

AN ORDINANCE No. 2024-217

To provide for the granting by the City of Richmond to the person, firm or corporation to be ascertained in the manner prescribed by law of an easement upon, over, under, and across certain property located in Lewis Ginter Botanical Gardens at 1800 Lakeside Avenue for the construction, maintenance, and operation of improvements and associated appurtenances for the generation, distribution and transmission of electricity in accordance with a certain Right of Way Agreement.

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: OCT 15 2024 AT 6 P.M.

WHEREAS, following the introduction of this ordinance, the City Clerk has caused to be advertised, once a week for two successive weeks in a newspaper of general circulation published in the city of Richmond, a descriptive notice of the Right of Way Agreement attached to this ordinance, which notice:

- 1. included a statement that a copy of the full text of the ordinance is on file in the office of the City Clerk;
- 2. invited bids for the easements offered to be granted in and by this ordinance, which bids were to be:

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

ADOPTED: \_\_\_\_\_ REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

- (a) delivered in writing to the presiding officer of the Council of the City of Richmond at its regular meeting to be held on October 15, 2024, at 6:00 p.m., in open session;
  - (b) presented by the presiding officer to the Council; and
  - (c) then dealt with and acted upon in the mode prescribed by law;
3. required that all bids for the easement hereby offered to be granted shall be submitted in writing as required by law; and
  4. reserved the Council's right to reject any and all bids; and

WHEREAS, the deadline for the receipt of bids has passed, all bids have been received, and the Council is prepared to act in accordance with sections 15.2-2102 or 15.2103, or both, of the Code of Virginia (1950), as amended;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That there shall be granted in the manner prescribed Article VII, Section 9 of the Constitution of Virginia and Title 15.2, Chapter 21, Article 1, §§ 15.2-2100-15.2-2108.1:1 of the Code of Virginia (1950), as amended, an easement upon, over, under, and across certain property located in Lewis Ginter Botanical Gardens at 1800 Lakeside Avenue for the construction, maintenance, and operation of improvements and associated appurtenances for the generation, distribution and transmission of electricity on that property as described and under the conditions set forth in the Right of Way Agreement, a copy of which is attached to and incorporated into this ordinance, to the following grantee:

§ 2. That the Chief Administrative Officer, for and on behalf of the City of Richmond,

be and is hereby authorized to execute the Right of Way Agreement between the City of Richmond as grantor and the grantee identified in section 1 of this ordinance to grant an easement upon, over, under, and across certain real property located in Lewis Ginter Botanical Gardens at 1800 Lakeside Avenue and identified as Parcel ID No.780-751-9222 in the 2024 records of the Real Estate Assessment Division for the County of Henrico for the construction, maintenance, and operation of improvements and associated appurtenances for the generation, distribution and transmission of electricity by such grantee, provided that:

(a) The Right of Way Agreement has first been approved as to form by the City Attorney and is substantially in the form of the document attached to this ordinance;

(b) The grantee identified in section I of this ordinance has first executed a bond, with good and sufficient security, in favor of the City of Richmond, Virginia, in the amount of \$50.00 and conditioned upon the construction, maintenance, and operation of improvements and associated appurtenances for the generation, distribution and transmission of electricity as provided for in the granted easements, with such bond in a form acceptable to the Chief Administrative Officer and approved as to form by the City Attorney; and

(c) The grantee identified in section l of this ordinance has first paid all costs incurred in connection with the advertisement of this ordinance, as required by section 15.2-2101 of the Code of Virginia (1950), as amended.

§ 3. This ordinance shall be in force and effect upon adoption.

