zoning district.

The section of the Lex Zoning Ordinance covering conditional use permits is attached and it provides little direction for the application requirements for CUP applications. In subsection C.3 of the attached Conditional Use Permits excerpt from the Lex Zoning Ordinance, the last sentence states, "the application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission

and the governing body to make the recommendation and findings set forth above." This may not be terribly helpful for your design team but it is all we have in the Zoning Ordinance. As you already know, the Lexington community is fairly involved in the review of land use applications and it is my recommendation that you provide as much design information as you are willing to commit to. The Spotswood parcel is not in a design district but the more information you can provide, and the higher level of materials you choose, will simplify your approval process.

You are correct with the multi-family parking requirement of 1.25 parking spaces for each studio & one bedroom unit, 1.5 for each two bedroom unit, and 3 for each three or more bedroom unit (see table in Sec. 420-12.8 of the Lex Zoning Ordinance).

You are mostly correct with the R-LC minimum yard setbacks with one clarification. The rear yard setback of 40 feet was reduced last year to 30 feet. The minimum front yard setback is 25 feet measured from the front property line (and not automatically from the back of sidewalk). The minimum side yard setbacks for the multi-family use are 20 feet measured from the side property lines.

Please also be aware that the Zoning Ordinance was amended last year to allow additional, limited encroachments into the setback requirements and please see subsections C.3 and C.4 of the attached Areas and Yards portion of the Lex Zoning Ordinance for the updated requirements .

The entire, updated Lex Zoning Ordinance can be found at https://www.lexingtonva.gov/home/showpublisheddocument/1554/637661131018500000.

Site plan approval does require a review and approval by the Lex Planning Commission at a public hearing. The site plan application is attached and we schedule a public hearing with the Planning Commission as soon as a submitted site plan meets Lexington requirements. Time for review and approval of a site plan depends largely on the quality of the submittal and how quickly your team can make changes based on comments from our design review team.

You likely already have a copy of the survey procured by the City from Trout Land Survey, and a copy is attached just in case.

Please stay in contact with Jim Halasz regarding the relocation of on-site sewer infrastructure if needed and please let me know if you have any further questions. We look forward to getting this long standing project underway.

Thanks,

Arne

540.462.3730

From: Randy Cosby [mailto:cosby@echelonresourcesinc.com]
Sent: Friday, April 29, 2022 12:15 PM
To: Arne Glaeser <aglaeser@lexingtonva.gov>
Cc: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Subject: CUP Process - Lexington

Hey Arne,

I hope all is well. It looks like it's time to revisit the entitlement process for the Spotswood parcel, since Council's vote last Thursday. It's our understanding we need to get a CUP to allow for multifamily since this is currently zoned R-LC. Below are some thoughts and questions to help get us started. We thank you in advance for your guidance!!

- Current Zoning is R-LC (Residential Light Commercial). A CUP is required to permit Multifamily under teh R-LC, correct?
    - Can you provide some clarity on the City's process specifically related to getting a CUP on the Spotswood parcel to allow multifamily?
    - Please confirm first floor residential is allowed with a CUP in R-LC?
    - Can you outline the timing of this process (# of meetings, etc.)?
    - What's required in terms of design to get through the CUP process (elevations, conceptual site plan, possibly renderings, etc.)? We need this clearly defined so that our design team can scope their work and price it accordingly.
- Parking Requirement: This was updated to 1.25 spaces per studio & 1-br; 1.5 spaces per 2-br; and 2 spaces per 3-br, is that correct?
- Setbacks: 25' from edge of curb to building; 20' from buildings to side property lines; 40' from building to rear property line, is that correct?
- Can you send us the latest published/approved ordinance docs (or a link to them) so that our design team can reference the correct requirements for setbacks, parking, lot requirements table, etc?
- Is public approval required for the Site Plan, or is that administrative?

Thanks,

Randy Cosby - Echelon Resources, Inc.

(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Monday, May 2, 2022 9:01 AM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: FW: Possible Sinkhole at Spotswood Site

Thanks for the heads up. That's what the geotech work is for, and we are getting bids now on that work. What a strange rumor though!

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On Mon, May 2, 2022 at 8:54 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good morning Gentlemen! Just passing this along. It sounds like a creative, last ditch effort to stop you from developing, but I certainly want you to at least be aware of what likely to be a full-fledged rumor soon. As I noted, we have no information to suggest this may be true.

From: Jim Halasz
Sent: Monday, May 2, 2022 8:51 AM
To: Charles Aligood <caligood@lexingtonva.gov>
Cc: Marylin Alexander <malexander@lexingtonva.gov>; Dennis W. Ayers <dayers@lexingtonva.gov>; David Sigler <dsigler@lexingtonva.gov>; Chuck Smith <csmith@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <ffriedman@lexingtonva.gov>
Subject: RE: Possible Sinkhole at Spotswood Site

Good morning Charles. I have not heard of this possibility, but I will mention it to Edwin. That type of an issue would be investigated during his due diligence period.

From: Charles Aligood
Sent: Monday, May 2, 2022 8:30 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Marylin Alexander <MAlexander@lexingtonva.gov>; Dennis W. Ayers <dayers@lexingtonva.gov>; David Sigler <DSigler@lexingtonva.gov>; Chuck Smith <CSmith@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>;

Frank Friedman <FFriedman@lexingtonva.gov>
Subject: Possible Sinkhole at Spotswood Site

Good morning, Jim,

Recently, a city resident contacted me to ask if the City has investigated if there is a sinkhole at the Spotswood site we are proposing to develop? I answered that I am not aware of any mention of such a possibility, but I would ask.

Regards,

Charles

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Friday, May 6, 2022 5:24 AM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: Lexington - Spotswood - Gameplan 4/29/2022

Howdy Jim, I hope you've had a good week.

The emails from Arne were very helpful regarding the CUP.

I just wanted to check in regarding the purchase contract, has Jared been able to open up that file and make any adjustments for review review?

Here are the next sequential steps from our perspective:

1. Finalize purchase contract with City
2. Engage geotech consultant to do soils testing
3. Continue to get design team candidate consultants
4. Receive prelim budget pricing from area GCs from concept plan
5. Update proforma and financial strategy based on that feedback
6. Refine the site layout, building design, unit mix, deep dive on market research, etc.
7. Prepare and submit for CUP

So please advise as to Step 1 so we can timeline out the rest of the steps. Thanks and have a great weekend.

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On Fri, Apr 29, 2022 at 2:44 PM Edwin Gaskin <gaskin@echelonresourcesinc.com> wrote:
Good afternoon Jim, I hope all is well with you.

I don't have anything anything as organized as a 30/60/90 day plans but this is what we are working on right now regarding Spotswood:

1. City Purchase Contract. This needs to be finalized and executed before any additional expenditures are made. Last version draft circulated on 4/25/22. Hope to finalize this in May.

2. Mapping out the CUP process. We need to better understand the timing of the CUP process and specifically what's required in terms of design to get through the CUP process (elevations, concept plan, etc.). Emailed Arne 4/29/22. Hope to submit for this by late June.

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Friday, May 13, 2022 12:21 PM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: Agreements

Thanks Jim. Do you have any time this afternoon for a quick call to review these proposed changes? I'm pretty flexible until 3:30pm

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On Thu, May 12, 2022 at 5:10 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

One of the larger issues I grapple with is the passage of time (I know you do as well). As I look at the language of the agreement, I see the following:

Effective Date +

Study Period 12 months

Possible Extension 6 months

Closing

Begin Construction	360 days
Finish Construction	24 months.

All told the possible completion of construction could be 4 and a half years from the Effective Date of this agreement. It is somewhat hard for me to reconcile this with what I believe a reasonable (though not necessarily knowledgeable) individual may consider a realistic timeframe for completing such a project. What can be done differently?

These changes may cause some concern, but I am truly hopeful you do not see them as such. Of course, happy to get on the phone & go over this all in detail. Again, shooting for a June 2nd introduction & public hearing, with approval July 7th.

Again, thanks for your patience & it is a pleasure working with you.

Have a great evening.

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Saturday, May 14, 2022 6:41 AM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: Agreements

Good morning Jim.

I am sending you these thoughts in advance of our Monday call so that call can be more efficient.

Project Expectations:

- Access Management. We actually want the 2nd sentence deleted entirely. We do not envision any cross-access now that the site is smaller than originally planned. We will not agree to any connectivity with private parcels unless the City secures - at their time and expense - the necessary easements.
- Support for Service Agencies: We agree to this deletion.
- Density: We agree to this edit.
- Building Scale: We reject this edit. City Council approved unanimously our concept will included a scale and massing description and visual. We will not deviate from that general design. This proposed language invites debate on an issue that has already been unanimously agreed to. Simply put, we will not continue if City leadership wishes this scale and massing issue to be an open item moving forward.
- Zoning and Site Plan Approvals. We emphatically reject this insertion and will not proceed if this is a requirement or even an expectation. We strongly disagreed with the so-called "public engagement" process the City imposed on us, as the results were disastrous and a lot of time was wasted and many ill feelings generated. Simply put, we will not continue if City leadership wants to continue in that mode.

Purchase Agreement:

- 1.1 - We agree to these edits
- 2.1 - We reject these edits. We emphatically reject any imposed correlation with the Collaborative offer, as the City rejected that offer. Also, the passage of time was the fault of the City's protracted process and that passage of time has created a massive inflation of construction costs that the project is struggling to deal with. If anything the land is worth less but we will stick by our offer...but no more.
- 3.10.d./e./f.- We agree to these edits
- 3.10.h./i. - Suggest deleting "i" entirely and replacing "h" with "Provide written verification that the water and wastewater system connections for the Property are available at the Property boundary and sufficient for the Project as described in Article V below."
- 4.4.a - Suggest deleting language and replacing it with "a. Apply for a Conditional Use Permit to allow multifamily as a permitted use under the current R-LC zoning."
- 4.4.f. - Agree to change the reference to first building to "Project" but we also need to add in a Force Majeure clause.... Prefer for City's attorney to suggest something here.
- 5.1 - We agree to these edits. Also we need to change "buildings" here to "community"
- 6.1. - We agree to these edits.
- 6.5.c. - We agree to these edits but also need to add/change "("Additional Deposit") by giving written Notice to the Seller within the original Study Period.. Additional Deposit shall be non-refundable, except in the event of Seller Default, and applicable to the Purchase Price."
- 6.6. - We agree to these edits.

- 6.8. - Open issue. We would need to see some language from Jared here to consider.
- 6.12. We emphatically reject this edit. We're not confident the City processes/approvals can be completed in 18 months, given that it took 16 months just for Council to choose us as a developer. We're almost at Month 17 and still don't have a signed PSA. Also needs to be appended to end "and Deposit shall be returned to Purchaser."
- 6.14. - Open issue.
- 7.4. - We can delete this but do not recommend doing so as the language here actually benefits the City. It essentially says Echelon isn't off the hook if we assign the contract to another entity.

Have a great weekend!

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Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

One of the larger issues I grapple with is the passage of time (I know you do as well). As I look at the language of the agreement, I see the following:

Effective Date +	
Study Period	12 months
Possible Extension	6 months
Closing	
Begin Construction	360 days

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Thursday, May 26, 2022 6:23 AM
To: Randy Cosby
Cc: Jared Jenkins; Jim Halasz
Subject: Re: Spotswood Agreements

Good morning all!

I have no additional feedback regarding the Project Expectations document.

Regarding the PSA, I agree with Randy's points and questions. I suggest that the City deliverables in 3.9 and 3.10 to be delivered within 45 days of executing the PSA.

Thanks and we are happy to jump on a cal today if needed to discuss these (hopefully last) edits. Have a great day.

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On Wed, May 25, 2022 at 9:07 PM Randy Cosby <cosby@echelonresourcesinc.com> wrote:

Jared,

Thanks for sending this over. This is looking good. I don't see any issues with the revised Project Expectations document. Below are my only outstanding comments to the revised PSA. Edwin might have another comment or two tomorrow, but it looks like we're close.

- Sec 3.9 & 3.10: Can we go ahead and agree to a timeframe by which Seller must provide these items (specifically the ALTA, Phase I, and title report) to Purchaser? Is 90 days from the Effective Date reasonable? These are typically done early in the due diligence period, prior to some of our more detailed studies, prior to filing the CUP, etc.
- Sec 6.8: Would it make the City feel better if we added language requiring the buyer to issue a "Notice to Proceed" prior to the expiration of the Study Period? If so, below is some example language from one of our other contract templates:
    - "If Purchaser, in its sole and absolute discretion, elects to proceed with the purchase of the Property, then before the expiration of the Study Period, (i) Purchaser shall deliver to Seller a written notice of Purchaser's intent to proceed (the "Notice to Proceed"). If Purchaser delivers the Notice to Proceed, Purchaser shall be deemed to have approved the condition of the Property in all respects, elected to proceed with the purchase of the Property and to waive its right to terminate this Agreement, except as otherwise expressly provided in this Agreement. If Purchaser fails to provide a Notice to Proceed prior to the expiration of the Study Period,

Purchaser shall be deemed to have disapproved of the condition of the Property in all respects and to have elected not to proceed with the purchase of the Property, this Agreement shall terminate, the Deposit shall be delivered to Purchaser and the parties hereto shall have no further obligations hereunder."

- Sec 6.14: Am I understanding correctly that the deposit is non-refundable immediately? I think our intent was to have it refundable until the expiration of the Study Period.

Thanks,

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Wed, May 25, 2022 at 7:29 AM Jared Jenkins <jjenkins@lexingtonva.gov> wrote:

Edwin, Randy,

I've attached new versions of the two Spotswood documents, the agreement and the expectations. They are intended to address the issues raised below.

Please review and let us know if you have any questions or concerns.

Thanks,

Jared

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Saturday, May 14, 2022 6:41 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>
Subject: Re: Agreements

Good morning Jim.

I am sending you these thoughts in advance of our Monday call so that call can be more efficient.

Project Expectations:

- Access Management. We actually want the 2nd sentence deleted entirely. We do not envision any cross-access now that the site is smaller than originally planned. We will not agree to any connectivity with private parcels unless the City secures - at their time and expense - the necessary easements.
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- Zoning and Site Plan Approvals. We emphatically reject this insertion and will not proceed if this is a requirement or even an expectation. We strongly disagreed with the so-called "public engagement" process the City imposed on us, as the results were disastrous and a lot of time was wasted and many ill feelings generated. Simply put, we will not continue if City leadership wants to continue in that mode.

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- 4.4.f. - Agree to change the reference to first building to "Project" but we also need to add in a Force Majeure clause.... Prefer for City's attorney to suggest something here.
- 5.1 - We agree to these edits. Also we need to change "buildings" here to "community"
- 6.1. - We agree to these edits.
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- 6.12. We emphatically reject this edit. We're not confident the City processes/approvals can be completed in 18 months, given that it took 16 months just for Council to choose us as a developer. We're almost at Month 17 and still don't have a signed PSA. Also needs to be appended to end "and Deposit shall be returned to Purchaser."

- 6.14. - Open issue.
- 7.4. - We can delete this but do not recommend doing so as the language here actually benefits the City. It essentially says Echelon isn't off the hook if we assign the contract to another entity.

Have a great weekend!

Edwin Gaskin - Echelon Resources, Inc.

700 Watkins Avenue, #100

South Boston, Virginia 24592

(804) 767-5990

gaskin@echelonresourcesinc.com

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On Thu, May 12, 2022 at 5:10 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

One of the larger issues I grapple with is the passage of time (I know you do as well). As I look at the language of the agreement, I see the following:

Effective Date +

Study Period 12 months

Possible Extension 6 months

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Friday, May 27, 2022 6:46 AM
To: Randy Cosby
Cc: Jim Halasz; Jared Jenkins
Subject: Re: Spotswood Agreements

I'm good to go, this final version looks great! Thanks for making those edits. See you all on 6/2 at 7pm! thanks.

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gaskin@echelonresourcesinc.com
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On Fri, May 27, 2022 at 6:15 AM Randy Cosby <cosby@echelonresourcesinc.com> wrote:
Jared - thank you for the clean up, those were helpful edits. I'm good with this as a final document. Let's give Edwin a day or so to confirm as well.

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Thu, May 26, 2022 at 4:59 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Thanks Jared.

Randy/Edwin – look fine to you?

From: Jared Jenkins
Sent: Thursday, May 26, 2022 4:50 PM
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>; Randy Cosby <cosby@echelonresourcesinc.com>

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Friday, May 27, 2022 2:08 PM
To: Jim Halasz
Cc: Randy Cosby
Subject: Re: June 2nd Briefing

Thanks Jim.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
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gaskin@echelonresourcesinc.com
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On Fri, May 27, 2022 at 12:27 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Hi Randy. Note the following.

From: Randy Cosby [mailto:cosby@echelonresourcesinc.com]
Sent: Friday, May 27, 2022 9:38 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Subject: Re: June 2nd Briefing

Jim - thanks for sending us this draft. Edwin and I reviewed and our comments/questions are below. We're not planning to provide any presentation at this meeting, but we're happy to field any questions that Council may have. Respectfully, we're struggling to grasp why the recommendation is to delay the vote yet another month. The proposal was submitted 17 months ago, and by July it'll be 18 months. I think it's to all of our benefit to either focus on moving this forward or put it back on the shelf if the City isn't confidently and excitedly helping this important project come to fruition.

