

INTRODUCED: April 12, 2021

AN ORDINANCE No. 2021-090

To authorize the Chief Administrative Officer to accept \$472,500.00 from the Clerk of the Circuit Court of the City of Richmond consisting of funds deposited by the Commonwealth of Virginia for the Virginia Department of Transportation's acquisition of a portion of City-owned property located at 800 North 3<sup>rd</sup> Street with such funds to be credited to the Reserve Fund for Permanent Public Improvements and, in connection therewith, to execute an Agreement between the City and the Commonwealth of Virginia for the purpose of accepting compensation and settling all claims for such acquisition.

\_\_\_\_\_  
Patron – Mayor Stoney

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

PUBLIC HEARING: APR 26 2021 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, on behalf of the City of Richmond, is hereby authorized to accept \$472,500.00 from the Clerk of the Circuit Court of the City of Richmond consisting of funds deposited by the Commonwealth of Virginia for the Virginia Department of Transportation's acquisition of a portion of City-owned property located at 800 North 3<sup>rd</sup> Street with such funds to be credited to the Reserve Fund for Permanent Public

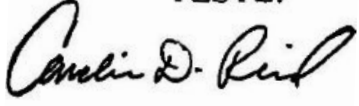
AYES:            8            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    APR 26 2021    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

Improvements in accordance with section 12-42(d) of the Code of the City of Richmond (2020), as amended.

§ 2. That the Chief Administrative Officer, on behalf of the City of Richmond, is hereby authorized to execute an Agreement between the City of Richmond and the Commonwealth of Virginia concerning the Virginia Department of Transportation's acquisition of a portion of City-owned property located at 800 North 3<sup>rd</sup> Street to provide for the settlement of all claims and the acceptance of the funds in the amount of \$472,500.00 authorized by section 1 of this ordinance, provided that such Agreement must first be approved as to form by the City Attorney and must be substantially in the form of the document attached to this ordinance.

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

**A TRUE COPY:**  
**TESTE:**  
  
**City Clerk**

O & R Request



# CITY OF RICHMOND

## INTRACITY CORRESPONDENCE

**O&R REQUEST**

**DATE:** February 22, 2021

**EDITION:** 2

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** Lincoln Saunders, Acting Chief Administrative Officer

**THROUGH:** Jay A. Brown, Director, Budget and Strategic Planning

**THROUGH:** Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning

**FROM:** Paul A. McClellan, Community and Economic Development Administrator,  
Economic Development and Planning

**RE:** To authorize the Acting Chief Administrative Officer to execute an Agreement After Certificate and accept funds from VDOT for their acquisition of a portion of the City-Owned property located at 800 N 3rd Street (Richmond Tax Parcel # N0000031001)

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

**PURPOSE:** To authorize the Acting Chief Administrative Officer to execute an Agreement After Certificate (AAC) to accept \$472,500 in funds from the Clerk of the Circuit Court of the City of Richmond, consisting of funds deposited with the Clerk by the Virginia Department of Transportation (VDOT) for its acquisition of a portion of the City-owned property located at 800 N 3<sup>rd</sup> Street (Tax Parcel # N0000031001); and to assign such accepted funds to the Reserve Fund for Public Improvements established pursuant to City Code Section 12-42(d).

**REASON:** On April 8, 2020 VDOT contacted the City regarding the acquisition of a 0.619 acre portion of 800 N 3<sup>rd</sup> Street for the purpose of constructing an emergency pull-off lane along the I-95/64 off ramp at N 3<sup>rd</sup> Street and to obtain a permanent storm drainage easement from the City. VDOT appraised property value at \$472,500 and made an offer in that amount. In order to expedite the acquisition, VDOT filed a Certificate of Take and

## O & R Request

acquired the 0.619 acre parcel and associated easement on July 23, 2020 and deposited \$472,500 with the Circuit Court of the City of Richmond on behalf of VDOT. The City now seeks authorization for the Acting Chief Administrative Officer to execute an Agreement After Certificate with VDOT in order to accept the \$472,500 from the Circuit Court of the City of Richmond to the City to assign those funds to the reserve fund for permanent public improvements.

