

INTRODUCED: January 23, 2023

AN ORDINANCE No. 2023-045

To close, to public use and travel, a portion of South 9th Street located just east of the Manchester Bridge and on Brown’s Island, consisting of 3,936± square feet, upon certain terms and conditions.

Patrons – Mayor Stoney (By Request) and Ms. Robertson

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: FEB 27 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of South 9th Street located just east of the Manchester Bridge and on Brown’s Island, consisting of approximately 3,936 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 on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-29025, dated December 9, 2022, and entitled “Proposed Closing to Public Use and Travel of a Portion of the S 9th Street Right of Way Located Just East of the Manchester Bridge and on Brown’s Island,” hereinafter referred to as “the Drawing,” a copy of which drawing is attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: FEB 27 2023 REJECTED: _____ STRICKEN: _____

§ 2. That this ordinance, as to the closing of the right-of-way identified above, shall be in force as provided in section 4.09 of the Charter of the City of Richmond (2020), as amended, and shall become effective only when, within 12 months from the day this ordinance is adopted:

(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 24-314 of the Code of the City of Richmond (2020), 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 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, they 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 right-of-way area to be closed on account thereof,

they shall defend the City in any such suit or proceeding at their 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, they shall pay such judgment or comply with such decree including payment of all costs and expenses or whatsoever nature and hold the City harmless therefrom.

(d) The applicant pays the City the sum of \$182,394.24 for the right-of-way area to be closed; such sum may be adjusted based upon the actual area of the retained and dedicated easements to be provided to the City. 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 months of the date of adoption of this ordinance, then the closing shall be null and void.

(e) The applicant shall agree in a writing approved as to form by the City Attorney that, if any portion of an existing paved walkway is within the right-of-way area to be closed, the applicant may relocate such paved walkway as directed and approved by the appropriate City agency and that if the applicant does not relocate such paved walkway, the City will retain an easement over the right-of-way area to be closed, which easement shall be defined on a plat provided by the applicant and approved by the Department of Public Works.

(f) The applicant agrees in a writing approved as to form by the City Attorney that, should the applicant or any successor in interest thereto cease to operate within the right-of-way area to be closed for the purposes of improvements to the applicant's 12th Street substation the

closure of the public right-of-way shall be null and void and the right-of-way closed by this ordinance will revert to the City as a public right-of-way, without cost to the City.

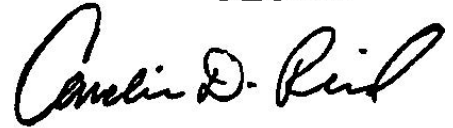
(g) The applicant satisfies all terms and conditions requisite for the closing of the right-of-way area to be closed by this ordinance and provides the Department of Public Works, the Office of the City Attorney, and the Office of the City Clerk with written evidence that all terms and conditions of this ordinance have been satisfied.

§ 3. That, at such time as 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.

§ 4. This ordinance shall be in force and effect only upon the satisfaction of the terms and conditions set out above.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carolin D. Reil". The signature is written in a cursive style with a large initial 'C'.

City Clerk





CITY OF RICHMOND
Intra-City Correspondence

O&R REQUEST

DATE: December 14, 2022 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor 

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


THROUGH: Robert Steidel, Deputy Chief Administrative Officer  Digitally signed by Robert C Steidel
Date: 2022.12.12 12:39:59 -05'00'

THROUGH: Bobby Vincent Jr., Director  Digitally signed by Bobby Vincent
Date: 2022.12.12 09:27:15 -05'00'

Department of Public Works Bobby Vincent

THROUGH: M.S. Khara, P.E., City Engineer  Digitally signed by M. S. Khara, PE
Date: 2022.12.09 16:32:33 -05'00'

Department of Public Works M. S. Khara, PE

FROM: Joseph Davenport, P.E., Right-of-Way Manager 
Department of Public Works

RE: **PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF THE S 9TH STREET RIGHT OF WAY LOCATED JUST EAST OF THE MANCHESTER BRIDGE AND ON BROWN'S ISLAND**

ORD. OR RES No. _____

PURPOSE: To close to public use and travel of a portion of the S 9th Street right-of-way consisting of 3936 sq. feet as shown on DPW Drawing No. N-29025 dated 12/09/2022 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF THE S 9TH STREET RIGHT OF WAY LOCATED JUST EAST OF THE MANCHESTER BRIDGE AND ON BROWN'S ISLAND" at the request of the applicant.

