

INTRODUCED: March 28, 2016

AN ORDINANCE No. 2016-107

To authorize the Chief Administrative Officer to execute a Utilities Review Agreement between the City of Richmond, Virginia, and the Commonwealth of Virginia, Department of General Services, for the purpose of setting out certain obligations related to the closing of a portion of North 12<sup>th</sup> Street and Governor Street between its intersection with East Broad Street and its intersection with Bank Street.

\_\_\_\_\_  
Patron – Mayor Jones

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

PUBLIC HEARING: APR 25 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, is hereby authorized to execute a Utilities Review Agreement between the City of Richmond, Virginia, and the Commonwealth of Virginia, Department of General Services, for the purpose of setting out certain obligations related to the closing of a portion of North 12<sup>th</sup> Street and Governor Street between its intersection with East Broad Street and its intersection with Bank Street. The Utilities Review Agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

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

ADOPTED:      APR 25 2016      REJECTED:      \_\_\_\_\_      STRICKEN:      \_\_\_\_\_

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



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

FEB 19 2016
4-4822
Chief Administration Office
City of Richmond

O&R REQUEST

DATE: February 16, 2016

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (By Request)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: John Buturla, Interim Deputy Chief Administrative Officer

THROUGH: Emmanuel Adediran, Director, Department of Public Works

THROUGH: M.S. Khara, P.E., City Engineer, Department of Public Works

FROM: Marvin Anderson, Department of Public Works

RE: PROPOSED CLOSING OF A PORTION OF PUBLIC RIGHT-OF-WAY KNOWN AS 12TH STREET/GOVERNOR STREET UPON CERTAIN CONDITIONS AND TRANSFER TO COMMONWEALTH OF VIRGINIA ANY CITY INTERESTS IN CERTAIN AREAS EAST OF CAPITOL SQUARE

RECEIVED

MAR 11 2016

OFFICE OF CITY ATTORNEY

ORD. OR RES No. \_\_\_\_\_

PURPOSE: To repeal or amend Ordinance No. 2005-231-209 and adopt any other ordinances necessary to accomplish the following:

- (1) To close to public use and travel the right-of-way beginning at the south right-of-way line of E. Broad Street, and running south on 12th Street for approximately 139 feet ± where the street name changes to Governor Street, then continuing south on Governor Street to the north right-of-way line of Bank Street, to public use and travel containing 50,377± square feet, as shown enclosed with bold lines and noted on a plan prepared by the Department of Public Works and designated as DPW Dwg. No. O-23817, dated April 17, 2003 entitled "PROPOSED CLOSING OF 12th STREET/ GOVERNOR STREET FROM BROAD STREET TO BANK STREET." (Note: This being the same portion of right-of-way that Ordinance No. 2005-231-209 closes upon the satisfaction of certain conditions, which have not been satisfied). Such closure shall not take effect until the conditions listed on the document attached hereto entitled GOVERNOR STREET CLOSURE TERMS AND CONDITIONS and dated February 16, 2016, are satisfied (the "Conditions") and shall be subject to the terms listed thereon (the "Terms"). In relation to the closure, the ordinance(s) should also:
a. Authorize the Chief Administrative Officer to accept any property interests required to be conveyed to the City by the Conditions.

- b. Authorize the Chief Administrative Officer to execute the Memorandum of Understanding, following execution of such MOU by the Commonwealth as required by the Conditions.
  - c. Authorize the Director of Public Utilities to execute the Utilities Review Agreement, following execution of such Utilities Review Agreement by the Commonwealth as required by the Conditions.
- (2) To authorize the Chief Administrative Officer to convey via quitclaim deed any interest the City may hold in those certain areas described on the document attached hereto entitled CAPITOL SQUARE QUITCLAIM TO COMMONWEALTH, dated February 16, 2016, subject to the limitations stated thereon; such areas being generally shown labeled as Section 2(1), Section 2(2), and Section 2(3) on DPW Drawing No. N-28630, dated April 27, 2015, and entitled "Sketch Showing Various Areas Referenced in Ordinance Concerning Properties of the City of Richmond and the Commonwealth of Virginia."

**REASON:** Ordinance No. 2005-231-209 was adopted by City Council on October 10, 2005 in response to a previous request to close 12<sup>th</sup> Street/Governor Street between Bank Street and E. Broad Street but the conditions of the ordinance were never satisfied. After recent discussions between the Commonwealth and the City, it is requested that the closure of 12<sup>th</sup> Street/Governor Street be conditioned upon new up-to-date Conditions. To satisfy the Conditions, in part, the Commonwealth must convey to the City certain property that will support the City's redevelopment of Main Street Station and the Commonwealth's interest, if any, in certain property in the area east of Capitol Square (over which the City currently exerts control as City rights-of-way). As such, in addition to the closure of 12<sup>th</sup>/Governor Street, it is requested that the City convey to the Commonwealth the City's interest, if any, in certain other property east of the Capitol Square area (over which the Commonwealth already exerts control for all intents and purposes) as described in the document attached entitled CAPITOL SQUARE QUITCLAIM TO COMMONWEALTH, dated February 16, 2016.