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

**BACKGROUND:** On April 8, 2020 VDOT submitted an unsolicited offer to acquire a 0.619 acre portion of 800 N 3<sup>rd</sup> Street for the purpose of constructing an emergency pull-off lane along the I-95/64 off-ramp at N 3<sup>rd</sup> Street. The City-owned parcel at 800 N 3<sup>rd</sup> Street totaled 1.193 acres and VDOT acquired 0.62 acres (26,967 sq. ft.) of that parcel and obtained a 2,250 sq. ft. permanent storm drain easement from the City all for an appraised value of \$472,500. Their proposed storm drainage improvements would connect to an existing 48 inch storm sewer line that runs across the site. VDOT would grant the City a storm drainage easement on the property they acquire to allow the City to do future maintenance of that line. The City's entire 1.193 acre parcel (Tax Parcel #N0000031001) at 800 N 3<sup>rd</sup> Street had a 2020 assessed value of \$884,000 prior to VDOT's acquisition of the 0.619 acre portion of the property. VDOT has been planning for the proposed 3<sup>rd</sup> Street emergency pull-off and coordinating with the Department of Public Works for over a year and the Final Order to be recorded with the Richmond Circuit Court will include DPW requirements that 1.) VDOT provide and maintain the landscaping on the parcel they acquire and 2.) the City reserves a permanent easement on the parcel acquired by VDOT to maintain, repair or place the existing 48" sanitary sewer line.

**FISCAL IMPACT/COST TO CITY:** The conveyance of this property will result in the transfer of \$472,000 in sales proceeds to the City which will be deposited in the reserve fund for permanent public improvements pursuant to City Code Section 12-42(d).

**FISCAL IMPLICATIONS:** None: other than the City will no longer need to expend funds to maintain the site.

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** The City will receive the \$472,500 upon the closing on the sale of the property.

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** March 22, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** April 12, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** City Planning Commission April 5, 2021

O & R Request

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None

**AFFECTED AGENCIES:** Mayor, Chief Administrative Officer, Budget, Public Works, Economic Development and Planning and Economic Development.

**RELATIONSHIP TO EXISTING ORD. OR RES.:** N/A

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

**ATTACHMENTS:** Agreement After Certificate  
VDOT highway plans sheets 5, 5RW and 8(3)

**STAFF:**

Sharon L. Ebert, Economic Development and Planning 646-7646  
Paul A. McClellan, Economic Development and Planning 646-3061

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 2021, between CITY OF RICHMOND, a municipal corporation, **GRANTOR** and the COMMONWEALTH OF VIRGINIA, acting by and through the Commissioner of Highways, **GRANTEE**,

**WITNESSETH:**

**WHEREAS**, in connection with State Highway Route 95, Project 0095-127-005, R-201 in the City of Richmond, Virginia (“Project”), the **GRANTEE**, in accordance with the provisions of Title 33.2, Chapter 10 of the Code of Virginia of 1950, as amended, has lodged with the Clerk of the Circuit Court of the City of Richmond, Virginia, Certificate Number C-420005, in the amount of \$472,500.00, for the benefit of the **GRANTOR**; and

**WHEREAS**, the **GRANTEE** has appointed the law firm of Randolph, Boyd, Cherry and Vaughan as his attorney to institute condemnation proceedings for the purpose of determining the amount to be paid for the land, or interest therein, as described in the Certificate aforesaid, and damages to the remaining lands, if any, of the **GRANTOR**; and

**WHEREAS**, the parties have now agreed upon the following amount of just compensation for the land and/or interests therein and damages to the remainder, if any, and for all other claims and demands by the **GRANTOR** against the **GRANTEE** arising out of the filing of the Certificate and the conveyance of the property.

**NOW THEREFORE**, in consideration of the recitations above which are made a part of this Agreement, the parties agree as follows:

- 1.) All issues between the **GRANTEE** and the **GRANTOR** as described herein, including but not limited to just compensation, public use, public necessity, lost profits and lost access, the

**GRANTEE'S** bona fide but ineffectual effort to purchase the property prior to the filing of the Certificate, and all other statutory prerequisites to condemnation are hereby settled and forever resolved. The recitals set forth above are hereby incorporated herein as if repeated in full and are true in all respects.

