



## Legislation Text

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**File #:** ORD. 2023-045, **Version:** 1

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To close, to public use and travel, a portion of South 9<sup>th</sup> Street located just east of the Manchester Bridge and on Brown's Island, consisting of 3,936± square feet, upon certain terms and conditions.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of South 9<sup>th</sup> Street located just east of the Manchester Bridge and on Brown's Island, consisting of approximately 3,936 square feet, is hereby closed to public use and travel as a right-of-way of the City of Richmond, as shown enclosed with bold lines on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-29025, dated December 9, 2022, and entitled "Proposed Closing to Public Use and Travel of a Portion of the S 9<sup>th</sup> Street Right of Way Located Just East of the Manchester Bridge and on Brown's Island," hereinafter referred to as "the Drawing," a copy of which drawing is attached to this ordinance.

§ 2. That this ordinance, as to the closing of the right-of-way identified above, shall be in force as provided in section 4.09 of the Charter of the City of Richmond (2020), as amended, and shall become effective only when, within 12 months from the day this ordinance is adopted:

(a) The applicant obtains consent to the closing from each of the owners of land, buildings, or structures from whom consent is required under section 24-314 of the Code of the City of Richmond (2020), as amended, which consents shall be in writing, approved as to form by the City Attorney, and filed in the office of the City Clerk.

(b) The applicant makes arrangements satisfactory to public utility or public service corporations whose properties or facilities are in the right-of-way area to be closed either for the removal, relocation, or abandonment

thereof or for the construction, reconstruction, maintenance, and repair thereof, evidence of which shall be in writing, approved as to form by the City Attorney, and filed in the office of the City Clerk.

(c) The applicant bears all costs associated with the closing, including, but not limited to, realignment, relocation or removal of utilities or infrastructure, installation of new utilities or infrastructure, new or revised street name or directional signs, streetlights, and similar infrastructure, as required by City agencies, and agrees in writing with the City that, for itself, its successors and its assigns, they shall indemnify, reimburse, and keep and hold the City free and harmless from liability on account of injury or damage to persons, firms, corporations or property, which may result directly or indirectly from the closing of the right-of-way to public use and travel by this ordinance and from the interference with the drainage, flow or overflow of surface or subsurface water resulting directly or indirectly therefrom; and in the event that any suit or proceeding is brought against the City at law or in equity, either independently or jointly with the owner or owners of all the property abutting the right-of-way area to be closed on account thereof, they shall defend the City in any such suit or proceeding at their cost; and in the event of a final judgment or decree being obtained against the City, either independently or jointly with the property owner or owners granting consent for the aforesaid right-of-way to be closed to public use and travel, they shall pay such judgment or comply with such decree including payment of all costs and expenses of whatsoever nature and hold the City harmless therefrom.

(d) The applicant pays the City the sum of \$182,394.24 for the right-of-way area to be closed; such sum may be adjusted based upon the actual area of the retained and dedicated easements to be provided to the City. This condition is satisfied when all abutting property owners execute an agreement to purchase the right-of-way area to be closed, with such agreement being in accordance with section 15.2-2008 of the Code of Virginia (1950), as amended, and approved as to form and legality by the City Attorney. If any property owner fails to make the payment for such owner's fractional portion within 12 months of the date of adoption of this ordinance, then the closing shall be null and void.

(e) The applicant shall agree in a writing approved as to form by the City Attorney that, if any portion of an

existing paved walkway is within the right-of-way area to be closed, the applicant may relocate such paved walkway as directed and approved by the appropriate City agency and that if the applicant does not relocate such paved walkway, the City will retain an easement over the right-of-way area to be closed, which easement shall be defined on a plat provided by the applicant and approved by the Department of Public Works.

(f) The applicant agrees in a writing approved as to form by the City Attorney that, should the applicant or any successor in interest thereto cease to operate within the right-of-way area to be closed for the purposes of improvements to the applicant's 12<sup>th</sup> Street substation the closure of the public right-of-way shall be null and void and the right-of-way closed by this ordinance will revert to the City as a public right-of-way, without cost to the City.

(g) The applicant satisfies all terms and conditions requisite for the closing of the right-of-way area to be closed by this ordinance and provides the Department of Public Works, the Office of the City Attorney, and the Office of the City Clerk with written evidence that all terms and conditions of this ordinance have been satisfied.

§ 3. That, at such time as this ordinance becomes effective, the City shall have no further right, title or interest in the closed right-of-way areas other than that expressly retained under provisions of this ordinance or granted to satisfy the terms and conditions set out in this ordinance.

§ 4. This ordinance shall be in force and effect only upon the satisfaction of the terms and conditions set out above.