#### AN ORDINANCE No. 2017-223

To declare that a public necessity exists and to authorize the acquisition of certain fee simple and easement interests in 3101 East Main Street for the purposes of providing vehicular access to 3101 Wharf Street, of the maintenance of the vehicular bridge crossing Gillies Creek and as otherwise needed to construct and maintain improvements to and across Gillies Creek, and of utilities, roadway maintenance, and the maintenance of a bus rapid transit station.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

#### PUBLIC HEARING: DEC 11 2017 AT 6 P.M.

WHEREAS, in the opinion of the Council of the City of Richmond, a public necessity exists for the acquisition of all of the following interests of the Economic Development Authority of the City of Richmond, hereinafter referred to as the "Authority," in the property known as 3101 East Main Street and identified as Tax Parcel No. E000-0817/002 in the 2017 records of the City Assessor, hereinafter referred to as the "Property," which are depicted on a drawing prepared by Timmons Group for the Department of Public Works, designated as DPW Drawing No. N-28801, entitled "Proposed Closing to Public Use and Travel of Portions of Water Street and E. Main Street Located between Nicholson St & Gillies Creek; Acquisition from and Conveyance to EDA of

AYES:	9	NOES:	0	ABSTAIN:	
_		_			
ADOPTED:	DEC 11 2017	REJECTED:		STRICKEN:	

Certain Real Estate; and the Dedication or Retaining of Easements," and dated October 16, 2017, sheets 1, 2, and 3 thereof hereinafter referred to as the "Drawing:"

(1) A fee simple interest in a portion of the Property, consisting of approximately 12,834 square feet and depicted as "Area 3" on sheet 1 of the Drawing, for the purpose of providing vehicular access to the property known as 3101 Wharf Street and identified as Tax Parcel No. E000-0817/001 in the 2017 records of the City Assessor;

(2) An easement under, over, and across a portion of the Property, consisting of approximately 1,284 square feet and depicted as "[F] 10' Easement for Bridge, Bulkheads, and Maintenance" on sheet 2 of the Drawing for the purpose of the maintenance of the vehicular bridge crossing Gillies Creek and as otherwise needed to construct and maintain improvements to and across Gillies Creek; and

(3) An easement under, over, and across a portion of the Property, consisting of approximately 422 square feet and depicted as "[C] Permanent 5' Utility Easement and Maintenance Easement for Roadway and BRT Station" of sheet 2 of the Drawing, for the purpose of utilities, roadway maintenance, and the maintenance of a bus rapid transit station,

all three of such interests hereinafter collectively referred to as the "Interests;"

#### NOW, THEREFORE,

#### THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a public necessity exists for the acquisition of the Interests from the Authority in the Property, as depicted on the Drawing, a copy of which is attached to and incorporated into this ordinance, for the purposes set forth in the recital of this ordinance above.

2

§ 2. That the Chief Administrative Officer or the designee thereof is hereby authorized and directed to (i) acquire from the Authority by gift the Interests and (ii) execute the deeds and other documents necessary to complete the acquisition and acceptance of such interests in real estate, provided that all such deeds and other documents must first be approved as to form by the City Attorney.

§ 3. That the Chief Administrative Officer may approve a reservation by the Authority of a temporary construction easement across the Interest identified in subparagraph (1) of the recital to this ordinance for the purpose of enabling access to the remainder of the Property for construction.

