

AN ORDINANCE No. 87-115-85

ADOPTED MAY 26 1987

To authorize Virginia Education Loan Authority, owner, and any successors thereof, to encroach in, on, upon, over, above, under, across, through and along the east line of Fifth Street and the north line of Jackson Street with brick pavers and tree grates adjacent to the new VELA Operations Center as shown "shaded" on a plan prepared by the Department of Public Works, designated D.P.W. Drawing No. N-21651, entitled: "Proposed Sidewalk Area Encroachments (Brick Pavers & Tree Grates) at the N/E Corner of 5th & Jackson Streets (V.E.L.A.)", upon certain terms and conditions.

Patron - City Manager (By Request)

Approved as to form and legality
by City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Virginia Education Loan Authority, owner, and any successor thereof, hereinafter referred to as "Licensee", is hereby permitted to encroach in, on, upon, over, above, under, across, through and along the east line of Fifth Street and the north line of Jackson Street with brick pavers and tree grates adjacent to the new VELA Operations Center, to the extent and in the manner, as shown on plan of the Department of Public Works, designated D.P.W. Drawing No. N-21651, entitled: "Proposed Sidewalk Area Encroachments (Brick Pavers & Tree Grates) at the N/E Corner of 5th & Jackson Streets (V.E.L.A.)", dated March 20, 1987, a copy of which is attached to the draft of this ordinance.

The permission herein granted shall continue until such time as the encroachment or a substantial part or parts thereof shall be removed or destroyed subject to the provisions and conditions contained in Section 2.04(e) of the Charter of the City of Richmond.

§ 2. That the permission granted in § 1 of this ordinance is granted upon and subject to the following additional terms and conditions:

(a) That all cost shall be borne by the Licensee or its successor.

(b) That the Licensee, or its successor, shall pay to the City for the use and occupancy of the space in the streets such charges as Council has heretofore or may hereafter prescribe for such use of the public streets and alleys which may be increased or decreased or otherwise modified at any time and from time to time by the Council.

(c) That the Licensee, or its successor, shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons, firms and corporations and property growing out of such use of the streets and the installation, construction, maintenance, repair, operation and removal of the encroachments, and in the event that suit shall be brought against the City, either independently or jointly with the Licensee on account

thereof, the Licensee will defend the City in any such suit at its cost, and in the event of a final judgment being obtained against the City either independently or jointly with the Licensee, it will pay such judgment and all costs and hold the City harmless therefrom.

(d) That the Licensee, or successor, shall insure its liability in connection with the encroachments providing indemnities of not less than \$500,000 for bodily injuries and property damage resulting from such encroachments. The City shall be named as an additional insured under the insurance contract. The Licensee, or successor, shall keep the insurance in full force and effect at all times during the installation, maintenance, existence and removal of the encroachments. The Licensee shall provide the City with a certificate of such insurance which shall contain a statement that the insurance is provided to enable the Licensee to perform its obligation under this paragraph (d) and that the insurance will not lapse or otherwise expire prior to sixty days' written notice thereof given by the Licensee's insurance carrier to the City Manager of the City, anything in such insurance contract to the contrary notwithstanding.

(e) That the Licensee, or its successor, shall furnish the City a bond with corporate surety approved by the City Attorney in the sum of ten thousand dollars

conditioned upon the replacement and restoration of the streets and any public utility therein damaged, disturbed or destroyed thereby in a manner and with such materials to the satisfaction of the Directors of Public Works, Public Utilities and Public Safety on order to do so by the Council, or upon repeal of this ordinance, or upon the failure, refusal or neglect of the Licensee to comply fully and in all respects with the provisions of this or any other ordinance relating thereto. The Licensee, or its successor, shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times during the existence and removal of the encroachments. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty days written notice to that effect given to the City Manager of the City.

(f) Prior to commencing work in, over, upon, through or along the streets any and all permits required for such work shall be obtained under provisions of ordinances and regulations relating to issuance of such permits. All work performed pursuant to such permits shall be performed in a manner satisfactory to the Directors of Public Works, Public Safety and Public Utilities.

(g) That the Licensee shall require any contractor or contractors engaged by it to furnish a public liability

and property damage insurance contract or contracts naming therein the City as an insured thereunder, which shall provide indemnities of not less than \$500,000 combined coverage for bodily injuries and property damage resulting from the construction. Such policy shall provide for the payment of any final judgment that may be rendered against the City by reason of any person being injured or damaged in any way in person or property by the construction.

(h) Licensee, or its successor, shall restore and replace portions of the streets disturbed or destroyed.