2.) **GRANTEE** has offered and the **GRANTOR** has accepted consideration in the amount of \$472,500.00, being the exact amount of the Certificate, as total just compensation for the acquisition of all of the property and/or property rights identified and described in the Certificate, and satisfaction of all Claims (as defined below) including but not limited to Claims arising out of the filing of the Certificate, any physical invasion of or physical damage to the **GRANTOR'S** property outside of the fee or easement areas described in the Certificate which the **GRANTOR** has actual knowledge of or should have knowledge of based upon a reasonable inquiry, as of the date of this Agreement, and/or the conveyance of said property to **GRANTEE** pursuant to Virginia Code Section 33.2-1001, as well as all Claims for lost profits and/or lost access, and all Claims under the Rules of the Virginia Supreme Court related to the taking of said property. Said amount is the exact amount deposited under the Certificate. In addition, **GRANTOR** accepts such just compensation in full, final and unconditional settlement and release of any and all claims, demands, remedies, damages and liability in the manner and to the extent as set forth below. **GRANTOR** agrees to provide **GRANTEE'S** counsel with properly executed tax information forms (Virginia Department of Accounts Substitute W-9 Form) contemporaneously with delivery of this properly executed Agreement.

3.) Other than interest on funds being held by the Clerk of the Circuit Court, if any, **GRANTOR** hereby waives and relinquishes all rights, claims, demands, remedies, damages, costs, interest, expert fees, attorney fees, and liability, including claims against **GRANTEE**, **GRANTEE'S** agents and contractors, and any utility company or agent or contractor of such utility company involved

in the construction work of the Project and any other parties acting under the color of the Certificate, (collectively referred to as "Claims"), that **GRANTOR** may have arising out of or related to the filing of the Certificate, the acquisition of the property and/or property rights described in the Certificate, any physical invasion of or physical damage to the **GRANTOR'S** property outside of the fee or easement areas described in the Certificate of which the **GRANTOR** has actual knowledge or should have knowledge based upon a reasonable inquiry, as of the date of this Agreement, and/or the conveyance of said property to **GRANTEE** pursuant to Virginia Code Section 33.2-1001, *et seq.* as well as all Claims for lost profits and/or lost access and all Claims under the Rules of the Virginia Supreme Court relating to the taking of said property.

4.) Notwithstanding any provision to the contrary, **GRANTOR'S** settlement in paragraph two (2) and waiver in paragraph three (3) does not apply to any unlawful interference with access caused by something other than the rights conveyed in the Certificate, any physical invasion of or physical damage to the **GRANTOR'S** property outside of the fee or easement areas described in the Certificate of which the **GRANTOR** has no actual knowledge nor should have no knowledge based upon a reasonable inquiry, as of the date of this Agreement. **GRANTOR** hereby represents and warrants that, as of the date of this Agreement, **GRANTOR** is unaware of (a) any unlawful interference with access caused by something other than the rights conveyed in the Certificate, (b) any physical invasion of any property outside the fee or easement areas described in the Certificate and (c) any physical damage caused by **GRANTEE**, his agents or contractors to **GRANTOR'S** remaining property. Nothing in this paragraph shall be read to exclude any other lawful claims that the **GRANTOR** may otherwise possess and which are not otherwise waived in this Agreement.

5.) As part of the consideration for this Agreement, **GRANTOR** warrants and represents that since the recordation of the aforesaid Certificate and continuing to the date of this Agreement,



there has been no sale or contract for sale of the land or interest therein or any part thereof between the **GRANTOR** and any third party.

6.) As further consideration for this Agreement, **GRANTOR** agrees that any order presented to the Court pursuant to Section 33.2-1027 of the Code for entry confirming absolute and indefeasible fee simple title in the Commonwealth may require that all amounts necessary to satisfy liens transferred to the fund held by the Clerk upon the filing of the Certificate, pursuant to Section 33.2-1021 of the Code, be retained by the Clerk pending further proceedings under Sections 33.2-1027, 33.2-1023, 25.1-240 or 25.1-241 of the Code, as applicable, unless such liens were previously satisfied, released, or subordinated, as appropriate. The **GRANTOR** agrees that any funds due to or for the benefit of the **GRANTOR** pursuant to this Agreement are deemed to have been paid to the **GRANTOR** (or the **GRANTOR'S** attorney if the **GRANTOR** has properly agreed and consented thereto and executed documentation satisfactory to the **GRANTEE** memorializing said agreement and consent), at the time of deposit of the funds with the court, regardless of whether or not deposited funds are or will be retained by the court pending further proceedings regarding liens, allocation, or entitlement to the funds. Nothing in this Agreement shall be construed i) to alter the priority of liens or to give rise to any obligation on the part of the **GRANTEE** to satisfy or obtain releases with regard to any outstanding liens on the property or the funds, or ii) to require distribution of funds on deposit that are subject to a lien or liens to anyone other than the applicable lienholder or lienholders without prior satisfaction, release, or subordination of the applicable liens, as appropriate.

