

INTRODUCED: January 27, 2025

AN ORDINANCE No. 2025-020

To declare a public necessity for and to authorize the acquisition of the parcels of real property owned by the Capital Region Land Conservancy, Inc., located at 1401 Brander Street and 1421 Brander Street for the purpose of maintaining such properties as public greenspace and enhancing connectivity for the Richmond Slave Trail within the James River Park System.

\_\_\_\_\_  
Patron – Mayor Avula

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

PUBLIC HEARING: FEB 10 2025 AT 6 P.M.

WHEREAS, in the opinion of the Council of the City of Richmond, a public necessity exists for the acquisition of the properties located at 1401 Brander Street and 1421 Brander Street, identified as Tax Parcel Nos. S007-0191/020 and S007-0191/033, respectively, in the 2024 records of the City Assessor, for the purpose of maintaining such properties as public greenspace and enhancing connectivity for the Richmond Slave Trail within the James River Park System;  
NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a public necessity exists for the acquisition of the properties located at 1401

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:       FEB 10 2025       REJECTED: \_\_\_\_\_       STRICKEN: \_\_\_\_\_

Brander Street and 1421 Brander Street, identified as Tax Parcel Nos. S007-0191/020 and S007-0191/033, respectively, in the 2024 records of the City Assessor, together with all appurtenances thereto and encumbrances thereof, for the purpose of maintaining such properties as public greenspace and enhancing connectivity for the Richmond Slave Trail within the James River Park System

§ 2. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to acquire such parcels of real property identified in section 1 of this ordinance from the Capital Region Land Conservancy, Inc., and to execute the deed or deeds and other documents necessary to complete the acquisition and acceptance of such parcels of real property, provided that all such deeds and other documents first must be approved as to form by the City Attorney or the designee thereof.

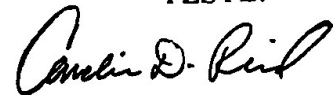
§ 3. This ordinance shall be in force and effect upon adoption.

APPROVED AS TO FORM:

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

**A TRUE COPY:**

**TESTE:**



**City Clerk**



# City of Richmond

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

## Master

**File Number: Admin-2024-1533**

**File ID:** Admin-2024-1533      **Type:** Request for Ordinance or Resolution      **Status:** Regular Agenda

**Version:** 1      **Reference:**      **In Control:** City Clerk  
**Department:**      **File Created:** 12/13/2024  
**Subject:**      **Final Action:**

|               |
|---------------|
| <b>Title:</b> |
|---------------|

**Internal Notes:**

**Agenda Date:** 01/27/2025

**Patron(s):**      **Enactment Date:**

**Attachments:** Admin-2024-1533 WD Ord. - 1401 Brander St. Acquisition -AATF, Admin-2024-1533 Brander Street\_CE\_final\_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     | 12/16/2024  | Chris Frelke     | Approve   | 12/18/2024 |
| 1   | 3     | 12/19/2024  | Jeff Gray        | Approve   | 12/18/2024 |
| 1   | 4     | 1/9/2025    | Lincoln Saunders | Delegated |            |
| <b>Notes:</b> Delegated: Out Of Office  |       |             |                  |           |            |
| 1   | 5     | 1/9/2025    | Sabrina Joy-Hogg | Approve   | 1/13/2025  |
| <b>Notes:</b> From: Marable, Wanda - DPR <Wanda.Marable@rva.gov><br>Sent: Thursday, January 9, 2025 5:00 PM<br>To: Hagen, Kit - DIT <Kit.Hagen@rva.gov><br>Subject: Admin-2024-1533<br><br>I need your assistance to edit Admin-2024-1533 to change it with the new administration's names. |       |             |                  |           |            |
| 1   | 7     | 1/10/2025   | Sabrina Joy-Hogg | Approve   | 1/13/2025  |
| 1   | 8     | 1/17/2025   | Mayor Avula      | Approve   | 1/14/2025  |

**History of Legislative File**

| Ver-<br>sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return<br>Date: | Result: |
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|

**Text of Legislative File Admin-2024-1533**

# City of Richmond

## Intracity Correspondence

### O&R Transmittal

**DATE:** December 13, 2024

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

**THROUGH:** The Honorable Danny Avula, Mayor

**THROUGH:** Sabrina Joy-Hogg, Interim Chief Administrative Officer

**FROM:** Christopher E. Frelke, Director of Parks, Recreation & Community Facilities

**RE:** TO DECLARE A PUBLIC NECESSITY EXISTS AND TO AUTHORIZE THE CHIEF ADMINISTRATIVE OFFICER TO ACQUIRE BY GIFT APPROXIMATELY 4.14 ACRES OF REAL PROPERTY KNOWN AS 1401 BRANDER STREET FOR THE PURPOSE OF THE EXPANSION OF THE JAMES RIVER PARK SYSTEM.

**ORD. OR RES. No.**

**PURPOSE:** To declare that a public necessity exists and to authorize the acquisition by gift of 4.14 acres out of 5.203 acres owned by Capital Region Land Conservancy (CRLC) previously owned by Norfolk Southern Railway Co. for the purpose of maintaining such property as a public green space that is part of the James River Park System.

The City has the opportunity to acquire over 4 acres of real property located at 1401 Brander Street and will include the property as part of the James River Park System conservation easement to preserve as green space for use in perpetuity.

**BACKGROUND:** The Department of Parks, Recreation and Community Facilities (PRCF) is excited to be partnering with CRLC to add approximately 4.14 acres of land to the James River Park System. Norfolk Southern Railway Co. is retaining 0.731-acre portion of the 5.203-acre parcel for the purposes of a 20' right-of-way.

The Richmond Slave Trail is a 3-mile walking trail that chronicles the history of the trade in enslaved Africans to Virginia until 1808, and away from Virginia, especially Richmond, to other locations in the Americas until 1865. It begins at Manchester Docks (Ancarrow's Landing), a port in the downriver slave trade that made Richmond the largest source of enslaved Africans on the east coast of the United States from 1830 to 1865. The trail follows a route along the south bank of the James River, crosses to the north side, then beside the reconciliation statue which commemorates the international triangular slave trade, past Lumpkins Jail and the Negro Burial Ground to First African Baptist Church, a center of African American life in pre-Civil War Richmond.

The trail was informally established in the early 1990s by the Richmond Unity Walk which became a City Commission in 1994 to recognize sites associated with African American history. In 1998, the Richmond Unity Walk Commission transformed into the City Council Slave Trail Commission. In 2011, 17 Richmond Slave Trail Markers were installed along the trail that chronical the history of the trade in enslaved Africans. In 2019, plans were developed to create a trail head at Ancarrow's Landing and to make much need repairs to the trail along the south bank of the James River, these plans cannot be completed until city of Richmond acquires the Norfolk Southern Railway Co. property at Brander Street.

The City may enter into an early access agreement with CRLC to perform Slave Trail improvements. The City will adhere to restrictive covenants outlined in the attached deed between CRLC and Norfolk Southern Railway Co.

PRCF is prepared for the ongoing maintenance after the acquisition of this property.

**COMMUNITY ENGAGEMENT:** Not applicable.

**STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL:** James River Park System Master Plan

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** Department of Public Works, Department of Public Utilities

**FISCAL IMPACT / COST:** The total value of this property is appraised at 94,000. The City is receiving the property as a gift through CRLC.

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** January 27, 2025

**CITY COUNCIL PUBLIC HEARING DATE:** February 10, 2025

**REQUESTED AGENDA:** Consent

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

**AFFECTED AGENCIES:** PRCF

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ordinance No. 2024-075

**ATTACHMENTS:** Exhibit A - Conservation Easement

**STAFF:** Christopher Frelke, Director, PRCF  
Nissa Dean, Deputy Director, PRCF  
Daniel Hazlett, Senior Management Analyst, PRCF

**NOTE TO TITLE EXAMINERS:** This perpetual easement contains restrictions on permitted uses and activities on the property described below, which run with the land and are applicable to the property in perpetuity.