REASON: A letter of request dated October 4, 2022 from Brian K. Jackson with Hirschler Fleischer Law on behalf of Dominion Energy Virginia, the only property owner adjacent to the proposed closing area.

RECOMMENDATIONS: The Department of Public Works offers no objections to the proposed right-of-way closing and request that any approvals be subject to, and including without limitation, the following terms and conditions:

1. The applicant(s)/owner(s)/successor(s) shall be responsible for any and all costs associated with the proposed closing, including without limitation, realignment, relocation, or removal of utilities, or infrastructures, installment of new utilities or infrastructures, new or revised street name or directional signs, streetlights, etc., as required or directed by City Agencies.
2. The applicant(s)/owner(s)/successor(s) shall provide evidence that they have identified any public or private utilities that may have a vested interest in or facilities located within the subject right-of-way and worked out arrangements with the owners of any such utilities to protect the owner's rights. All affected owners of private and public infrastructure must provide written acknowledgement that they are satisfied with the resolution of their facilities within the proposed closing area for this Ordinance to be valid.
3. The applicant(s)/owner(s)/successor(s) shall be responsible for surface storm water overflow in the area to be closed.
4. The applicant(s)/owner(s)/successor(s) shall be responsible for obtaining the written consent of all abutting landowners to the closing and other property owners within the block affected by the closing.
5. A twelve (12) month expiration clause shall be included whereby all conditions must be satisfied by the applicant(s)/owner(s)/successor(s) within twelve (12) months of the ordinance adoption date and approved by the City before the ordinance can go into effect.
6. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$182,394.24.
7. If any portion of the Canal Walk is within the proposed closing area, Dominion has the option to relocate the walk as directed by and approved by the appropriate City agency; or, the City will retain an easement over the subject area which shall be defined on a plat provided by Dominion and approved by the Department of Public Works.
8. Should Dominion Energy Virginia or any future entity cease to operate within the proposed closing area in the manner proposed by Dominion in this request, the closure of the public right-of-way shall be null and void and the right-of-way closed by this ordinance will automatically revert to the City as public right-of-way, without cost to the City.
9. The applicant(s)/owner(s)/successor(s) is responsible for providing the Law Department with written evidence within twelve (12) months of the ordinance adoption that all conditions of the ordinance have been satisfied. Should this written evidence not be submitted to the said offices prior to the expiration date after final approval of the ordinance, the ordinance will become null and void automatically.

BACKGROUND:

The purpose of this right-of-way closing request is for Dominion Energy's expansion of the 12th Street Electrical Substation on Brown's Island, which serves both network and metropolitan services in the downtown Richmond area. This expansion will include a new Switchgear Building housing additional circuit/panels. The improvements at the 12th Street Substation will meet current engineering standards and significantly improve reliability.

The area of closing consists of public right-of-way associated with S 9th Street across the Manchester Bridge. A similar right-of-way vacation request was previously granted by the City for part of S 9th Street, north of the 12th Street Substation.

This request is supported by Venture Richmond, Inc., which manages the City's portion of Brown's Island. There are no parcels owned by others adjacent to the Right-of-Way.

The value of the right of way to be vacated (3936 sf) has been determined to be \$182,394.24 (\$46.34 per square foot) and is based on the assessed land values of the immediately adjacent parcels. A fee for this amount is due to the City as a condition of this ordinance.

The proposed right-of-way closing will not negatively impact the local City transportation network. Other reviewing administrative agencies offered no objections to the right-of-way closing request.

FISCAL IMPACT/COST: None. The City is not currently receiving State Maintenance Funds for the unimproved portion of S 9th Street that is being proposed to be closed; therefore, no fiscal impact/cost to City.

FISCAL IMPLICATIONS: None anticipated.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: \$300 application and processing fee; \$182,394.24 anticipated for the value of the vacated right of way.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: January 23, 2023

CITY COUNCIL PUBLIC HEARING DATE: February 27, 2023

REQUESTED AGENDA: Consent Agenda

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None.

