

INTRODUCED: July 26, 2021

AN ORDINANCE No. 2021-203

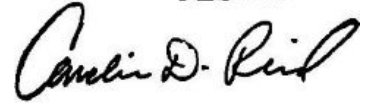
To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Second Amendment to the Declaration of Access, Construction and Utilities Easement between the City of Richmond and City Central, LLC, for the purpose of amending such declaration to provide for the City’s partial vacation of an access easement through 1220 Ingram Avenue, among other amendments.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

A TRUE COPY:

TESTE:



City Clerk

PUBLIC HEARING: SEP 13 2021 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 Second Amendment to the Declaration of Access, Construction and Utilities Easement between the City of Richmond and City Central, LLC, for the purpose of amending such declaration to provide for the City’s partial vacation of an access easement through 1220 Ingram Avenue, among other amendments. Such Second Amendment to the Declaration of Access, Construction and Utilities Easement 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: 8 NOES: 0 AB0STAIN: _____

ADOPTED: SEPT 13 2021 REJECTED: _____ STRICKEN: _____



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O&R REQUEST

DATE: May 28, 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 

THROUGH: Alfred Scott, Acting Director, Public Utilities 

THROUGH: Bobby Vincent, Director, Public Works 

THROUGH: Gerald Smith, Chief of Police 

THROUGH: Sharon L. Ebert, DCAO – Planning & Economic Development Portfolio 

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

RE: To declare a public necessity to amend the Declaration of Access, Construction and Utilities Easement between the City of Richmond and City Central, LLC for City-owned property located at 1240 Ingram Avenue (Tax ID #S0070836004) and City Central, LLC owned property located at 1220 Ingram Avenue (Tax ID #S0070836002) and located at 1260 Ingram Avenue (Tax ID #S0070836003).

ORD. OR RES. No. _____

PURPOSE: To declare a public necessity to amend the Declaration of Access, Construction and Utilities Easement between the City of Richmond and City Central, LLC for City-owned property located at 1240 Ingram Avenue (Tax ID #S0070836004) and City Central, LLC owned property located at 1220 Ingram Avenue (Tax ID #S0070836002) and located at 1260 Ingram Avenue (Tax ID #S0070836003). These easements serve the City-owned property at 1240 Ingram Avenue which is occupied by RPS Facility Services and Police Evidence.

REASON: City Central, LLC desires to record a 2nd Amendment to the Declaration of Access Construction and Utilities Easement to amend the access easement as contemplated and allowed in the original Declaration of Access, Construction and Utilities Easement first recorded on Jan-

uary 21, 2014 and most recently amended and recorded on August 31, 2018. City Central, LLC now wishes to amend the access easement to allow for future development of their adjoining property at 1220 Ingram Avenue. All future public access to City-owned property at 1240 Ingram Avenue will be from an existing improved access drive from Commerce Road which will be retained in the 2nd Amendment to the Access, Construction and Utilities Easement.

RECOMMENDATION: Approval is recommended by the City Administration.

BACKGROUND: On January 21, 2014 the City acquired the property located at 1250 Ingram Avenue to house RPS Facility Services functions and recorded the Declaration of Access, Construction and Utilities Easement. On August 31, 2018 the City acquired the property located at 1401 Commerce Road to house the City's Police Evidence functions and recorded the Amended Declaration of Access, Construction and Utilities Easement. A lot line adjustment was approved and the City owned parcels were combined to create a single recorded tax parcel with an address of 1240 Ingram Avenue (Tax ID #S0070836004). The previously recorded Declaration of Access, Construction and Utilities Easement contemplated and allowed future modifications to the access easement to allow for redevelopment of City Central, LLC's adjoining property. City Central, LLC now wishes to amend the access easement to allow for future development of their adjoining property at 1220 Ingram Avenue. All future public access to City-owned property at 1240 Ingram Avenue will be from an existing improved access drive from Commerce Road which will be retained in the 2nd Amendment to the Access, Construction and Utilities Easement.