- Will you all be distributing the draft Purchase Agreement to Council in advance of the meeting so they have ample time to review prior to next Thursday? Yes
- Page 2 - 3rd Paragraph: In the last sentence please add "unanimously" before the word "approved". Added it
- Page 3 - 1st Paragraph: We urge you to add a sentence at the end of this paragraph to the effect of ...."However, the developer's position regarding the size, scale and massing of the buildings has been presented multiple times to the public and City Council over the last 17 months and the developer

considers this approval an endorsement of that conceptual project design." Note final full paragraph on p. 2

- Page 3 - 2nd Paragraph: Recommend deleting the 3rd to last word ("agreement"), so that the sentence reads "...will the purchase be finalized." Had already added sale per Jared.
- Page 3 - 4th Paragraph: I'm not sure that a presentation is appropriate given this meeting is limited to the review/approval of the purchase contract. Perhaps we can tweak that sentence to offer that Edwin & Randy are "here to answer any questions that council may have, prior to entering into the Purchase Agreement and beginning their pre-development activities" or something similar Done.
- Page 3 - Last Paragraph: In the last sentence consider replacing "disposition" with "execution" of the agreement. Council will not execute the agreement – I do when I sign.

Will you kindly send us a copy of the final/revised briefing once you have it ready this afternoon?

Thank you

Randy Cosby - Echelon Resources, Inc.

(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Fri, May 27, 2022 at 8:21 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good morning Edwin/Randy. I wanted to share with you my draft briefing for the June 2nd meeting.

I did not attempt to get exact dates of the chronology leading to where we are today, but if you would like to provide more specific details, please feel free to. I also have not presented specifics of the agreement, but may do so during the meeting next week. Again, please feel free to correct or comment upon the general outline of the agreement and the future steps that are outlined herein.

I have already created a briefing that is fairly extensive and would prefer it does not get too much longer, but feel free to comment as much as may be necessary & I may be able to incorporate some of what you provide or make helpful edits.

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Tuesday, May 31, 2022 9:11 AM
To: Jim Halasz
Cc: Randy Cosby; Frank Friedman; Jared Jenkins; Arne Glaeser; Jani Hostetter
Subject: Re: FW: Echelon Contract

That makes sense to us, kindly edit and send us the final version. Thanks.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Tue, May 31, 2022 at 9:06 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good morning Edwin/Randy. We just picked up a little area that needs revision in the Project Expectations. In Access Management, the phrase dealing with one point of access lined up with Taylor Street is no longer relevant, as that would be across from the Piovano Builindg & thus would not work for the parcel now in play (see revised expectations).

From: Arne Glaeser
Sent: Tuesday, May 31, 2022 8:17 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>
Subject: RE: Echelon Contract

Leslie,

If I remember correctly, only the proposal with townhouses needs correction because each "townhouse shall front on, or be accessed by, a public street." I will add this to the zoning hot file for the next annual review.

Echelon simply needs to decide if they prefer to submit for a conditional use permit for multifamily dwellings or to rezone to R-M (Residential Multifamily).

Please let me know if you have any further questions.

Thanks,

Arne

462.3730

From: Jim Halasz
Sent: Tuesday, May 31, 2022 7:53 AM
To: Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>
Subject: RE: Echelon Contract

Thanks Leslie. Good catch. I will let Mr. Gaskin know about access & rely on Arne for answer to your 2nd point.

From: Leslie Straughan
Sent: Tuesday, May 31, 2022 6:51 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>
Subject: Echelon Contract

Hi,

The Echelon contract looks good. One minor item that is left over from the original 3 acres design – on the last page Exhibit A under "Access Management," the phrase "with one to align with Taylor Street if two points are provided" should be removed because the site no longer extends to Taylor Street.

Also, my recollection is that regardless of which developer was chosen, we need to amend our zoning ordinance regarding street frontage (?) I think or some other criteria. Is that still the case and on the Planning Commission agenda?

Thank you,

Leslie

Sent from Mail for Windows

Jim Halasz

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Tuesday, May 31, 2022 1:21 PM
To: Jim Halasz
Cc: Randy Cosby; Frank Friedman; Jared Jenkins; Arne Glaeser; Jani Hostetter
Subject: Re: FW: Echelon Contract

Thanks.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Tue, May 31, 2022 at 9:32 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

FYI, Taylor Street language removed from Access Management.

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Tuesday, May 31, 2022 9:11 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>; Frank Friedman <FFriedman@lexingtonva.gov>; Jared Jenkins <jjenkins@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>; Jani Hostetter <jhostetter@lexingtonva.gov>
Subject: Re: FW: Echelon Contract

That makes sense to us, kindly edit and send us the final version. Thanks.

Edwin Gaskin - Echelon Resources, Inc.

700 Watkins Avenue, #100

South Boston, Virginia 24592

(804) 767-5990

gaskin@echelonresourcesinc.com

Jim Halasz

From: Randy Cosby <cosby@echelonresourcesinc.com>
Sent: Wednesday, May 25, 2022 9:07 PM
To: Jared Jenkins
Cc: Edwin Gaskin; Jim Halasz
Subject: Re: Spotswood Agreements

Jared,

Thanks for sending this over. This is looking good. I don't see any issues with the revised Project Expectations document. Below are my only outstanding comments to the revised PSA. Edwin might have another comment or two tomorrow, but it looks like we're close.

- Sec 3.9 & 3.10: Can we go ahead and agree to a timeframe by which Seller must provide these items (specifically the ALTA, Phase I, and title report) to Purchaser? Is 90 days from the Effective Date reasonable? These are typically done early in the due diligence period, prior to some of our more detailed studies, prior to filing the CUP, etc.
- Sec 6.8: Would it make the City feel better if we added language requiring the buyer to issue a "Notice to Proceed" prior to the expiration of the Study Period? If so, below is some example language from one of our other contract templates:
    - "If Purchaser, in its sole and absolute discretion, elects to proceed with the purchase of the Property, then before the expiration of the Study Period, (i) Purchaser shall deliver to Seller a written notice of Purchaser's intent to proceed (the "Notice to Proceed"). If Purchaser delivers the Notice to Proceed, Purchaser shall be deemed to have approved the condition of the Property in all respects, elected to proceed with the purchase of the Property and to waive its right to terminate this Agreement, except as otherwise expressly provided in this Agreement. If Purchaser fails to provide a Notice to Proceed prior to the expiration of the Study Period, Purchaser shall be deemed to have disapproved of the condition of the Property in all respects and to have elected not to proceed with the purchase of the Property, this Agreement shall terminate, the Deposit shall be delivered to Purchaser and the parties hereto shall have no further obligations hereunder."
- Sec 6.14: Am I understanding correctly that the deposit is non-refundable immediately? I think our intent was to have it refundable until the expiration of the Study Period.

Thanks,

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Wed, May 25, 2022 at 7:29 AM Jared Jenkins <jjenkins@lexingtonva.gov> wrote:

Edwin, Randy,

Jim Halasz

From: Randy Cosby <cosby@echelonresourcesinc.com>
Sent: Friday, May 27, 2022 6:15 AM
To: Jim Halasz
Cc: Jared Jenkins; Edwin Gaskin
Subject: Re: Spotswood Agreements

Jared - thank you for the clean up, those were helpful edits. I'm good with this as a final document. Let's give Edwin a day or so to confirm as well.

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Thu, May 26, 2022 at 4:59 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Thanks Jared.

Randy/Edwin – look fine to you?

From: Jared Jenkins
Sent: Thursday, May 26, 2022 4:50 PM
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>; Randy Cosby <cosby@echelonresourcesinc.com>
Cc: Jim Halasz <jhalasz@lexingtonva.gov>
Subject: RE: Spotswood Agreements

Edwin, Randy,

I have added the 45-day provision and made the deposit refundable through the Study Period.

I added the Notice to Proceed language as 6.7. Thanks for sending that along.

Jim Halasz

From: Randy Cosby <cosby@echelonresourcesinc.com>
Sent: Friday, May 27, 2022 9:38 AM
To: Jim Halasz
Cc: Edwin Gaskin
Subject: Re: June 2nd Briefing

Jim - thanks for sending us this draft. Edwin and I reviewed and our comments/questions are below. We're not planning to provide any presentation at this meeting, but we're happy to field any questions that Council may have. Respectfully, we're struggling to grasp why the recommendation is to delay the vote yet another month. The proposal was submitted 17 months ago, and by July it'll be 18 months. I think it's to all of our benefit to either focus on moving this forward or put it back on the shelf if the City isn't confidently and excitedly helping this important project come to fruition.

- Will you all be distributing the draft Purchase Agreement to Council in advance of the meeting so they have ample time to review prior to next Thursday?
- Page 2 - 3rd Paragraph: In the last sentence please add "unanimously" before the word "approved".
- Page 3 - 1st Paragraph: We urge you to add a sentence at the end of this paragraph to the effect of ...."However, the developer's position regarding the size, scale and massing of the buildings has been presented multiple times to the public and City Council over the last 17 months and the developer considers this approval an endorsement of that conceptual project design."
- Page 3 - 2nd Paragraph: Recommend deleting the 3rd to last word ("agreement"), so that the sentence reads "...will the purchase be finalized."
- Page 3 - 4th Paragraph: I'm not sure that a presentation is appropriate given this meeting is limited to the review/approval of the purchase contract. Perhaps we can tweak that sentence to offer that Edwin & Randy are "here to answer any questions that council may have, prior to entering into the Purchase Agreement and beginning their pre-development activities" or something similar.
- Page 3 - Last Paragraph: In the last sentence consider replacing "disposition" with "execution" of the agreement.

Will you kindly send us a copy of the final/revised briefing once you have it ready this afternoon?

Thank you

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Fri, May 27, 2022 at 8:21 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good morning Edwin/Randy. I wanted to share with you my draft briefing for the June 2nd meeting.

Jim Halasz

From: Randy Cosby <cosby@echelonresourcesinc.com>
Sent: Saturday, May 28, 2022 6:50 AM
To: Edwin Gaskin
Cc: Jim Halasz
Subject: Re: June 2nd Briefing

Jim - thanks for making those updates. Have a great weekend

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Fri, May 27, 2022 at 2:08 PM Edwin Gaskin <gaskin@echelonresourcesinc.com> wrote:
Thanks Jim.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Fri, May 27, 2022 at 12:27 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Hi Randy. Note the following.

From: Randy Cosby [mailto:cosby@echelonresourcesinc.com]
Sent: Friday, May 27, 2022 9:38 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Subject: Re: June 2nd Briefing

Jim - thanks for sending us this draft. Edwin and I reviewed and our comments/questions are below. We're not planning to provide any presentation at this meeting, but we're happy to field any questions that Council may have. Respectfully, we're struggling to grasp why the recommendation is to delay the vote yet another month. The proposal was submitted 17 months ago, and by July it'll be 18 months. I think it's to all of our benefit to

Jim Halasz

From: Jared Jenkins
Sent: Wednesday, May 25, 2022 7:29 AM
To: Edwin Gaskin; Randy Cosby
Cc: Jim Halasz
Subject: Spotswood Agreements
Attachments: 22-5-20 Purchase Agreement - JRJ edits.docx; 22-5-20 Purchase Agreement - JRJ clean.docx; 22-5-20 Project Expectations - JRJ clean.docx; 22-5-20 Project Expectations - JRJ edits.docx

Importance: High

Edwin, Randy,

I've attached new versions of the two Spotswood documents, the agreement and the expectations. They are intended to address the issues raised below.

Please review and let us know if you have any questions or concerns.

Thanks,
Jared

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Saturday, May 14, 2022 6:41 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>
Subject: Re: Agreements

Good morning Jim.

I am sending you these thoughts in advance of our Monday call so that call can be more efficient.

Project Expectations:

- Access Management. We actually want the 2nd sentence deleted entirely. We do not envision any cross-access now that the site is smaller than originally planned. We will not agree to any connectivity with private parcels unless the City secures - at their time and expense - the necessary easements.
- Support for Service Agencies: We agree to this deletion.
- Density: We agree to this edit.
- Building Scale: We reject this edit. City Council approved unanimously our concept will included a scale and massing description and visual. We will not deviate from that general design. This proposed language invites debate on an issue that has already been unanimously agreed to. Simply put, we will not continue if City leadership wishes this scale and massing issue to be an open item moving forward.
- Zoning and Site Plan Approvals. We emphatically reject this insertion and will not proceed if this is a requirement or even an expectation. We strongly disagreed with the so-called "public engagement" process the City imposed on us, as the results were disastrous and a lot of time was wasted and many ill feelings generated. Simply put, we will not continue if City leadership wants to continue in that mode.

Purchase Agreement:

- 1.1 - We agree to these edits
- 2.1 - We reject these edits. We emphatically reject any imposed correlation with the Collaborative offer, as the City rejected that offer. Also, the passage of time was the fault of the City's protracted process and that passage of time has created a massive inflation of construction costs that the project is struggling to deal with. If anything the land is worth less but we will stick by our offer...but no more.
- 3.10.d./e./f.- We agree to these edits
- 3.10.h./i. - Suggest deleting "i" entirely and replacing "h" with "Provide written verification that the water and wastewater system connections for the Property are available at the Property boundary and sufficient for the Project as described in Article V below."
- 4.4.a - Suggest deleting language and replacing it with "a. Apply for a Conditional Use Permit to allow multifamily as a permitted use under the current R-LC zoning."
- 4.4.f. - Agree to change the reference to first building to "Project" but we also need to add in a Force Majeure clause.... Prefer for City's attorney to suggest something here.
- 5.1 - We agree to these edits. Also we need to change "buildings" here to "community"
- 6.1. - We agree to these edits.
- 6.5.c. - We agree to these edits but also need to add/change "("Additional Deposit") by giving written Notice to the Seller within the original Study Period.. Additional Deposit shall be non-refundable, except in the event of Seller Default, and applicable to the Purchase Price."
- 6.6. - We agree to these edits.
- 6.8. - Open issue. We would need to see some language from Jared here to consider.
- 6.12. We emphatically reject this edit. We're not confident the City processes/approvals can be completed in 18 months, given that it took 16 months just for Council to choose us as a developer. We're almost at Month 17 and still don't have a signed PSA. Also needs to be appended to end "and Deposit shall be returned to Purchaser."
- 6.14. - Open issue.
- 7.4. - We can delete this but do not recommend doing so as the language here actually benefits the City. It essentially says Echelon isn't off the hook if we assign the contract to another entity.

Have a great weekend!

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Thu, May 12, 2022 at 5:10 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

Spotswood Drive Parcel (TM# ~~29-1-29, 29-1-30,~~ 29-1-31, ~~29-1-31A~~)
PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, 2022, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.**, a Virginia corporation (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain portions of four parcels of real property totaling more than ~~3~~ 2.365 acres~~-~~ along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as certain portions of Tax Map ~~#s~~ ~~29-1-29, 29-1-30,~~ 29-1-31, ~~29-1-31A~~ (the "Property"), subject to all the terms and conditions contained herein.

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ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00 ~~like $375,000 – shows a bit of compromise re the Collaborative offer & the recognition of property values have increased significantly)~~ ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a ~~non-refundable~~ deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession ("Property Documents"). The "Effective Date" shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written

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communications with the Environmental Protection Agency ("EPA") or the Virginia Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

~~a.~~ :

~~b.~~a. Provide, at City cost, a current title report for the Property.

~~c.~~b. Provide, at City cost, a Phase 1 Environmental Site Assessment of the Property.

~~d.~~c. Fully ~~C~~consider any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer.

~~e.~~d. ~~Process~~ Fully consider an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan") and the Project, as defined in Section 5.1, below.

~~f.~~e. ~~Process~~ Fully consider an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).

~~g.~~f. Process any building permit approvals necessary for completion of the Project.

~~h. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional~~

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~~tap privileges I know what is intended, but is there some better language? or requirements to extend the water and wastewater system beyond the Property by Buyer.~~

~~i.~~g. Provide written verification ~~of~~ that the water and wastewater system connections for the Property are available at the Property boundary and sufficient for the Project ~~utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, this does not seem useful, as above let's discuss~~ as described in Article V, below.

~~j.~~h. Waive any applicable utility tap or connection fees.

~~k.~~i. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

~~l.~~j. Confirm high-speed Internet service availability to the Property.

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3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.4~~3~~.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Apply ~~to Aamend (buyer does not actually amend) the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that is compatible with the Project; or rezone the Property to a zoning district or districts compatible with the~~

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~~Project (as defined in Section 5.1, below).~~ for a Conditional Use Permit to allow multifamily as a permitted use under the current R-LC zoning.

b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.

d. Build the project as generally described in Section 5.1.

~~e.~~ Commence construction on Property within three hundred sixty (360) days from the date of the Closing.

