

INTRODUCED: June 22, 2015

AN ORDINANCE No. 2015-147-157

To amend Ord. No. 2013-135-131, adopted Jul. 8, 2013, which closes to public use and travel, a portion of right-of-way known as the 8th Street Connector located in the block bounded by South 8th Street, Basin Bank Street, South 9th Street and East Canal Street, consisting of 16,337± square feet, upon certain terms and conditions, to extend the time period within which the conditions of the closing must be fulfilled.

Patron – Mayor Jones

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JULY 27 2015 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2013-135-131, adopted July 8, 2013, be and is hereby amended and reordained as follows:

§ 1. That a portion of a right-of-way known as the 8th Street Connector located in the block bounded by South 8th Street, Basin Bank Street, South 9th Street and East Canal Street, consisting of approximately 16,337 square feet, is hereby closed to public use and travel as a right-of-way of the City of Richmond, as shown enclosed with bold lines and hatched on a plan prepared by the Department of Public Works, designated as DPW Drawing No. N-28525, dated

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: JULY 27 2015 REJECTED: _____ STRICKEN: _____

March 20, 2013, and entitled “Proposed Closing of Right of Way for 8th Street Connector in Block Bounded by S. 8th St. Basin Bank St. S. 9th St. and E. Canal St.,” a copy of which plan is attached to this ordinance.

§ 2. That section 1 of this ordinance shall become effective only when, within [~~12~~] 28 months from the day this ordinance is adopted, the following conditions set forth in this section have been satisfied:

(a) The applicant obtains consent to the closing from each of the owners of land, buildings or structures from whom consent is required under section 90-327 of the Code of the City of Richmond (2004), as amended, which consents shall be in writing, approved as to form by the City Attorney, and filed in the Office of the City Clerk.

(b) The applicant makes arrangements satisfactory to public utility or public service corporations whose properties or facilities are in the right-of-way area to be closed either for the removal, relocation or abandonment thereof or for the construction, reconstruction, maintenance and repair thereof, evidence of which shall be in writing, approved as to form by the City Attorney, and filed in the Office of the City Clerk.

(c) The applicant submits, and all affected City agencies, as determined by the Director of Public Works, approve, a plan for the relocation of all public utilities located within the right-of-way area to be closed and, at its sole expense, relocates all public utilities located within the right-of-way area to be closed in accordance with the requirements of the Director of Public Works. No permit relating to construction within the right-of-way to be closed shall be issued until this plan has been approved.

(d) The applicant bears all costs associated with the closing, including, but not limited to, realignment, relocation or removal of utilities or infrastructure, installation of new utilities or

infrastructure, new or revised street name or directional signs, streetlights, and similar infrastructure, as required by City agencies, and agrees in writing with the City that, for itself, its successors and its assigns, it shall indemnify, reimburse, and keep and hold the City free and harmless from liability on account of injury or damage to persons, firms, corporations or property which may result directly or indirectly from the closing of the right-of-way to public use and travel by this ordinance and from the interference with the drainage, flow or overflow of surface or subsurface water resulting directly or indirectly therefrom; and in the event that any suit or proceeding is brought against the City at law or in equity, either independently or jointly with the owner or owners of all the property abutting the aforesaid right-of-way, or any of them, on account thereof, it shall defend the City in any such suit or proceeding at its cost; and in the event of a final judgment or decree being obtained against the City, either independently or jointly with the property owner or owners granting consent for the aforesaid right-of-way to be closed to public use and travel, it shall pay such judgment or comply with such decree including payment of all costs and expenses of whatsoever nature and hold the City harmless therefrom.

(e) The applicant (i) constructs sidewalks and related improvements, in accordance with the requirements of the Department of Public Works, around the periphery of the proposed project for which the right-of-way is to be closed, (ii) conveys to the City, and the City accepts, upon terms approved by the Director of Public Works and in a form approved by the City Attorney, a permanent easement for such sidewalks and related improvements consisting of approximately 10,448 square feet, and (iii) agrees in writing, as part of the conveyance of the easement and with such security as the Director of Public Works may require, that, for itself and its successors and assigns, the applicant shall maintain all improvements within this easement in accordance with the requirements of the Department of Public Works.

(f) The applicant pays the City the sum of \$1,602,986.44 for the right-of-way area to be closed, less the fair market value of the permanent easement conveyed to the City pursuant to subsection (e) of this section and the actual costs of the improvements to the public right-of-way to re-route traffic pursuant to subsection (i) of this section, both as determined by the Director of Public Works. This condition is satisfied when all abutting property owners execute an agreement to purchase the right-of-way area to be closed, with such agreement being in accordance with section 15.2-2008 of the Code of Virginia (1950), as amended, and approved as to form and legality by the City Attorney. If any property owner fails to make the payment for such owner's fractional portion within [~~12~~] 28 months of the day this ordinance is adopted, then the closing provided for in section 1 of this ordinance shall be null and void.