APPROVED AS TO FORM:



\_\_\_\_\_  
CITY ATTORNEY'S OFFICE



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.rva.gov

## Master

**File Number: Admin-2024-1011**

**File ID:** Admin-2024-1011

**Type:** Request for Ordinance or Resolution

**Status:** Regular Agenda

**Version:** 1

**Reference:**

**In Control:** City Clerk Waiting Room

**Department:**

**Cost:**

**File Created:** 08/19/2024

**Subject:**

**Final Action:**

**Title:**

### Internal Notes:

### Code Sections:

**Agenda Date:** 09/09/2024

**Indexes:**

**Agenda Number:**

**Patron(s):**

**Enactment Date:**

**Attachments:** Admin-2024-1011 Dominion Energy ROW\_Lewis Ginter and plat - Signature Final, Admin-2024-1011 WD - Lewis Ginter Botanical Gardens Electrical Easement Ordinance AATF

**Enactment Number:**

**Contact:**

**Introduction Date:**

**Drafter:** Wanda.Marable@richmondgov.com

**Effective Date:**

### Related Files:

## Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	8/19/2024	Chris Frelke	Approve	8/21/2024
1	2	8/20/2024	Traci DeShazor	Approve	8/21/2024
1	3	8/20/2024	Jeff Gray	Approve	8/22/2024
<b>Notes:</b> Approved: Out of Office					
1	4	8/21/2024	Lincoln Saunders	Approve	8/22/2024
1	5	8/30/2024	Mayor Stoney	Approve	8/23/2024

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

**Text of Legislative File Admin-2024-1011**

**O&R Transmittal**

**DATE:** August 16, 2024

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** J.E. Lincoln Saunders, Chief Administrative Officer

**THROUGH:** Traci J. DeShazor, Deputy Chief Administrative Officer- Human Services

**FROM:** Christopher Frelke, Director of Parks, Recreation and Community Facilities

**RE:** Proposed electrical easement for Lewis Ginter Botanical Gardens - 1800 Lakeside Ave, Richmond, VA 23228

**ORD. OR RES. No.**

**PURPOSE:** To authorize the Chief Administrative Officer to grant to the person, firm, or corporation to be ascertained in the manner prescribed by law an easement with the terms of 40 years for the purpose of constructing electrical lines beneath the property located as shown on the attached drawing entitled “Exhibit B”, Plat Map NO:01-23-0218 for the purpose of transmitting and distributing electrical power.

**BACKGROUND:** Lewis Ginter Botanical Gardens located in Henrico County sits on property owned by the City of Richmond. Lewis Ginter Botanical Gardens is interested in installing several EV charging stations in their guest parking lot and require electrical work to extend power to these stations.

**COMMUNITY ENGAGEMENT:** N/A

**STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL:** N/A

**FISCAL IMPACT:** None Anticipated

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** September 9, 2024

**CITY COUNCIL PUBLIC HEARING DATE:** September 23, 2024

**REQUESTED AGENDA:** Regular Agenda

**RECOMMENDED COUNCIL COMMITTEE:** Land Use, Housing and Transportation

**AFFECTED AGENCIES:** Department of Parks, Recreation and Community Facilities

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

**ATTACHMENTS:** Exhibit A- Right of Way Agreement  
Exhibit B - Plat Map

**STAFF:** Deborah Morton, Deputy Director, PRCF (804-646-5714)

# Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024\_\_, by and between the CITY OF RICHMOND ("**GRANTOR**") and \_\_\_\_\_, ("**GRANTEE**").

## W I T N E S S E T H:

1. That for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, a non-exclusive easement over, under, through, upon, above and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity; for fiber optic cables, wires, attachments, and other transmission facilities, and all equipment, accessories and appurtenances desirable in connection therewith, for the purpose of transmitting voice, text, data, internet services, and other communications services, including the wires and attachments of third parties; and for lighting purposes; including but not limited to the rights:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith.