~~e.~~ Complete construction ~~of the first building (change? No longer two buildings?)~~ of the Project within twenty-four (24) months after construction begins. ~~Later phases to be constructed as the market dictates.~~

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4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the purpose of comprehensively developing the Property into a market-rate new construction multi-family ~~buildings~~community, related amenities, and open space in accordance with the approved Site Plan (the "Project").

5.2 Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations" will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

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ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. ~~prefer to delete this section~~. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.~~3~~4.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.~~4~~3, or Buyer may accept the defects, exceptions or other matters.

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6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months for an additional $5,000 ~~non-refundable deposit~~ deposit ("Additional Deposit") by giving written Notice to the Seller within the original Study Period. Any further extension of the Study Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.4~~3~~.

6.6 Initiate Construction. Buyer will commence construction on the Property within three hundred sixty (360) days from the date of the Closing ("the Construction Period"). ~~If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing (prefer to delete this section).~~ If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

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6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such

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inspections are not satisfactory to Buyer~~, as foresaid~~. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. ~~If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement. (Not sure I want to see a sale if the buyer intended to terminate but did not give adequate notice. Prefer to keep the property, as opposed to having the buyer hold it for years into the future).~~

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6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record~~ and existing leases~~. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, or easements of record as of the Effective Date of this Agreement. ~~Buyer is aware of the current leases Seller has with two organizations leasing the building on the Property. Those leases are attached hereto as Exhibit B. As of the Closing Date, the Property will be unencumbered by any lease.~~ This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this Agreement, except for the work required of the Parties under this Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.~~1~~4 and 7.~~3~~3 hereof.

6.11 Intentionally Omitted

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four (24) months ~~18 months (study period with an extension is only 18 months)~~ of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

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6.14 Nature of Deposit. If the purchase herein is not consummated, for any reason other than a default by the Seller, ~~the purchase herein is not consummated,~~ the Deposit (and Additional Deposit, if made), ~~Five Thousand Dollar ($5,000.00) non-refundable deposit~~ shall remain the property of the seller~~, as shall the additional $5,000 deposit to extend the study period.~~... If the purchase proceeds as agreed, the Deposit and Additional Deposit shall be applied to the Purchase Price at Closing.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Force Majeure. The Parties hereto are relieved of any liability if unable to meet the terms and conditions of this Agreement due to any "Act of God", riots, epidemics, pandemics, strikes, or any act or order which is beyond the control of the Party not in compliance; provided that it takes all reasonable steps practical and necessary to effect prompt resumption of its responsibilities hereunder.

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7.~~3~~4 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.~~5~~4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties. ~~(Not sure of my comfort with this. Successors, heirs, etc. are really going to all satisfactorily perform?)~~

7.~~6~~5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate, to Buyer at Closing.

7.~~7~~6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.~~8~~7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.~~9~~8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.~~10~~9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this

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Agreement or the transactions contemplated herein.

7.110 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.124 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.132 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.14 3 Governing Law and Choice of Forum and Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles. The parties irrevocably submit to the jurisdiction and venue of the Circuit Court of Rockbridge County, Virginia in any action or proceeding arising out of, or relating to, this Agreement. Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

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7.154. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.165 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.176 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.187 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the

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validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the City Manager James M. Halasz, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

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[SIGNATURES ON THE FOLLOWING PAGES]

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SELLER:

CITY OF LEXINGTON, VIRGINIA

By:_____ _____
James M. Halasz, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2022~~1~~, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2022~~1~~.

My commission expires: _____

_____
Notary Public

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BUYER:

_____

By:_____ _____
Edwin Gaskin, President – Echelon Resources, Inc. Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2024, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2024.

My commission expires: _____.

_____
Notary Public

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EXHIBIT A

Spotswood Drive Parcel – Project Expectations

Bike and Pedestrian Amenities: Maximize opportunities for biking and pedestrian connections to the community through paths/walks along the street frontage, within the site and across other connecting properties with the consent of the owners of those properties. Include bike amenities on site, such as bike storage and/or parking areas.

Access Management: No more than 2 access points will be provided onto Spotswood Street, with one to align with Taylor Street if two points are provided. ~~Additional access to Health Lane should be considered with the adjacent owner to promote cross-access, as is also true of the RARA site.~~ Pedestrian access should be designed to line-up across from the cemetery entrance.

Lighting Features: Provide dark sky lighting only on the site. Focus (or shield) lighting away from adjacent residential property. Use energy-efficient lighting, to include consideration of photovoltaic and/or solar-charged lighting.

Stormwater Management: Provide rain gardens and/or other bio-retention structures on-site, within the required greenspace. Consider the use of pervious pavement to minimize stormwater leaving the site. All stormwater management plans require approval of both the City and DEQ.

Site Buffers: A minimum 25 foot buffer must be maintained on the boundary adjacent to residential properties on Houston Street. Parking will not be allowed in the 10 feet directly adjacent to those properties, but will be allowed within the remaining 15 feet of the buffer. The relocation of the sanitary sewer adds an additional 5 foot buffer in these areas. These buffers must include additional ~~screening~~ fencing and/or landscaping to assure appropriate separation and screening. Existing trees in these buffer areas must be maintained. Waste disposal facilities shall be located to minimize disturbance of directly adjacent residential properties.

Landscaping and Green Spaces: The site developer is to work with the City Arborist to select landscape species best suited to the site and confer with the City Arborist when creating the landscape plan. Landscaping of the site shall, as is practical, conform to the City goals of achieving tree canopy improvements within the City. The City Arborist will review and approve these plans. Additional green spaces are encouraged within the context of the overall site design.

~~**Support for Service Agencies:** Provide additional occupancy in the Piovano Building for RARA & the Community Table for at least 12 months after the effective date of the Purchase Agreement. Coordinate relocation activities and services with RARA & the Community Table.~~

Density: The maximum number of multi-family dwelling units constructed on the subject parcel shall be 65 ~~90~~ units. ~~and the minimum no less than 75.~~

Housing Type: The housing constructed on-site will be market-rate, rental housing with no addition or conversion of any units to low-income housing.

Building Scale: The buildings on site shall comply with the height limitations of the zoning Ordinances in place. ~~and the scale and massing of the building(s) shall to the greatest extent possible reflect the surrounding natural and man made topography.~~

~~Zoning and Site Plan Approvals: To the greatest extent possible, zoning and site plan actions and approvals shall be evaluated with the intent that the approvals shall closely align with the general desire of community residents to assure that the developed site reflects the character of the community.~~

Jim Halasz

From: Jared Jenkins
Sent: Thursday, May 26, 2022 4:50 PM
To: Edwin Gaskin; Randy Cosby
Cc: Jim Halasz
Subject: RE: Spotswood Agreements
Attachments: 22-5-26 Purchase Agreement - final draft edits.docx; 22-5-26 Purchase Agreement - final draft clean.docx

Edwin, Randy,

I have added the 45-day provision and made the deposit refundable through the Study Period.

I added the Notice to Proceed language as 6.7. Thanks for sending that along.

I cleaned up a few things for consistency but didn't intend to make any further substantive changes.

If you have any questions, please let me know.

Jared

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Thursday, May 26, 2022 6:23 AM
To: Randy Cosby <cosby@echelonresourcesinc.com>
Cc: Jared Jenkins <jjenkins@lexingtonva.gov>; Jim Halasz <jhalasz@lexingtonva.gov>
Subject: Re: Spotswood Agreements

Good morning all!

I have no additional feedback regarding the Project Expectations document.

Regarding the PSA, I agree with Randy's points and questions. I suggest that the City deliverables in 3.9 and 3.10 to be delivered within 45 days of executing the PSA.

Thanks and we are happy to jump on a cal today if needed to discuss these (hopefully last) edits. Have a great day.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Wed, May 25, 2022 at 9:07 PM Randy Cosby <cosby@echelonresourcesinc.com> wrote:

Spotswood Drive Parcel (TM# 29-1-31)
PURCHASE, SALE, AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE, AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of July, 2022, between the **CITY OF LEXINGTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the "**Seller**"), and **ECHELON RESOURCES, INC.**, a Virginia domestic corporation (the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase a certain parcel of real property totaling 2.365 acres, more or less, along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as Tax Map # 29-1-31, (the "Property"), subject to all the terms and conditions contained herein.

ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00) (the "Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession (the "Property Documents"). The "Effective Date" shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written communications with the Environmental Protection Agency ("EPA") or the Virginia

Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 - 3.6 Intentionally Omitted.

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide Reports. Within Forty-five (45) days of the Effective Date of this Agreement, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements; a current title report for the Property; and a Phase 1 Environmental Site Assessment of the Property.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. Fully consider any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer.
b. Fully consider an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan").
c. Fully consider an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
d. Process any building permit approvals necessary for completion of the Project.
e. Provide written verification that the water and wastewater system connections for the Property are available at the Property boundary and sufficient for the Project.
f. Waive any applicable utility tap or connection fees.
g. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally

between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

h. Confirm high-speed Internet service availability to the Property.

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.4.

4.2 Authority. Buyer has full power, authorization, and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Apply for a Conditional Use Permit to allow multifamily as a permitted use under the current R-LC zoning.
b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.
c. Purchase the Property from the Seller, subject to the terms herein.
d. Build the Project (as defined in Section 5.1, below).
e. Commence construction on Project within twelve months (12) months from the date of the Closing.
f. Complete construction of the Project within twenty-four (24) months after construction begins.

4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or

constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the purpose of comprehensively developing the Property into a market-rate new construction multi-family community, related amenities, and open space in accordance with the Site Plan (the "Project").

5.2 Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations" will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession (the "Closing") shall take place no later than thirty (30) days after the expiration of the Study Period defined below (the "Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, if the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.4.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed (the "Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date (the "Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title

defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.4, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months for an additional $5,000 deposit ("Additional Deposit") by giving written Notice to the Seller within the original Study Period. Any further extension of the Study Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.4.

6.6 Initiate Construction. Buyer will commence construction on the Property within twelve (12) months from the Closing Date (the "Construction Period"). If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid

by Buyer to Seller (the "Repurchase Option"). For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

6.7 Notice to Proceed. If Buyer, in its sole and absolute discretion, elects to proceed with the purchase of the Property, then before the expiration of the Study Period, (i) Buyer shall deliver to Seller a written notice of Buyer's intent to proceed (the "Notice to Proceed"). If Buyer delivers the Notice to Proceed, Buyer shall be deemed to have approved the condition of the Property in all respects, elected to proceed with the Closing and to waive its right to terminate this Agreement, except as otherwise expressly provided in this Agreement. If Buyer fails to provide a Notice to Proceed prior to the expiration of the Study Period, Buyer shall be deemed to have disapproved of the condition of the Property in all respects and to have elected not to proceed with the Closing, this Agreement shall terminate, the Deposit (and Additional Deposit, if made) shall be delivered to Buyer and the Parties hereto shall have no further obligations hereunder except as provided in Section 7.4.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period if the results of such inspections are not satisfactory to Buyer. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement.

6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, or easements of record as of the Effective Date of this Agreement. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the Effective Date, except for the work required of the Parties under this Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the

Property, except for claims arising due to the Buyer's obligations under Section 4.4 and 7.4 hereof.

6.11 Intentionally Omitted.

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four (24) months of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, Phase 1 Environmental Site Assessment, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If this Agreement is terminated prior to the end of the Study Period, the Deposit (and Additional Deposit, if made) shall be refunded to the Buyer. If there is no Closing thereafter, for any reason other than a default by the Seller, the Deposit (and Additional Deposit, if made), shall remain the property of the Seller. If Closing proceeds as agreed, the Deposit and Additional Deposit shall be applied to the Purchase Price at Closing.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 7.4.

7.3 Force Majeure. The Parties hereto are relieved of any liability if unable to meet the terms and conditions of this Agreement due to any "Act of God", riots, epidemics, pandemics, strikes, or any act or order which is beyond the control of the Party not in compliance; provided that it takes all reasonable steps practical and necessary to effect prompt resumption of its responsibilities hereunder.

7.4 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.5 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties.

7.6 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited, or assigned, as appropriate, to Buyer at Closing.

7.7 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.8 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations, and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.9 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. If this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.10 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.11 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.12 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.13 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof.

7.14 Governing Law and Choice of Forum and Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles. The parties irrevocably submit to the jurisdiction and venue of the Circuit Court of Rockbridge County, Virginia in any action or proceeding arising out of, or relating to, this Agreement.

7.15. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.16 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been

prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.17 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.18 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the City Manager, James M. Halasz, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____

James M. Halasz, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2022, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2022.

My commission expires: _____

_____*[SEAL]*
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc. Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2022, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2022.

My commission expires: _____.

_____*[SEAL]*
Notary Public

Jim Halasz

From: Arne Glaeser
Sent: Friday, April 29, 2022 2:44 PM
To: Randy Cosby
Cc: Edwin Gaskin; Jim Halasz
Subject: RE: CUP Process - Lexington
Attachments: Use Matrix Article III (amended 7-1-21).pdf; CUP Application 2018 Lexington, VA.pdf; Conditional Use Permits.docx; Lot Requirements table §420-4.6.docx; Areas and Yards.docx; Site Plan Application Lexington, VA.pdf; City1554-1 8.20.2021.pdf

Randy,
Good afternoon and thanks to you and Edwin for your incredible patience. The Spotswood parcel is zoned Residential Light-Commercial (R-LC) and multi-family dwelling units are a conditional use in the R-LC zoning district (see attached use matrix for confirmation). Attached please also find the CUP application and note page 3 of the application provides the conditions for the issuance of a CUP.

Approval of a conditional use permit requires a public hearing by the Planning Commission for a recommendation and a public hearing by the City Council for approval. This process takes at least 2.5 months due largely to the public hearing advertising requirements and partly to the limited number of meetings held by the P.C. and C.C. each month (two meetings each month for P.C. and for C.C.).

There is no requirement to obtain a CUP for first floor residential units located in a R-LC zoning district; the CUP restriction on first floor residential units only applies to units located in the C-1 zoning district and the Spotswood parcel is not in the C-1 zoning district.

The section of the Lex Zoning Ordinance covering conditional use permits is attached and it provides little direction for the application requirements for CUP applications. In subsection C.3 of the attached Conditional Use Permits excerpt from the Lex Zoning Ordinance, the last sentence states, "the application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above." This may not be terribly helpful for your design team but it is all we have in the Zoning Ordinance. As you already know, the Lexington community is fairly involved in the review of land use applications and it is my recommendation that you provide as much design information as you are willing to commit to. The Spotswood parcel is not in a design district but the more information you can provide, and the higher level of materials you choose, will simplify your approval process.

You are correct with the multi-family parking requirement of 1.25 parking spaces for each studio & one bedroom unit, 1.5 for each two bedroom unit, and 3 for each three or more bedroom unit (see table in Sec. 420-12.8 of the Lex Zoning Ordinance).

You are mostly correct with the R-LC minimum yard setbacks with one clarification. The rear yard setback of 40 feet was reduced last year to 30 feet. The minimum front yard setback is 25 feet measured from the front property line (and not automatically from the back of sidewalk). The minimum side yard setbacks for the multi-family use are 20 feet measured from the side property lines.

Please also be aware that the Zoning Ordinance was amended last year to allow additional, limited encroachments into the setback requirements and please see subsections C.3 and C.4 of the attached Areas and Yards portion of the Lex Zoning Ordinance for the updated requirements .

The entire, updated Lex Zoning Ordinance can be found at https://www.lexingtonva.gov/home/showpublisheddocument/1554/637661131018500000.

Site plan approval does require a review and approval by the Lex Planning Commission at a public hearing. The site plan application is attached and we schedule a public hearing with the Planning Commission as soon as a submitted site plan meets Lexington requirements. Time for review and approval of a site plan depends largely on the quality of the submittal and how quickly your team can make changes based on comments from our design review team.

You likely already have a copy of the survey procured by the City from Trout Land Survey, and a copy is attached just in case.

Please stay in contact with Jim Halasz regarding the relocation of on-site sewer infrastructure if needed and please let me know if you have any further questions. We look forward to getting this long standing project underway.
Thanks,
Arne
540.462.3730

From: Randy Cosby [mailto:cosby@echelonresourcesinc.com]
Sent: Friday, April 29, 2022 12:15 PM
To: Arne Glaeser <aglaeser@lexingtonva.gov>
Cc: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Subject: CUP Process - Lexington

Hey Arne,

I hope all is well. It looks like it's time to revisit the entitlement process for the Spotswood parcel, since Council's vote last Thursday. It's our understanding we need to get a CUP to allow for multifamily since this is currently zoned R-LC. Below are some thoughts and questions to help get us started. We thank you in advance for your guidance!!

- Current Zoning is R-LC (Residential Light Commercial). A CUP is required to permit Multifamily under teh R-LC, correct?
    - Can you provide some clarity on the City's process specifically related to getting a CUP on the Spotswood parcel to allow multifamily?
    - Please confirm first floor residential is allowed with a CUP in R-LC?
    - Can you outline the timing of this process (# of meetings, etc.)?
    - What's required in terms of design to get through the CUP process (elevations, conceptual site plan, possibly renderings, etc.)? We need this clearly defined so that our design team can scope their work and price it accordingly.
- Parking Requirement: This was updated to 1.25 spaces per studio & 1-br; 1.5 spaces per 2-br; and 2 spaces per 3-br, is that correct?
- Setbacks: 25' from edge of curb to building; 20' from buildings to side property lines; 40' from building to rear property line, is that correct?
- Can you send us the latest published/approved ordinance docs (or a link to them) so that our design team can reference the correct requirements for setbacks, parking, lot requirements table, etc?
- Is public approval required for the Site Plan, or is that administrative?