Prepared under the supervision of  
The Office of the Attorney General of Virginia

When recorded, please return to:  
Department of Conservation and Recreation  
600 East Main Street, 24<sup>th</sup> Floor  
Richmond, Virginia 23219  
Attn: Real Property Manager

Title Insurance: Fidelity National Title Insurance Company

Consideration: \$ \_\_\_\_\_  
Total Assessed Value: \$94,000.00

Tax Map Number: S0070191020 and S0070191033

*Exempted from recordation taxes under § 58.1-811(A)(3) of the Code of Virginia (1950),  
as amended, from grantor's tax under § 58.1-811(C)(4), and from Circuit Court Clerk's Fees under §§ 17.1-266 and  
17.1-279(E)*

## **DEED OF CONSERVATION AND OPEN-SPACE EASEMENT**

### **1401 and 1421 Brander Street Property** **City of Richmond, Virginia**

**THIS DEED OF CONSERVATION AND OPEN-SPACE EASEMENT (“Deed of Easement”)** is dated this \_\_\_\_ day of \_\_\_\_\_, 202\_, and effective as of the Effective Date, as defined below, by **CITY OF RICHMOND, VIRGINIA**, a political subdivision and municipal corporation of the Commonwealth of Virginia, with an address at 900 E. Broad Street, Richmond, Virginia 23219 (“**Grantor**”), the **CAPITAL REGION LAND CONSERVANCY, INC.**, a non-profit corporation, incorporated in the Commonwealth of Virginia (“**Grantee CRLC**”), whose address is Post Office Box 17306, Richmond, Virginia 23226, and the **COMMONWEALTH OF VIRGINIA, DEPARTMENT OF CONSERVATION AND RECREATION** (“**Grantee DCR**”), whose address is 600 East Main Street, 24<sup>th</sup> Floor, Richmond, Virginia 23219 (the designations “Grantor” and “Grantee” refer to Grantor and Grantee and their respective successors or assigns; CRLC and DCR are collectively referred to herein as the “Grantees”).

### **RECITALS:**

**R-1** Grantor is the owner in fee simple of real property situated in the City of Richmond, Virginia, containing approximately 4.472 acres, known as 1401 and 1421 Brander Street, identified as Tax Parcel Numbers S0070191020 and S0070191033 in the 2024 records of the Assessor for the City of Richmond, Virginia, and more particularly described as “Area 1” and “Area 2” on the plat entitled, “Compiled Plat Showing a Boundary Division of a Parcel of Land, Being the Property of Norfolk Southern Railway Company Known as Tax Parcel #S0070191020, Lying on the North Line of Brander Street and East of I-95 Northbound R/W,” prepared by H&B Surveying and Mapping, Inc., dated September 6, 2023, and recorded in the Clerk’s Office of the Circuit Court of the City of Richmond, Virginia (the “**Clerk’s Office**”) in Plat Book 24, at page 11, a copy of which is attached hereto as **Exhibit A** (the “**Property**”),

having acquired the Property by deed dated \_\_\_\_\_, 2025, from Grantee CRLC, recorded in the Clerk's Office as Instrument Number \_\_\_\_\_.

**R-2** Grantee CRLC is the recipient of a grant award in the amount of \$150,000.00 (the "VLCF Funds") awarded through the Virginia Land Conservation Foundation ("VLCF") established under Virginia Code § 10.1-1017 *et seq.*, pursuant to the VLCF Contractual Agreement for Grant Funding, Project Number VLCF – 281 (22), effective as of December 1, 2021 (the "VLCF Grant Agreement"). Such amount includes funding for acquisition and conservation of the Property and constitutes fifty percent (50%) of the appraised value of the Property and eligible due diligence costs. The VLCF Grant Agreement requires, among other things, that a perpetual open-space easement be placed on the Property. Additionally, the future use and disposition of the Property is subject to the VLCF grant program requirements found in the VLCF Grant Manual for the FY22 Program Year, adopted June 10, 2021.

**R-3** Grantor and Grantees desire to protect in perpetuity the open-space, historic, scenic and natural values of the Property, more particularly described in the BDR (defined in Section 2.2) and listed on **Exhibit B** attached hereto (collectively, the "**Conservation Values**"), by restricting the use of the Property pursuant to the terms and conditions of this Deed of Easement, and Grantor desires to grant and convey to Grantees, and Grantees are willing to accept, a perpetual conservation and open-space easement over the Property, all as more particularly set forth herein.

**R-4** Grantee DCR, as a state agency having authority to acquire land for a public use, is authorized to enter into this Deed of Easement pursuant to Virginia Code §§ 10.1-1700 through 10.1-1705.1, as amended (the "**Open-Space Land Act**"), as the easement co-holder.

**R-5** Grantee CRLC, as a qualified holder, is authorized to enter into this Deed of Easement pursuant to Virginia Code §§ 10.1-1009 through 10.1-1016.1 (the "**Virginia Conservation Easement Act**"), as the easement co-holder.

### **WITNESSETH:**

**NOW, THEREFORE**, in consideration of the foregoing Recitals and of the mutual covenants herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant and convey to Grantees a conservation and open-space easement in gross over, and the right in perpetuity to restrict the use of, the Property.

### **ARTICLE I: EASEMENT AND DESIGNATION**

**1.1 EASEMENT:** Grantor hereby GRANTS and CONVEYS to Grantees a perpetual conservation and open-space easement in gross over, and the right **IN PERPETUITY** to restrict the use of, the Property, all as more particularly set forth in this Deed of Easement, together with the right of ingress and egress over the Property (collectively, the "**Easement**").

**1.2 DESIGNATION AS OPEN-SPACE:** Grantees, by acceptance of this Deed of Easement, hereby designate the Property to be retained and used in perpetuity for the preservation and provision of open-space land pursuant to the Open-Space Land Act and the Virginia Conservation Easement Act.

**1.3 EFFECTIVE DATE:** The date upon which this Deed of Easement is recorded in the Clerk's Office shall be the effective date hereof (the "**Effective Date**").



**ARTICLE II:**  
**PURPOSE AND CONDITION OF THE PROPERTY**

**2.1 PURPOSE:** In accordance with the Open-Space Land Act and the Virginia Conservation Easement Act, the purpose of the Easement is to preserve and protect the Conservation Values in perpetuity by restricting the development, alteration, and use of the Property and by providing for the enforcement of those restrictions.

**2.2 CONDITION OF PROPERTY:** From and after the Effective Date, the Conservation Values of the Property shall be preserved and protected such as to remain in the same condition as, or to be in better condition than, that documented in the Baseline Documentation Report dated \_\_\_\_\_ (the “BDR”), except for force majeure or changes or modifications permitted under this Deed of Easement. Grantor and Grantees hereby agree that compliance with the terms of this Deed of Easement shall suffice to ensure the Conservation Values are so preserved and protected. The BDR contains, among other items, (i) a written report describing the Property, and (ii) aerial, topographic, and photo point maps and photographs in support of the written report. Grantor hereby acknowledges that it has received a copy and accepts the findings of the BDR. Additional copies of the BDR shall be stored permanently at the offices of Grantees or such other location as Grantees may determine. The BDR is hereby incorporated by reference into this Deed of Easement and may be used in determining compliance with and enforcing the terms of this Deed of Easement. The parties hereby acknowledge that the BDR contained in the files of Grantees is an accurate representation of the Property and contains a statement signed by Grantor and representatives of Grantees as required by Treasury Regulation Section 1.170A-14(g)(5)(i). Grantees represent that they have conducted all necessary due diligence for the BDR.