2. The easement granted herein shall extend FIFTEEN (15') feet in width across the lands of **GRANTOR** situated in Henrico County, Virginia, as more fully described on Plat(s) Numbered 01-23-0218, dated 10/31/2023, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, and relocate such facilities on and within the easement area, including but not limited to the airspace above the property controlled by **GRANTOR**, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, re-top, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**. In maintaining, trimming, cutting and removing trees, the **Grantee** shall comply with the Code of the City of Richmond, as it may be amended, and provide prior written notice, minimum thirty (30) days when practicable, to the City Division of Urban Forestry. **Grantee** shall follow accepted industry standards put forth by the American National Standards Institute (ANSI) and best management practices that are endorsed by the International Society of Arboriculture (ISA).

**This Document Prepared by \_\_\_\_\_ and should be returned to:**

Initials: \_\_\_\_\_

## Right of Way Agreement

5. For the purpose of exercising the right granted herein, GRANTEE shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of GRANTOR. The right, however, is reserved to GRANTOR to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, GRANTEE shall have such right of ingress and egress over the lands of GRANTOR adjacent to the easement. GRANTEE shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to GRANTOR.

6. GRANTEE shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to GRANTEE's rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay GRANTOR, at GRANTEE's option, for other damage done to GRANTOR's property inside the boundaries of the easement (subject, however, to GRANTEE's rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by GRANTEE in the process of the construction, inspection, and maintenance of GRANTEE's facilities, or in the exercise of its right of ingress and egress; provided GRANTOR gives written notice thereof to GRANTEE within sixty (60) days after such damage occurs. GRANTOR shall deliver such notice to GRANTEE at the following address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. GRANTOR, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with GRANTEE's exercise of any of its rights hereunder. GRANTOR shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, GRANTOR may construct on the easement fences, landscaping (subject, however, to GRANTEE's rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with GRANTEE's exercise of any of its rights granted hereunder. In the event such use does interfere with GRANTEE's exercise of any of its rights granted hereunder, GRANTEE may, in its reasonable discretion, relocate such facilities as may be practicable to a new site designated by GRANTOR and acceptable to GRANTEE. In the event any such facilities are so relocated, GRANTOR, subject to all necessary approvals, the appropriation of funds by Richmond City Council (the "Council"), any applicable terms of City of Richmond Ordinance No. 2024-009, and other applicable law, shall reimburse GRANTEE for the cost thereof and convey to GRANTEE an equivalent easement at the new site. Notwithstanding the above, where such relocation is due to any of the causes described in Section 2(b) of City of Richmond Ordinance No. 2024-009 (the "Ordinance"), responsibility for the cost of such relocation shall be governed by the Ordinance.

Initials: \_\_\_\_\_

## Right of Way Agreement

8. GRANTEE'S right to assign or transfer its rights, privileges and easements, as granted herein, shall be strictly limited to the assignment or transfer of such rights, privileges and easements to any business which lawfully assumes any or all of GRANTEE'S obligations as a public service company or such other obligations as may be related to or incidental to GRANTEE'S stated business purpose as a public service company; and any such business to which such rights, privileges and easements may be assigned shall be bound by all of the terms, conditions and restrictions set forth herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by GRANTOR contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

11. GRANTOR hereby represents to GRANTEE that, to the best of GRANTOR'S knowledge, (a) GRANTOR is seized of and has the right to convey this easement and the rights and privileges granted hereunder; and (b) GRANTEE shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges.

12. The individual executing this Right of Way Agreement on behalf of GRANTOR warrants that they have been duly authorized to execute this easement on behalf of said GRANTOR.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

**[SIGNATURES ON FOLLOWING PAGE]**

Initials: \_\_\_\_\_

IN WITNESS WHEREOF, GRANTOR has caused its name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

CITY OF RICHMOND:

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_

County/City of \_\_\_\_\_, to wit:

I, \_\_\_\_\_, a Notary Public in and for the State of Virginia at Large, do hereby certify that this day personally appeared before me in my jurisdiction aforesaid

\_\_\_\_\_, \_\_\_\_\_, on behalf of \_\_\_\_\_  
(Name of officer or agent) (Title of officer or agent)

County, Virginia, whose name is signed to the foregoing writing dated this \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_, and acknowledged the same before me.

