

INTRODUCED: March 25, 2019

AN ORDINANCE No. 2019-102

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a First Amendment Agreement to an existing Land License Agreement between the City of Richmond and CSX Transportation, Inc. for the purpose of including an additional parcel and revising certain terms and conditions.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: APR 22 2019 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, be and is hereby authorized to execute a First Amendment Agreement to an existing Land License Agreement between the City of Richmond and CSX Transportation, Inc. for the purpose of including an additional parcel and revising certain terms and conditions. The First Amendment 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.

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

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: APR 22 2019 REJECTED: _____ STRICKEN: _____



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST
4-8636
FEB 27 2019

Office of the
Chief Administrative Officer

O&R REQUEST

RECEIVED

MAR 12 2019

OFFICE OF CITY ATTORNEY
3/8/19

DATE: February 27, 2019

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)
(This does not reflect a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Lenora G. Reid, Deputy Chief Administrative Officer for Finance & Administration

THROUGH: Jay A. Brown, Director of Budget & Strategic Planning

THROUGH: Robert C. Steidel, Deputy Chief Administrative Officer for Operations

THROUGH: Calvin D. Farr, Director, Department of Public Utilities

THROUGH: Reginald E. Gordon, Deputy Chief Administrative Officer for Human Services

THROUGH: Christopher E. Frelke, Director, Department of Parks, Recreation, & Community Facilities

THROUGH: Douglas C. Dunlap, Interim Deputy Chief Administrative Officer, Economic Development & Planning

FROM: Mark A. Olinger, Director
Department of Planning & Development Review

SUBJECT: This O&R request is to authorize the Chief Administrative Officer, or Designee, to execute any and all requirements related to the following three ordinances in connection with the second phase of the Low Line, "Low Line Green":

- 1. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a First Amendment Agreement to an existing Land License Agreement between the City and CSX Transportation, Inc.

2. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Low Line Green Right-of-Entry Agreement between the City and Capital Trees.
3. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to accept a donation of services and materials in the form of landscaping improvements and future maintenance thereof on City-owned real estate on the Low Line valued at approximately \$740,000 from Capital Trees.

ORD. OR RES. No:

PURPOSE: This O&R request is for the following three ordinances in connection with the second phase of the Low Line, "Low Line Green":

1. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a First Amendment Agreement to an existing Land License Agreement between the City and CSX Transportation, Inc.
2. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a New Right-of-Entry Agreement between the City and Capital Trees.
3. To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to accept a donation of services and materials in the form of landscaping improvements and future maintenance thereof on City-owned real estate on the Low Line valued at approximately \$740,000 from Capital Trees.

REASON: In 2014 and 2015, the City worked with Capital Trees on making a variety of landscaping improvements to the "Low Line" from Great Shiplock Park to 21st Street. Capital Trees has continued to raise funding for improvements to an area in the vicinity of the floodwall between 16th St. and 18th St. as depicted in red and identified as "Additional Site Area" on the map attached hereto as Attachment A-1 dated April 11, 2018.

In order to install and maintain these improvements, and to enter on, over, or across property owned or controlled by CSX for future maintenance or repair of the improvements, the City needs to enter into three agreements, as follows:

1. To execute a First Amendment Agreement to an existing Land License Agreement CSX, Transportation, Inc.
2. To execute a New Right-of-Entry Agreement between the City and Capital Trees.
3. To accept a donation of services and materials in the form of landscaping improvements and future maintenance thereof on City-owned real estate on the Low Line valued at approximately \$740,000 from Capital Trees.

RECOMMENDATION: The Administration recommends approval.

BACKGROUND: On December 8, 2014, the Council adopted two ordinances related to the development of the "Low Line Park" along Dock Street in the City. Ordinance 2014-248-224, provided \$200,000 in City funds to help support the development of Phase 1 of "Low Line Park" by the Three Chopt Garden Club (as fiscal agent) and Capital Trees. Ordinance 2014-247-223 authorized the acceptance of a donation of services and materials in the form of improvements and future maintenance along the "Low Line Park." The donated value of the improvements would be approximately \$1,275,000, \$75,000 of which would be a dedicated maintenance fund to maintain the improvements of Phase 1 "Low Line Park" until such time as the funds were exhausted. The improvements would then be accepted by, and incorporated into, the Department of Parks, Recreation, and Community Facilities inventory, as per Ordinance 2014-247-223.

On July 27, 2015, as part of a number of papers related to Phase 1 of Low Line improvements along Dock Street as part of a partnership among Capital Trees, CSX Transportation, Inc., and the City, Ordinance 2015-150-160 was adopted by Council granting a Land License for the City access to railroad property and right-of-way from Great Shiplock Park to 21st Street in order to maintain the portion of Dock Street located over CSX Transportation, Inc.'s, railroad tracks and right-of-way.