Article III. Use Matrix.

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
B = By-right uses, C = Conditional uses								
Use Types								
Residential								
Accessory dwelling			B	B	B	B	B	
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B[1]-C[2]	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		
Civic								
Cemetery			B					
Civic use	B	B	C	C	C	B	B	B
Club						C	B	B
Cultural services						B	B	B
Educational facility, College/University			C	C	C	C	C	C
Educational facility, Primary/Secondary			C	C	C	B		
Emergency shelter						C	C	C

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Public assembly			C	C	C		C	C
Public Park & Recreational Area		B						
Public maintenance and service facility			C					B
Public recreation assembly	C		C		C	C	C	C
Recycling center								C
Refuse collection site								C
Religious assembly			C	C	C	C	B	C
Shelter							B	B
Commercial								
45 night or less rental			B	B	B	B	B	
Automobile rental/leasing								C
Automobile repair service							C	B
Automobile sales								C
Bed-and-breakfast			C[3]	C[4]	C	B	B	B
Brewery or Distillery							C	B
Business or trade school							C	B
Business support service						C	C	B
Car wash								C
Catering, Commercial (off-premises)							B	B
Clinic						B	B	B
Commercial indoor amusement						C	B	B
Commercial indoor entertainment						C	B	B
Commercial indoor sports and recreation								B
Commercial outdoor entertainment								C
Commercial outdoor sports and recreation	B							C
Commercial vehicle repair service								C
Communications Service							B	B

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Construction sales and service								B
Construction yard								C
Consumer repair service						B	B	B
Custom manufacturing						B	B	B
Day care center			C	C	C	B	C	B
Entertainment Establishment, Adult								B
Equipment sales and rental								C
Family home day care			C	C	C	B	B	B
Farmer's Market	B	C				B	B	B
Financial institution							B	B
Funeral home								B
Garden center						B		B
Gasoline station							C	B
Greenhouse, commercial						C		B
Guidance Services						B	B	B
Halfway house							C	C
Home for adults			C	C	C			B
Home occupation, Class A			B	B	B	B		
Home occupation, Class B						C		
Hospital						B	C	C
Hotel							B	B
Kennel								C
Laundry							B	B
Micro-Brewery							B	B
Micro-Distillery							B	B
Mini-warehouse								C
Nursing home						B		B
Office, general						B	B	B
Office, medical						B	B	B
Off-Street Remote Parking (per §420-12.3)						C	C	C

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Outdoor Display								C
Pawn Shop								B
Personal improvement services						B	B	B
Personal services						B	B	B
Restaurant, drive-in								B
Restaurant, general							B	B
Restaurant, mobile						B	B	B
Restaurant, small						C	B	B
Shooting range, indoor								B
Shopping Center								B
Specialty Food Shop						B	B	B
Specialty Shop						B	B	B
Store, Adult								B
Store, general							B	B
Store, grocery							B	B
Store, liquor							B	B
Store, neighborhood convenience						C	B	B
Studio, Fine Arts						B	B	B
Tattoo Parlor and/or Body Piercing Salon							C	C
Veterinary hospital/clinic								B
Wholesale sales								B
Winery							B	B
Industrial								
Industrial, light								B
Laboratory								B
Research and development						C	B	B
Salvage and scrap service								C
Sawmill, temporary	B							

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Warehousing and distribution								C
Miscellaneous								
Amateur radio tower			B	B		B	B	B
Building, Portable	B	B	B[5]	B[5]	B[5]	C[6]	C[6]	C[6]
Broadcasting or communication tower		C	C	C				C
Cemetery, private						C		
Garage, private			B	B		B	C	C
Parking facility		B			C	C	C	C
Recreation facility, private	B	C	B	B	B	B		
Utility service, major			C	C				C
Utility service, minor			B	B		B	B	B

[1] Second floor and higher

[2] First floor

[3] Bed & Breakfasts only allowed along Main, Washington, and Nelson Streets

[4] Bed & Breakfasts only allowed along S. Main Street

[5] accessory building is by right

[6] temporary construction office and storage sheds are by-right

Article IV. Zoning District Regulations

§420-4.2. Areas and yards.

A. No building or structure shall be erected, nor shall any existing building or structure be altered, enlarged or rebuilt, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the district in which such building, structure or open space is located.

B. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter which is considered as a yard or open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. All yards and courts required by this chapter shall be open and unobstructed to the sky with the following authorized encroachments:

1. Fences, Walls, Hedges: Fences, walls, hedges, may be permitted in any required yard, provided that no fence, wall or hedge along any yard shall be over seven feet in height. The aforesaid provision notwithstanding, no fence, hedge, wall or barricade of any kind shall be constructed on or between abutting properties in commercial districts, both of which are utilized for off-street customer parking and/or traffic flow, unless it is determined by the Zoning Administrator that such fence, hedge, wall or barricade will promote the general welfare of the public and decrease traffic hazards in the general vicinity.

2. Handicapped accessible ramps. Handicapped accessible ramps provided that handicapped accessible ramps are not covered and are not within five (5) feet of any property line.

3. Porches, Balconies, Decks, Stoops, Landings. Unenclosed porches, balconies, decks, stoops or landings may project not more than five feet beyond the front, side and rear walls of a building into the minimum front, side or rear yard setback for the district and shall not be closer than five feet from any lot line. "Unenclosed" shall mean no side enclosure, other than railings, that is more than 18 inches in height, exclusive of screens. Any two story or enclosed porch shall be considered a part of the building in the determination of the required setback.

4. Projecting Horizontal Architectural Features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves, roof overhangs, bay windows or canopies may project not more than three feet into any required setback, but no closer than five feet to any lot line. A bay window which is not more than ten feet wide may extend three feet into a required yard.

5. Steps. Uncovered steps may encroach into a required yard.

Lexington Virginia
www.lexingtonva.gov

Planning & Development Department
300 East Washington Street
Lexington, Virginia 24450
Phone: (540) 462-3704 Fax: (540) 463-5310

APPLICATION FOR CONDITIONAL USE PERMIT

Applicant[1]

Name: _____ Phone: _____

Company: _____ Fax: _____

Address: _____ Email: _____

Applicant's Signature: _____ Date: _____

Property Owner

Name: _____ Phone: _____

Address: _____ Email: _____

Owner's Signature: _____ Date: _____

Proposal Information[2] (attach list of properties if request includes multiple properties)

Address (or location description): _____

Tax Map: _____ Deed Book and Page #: _____

Acreage: _____ Zoning (attach any existing zoning conditions or proffers): _____

Description of Proposal[3]: _____

_____

_____

1. ***Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.***
2. ***Any application deemed incomplete by staff will not be accepted.***
3. ***Please refer to page 3 of this application for the conditions of issuance for all conditional use permit applications. Submitting a sketch plan or other visual detail of your request is highly encouraged.***

Lexington Virginia
www.lexingtonva.gov

Planning & Development Department
300 East Washington Street
Lexington, Virginia 24450
Phone: (540) 462-3704 Fax: (540) 463-5310

Notice to Adjacent Property Owners

The City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled public hearings.

Posting of the Property

The City will place a sign on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

THIS SECTION TO BE COMPLETED BY STAFF ONLY

Application Fee: $400 Amount Paid: _____ Case Number: CUP-_____-_____

Date Received: _____ Received By: _____

Staff Review

Planning: _____ Public Works: _____

Police: _____ Fire/Rescue: _____

Public Hearings

Planning Commission	City Council
Legal Ad Dates: _____	Legal Ad Dates: _____
Adj. Property Notifications: _____	Adj. Property Notifications: _____
Public Hearing Date: _____	Public Hearing Date: _____
Action: _____	Action: _____

Lexington Virginia
www.lexingtonva.gov

Planning & Development Department
300 East Washington Street
Lexington, Virginia 24450
Phone: (540) 462-3704 Fax: (540) 463-5310

Conditions of Issuance

§ 420-11.C of the City of Lexington Zoning Ordinance outlines the conditions under which a conditional use permit may be issued. These conditions are as follows:

1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of the zoning ordinance, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:

    a. The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.

    b. The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.

    c. The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.

    d. Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.

2) Where the provisions of this chapter require conditional use permits for certain parking lots and drive-in facilities in the Commercial District (Central Business) C-1, due consideration shall be given in general to the purposes of the C-1 District and specifically to the effect of such parking lot or drive-in facility on the historic pattern of buildings and, in particular, on the maintenance of a compact, efficient and attractive retail facade and arrangement of buildings; on the use of off-street circulation ways, including use of alleys; on the location of access points and relationship to traffic and pedestrian flow; and on the adequacy of off-street waiting area at drive-in facilities.

3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C(1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

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SITE PLAN APPLICATION AND CHECKLIST

Applicant[1]

Name: _____ Phone: _____

Company: _____ Fax: _____

Address: _____ Email: _____

Applicant's Signature: _____ Date: _____

Site Plan Preparer

Name: _____ Phone: _____

Company: _____ Fax: _____

Address: _____ Email: _____

Property Owner

Name: _____ Phone: _____

Address: _____ Email: _____

Owner's Signature: _____ Date: _____

Proposal Information[2] (attach list of properties if request includes multiple properties)

Address (or location description): _____

Tax Map: _____ Deed Book and Page #: _____

Acreage: _____ Zoning (attach any existing zoning conditions or proffers): _____

1. ***Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.***
2. ***Any application deemed incomplete by staff will not be accepted.***

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Notice to Adjacent Property Owners

Per § 420-222-B(1) of the Lexington City Code, the City shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the City's real property tax records. This notice shall give the date, time and place of the Planning Commission meeting at which the site plan is being reviewed, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the meeting of the Planning Commission at which the site plan is first considered.

Posting of the Property

Per § 420-222-B(2) of the Lexington City Code, the City will place a sign provided on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

THIS SECTION TO BE COMPLETED BY STAFF ONLY

Application Fee: $300+$25/acre Amount Paid: _____

Case Number: SP-_____-_____

Date Received: _____ Received By: _____

Staff Review

Planning: _____ Public Works: _____

Police: _____ Fire/Rescue: _____

Approvals

Planning Commission	Administrator
Adj. Property Notifications: _____	Action: _____
Meeting Date: _____	Action Date: _____
Action: _____	Signature: _____

Application fee is nonrefundable

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Site Plan Checklist

Contents

Every site plan prepared and submitted in accordance with Article XXII of the Lexington City Code shall contain the following information:

- ☐ A boundary survey of the tract.
- ☐ A certificate, signed by the surveyor or engineer, setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.
- ☐ All existing and proposed streets and easements, their names, numbers and widths, existing and proposed utilities, owners, zoning and present use of adjoining property.
- ☐ Location, type and size of vehicular entrances to the site.
- ☐ Locations, types, sizes and heights of fencing, retaining walls and screen planting where required.
- ☐ All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with Article XX.
- ☐ Number of floors, floor area, height and location of each building and proposed general use for each building. If a multifamily residential building, the number, size and type of dwelling units.
- ☐ All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made.
- ☐ Provisions for the adequate disposition of natural and storm water, indicating locations, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system.
- ☐ Existing topography, with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than 2%, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in both directions.
- ☐ Proposed finished grading by contours, supplemented where necessary by spot elevations.
- ☐ A landscape buffering and screening plan if requested by the City Manager, his authorized agent or the Planning Commission.

Preparation and Submission

- ☐ Site plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying shall be prepared and certified respectively by an engineer, architect, landscape architect or land surveyor duly authorized by the state to practice as such.
- ☐ Site plans shall be prepared on a scale of one inch equals 50 feet or larger.

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300 East Washington Street
Lexington, Virginia 24450
Phone: (540) 462-3704 Fax: (540) 463-5310

- ☐ A clear, legible, blue or black line copy of the site plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as may be established prior to routing copies thereof for review.

Planning Commission Review

All site plans which are appropriately submitted and conform to the standards and requirements set forth in Article XXII of the Lexington City Code shall be forwarded to the Planning Commission for approval.

The site plan shall be approved by the Planning Commission if it is found to be adequate with respect to:

- ☐ Locations and design of vehicular entrances and exits in relation to streets giving access to the site and in relation to pedestrian traffic.
- ☐ Locations and adequacy of automobile parking areas.
- ☐ Adequate provision for traffic circulation and control within the site and provision for access to adjoining property.
- ☐ Compliance with the requirements for setback and screening.
- ☐ Adequacy of drainage, water supply, fire protection and sanitary sewer facilities.
- ☐ Compliance with applicable established design criteria, construction standards, and specifications for all improvements.
- ☐ Approval by the City Health Officer or his agents if septic tank and other sewage disposal facilities other than sanitary sewers are involved.
- ☐ Adequacy of proposed landscaping for softening the harsh visual effects of parking lots and for providing screening between the development and the street and surrounding lots.

Required Improvements

- ☐ Screening, fences, walls, curbs and gutters as required.
- ☐ Easements of rights-of-way for all facilities to be publicly maintained. Such easements shall be clearly defined for the purpose intended.
- ☐ Curbs and gutters for travel lanes or driveways that provide vehicular travel to and from adjacent parking areas or adjacent property for the purpose of separating such areas or property from parking areas and walkways.
- ☐ Adequate "no parking" signs along such travel lanes or driveways to prohibit parking on such.
- ☐ An adequate drainage system for the disposition of storm and natural waters.
- ☐ Landscaping sufficient to soften the visual effects of parking lots and to provide screening between the development, the street and surrounding lots.

§420-1.11. Conditional Use Permits.

A. Purpose. To provide for certain uses that either have unusual characteristics or have characteristics that are sufficiently different from those of their surroundings or are generally of a public or semipublic character, conditional use permits are authorized by this chapter in certain circumstances and upon the exercise of planning judgment respecting location, site plan and other factors.

B. Public notice.

1. In accordance with §15.2-2204 of the *Code of Virginia*, the Planning Commission shall not recommend nor shall the City Council approve any conditional use until public hearings have been held by both the Planning Commission and the City Council. Notice of public hearings shall be published once a week for two successive weeks in some newspaper published or having general circulation in the City, provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the City Council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

2. Planning staff shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the public hearing. The list of property owners and the content of the notice shall be approved by the Zoning Administrator prior to mailing.

3. Planning staff shall place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

C. Conditions of issuance.

1. Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:

i. The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.

ii. The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.

iii. The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.

iv. Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.

2. Where the provisions of this chapter require conditional use permits for certain parking lots, drive-in, and/or drive-through facilities in the C or C-2 Zoning Districts, due consideration shall be given, in addition to the findings contained in Subsection C(1) of this section, to the purposes of the districts and specifically to the effect of such facilities on the use of off-street circulation ways, including use of alleys; on the location of access points and relationship to traffic and pedestrian flow; and on the adequacy of off-street waiting area at drive- in facilities. Additionally, in the review of such facilities in the C-1 Zoning District, due consideration shall be given to the effect of such facilities on the historic pattern of buildings and on the maintenance of a compact, efficient and attractive retail facade and arrangement of buildings.

[Amended 5-2-2013 by Ord. No. 2013-02]

3. In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C (1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

D. Commencement of construction. Construction or operation shall commence within one year of the date of issuance or the conditional use permit shall become void.

E. Reapplication. No reapplication for a conditional use permit for the same or substantially the same application shall be considered by the governing body within a period of one year from its last consideration. This provision, however, shall not impair the right of the governing body to propose a conditional use permit on its own motion.

F. Should the use approved by the conditional use permit cease for any twenty-four-month period during the life of the permit, the conditional use permit shall become void.