Given under my hand \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (Print Name)

\_\_\_\_\_  
Notary Name (Signature)

Virginia Notary Reg. No. \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

APPROVED AS TO FORM:

By:  \_\_\_\_\_

Title: Senior Assistant City Attorney

# Right of Way Agreement

## Exhibit A

THIS RIGHT OF WAY AGREEMENT dated \_\_\_\_\_, \_\_\_\_\_, by and between the CITY OF RICHMOND, a municipal corporation and political subdivision of the Commonwealth of Virginia ("**GRANTOR**"), and \_\_\_\_\_ ("**GRANTEE**") is hereby amended as follows:

1. This Right of Way Agreement shall be limited in duration and shall remain in force for a term of forty (40) years, except for any air rights together with easements for columns for support granted hereunder, in which case such air rights together with easements for columns for support shall exist for a term of sixty (60) years. At the end of any such term, this Right of Way Agreement shall expire unless **GRANTOR** agrees to renew this Right of Way Agreement for an additional term of years.
2. Unless stated otherwise in those terms concerning relocation of **GRANTEE**'s facilities set forth in Section 7 of this Right of Way Agreement, in the event that **GRANTOR** terminates this Agreement, or then **GRANTOR** agrees that it will pay the cost of removing **GRANTEE**'s wires and facilities, and, if appropriate, the cost of replacing **GRANTEE**'s wires and facilities. Upon such termination of this Right of Way Agreement, **GRANTOR** agrees to provide **GRANTEE**, if needed by **GRANTEE**, a suitable substitute easement subject to the same terms provided for herein for **GRANTEE**'s wires and facilities. In the event that this Right of Way Agreement is revoked or terminated, all facilities constructed hereunder shall remain the property of **GRANTEE**.
3. **GRANTOR** covenants that in the event **GRANTOR** transfers the real property on which **GRANTEE**'s wires and facilities are located by this Right of Way Agreement before the expiration of this Right of Way Agreement, a condition of such transfer shall be conveyance of a reasonably suitable permanent easement to **GRANTEE** where permitted by law. If such permanent easement is not in the same location as the easement granted by this Right of Way Agreement, an additional condition of such transfer shall be payment to **GRANTEE** for the reasonable cost of relocating **GRANTEE**'s wires and facilities to the permanent easement.
4. All payments and other performances by **GRANTOR** under this Right of Way Agreement are subject to annual appropriations by the Richmond City Council, all necessary approvals, and applicable law. It is understood and agreed between **GRANTEE** and **GRANTOR** that **GRANTOR** will be bound under this Right of Way Agreement only to the extent of the funds available or which may hereafter become available for the purpose of this Right of Way Agreement. Under no circumstances shall **GRANTOR**'s total liability under this Right of Way Agreement exceed the total amount of funds appropriated by the City Council for the payments under this Right of Way Agreement for the performance of **GRANTOR**.