**2.3 NO DIVISION:** As of the Effective Date, the Property consists of two (2) tax parcels, and for the purposes of this Deed of Easement shall be considered as one (1) tract. The Property shall not be divided or subdivided and shall not be conveyed in fee other than as a single tract. For purposes of this Deed of Easement, “divided” includes, without limitation, creating a subdivision plat, judicial partitioning of the Property, testamentary partitioning of the Property, or pledging for debt a portion of the Property.

**ARTICLE III:**  
**LIMITATIONS ON USES OF AND  
CONVEYANCES OF INTERESTS IN THE PROPERTY**

**3.1 ACTIVITIES AND USES:** From and after the Effective Date, Grantor’s activities on and uses of the Property shall be subject to the terms of this Deed of Easement. Without limiting the restrictions set forth in this Deed of Easement, the following activities on and uses of the Property are prohibited:

- (a) Mining on the Property by any method, including without limitation, (i) strip, surface, or subsurface mining (including the extraction or removal of gravel or similar materials, whether or not deemed “minerals” under the laws of the Commonwealth), (ii) dredging on or from the Property, and (iii) drilling for oil or natural gas.
- (b) Industrial and commercial activities, with the exception of the following:
  - (i) Activities, including public access, that (A) can be, and in fact are, conducted within permitted structures or which further outdoor recreation and (B) are consistent with the conservation purposes of this Deed of Easement and do not impair the Conservation Values.

- (ii) Activities to restore or enhance wetlands or streams or to restore, enhance, or develop other ecosystem functions on the Property including, but not limited to, stream bank restoration, living shoreline construction, wetland and stream mitigation, biological carbon sequestration and biodiversity mitigation, provided that such activities are not in conflict or inconsistent with the conservation purpose of or the restrictions set forth in this Deed of Easement and that prior, written approval for same shall have been obtained from Grantees. Grantees are not responsible for monitoring any such activities and have no obligation to enforce the provisions of any permit(s), restriction(s), or easement(s) therefor. Subject to required approval, Grantor is free to participate in same in Grantor's discretion and to retain any remuneration derived therefrom.
- (iii) Non-intensive, low impact, or passive recreational uses that are consistent with the conservation purposes of this Deed of Easement and do not impair the Conservation Values.
- (iv) Natural resource-based educational, scientific, or recreational activities that are consistent with the conservation purposes of this Deed of Easement and do not impair the Conservation Values.

**3.2 IMPROVEMENTS:** Except as specifically set forth in this Deed of Easement, no new buildings, structures, roads, or utilities are permitted on the Property. All improvements shall be subject to the restrictions set forth in this ARTICLE III.

(a) Dwellings and Structures:

- (i) Dwellings. Dwellings are prohibited on the Property.
- (ii) Non-Residential Structures. Non-residential structures are allowed on the Property for limited purposes and in limited locations as set forth in this Deed of Easement.
- (iii) Bridges. Three bridges, not to exceed 10 feet in width, are permitted for pedestrian access and for maintenance of the permitted trails.

(b) Trails. Existing trails are permitted, on and along which Grantor may (i) perform work and (ii) install and improve handrails, stream crossings, and other improvements, for the following purposes: preservation and improvement of access for the visiting public, facilitation of access for disabled persons, preservation and enhancement of the safety of trail use, and erosion control. No existing trail may exceed 10 feet in width. There are two existing trails on the Property:

- 1) the Richmond Slave Trail, as shown on Exhibit A.
- 2) Ancarrow's Access Trail, as shown in the BDR.

(c) Stream Crossings. Three (3) stream crossings, not to exceed 10 feet in width, are permitted along the Richmond Slave Trail.

(d) Utilities. Public utilities infrastructure, whether publicly or privately owned, that

(i) exists as of the Effective Date, (ii) is constructed to serve permitted improvements or activities on the Property, or (iii) is required to comply with state or federal law, is permitted on the Property.

- (e) Signs. No billboards or other signs may be displayed on the Property except for signs that relate to access, wayfinding, and interpretation of the Property, permitted activities thereon, and visitor safety. No sign visible from outside the Property shall exceed thirty-two (32) square feet in size per side. No signs shall directly face the James River, except for non-illuminated interpretive, wayfinding/directional, and safety signs. No restriction as stated above shall prevent the installation of regulatory signs or signs required by law.
- (f) Lighting. All lighting on the Property shall be in compliance with either the Fixture Seal of Approval standards of the International Dark Sky Association or the Community Friendly Lighting standards of the Smart Outdoor Lighting Alliance, or with other appropriate standards that Grantee approves in writing as either (i) consistent with and at least as protective of the Conservation Values of the Property as one of the above-identified standards or (ii) necessary to ensure the safety of public visitors to the Property.

### 3.3 CONSTRUCTION AND MAINTENANCE:

- (a) Grantor shall have the right to construct and use any improvement permitted in Section 3.2 and to repair, maintain, renovate, expand, remove, relocate, and replace any permitted improvement (collectively, the “**Permitted Improvement Activities**”), subject to the limitations set forth in this Deed of Easement. For purposes of this Deed of Easement, the Permitted Improvement Activities shall not be deemed “industrial” or “commercial.” Following completion of any of the Permitted Improvement Activities relating to utilities infrastructure, Grantor shall, as far as is practicable, restore all portions of the Property beyond the aboveground footprint of any permitted improvement to those portions’ immediately prior condition. As part of such restoration, Grantor shall replace any tree it removes that is not an Invasive Plant Species, as defined in subsection 3.7(b) below, with one or more native trees. Replacement trees may be saplings, but the total diameter at breast height (“**DBH**”) of the tree or trees planted to replace any one removed tree shall equal the DBH of the removed tree.
- (b) The “**Collective Footprint**” means the aboveground area measured in square feet of the buildings and structures set forth in Section 3.2 and all other impervious surfaces on the Property, **excluding** (i) linear surfaces such as trails, footbridges associated with permitted stream crossings, and sidewalks, as shown in the BDR, and (ii) all portions of the Richmond Slave Trail. The Collective Footprint shall not exceed 1,948 square feet, provided that if Grantor can demonstrate that an increase in the Collective Footprint would result in increased protection of the Conservation Values, the Grantees may approve such an increase in accordance with Section 4.2 below.
- (c) If any improvement on the Property is destroyed or damaged by causes beyond Grantor’s reasonable control, including without limitation, by fire, flood, storm, earth movement, or other acts of God, Grantor shall have the right, but not the obligation, under this Deed of Easement to rehabilitate or reconstruct such improvement, amenity, or feature in its original location and to match its original form. Deviation of any such rehabilitated or reconstructed improvement, amenity, or feature from its original location or form shall only be permitted if in accordance with plans compliant with all terms of this Deed of Easement, as confirmed in

writing by Grantees in advance.

**3.4 GROUND DISTURBING ACTIVITIES:** “Ground Disturbing Activities” means all activities that, by disturbance of the ground surface, cause or are likely to cause a manmade change to topographic characteristics of the Property, to include without limitation clearing, grading, excavation, blasting, and earth removal. Except as may be necessary for exercise of permitted activities and uses under this Deed of Easement, including without limitation the Permitted Improvement Activities, any and all Ground Disturbing Activities are prohibited on the Property. Any Ground Disturbing Activities are subject to the restrictions set forth in Sections 3.6 and 3.7. *De minimis* ground disturbance for bona fide archaeological investigations is permitted subject to plans approved in writing in advance by Grantees, which approval Grantees shall not unreasonably withhold, condition, or delay.

**3.5 TRASH:** The accumulation or dumping of (a) trash, refuse, junk, or other unsightly material, or (b) any toxic or hazardous material or substance as defined by federal or Commonwealth law is prohibited on the Property. This restriction shall not prevent Grantor from providing trash receptacles for use by the general public, provided that they are regularly serviced.