In 2018 Capital Trees came forward with plans to improve the area near in the vicinity of the floodwall (1700 block of Dock Street) which would cover property as shown on the plans entitled "Low Line Green," prepared by Water Street Studio, dated August 1, 2018, and approved as to location, character and extent by the Planning Commission on November 19, 2018, a copy of which is attached. For purposes of entering onto CSX property for maintenance or other activities related to the "Low Line Green" a First Amendment Agreement between the City and CSX Transportation, Inc., for the affected .82 acres of site area of CSX property is needed, as shown on the attached Exhibit A-1.

Adoption of these three (3) ordinances will permit the project to go forward.

FISCAL IMPACT: None

COST TO CITY: Maintenance cost of the improvements once the funding for the maintenance cost established by Capital Trees is exhausted.

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: March 25, 2019

CITY COUNCIL PUBLIC HEARING DATE: April 22, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Land Use Housing & Transportation, April 16, 2019

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: None

AFFECTED AGENCIES: Public Utilities; Parks, Recreation & Community Facilities; Planning & Development Review

RELATIONSHIP TO EXISTING ORDINANCES: Ordinance 2015-150-160 (adopted July 27, 2015), Ordinance 2014-248-224 (adopted 12/8/2014), and Ordinance 2014-247-223 (adopted 12/8/2014)

REQUIRED CHANGES TO WORK PROGRAMS: None

ATTACHMENTS: 1st Amendment Agreement to Land License Agreement
Low Line Green Right-of Entry Agreement
Exhibit A-1
Final Location, Character, and Extent plans for landscape improvements at 1701 Dock Street (approved by City Planning Commission November 18, 2018)

STAFF: Mark A. Olinger, Director 646-6305
Department of Planning & Development Review

FIRST AMENDMENT AGREEMENT

THIS FIRST AMENDMENT AGREEMENT, ("First Amendment Agreement") made and effective this _____ day of _____, 20____ by and between CSX TRANSPORTATION, INC., a corporation of the state of Virginia, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor" and CITY OF RICHMOND, VIRGINIA, a municipal corporation and political subdivision of the Commonwealth of Virginia, whose mailing address is 900 E. Broad Street, Suite 201, Richmond, Virginia 23219 hereinafter called "Licensee" WITNESSETH:

WHEREAS, Licensor and Licensee entered into a Land License Agreement (the "License") dated June 15, 2015. Licensee currently licenses 2.21 acres, more or less, hereinafter the "Premises", situated at Richmond, Richmond City, Virginia for the purpose maintaining two (2) canopies under Licensor's trestle, and the maintenance of vegetation, mowing, and removing litter on the Premises, to the extent such activities are not being performed by Capital Trees and for no other purpose. Public access and public use are specifically prohibited by the License.

WHEREAS, Licensee desires and Licensor agrees to supplement, modify and amend the License as provided hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein contained, the parties agree this First Amendment Agreement, effective the date first written above, will serve to amend the License as follows:

1. The Premises shall be increased to include an additional parcel containing 0.82 acres, as shown in red (the "Additional Site Area") on the attached Exhibit A-1, dated April 1, 2018, for a total Premises of 3.03 acres, more or less.
2. Licensee's plantings and improvements on the Additional Site Area shall be done in a manner not to impede Licensor's access to its stairs and platform.
3. Exhibit A of the License Agreement is hereby deleted in its entirety and replaced with Exhibit A-1, dated April 1, 2018, attached hereto and incorporated herein.
4. All notices and communications concerning the License, including this First Amendment Agreement, shall be addressed to Licensee at the address above, and to Licensor at the address above, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

Except as provided in this First Amendment Agreement, all other terms and conditions of the License shall remain in effect.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly signed, sealed and delivered in duplicate.

Witness for Licensor:

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee:

CITY OF RICHMOND, VIRGINIA

By: _____

Selena Cuffee-Glenn
Chief Administrative Officer

Authorized by Ord. No. 2014-248-224
Adopted December 8, 2014

APPROVED AS TO FORM:

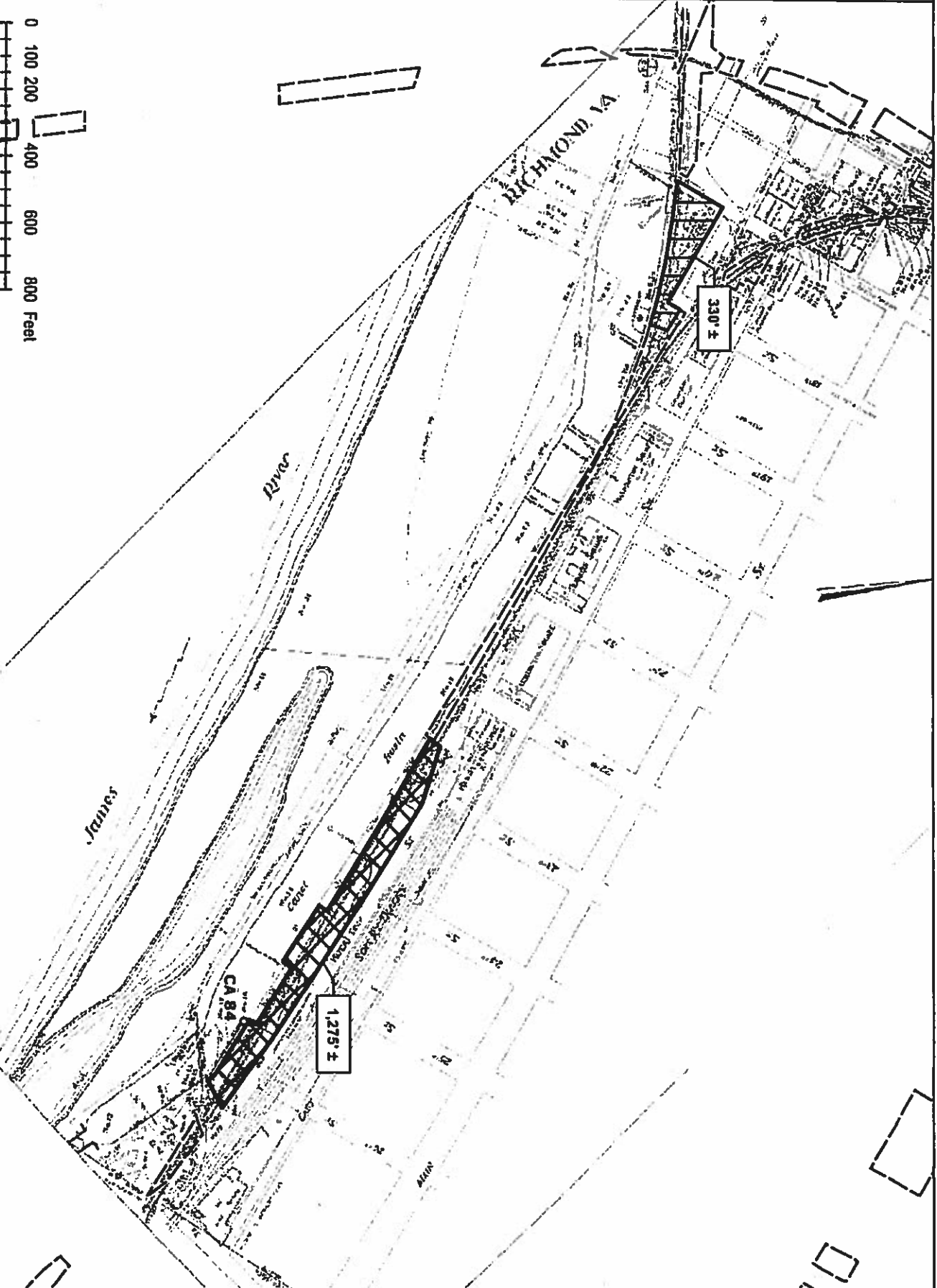
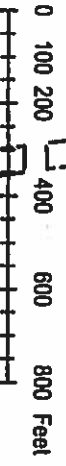

Deputy City Attorney

GIS #
13123-001

INTEL #
V254

PIN #
51780 0097

1" = 400'



CSX TRANSPORTATION, INC.
RICHMOND VA - LOW LINE
SITE: VA-760-1071696
RICHMOND CITY COUNTY - RICHMOND, VA
MILEPOST: CA 84.06 - CA 84.59

DIVISION: FLORENCE
SUBDIVISION: PENINSULA
DATE: 04/11/2018
REVISED: 04/11/2018
DRAWN BY: 07525

-  Engineering Milepost
-  Current Site Area - 2.21 ± AC
-  Additional Site Area - 0.82 ± AC
-  CSX Real Estate

THIS RAILROAD MAP EXHIBIT GRAPHICALLY REPRESENTS A PROPOSED REAL ESTATE TRANSACTION. IT MAY NOT REFLECT CURRENT OR THE GROUND CONDITIONS AND/OR ACTUAL LOCATIONS OR FEATURES. ALL DIMENSIONS, OFFSET DISTANCES, AREA CALCULATIONS AND MEASUREMENT NOTATIONS SHOWN ON THIS EXHIBIT ARE APPROXIMATE.