(g) The applicant removes all cobblestones, bricks, granite curbs, granite stones, granite blocks and other infrastructure materials, including those related to the Kanawha Canal and Turning Basin, from the right-of-way area to be closed and delivers all such cobblestones, bricks, granite curbs, granite stones, granite blocks and other infrastructure materials in an undamaged and cleaned condition to a location determined by the Director of Public Works.

(h) The applicant obtains, in accordance with Chapter 114, Article X, Division IV of the Code of the City of Richmond (2004), as amended, approval of a plan of development for the proposed project for which the right-of-way is to be closed.

(i) The applicant submits to the City, obtains the approval of all affected City agencies for and provides for the implementation of a plan to re-route traffic from the 8th Street Connector onto South 8th Street and Canal Street prior to the physical closure of the 8th Street Connector to through traffic.

(j) The applicant satisfies all terms and conditions requisite for the closing of the right-of-way area to be closed by this ordinance and provides the Division of Permits and Inspections of the Department of Planning and Development Review, the Office of the City Attorney and the Office of the City Clerk with written evidence that all terms and conditions of this ordinance have been satisfied.

§ 3. That the Chief Administrative Officer, for and on behalf of the City of Richmond, is hereby authorized to accept from the applicant the conveyance of the easement described in subsection (e) of section 2 of this ordinance, provided the Director of Public Works has determined that the improvements thereon constructed meet the requirements of the Department of Public Works for such improvements and the City Attorney or the designee thereof has first approved as to form the deeds and other documents necessary to consummate such dedications.

§ 4. That, at such time as section 1 of this ordinance becomes effective, the City shall have no further right, title or interest in the closed right-of-way areas other than that expressly retained under provisions of this ordinance or granted to satisfy the terms and conditions set out in this ordinance.

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

II. This amendatory ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

RECEIVED

JUN 17 2015

O&R REQUEST OFFICE OF CITY ATTORNEY

DATE: June 11, 2015 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Dwight C. Jones, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Christopher L. Beschler, Deputy Chief Administrative Officer

THROUGH: Dr. Emmanuel O. Adediran, Interim Director of Public Works

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

FROM: Brian Copple, Chief of Construction Inspection/Right of Way Management
Department of Public Works

RE: AMENDMENT TO ORDINANCE NO. 2013-135-131, WHICH CLOSES A PORTION OF THE RIGHT-OF-WAY KNOWN AS THE "8TH STREET CONNECTOR PROJECT" UPON THE SATISFACTION OF CERTAIN TERMS AND CONDITONS

ORDINANCE OR RESOLUTION NO: _____

PURPOSE: To amend Ordinance No. 2013-135-131 to remove the requirement found in section 2 of that ordinance that certain conditions be satisfied within 12 months of the day the ordinance is adopted and to replace it with a requirement that the conditions are satisfied within 28 months of the adoption of that ordinance.

REASON: Applicant (CRG-Richmond, LLC) requested the closure of the above mentioned 8th Street Connector in order to consolidate the properties within this block by the requestor in order to develop a high-rise office building at this location and Council subsequently adopted Ordinance No. 2013-135-131 to do so. Ordinance No. 2013-135-131 required certain conditions be satisfied by the applicant within the 12 months of the ordinance adoption date (July 8, 2013) before the road closure and vacation takes effect. CRG-Richmond, LLC diligently pursued satisfying all conditions but, because 12 months have passed since adoption, the ordinance must be

amended to extend the deadline to 28 months so that the road closure and vacation can take effect upon CRG-Richmond, LLC satisfying all conditions.

RECOMMENDATION: The Department of Public Works recommends adoption.

BACKGROUND: CRG-Richmond, LLC has diligently pursued satisfying the conditions and all conditions have either been satisfied to the satisfaction of DPW or will be satisfied imminently per CRG-Richmond's mutually agreed upon schedule.

FISCAL IMPACT/COST TO CITY: None anticipated

FISCAL IMPLICATION: None anticipated

BUDGET AMENDMENT NECESSARY: None.

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: June 22, 2015.

CITY COUNCIL PUBLIC HEARING DATE: July 27, 2015

REQUESTED AGENDA: Consent Agenda

RECOMMENDED COUNCIL COMMITTEE: Land Use Housing and Transportation Standing Committee

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission

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

RELATIONSHIP TO EXISTING ORD. OR RES.: Amendment to Ordinance 2013-135-131

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: None.

STAFF:

Prepared for Emmanuel O. Adediran
Prepared by Brian Copple