**3.6 RIPARIAN BUFFER:** To protect water quality and natural habitat in and around the Property, a 100-foot permanent, vegetated riparian buffer is herein established from the James River (measured from the high-water mark) landward, which buffer is shown on Exhibit C and as a Resource Protection Area on Grantor’s Chesapeake Bay Protection Areas Map.

(a) The following shall be prohibited within the riparian buffer:

- (i) construction of new buildings or other impervious surfaces, unless permitted under subsection 3.6(b) below,
- (ii) dumping or storage of compost, manure, fertilizers, chemicals, machinery or equipment,
- (iii) plowing, cultivation, filling, or other Ground Disturbing Activity, including, without limitation, cutting of trees, except as may be reasonably necessary for the activities permitted under subsection 3.6(b) below, and as permitted under Section 3.7 below,
- (iv) mowing, except as necessary to maintain approved hiking trails, and
- (v) livestock, which shall be excluded from the riparian buffer and the James River.

(b) The following shall be permitted within the riparian buffer:

- (i) erosion control or restoration, enhancement, or development of ecosystem functions on the Property as permitted under Section 3.1(b)(ii),
- (ii) fencing along or within the riparian buffers,
- (iii) maintenance of the non-vegetated and impervious elements of the Property which exist as of the Effective Date and are fully documented in the BDR,
- (iv) planting of native trees, shrubs, grasses, or other native vegetation,
- (v) performance of the Permitted Improvement Activities.

### **3.7 TREES AND VEGETATION:**

(a) Timber Harvesting. No commercial timber harvesting may occur on the Property.

(b) De Minimis Cutting Activities. Without limiting the foregoing, trees and

vegetation on the Property shall be managed in accordance with established arboreal and horticultural practices and in a manner that will prevent damage to permitted improvements on the Property and that is consistent with the Conservation Values. Grantor agrees to preserve the Property's tree canopy, but Grantor may manage and, where necessary, remove trees and vegetation by selective *de minimis* cutting, pruning, and planting for non-commercial purposes for the following reasons, which management and removal shall not constitute a failure to preserve the Property's tree canopy: (a) prevention or removal of individual dead, diseased, or dying trees or Invasive Plant Species, as defined below; (b) performance of the Permitted Improvement Activities; (c) performance of activities permitted under paragraph 3.1(c)(ii) above; or (d) removal of trees that impose an imminent hazard to human health or safety.,

- (c) Grantor shall not intentionally plant or grow any Invasive Plant Species in or on the Property. For purposes of this Deed of Easement, "**Invasive Plant Species**" means those species listed on the *Commonwealth of Virginia, Department of Conservation and Recreation's Virginia Invasive Plant Species List* (as amended).

**3.8 CULTURAL AREAS:** Signage and activities related to the interpretation of historical events shall be permitted on the Property, including without limitation the Richmond Slave Trail, which chronicles the history of the trade of enslaved Africans from Africa to Virginia and away from Virginia, especially Richmond, to other locations in the Americas until 1865.

**3.9 PUBLIC ACCESS:** The Property will be open to the public 365 days per year, provided such use is consistent with and does not harm the Conservation Values. Grantor may designate the times and locations of public access for such use and may establish reasonable restrictions to ensure security of the Property, protection of the Conservation Values, and safety of visitors. Grantor at all times retains the right to exclude the public from the Property or any portion thereof in case of emergency or disaster, and for as long as is necessary to abate dangerous conditions on the Property resulting from the emergency or disaster; for maintenance of the Property; and as necessary for resource management and protection.

**3.10 EMERGENCY ACCESS:** Grantor retains all rights, without reservation, to access and use, and to permit access to and use of, the Property as Grantor deems necessary to protect public health and to preserve public safety. These rights include, but are not limited to, allowing Grantor's Department of Public Utilities to access the Property to repair, maintain, renovate, expand, remove, relocate, or replace utility infrastructure in order to safeguard the health of Grantor's citizens and visitors. Public safety uses will also include access to and use of the Property by Grantor's Police Department and City Fire Department for patrols, emergency calls, and investigative presence. Grantor retains full discretion to determine whether repairs, relocation, removal, maintenance or construction of utilities infrastructure, or any party's presence on or use of the Property, is necessary for public health or safety reasons. Notwithstanding the above, unless necessary to comply with state or federal law, Grantor's exercise of rights with respect to utilities under this Section 3.10 shall be subject to the restrictions of this Deed of Easement.

**3.11 CONVEYANCE OF INTEREST IN REAL PROPERTY:** Grantor shall notify Grantees in writing within no less than thirty (30) calendar days prior to any transfer of fee simple title of the Property. All conveyances by Grantor of any interest in the Property less than fee simple, excluding deeds of trust given for the purpose of securing loans, licenses terminable at will, and temporary permissions to use the Property conferred by permits issued by the City of Richmond's Department of Parks, Recreation, and Community Facilities, require the prior, written approval of Grantees, which approval Grantees shall not unreasonably withhold, condition, or delay. After the Effective Date, this Deed of Easement shall be

referenced by deed book and page number, instrument number, or other appropriate reference in any deed conveying an interest in the Property, but failure of Grantor to comply with this requirement will not impair the validity of this Deed of Easement or the conveyance or limit the enforceability of the Easement in any way.

#### **ARTICLE IV: INSPECTION, APPROVALS, AND ENFORCEMENT**

##### **4.1 INSPECTION:**

(a) Right of Entry. Grantees, and their representatives and agents, have the right to enter onto the Property once per calendar year, upon not less than ten (10) days' notice to Grantor, to annually inspect and document the condition of the Property. Grantees and their representatives and agents otherwise have the right to enter onto the Property, upon reasonable notice to Grantor, to inspect the Property and to enforce the terms, conditions, and restrictions set forth in this Deed of Easement. Grantor's consent is not a necessary condition to the right of entry by Grantees and their representatives and agents; however, (i) the parties agree to cooperate in determining a mutually agreeable time to access the Property, and (ii) Grantees shall have no right to enter or inspect Grantor's structures without Grantor's prior written consent, which consent Grantor shall not unreasonably withhold, condition, or delay. Grantees may take photographs, drawings, or other representations documenting the character and features of the Property and may use or publish them. **"Reasonable notice"** as applied to this Section 4.1(a) includes messages delivered by telephone, voicemail, e-mail, text messaging, or similar electronic communication, at least twenty-four (24) hours prior to Grantees visiting the Property.

(b) Emergency Access. No notice to or consent of Grantor is required if, in the reasonable opinion of Grantees, emergency access is necessary to prevent irreversible damage to the Conservation Values. Following such emergency access, Grantees shall provide Grantor with a written explanation of the reason for such emergency access and the actions taken by Grantees on the Property during such emergency access. Grantees shall limit their actions during such emergency access to those that are lawful and necessary to prevent irreversible damage to the Conservation Values.

(c) Easement Stewardship Responsibility. It is agreed in a Memorandum of Agreement dated March 27, 2023 between the Grantees, a copy of which is held among the permanent records of Grantees, that primary annual inspection responsibility will be held by Grantee CRLC. Grantee DCR will provide technical assistance as necessary and will review and approve required submissions. Nothing in this section precludes the authority of Grantee DCR to inspect the Property under Section 4.1(a), above.