**RECOMMENDATIONS:** Recommend adoption of the ordinances necessary to close 12<sup>th</sup> Street/Governor Street upon the satisfaction of the Conditions and to accomplish those other items listed in the Purpose section of this request.

**BACKGROUND:** The closure of 12<sup>th</sup> Street/Governor Street between Bank Street and E. Broad Street was previously approved by Ordinance No. 2005-162-152, adopted July 25, 2005, which was amended by Ordinance No. 2005-231-209, adopted on October 10, 2005 but the conditions of the ordinance, as amended, were never satisfied.

Recent discussions and negotiations between the Commonwealth and the City have led to this proposed ordinance which for closing the 12<sup>th</sup> Street/Governor Street rights-of-way. In addition, the ordinances will provide clarity of property interests for both Commonwealth and the City in the area located east of Capitol Square. For example:

1. Numerous streets and alleys have been vacated throughout the Capitol Square area over the years but some uncertainty seems to exist as to whether, within certain areas, all City interests have been vacated and whether a clear title now rests with the Commonwealth. The proposed ordinances would allow for the City to quitclaim any interests it may still have in these areas.
2. During the project to relocate N 15th Street between E. Main Street and E. Franklin Street, certain property owned by the Commonwealth of Virginia was needed for right-of-way which would leave a residual parcel between the new street and the Interstate 95 right-of-way. This proposed ordinances require the conveyance of this parcel and right-of-way from the Commonwealth to the City and authorize the CAO to accept such conveyance on behalf of the City.

3. Records are unclear as to whether the City received all conveyances for rights-of-way of N.14<sup>th</sup> Street (between E. Main Street and E. Broad Street) and also Bank Street/E. Franklin Street (between N.13<sup>th</sup> St/Governor Street and existing 15<sup>th</sup> Street) during their relocations. In an attempt to establish a clearer title to these rights-of way, the proposed ordinances require for the Commonwealth to convey to the City any interests it may have in these properties and authorize the CAO to accept such conveyance on behalf of the City.

**FISCAL IMPACT/COST:** None anticipated.

**FISCAL IMPLICATIONS:** None anticipated.

**BUDGET AMENDMENT NECESSARY:** No amendment necessary at this time.

**REVENUE TO CITY:** None

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** March 14, 2016

**CITY COUNCIL PUBLIC HEARING DATE:** April 11, 2016

**REQUESTED AGENDA:** Consent Agenda.

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:**

**AFFECTED AGENCIES:** Public Works; Law Department; Planning and Development Review; Public Utilities; Economic and Community Development; Assessor; Budget and Strategic Planning; Fire Department; Police Department, Mayor's Office, CAO's Office, Finance, City Attorney

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ordinance Nos. 2005-231-209; 2005-162-152

**REQUIRED CHANGES TO WORK PROGRAM(S):** None.

**ATTACHMENTS:** Governor Street Closure Terms and Conditions; Capitol Square Quit-Claim to Commonwealth; DPW Drawing. Numbers N-28630, O-23817, O-23955 (Sheet 1 of 1) and P-16036; Memorandum of Understanding; Utilities Review Agreement

**STAFF:**

Prepared for Emmanuel Adediran  
Prepared by Marvin Anderson  
Research and Drawing Coordinated  
Department of Public Works  
646-0435

## UTILITIES REVIEW AGREEMENT

This Utilities Review Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **Commonwealth of Virginia, Department of General Services** (the "Commonwealth") and the **City of Richmond, Virginia**, a municipal corporation and political subdivision of the Commonwealth of Virginia (the "City").

### WITNESSETH:

WHEREAS, the City intends to close to public use and travel and to abandon 12<sup>th</sup> Street and that portion of Governor Street extending between the south right-of-way line of East Broad Street and the north right-of-way line of Bank Street (together, "Governor Street"), upon the Commonwealth's satisfaction of certain conditions, and;

WHEREAS, one of such conditions calls for the Commonwealth and the City to enter into an agreement to undertake a cooperative review of the various utility facilities, service lines and appurtenances, either owned or operated by the Richmond Department of Public Utilities or owned by the Commonwealth, located over, under, upon and through Governor Street and certain surrounding property of the Commonwealth, to determine how services are provided to the buildings and properties of the Commonwealth, which City lines serve only Commonwealth properties and which serve areas beyond the boundaries of the Commonwealth's properties, and how the Parties might be able to better the service to the properties served by these various facilities, and;