7.) There have been no other promises, consideration or representations made which are not set forth in this Agreement; **PROVIDED, HOWEVER**, that if there is an Attachment 1 to this

Agreement setting forth such additional terms and conditions as to which the parties have agreed, then those terms and conditions are incorporated herein by reference and made a part hereof.

8.) The consideration hereinabove mentioned represents the value of all estates or interests in such land and the damage to the remaining property, if any, and is in lieu of any and all Claims (subject to the terms of Paragraph 4, above) for compensation and damages by reason of the location, construction and maintenance of the highway including such drainage facilities within the fee and easement acquisition areas as may be described in the Certificate.

9.) The **GRANTOR** agrees to accept its legally proportionate share (if there be such apportionment) of such total consideration for the interests and rights in the land.

10.) The parties hereto agree that the total consideration set forth above shall be reduced to the extent of any payment previously made pursuant to the provisions of Section 33.2-1023 of the Code of Virginia 1950, as amended, if any.

11.) This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.

**WITNESS** the following signatures and seals:

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

**CITY OF RICHMOND, a municipal corporation**

By: \_\_\_\_\_ (SEAL)

Print: \_\_\_\_\_

Its: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA,  
CITY OF RICHMOND, to-wit:

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by  
\_\_\_\_\_ for the City of Richmond, Virginia.

My Commission expires \_\_\_\_\_ Notary Registration No.: \_\_\_\_\_

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

Approved as to form:

*Bonnie M. Ashley*

Deputy City Attorney, City of Richmond

Approved as to terms:

\_\_\_\_\_

Community & Economic Development  
Administrator, Dept. of Economic Development  
and Planning.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**COMMISSIONER OF HIGHWAYS**

BY: \_\_\_\_\_  
Of Counsel

Francis A. Cherry, Jr. (VSB# 12595)  
F. Adam Cherry, III (VSB# 70890)  
Randolph, Boyd, Cherry and Vaughan  
14 East Main Street  
Richmond, Virginia 23219  
Phone: (804) 643-6611  
Fax: (804) 786-2765  
scherry@rbcvlaw.com  
acherry@rbcvlaw.com

Commonwealth of Virginia,  
City of Richmond, to-wit:

The foregoing Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2021 by Francis A. Cherry, Jr. as counsel and on behalf of the Commissioner of Highways.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2021.

My Commission expires \_\_\_\_\_ Notary Registration No.: \_\_\_\_\_

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

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**ATTACHMENT 1 TO AGREEMENT**

1. The Grantor hereby reserves unto itself a permanent easement to maintain, repair or replace the 48" sanitary sewer line as shown on Sheets 5 and 5RW of the highway plans for Interstate Route 95, State Highway Project 0095-127-005, R201, revision date March 27, 2020, running from the Northeast property line to the Southwest proposed right of way limited access line as shown on said plan sheets.
2. The Commonwealth will provide and maintain landscaping as shown on Sheet 8(3) of the aforesaid highway plans.

The above provisions shall be included in the Order pursuant to Section 33.2-1027, Code of Virginia (1950), as amended, referred to in Paragraph 6 of this Agreement.

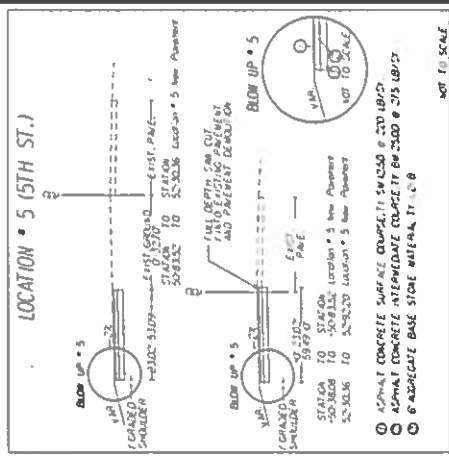
DATE	03/27/2020
TIME	10:00 AM
PROJECT	0095-127-005, W504
SHEET	5

DESIGN FEATURES RELATING TO CONSTRUCTION SHALL BE SUBJECT TO CORRECTION AS DEEMED NECESSARY BY THE DEPARTMENT

1.001 Location & Design	1.002 Location & Design
1.003 Location & Design	1.004 Location & Design
1.005 Location & Design	1.006 Location & Design

**RIGHT OF WAY PLANS**

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION.



