AN ORDINANCE No. 2021-187

To declare a public necessity for the acquisition of and to authorize the Chief Administrative Officer to accept from certain property owners a retaining wall and variable width retaining wall maintenance easement and the dedication as public right-of-way of a portion of certain properties located within the 7 West subdivision located at West 7th Street and Semmes Avenue, consisting of $0.23\pm$ square feet, for the purpose of providing for the City's ownership and maintenance of that certain retaining wall and public right-of-way within the 7 West subdivision.

Patron – Mayor Stoney

Approved as to form and legality by the City Attorney

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

WHEREAS, in the opinion of the Council of the City of Richmond, a public necessity exists for the acquisition of a retaining wall and variable width retaining wall maintenance easement located within the 7 West subdivision and for the acceptance of the dedication as public right-of-way of a portion of certain properties, consisting of approximately 0.23 square feet, as shown as an inset on a drawing prepared by Shadrach & Associates, LLC, for the Department of Public Works, designated as DPW Drawing No. N-28952, dated April 12, 2021, and entitled "Survey Plat Showing a Variable Width Retaining Wall Maintenance Easement Across Lots 5 –

AYES:	9	NOES:	0	ABSTAIN:	
ADOPTED:	JUL 26 2021	REJECTED:		STRICKEN:	

11 and a 0.23 Sq. Ft. Right of Way Dedication on Lot #5, 7West Subdivision, City of Richmond, Virginia," a copy of which is attached to this ordinance, from certain property owners within the 7 West subdivision, for public right-of-way and maintenance purposes;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a public necessity exists for the acquisition of a retaining wall and variable width retaining wall maintenance easement located within the 7 West subdivision and for the acceptance of the dedication as public right-of-way of a portion of certain properties, consisting of approximately 0.23 square feet, as shown as an inset on a drawing prepared Shadrach & Associates, LLC for the Department of Public Works, designated as DPW Drawing No. N-28952, dated April 12, 2021, and entitled "Survey Plat Showing a Variable Width Retaining Wall Maintenance Easement Across Lots 5 - 11 and a 0.23 Sq. Ft. Right of Way Dedication on Lot #5, 7West Subdivision, City of Richmond, Virginia," a copy of which is attached to this ordinance, from certain property owners within 7 West subdivision, for public right-of-way and maintenance purposes.

§ 2. That the Chief Administrative Officer is authorized to accept the dedication as public right-of-way of the properties described in section 1 of this ordinance and to execute the deeds and other documents necessary to complete the dedication and acceptance of such properties described in section 1 of this ordinance, provided that all such deeds and other documents first must be approved as to form by the City Attorney or the designee thereof.

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

A TRUE COPY: TESTE: Andin D. Ril

City Clerk





CITY OF RICHMOND INTRACITY CORRESPONDENCE

O&R REQUEST					
DATE:	May 25, 2021	EDITION:	1		
TO:	The Honorable Members of City Council				
THROUGH:	The Honorable Levar M. Stoney, Mayor				
THROUGH:	J.E. Lincoln Saunders, Acting Chief Administrative Officer	15			
THROUGH:	: Robert Steidel, Deputy Chief Administrative Officer				
THROUGH:	Bobby Vincent Jr., Director Department of Public Works				
THROUGH:	M.S. Khara, P.E., City Engineer Department of Public Work MIL				
FROM:	Brian Copple, Right of Way Manager Department of Public Works				
RE:	ACCEPTANCE OF RETAINING WALL, MAINTENANCE EASEMENT AND DEDICATION OF RIGHT OF WAY FROM 7 WEST SUBDIVISION				
ORD. OR RE	CS No		_		

PURPOSE: To authorize the CAO to accept a retaining wall and a variable width retaining wall maintenance easement along with a 0.23 sq. ft. right of way dedication from Trailhead Development and certain property owners within the 7 West Subdivision located at W. 7th Street and Semmes Avenue three separate deeds substantially in the form as attached to this O&R Request and as shown on a plan prepared by Shadrach & Associates designated as DPW Dwg. No. N-28952 dated 04/12/2021 and entitled "A VARIABLE WIDTH RETAINING WALL MAINTENANCE EASEMENT ACROSS LOTS #5-11 AND A 0.23 SQ. FT. RIGHT OF WAY DEDICATION ON LOT #5, 7WEST SUBDIVISION CITY OF RICHMOND, VIRGINIA" at the request of the applicant and to authorize the CAO to execute these documents.

REASON: A retaining wall constructed as part of the 7 West Subdivision development provides structural support to highway traffic travelling on the on-ramp to the Manchester Bridge. This retaining wall should be accepted into the City's asset management inventory in order for the City to own and maintain as a public asset. In addition, the City is accepting a variable width maintenance easement for

the future maintenance of this retaining wall and accepting additional right of way dedication from a property owner.