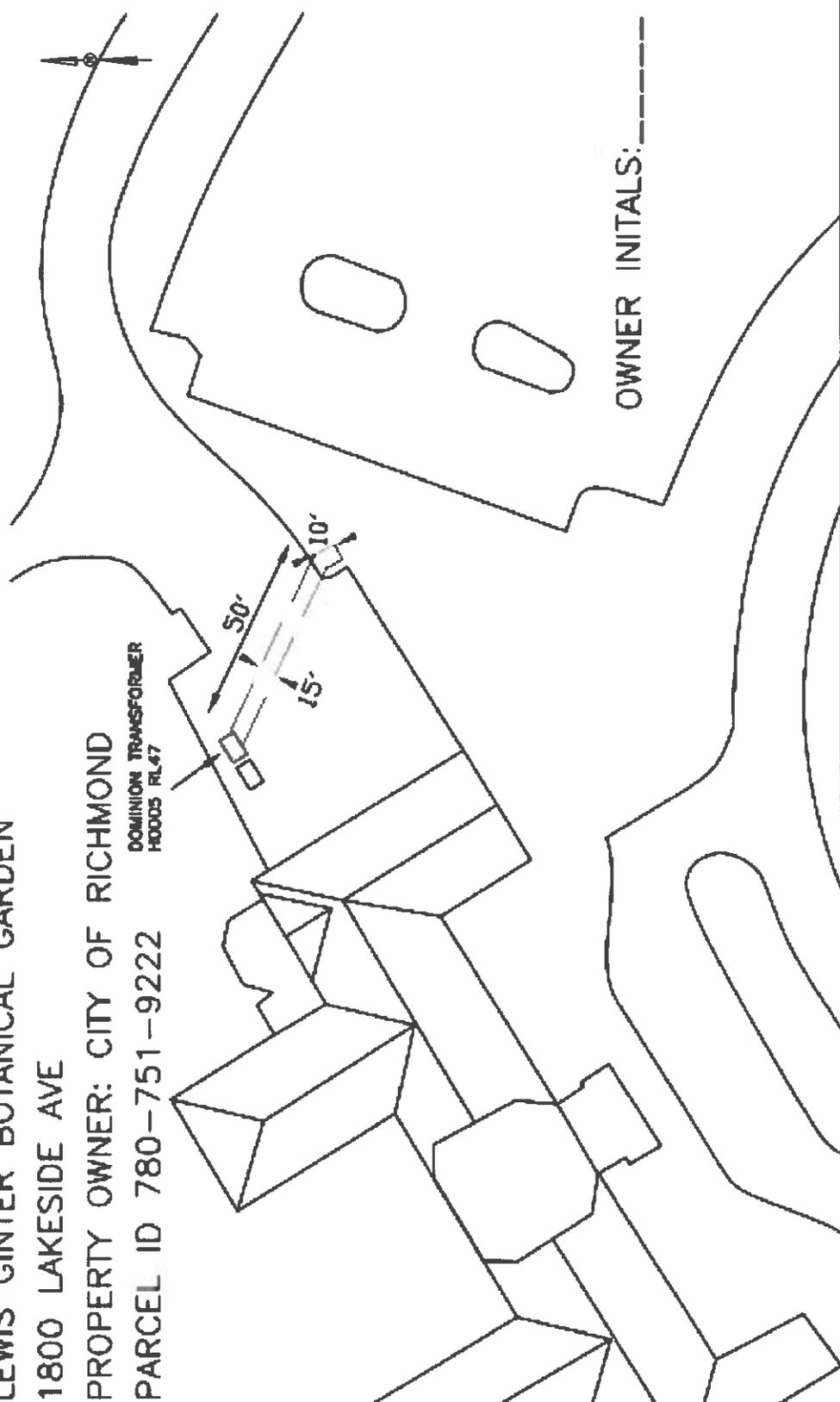
**GRANTOR (CITY OF RICHMOND):**

By: \_\_\_\_\_

Its: \_\_\_\_\_

LEWIS GINTER BOTANICAL GARDEN  
 1800 LAKESIDE AVE  
 PROPERTY OWNER: CITY OF RICHMOND  
 PARCEL ID 780-751-9222

DOMINION TRANSFORMER  
 H0005 RL47



OWNER INITIALS: \_\_\_\_\_

LEGEND	---	Location of Right of Way Boundary	
	==	Indicates Property Line is Right of Way Boundary	
Region	RICHMOND	State	VA
County/City	HENRICO	Grid Number	H0005
Work Request Number	10655552	DEVID No.	01-23-0218
Date	DATE 10.31.2023	Scale	Not to Scale
		By	BY: DALTON M. POWERS
PLAT TO ACCOMPANY RIGHT OF WAY AGREEMENT		UG	
VIRGINIA ELECTRIC AND POWER COMPANY doing business as		Dominion Energy Virginia	