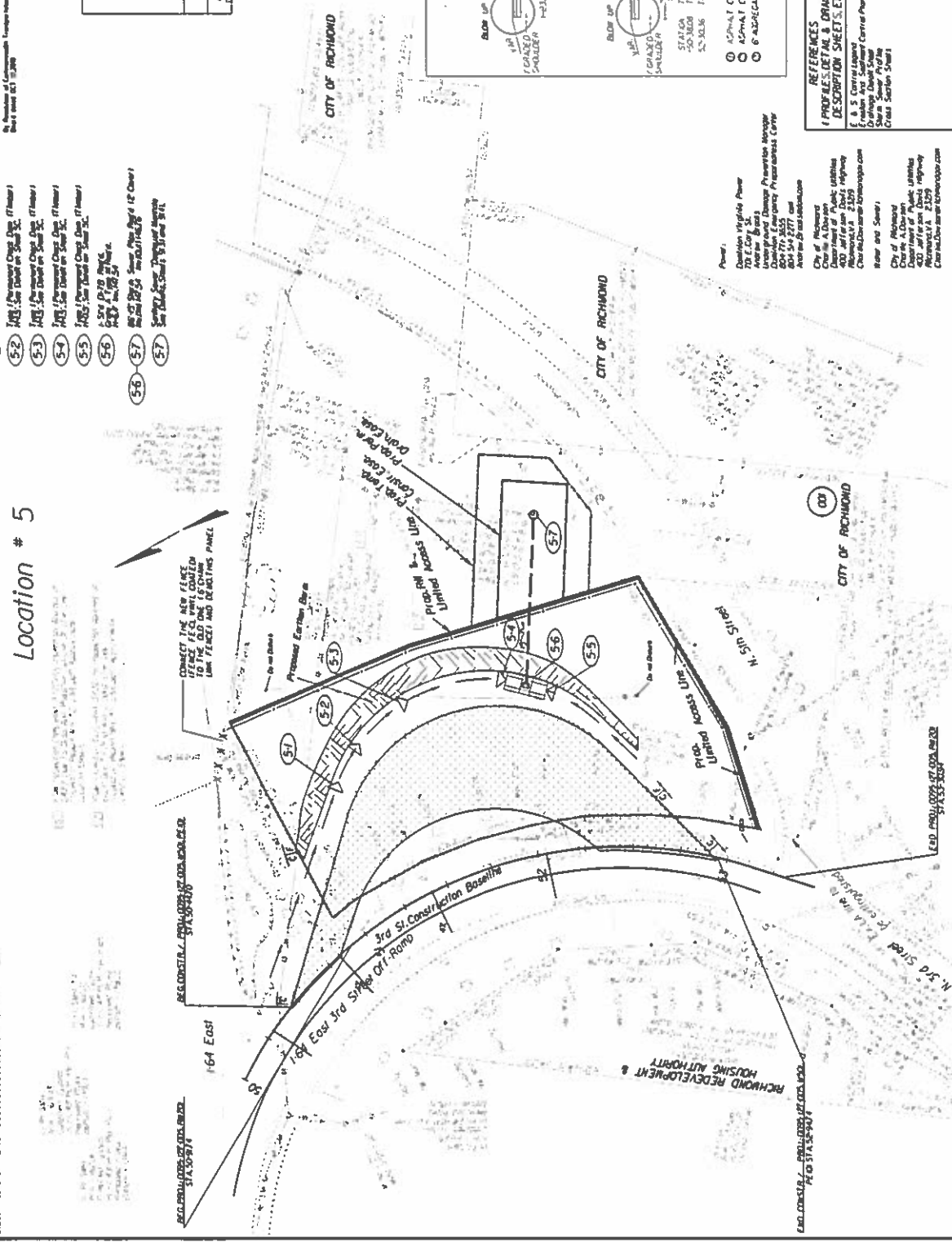
- REFERENCES**
- PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.]
  - E & S Control Layout
  - Final and Supplemental Control Plan
  - Storm Sewer Profile
  - Cross Section Sheets
- DEFINES CONSTRUCTION LIMITS IN ORS**
- DEFINES CONSTRUCTION LIMITS IN PLS
  - DEFINES LIMITED ACCESS FENCE
  - Final Construction Plan
- DEFINES CONSTRUCTION LIMITS IN ORS**
- ASPHALT CONCRETE SURFACE COMPLETE TO 50836.00 @ 5% UP/2'
  - ASPHALT CONCRETE INTERFERENCE COMPLETE TO 50840.00 @ 5% UP/2'
  - ADEQUATE BASE STONE AREA, 11' x 6'