<u>RECOMMENDATIONS</u>: The Department of Public Works requests acceptance of this retaining wall as a City asset and acceptance of maintenance easement and right of way.

BACKGROUND:

7 West Subdivision Development constructed in 2017 consist of twelve (12) single family, three story town homes located on the City facing lot along West 7th Street and 6th Street in the Manchester Area of Richmond.

As part of the development, a structural retaining wall was proposed to be constructed along the southern property line of this property adjacent to West 7th Street along the on-ramp to the Manchester Bridge.

Approved plans in 2017 indicated a Concrete Segmental Retaining Wall was to be constructed. Portions of this retaining wall encroached upon public right-of-way. An encroachment permit would be required for this retaining wall.

Upon a field inspection performed during construction, DPW observed that the approved retaining wall was not adequate nor was it the customary for a wall of this type to support the load of the City's infrastructure. DPW halted the construction in order for the retaining wall to be redesigned.

Due to the retaining wall supporting highway traffic for the on-ramp to Manchester Bridge, DPW recommended that the retaining wall be designed per AASHTO LRFD specifications, meet Structure and Bridge, Vol. V, Part 11, Chapter 10 and be an approved wall system having a minimum 75 year life span.

The Developer subsequently revised the design drawings for the retaining wall per DPW requirements and guidelines. Quality Assurance (QA) and Quality Control (QC) were provided by the Developer and DPW's third party Construction Inspection consultant to inspect construction of this retaining wall. DPW reviewed and approved all required submittals and shop drawings for the retaining wall prior to construction. The Developer provided all Construction Engineering Inspection reports (concrete, steel, timber piles, and geotechnical reports). DPW has accepted the construction of this retaining wall based upon these reports and by recommendation of DPW's third party Construction Inspections consultant.

Upon completion, the Developer has continued to work with DPW to obtain an encroachment permit for this retaining wall. Through several changes in ownership of 7 West Subdivision, it was difficult to come to an agreement over the posting of the required Maintenance Bond and Removal Bond for this retaining wall, as the encroachment permit requires.

Based upon discussions with the current representative for 7 West, it was agreed upon that the owners would: 1. Donate the retaining wall asset to the City; 2. Dedicate additional right-of-way to the City; and 3. Grant a variable width maintenance easement to the City for the future maintenance of this retaining wall.

FISCAL IMPACT/COST: None anticipated at this time. Retaining wall will require future maintenance funding.

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: June 28, 2021

CITY COUNCIL PUBLIC HEARING DATE: July 26, 2021

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: Quit Claim Deed from Trailhead Development for dedication of retaining wall and improvements within the right of way Quit Claim Deed from property owner of Lot 5 for dedication of retaining wall Maintenance Easement Agreement from certain properties of 7West for dedication of Maintenance Easement for retaining wall DPW Dwg. No. N-28952

STAFF:

Prepared for Bobby Vincent, Jr., Director DPW Prepared by Brian Copple – Right of Way – DPW Research and Drawing Coordinated by Shadrach & Associates Department of Public Works 646-0435 This Document Prepared By: KaneJeffries, LLP Patrick D. Carollo (VSB#70871) File No.

There is no tax parcel associated with this conveyance.

QUITCLAIM DEED

THIS DEED, made this <u>day</u> of April, 2020, by and between the **TRAILHEAD DEVELOPMENT, LLC, a Virginia limited liability company,** herein referred to as "Grantor", and the **CITY OF RICHMOND**, a municipal and political corporation of the Commonwealth of Virginia, herein referred to as "Grantee";

EXEMPTION FROM TAXES

This conveyance is exempt from Grantor's Taxes pursuant to Section 58.1-811 (C)(5) of the Code of Virginia (1950) as amended.

WITNESSETH:

WHEREAS, the Grantor did construct a retaining wall and other improvements within the Variable Width Right of Way of the City of Richmond, Virginia, as required by its approved plan of development for the real property adjacent thereto, as shown on that certain plat of survey by Shadrach & Associates, LLC, Land Surveying, dated April 12, 2021, and entitled "Survey Plat Showing a Variable Width Retaining Wall Maintenance Easement Across Lots #5-11 and a 0.23 Sq. Ft Right of Way Dedication on Lot #5, 7West Subdivision, City of Richmond, Virginia" of copy of which is attached hereto and recorded herewith (the "Plat"); and

WHEREAS, the Grantor desires and intends to quitclaim all of its right, title, and interest in the retaining wall and improvements within the Variable Width Right of Way to the Grantee;

NOW, THEREFORE, in consideration of the sum of **TEN DOLLARS (\$10.00) DOLLARS** and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby conveys, remises, releases, and forever quitclaims to the Grantee all right, title and interest in the retaining wall and other improvements constructed within the Variable Width Right of Way of the City of Richmond, Virginia, as shown on the Plat.