WHEREAS, the Parties recognize that they cannot evaluate these issues without the additional information that this Review is designed to provide;

NOW THEREFORE, the parties hereto mutually agree as follows:

- 1.0 **Definitions.** Words, terms and phrases used in this Agreement shall have the meanings ascribed to them by the sections below, unless the context clearly indicates that another meaning is intended.
- 1.1 **Agreement.** "Agreement" means this Utilities Review Agreement.
- 1.2 **Parties (Party).** "Parties" means the parties to this Agreement, namely the Commonwealth and the City. "Party" means one of the two Parties.
- 1.3 **Recommendations.** "Recommendations" means the mutually agreed upon recommendations that the technical staffs develop pertaining to the inventoried Utility Facilities.
- 1.4 **Review.** "Review" means the Commonwealth's and the City's designated technical staffs' mutually undertaken endeavor to identify the Utility Facilities and to develop Recommendations for the Parties' future management or abandonment of the Utility Facilities.

- 1.5 **State Capitol Complex.** "State Capitol Complex" means that area within the City under the ownership of the Commonwealth that is generally bounded by Broad Street to the north, Ninth Street to the west, Bank Street to the south, and Interstate-95 to the east, and as further defined by the drawing entitled "State Capitol Complex, Concept Plan - May 1, 2015," attached hereto as Attachment A and incorporated herein. The Parties may refine the boundaries of the State Capitol Complex area by mutual consent as part of the Review.
- 1.6 **Utility Facilities.** "Utility Facilities" means all public and private utility infrastructure located over, under, upon and through the State Capitol Complex, owned or operated by either the Commonwealth or the Richmond Department of Public Utilities, that currently functions, or formerly functioned, to provide utility services for water, wastewater, stormwater, streetlight or gas to the buildings and properties of the Commonwealth, or to properties of others beyond the boundaries of the State Capitol Complex. Utility Facilities does not include facilities owned and operated by parties other than the Commonwealth or the Richmond Department of Public Utilities.
- 2.0 **Review Schedule.** The Parties shall prepare a schedule for completing the Review elements as set forth herein, including a date that is as soon as practicable for completion of all Review elements. Provided, however, the Parties may modify the Review schedule, including the completion date, by mutual consent.
- 3.0 **Review Elements.** The Parties shall include each of the following elements as part of the Review.
- 3.1 **Inventory.** The Parties shall prepare an inventory of the Utility Facilities, including the ways that those facilities serve the buildings and properties of the Commonwealth, which shall include a compilation thereof on one or more drawings prepared by the City.
- 3.2 **Recommendations.** The Parties shall develop mutually agreed upon Recommendations pertaining to the inventoried Utility Facilities to be presented to the appropriate decision makers for each Party. Recommendations may include, but need not be limited to, recommendations for evaluating the operating conditions, recommendations for repairs, improvements, and modifications; recommendations for transfers of ownership and management responsibilities; and recommendations for abandonments. The Parties shall especially consider current Richmond Department of Public Utilities facilities that serve only Commonwealth uses for possible transfer of ownership, operation, and maintenance responsibilities to the Commonwealth.
- 3.3 **Cost Projections.** The Parties shall assess projected costs, and shall identify possible funding sources, for the implementation of the Recommendations, and provide the list of possible funding sources to the appropriate decision makers.
- 3.4 **Proposed Schedule.** The Review shall include the creation of a proposed schedule for implementation of the Recommendations, subject to approval of the Recommendations

by the appropriate decision makers and the appropriation of sufficient funds to implement any of the Recommendations.

- 3.5 **Final Memorandum.** The Parties shall prepare a written final memorandum setting forth the Parties' work, findings, and the Recommendations in connection with the Review to be presented to the appropriate decision makers.
- 4.0 **Party Responsibilities.** In undertaking the Review, the Parties agree to share information and resources, to reasonably divide labor and costs, and to cooperate in developing the Recommendations and final written memorandum.

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IN WITNESS WHEREOF, the Commonwealth and the City have caused this Agreement to be executed on its behalf by officials duly authorized therefor.

**COMMONWEALTH OF VIRGINIA,  
DEPARTMENT OF GENERAL SERVICES**

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

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

Commonwealth of Virginia

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, in his capacity as \_\_\_\_\_ of the Commonwealth of Virginia, Department of General Services, on behalf of the department.

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

Notary Registration# \_\_\_\_\_

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

**OFFICE OF ATTORNEY GENERAL**

**Approved as to form:**

\_\_\_\_\_  
Senior Assistant Attorney General

**City of Richmond, Virginia**

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

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

Commonwealth of Virginia

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of the City of Richmond \_\_\_\_\_, on behalf of the City.