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

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# CITY OF RICHMOND



INTRACITY CORRESPONDENCE INTRACITY CORRESPONDENCE OF the

- Inter on the Alternative		NOV 0 7 2017	
	O&R REQUES		
DATE:	October 18, 2017	OFFICE OF CITY ATTORNEY EDITION: 1	
TO:	The Honorable Members of City Council	1	
THROUGH:	The Honorable Levar M. Stoney, Mayor	(By Request)	
THROUGH:	Selena Cuffee-Glenn, Chief Administrati	ve Officer 516	1
THROUGH:	Peter L. Downey, Deputy Chief Adminis ment & Planning	strative Officer for Economic Develop-	-
THROUGH:	Robert Steidel, Deputy Chief Administra	ative Officer for Operations	
THROUGH:	Bobby Vincent, Jr., Director, Departmen	t of Public Works	
THROUGH:	M.S. Khara, P.E., City Engineer, Departr	ment of Public Works	
THROUGH:	Brian Copple, Right of Way Manager, D	epartment of Public Work	
FROM:	Marvin Anderson, Department of Public	Works MWA	
RE:	CLOSING OF PORTIONS OF PUBLIC TER STREET AND E MAIN STREET; ESTATE FROM AND CONVEYANCE THE RICHMOND ECONOMIC DEVEL	ACQUISITION OF CERTAIN REAL OF CERTAIN REAL ESTATE TO	
ORD. OR RE	ES. No.		

**PURPOSE:** To introduce and adopt any and all necessary ordinances to accomplish the following:

- (1) To close to public use and travel a portion of the right-of-way known as Water Street, as described below, upon the satisfaction of the conditions listed below.
  - <u>Portion of Water Street to be Closed:</u> That certain portion of Water Street extending across a Richmond Economic Development Authority (the "EDA")-owned parcel of real estate listed in the records of the City Assessor as Parcel No. E0000817002 (the "Stone Bistro Parcel") from Gillies Creek to the intersection

### Page 2 of 8

of E. Main Street and Nicholson Street, all as shown hatched and cross-hatched on Sheet 1 of 3 of that certain plan prepared by Timmons Group, designated as DPW Drawing No. N-28801, dated October 16, 2017, and entitled "Proposed Closing to Public Use and Travel of Portions of Water Street and E. Main Street Located Between Nicholson Street and Gillies Creek; Acquisition from and Conveyance to EDA of Certain Real Estate; and the Dedication or Retaining of Easements" (the "Plat"), a copy of which is attached hereto.

- <u>Conditions</u>: Prior to the closure taking effect, the EDA must convey to the City the following interests in the "Stone Bistro Parcel."
  - A 0.295 acre portion of the Stone Bistro Parcel in fee simple, shown as "Area 3" on the Plat, Sheet 1 of 3, for the purpose of providing vehicular access to the City-owned parcel of real estate listed in the records of the Assessor as Parcel No. E0000817001 (the "Intermediate Wharf Parcel") as generally shown on the City's Master Plan as amended by Richmond Riverfront Plan Amendment 1: Downriver Update 2017, incorporated by Ord. No. 2017-148 (as amended, the "Riverfront Plan"). If approved by the City's Chief Administrative Officer (the "CAO"), in her sole discretion, the EDA may reserve from the conveyance a temporary construction easement across Area 3 for the purpose of utilizing Area 3 to access the remainder of the Stone Bistro Parcel for construction of the Stone Bistro and Gardens pursuant to such terms and limited to such duration, if any, deemed acceptable by the CAO.
  - An easement under, over and across a 1,284 sq. ft. portion of the Stone Bistro Parcel, shown as "[F] 10' Easement for Bridge, Bulkheads, and Maintenance" on the Plat, Sheet 2 of 3, for the purpose of accessing such property to maintain the vehicular bridge crossing Gilles Creek and as otherwise needed to construct and maintain improvements to and across Gilles Creek.
- <u>Effect of Closure</u>. Upon closure, the City shall have no further right, title, or interest in the closed right-of-way other than the following:
  - Fee simple title to the portion of the Stone Bistro Parcel conveyed to the City as a condition of the closing (i.e., Area 3), including title to the portion of such property over which the to-be-closed right-of-way currently resides.
  - Any other property rights conveyed to the City as a condition of the closing.