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter dated October 4, 2022 (Brian Jackson)
DPW Dwg. No. N-29025 (dated 12/09/2022)

STAFF:

Prepared for Bobby Vincent, Jr., Director DPW

Prepared by Marvin Anderson, Program & Operations Manager for Surveys, DPW

Research and Drawing Coordinated By: Shenouda Guergues, Engineering Specialist, DPW

Department of Public Works / 646-0435



Brian K. Jackson
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bjackson@hirschlerlaw.com

Hirschler Fleischer | hirschlerlaw.com
2100 East Cary Street | Richmond, VA 23223
P: 804.771.9500 | F: 804.644.0957

October 4, 2022

VIA HAND DELIVERY and EMAIL (Bobby.vincent@RVA.Gov)

Mr. Bobby Vincent
Director of Public Works
City Hall, Room 701
900 E. Broad St., 7th Floor
Richmond, VA 23219

Re: Request of Virginia Electric and Power Company, transacting business as Dominion Energy Virginia (“Dominion”), for Vacation of a Portion of the Original 9th Street Right-Of-Way, Part of Parcel ID W0000072001

Dear Mr. Vincent:

On behalf of Dominion and in accordance with Department of Public Works guidelines, please accept this request for partial extinguishment of right-of-way consisting of a part of the original 9th Street Right-of-Way adjacent to the Manchester Bridge, (part of Parcel ID W0000072001), as shown on the enclosed plat prepared by Dewberry Engineers, Inc., dated August 11, 2022 and last revised September 21, 2022 (the “Plat”). The portion to be vacated is noted on the Plat as “AREA OF ORIGINAL 9TH STREET RIGHT-OF-WAY TO BE VACATED AND TRANSFERRED TO VIRGINIA ELECTRIC AND POWER COMPANY.”

The purpose of the forgoing request is for Dominion’s expansion of the 12th Street Substation on Brown’s Island, which serves both network and metropolitan services in the downtown Richmond area. This expansion will include a new Switchgear Building housing additional circuit/panels. The improvements at the 12th Street Substation will meet current engineering standards and significantly improve reliability.

The area of interest consists of excess right of way from the realignment and construction of 9th Street and Manchester Bridge. A similar Right-of-Way vacation request from another property owner was previously granted by the City for part of original 9th Street, North of the 12th Street Substation (see Ordinance No. 88-14-25). This unused former City Street serves no current public purpose and is of limited benefit due to Dominion’s ownership of the adjacent parcel containing the

October 4, 2022

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12th Street Substation. This request is supported by Venture Richmond, Inc., which manages the City's portion of Brown's Island. There are no parcels owned by others adjacent to the Right-of-Way.

Enclosed please find the required application and processing fee in the form of a \$300 check payable to the City of Richmond. Please feel free to contact the undersigned with any questions or comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Brian K. Jackson", written over a light blue circular stamp.

Brian K. Jackson

/bh

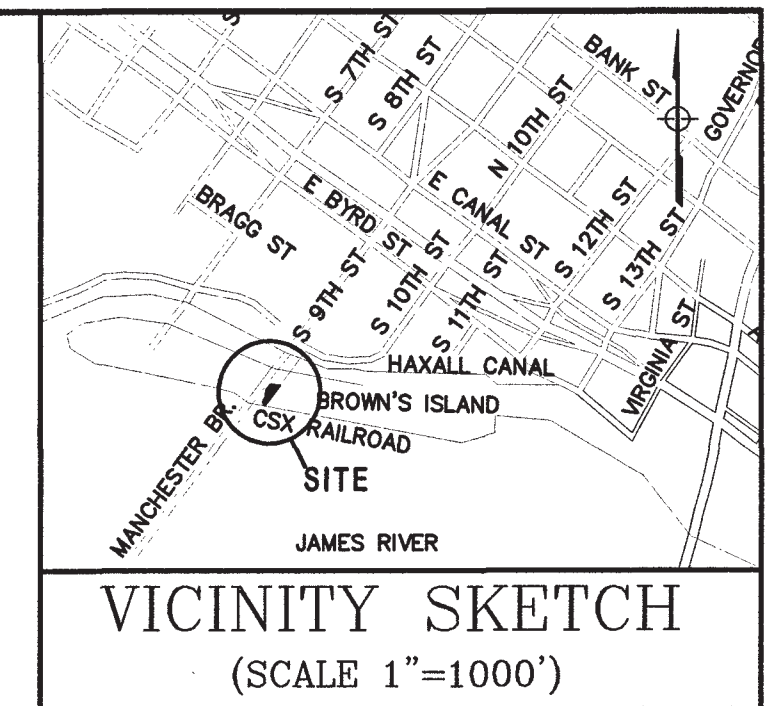
Enclosures

cc: Joseph L. Davenport, P.E. (via email: Joseph.DavenportJr@rva.gov)