FISCAL IMPACT / COST: None

FISCAL IMPLICATIONS: None

BUDGET AMENDMENT NECESSARY: No

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

RECOMMENDED COUNCIL COMMITTEE: Planning Commission July 6, 2021

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Police, Public Works, Public Utilities, Richmond Public Schools

O&R Request

Page 3 of 3

RELATIONSHIP TO EXISTING ORD. OR RES.: Ordinance #2012-229-217, Ordinance #2017-028

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Second Amendment to Declaration of Access, Construction and Utilities Easement; Site location map.

STAFF:

Paul McClellan, Economic Development & Planning
Dexter Goode, Public Works
William Friday, Police

Prepared by and upon recordation return to:
T. Preston Lloyd, Jr., Esq. (VSB No. 76990)
Williams Mullen
200 S. 10th Street, Suite 1600
Richmond, Virginia 23219

City Parcel Nos. S0070836002, S0070836003, S0070836004

SECOND AMENDMENT TO DECLARATION OF ACCESS, CONSTRUCTION AND UTILITIES EASEMENT

THIS SECOND AMENDMENT TO DECLARATION OF ACCESS, CONSTRUCTION AND UTILITIES EASEMENT (this “Second Amendment”), dated as of this ____ day of _____, 2021 (the “Effective Date”), by CITY CENTRAL, LLC, a Virginia limited liability company, to be indexed as grantor (“Central”); and the CITY OF RICHMOND, a municipal corporation and political subdivision of the Commonwealth of Virginia, to be indexed as grantee (the “City”), recites and provides as follows:

RECITALS

WHEREAS, the City and Central entered into that Deed of Boundary Line Adjustment and Consolidation dated August 31, 2018, authorized by Ordinance No. 2017-028 and recorded in the Clerk’s Office of the Circuit Court for the City of Richmond, Virginia (the “Clerk’s Office”), as Instrument No. 18-18401 (the “BLA”), wherein Central conveyed a portion of its property to the City; and

WHEREAS, by Declaration of Access, Construction and Utilities Easement dated January 15, 2014, recorded in the Clerk’s Office in Deed Book 1029 at page 0650, as amended by that certain First Amendment to Declaration of Access, Construction and Utilities Easement dated August 31, 2018, recorded in the Clerk’s Office as Instrument No. 18-18402 and authorized by Ordinance No. 2017-028 (as amended, the “Declaration”), Central declared an Access Easement Area located in the City of Richmond, Virginia across Central Property for the benefit of City Property. Each capitalized term used, and not otherwise defined in this Second Amendment, shall have the meaning given to it in the Declaration unless the context otherwise requires; and

WHEREAS, Central desires to eliminate portions of the Access Easement Area; and

WHEREAS, the City joins in this Second Amendment, together with Central, to acknowledge this amendment of the Declaration.

AMENDMENT TO THE DECLARATION

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Central and the City covenant, agree and declare as follows:

1. Central Property shall mean that certain property identified on the Tax Map of the City of Richmond as Parcel Nos. S0070836002 and S0070836003 and designated as Parcel B containing 18.807 acres and Parcel C containing 27.879 acres on that certain plat prepared by Engineering Design Associates, dated June 20, 2018, entitled PLAT SHOWING PROPOSED BOUNDARY LINE ADJUSTMENT ON THE PROPERTY OF CITY CENTRAL, LLC, and referenced in and recorded with the BLA.

2. That portion of the Access Easement Area designated as “Existing Access Easement (To Be Vacated)” on that certain plat entitled “PLAT SHOWING ACCESS EASEMENT TO REMAIN AND PORTION OF EXISTING ACCESS EASEMENT TO BE VACATED ACROSS THE PROPERTY OF CITY CENTRAL, LLC,” such plat being prepared by Engineering Design Associates and dated May 28, 2021, attached hereto as Exhibit A (the “Plat”), incorporated herein, and recorded herewith, is hereby vacated, and the Access Easement Area shall hereafter be the portions of right of way designated as “ACCESS EASEMENT TO REMAIN” as shown and designated on the Plat.