- All those certain easements expressly reserved by the City upon the City's conveyance of the Stone Bistro Parcel to the EDA by Special Warranty Deed recorded as Instrument #150006807 with the exception of the following easements, which shall be deemed vacated by the City upon closure.
  - The "40 R/W and Utility Easement" retained by the City on page 3 of the Special Warranty Deed, as shown on the Plat, Sheet 1 of 3.
  - The "Variable Width Easement for Public Use and Travel" reserved by the City on page 3 of the Special Warranty Deed, as shown on the Plat, Sheet 1 of 3.
- (2) To close to public use and travel two portions of the right-of-way known as E. Main Street, as described below, upon the satisfaction of the conditions listed below.
  - Portions of E. Main Street to be Closed.
    - That certain approximately 0.112 acre portion of E. Main Street, shown as "Area 1" on the Plat, Sheet 1 of 3.
    - That certain approximately 0.435 portion of E. Main Street, shown as "Area 2" on the Plat, Sheet 1 of 3.
  - <u>Conditions:</u> Prior to the closure taking effect, the EDA must:
    - Convey to the City an easement under, over, and across a 422 sq. ft. portion of the Stone Bistro Parcel, shown as "[C] Permanent 5' Utility Easement and Maintenance Easement for Roadway and BRT Station" on the Plat, Sheet 2 of 3.
    - Acknowledge, in writing, that the EDA is aware that certain facilities owned by Dominion Energy, Inc. and Windstream Holdings, Inc. run under Area 1 and Area 2, respectively, and agree, in writing, that the EDA will work in good faith with such companies to permit such companies to continue to use such property for such facilities following closure.
  - <u>Effect of Closure</u>: Upon closure, the City shall have no further right, title, or interest in the closed rights-of-way other than those listed below and the ordinance should authorize the CAO to execute such documents necessary to convey, via quitclaim deed, the City's rights, title, and interest in the closed right-of-way to the EDA, which owns the property abutting both portions of the to-be-closed

#### Page 4 of 8

right-of-way. The City shall reserve the following interests in the quitclaim deed.

- A temporary access and construction easement across the closed right-ofway (Areas 1 and 2) to allow for the completion of any improvements to E. Main St. which may be incomplete as of the date of closure.
- Those easements shown on the Plat, Sheet 2 of 3, as:
  - "(D) Permanent 5' Utility Easement and Maintenance Easement for Roadway & BRT Station"
  - "[E]Variable Width Permanent Utility Easement"
  - "[B] Permanent 5' Utility Easement and Maintenance Easement for Roadway & BRT Station"
- (3) To declare a public necessity exists and to authorize the CAO to acquire by gift from the EDA the following interests in the Stone Bistro Parcel.
  - A 0.295 acre portion of the Stone Bistro Parcel in fee simple, shown as "Area 3" on the Plat, Sheet 1 of 3, for the purpose of providing vehicular access to the City-owned parcel of real estate listed in the records of the Assessor as Parcel No. E0000817001 (the "Intermediate Wharf Parcel") as generally shown on the Riverfront Plan. If approved by the City's Chief Administrative Officer (the "CAO"), in her sole discretion, the EDA may reserve from the conveyance a temporary construction easement across Area 3 for the purpose of utilizing Area 3 to access the remainder of the Stone Bistro Parcel for construction of the Stone Bistro and Gardens pursuant to such terms and limited to such duration, if any, deemed acceptable by the CAO.
  - An easement under, over and across a 1,284 sq. ft. portion of the Stone Bistro Parcel, shown on the Plat, Sheet 2 of 3, as "[F] 10' Easement for Bridge, Bulkheads, and Maintenance," for the purpose of accessing such property to maintain the vehicular bridge crossing Gilles Creek and as otherwise needed to construct and maintain improvements to and across Gilles Creek.
  - An easement under, over, and across a 422 sq. ft. portion of the Stone Bistro Parcel, shown as "[C] Permanent 5' Utility Easement and Maintenance Easement for Roadway and BRT Station" on the Plat, Sheet 2 of 3.

