

Issue Analysis Form



Date: September 8, 2020
Easement between Prince George County and Mid-Atlantic Broadband

Item:

Lead Department(s): County Attorney

Contact Person(s): Dan Whitten

Description and Current Status

Mid-Atlantic Broadband Communities Corporation has requested the County convey an easement to them for certain real estate located at 8200 Quality Drive (Tax Map #340(03)00-001-F) for the construction and operation of a telecommunications facility. (See attached plat). The facility provides services to multiple customers in the Southpoint Business Park.

In 2009 the County granted a 50'x50' easement for this same purpose. The current facility will no longer accommodate their needs. Therefore, they are requesting an expansion of the easement doubling the size to construct a new facility adjacent to the current facility.

A motion accepting the conveyance is requested.

Sample Motion: I move that the Board approve the conveyance of an Easement between Prince George County and Mid-Atlantic Broadband Communities Corporation to construct and operate a telecommunications facility at 8200 Quality Drive.

Government Path

- | | | |
|---|---|--|
| Does this require IDA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require BZA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does This require Planning Commission Action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require Board of Supervisors action? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does this require a public hearing? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If so, before what date? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Fiscal Impact Statement

Prepared by and return to:
Williams Mullen
200 South 10th Street, Suite 1600
Richmond, Virginia 23219
Attn: Sean D. Hicks (VSB # 82217)

Tax Map No. 340(03)00-001-F

EASEMENT AGREEMENT

This Easement Agreement ("Easement") is made this ____ day of August, 2020, by and between PRINCE GEORGE COUNTY, VIRGINIA ("Grantor"), whose address is 6602 Courts Drive, Prince George, VA 23875, and MID-ATLANTIC BROADBAND COMMUNITIES CORPORATION, a Virginia 501(c)(4) corporation ("Grantee"), whose address is 1100 Confroy Drive, South Boston, VA 24592.

RECITALS

WHEREAS, Grantor is the owner of certain real property located at 8200 Quality Drive in Prince George County, Virginia and identified as Tax Map Number 340(03)00-001-F, as more particularly described on Exhibit A attached hereto (the "Property"); and

WHEREAS, Grantee has requested that Grantor grant and convey to Grantee an easement as further described herein for the construction and operation of certain telecommunications facilities by Grantee.

AGREEMENT

NOW, THEREFORE, in consideration of the sum of ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey to Grantee, its successors and assigns, for the benefit of Grantee and its successors and assigns, an exclusive, permanent and perpetual easement to construct, erect, install and lay, and thereafter use, operate, inspect, maintain, repair, replace and remove, a telecommunications system consisting of wires, cables, conduits, wireless communications equipment, shelters, generators and other related above-ground and subsurface fixtures, equipment, appurtenances and facilities (collectively, the "Facilities") on the Property in the location depicted as "50' X 50' MID-ATLANTIC BROADBAND COMMUNITIES CORPORATION EASEMENT" (the "Easement Area") on that certain plat entitled "PLAT SHOWING A 50' X 50' MID-ATLANTIC BROADBAND COMMUNITIES CORPORATION EASEMENT & A 15.79' ACCESS EASEMENT ACROSS THE PROPERTY OF THE COUNTY OF PRINCE GEORGE LOCATED SOUTH OF LOT 6,

SECTION ONE SOUTHPOINT BUSINESS PARK RIVES DISTRICT PRINCE GEORGE COUNTY, VIRGINIA”, attached hereto as Exhibit B and recorded herewith (the “Plat”).

2. Construction. Grantee shall construct the Facilities at its sole expense in accordance with applicable laws and safety codes and shall promptly repair any damage to the Property resulting from such construction. The Facilities shall be maintained and repaired at the sole expense of Grantee and shall remain the property of Grantee. Grantee shall have the right to make such changes and alterations to, or substitutions of, the Facilities as Grantee may from time-to-time reasonably deem advisable, provided that such changes, alterations or substitutions do not unreasonably interfere with Grantor's improvements or use of the Property.

3. Access. Grantor does hereby grant and convey to Grantee, its successors and assigns, for the benefit of Grantee and its successors and assigns, a non-exclusive, permanent and perpetual easement for ingress and egress to and from the Easement Area and Facilities and to construct, erect, install and lay, and thereafter use, operate, inspect, maintain, repair, replace and remove, a telecommunications system consisting of wires, cables, conduits, and other related subsurface fixtures, equipment, appurtenances and facilities on the Property in connection with the operation of the Facilities in the location depicted as “15.79’ ACCESS EASEMENT” on the Plat. Except for emergency work, Grantee's access to the Property shall be limited to normal business hours. Grantee's exercise of its rights of ingress to and egress from the Easement Area shall not unreasonably interfere with Grantor's improvements or use of the Property.

4. Indemnification. Grantee agrees to indemnify and hold harmless Grantor from and against any loss, damage, liability, deficiency or claim (including, without limitation, reasonable attorneys’ fees) in connection with any injuries to any person or damage to any property directly resulting from Grantee’s construction, installation, use, operation, inspection, repair, maintenance, renewal, replacement or removal of the Facilities.

5. Grantor’s Representations and Warranties. Grantor represents, warrants, covenants and agrees that Grantor is the lawful owner of the Property, has good, right and lawful authority to execute and deliver this Easement and that Grantor and its heirs, executors, administrators, successors and assigns shall warrant and defend the same and, to the extent allowed under Virginia law, will indemnify and hold harmless Grantee forever against the claims of all persons whomsoever in any way asserting any right, title, or interest prior to or contrary to the rights of Grantee and its successors and assigns under this Easement.