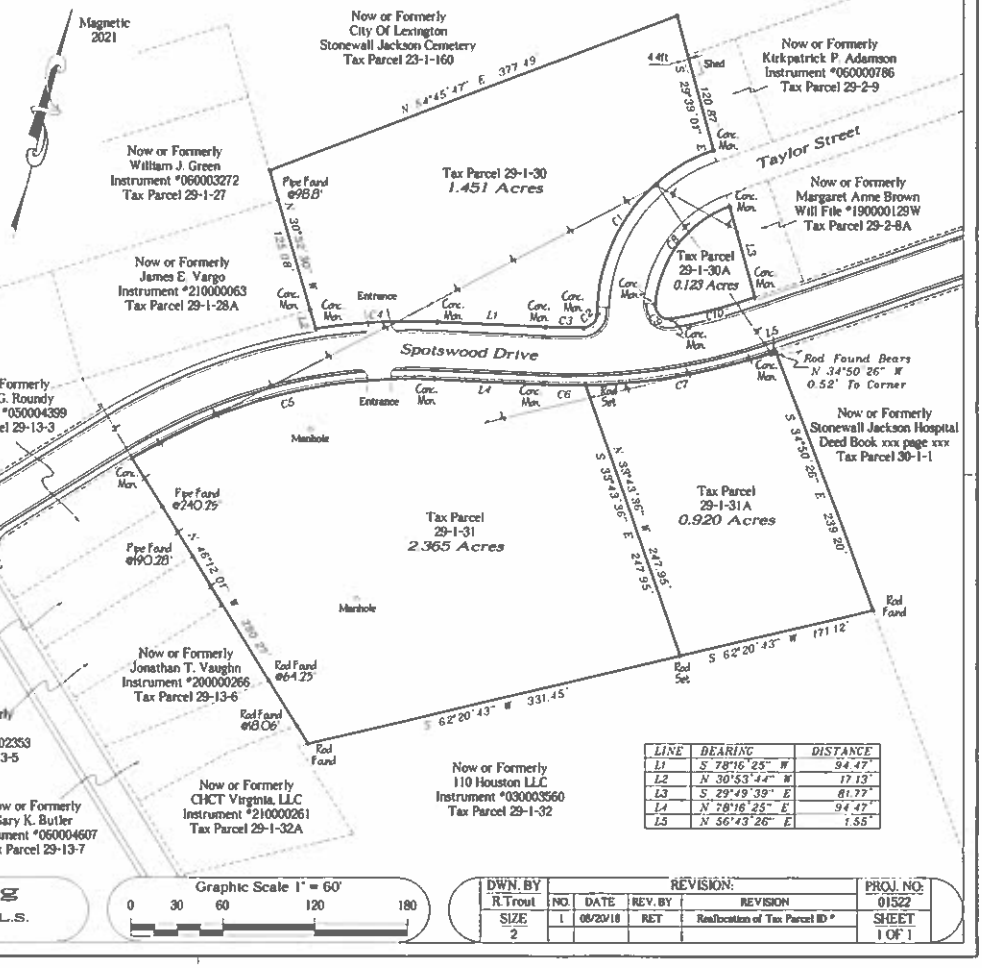
NOTES

1) This plat was drawn from an actual field survey and is intended to represent a portion of that property conveyed to The City Of Lexington, of record in deed book 428 page 135, tax parcels 29-1-30, 29-1-30A and 29-1-31.

2) This survey was performed without the benefit of a title report and may not indicate all encumbrances upon the property. Unwritten rights not addressed.

3) The property boundary adjoining Spotswood Drive and Taylor Street was established as shown on sheets 3 and 4 of the plans for State Highway Project U000-117-101, PE-101, RW-201, C-501, of record in State Highway Plat Book 5 Page 144. Right of way was conveyed by City Of Lexington Resolution dated April 21, 1988.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	149.56'	185.29'	173.66'	S 21°14'48" W
C2	12.00'	18.58'	16.78'	S 30°08'58" W
C3	489.34'	32.28'	32.27'	S 76°23'01" W
C4	509.67'	105.69'	105.51'	S 72°19'57" W
C5	459.67'	275.93'	271.81'	N 61°04'36" E
C6	539.34'	36.04'	36.03'	N 76°21'34" E
C7	539.34'	166.82'	166.15'	N 65°35'04" E
C8	99.56'	112.66'	106.75'	N 23°04'51" E
C9	12.00'	22.02'	19.06'	N 61°53'50" W
C10	489.34'	75.11'	75.04'	S 61°07'16" W



LINE	BEARING	DISTANCE
L1	S 78°16'25" W	94.47'
L2	N 30°53'44" W	17.13'
L3	S 29°49'39" E	81.77'
L4	N 78°16'25" E	94.47'
L5	N 56°43'26" E	1.55'

Survey For
City Of Lexington
Spotswood Drive
City Of Lexington
Rockbridge County, Virginia
Surveyed August 4, 2021

Graphic Scale 1" = 60'
0 30 60 120 180

Trout Land Surveying
1366 Forge Road
Lexington, VA. 24450
(540) 261-8995
Randall E. Trout, L.S.

DWN. BY	REVISION:				PROJ. NO:
R.Trout	NO.	DATE	REV. BY	REVISION	01522
SIZE	1	08/20/18	RET	Realloc ation of Tax Parcel ID #	SHEET
2					1 OF 1

§420-4.6. Lot Requirements.

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
R-1	8,000 sq. ft.; 12,000 sq. ft. for two-family dwellings	60 feet; 80 feet for two-family dwellings	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet	15 feet	10 feet	25 feet for main buildings, 5 feet for accessory buildings
R-2	15,000 sq. ft.	80 feet	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet	25 feet	15 feet	25 feet for main buildings, 5 feet for accessory buildings
R-M	8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit	60 feet; Two-family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family-50 feet plus 10 feet for each unit above 4	45 feet	25 feet	10 feet; 20 feet for multi-family	25 feet; 30 feet for multi-family
R-LC	Residential use: 8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit; Non-residential: 8,000 s.f.	Residential uses: 60 feet; Two-family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family-50 feet plus 10 feet for each unit above 4; Non-residential: 60 feet	35 feet, except dwellings may be increased up to 45 feet, provided that each side yard is 20 feet, plus at least one foot for each additional foot of building height over 35 feet.	25 feet	Residential uses: 10 feet, or 20 feet for multi-family Non-residential: 10 feet	Residential uses: 25 feet, or 30 feet for multi-family Non-residential: 25 feet

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
C-1	None	None	45 feet; public and governmental buildings up to 60 feet w/CUP	None	10 feet when abutting a residential district	10 feet when abutting a residential district
C-2	None	None	45 feet	30 feet	30 feet when abutting a residential district	30 feet when abutting a residential district
PUD	3 acres		see §420-5.10			
POS	0 sq. ft.	0 feet	15 feet; 35 feet if ≥ 10 feet from a property line	5 feet [1]	5 feet [1]	5 feet [1]

[1]Structures located in designated cemeteries and designed to contain human remains, such as but not limited to, mausoleums, columbaria, crypts, and niche walls, are not subject to P-OS yard setback regulations.

Jim Halasz

From: Jim Halasz
Sent: Monday, April 25, 2022 3:37 PM
To: 'Edwin Gaskin'; Randy Cosby
Subject: FW: Echelon Contract, Next Steps
Attachments: 21-01-13, Draft Echelon Contract.doc; 21-03-04, Purchase Agreement Released.docx; 21-03-11, Spotswood Purchase Contract - Revised.docx

From: Jim Halasz
Sent: Monday, April 25, 2022 2:14 PM
To: Jared Jenkins <jjenkins@lexingtonva.gov>
Subject: Echelon Contract, Next Steps

Good afternoon Jared. After the vote last Thursday, I am assuming we would need to put in place an agreement with Echelon similar to what was proposed last year? I have attached several drafts of the agreement we were working through at that time. I will begin initial conversations with Edwin to see what his thoughts are and how he hopes to proceed.

Please do brush this off so we can be ready to get to City Council in a timely fashion. I will let you know what I learn from Echelon & also what areas we may need to be sure are sufficiently covered in the agreement.

Thanks & I hope your Monday is going well.

+/- 2.203.24 acre Water TowerSpotswood Drive Parcel (TM#14-1-18, 401 29-1-29, 29-1-30, 29-1-31, 29-1-31A Enfield Road)

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, 2020~~19~~, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.ENFIELD VIEW LLC**, a Virginia corporationlimited liability company (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

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WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain parcels of real property totaling 3.24± acres along Spotswood Drivede-commissioned water facilities at 401 Enfield Road, together with all improvements, easements and appurtenances thereto belongingother surfaces and the improved property in, further described as Tax Map #s 29-1-29, 29-1-30, 29-1-31, 29-1-31A14-1-18, and ("the Improvements"), easements and appurtenances thereto belonging ("the "Property"), subject to all the terms and conditions contained herein.

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ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Twenty-five Three Hundred Fifty Thousand Dollars ($25350,000.00) for the Improvements and an additional Five Thousand Dollars ($5,000.00) per additional single family lot approved and platted on the Property ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a non-refundable deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

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ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession (**"Property Documents"**). The **"Effective Date"** shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written communications with the Environmental Protection Agency ("EPA") or the Virginia Department of Environmental Quality ("VDEQ") or any other governmental agency ~~(other than correspondence solely relating to the operation of the former water facilities on the Property)~~, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. Provide, at City cost, a current title report for the Property.
b. Provide, at City cost, a Phase I Environmental Site Assessment of the Property.
~~a.~~c. Cooperate with and support as needed with any subdivision, ~~re~~zoning map amendment, Conditional Use Permit and/or zoning ~~T~~text Amendment~~Comprehensive Plan~~ applications that are being prepared and submitted by the Buyer.
~~b.~~d. Process an application for ~~subdivision of the Property in accordance with the~~ final site plan through the Lexington City

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Planning Commission ~~and the Lexington City Council~~ (the "Site Plan") and the Project, as defined in Section 5.1, below.

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~~e.~~c. Process an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the~~a~~ Project (as defined in Section 5.1, below). ~~Allow for the change in the Comprehensive Plan Future Land Use designation compatible with the Project (as defined in Section 5.1 below).~~

~~d.~~f. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional tap privileges or requirements to extend the water and wastewater system beyond the Property by Buyer.

~~e.~~g. Provide written verification of water and wastewater utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, as described in Article V, below.

h. Waive any applicable utility tap or connection fees.

i. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post Closing.

~~f. Approve a single driveway accessible off Enfield Road to serve the various Project uses as well as up to one (1) neighboring property.~~

~~g.~~j. Confirm high-speed Internet service availability to the Property.

~~h.~~k. Process site plan and building permit approvals for the Project as within purview and discretion of the City prior to the sale of the Property.

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.3.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

~~a. Subdivide the Property in accordance with the Site Plan.~~

~~b.~~a. Amend the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that ~~Comprehensive Plan Future Land Use Designation to a designation compatible~~is compatible with the Project. Rezone the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below~~), allowing for four (4) multi-family units within the renovated Improvements, related amenities, open space, as well as at least four (4) single-family homes on the Property~~.

b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post Closing.

c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.

d. Build the project as generally described in Section 5.1.

e. Commence construction on Property within three hundred sixty (360) days from the date of the Closing.

~~e.~~f. Complete construction of the first building of the Project within twenty-four (24) months after construction begins. Later phases to be constructed as the market dictates.

Commented [AG1]: Suggest adding to buyer obligations the application submittal for a conditional use permit and for site plan approval.

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4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the expressed purpose of comprehensively developing the Property into new construction multi-family buildings~~at least four (4) multi-family apartments within the Renovated Improvements, and at least four (4) single-family units~~, related amenities and open space in accordance with Site Plan (the "Project").

5.2 [intentionally omitted]

ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.3.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record, ~~including an easement for the continued placement and maintenance of the radio receiving unit currently on located on the improvements on the property and employed by the Seller for it's water metering system~~. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to

terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.3, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Zoning Text Amendment~~Comprehensive Plan~~ application, Site Plan, rezoning Map Amendment application, conditional use permit application, financing application, and, any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months by giving written Notice to the Seller within the original Study Period. Any further extension of the Study Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.3.

6.6 Initiate Construction. Buyer will commence construction on the Property~~renovation of the Improvements~~ within ~~one hundred eighty~~ three hundred sixty (360~~180~~) days from the date of the Closing ("the Construction Period"). If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing. If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). Buyer may, by written notice, require Seller to exercise this Repurchase Option. For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings ~~performance of the renovation of the Improvements~~ on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

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6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such inspections are not satisfactory to Buyer, as foresaid. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement.

6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record and existing leases. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, agreements, easements of record, or leases as of the Effective Date of this Agreement. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this Agreement, except for the work required of the Parties under this Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.1 and 7.3 hereof.

6.11 Intentionally Omitted~~Boundary Lines. If the Parties cannot agree on the final subdivision lines of the Property to be shown on the Subdivision Plan and Site Plan, this Agreement may be terminated by either Party, without penalty.~~

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four months of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's

fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If, for any reason, the purchase herein is not consummated, the Five Thousand Dollar ($5,000.00) non-refundable deposit shall remain the property of the seller.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: _____, City Attorney
_____
_____
_____

or to such other address or person as Seller may direct in writing.

BUYER: ~~ENFIELD VIEW LLC~~ECHELON RESOURCES, INC, C/O
EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592~~16215 Wolf Creek Road~~
~~Montpelier, Virginia 23192~~

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of ~~the~~ any ~~I~~improvements prior to Closing, ~~either Seller or~~ Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does

not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably ~~be~~ withheld ~~in Seller's discretion~~. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties.

Commented [RC2]: We'll likely contract this under Echelon Resource Inc, then create a newly created single purpose entity after we come up with a Project Name

7.5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate, to Buyer at Closing.

7.6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.10 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.11 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.12 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.13 Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

7.14. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.15 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.16 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.17 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the Mayor _____, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

[SIGNATURES ON THE FOLLOWING PAGES]

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____
Noah A. Simon, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, Mayor of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2020~~19~~, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2020~~19~~.

Commented [AG3]: Date will be 2021

My commission expires: _____

_____
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc.~~Manager – Enfield View LLC~~
DATE

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2020~~19~~, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2020~~19~~.

My commission expires: _____.

_____
Notary Public

+/- 3.24 acre Spotswood Drive Parcel (TM# 29-1-29, 29-1-30, 29-1-31, 29-1-31A)
PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, ~~2020~~2021~~1~~, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.,** a Virginia corporation (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

~~1.1.1~~1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain parcels of real property totaling 3.24± acres along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as Tax Map #s 29-1-29, 29-1-30, 29-1-31, 29-1-31A (the "Property"), subject to all the terms and conditions contained herein.

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ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00) ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a non-refundable deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession ("**Property Documents**"). The "**Effective Date**" shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written communications with the Environmental Protection Agency ("EPA") or the Virginia

Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. Process site plan and building permit approvals for the Project ~~as within purview and discretion~~ of the City prior to the sale of the Property.

~~a.~~b. Provide, at City cost, a current title report for the Property.

~~b.~~c. Provide, at City cost, a Phase 1 Environmental Site Assessment of the Property.

~~c.~~d. Cooperate ~~with and support as needed with~~and support any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer.

~~d.~~e. Process an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan") and the Project, as defined in Section 5.1, below.

~~e.~~f. Process an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).

~~f.~~g. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional tap privileges or requirements to extend the water and wastewater system beyond the Property by Buyer.

g.h. Provide written verification of water and wastewater utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, as described in Article V, below.

h.i. Waive any applicable utility tap or connection fees.

i.j. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

j.k. Confirm high-speed Internet service availability to the Property.

~~k.a. Process site plan and building permit approvals for the Project as within purview and discretion of the City prior to the sale of the Property.~~

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.3.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Amend the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that is compatible with the Project. Rezone the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and

Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post Closing.

c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.
d. Build the project as generally described in Section 5.1.
e. Commence construction on Property within three hundred sixty (360) days from the date of the Closing.
f. Complete construction of the first building of the Project within twenty-four (24) months after construction begins. Later phases to be constructed as the market dictates.

4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the ~~expressed~~ purpose of comprehensively developing the Property into new construction multi-family buildings, related amenities and open space in accordance with Site Plan (the "Project").

5.2 ~~[intentionally omitted~~Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations"~~]~~ will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

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ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.3.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.3, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and, any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months by giving written Notice to the Seller within the original Study Period. Any further extension of the Study

Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.3.

6.6 Initiate Construction. Buyer will commence construction on the Property within three hundred sixty (360) days from the date of the Closing ("the Construction Period"). If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing. If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). ~~Buyer may, by written notice, require Seller to exercise this Repurchase Option.~~ For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

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6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such inspections are not satisfactory to Buyer, as foresaid. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement.

6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record and existing leases. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, agreements, easements of record, or leases as of the Effective Date of this Agreement. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this Agreement, except for the work required of the Parties under this

Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.1 and 7.3 hereof.

6.11 Intentionally Omitted

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four months of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If, for any reason, the purchase herein is not consummated, the Five Thousand Dollar ($5,000.00) non-refundable deposit shall remain the property of the seller.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties.

Commented [RC1]: We'll likely contract this under Echelon Resource Inc, then create a newly created single purpose entity after we come up with a Project Name

7.5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate, to Buyer at Closing.

7.6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations,

negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.10 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.11 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.12 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.13 Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

7.14. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.15 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.16 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.17 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the Mayor _____, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

[SIGNATURES ON THE FOLLOWING PAGES]

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____

James M. Halasz, City Manager~~Noah A. Simon, City Manager~~ Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager~~, Mayor~~ of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ ~~2020~~2021, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, ~~2020~~2021.

My commission expires: _____

_____
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc. ~~DATE~~Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ ~~2020~~2021, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, ~~2020~~2021.

My commission expires: _____.

_____
Notary Public

+/- 3.24 acre Spotswood Drive Parcel (TM# 29-1-29, 29-1-30, 29-1-31, 29-1-31A)
PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, 2021, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.,** a Virginia corporation (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain parcels of real property totaling 3.24± acres along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as Tax Map #s 29-1-29, 29-1-30, 29-1-31, 29-1-31A (the "Property"), subject to all the terms and conditions contained herein. Should there be mention of the 5.8 acres in the description of the property &/or a survey?

ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00) ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a non-refundable deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession ("**Property Documents**"). The "**Effective Date**" shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written

communications with the Environmental Protection Agency ("EPA") or the Virginia Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. Process site plan and building permit approvals for the Project of the City prior to the sale of the Property.
b. Provide, at City cost, a current title report for the Property.
c. Provide, at City cost, a Phase 1 Environmental Site Assessment of the Property.
d. Cooperate and support any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer; provided the proposed project ultimately meets the goals and regulations expressed in the Lexington Comprehensive Plan and Zoning Ordinance.
e. Process an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan") and the Project, as defined in Section 5.1, below.
f. Process an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).

g. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional tap privileges or requirements to extend the water and wastewater system beyond the Property by Buyer.
h. Provide written verification of water and wastewater utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, as described in Article V, below.
i. Waive any applicable utility tap or connection fees.
j. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.
k. Confirm high-speed Internet service availability to the Property.

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.3.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Amend the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that is compatible with the Project; or Rezone the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to

relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.
d. Build the project as generally described in Section 5.1.
e. Commence construction on Property within three hundred sixty (360) days from the date of the Closing.
f. Complete construction of the first building of the Project within twenty-four (24) months after construction begins. Later phases to be constructed as the market dictates.

4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the purpose of comprehensively developing the Property into new, market rate, construction multi-family buildings, related amenities and open space in accordance with Site Plan (the "Project").

5.2 Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations" will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.3.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.3, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months by giving written Notice to the Seller within the original Study Period. Any further extension of the Study

Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.3.

6.6 Initiate Construction. Buyer will commence construction on the Property within three hundred sixty (360) days from the date of the Closing ("the Construction Period"). If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing. If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). For the avoidance of doubt, the Repurchase Option (define Repurchase Option somewhere?) shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such inspections are not satisfactory to Buyer, as foresaid. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement.

6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record and existing leases. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, agreements, easements of record, or leases as of the Effective Date of this Agreement. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this Agreement, except for the work required of the Parties under this

Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.1 and 7.3 hereof.

6.11 Intentionally Omitted

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within twenty-four months of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If, for any reason, the purchase herein is not consummated, the Five Thousand Dollar ($5,000.00) non-refundable deposit shall remain the property of the seller.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON
300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN

700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option (define Repurchase Option somewhere?), Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties.

Commented [RC1]: We'll likely contract this under Echelon Resource Inc. then create a newly created single purpose entity after we come up with a Project Name

7.5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate, to Buyer at Closing.

7.6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are

superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.10 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.11 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.12 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.13 Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

7.14. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.15 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.16 Counterparts. This Agreement may be executed in any number of counterparts,

each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.17 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the Mayor _____, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

[SIGNATURES ON THE FOLLOWING PAGES]

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____
James M. Halasz, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2021, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____

_____
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc. Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2021, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____.

_____
Notary Public

Jim Halasz

From: Jim Halasz
Sent: Monday, April 25, 2022 4:19 PM
To: Edwin Gaskin
Cc: Randy Cosby; Jared Jenkins
Subject: RE: FW: Echelon Docs

We will certainly take a good look & get refamaliarized.

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Monday, April 25, 2022 4:15 PM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>; Jared Jenkins <jjenkins@lexingtonva.gov>
Subject: Fwd: FW: Echelon Docs

Jim, good speaking with you earlier. Here is the last version of the purchase agreement I could find. Can we start with this document?

I guess we would ask you all to update as needed from your end and then we will do a final review.

I'm copying Jared here, and thanks to you both.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

---------- Forwarded message ---------
From: **Jared Jenkins** <jjenkins@lexingtonva.gov>
Date: Fri, Mar 12, 2021 at 1:42 PM
Subject: RE: FW: Echelon Docs
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>, Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>

Edwin,

We're fine with these. I've attached updated drafts. The redlines compare to the last publicly released version, not this morning's versions. For the lease language I changed it to "Buyer is aware of the current leases Seller has with two organizations leasing the building on the Property. Those leases are attached hereto as Exhibit B. As of the Closing Date, the Property will be unencumbered by any lease." I think that's the cleanest way to

Jim Halasz

From: Jim Halasz
Sent: Wednesday, April 27, 2022 8:20 AM
To: Edwin Gaskin; Randy Cosby
Subject: Lexington News Gazette - see story & editorial

From: Jani Hostetter
Sent: Wednesday, April 27, 2022 8:01 AM
Subject: Fwd: Your new issue of Lexington News Gazette is available

Best,
Jani L. Hostetter
Executive Assistant, City Manager's Office
Clerk of Council
City of Lexington, VA
300 East Washington Street
Phone: (540)462-3700 | Fax: (540)463-5310
www.lexingtonva.gov |City Manager Weekly|City Council Portal

"Be a RAINBOW in someone else's cloud." –Dr. Maya Angelou
"I slept and I dreamed that life is all joy. I woke and I saw that life is all service. I served and I saw that service is joy." -Khalil Gibran

Begin forwarded message:

> **From:** Lexington News Gazette <admin@etypeservices.com>
> **Date:** April 27, 2022 at 6:29:21 AM EDT
> **To:** Jani Hostetter <jhostetter@lexingtonva.gov>
> **Subject: Your new issue of Lexington News Gazette is available**

The Neg

Please click on the

A PDF file of the issue is available
CLICK HERE

The News

Jim Halasz

From: Jim Halasz
Sent: Friday, April 29, 2022 3:23 PM
To: Edwin Gaskin
Cc: Randy Cosby
Subject: RE: Lexington - Spotswood - Gameplan 4/29/2022

Thanks Edwin. I also did see a communication between Randy & Arne regarding the CUP application/requirements – although I did not really read it.

I will get with Jared next week & see what we may need to consider revising in the agreement & hope we can get something to you next week.

Have a great weekend!

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Friday, April 29, 2022 2:45 PM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>
Subject: Lexington - Spotswood - Gameplan 4/29/2022

Good afternoon Jim, I hope all is well with you.

I don't have anything anything as organized as a 30/60/90 day plans but this is what we are working on right now regarding Spotswood:

1. City Purchase Contract. This needs to be finalized and executed before any additional expenditures are made. Last version draft circulated on 4/25/22. Hope to finalize this in May.

2. Mapping out the CUP process. We need to better understand the timing of the CUP process and specifically what's required in terms of design to get through the CUP process (elevations, concept plan, etc.). Emailed Arne 4/29/22. Hope to submit for this by late June.

3. Gathering design team proposals. Started asking for formal proposals 4/25/22 (architect). Hope to have the team in place by mid-May.

4. Getting geotech samples for soils analysis. Must do this to determine site soils suitability. Started asking for proposals 4/25/22 (F&R, Triad, ECS). Hope to accomplish this in May.

5. Financial. Just started reworking the financial model to adjust for latest bad news in the marketplace. This will be an ongoing task until things normalize.

6. Financial. We will start reaching out to I-81 corridor (from Winchester to Roanoke) general contractors to provide some SWAG-level pricing. This will circle back to #5, etc.

7. Utilities. We need to get a better handle as to the underground utilities out there. Didn't you mention Jeff Martone was leaving? Who is the best contact now to work with?

Jim Halasz

From: Jim Halasz
Sent: Monday, May 2, 2022 8:55 AM
To: Edwin Gaskin; Randy Cosby
Subject: FW: Possible Sinkhole at Spotswood Site

Good morning Gentlemen! Just passing this along. It sounds like a creative, last ditch effort to stop you from developing, but I certainly want you to at least be aware of what likely to be a full-fledged rumor soon. As I noted, we have no information to suggest this may be true.

From: Jim Halasz
Sent: Monday, May 2, 2022 8:51 AM
To: Charles Aligood <caligood@lexingtonva.gov>
Cc: Marylin Alexander <malexander@lexingtonva.gov>; Dennis W. Ayers <dayers@lexingtonva.gov>; David Sigler <dsigler@lexingtonva.gov>; Chuck Smith <csmith@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <ffriedman@lexingtonva.gov>
Subject: RE: Possible Sinkhole at Spotswood Site

Good morning Charles. I have not heard of this possibility, but I will mention it to Edwin. That type of an issue would be investigated during his due diligence period.

From: Charles Aligood
Sent: Monday, May 2, 2022 8:30 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Marylin Alexander <MAlexander@lexingtonva.gov>; Dennis W. Ayers <dayers@lexingtonva.gov>; David Sigler <DSigler@lexingtonva.gov>; Chuck Smith <CSmith@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>
Subject: Possible Sinkhole at Spotswood Site

Good morning, Jim,

Recently, a city resident contacted me to ask if the City has investigated if there is a sinkhole at the Spotswood site we are proposing to develop? I answered that I am not aware of any mention of such a possibility, but I would ask.

Regards,
Charles

Jim Halasz

From: Jim Halasz
Sent: Thursday, May 12, 2022 5:10 PM
To: Edwin Gaskin; Randy Cosby
Subject: Agreements
Attachments: 21-03-12 v2 Project Expectations - clean.docx; 21-03-12 v2 Purchase Agreement - clean.docx

Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

One of the larger issues I grapple with is the passage of time (I know you do as well). As I look at the language of the agreement, I see the following:

Effective Date +	
Study Period	12 months
Possible Extension	6 months
Closing	
Begin Construction	360 days
Finish Construction	24 months.

All told the possible completion of construction could be 4 and a half years from the Effective Date of this agreement. It is somewhat hard for me to reconcile this with what I believe a reasonable (though not necessarily knowledgeable) individual may consider a realistic timeframe for completing such a project. What can be done differently?

These changes may cause some concern, but I am truly hopeful you do not see them as such. Of course, happy to get on the phone & go over this all in detail. Again, shooting for a June 2nd introduction & public hearing, with approval July 7th.

Again, thanks for your patience & it is a pleasure working with you.

Have a great evening.

Spotswood Drive Parcel (TM# ~~29-1-29, 29-1-30~~, 29-1-31, ~~29-1-31A~~)
PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT OF PURCHASE, SALE AND DEVELOPMENT (hereinafter the "Agreement"), made this ____ day of _____, 2022, between the **CITY OF LEXINGTON, VIRGINIA, a Municipal Corporation of the Commonwealth of Virginia** (hereinafter the "**Seller**"), and **ECHELON RESOURCES, INC.,** a Virginia corporation (hereinafter the "**Buyer**"), and/or its successors and permitted assigns, (each individually a "**Party**" and collectively "**the Parties**").

WHEREAS, Seller owns certain real property, as more particularly described herein, located in the City of Lexington, Virginia; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the aforementioned real property upon all of the terms and conditions set forth herein.

NOW, THEREFORE, for the hereinafter described consideration and mutual terms and conditions, the Parties agree as follows:

ARTICLE I - PROPERTY

1.1 Property Description. Seller agrees to sell and Buyer agrees to purchase certain portions of four parcels of real property totaling more than ~~3~~ 2.365 acres along Spotswood Drive, together with all improvements, easements and appurtenances thereto belonging, further described as certain portions of Tax Map #s ~~29-1-29, 29-1-30,~~ 29-1-31, ~~29-1-31A~~ (the "Property"), subject to all the terms and conditions contained herein.

ARTICLE II – PURCHASE PRICE

2.1 Purchase Price. The purchase price of the Property shall be the sum of Three Hundred Fifty Thousand Dollars ($350,000.00 like $375,000 – shows a bit of compromise re the Collaborative offer & the recognition of property values have increased significantly) ("Purchase Price"). The Purchase Price shall be paid as follows: upon the signing of this agreement, Buyer shall pay to Seller Five Thousand Dollars ($5,000.00) as a non-refundable deposit (the "Deposit"), with the balance of the Purchase Price to be paid in full by the Buyer on the Closing Date, as provided in Section 6.1 of this Agreement.

ARTICLE III – SELLER'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

3.1 Provide Reports/Plans. Within Fifteen (15) days of the Effective Date of this Agreement, Seller will provide Buyer with copies of any and all documents pertaining to the Property which are requested by Buyer and which are in Seller's actual possession ("**Property Documents**"). The "**Effective Date**" shall be the date this Agreement is executed by Buyer. The Property Documents include, but are not limited to, any past survey data and documents, any building plans, any environmental studies or written

communications with the Environmental Protection Agency ("EPA") or the Virginia Department of Environmental Quality ("VDEQ") or any other governmental agency, any title reports and any physical inspection reports or warranties that are in Seller's actual possession. The Seller does not make any representation or warranty with regard to the accuracy, completeness, reliability, or timeliness of the Property Documents, nor does it represent or warrant that any Property Document will be relevant to Buyer's analysis of the Property. The Seller disclaims any responsibility to update any Property Documents or to provide additional, supplementary, or superseding information, whether oral or written, whether known or unknown to Seller.

3.2 through 3.6 [intentionally omitted]

3.7 Litigation. To the best of Seller's actual knowledge, without inquiry, there is no litigation pending that would affect the title to the Property.

3.8 Authority. Except as otherwise provided herein, Seller has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

3.9 Provide ALTA Survey. In connection with the preparation of the subdivision plan provided for in Section 6.5 (b) of this Agreement, and on a mutually acceptable time frame, Seller will provide, in both hard copy and editable digital format, an American Land and Title Association ("ALTA") plat for the Property that meets standard ALTA requirements including, but not limited to, related title work, survey, access, encroachment, and contiguity requirements.

3.10 Seller's Obligations. In accordance with terms of the conditions of this Agreement, the Seller agrees to:

a. .
b. Provide, at City cost, a current title report for the Property.
c. Provide, at City cost, a Phase 1 Environmental Site Assessment of the Property.
d. Fully ~~C~~consider any subdivision, rezoning, Conditional Use Permit and/or Zoning Text Amendment applications that are being prepared and submitted by the Buyer.
e. ~~Process~~ Fully consider an application for the final site plan through the Lexington City Planning Commission and the Lexington City Council (the "Site Plan") and the Project, as defined in Section 5.1, below.
f. ~~Process~~ Fully consider an application for the conditional use permit or rezoning of the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).
g. Process any building permit approvals necessary for completion of the Project.
h. Confirm that the water and wastewater system connections for the Property are sufficient for the Project without the purchase of additional

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tap privileges I know what is intended, but is there some better language? or requirements to extend the water and wastewater system beyond the Property by Buyer.

i. Provide written verification of water and wastewater utility capacity that will be sufficient for the Property after completion of the Project, without any requirements to extend the water and wastewater system beyond the Property by Buyer, this does not seem useful, as above let's discuss as described in Article V, below.

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j. Waive any applicable utility tap or connection fees.

k. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post-Closing.

l. Confirm high-speed Internet service availability to the Property.

3.11 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Seller is bound.

ARTICLE IV – BUYER'S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

4.1 Sole Responsibility for Buyer Costs. Buyer shall be solely liable for any costs, fees, matches, reimbursements, or remuneration of any kind associated with Buyer's activities, of any kind, during or following the Study Period, and will indemnify and defend Seller as provided in Section 7.3.

4.2 Authority. Buyer has full power, authorization and approval to enter into this Agreement and to carry out its obligations hereunder.

4.3 Financing. Buyer represents that it has as of the Effective Date, and will have as of the Closing Date, as defined in Section 6.1 herein, available liquid funds in the amount of the Purchase Price, and that it will obtain the necessary funds to complete the Project.

4.4. Buyer's Obligations. In accordance with terms of the conditions of this Agreement, the Buyer agrees to:

a. Apply to Aamend (buyer does not actually amend) the Lot Requirements Table 420-4.7 for R-LC Zoning to allow a density that is compatible with the Project; or rezone the Property to a zoning district or districts compatible with the Project (as defined in Section 5.1, below).

b. Underground sewer lines may need to be relocated to avoid the future footprint of the new multifamily buildings. The costs incurred because of the need to relocate the existing sewer lines shall be split equally between the Seller and Buyer. Buyer shall make its best effort to limit any sewer relocation costs. It is understood that these costs will likely be incurred post Closing.
c. Purchase the Property from the Seller, assuming the results of the Phase 1 Environmental Site Assessment (ESA) and any Phase 2 ESAs are unremarkable and acceptable to the Seller.
d. Build the project as generally described in Section 5.1.
e. Commence construction on Property within three hundred sixty (360) days from the date of the Closing.
f. Complete construction of the first building (change? No longer two buildings?) of the Project within twenty-four (24) months after construction begins. Later phases to be constructed as the market dictates.

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4.5 No Conflict. Neither the Effective Date nor the delivery of this Agreement or the documents contemplated herein, nor the consummation of the conveyance of the Property to Buyer, will conflict with or cause a breach of any of the terms and condition of, or constitute a default under, any agreement, commitment, note, mortgage, lease, bond, license, permit or other instrument or obligation by which Buyer is bound.

ARTICLE V – PROJECT

5.1 Development Project. Buyer is acquiring the Property for the purpose of comprehensively developing the Property into market-rate new construction multi-family buildings, related amenities and open space in accordance with the approved Site Plan (the "Project").