# (4) To declare surplus and authorize the CAO to convey to the EDA the following:

• An approximately 0.138 acre portion of the Intermediate Wharf Parcel in fee simple, shown as Area 4 on the Plat, Sheet 1 of 3, for the purpose of rectifying current building encroachments and allowing use of such property for the

# Page 5 of 8

Stone Bistro and Gardens, as generally shown on the Riverfront Plan. The conveyance shall be subject to the City retaining (i) an easement across a 2,354 sq. ft. portion of such property, shown on the Plat, Sheet 2 of 3, as "[A] 5' Easement for Maintenance of Utilities to be Retained by the City" for the purpose of maintaining utilities in the surrounding area, (ii) 471 sq. ft. portion of such property, shown on the Plat, Sheet 2 of 3, as "[G] Permanent 30' Utility Easement" for a portion of the Fulton Bottom Intercepting Sewer, (iii) 714 sq. ft. portion of such property, shown on the Plat, Sheet 2 of 3, as "[H] Permanent 50' Utility Easement" for existing sewer line, and (iv) 199 sq. ft. portion of such property, shown on the Plat, Sheet 2 of 3, as "[I] Permanent 16' Utility Easement" for an existing sewer line.

**REASON:** Adoption of the ordinances is necessary to close the rights-of-way and swap certain property interests, which will facilitate vehicular access to the City's Intermediate Wharf Parcel and the completion of Stone Bistro and Gardens, both as generally shown on the Riverfront Plan.

**RECOMMENDATION:** The City Administration recommends adoption.

#### **BACKGROUND:**

In the past few years, the City has embarked on a variety of ventures to transform the Downriver area along the James River.

- <u>Lehigh Silos Removed and Virginia Capital Trail Opened.</u> On the Cityowned "Lehigh Parcel," the City facilitated Lehigh Cement's departure from its leased use of the site and the demolition of the industrial silos on the site. Shortly thereafter, the City opened the Downriver portion of the Virginia Capital Trail, a shared use path connecting downtown Richmond to Jamestown, a portion of which path bisects the Lehigh Parcel, crosses Gillies Creek, and continues across the City-owned Intermediate Wharf Parcel.
- <u>East Riverfront Transportation Improvements Project.</u> The City is nearing completion of the project, which was approved by the Planning Commission in 2016 and includes realignment of Dock and E. Main St. through the construction of new roundabout at the intersection of Dock and reconstruction of E. Main St. as a complete street, including bicycle lanes, some on-street parking, and use of the BRT Pulse, including a station on E. Main St and a pull-over lane. Completion of this project, allows for the City to close Water Street as planned.
- <u>Stone Brewing.</u> In 2014 and 2015, City Council approved and the City entered into agreements between the City, the EDA, and KoochenVagner's Brewing Co., dba/Stone Brewing Co. ("Stone") to initiate a major economic development effort in the Downriver and Fulton areas ("Stone Agreements"). The Stone Agreements contemplated certain City obligations related to the

	distribution center, which is up and running. Phase 2 of the project includes redevelopment of the Intermediate Terminal Building, under which Water Street currently runs, and improvements to the surrounding property for the Stone Bistro and Gardens. The ordinances requested herein will allow for Completion of the Stone Bistro and Gardens and, therefore, further contrib- ute to the transformation of the Downriver.
•	<u>Riverfront Plan.</u> The Richmond Riverfront Plan Amendment 1: Downriver Update 2017, including a consensus approach derived after engaging the public with a variety of options, was submitted to and approved to be incor- porated into the Master Plan by the Planning Commission and City Council. As amended, the Riverfront Plan sets out a vision for the development of the Lehigh Parcel and Intermediate Wharf Parcel as usable public space. The consensus approach on pages 197 and 199 shows a general layout of E. Main St., the Intermediate Wharf Parcel and access thereto, and the Stone Bistro and Gardens.
arding th	contemplated ordinances herein follow the completion of and progress made ne various transformative Downriver projects and initiatives and will facilitate gress towards the Downriver transformation as follows:
	• <u>Closure of Water Street.</u> As the City nears completion of the East River- front Transportation Improvements Project, it is in a position to close Water Street. Closure of Water Street is necessary for the completion of the Stone Bistro and Gardens and was an obligation set forth in the Stone Agreements.
	• <u>Closure of portion of E. Main Street.</u> Completion of the East Riverfront Transportation Improvements Project will result in two small remainder portions of r/w, which will not be utilized by the City. As such areas are surplus and the EDA owns the parcels abutting such areas, closure will allow the City of