This conveyance is made subject to easements, conditions and restrictions of record, as the same may lawfully apply to the Property herein conveyed.

IN WITNESS WHEREOF, The Grantor has caused this Deed to be executed on its behalf by its duly authorized representative. This Deed shall run with the land and be binding upon GRANTEE's heirs, successors and assigns in title.

SIGNATURE ON FOLLOWING PAGES

Grantor: **Trailhead Development, LLC** a Virginia limited liability company

By: ______ Jeremy Connell, Manager

COMMONWEALTH OF VIRGINIA CITY / COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me, the undersigned notary public, by Jeremy Connell, Manager of Trailhead Development, LLC, a Virginia limited liability company, on behalf of the Company, with all required consents, on this _____ day of April, 2021.

> Notary Public Notary Registration Number: My commission expires:

Approved as to form by the Office of the City of Richmond Attorney

By: _____

This Document Prepared By: KaneJeffries, LLP Patrick D. Carollo (VSB#70871) File No.

Tax Parcel No. S000-0007/032

OUITCLAIM DEED

THIS DEED, made this ______ day of April, 2020, by and between the **DIANNE** V. <u>JEWELL</u> and DARL W. <u>JEWELL JR.</u>, TRUSTEES OF THE DIANNE V. JEWELL LIVING TRUST U/A DATED APRIL 15, 2014, herein referred to as "Grantor", and the CITY OF RICHMOND, a municipal and political corporation of the Commonwealth of Virginia, herein referred to as "Grantee";

EXEMPTION FROM TAXES

This conveyance is exempt from Grantor's Taxes pursuant to Section 58.1-811 (C)(5) of the Code of Virginia (1950) as amended.

WITNESSETH:

WHEREAS, the Grantor desires and intents to quitclaim all of its right, title, and interest in an area of 0.23 Square Feet, being that portion of its property where a retaining wall currently sits, as shown on that certain plat of survey by Shadrach & Associates, LLC, Land Surveying, dated April 12, 2021, and entitled "Survey Plat Showing a Variable Width Retaining Wall Maintenance Easement Across Lots #5-11 and a 0.23 Sq. Ft Right of Way Dedication on Lot #5, 7West Subdivision, City of Richmond, Virginia" of copy of which is attached hereto and recorded herewith (the "Plat"); and

NOW, THEREFORE, in consideration of the sum of **TEN DOLLARS (\$10.00) DOLLARS** and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby conveys, remises, releases, and forever quitclaims to the Grantee all right, title and interest in that certain portion of its property containing 0.23 Square Feet, containing a portion of a retaining wall, as shown on the Plat.

This conveyance is made subject to easements, conditions and restrictions of record, as the same may lawfully apply to the Property herein conveyed.

WITNESS the following signature and seals of Dianne V. Jewell and Darl W. Jewell, Jr., as Trustees of the Dianne V. Jewell Living Trust, U/A dated April 15. 2014, who hereby certifies that the above referenced Trust Agreement is in full force and effect, that they, as Trustees, are authorized to act, and that they have the power to sell the Property and to execute and deliver this Deed conveying the property to the Grantee.

SIGNATURE ON FOLLOWING PAGES

Grantor:

Dianne V. Jewell, as Trustee of the Dianne V. Jewell Living Trust, U/A dated April 15. 2014

Darl W. Jewell, Jr., as Trustee of the Dianne V. Jewell Living Trust, U/A dated April 15. 2014

COMMONWEALTH OF VIRGINIA CITY / COUNTY OF _____, to wit:

The foregoing instrument was sworn to and acknowledged before me, the undersigned notary public, by Dianne V. Jewell and Darl W. Jewell, Jr., as Trustees of the Dianne V. Jewell Living Trust, U/A dated April 15. 2014, on this _____ day of April, 2021.