6. Other Documents. Grantor and Grantee covenant and agree, for themselves and their respective successors and assigns, to execute such other documents and take such further actions as may be reasonably requested by the other in order to carry out the provisions of this Easement including, without limitation, in the event the applicable local recorder's office shall refuse or otherwise fail to record this Easement, the execution of another instrument granting the easement herein described in form acceptable for recording.

7. Miscellaneous. The cash consideration set forth above is paid by Grantee and accepted by Grantor as full and total payment for the rights set forth herein. All provisions of this Easement, including all benefits and burdens, shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, personal representatives, lessees, permittees and licensees, and such provisions shall be deemed to be enforceable equitable servitudes running with the land and shall bind any person having at any time any interest or estate in the Easement Area as though such provisions were recited and stipulated in full in each and every deed of conveyance, license or lease thereof or occupancy agreement pertaining thereto. Except for Grantee's transfer, assignment, lease, permit or license of the rights granted herein, whether voluntary or by operation of law or court order, upon dissolution of Grantee under the laws of the Commonwealth of Virginia, all of Grantee's rights set forth herein shall cease and be of no further force and effect. This Easement shall be construed in accordance with, and governed by, the laws of the Commonwealth of Virginia without regard to principles of conflicts of laws.

8. Conditions. The easement hereby granted is expressly subject to the following terms, limitations and conditions:

- a. Grantee shall maintain the Facilities and the Easement Area, and any appurtenances or improvements thereon, in a safe, clean, good and substantially repaired condition and shall keep all grass and foliage in the Easement Area in a groomed condition.
- b. Grantee shall not transfer its rights under this Easement to any entity whose purpose is other than to provide a telecommunication system for business, government and the public.
- c. Grantee and its successors and assigns shall not use the Easement Area for any purpose other than those purposes specifically set forth herein.

Any failure to comply with, or violation of, these terms, limitations and conditions shall constitute a material breach of this Easement and shall empower Grantor to terminate the easement herein granted, take exclusive possession of the Easement Area, eject Grantee and declare this Easement to be of no further force and effect.

9. Approval. The conveyance of this Easement is approved by Grantor, as evidenced by the signature of the County Administrator of Prince George County, Virginia pursuant to the authority vested in him by resolution adopted by the Prince George County Board of Supervisors on _____, 2020. The form of this Easement is approved by the undersigned County Attorney for Prince George County, Virginia.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have duly executed this Easement as of the date first written above.

GRANTOR:

PRINCE GEORGE COUNTY, VIRGINIA

_____(SEAL)

Name: Percy C. Ashcraft

Title: County Administrator

Approved by:

_____(SEAL)

Name: Dan Whitten

Title: County Attorney

COMMONWEALTH OF VIRGINIA)

) TO-WIT

COUNTY OF PRINCE GEORGE)

The foregoing instrument was acknowledged before me this ___ day of August, 2020 by Percy C. Ashcraft, who is the County Administrator of Prince George County, Virginia, and Dan Whitten, who is the County Attorney of Prince George County, Virginia, known to me to be the persons whose names are subscribed to the within instrument or having presented satisfactory identification, on behalf of Prince George County, Virginia.

Notary Public

Registration Number: _____

My commission expires: _____

Notary Seal

EXHIBIT A

Legal Description

EXHIBIT B

Plat

**PUBLIC NOTICE
COUNTY OF PRINCE
GEORGE**

Notice is hereby given to all interested persons that the Prince George County Board of Supervisors will hold a public hearing on Tuesday, September 1, 2020 beginning at 6:00 p.m. in the Board of Supervisors Meeting Room, Third Floor of the County Administration Building, 6602 Courts Drive, Prince George, Virginia, (located at the intersection of Laurel Springs Road and Courts Drive in the County Government Complex) pursuant to § 15.2-1800, Code of Virginia (1950), as amended, to consider:

Adoption of an Ordinance to amend "The Code of the County of Prince George, Virginia", by amending and re-enacting Section 30-62 to relocate the polling place for Election District No. 2, Precinct No. 204, "Courts Building" from the Main Floor of Courts Building located at 6601 Courts Drive, to Gregory Memorial Presbyterian Church located at 6300 Court-house Road.

A copy of the proposed Ordinance is available for review in the Office of the County Administrator (Tel. 722-8600), 6602 Courts Drive, Prince George, Virginia. All interested persons shall be given an opportunity to be heard.

Percy C. Ashcraft
County Administrator

Board of Supervisors
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia, this 8th day of September, 2020:

Present:

Donald Hunter, Chairman
Alan R. Carmichael, Vice-Chair
Floyd M. Brown, Jr.
Marlene J. Waymack
T. J. Webb

Vote:

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On motion of _____, seconded by _____, which carried unanimously, the following Resolution was adopted:

RESOLUTION ACCEPTING AN EASEMENT BETWEEN PRINCE GEORGE COUNTY AND MID-ATLANTIC BROADBAND COMMUNITIES CORPORATION TO CONSTRUCT A TELECOMMUNICATIONS FACILITY AT 8200 QUALITY DRIVE

WHEREAS, Mid-Atlantic Broadband Communities Corporation has requested the County convey an easement to them for certain real estate located at 8200 Quality Drive (Tax Map #340(03)00-001-F) for the construction and operation of a telecommunications facility. The facility provides services to multiple customers in the Southpoint Business Park; and

WHEREAS, in 2009 the County granted a 50'x50' easement for this purpose. The current facility will no longer accommodate their needs. Therefore, they are requesting an expansion of the easement doubling the size to construct a new facility adjacent to the current facility.

NOW, THEREFORE, BE IT RESOLVED, that the Prince George County Board of Supervisors approves the easement between Prince George County and Mid-Atlantic Broadband Communities Corporation to construct a telecommunications facility at 8200 Quality Drive.

A Copy Teste:

Percy C. Ashcraft

County Administrator