5.2 Project Expectations. Buyer agrees that the conditions listed in Exhibit A "Project Expectations" will be addressed in any site plan and included in the final buildout of the Project, subject to any changes made prior to the City's approval of any building permit.

ARTICLE VI – CLOSING

6.1 Time and Place. Closing and delivery of title and possession ("Closing") shall take place no later than thirty (30) days of the expiration of the Study Period defined below in this Agreement ("Closing Date"). Buyer may proceed to Closing sooner than the expiration of the Study Period, provided Buyer waives any and all Seller obligations that have not been satisfied as of the Buyer's advanced Closing Date. If Buyer proceeds to Closing sooner than the expiration of the Study Period, the remaining time in the Study Period shall be added to the Construction Period defined in Section 6.6, below prefer to delete this section. Unless otherwise agreed upon, Closing shall be held at the offices of the Title Company.

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6.2 Conditions to Closing. Except as otherwise provided in this Agreement, in the event that the Seller's obligations are unsatisfied as of the Closing Date, and are not waived

in writing by Buyer, Buyer may, at its election, terminate its obligations under this Agreement, whereupon this Agreement shall become null and void, and no Party shall thereafter have any further right or obligation hereunder except as provided in Section 7.3.

6.3 Title. Seller shall convey title to the Property by Special Warranty Deed ("Deed") subject to any rights, covenants, privileges, encroachments or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record. Subject to the terms of this Agreement, title to the Property shall be insurable in a form satisfactory to Buyer, by a nationally recognized title insurance company selected by Buyer. Title and possession of the Property shall be transferred to Buyer at Closing.

6.4 Title Examination. Buyer shall have twelve (12) months from the Effective Date ("Study Period"), at Buyer's sole expense, to make an examination of title of the Property. In the event the title examination discloses defects of title unsatisfactory to Buyer, in Buyer's sole discretion, Buyer shall notify Seller in writing, prior to the expiration of the Study Period, of such title defects to which Buyer objects (an "Objection Notice"). Seller shall notify Buyer in writing within five (5) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect that Seller cannot cure or elects in Seller's sole discretion not to cure ("Objection Response"). Upon receipt of an Objection Response from Seller, and with written notice to Seller, Buyer shall have the option within forty-five (45) days to either (i) terminate this Agreement or (ii) accept the defects, exceptions or other matters referenced in such Objection Response and proceed to Closing. In the event Buyer fails to notify Seller of its intention to terminate this Agreement, then it shall be conclusively deemed that Buyer accepts the defects, exceptions or other matters referenced in such Objection Response. In the event Seller fails to notify Buyer with an Objection Response as set forth in the preceding paragraph, Seller shall have the period until the Closing Date within which to correct all defects, exceptions or other matters that it is required to cure. If Seller fails to cure such defects, exceptions or other matters, Buyer may elect to terminate this Agreement and neither Party shall have any further obligations hereunder, except as provided in Section 7.3, or Buyer may accept the defects, exceptions or other matters.

6.5 Study Period. During the Study Period, Buyer may determine in its sole discretion that the condition of the Property is satisfactory for the intended use of Buyer.

a. Seller shall give to Buyer and its designated agents and representatives full access to the Property during normal business hours throughout the Study Period, including the right, at Buyer's own risk, cost and expense, to cause its agents or representatives to enter upon the Property for the purpose of making surveys or soil borings, engineering, water, environmental, topographic and other similar tests, investigations or studies as Buyer may desire.

b. During the Study Period, Buyer in its sole discretion may prepare and submit for approval the Subdivision Plan, Text Amendment application, Site Plan, rezoning application, conditional use permit application, financing application, and any other third party or regulatory approvals necessary for Closing.

c. Provided that Buyer has undertaken work on steps listed in subparagraphs 6.5(a) or 6.5(b) above, Buyer may extend the Study Period one time for a period of up to six (6) additional months for an additional $5,000 non-refundable deposit by giving written Notice to the Seller within the original Study Period. Any further extension of the Study Period shall be by written agreement of the Buyer and Seller. The Buyer may terminate this Agreement during the Study Period in accordance with Section 6.8 of this Agreement, and neither Party shall have any further obligations thereafter, except as provided in Section 7.3.

6.6 Initiate Construction. Buyer will commence construction on the Property within three hundred sixty (360) days from the date of the Closing ("the Construction Period"). If, however, Buyer has gone to Closing before the end of the Study Period, the Construction Period will be extended on a day-for-day basis for every day remaining in the Study Period as of Closing (prefer to delete this section). If construction has not commenced within the Construction Period, then Seller shall have the option to reacquire title to the Property by special warranty deed free and clear of liens and encumbrances other than (i) those encumbering the Property at the time conveyed by Seller to Buyer; (ii) those contained in the Deed from Seller to Buyer; or (iii) those otherwise created or approved by Seller, and by paying to Buyer the Purchase Price theretofore paid by Buyer to Seller (the "Repurchase Option"). For the avoidance of doubt, the Repurchase Option shall terminate when construction commences. As used in this Section, the term "commence" shall mean when the Buyer's Contractor has begun substantial soil disturbance for the purpose of constructing the new apartment buildings on the Property, as determined by the Seller. The City Manager may waive the Repurchase Option for up to ninety (90) days if necessary to facilitate construction financing.

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6.7 Intentionally Omitted.

6.8 Termination. Buyer may terminate this Agreement by giving Seller written notice of termination at any time prior to the expiration of the Study Period, if the results of such inspections are not satisfactory to Buyer, as foresaid. Buyer will commence such inspections forthwith upon the Effective Date of this Agreement. If Buyer fails to give Seller such written notice of termination before the expiration of the Study Period, then, and in such event, Buyer shall be deemed to have accepted the results of such inspections and shall proceed to Closing in accordance with the terms of the Agreement. (Not sure I want to see a sale if the buyer intended to terminate but did not give adequate notice. Prefer to keep the property, as opposed to having the buyer hold it for years into the future).

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6.9 Pre-Settlement Termination. In the event that this Agreement is terminated before Closing by either Party, neither Buyer nor Seller shall have any obligation to the other, and except for damage to the Property occasioned by Buyer or its representatives, each Party shall be responsible for its own expenses, including, but not limited to, legal fees and expenses incurred in connection herewith.

6.10 Condition of the Property. Seller will convey the Property to Buyer "AS IS" and makes no representations or warranties regarding the Property except those effected by a special warranty conveyance. This sale is made subject to restrictions, covenants, agreements, and easements of record and existing leases. In this regard, Seller states that it has no knowledge of any outstanding restrictions, covenants, or easements of record as of the Effective Date of this Agreement. Buyer is aware of the current leases Seller has with two organizations leasing the building on the Property. Those leases are attached hereto as Exhibit B. As of the Closing Date, the Property will be unencumbered by any lease. This sale is conditioned upon the Property being in substantially the same condition on the Closing Date as the same are in on the date of this Agreement, except for the work required of the Parties under this Agreement. Risk of loss or damage to the Property shall be the responsibility of Seller until the Closing, except that Seller shall have the right, at its sole discretion, to terminate this Agreement at any time before the Closing if the Property is substantially and/or materially damaged, in its sole and absolute discretion, by an act of God or otherwise. If said casualty occurs, Seller shall notify Buyer by certified mail within thirty (30) days of said occurrence, and each Party shall have no further actions against one another for any fees, fines, penalties, liability, or expenses of or related to the Property, except for claims arising due to the Buyer's obligations under Section 4.1 and 7.3 hereof.

6.11 Intentionally Omitted

6.12 Outside Closing Date. Seller shall have the right to terminate this Agreement if Closing does not occur within ~~twenty-four months~~ 18 months (study period with an extension is only 18 months) of the Effective Date of this Agreement.

6.13 Prorations; Closing Costs. Seller assumes the expense of preparing the ALTA survey and Deed, related title work, and paying its own attorneys as needed. All other expenses in connection with the purchase of the Property, including without limitation title examination, inspections, Buyer's recordation costs and Buyer's settlement agent's fees shall be borne by Buyer. Assessments, utility charges and other apportionable items, if any, shall be prorated as of the Closing Date.

6.14 Nature of Deposit. If, for any reason, the purchase herein is not consummated, the Five Thousand Dollar ($5,000.00) non-refundable deposit shall remain the property of the seller, as shall the additional $5,000 deposit to extend the study period.

ARTICLE VII - MISCELLANEOUS

7.1 Notices. Any notice which a Party to this Agreement is required or may desire to give the other Party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested, or overnight mail service. Notices shall be deemed made and complete when personally delivered or mailed.

SELLER: CITY OF LEXINGTON

300 East Washington Street
Lexington, Virginia 24450
Attention: City Manager

With copy to: Jared R. Jenkins, City Attorney
Mann Legal Group, PLLC
15 East Nelson Street
Lexington, Virginia 24450

or to such other address or person as Seller may direct in writing.

BUYER: ECHELON RESOURCES, INC, C/O EDWIN GASKIN
700 Watkins Ave, #100
South Boston, VA 24592

or to such other address or person as Buyer may direct in writing.

7.2 Risk of Loss. All risk of loss or damage to the Property, or any part thereof, by fire or other casualty or cause shall remain upon Seller until Closing. In the event of damage to or destruction of any improvements prior to Closing, Buyer may declare this Agreement to be null and void and neither Party shall have any further obligations hereunder except as provided in Section 6.3.

7.3 Indemnification. To the extent allowed by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims, judgments, damages, fines, penalties, liability, costs and expenses (including reasonable fees for attorneys, consultants and experts) arising from Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. In the event Buyer for any reason does not purchase the Property, or the Buyer purchases the property but the Seller exercises its Repurchase Option, Buyer, at Buyer's expense, shall restore the Property to its prior condition to the extent of any changes made as a result of Buyer's (or its designated agent's and representative's) exercise of any rights hereunder. This Section shall survive Closing and termination of this Agreement.

7.4 Assignment. Buyer may assign this Agreement to any entity in which Edwin Gaskin is a controlling member, only with the written consent of Seller, which consent may not be unreasonably withheld. If consent is given, Buyer shall nevertheless remain liable for performance hereunder. Buyer shall provide contemporaneous notice to the Seller of such assignment. This Agreement shall be binding on the heirs, personal representatives, successors in interest and permitted assigns of the Parties. (Not sure of my comfort with this. Successors, heirs, etc. are really going to all satisfactorily perform?)

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7.5 Condemnation. In the event of condemnation or threat of condemnation of any part of the Property prior to Closing, Buyer shall have the option, in its sole discretion, to (i) terminate this Agreement or (ii) proceed to Closing without decrease in the Purchase Price conditioned upon any condemnation award being paid, credited or assigned, as appropriate,

to Buyer at Closing.

7.6 Default. In the event of any default, the non-defaulting Party shall be entitled to pursue any remedies at law or in equity in connection with the default of the other Party. The election to terminate this Agreement under the terms hereof shall not constitute a default. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Seller or the Commonwealth of Virginia.

7.7 Entire Agreement. This Agreement, including any Exhibits attached hereto, contains the entire agreement between Seller and Buyer and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by an instrument in writing executed by both Seller and Buyer.

7.8 Approval. This Agreement, and any amendment hereto, shall not be in effect or binding until and unless approved by duly authorized agents of the City Council of the City of Lexington, Virginia, and Buyer. In the event that this Agreement shall not be approved, neither Party shall have any further obligations hereunder.

7.9 Agents and Brokers. Both Seller and Buyer represent and warrant that they did not consult or deal with any broker or agent, real estate or otherwise, with regard to this Agreement or the transactions contemplated herein.

7.10 Time is of the Essence. The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement.

7.11 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in Lexington, Virginia, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, "day" shall mean "calendar day" unless the term "business day" is used; "business day" shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in the Commonwealth of Virginia.

7.12 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

7.13 Applicable Law. This Agreement shall be construed by and controlled under the laws of the Commonwealth of Virginia, without regard to its conflicts of laws principles.

7.14. Survival. Notwithstanding any presumption to the contrary, all obligations, covenants, conditions, representations, warranties and agreements of the Seller and Buyer contained in this Agreement shall be restated as true and correct as of Closing. Each

provision of this Contract which creates a right or imposes a duty that by its nature can be exercised after Closing shall survive Closing.

7.15 Interpretation. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any Party hereto based upon authorship. The terms "herein," "hereof," "hereto," "hereunder," and "herewith" refer to the Agreement as a whole, and not to the Section where they appear, unless the context clearly indicates otherwise.

7.16 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

7.17 No Waiver. The failure of a Party to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City of Lexington, Virginia, by the City Manager James M. Halasz, as authorized by the Lexington City Council; and on behalf of Buyer by Edwin A. Gaskin, its Manager and duly authorized representative.

[SIGNATURES ON THE FOLLOWING PAGES]

SELLER:

CITY OF LEXINGTON, VIRGINIA

By: _____ _____
James M. Halasz, City Manager Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that James M. Halasz, City Manager of the City of Lexington, Virginia, who has the authority to sign on behalf of the Seller, City of Lexington, Virginia, signed the foregoing document dated the _____ day of _____ 2021, and has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____

_____
Notary Public

BUYER:

_____

By: _____ _____
Edwin Gaskin, President – Echelon Resources, Inc. Date

COMMONWEALTH OF VIRGINIA
City/County of _____, to-wit:

I, _____, Notary Public for the Commonwealth of Virginia do hereby certify that _____, as _____ of _____, whose name is signed to the foregoing document dated the ____ day of _____ 2021, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand and seal this _____ day of _____, 2021.

My commission expires: _____.

_____
Notary Public

Jim Halasz

From: Jim Halasz
Sent: Thursday, May 12, 2022 5:14 PM
To: Edwin Gaskin; Randy Cosby
Subject: RE: Agreements
Attachments: 21-08-04, Survey.pdf

I believe you have this, but just in case it is not readily available (reference parcel numbers).

From: Jim Halasz
Sent: Thursday, May 12, 2022 5:10 PM
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>; Randy Cosby <cosby@echelonresourcesinc.com>
Subject: Agreements

Good afternoon Edwin/Randy. So, I hope these changes are clearly tracked – they appeared so on my computer, but the above seem to be less clear in that regard.

One of the larger issues I grapple with is the passage of time (I know you do as well). As I look at the language of the agreement, I see the following:

Effective Date +	
Study Period	12 months
Possible Extension	6 months
Closing	
Begin Construction	360 days
Finish Construction	24 months.

All told the possible completion of construction could be 4 and a half years from the Effective Date of this agreement. It is somewhat hard for me to reconcile this with what I believe a reasonable (though not necessarily knowledgeable) individual may consider a realistic timeframe for completing such a project. What can be done differently?

These changes may cause some concern, but I am truly hopeful you do not see them as such. Of course, happy to get on the phone & go over this all in detail. Again, shooting for a June 2nd introduction & public hearing, with approval July 7th.

Again, thanks for your patience & it is a pleasure working with you.

Have a great evening.

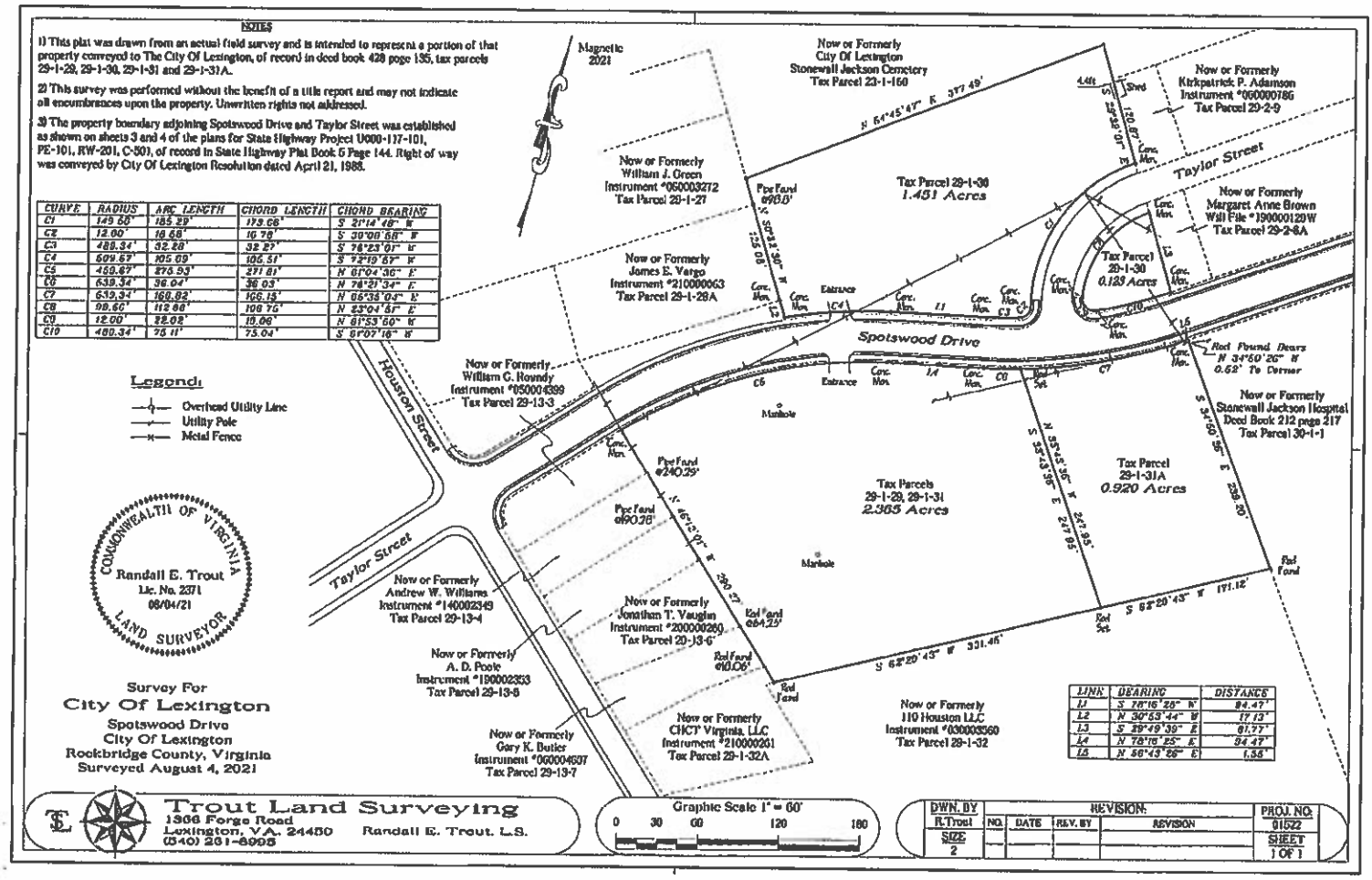
NOTES

1) This plat was drawn from an actual field survey and is intended to represent a portion of that property conveyed to The City Of Lexington, of record in deed book 428 page 135, tax parcels 29-1-29, 29-1-30, 29-1-31 and 29-1-31A.