3. To reflect the relocation described in paragraph 2 above, paragraphs 1(a)(i), 1(a)(ii), and 1(a)(iii) of the Declaration shall be deleted in their entirety, and a new paragraph with the following language shall be added to Section 1(a): “(i) a perpetual, non-exclusive, 30-ft. wide private access easement for uninterrupted access to, from, and through the areas of the Central Property to that public right of way known and designated as Commerce Road for the purposes of pedestrian and vehicular ingress and egress to and from the common areas, sidewalks, walking paths, driveways, and parking areas that are built on the City Property, in the location shown and labeled as “ACCESS EASEMENT TO REMAIN” on the Plat (the “Access Easement”).

4. Section 1(a)(iv), regarding a non-exclusive easement for City to erect and maintain directions signs, shall become Section 1(a)(ii).

5. The last paragraph of Section 1(a) of the Declaration shall be deleted in its entirety and replaced with the following: “The ‘Access Easement Area’ shall mean the portion of the Central Property subject to the Access Easement.”

6. Paragraph 1(c) of the Declaration shall be deleted in its entirety and replaced with the following: “Central shall be solely responsible for the cost of constructing the access facilities within the Access Easement Area.”

7. A third paragraph with the following language shall be added to Section 4: “(c) Notwithstanding any provision of this Declaration to the contrary, City’s pro rata share of the Storm Sewer Maintenance Costs and the Private Utility Maintenance Costs shall be expressly subject to appropriation by the City Council of the City of Richmond, Virginia.

8. If any term, covenant or condition of this Second Amendment or the application thereof to any person or circumstances will to any extent be invalid or unenforceable, the remainder of this Second Amendment or the application of such terms, covenants or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, covenant or condition of this Second Amendment will be valid and be enforced to the fullest extent permitted by law.

9. Except as amended and modified herein, all of the terms and conditions of the Declaration shall remain unchanged. In the case of any inconsistency or conflict among the provisions of the Declaration and this Second Amendment, the provisions of this Second Amendment shall govern.

10. Each of the parties hereto warrants to the other that the person or persons executing this Second Amendment on behalf of such part has the full right, power and authority to enter into and execute this Second Amendment on such party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Second Amendment.

[Section Left Intentionally Blank - Signature Page Follows]

38878407_3

WITNESS the following signatures.

CENTRAL:

CITY CENTRAL, LLC, a Virginia limited liability company

By: _____

Name: _____

Title: _____

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

The foregoing instrument was acknowledged before me, _____, a Notary Public in the aforesaid jurisdiction, this ____ day of _____, 2021, by _____, who is either personally known to me or has satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, as _____ of City Central, LLC, a Virginia limited liability company.

STAMP:

Notary Public

Registration Number: _____

My Commission Expires: _____

[Section Left Intentionally Blank - Signature Pages To Follow]

CITY:

CITY OF RICHMOND

By: _____ (SEAL)

Name: J. E. Lincoln Saunders

Title: Acting Chief Administrative Officer

As authorized by Ord. No. _____

Approved as to form:



Assistant City Attorney

Approved as to terms:

Economic Development and Planning

COMMONWEALTH OF VIRGINIA)

)

) TO-WIT

CITY OF RICHMOND)

)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by J. E. Lincoln Saunders, as Acting Chief Administrative Officer of the City of Richmond, a municipal corporation of the Commonwealth of Virginia, on its behalf.

Notary Seal

Notary Public

Registration Number: _____

My commission expires: _____

EXHIBIT A

Plat entitled "PLAT SHOWING ACCESS EASEMENT TO REMAIN AND PORTION OF EXISTING ACCESS EASEMENT TO BE VACATED ACROSS THE PROPERTY OF CITY CENTRAL, LLC," prepared by Engineering Design Associates and dated May 28, 2021, attached hereto.