• EDA Conveyance of Portion of Stone Bistro Parcel to City and the City's Conveyance of a Portion of the Intermediate Wharf Parcel to the EDA.

and for such areas to be added to the EDA-owned parcels.

will allow the City to forgo any maintenance obligations related thereto

o Background. In 2015, the City declared surplus and conveyed to the EDA a portion of a larger City-owned parcel of real estate (while retaining certain easements including an easement for Water Street to continue as r/w). The portion conveyed to the

# Page 6 of 8

transformative projects described herein including the demolition of the Lehigh silos, completion of the Virginia Capital Trail, improvements to E. Main Street, closure of Water Street, and transfer of property interests to the EDA for the facilities. Phase 1 of the project included a major brewing and distribution center which is les ter the for ib-

O&R Request

EDA is referred to herein as the Stone Bistro Parcel and the remainder (i.e., the portion not conveyed to the EDA) is referred to herein as the Intermediate Wharf Parcel. Subsequent to the City's transfer to the EDA, the City completed the Virginia Capital Trail, CSX and Norfolk Southern formally and completely abandoned any rights in the railway lines across such area (as approved by the Surface Transportation Board), and the City adopted the amendment to the Riverfront Plan.

## o Requested Transfers.

- EDA to City. The City requested and the EDA agreed to convey a portion of the Stone Bistro Parcel (Area 3 on the Plat) back to the City, which will facilitate the City's improvements of such property to utilize as access to the Intermediate Wharf Parcel as generally shown on pages 197 and 199 of the Riverfront Plan, as amended.
- "City to EDA. At the time of conveyance, the location of the boundary line between the Stone Bistro Parcel and the Intermediate Wharf Parcel was drawn in consideration of potential railway rights in the area and the to-becompleted construction of the Virginia Capital Trail. Subsequent to the conveyance, any and all railway rights were fully abandoned and the trail was completed. As a result, there is a strip of property between the completed Virginia Capital Trail and the boundary line, which strip is shown on the Riverfront Plan (on pages 197 and 199) as a portion of the Stone Bistro and Gardens but is currently owned by the City (now unencumbered by any railway rights precluding the City from conveying such property). The property provides little benefit to and requires maintenance by the City and would be better utilized and maintained as a portion of the Stone Bistro and Gardens as contemplated by the Riverfront Plan. In addition, a portion of the Intermediate Terminal Building encroaches upon the property. As such, the property should be declared surplus and conveyed to the EDA to be added to the Stone Bistro Parcel. Any conveyance will retain utility easements as set forth herein.

# FISCAL IMPACT / COST: N/A

**FISCAL IMPLICATIONS:** Decrease in r/w and other property the City currently maintains and an increase in the square footage of taxable parcels.

Page 8 of 8

# **BUDGET AMENDMENT NECESSARY: N/A**

**REVENUE TO CITY:** No direct revenue to the City, however, there will be an increase in the square footage of taxable parcels.

**DESIRED EFFECTIVE DATE:** Upon adoption except as otherwise noted.

**REQUESTED INTRODUCTION DATE:** November 13, 2017

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2017

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission

# **CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: N/A**

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ord. No. 2014-254-2015-46; Ord. No. 2014-218-200; Ord. No. 2017-148

# **REQUIRED CHANGES TO WORK PROGRAM(S): N/A**

# ATTACHMENTS:

DPW Drawing No. N-28801, dated October 16, 2017, and entitled "Proposed Closing to Public Use and Travel of Portions of Water Street and E. Main Street Located Between Nicholson Street and Gillies Creek; Acquisition from and Conveyance to EDA of Certain Real Estate; and the Dedication or Retaining of Easements"

Richmond Riverfront Plan, Amendment 1: Downriver update 2017, Pages 197 and 199

**STAFF:** Marvin Anderson, DPW Matthew A. Welch, Planning/ECD



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RICHMOND RIVERFRONT PLAN



SECTION 9: AMENDMENT 1

PAGE 199