2) This survey was performed without the benefit of a title report and may not indicate all encumbrances upon the property. Unwritten rights not addressed.

3) The property boundary adjoining Spotswood Drive and Taylor Street was established as shown on sheets 3 and 4 of the plans for State Highway Project U000-177-101, PE-101, RW-201, C-501, of record in State Highway Plat Book 5 Page 144. Right of way was conveyed by City Of Lexington Resolution dated April 21, 1986.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	149.50'	185.29'	173.06'	S 21°14'46" W
C2	12.00'	18.68'	16.79'	S 39°06'58" W
C3	489.34'	32.28'	32.27'	S 76°23'07" W
C4	509.67'	105.09'	105.51'	S 72°19'57" W
C5	459.67'	276.53'	271.81'	N 61°04'36" E
C6	639.34'	38.04'	38.03'	N 74°21'34" E
C7	639.34'	168.82'	166.15'	N 65°35'04" E
C8	98.60'	112.86'	106.76'	N 23°04'51" E
C9	12.00'	22.02'	19.06'	N 61°53'50" W
C10	480.34'	75.11'	75.04'	S 61°07'16" W



LINK	BEARING	DISTANCE
L1	S 78°16'25" W	94.47'
L2	N 30°53'44" W	17.13'
L3	S 39°49'39" E	61.77'
L4	N 78°16'25" E	94.47'
L5	N 56°43'26" E	1.56'

Jim Halasz

From: Jim Halasz
Sent: Thursday, May 26, 2022 5:00 PM
To: Jared Jenkins; Edwin Gaskin; Randy Cosby
Subject: RE: Spotswood Agreements

Thanks Jared.

Randy/Edwin – look fine to you?

From: Jared Jenkins
Sent: Thursday, May 26, 2022 4:50 PM
To: Edwin Gaskin <gaskin@echelonresourcesinc.com>; Randy Cosby <cosby@echelonresourcesinc.com>
Cc: Jim Halasz <jhalasz@lexingtonva.gov>
Subject: RE: Spotswood Agreements

Edwin, Randy,

I have added the 45-day provision and made the deposit refundable through the Study Period.

I added the Notice to Proceed language as 6.7. Thanks for sending that along.

I cleaned up a few things for consistency but didn't intend to make any further substantive changes.

If you have any questions, please let me know.

Jared

From: Edwin Gaskin <gaskin@echelonresourcesinc.com>
Sent: Thursday, May 26, 2022 6:23 AM
To: Randy Cosby <cosby@echelonresourcesinc.com>
Cc: Jared Jenkins <jjenkins@lexingtonva.gov>; Jim Halasz <jhalasz@lexingtonva.gov>
Subject: Re: Spotswood Agreements

Good morning all!

I have no additional feedback regarding the Project Expectations document.

Regarding the PSA, I agree with Randy's points and questions. I suggest that the City deliverables in 3.9 and 3.10 to be delivered within 45 days of executing the PSA.

Thanks and we are happy to jump on a cal today if needed to discuss these (hopefully last) edits. Have a great day.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592

Jim Halasz

From: Jim Halasz
Sent: Friday, May 27, 2022 6:49 AM
To: Edwin Gaskin; Randy Cosby
Cc: Jared Jenkins
Subject: RE: Spotswood Agreements

Thanks all. Have a great weekend!

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Friday, May 27, 2022 6:46 AM
To: Randy Cosby <cosby@echelonresourcesinc.com>
Cc: Jim Halasz <jhalasz@lexingtonva.gov>; Jared Jenkins <jjenkins@lexingtonva.gov>
Subject: Re: Spotswood Agreements

I'm good to go, this final version looks great! Thanks for making those edits. See you all on 6/2 at 7pm! thanks.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Fri, May 27, 2022 at 6:15 AM Randy Cosby <cosby@echelonresourcesinc.com> wrote:

Jared - thank you for the clean up, those were helpful edits. I'm good with this as a final document. Let's give Edwin a day or so to confirm as well.

Randy Cosby - Echelon Resources, Inc.
(804) 380-0742
cosby@echelonresourcesinc.com
echelonresourcesinc.com

On Thu, May 26, 2022 at 4:59 PM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Thanks Jared.

Jim Halasz

From: Jim Halasz
Sent: Friday, May 27, 2022 8:21 AM
To: Edwin Gaskin; Randy Cosby
Subject: June 2nd Briefing
Attachments: 22-06-02, Spotswood Agreement.docx

Good morning Edwin/Randy. I wanted to share with you my draft briefing for the June 2nd meeting.

I did not attempt to get exact dates of the chronology leading to where we are today, but if you would like to provide more specific details, please feel free to. I also have not presented specifics of the agreement, but may do so during the meeting next week. Again, please feel free to correct or comment upon the general outline of the agreement and the future steps that are outlined herein.

I have already created a briefing that is fairly extensive and would prefer it does not get too much longer, but feel free to comment as much as may be necessary & I may be able to incorporate some of what you provide or make helpful edits.

This needs to be ready for the City Council packet this afternoon, preferably before 3:00, so any input would be helpful before then.

Thank you both & stay dry!

City Council Briefing
June 2, 2022

Public Hearing to Receive Comments Relative to a Purchase Agreement for Sale of the Spotswood Parcel

Background: Tonight City Council has before it a final Purchase Agreement, for sale of the Spotswood site that has been fully reviewed and agreed to by representatives of Echelon Resources and the City Attorney and myself, representing the City. The intent of this Agreement is to provide Echelon Resources the opportunity to perform due diligence on the Spotswood site and to then satisfy the obligations specified within this Agreement to develop the site.

As a recap of how we have come to this place today, Echelon Resources had been in Lexington to perform their part of an agreement reached with the City to develop the Enfield water tower site. This was in the period of late 2019 through 2020, when it was determined the City did not have a clean title to the property and legal efforts were being made to clear that matter up. During the latter half of this timeframe Echelon also indicated an interest in discussing the VDOT site that was being acquired by the City at that time. However, that conversation was entirely shelved when it was established that the Sara's Run interceptor did not (at that time) have capacity to serve the VDOT site for residential development.

During the latter part of that timeframe (summer 2020), Echelon Resources inquired about the City owned parcel on Spotswood Street, that for many years had been identified for future development.

After a preliminary review of the site, Mr. Edwin Gaskin of Echelon Resources approached me and asked if the City would consider an unsolicited offer for the site. I conferred with the City Attorney and it was determined that no impediments existed that would prevent such consideration.

During the late summer of 2020 Mr. Gaskin did submit an unsolicited offer and during that fall until the end of 2020, he I evaluated formats and terms of this

agreement. During this time, the City Attorney did review the proposed offer on a number of occasions, as did Mr. Tim Davey, who had provided earlier development consultations for the City.

In January of 2021, the unsolicited proposal and draft purchase agreement were presented to City Council for review and consideration. Considerable concerns were voiced by the public at that time and City Council conscientiously considered these concerns over a number of months.

Primary among these concerns was the matter of continued use of the Piovano Building by RARA. In late spring of 2021 RARA submitted a purchase proposal to the City for the purchase of the Piovano Building. The purchase was approved and City Council then determined to move forward with sale and development of the remainder of the Spotswood Site.

In early summer of 2021, City Council determined to provide a process for the submission and evaluation of credentials and conceptual proposals for development of the site. The opportunity to provide these credentials and concepts for consideration of being selected as the developer/partner for the site continued until the end of October 2021.

City staff then reviewed these proposals and in January of this year submitted each of the two proposals received to City Council, with a recommendation for selecting Echelon Resources as the priority developer/partner for the site.

After thorough public review, comment and consideration City Council did approve Echelon Resources as the preferred developer/partner for the site, with the intent of entertaining a purchase agreement for that purpose.

This is the Agreement before you tonight. This Agreement is essentially the document that both the Spotswood Collaborative and Echelon Resources had submitted with their individual credentials and conceptual proposals some months ago. Further, the Agreement, in substantially the same form, was also initially presented to City Council for consideration by Echelon Resources in January of 2021.

The decision now faced by City Council is consideration and possible approval of this Agreement.

However, in order to better understand what is entailed by this Agreement I would note that this agreement is not approval of a site plan for any final proposal that may be brought forth by Echelon Resources. It does not approve, specify or limit any aspects of the design of the building(s) or lay-out of the site. This final submittal and all zoning requests will be reviewed by the Planning Commission, as is authorized by City Code and will then be presented to City Council for consideration as is also authorized in City Code.

What this document does do is outline the terms for the purchase of this property and the commitment to develop it for the purpose of constructing residential apartments, as desired by City Council. It provides for the obligations of each party to the other and the conditions under which Echelon Resources can move forward with this purchase, first exercising all due diligence that is required for the proposed development. Only when the required conditions within this agreement have been met and when Echelon Resources is confident that the proposal they have in mind can be built, will the purchase agreement be finalized.

Council's approval tonight confirms agreement with the terms herein and permits the due diligence efforts by Echelon Resources to begin.

Also, for your better understanding of the proposal that is envisioned by Echelon Resources and their activities during the due diligence period, Mr. Edwin Gaskin and Mr. Randy Cosby are present to make a brief presentation and answer any questions that City Council may have.

Recommendations: Hold the Public Hearing and receive comments as may be presented by the public. Delay any consideration by City Council, until a further Public Hearing is held on the July 7th and be prepared to consider the disposition of the agreement at that time.

Jim Halasz

From: Jim Halasz
Sent: Tuesday, May 31, 2022 9:06 AM
To: Edwin Gaskin; Randy Cosby; Frank Friedman; Jared Jenkins
Cc: Arne Glaeser; 'jhostetter@lexingtonva.gov'
Subject: FW: Echelon Contract
Attachments: 22-05-27, Final Spotswood Project Expectations.pdf; 22-06-02, Revised Spotswood Project Expectations.docx

Good morning Edwin/Randy. We just picked up a little area that needs revision in the Project Expectations. In Access Management, the phrase dealing with one point of access lined up with Taylor Street is no longer relevant, as that would be across from the Piovano Builindg & thus would not work for the parcel now in play (see revised expectations).

From: Arne Glaeser
Sent: Tuesday, May 31, 2022 8:17 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>
Subject: RE: Echelon Contract

Leslie,
If I remember correctly, only the proposal with townhouses needs correction because each "townhouse shall front on, or be accessed by, a public street." I will add this to the zoning hot file for the next annual review.
Echelon simply needs to decide if they prefer to submit for a conditional use permit for multifamily dwellings or to rezone to R-M (Residential Multifamily).
Please let me know if you have any further questions.
Thanks,
Arne
462.3730

From: Jim Halasz
Sent: Tuesday, May 31, 2022 7:53 AM
To: Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>
Subject: RE: Echelon Contract

Thanks Leslie. Good catch. I will let Mr. Gaskin know about access & rely on Arne for answer to your 2nd point.

From: Leslie Straughan
Sent: Tuesday, May 31, 2022 6:51 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>
Subject: Echelon Contract

Hi,

The Echelon contract looks good. One minor item that is left over from the original 3 acres design – on the last page Exhibit A under "Access Management," the phrase "with one to align with Taylor Street if two points are provided" should be removed because the site no longer extends to Taylor Street.

Also, my recollection is that regardless of which developer was chosen, we need to amend our zoning ordinance regarding street frontage (?) I think or some other criteria. Is that still the case and on the Planning Commission agenda?

Thank you,
Leslie

Sent from Mail for Windows

Jim Halasz

From: Jim Halasz
Sent: Tuesday, May 31, 2022 9:32 AM
To: Edwin Gaskin
Cc: Randy Cosby; Frank Friedman; Jared Jenkins; Arne Glaeser; Jani Hostetter
Subject: RE: FW: Echelon Contract
Attachments: 22-06-02, Revised Spotswood Project Expectations.docx

FYI, Taylor Street language removed from Access Management.

From: Edwin Gaskin [mailto:gaskin@echelonresourcesinc.com]
Sent: Tuesday, May 31, 2022 9:11 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>
Cc: Randy Cosby <cosby@echelonresourcesinc.com>; Frank Friedman <FFriedman@lexingtonva.gov>; Jared Jenkins <jjenkins@lexingtonva.gov>; Arne Glaeser <aglaeser@lexingtonva.gov>; Jani Hostetter <jhostetter@lexingtonva.gov>
Subject: Re: FW: Echelon Contract

That makes sense to us, kindly edit and send us the final version. Thanks.

Edwin Gaskin - Echelon Resources, Inc.
700 Watkins Avenue, #100
South Boston, Virginia 24592
(804) 767-5990
gaskin@echelonresourcesinc.com
Website * Watch What We Do!

On Tue, May 31, 2022 at 9:06 AM Jim Halasz <jhalasz@lexingtonva.gov> wrote:

Good morning Edwin/Randy. We just picked up a little area that needs revision in the Project Expectations. In Access Management, the phrase dealing with one point of access lined up with Taylor Street is no longer relevant, as that would be across from the Piovano Builindg & thus would not work for the parcel now in play (see revised expectations).

From: Arne Glaeser
Sent: Tuesday, May 31, 2022 8:17 AM
To: Jim Halasz <jhalasz@lexingtonva.gov>; Leslie Straughan <lstraughan@lexingtonva.gov>; Frank Friedman <FFriedman@lexingtonva.gov>
Subject: RE: Echelon Contract

Leslie,

EXHIBIT A

Spotswood Drive Parcel – Project Expectations

Bike and Pedestrian Amenities: Maximize opportunities for biking and pedestrian connections to the community through paths/walks along the street frontage, within the site and across other connecting properties with the consent of the owners of those properties. Include bike amenities on site, such as bike storage and/or parking areas.

Access Management: No more than 2 access points will be provided onto Spotswood Street. Pedestrian access should be designed to line-up across from the cemetery entrance.

Lighting Features: Provide dark sky lighting only on the site. Focus (or shield) lighting away from adjacent residential property. Use energy-efficient lighting, to include consideration of photovoltaic and/or solar-charged lighting.

Stormwater Management: Provide rain gardens and/or other bio-retention structures on-site, within the required greenspace. Consider the use of pervious pavement to minimize stormwater leaving the site. All stormwater management plans require approval of both the City and DEQ.

Site Buffers: A minimum 25-foot buffer must be maintained on the boundary adjacent to residential properties on Houston Street. Parking will not be allowed in the 10 feet directly adjacent to those properties, but will be allowed within the remaining 15 feet of the buffer. The relocation of the sanitary sewer adds an additional 5 foot buffer in these areas. These buffers must include additional fencing and/or landscaping to assure appropriate separation and screening. Existing trees in these buffer areas must be maintained. Waste disposal facilities shall be located to minimize disturbance of directly adjacent residential properties.

Landscaping and Green Spaces: The site developer is to work with the City Arborist to select landscape species best suited to the site and confer with the City Arborist when creating the landscape plan. Landscaping of the site shall, as is practical, conform to the City goals of achieving tree canopy improvements within the City. The City Arborist will review and approve these plans. Additional green spaces are encouraged within the context of the overall site design.

Density: The maximum number of multi-family dwelling units constructed on the subject parcel shall be 65 units.

Housing Type: The housing constructed on-site will be market-rate, rental housing with no addition or conversion of any units to low-income housing.

Building Scale: The buildings on site shall comply with the height limitations of the zoning Ordinances in place.