(i) Licensee shall maintain brick sidewalk, trees and other landscaping within the area of encroachment.

(j) This ordinance is adopted pursuant to the power granted the Council by law. It is not intended by the adoption of this ordinance to offer or grant a franchise and the permission hereby granted shall at all times be subject to revocation by the Council and the terms and conditions upon which granted shall be subject to modification at any time and from time to time by the Council. Upon such revocation or modification the Licensee, or its successors, shall immediately conform to the requirements, if any, prescribed by the Council with respect thereto.

§ 3. This ordinance shall be in force upon adoption and shall become effective when within twelve months of the

date of adoption the Licensee shall furnish the required insurance and bond and files with the City Clerk a written statement in form satisfactory to the City Attorney to the effect that the Licensee agrees to the terms and conditions upon which such permission is granted and agrees to be bound thereby and to observe and comply therewith, and any contractor of said Virginia Education Loan Authority furnishes required insurance.

§ 4. Virginia Education Loan Authority shall be responsible for satisfying all terms and conditions for this ordinance becoming in force and effect.

ORDINANCE OR RESOLUTION SUMMARY
CITY OF RICHMOND, VIRGINIA

<p>Resolution Ordinance No. 87-115</p> <p>Requested by City Manager, By Request</p> <p>Received City Manager's Office --</p> <p>Summarized 5/19/87</p>	<p>Subject</p> <p>Sidewalk Encroachments (Brick Pavers and Tree Grates) 5th & Jackson Streets (V.E.L.A.)</p>
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SUMMARY

This Resolution would authorize surface encroachments within the sidewalk areas at the northeast corner of 5th & Jackson Streets. The encroachments include brick paving blocks in the sidewalk areas along both streets and a 2-foot wide portion of a planting bed which extends into a portion of the 5th Street sidewalk area.

The petitioner worked with the Urban Design staff in designing the site improvements and sidewalk treatments, which are consistent with objectives for the area. The subject planting bed was not intended to encroach, but an error on the architect's drawings supplied to the contractor resulted in the encroachment. The error was not discovered until the work was underway. A 10-foot wide usable sidewalk area remains. The planting bed is flush with the sidewalk and does not constitute a pedestrian hazard.

Planning Commission granted approval (9-0) May 18, 1987.

COUNCIL ACTION

	<p>On Docket 5/26/87</p> <p>Amended</p> <p>Adopted</p> <p>Rejected</p>
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City of Richmond
City Planning Commission



900 East Broad Street, Richmond, Virginia 23219
804 • 780-4347

To the Honorable Council of the
City of Richmond, Virginia

May 19, 1987

At its meeting of May 18, 1987, the City Planning Commission voted (9-0) to recommend APPROVAL of:

Ordinance No. 87-115

To authorize Virginia Education Loan Authority, *** to encroach in, on, upon, over, above, under, across, through and along the east line of Fifth Street and the north line of Jackson Street with brick pavers and tree grates *** upon certain terms and conditions.

This paper would authorize surface encroachments within the sidewalk areas at the northeast corner of 5th and Jackson Streets. The Virginia Education Loan Authority (V.E.L.A.) has requested approval of the encroachments in conjunction with the landscaping and site improvements for its recently completed operations center on the abutting property. The encroachments include brick paving blocks in the sidewalk areas along both streets and a two-foot wide portion of a planting bed which extends into a portion of the 5th Street sidewalk area. The brick pavers are of standard City style, and replace the sidewalk which existed prior to construction of the petitioner's new building. The original City-installed street trees and grates have been retained along 5th Street, and two trees which were removed along Jackson Street are to be replaced by the contractor.

The petitioner worked with the Urban Design staff in designing the site improvements and sidewalk treatments, which are consistent with objectives for the area. The subject planting bed was not intended to encroach, but an error on the architects' drawings supplied to the contractor resulted in the encroachment. The error was not discovered until the work was underway. A ten-foot wide usable sidewalk area remains. The planting bed is flush with the sidewalk and does not constitute a pedestrian hazard.

The subject ordinance contains the normal encroachment conditions pertaining to proper maintenance by the petitioner, liability protection for the City and payment of annual encroachment fees. Since the subject improvements enhance the appearance of the adjacent site and the 5th Street "gateway" into Downtown, and do not impair public use of the sidewalk areas, approval is recommended.

Very truly yours,

Jon P. Weersing
Secretary

JPW:lk

cc: Mr. Eugene G. Cattie - Applicant
Director - Department of Public Works