**4.2 APPROVALS:** Whenever Grantees' approval is necessary under this Deed of Easement for a proposed use or activity, including without limitation, any construction work on the Property, Grantor shall submit a written request for such approval to Grantees, which approval Grantees shall not unreasonably withhold, condition, or delay. The written request must describe the activity or use in sufficient detail to permit Grantees to make an informed judgment as to its consistency with the requirements and purpose of this Deed of Easement. Grantees will use reasonable efforts to respond to any written request of Grantor within thirty (30) business days after Grantees' receipt of such request. Nothing herein should be construed, however, to require Grantees to issue a final decision on such request within such thirty (30) business day period. In the event that Grantees do not respond in writing to Grantor's written request within thirty (30) business days of receipt of such request, then Grantees will be deemed to have **denied** the request, and Grantor may proceed with any appeal for reconsideration of such request in accordance with Grantees' written policies, which policies Grantees shall provide to Grantor upon request and in a timely manner to ensure the Grantor's timely ability to exercise its appeal rights. Grantees are not liable to Grantor or any third party for any damage, injury, liability, or consequence arising out of or resulting from Grantor's failure to obtain Grantees' prior, written

approval as required under this Deed of Easement, unless a court should determine that one or both Grantees have unreasonably withheld, conditioned, or delayed such approval. A “response” from Grantees shall not be deemed an “approval.” Should there be a dispute between the Grantees regarding approvals, Grantee DCR’s judgment shall prevail. Nothing in this paragraph shall be construed to limit remedies available to Grantor at law or in equity to enforce any term of this Deed of Easement.

#### **4.3 ENFORCEMENT:**

(a) Grantees’ Enforcement Rights. Grantees have the right to bring an action at law or in equity to enforce the covenants and restrictions contained in this Deed of Easement, including without limitation, the right to: (i) require restoration of the Property to comply with the terms of this Deed of Easement; (ii) recover any damages arising from non-compliance, including but not limited to disgorgement of any monies received by Grantor connected with such non-compliance; (iii) enjoin non-compliance by temporary or permanent injunction, to the extent permitted by Section 2.08 of the Richmond City Charter; and (iv) pursue any other appropriate remedy in law or equity.

(b) Reimbursement of Costs. If a court determines that Grantor has failed to comply with this Deed of Easement, then to the extent it does not constitute an indemnification of Grantees and is otherwise permitted by law, Grantor shall reimburse Grantees for all reasonable costs of enforcement, including costs of restoration, court costs, expert-witness costs, and reasonable attorneys’ fees, in addition to any other payments ordered by such court.

(c) No Rights in Public. Nothing in this Deed of Easement shall create any right in the public or any third party to maintain any judicial proceeding against Grantor or Grantees or to enforce this Deed of Easement through any means including, but not limited to, judicial action.

### **ARTICLE V: GENERAL PROVISIONS**

**5.1 GRANTOR’S RESERVED RIGHTS:** Grantor reserves the right (i) to engage in uses of the Property permitted to Grantor and (ii) to permit the general public to engage in uses consistent with the Conservation Values, including Grantor’s participation in ecosystem services on the Property (i.e. wetland and stream restoration and mitigation banks, nutrient banks, and carbon sequestration), to the extent consistent with the Conservation Values and the terms and conditions of the Deed of Easement.

**5.2 GRANTEES’ PROPERTY INTEREST:** Grantor agrees that the conveyance of this Easement gives rise to a property interest, immediately vested in Grantees, with a fair market value that is at least equal to the proportionate value that this Easement bears to the fair market value of the Property as a whole on the Effective Date. The proportionate value shall remain constant.

**5.3 MAINTENANCE; INSURANCE:** Subject to Virginia Code § 29.1-509, as applicable, Grantor retains all responsibilities related to the ownership, operation, upkeep, repair, and maintenance of the Property. Grantor acknowledges that Grantees have no obligation for the upkeep, repair, or maintenance of the Property. Grantor shall keep the Property insured by an insurance company licensed to issue policies in the Commonwealth of Virginia and rated “Secure” by A.M. Best Company or other qualified insurance rating company for comprehensive general liability insurance against claims for personal injury, death, and property damage. Notwithstanding the previous sentence, Grantees agree that Grantor may satisfy any of the insurance requirements of this Deed of Easement through any plan or program of self-insurance in which Grantor participates. The foregoing sentence concerning self-insurance shall only apply to Grantor and any successor in title to Grantor that is a public body with the ability to self-insure. Grantees acknowledge (i) that Grantor has not agreed to indemnify or save harmless any party under this Deed of Easement, and (ii) that no provision, covenant, or agreement contained in this Deed of Easement shall be

deemed, in any manner, to be a waiver of the sovereign immunity of Grantor from tort or other liability. The foregoing sentence concerning no indemnity or waiver of sovereign immunity shall only apply to Grantor and any successor in title to Grantor that is a public body without legal authority to indemnify.

**5.4 CONVERSION OR DIVERSION:** No part of the Property may be converted or diverted from its open-space use except in accordance with the Open-Space Land Act, which does not permit loss of open-space. To the extent that any monetary consideration is received by Grantor as a result of the diversion or conversion of the Property in accordance with the requirements in this Section 5.4, Grantor agrees that the VLCF shall be paid a percentage of such consideration equaling fifty percent (50%) thereof, being net of applicable costs.

**5.5 EXTINGUISHMENT:** Should an attempt be made to extinguish this Easement, such extinguishment can be carried out only by judicial proceedings and only if in compliance with the Open-Space Land Act. In any sale, exchange, or involuntary conversion of the Property or portion of the Property subsequent to such extinguishment, Grantees shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth in Section 5.2. Grantees shall use the proceeds from the sale of the Property in a manner consistent with the conservation purposes of this Deed of Easement and the Open-Space Land Act. In any sale, exchange or involuntary conversion of the Property or portion of the Property subsequent to such extinguishment, the parties hereto agree that the VLCF shall receive reimbursement in the amount of fifty percent (50%) (net after applicable costs) of total proceeds payable resulting from that transaction.

**5.6 SEVERABILITY:** The invalidity or unenforceability of any provision of this Deed of Easement shall not affect the validity or enforceability of any other provision of this Deed of Easement.

**5.7 AMENDMENT:** Grantees and Grantor may amend this Deed of Easement to enhance the Conservation Values or to increase the amount of real property subject to this Easement, for any other lawful reason acceptable to both Grantees and Grantor, or as may be necessary to comply with state or federal law. No amendment to this Deed of Easement shall:

- (a) affect the Easement's perpetual duration;
- (b) conflict with or be contrary to or inconsistent with the purpose of the Easement as set forth in Section 2.1;
- (c) reduce the protections to the Conservation Values;
- (d) affect the qualification of the Easement as an "open-space easement," "qualified conservation contribution," or "interest in land";
- (e) affect the status of Grantee CRLC as a "qualified organization", or
- (f) affect the status of Grantee DCR as a "public body" or "qualified organization".

No amendment permitted pursuant to this Section 5.7 shall be effective unless documented in a notarized writing executed by Grantees and Grantor and recorded in the Clerk's Office.

**5.8 DURATION; SUCCESSORS IN INTEREST:** The Easement is perpetual. It is an easement in gross that runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions, and restrictions contained in this Deed of Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. The rights and obligations contained in this Deed of Easement of an owner of the Property, or any portion thereof, terminate upon proper transfer of such owner's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.



**5.9 GRANTOR'S REPRESENTATIONS AND WARRANTIES:** As of the date hereof, Grantor hereby represents, covenants, and warrants that: (a) to the best of its knowledge based on that certain title insurance policy issued by \_\_\_\_\_, effective as of even date herewith, and based on title commitment no. \_\_\_\_\_, Grantor has good, fee simple title to the Property; (b) Grantor has not transferred, and will not transfer, to any third party any right to mine the Property; (c) to the best of Grantor's knowledge, the Property is free and clear of all encumbrances, other than restrictions, covenants, conditions, and utility and access easements recorded in the Clerk's Office prior to the Effective Date including, but not limited to, any mortgages, liens, leases, or option contracts not subordinated to this Deed of Easement; (d) Grantor has all requisite power and authority to enter into this Deed of Easement and to grant and convey the Easement based on that certain Ordinance Number \_\_\_\_\_, adopted by the Richmond City Council on \_\_\_\_\_; (e) no consents of any lender or any third party are required for Grantor to enter into this Deed of Easement that have not already been obtained and made known to Grantees; and (f) each person and/or entity signing on behalf of Grantor is authorized to do so.