Notary Public Notary Registration Number: My commission expires:

Approved as to form by the Office of the City of Richmond Attorney

By: _____

This Document Prepared By: Patrick D. Carollo (VSB#70871) KaneJeffries, LLP

A Portion of Tax Parcel Nos. Lot 5 - S000-0007/032 Lot 6 - S000-0007/033 Lot 7 - S000-0007/026 Lot 8 - S000-0007/027 Lot 9 - S000-0007/028 Lot 10 - S000-0007/029 Lot 11 - S000-0007/030

DEED OF MAINTENANCE EASEMENT

THIS DEED OF EASEMENT, made this 25th day of April, 2021 between DIANNE V. JEWELL and DARL W. JEWELL JR., TRUSTEES OF THE DIANNE V. JEWELL LIVING TRUST U/A DATED APRIL 15, 2014, owners of Lot 5, JOHN W. PEARSALL, III and PATRICIA R. PEARSALL, owners of Lot 6, THOMAS A. <u>GRANT</u> and SUSAN I. <u>RICKMAN</u>, owners of Lot 7, WINTER HILL PROPERTIES, INC., owner of Lot 8; ERIC W. <u>RUPINSKI</u> and ELISE W. <u>RUPINSKI</u>, owner of Lot 9; DUDLEY C. <u>VEST</u>, owner of Lot 10, and PETER <u>LITTLEFIELD</u>, owner of Lot 11; herein collectively referred to as "Grantors", and the CITY OF RICHMOND, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, herein referred to as "Grantee";

EXEMPTION FROM TAXES

This conveyance is exempt from Recordation Taxes pursuant to Section 58.1-811 (A)(3) of the Code of Virginia (1950) as amended.

WITNESSETH:

WHEREAS, the Grantors are the owners of the Lots set forth above in the 7West Subdivision in the City of Richmond, Virginia (the "Lots"), wherein a variable width retaining wall maintenance easement is necessary for the purposes of providing access and maintenance to that certain retaining wall adjacent to the Grantors' respective lots on property owned by the Grantee, and the Grantors are willing to grant to Grantee said easement; NOW, THEREFORE, for purposes of access and maintenance to the retaining wall and other City of Richmond improvements adjacent to the "Variable Width Retaining Wall Maintenance Easement" area as shown on the herein below mentioned plat of survey, and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration for a variable width retaining wall maintenance easement (the "Easement"), to be granted by this deed, the Grantors hereby give, grant, dedicate, and convey to the Grantee, with Special Warranty of Title, a permanent non-exclusive variable width retaining wall maintenance and access easement over each of the Lots as shown as the "Variable Width Retaining Wall Maintenance Easement" on that plat of survey entitled "Survey Plat Showing A Variable Width Retaining Wall Maintenance Easement Across Lots #5-11 And a 0.23 Sq. Ft. Right of Way Dedication on Lot #5, 7West Subdivision, City of Richmond, Virginia", dated April 12, 2021 (the "Plat"), a copy of which is attached hereto and recorded herewith for a more particular description of the Easement herein granted; and

Being a portion of the same real estate conveyed to each of the Grantors by deed as referenced in the "Legal References" on the aforesaid Plat.

The Easement shall be subject to the following conditions:

1. Grantors may make any use of the land and space within the Easement on their respective Lots that is not inconsistent with the rights herein conveyed to Grantee; provided, however, that Grantee shall not construct, or allow to be constructed, any manmade structure, improvement or obstruction, or any portion thereof or appurtenance thereto, with the exception of ground cover and landscaping, within the Easement without obtaining the prior written approval of the Director of Public Works of the City of Richmond, Virginia.

2. Grantee will have full and free use of the Easement for the sole purposes of maintaining, repairing or replacing the retaining wall located within the Easement and, when reasonably necessary for such use, Grantee may use the land abutting the Easement; provided, however, that

its right to use adjoining land shall be exercised only during periods of actual construction or maintenance.

3. Grantee will have the right to trim, cut and remove any natural or manmade structure, improvement or obstruction in or near the Easements that Grantee deems to interfere with its exercise of the Easements.

4. All rights of access and use of the Easement shall be exercised in a manner to cause the least practicable damage and inconvenience to Grantors. Additionally, Grantee shall repair damage to sidewalks, lawn areas, roads, fences, streetscape, landscaping and other improvements located inside or outside the Easement areas.

5. It is expressly understood and agreed that the easements granted hereunder are granted subject to all currently existing easements, agreements, covenants, restrictions and conditions, if any, affecting the Lots or any part thereof.

The Easement shall run with the land and be binding upon Grantors' heirs, successors and assigns in title.

[Signatures on following page]

DIANNE V. JEWELL, TRUSTEE OF THE DIANNE V. JEWELL LIVING TRUST U/A DATED APRIL 15, 2014

DARL W. JEWELL JR., TRUSTEE OF THE DIANNE V. JEWELL LIVING TRUST U/A DATED APRIL 15, 2014

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, ______, Notary Public in and for the City/County and State aforesaid, do hereby certify that **DIANNE V. JEWELL and DARL W. JEWELL JR., TRUSTEES OF THE DIANNE V. JEWELL LIVING TRUST U/A DATED APRIL 15, 2014** whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____day of _____, 20____.