**LIMITED ACCESS HIGHWAY**  
 10' WIDE SIDEWALK  
 10' WIDE SHOULDER  
 10' WIDE DRIVEWAY

- 51 10' Wide Shoulder on Side (17' Max)
- 52 10' Wide Shoulder on Side (17' Max)
- 53 10' Wide Shoulder on Side (17' Max)
- 54 10' Wide Shoulder on Side (17' Max)
- 55 10' Wide Shoulder on Side (17' Max)
- 56 10' Wide Shoulder on Side (17' Max)
- 57 10' Wide Shoulder on Side (17' Max)

**5TH St.**  
**Location # 5**

RECONSTRUCTED SIDEWALK  
 RECONSTRUCTED SIDEWALK  
 RECONSTRUCTED SIDEWALK  
 RECONSTRUCTED SIDEWALK



DATE	03/27/2020
TIME	10:00 AM
PROJECT	0095-127-005
SHEET	5

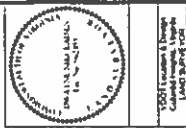
PROJECT: RICHMOND DISTRICT DESIGN UNIT  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 DATE: 11/17/2020

3rd St.  
 Location # 5

RICHMOND DISTRICT DESIGN UNIT

DATE	03/27/2020
BY	VA 95
PROJECT	0095-127-005-W501
DESCRIPTION	PE/CA/RW/201
SCALE	5/8" = 1'
SHEET NO.	5/8" = 1'

THIS PLAN SHEET WILL BE USED IN CONNECTION WITH THE RICHMOND DISTRICT DESIGN UNIT. IT IS THE RESPONSIBILITY OF THE USER TO OBTAIN ALL NECESSARY PERMITS AND TO SECURE ALL NECESSARY RECORDS FROM THE CITY OF RICHMOND.



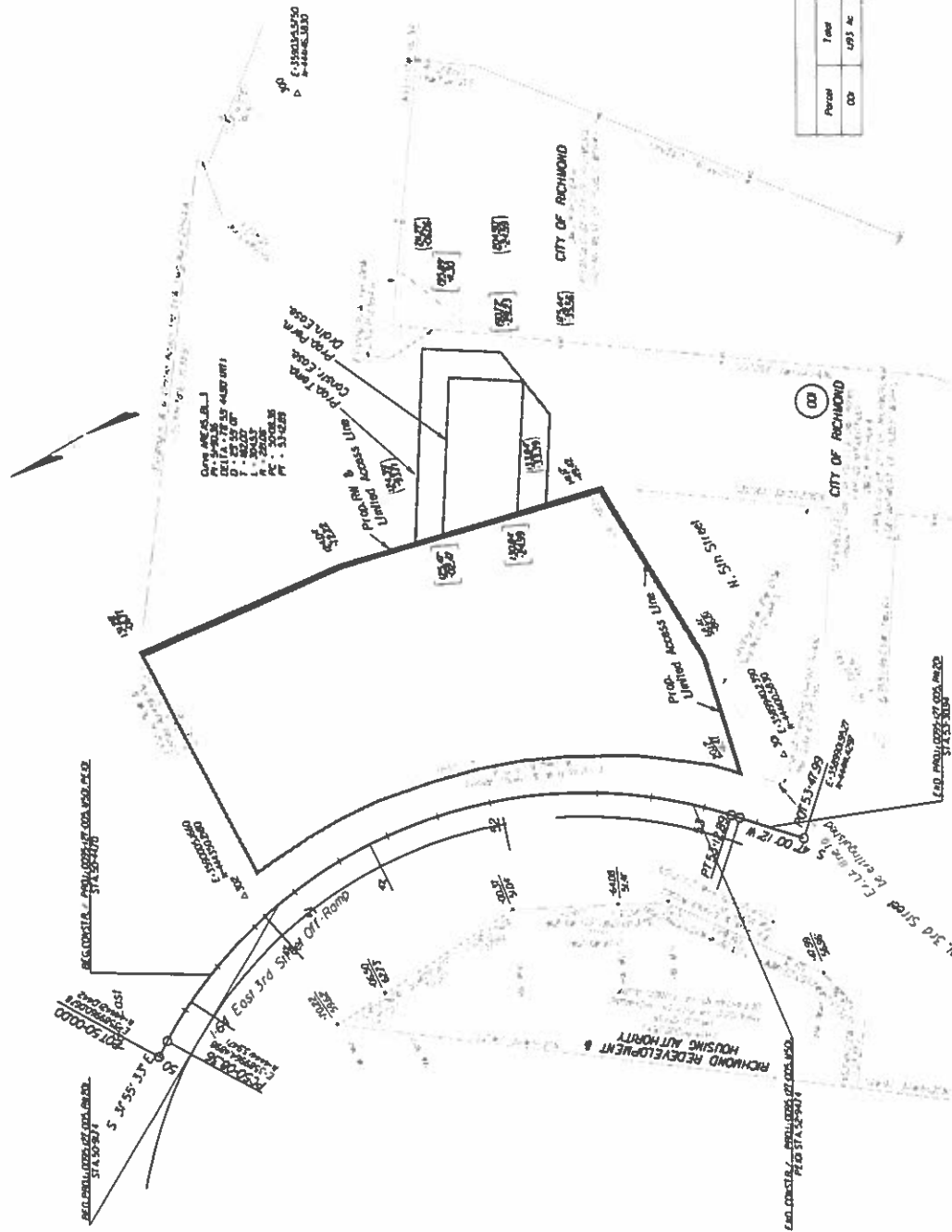
NOTES:

- THIS PLAN SHEET REPRESENTS A FIELD SURVEY OF THE PROPOSED R/W LIMITS. ALL OF THE ADJACENT PROPERTY OWNERS HAVE BEEN NOTIFIED AND FOUND FIELD MONUMENTATION HAS BEEN FOUND AND RECORDED. THE ADJACENT PROPERTY OWNERS HAVE BEEN ADVISED OF THE ADJACENT PROPERTY AND A BEST FIT BASED ON COMPILED DATA AND SURVEY DATA HAS BEEN OBTAINED.
- THIS PLAN SHEET WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND SURVEY SHALL SHOW ALL EASEMENTS WHICH MAY AFFECT THE PROPERTY SHOWN HEREON.
- THE INFORMATION SHOWN ON THIS PLAN SHEET WAS OBTAINED FROM THE CITY OF RICHMOND RECORDS AND DOES NOT REPRESENT A RECORD AND PHYSICAL EVIDENCE FOUND.
- ALL MONUMENTATION TO BE SET UPON COMPLETION OF CONSTRUCTION.
- BEARING AND DISTANCES IN PARENTHESES ARE NOT TO SCALE.
- THE INFORMATION SHOWN ON THIS PLAN SHEET WAS OBTAINED FROM THE CITY OF RICHMOND RECORDS AND DOES NOT REPRESENT A RECORD AND PHYSICAL EVIDENCE FOUND.
- PROPERTY INFORMATION IS BASED ON DEEDS AND PLATS OF RECORD AND PHYSICAL EVIDENCE FOUND.
- ALL MONUMENTATION TO BE SET UPON COMPLETION OF CONSTRUCTION.

Points 300 - 302 - Survey Control

Note: All points in parentheses are not set. All points in brackets are set. All points in bold are set. All points in italics are not set.

Area	Total	R/W Total	Perm. Data (Ac.)	Prop. Data (Ac.)	Total (Ac.)
CD	149.5	268.0	0.27	225.0	268.0
CD	149.5	268.0	0.27	225.0	268.0