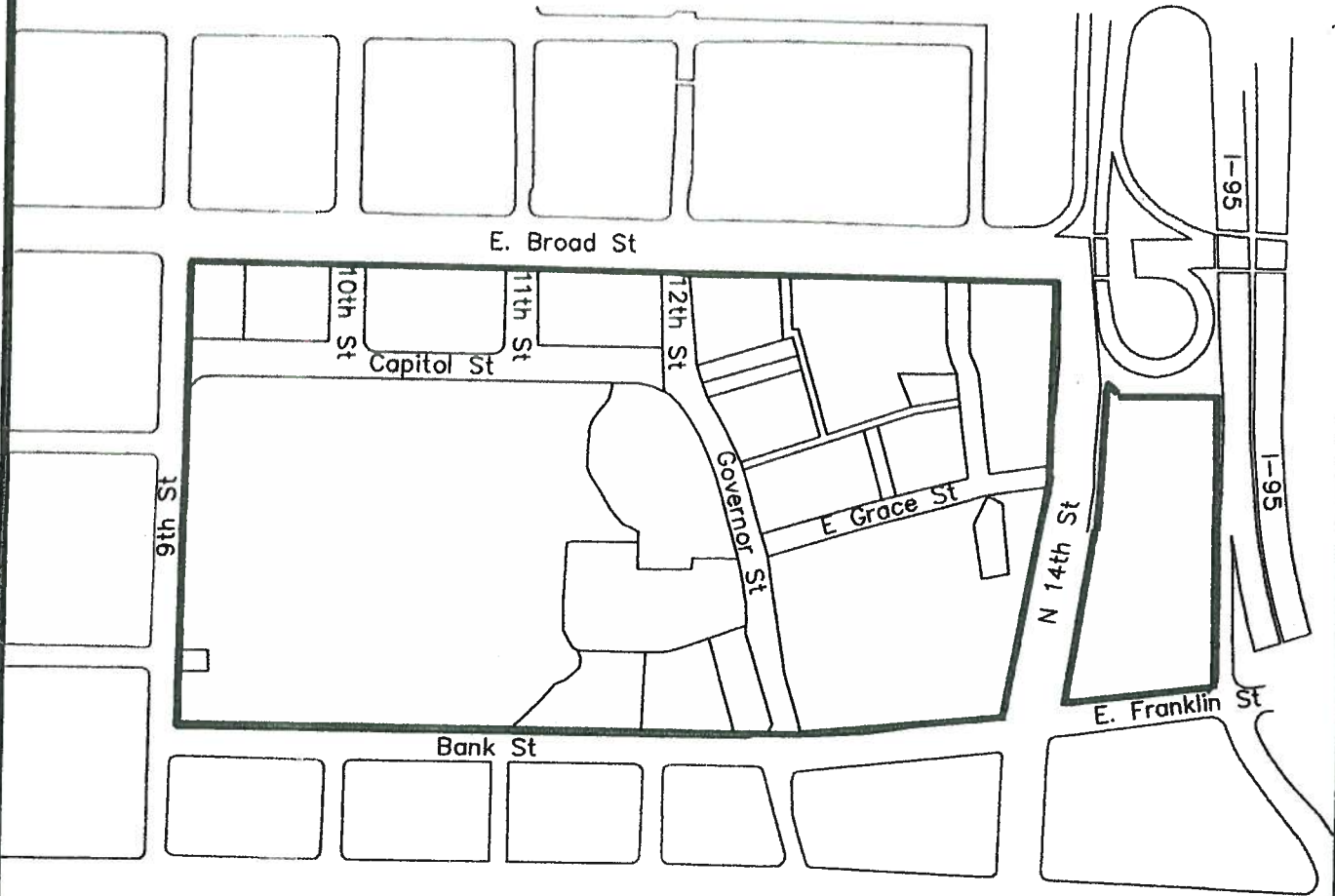
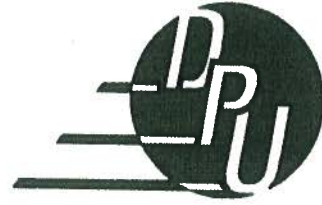
My commission expires \_\_\_\_\_

Notary Registration# \_\_\_\_\_

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

**Approved as to form:**

\_\_\_\_\_  
Assistant City Attorney



REFERENCES

SECTIONAL MAP NUMBER: \_\_\_\_\_  
 OTHER REFERENCES: \_\_\_\_\_

DRAWN BY: PM  
 CHECKED BY: \_\_\_\_\_  
 DATE: 05/01/2015  
 SCALE: 1"=50'

REVISIONS

X \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

State Capitol Complex  
 Concept Plan – May 1, 2015

DEPARTMENT OF PUBLIC UTILITIES  
 CITY OF RICHMOND, VIRGINIA

DPU NO.  
**M-1723**