Notary Public

JOHN W. PEARSALL, III

PATRICIA R. PEARSALL

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that JOHN W. PEARSALL, III and PATRICIA R. PEARSALL whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____day of _____, 20____.

Notary Public

Notary Registration Number:

My commission expires:

THOMAS A. GRANT

SUSAN I. RICKMAN

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF ______, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that THOMAS A. GRANT and SUSAN I. RICKMAN whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____day of ______, 20____.

Notary Public

WINTER HILL PROPERTIES, INC.

BY: _____

SIGNAT	JRE	
NAME:		
TITLE:		

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that _____, THE _____OF WINTER HILL PROPERTIES, INC., whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be the act and deed of the company and that he/she had all required consents to sign and bind the company.

Given under my hand this ______ day of ______, 20____.

Notary Public

ERIC W. RUPINSKI

ELISE W. RUPINSKI

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that ERIC W. RUPINSKI and ELISE W. RUPINSKI whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____day of _____, 20____.

Notary Public

DUDLEY C. VEST

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that **DUDLEY C. VEST** whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this _____day of _____, 20____.

Notary Public

PETER LITTLEFIELD

COMMONWEALTH OF VIRGINIA CITY/COUNTY OF _____, to-wit:

I, _____, Notary Public in and for the City/County and State aforesaid, do hereby certify that **PETER LITTLEFIELD** whose name is signed to this foregoing Deed, bearing the 25th day of April 2021, personally appeared before me in my City/County and State aforesaid and acknowledged the same to be their act and deed.

Given under my hand this day of , 20 .

Notary Public

The foregoing Deed of Easement from the aforementioned Grantors is hereby accepted this day of ______, 2021, by the City of Richmond, Virginia, a municipal corporation.

CITY OF RICHMOND

A municipal corporation

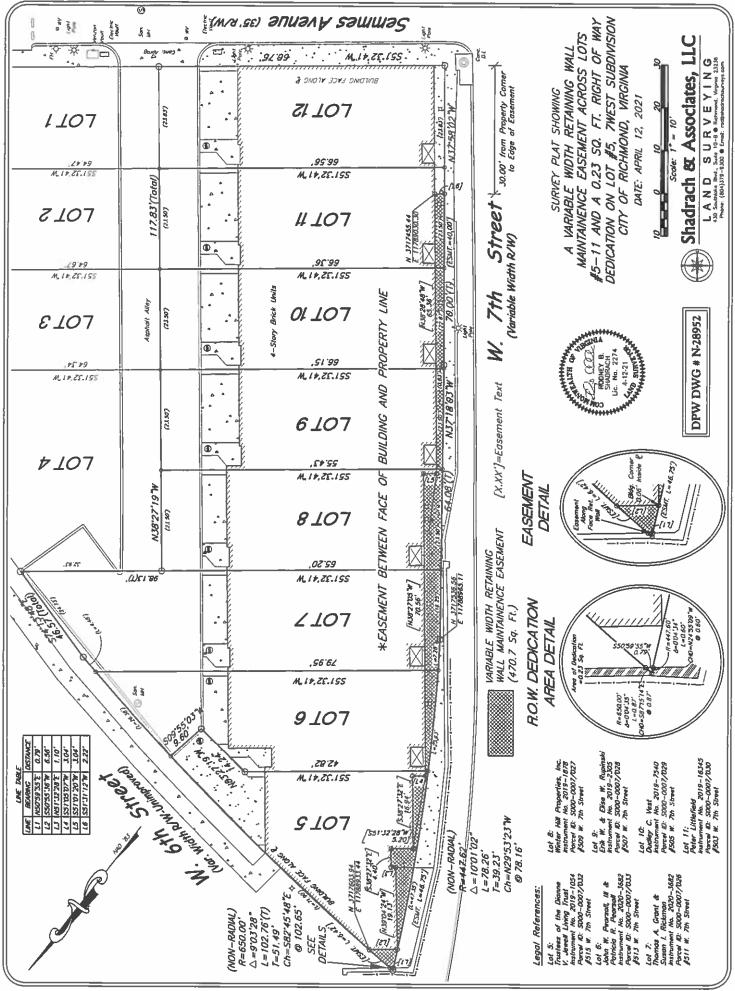
By:

J.E. Lincoln Saunders Acting Chief Administrative Officer

Prepared and approved as to form:

Assistant City Attorney

GRANTEE ADDRESS: City of Richmond 900 East Broad Street, Suite 400 Richmond, Virginia 23219



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