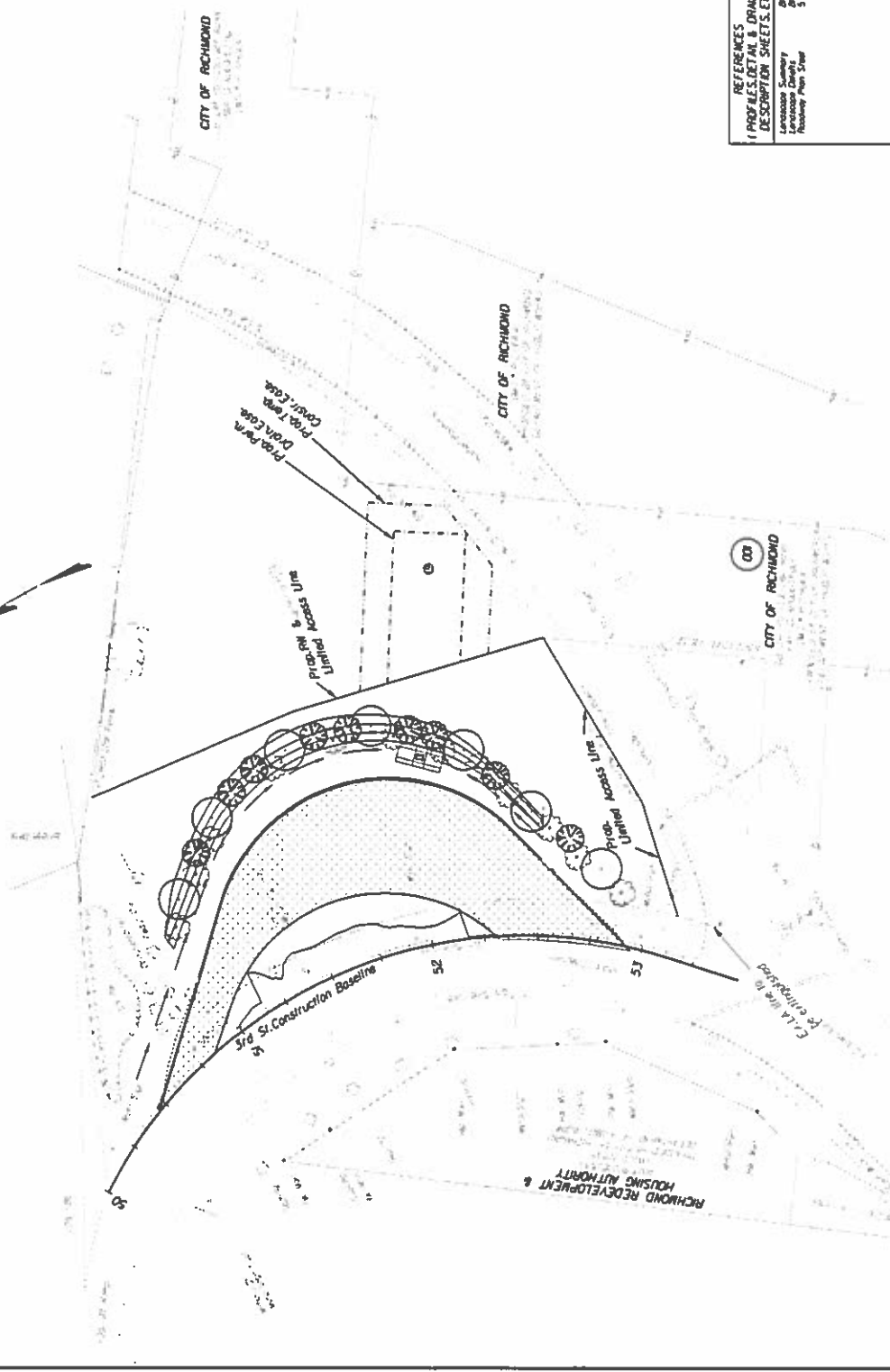


# Landscape Plan View 3rd St. Location # 5

NO. 1000	NO. 1000	NO. 1000	NO. 1000
VA 95	0095-127-005	MS00	8(3)

DESIGN FEATURES RELATING TO CONSTRUCTION OF THE PROJECT SHALL BE SUBJECT TO LANDSCAPE ARCHITECTURE DEPARTMENT NECESSARY BY THE DEPARTMENT

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION.



- Green Yucca (Johannes 77)
- Dawn Redwood (20)
- Fringe Tree (22)
- Dashed Proposed Gravel Channel
- Dashed Proposed Earthen Bank
- Dashed Proposed Sewer Pipe

REFERENCES  
 (1) PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)  
 Landscape Summary  
 Landscape Details  
 Assembly Plans, etc.

NO. 1000	NO. 1000	NO. 1000	NO. 1000
VA 95	0095-127-005	MS00	8(3)