

RESOLUTION AUTHORIZING APPROVAL OF AN ADDENDUM TO THE CITY'S
GROUND LEASE WITH THE BOTANICAL GARDEN OF THE PIEDMONT, INC.

WHEREAS, the City of Charlottesville, Virginia (the City) is the owner of certain land currently leased to the Botanical Garden of the Piedmont, Inc. (the Botanical Garden) pursuant to a forty-year ground lease dated November 8, 2021; and

WHEREAS, the Botanical Garden is preparing its first phase of construction of a botanical garden that will be open and free of charge to City residents; and

WHEREAS, the Botanical Garden has been awarded a federal grant from the National Fish and Wildlife Foundation to assist with implementation of a nature-based stormwater management system intended to improve water quality and protect native habitat; and

WHEREAS, the Botanical Garden has requested the City's approval to enter into the grant agreement and the City's acknowledgment of a limited federal reversionary interest solely in certain grant-funded improvements constructed with grant funds during their useful life, and only to the extent provided in the grant agreement; and

WHEREAS, the proposed lease addendum clarifies that the City is not granting any interest in its fee simple ownership of the land, is not creating any lien or encumbrance on City property, is not pledging the City's credit or assets, is not guaranteeing the obligations of the Botanical Garden and is not assuming any repayment or performance obligations under the grant agreement; and

WHEREAS, the proposed lease addendum further provides that any default by the Botanical Garden under the grant agreement during the lease term, including any extensions, shall constitute a default under the lease; and

WHEREAS, City Council finds that approval of the proposed lease addendum is in the public interest.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville:

1. The City Manager is hereby authorized to execute an addendum to the November 8, 2021 ground lease with the Botanical Garden in substantially the form presented to City Council, together with such minor or technical revisions as the City Manager and City Attorney deem necessary or appropriate, provided that such revisions do not materially alter the substance of the addendum.
2. The City's approval and acknowledgment shall be limited to the terms set forth in the lease addendum and shall not be construed to grant any interest in the City's fee simple ownership of the land, create any lien or encumbrance on City property, pledge the City's credit or assets, make the City a guarantor of any obligation, or cause the City to assume any repayment or performance obligation arising under the Botanical Garden's grant agreement.