**5.10 ASSIGNMENT:** Assignment of this Deed of Easement is permitted by Virginia Code § 10.1-1704(B), and Grantees may assign this Deed of Easement, with Grantor's prior written consent, if:

- (a) The assignment, transfer or conveyance is consistent with the Open-Space Land Act;
- (b) All restrictions and covenants and preservation and conservation purposes set forth in this Easement are to be continued in perpetuity;
- (c) The assignee then qualifies as a "qualified organization" under IRC § 170(h)(3) and the applicable Treasury Regulations; and
- (d) Grantor's written consent is given by its governing body.

Such assignment shall be in writing with all signatures notarized and shall be recorded in the Clerk's Office.

**5.11 NO MERGER:** Grantor and Grantees agree that in the event that Grantees, or any agency or entity of the Commonwealth, acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.

**5.12 JOINT OWNERSHIP:** If Grantor at any time owns the Property, any portion of the Property, or any interest therein in joint tenancy, tenancy by the entireties, or tenancy in common, all such tenants shall be jointly and severally liable for all obligations of Grantor set forth herein.

**5.13 CONTROLLING LAW; INTERACTION WITH OTHER LAWS:**

(a) Controlling Law. This Deed of Easement shall be construed according to the laws of the Commonwealth, and any legal action with respect to this Deed of Easement shall be instituted and maintained only in state courts of the Commonwealth sitting in the City of Richmond.

(b) Interaction with Other Laws. This Deed of Easement does not permit any use of the Property that is otherwise prohibited by federal, Commonwealth, or local law or regulation. Compliance with this Deed of Easement in no way obviates, negates, supersedes, waives, or satisfies applicable federal, Commonwealth, or local laws or regulations. In the event of any conflict between applicable federal, Commonwealth, or local laws or regulations and the provisions of this Deed of Easement, the standard which more effectively protects and promotes the Conservation Values will prevail.

**5.14 RECODIFICATION AND AMENDMENT OF STATUTES AND REGULATIONS:** In the event that any of the statutes or regulations cited in this Deed of Easement are re-codified or amended, this Deed of Easement will be interpreted and enforced according to the re-codified or amended statutes

and regulations most closely corresponding to those cited herein and carrying out the purposes recited herein.

**5.15 CONSTRUCTION:** Pursuant to the public policy of the Commonwealth favoring land conservation, any general rule of construction to the contrary notwithstanding (including the common-law rule that covenants restricting the free use of land are disfavored and must be strictly construed), it is the intent of Grantor and Grantees that this Deed of Easement and all language contained herein shall be liberally construed in favor of the conveyance of this Easement to Grantees to protect the Conservation Values and to effect the purposes of this Deed of Easement and the policies and purposes of Grantees. If any provision of this Deed of Easement is found to be ambiguous, an interpretation that is consistent with the purposes of this Easement (to protect the Conservation Values and prevent the exercise of reserved rights in a way that would impair such values) and that would render the provision valid will be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses consistent with the purposes of and not expressly prohibited by this Deed of Easement are permitted on the Property.

**5.16 STATUS OF GRANTEE DCR AS AN INSTRUMENTALITY OF THE COMMONWEALTH:** With respect to tort liability for acts or occurrences on or about the Property, the Commonwealth and Grantee DCR, as an agency of the Commonwealth, are either: (i) constitutionally immune (or partially immune) from suit, judgment or liability; (ii) insured; or (iii) covered by a financial plan of risk management that is in the nature of self-insurance, all as determined by applicable laws, government policies, and practices. Subject to Virginia Code § 29.1-509 as amended, Grantor acknowledges that Grantee DCR has not agreed to provide any indemnification or save harmless agreements running to Grantee DCR. No provision, covenant, or agreement contained in this Deed of Easement is deemed, in any manner, to be a waiver of the sovereign immunity of the Commonwealth or Grantee DCR from tort or other liability.

**5.17 EXTINGUISHMENT OF DEVELOPMENT RIGHTS:** Any and all development rights, subdivision rights, and other rights affecting the future development (collectively, the “Development Rights”) of the Property as may be afforded under any applicable zoning or subdivision ordinance or other applicable law are hereby extinguished and terminated in perpetuity. Grantor unconditionally and irrevocably relinquishes the right to transfer the Development Rights to any other real property or to use them for purposes of calculating lot yield, density allowances, increases or decreases, and/or development potential of the Property or any other property. Grantor warrants and covenants that neither the Property, nor any portion of it, has been or will be dedicated as open-space within, or as part of, a residential subdivision or any other type of real estate development plan or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits. No Development Rights that have been encumbered or extinguished by this Easement will be transferred to any other real property pursuant to a transfer of Development Rights or purchase of Development Rights program, cluster development plan, planned unit development, or other type of land use program or regulation intended to restrict the future development of the Property.

**5.18 ENVIRONMENTAL LIABILITY:** Grantees are in no way liable for any condition existing in, on, or about the Property, whether known or unknown, as of the Effective Date under the Clean Water Act (33 U.S.C. §§ 1251, *et seq.*), the Clean Air Act (42 U.S.C. §§ 7401, *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901, *et seq.*), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601, *et seq.*), or any comparable Commonwealth or local law concerning the storage, disposal, remediation, or release of any toxic or hazardous waste, material, or substance.

**5.19 RECORDING:** This Deed of Easement shall be recorded in the land records in the Clerk's Office, and Grantees may re-record it at any time to preserve its rights under this Easement.

**5.20 COUNTERPARTS:** This Deed of Easement may be executed in one or more counterparts, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same Deed of Easement. Execution of this Deed of Easement at different times and in different places by the parties hereto shall not affect the validity of the Easement.

**5.21 NOTICE:** Unless otherwise permitted by this Deed of Easement, all notices and communications under this Deed of Easement shall be in writing and directed as follows:

**Grantor:**

City of Richmond  
Department of Parks, Recreation and Community Facilities  
2401 West Leigh Street  
Richmond, VA 23220  
Attn: Director

with a copy to

City of Richmond  
Office of the City Attorney  
900 East Broad Street, 4<sup>th</sup> Floor  
Richmond, VA 23219

**Grantee CRLC:**

Capital Region Land Conservancy  
P.O. Box 17306  
Richmond, VA 23226  
Attn: Executive Director

**Grantee DCR:**

Virginia Department of Conservation and Recreation  
600 East Main Street, 24<sup>th</sup> Floor  
Richmond, Virginia 23219  
Attn: Real Property Manager

**5.22 ENTIRE AGREEMENT:** This instrument, the exhibits attached hereto, and the documents incorporated herein by reference set forth the entire agreement of the parties hereto with respect to this Deed of Easement and supersede all prior discussions, negotiations, understandings, documents, drafts, and agreements relating to the conveyance of this Easement.

**5.23 PRESUMPTIONS; INDEPENDENT LEGAL COUNSEL:** This Deed of Easement shall be construed without regard to any presumption or other rule requiring construction against the party causing the Deed of Easement to be drafted. No presumption shall be created in favor of or against Grantee DCR with respect to the interpretation of any term or provision hereof due to the fact that this Deed of Easement may have been prepared by Grantee DCR or by the Office of the Attorney General of the Commonwealth. Grantor acknowledges and understands that the Office of the Attorney General of the

Commonwealth, in preparing this Deed of Easement, solely represents Grantee DCR. Grantor represents that Grantor has had a chance to review this Deed of Easement and has had an opportunity to engage and consult separate independent legal counsel of Grantor's own choice concerning the legal and other effects of the provisions of this Deed of Easement, the rights and interests waived and granted hereunder, and all other matters pertaining hereto.