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LINE TABLE		
LINE	BEARING	DISTANCE
L1	N52°42'47"W	7.77'
L2	N09°19'43"E	7.20'
L3	N80°35'34"W	5.55'
L4	N09°24'26"E	19.86'
L5	S80°37'29"E	5.52'
L6	N09°19'43"E	51.45'
L7	N36°29'58"E	13.30'
L8	N39°39'08"E	22.48'
L9	S79°46'23"E	48.01'
L10	S33°48'02"W	126.94'
L11	S33°48'02"W	4.15'
L12	S36°48'02"W	33.69'



PARCEL: W000-0072-001
 ADDRESS: 1 BROWN ISLAND
 OWNER: CITY OF RICHMOND
 INST: DB 812, PG 270
 PB 35, PG 28

OUTER FACE OF MANCHESTER BRIDGE

S 9TH ST / US RTE 60
 (MANCHESTER BRIDGE)
 VARIABLE WIDTH PUBLIC ROW

HAXALL CANAL

PARCEL: E000-0001-001
 ADDRESS: 1201 E BYRD ST
 OWNER: CITY OF RICHMOND
 INST: DB 438, PG 436
 PB 38, PG 53-55

C/O DEPT OF PUBLIC WORKS

HAXALL CANAL

TO S ROW LINE OF 10TH ST EXTENSION

SEE NOTE 3

PARCEL: E000-0001-002
 ADDRESS: 401 S 10TH ST
 OWNER: VIRGINIA ELECTRIC AND POWER COMPANY
 (12TH ST SUBSTATION)
 INST: DB 203D, PG 1

EXIST. ROW LINE OF S 9TH ST

PROPOSED ENCLOSURE

ROW TO BE CLOSED

PARCEL: W000-0073-001
 ADDRESS: N/A
 OWNER: CSX TRANSPORTATION INC.
 INST: N/A

OUTER FACE OF MANCHESTER BRIDGE

- NOTES:
- THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND SURVEY PLAT PREPARED BY DEWBERRY ENGINEERS INC, TITLED "PLAT SHOWING VACATION OF PORTION OF 9TH STREET RIGHT OF WAY" DATED 08/11/2022 AND LAST REVISED 11/02/2022 .
 - THE PORTION OF RIGHT OF WAY PROPOSED TO BE CLOSED TO PUBLIC USE & TRAVEL IS ENCLOSED IN BOLD LINES : 3936 S.F.
 - IF ANY PORTION OF THE CANAL WALK IS WITHIN THE PROPOSED CLOSING AREA THEN DOMINION HAS THE OPTION TO RELOCATE THE WALK AS DIRECTED BY AND APPROVED BY THE APPROPRIATE CITY AGENCY. OR THE CITY WILL RETAIN AN EASEMENT OVER THE SUBJECT AREA WHICH SHALL BE DEFINED ON A PLAT PROVIDED BY DOMINION AND APPROVED BY THE DEPARTMENT OF PUBLIC WORKS.



Council District 6 Block No. E-1

NOTES 1. Property owners correct as of 12/09/2022 2. Ordinance _____ 3. Adopted _____ 4. Accepted _____	Engineering Specialist: Shenouda Guergues <i>Shenouda Guergues</i>		PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF THE S 9 TH STREET RIGHT OF WAY LOCATED JUST EAST OF THE MANCHESTER BRIDGE AND ON BROWN'S ISLAND REQUESTED BY: BRIAN JACKSON OF HIRSCHLER FLEISCHER LAW ON BEHALF OF DOMINION ENERGY ON 10/04/2022					
	Op. Mgr. For Surveys: Marvin W. Anderson, CLS <i>Marvin W. Anderson</i>						Surveys Division, Room 600 City Hall 900 E. Broad Street, Richmond, Va. 23219	
REFERENCES: B/L 2SW, N21000, S5372-A, PB38PG54	REVISIONS:	DEPARTMENT OF PUBLIC WORKS RICHMOND, VIRGINIA	DRAWN BY: SG CHECKED BY: MWA	FIELD NOTE	SCALE 1"=25'	DATE 12/09/2022	PROJECT E-1-SC	DRAWING NO. N-29025