**5.24 RECITALS AND EXHIBITS:** All recitals set forth above and exhibits attached hereto are hereby incorporated into and made a part of this Deed of Easement.

**5.25 HEADINGS; DEFINITIONS:** The headings and titles to the articles, sections, and subsections of this Deed of Easement are for convenience only and have no effect upon the construction or interpretation of any part of this Deed of Easement. For the purposes of this Deed of Easement, all references to the "**Virginia Code**" mean the Code of Virginia 1950, as amended, and all references to the "**Commonwealth**" mean the Commonwealth of Virginia.

WITNESS the following signatures and seals: [Counterpart signature pages follow.]

**GRANTOR:**

CITY OF RICHMOND, VIRGINIA,  
a political subdivision and municipal corporation of the  
Commonwealth of Virginia

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chief Administrative Officer

COMMONWEALTH OF VIRGINIA,  
CITY OF RICHMOND, TO WIT:

The foregoing Deed of Conservation and Open-Space Easement was acknowledged before me this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, the Chief Administrative Officer of the  
City of Richmond, Virginia, a political subdivision and municipal corporation of the Commonwealth of  
Virginia, on behalf of the locality.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
Registration No. \_\_\_\_\_

(SEAL)

Approved as to Form: \_\_\_\_\_  
City Attorney's Office

[Counterpart signature page 2 of 3]

GRANTEE CRLC:

CAPITAL REGION LAND CONSERVANCY,  
a non-profit corporation, incorporated in the  
Commonwealth of Virginia

By: \_\_\_\_\_  
L. Preston Bryant Jr., President

COMMONWEALTH OF VIRGINIA,  
CITY OF RICHMOND, to-wit:

The foregoing Deed of Conservation and Open-Space Easement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2024 by L. Preston Bryant Jr., President of the Capital Region Land  
Conservancy, a non-profit corporation, incorporated in the Commonwealth of Virginia, on behalf of said  
corporation, and with due authority.

My commission expires: \_\_\_\_\_

My registration number: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Counterpart signature page 3 of 3]

GRANTEE DCR:

COMMONWEALTH OF VIRGINIA,  
DEPARTMENT OF CONSERVATION AND  
RECREATION

By: \_\_\_\_\_  
Matthew S. Wells, Director

COMMONWEALTH OF VIRGINIA,  
CITY OF RICHMOND, to-wit:

The foregoing Deed of Conservation and Open-Space Easement was acknowledged before me this  
\_\_\_ day of \_\_\_\_\_, 2024 by Matthew S. Wells, acting in his capacity as Director of the  
Commonwealth of Virginia, Department of Conservation and Recreation, on behalf of Grantee.

My commission expires: \_\_\_\_\_

My registration number: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

## A-1



## **Exhibit B**

### **Conservation Values**

The specific conservation values of the Property include the following:

- a. The Property is currently undeveloped, provides passive access to the James River in an urban area, provides habitat for wildlife and plants, and preservation of the Property hereunder will help preserve this habitat.
- b. The Property is within the viewshed of the James River, and this view provides historic and scenic views for citizens and visitors to the City. Preservation of the Property by the restrictions set forth herein will preserve those views in perpetuity.
- c. The Property fronts on the James River for approximately 1,679 linear feet, the Property lies within the Chesapeake Bay watershed, and protection of the rivers and streams in the Bay watershed will help implement the goals of Federal Executive Order 13508 (May 19, 2009), which include “restore clean water, recover habitat, sustain fish and wildlife, conserve land and increase public access in the Bay watershed by 2025.”
- d. Preservation of the Property preserves the alignment of more than 2,000 feet of the Richmond Slave Trail, including three footbridges and one interpretive marker. The Richmond Slave Trail is a walking trail that chronicles the history of the trade of enslaved Africans from Africa to Virginia until 1775, and away from Virginia, especially Richmond, to other locations in the Americas until 1865. It begins at Manchester Docks, a major port in the massive downriver Slave Trade that made Richmond the largest source of enslaved Africans on the east coast of America from 1830 to 1860. The trail then follows a route through the slave markets of Richmond, past Lumpkin's Slave Jail and the Negro Burial Ground to First African Baptist Church, a center of African-American life in pre-Civil War Richmond.
- e. The Property is adjacent to the Historic Manchester Slave Docks and Ancarrow's Landing. For decades, a chemical plant operated at the site of Ancarrow's Landing, but successful remediation and restoration have made it a prime fishing spot and public boat launch.
- f. The Property is adjacent to and lies within the viewshed of the Captain John Smith Chesapeake National Historic Trail, which follows the historic route taken by John Smith and his crew in the summer of 1608. Since this route was sailed by Smith, the trail is water-based, following the Chesapeake's coastlines and tributaries. The trail also commemorates the Indigenous societies living in the Chesapeake in the 1600s, as well as the Bay's natural history.
- g. The Property is the location of the first commercial rail line in Virginia (3rd oldest in United States) with the Chesterfield Railroad Company that opened in 1831 as a gravity track to transport coal from the Midlothian Mines to the shipping docks at Manchester and is adjacent to the Manchester Industrial and Warehouse Historic District (DHR ID 127-0457).
- h. Approximately 1,679 linear feet of the Property of fronts along the Historic Falls of the James River, officially designated as a Virginia Scenic River by the Virginia General Assembly.
- i. Preservation of the Property in a relatively undeveloped state by the restrictions set forth herein contributes to the “Goals and Outcomes” of the 2014 “Chesapeake Bay Watershed Agreement,” entered into by the Commonwealth of Virginia, six other states, the District of Columbia, the Chesapeake Bay Commission, and seven federal agencies. The agreement's Land Conservation Goal states in part: “By 2025, protect an

additional two million acres of land throughout the watershed . . . and reduce the rate of conversion of agricultural lands, forests, and wetlands as well as the rate of changing landscapes from more natural lands that soak up pollutants to those that are paved-over, hardscaped, or otherwise impervious.” Protection of the Property by the restrictions set forth herein, particularly the riparian buffer restriction along the James River, will help to protect the water quality of the Chesapeake Bay.

j. The Property has been designated as desirable for conservation under the Commonwealth’s *Conserve Virginia v3.0* program; specifically, portions of the Property have been designated under the “Scenic Preservation” categories.

k. Virginia Code § 10.1-400, *et seq.*, the Virginia Scenic Rivers Act, which designates a portion of the James River adjacent to the Property as the “Historic Falls of the James Scenic River”, and empowers the Director of the Department of Conservation and Recreation to administer the Virginia Scenic Rivers System “to preserve and protect its natural beauty and to assure its use and enjoyment for its scenic, recreational, geologic, fish and wildlife, historic, cultural or other assets and to encourage the continuance of existing agricultural, horticultural, forestry and open space land and water uses;”

l. The Property rates “Moderate” in DCR’s Nature-based Recreation Access Model, which preservation of public access to the Richmond Slave Trail and the relatively natural area will support.

m. This Easement is in furtherance of and pursuant to clearly delineated governmental policies and documents set forth below:

- i. Land conservation policies and documents of the Commonwealth of Virginia as set forth in:
  1. Section 1 of Article XI of the Constitution of Virginia.
  2. Virginia Code § 10.1-208.
  3. The Open-Space Land Act.
  4. The Virginia Conservation Easement Act.
  5. The Virginia Land Conservation Incentives Act.
  6. The Grantees’ practices in reviewing and accepting this Easement. The Grantees engaged in a rigorous review, considered and evaluated the benefits provided by this Easement to the general public as set forth in these recitals, and concluded that the protection afforded the open-space character of the Property by this Easement will yield a significant public benefit and further the open-space conservation objectives of Grantees.
  7. Conservation of the Property is consistent with the 2018 Virginia Outdoors Plan featured projects James River Heritage Trail.
- ii. Land use policies of the City of Richmond, Virginia as delineated in its comprehensive plan known as Richmond 300, adopted on December 14, 2020, and subsequently amended, to which plan the restrictions set forth in this Easement conform and which contains the following concepts and goals by its incorporation of several previously adopted plans:
  1. The “Pulse Corridor Plan (2017)” envisions the protection of “the ‘view that named Richmond’ from Libby Hill Park to the James River” (p. 114).
  2. The “Downtown Plan (2009)” states as one of its seven foundational policies the need to “[p]reserve views to the river by limiting building heights and protecting important view sheds” (p. 3.3). The plan goes on to urge that the City,

“[p]reserve views to the river by limiting building heights and protecting important viewsheds. Downtown’s dramatic topography affords striking views of the river; by some accounts, Richmond received its very name because its view of the James River was similar to the prospect from Richmond-upon-Thames, England... construction has created controversy as developers propose high-rise office buildings and condominiums lining the riverfront, effectively blocking the view of the river. It is essential that rezoning of land and new construction in Downtown be carefully considered and that building heights be controlled to protect these historic views” (p. 3.15).

Moreover, the Downtown Plan emphasizes that,

“[i]n addition to creating new view corridors to the James River, preserving existing and historic viewsheds towards the river is essential to connecting the city to the river. Future development along the riverfront needs to be carefully considered so that it will not impact significant historic views such as ‘the view that named Richmond’ from the top of Libby Hill Park. This would be accomplished through the control of building height... . (p. 4.45).

Finally, the Downtown Plan expressly identifies conservation easements as a vehicle for insuring the protection of priority viewsheds. This Easement helps to accomplish the protection of this priority viewshed in accordance with the Riverfront Plan.

3. The “Richmond Riverfront Plan (2012)”, as amended in 2017, recognizes that,

Richmond’s Riverfront and river views contribute dramatically to the city’s unique sense of place, quality of life, and desirability of property... The community boasts a range of river views: distant and proximate, panoramic and discrete, public and private, general and priority. The City should endeavor to address these scenic resources in a balanced manner that recognizes, prioritizes, and enhances this range of views. Future growth and public action along the Riverfront must embrace the value of river views while protecting rights and facilitating appropriate development. (p. 181).

The Riverfront Plan goes on to specifically identify the Libby Hill view of the James River, which is a viewshed that includes the Property, as one that merits specific protection as a priority viewshed:

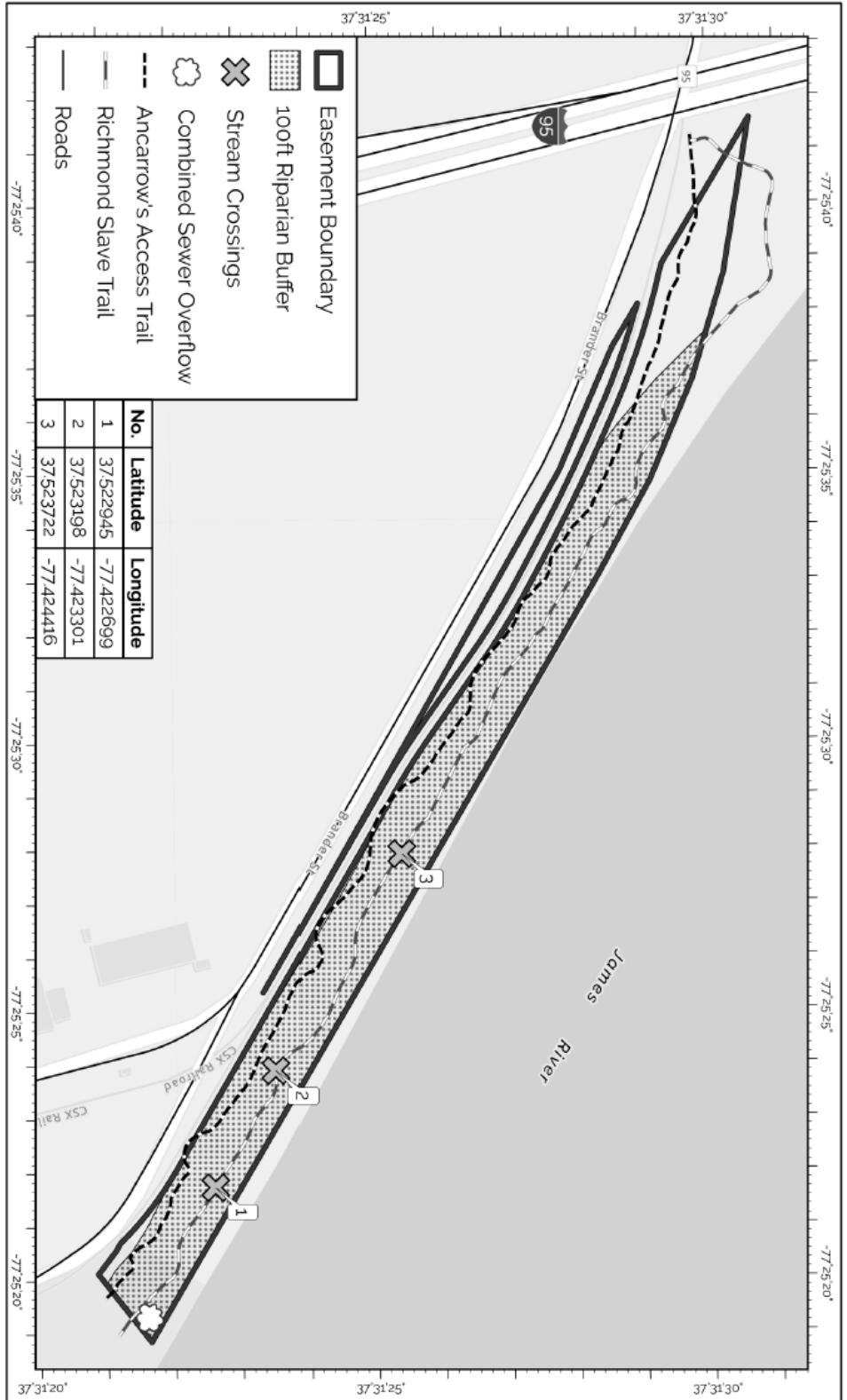
“The views from certain vantage points deserve special attention as priority views. These priority views are public amenities. They have significant public value and/or historic importance and should be defined, preserved and enhanced for the community.” *Id.*

Further, the Riverfront Plan identifies the Property as important private land for acquisition (pg. 91).

4. The City of Richmond Department of Public Utilities 2017 RVA Clean Water Plan, which identifies 10 strategies to improve water quality, including installation of green infrastructure, tree planting, native plant restoration, land conservation, and

pollutant identification and reduction. The restrictions in this Easement regarding construction on the Property, and the limitations on improvements on the Property that this Easement requires (together with their attendant projected pollutant reductions) serve to further the goals of the RVA Clean Water Plan.

# **Exhibit C** **Special Conditions Map**



**Exhibit** -----

1401 and 1421 Brander Street,  
City of Richmond, Virginia  
4.472 acres

Site Visit Date: November 7, 2024

Map created 12/19/2024 by SKIWorks LLC. Source data provided by CRLC (entire VGN Roads, railroad, and other infrastructure). Map shows boundary, aerial imagery acquired on February 25, 2021, by VGN VMAP copyright Commonwealth of Virginia. Projection: Lambert Conformal Conic. GCS: North America 1983. Datum: D North America 1983.

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City of Richmond, VA