C: Dir., Public Works

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

July 14, 2015

From: David L. Ricks, Director of Public Works

Subject: Acceptance of a Temporary Construction Easement from William S. Miller, III and Georgina R. Miller for Right-of-Way Improvements at Bolling Avenue

Reviewed: Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: **R-6**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk, Department of Public Works

III. **Description:**
This agenda item is an ordinance to accept the conveyance of a temporary construction easement from William S. Miller, III and Georgina R. Miller for the construction of right-of-way improvements at the western terminus of Bolling Avenue.

IV. **Analysis**
A temporary construction easement is needed for the construction of right-of-way improvements at the western terminus of Bolling Avenue.

V. **Financial Impact**
There is no financial impact to the City associated with the conveyance of the temporary construction easement.

VI. **Environmental**
There are no environmental issues associated with the conveyance of this temporary construction easement.

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process. There have been several meetings with the affected property owners and neighboring property owners.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance has been coordinated with the Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A (legal description)
- Exhibit B (Plat of temporary construction easement)
- Exhibit C (Deed)

3/18/2015-km

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE CONVEYANCE OF A TEMPORARY CONSTRUCTION EASEMENT BY WILLIAM S. MILLER, III AND GEORGINA R. MILLER TO THE CITY OF NORFOLK AND AUTHORIZING THE CITY MANAGER TO ACCEPT THE EASEMENT ON BEHALF OF THE CITY.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance of a temporary construction easement, more particularly described in Exhibit A and shown on Exhibit B, both of which are attached to and made a part hereof, by William S. Miller and Georgina R. Miller to the City of Norfolk is hereby accepted and approved.

Section 2:- That the City Manager is authorized to accept a Deed of Temporary Construction Easement, attached hereto as Exhibit C, in form approved by the City Attorney, and to do all of the things necessary and proper to effect the conveyance of the temporary construction easement to the City of Norfolk.

Section 3:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A

Temporary Construction Easement
1722 Bolling Avenue

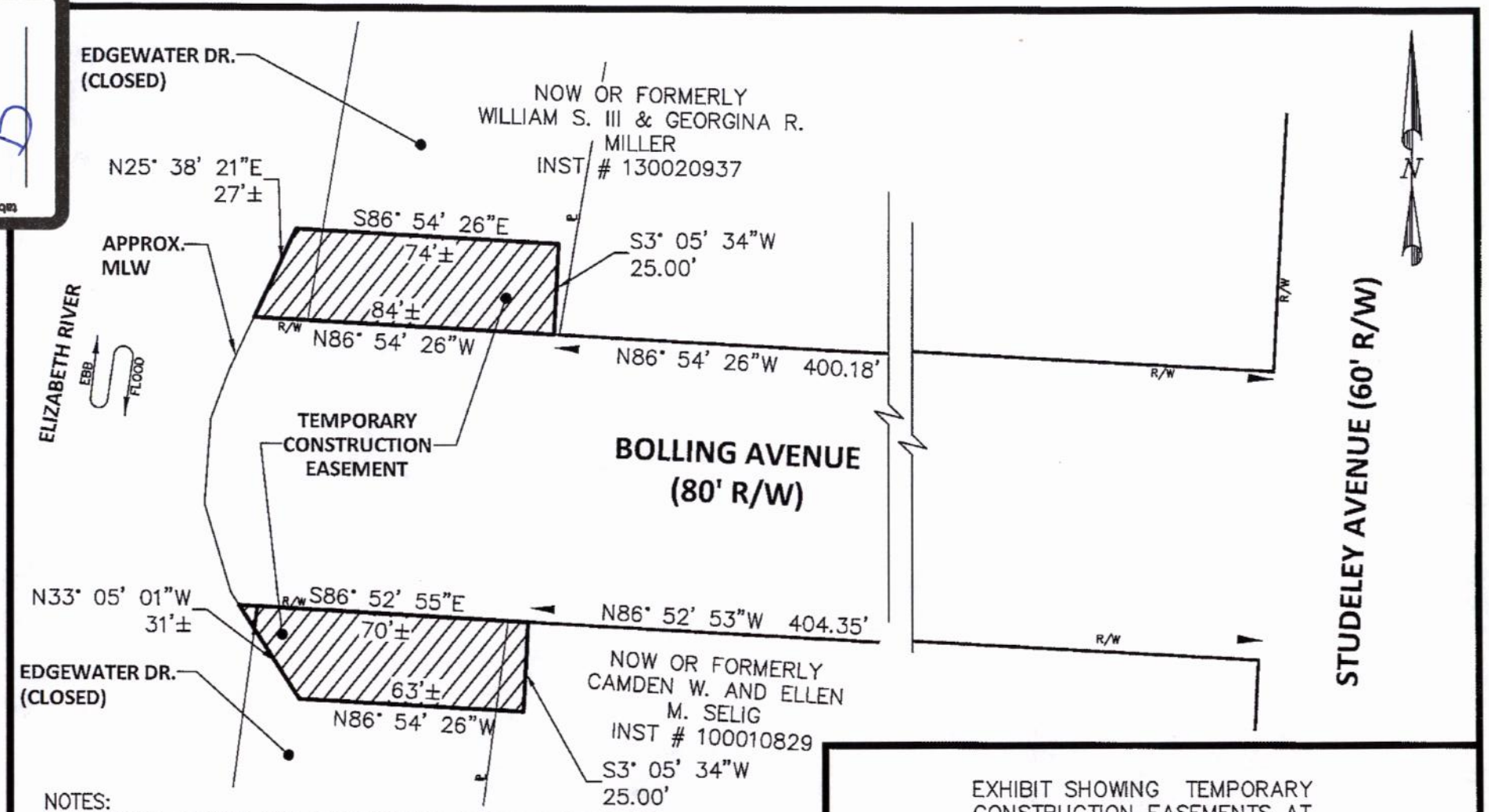
A mostly rectangular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows:

COMMENCING at a point that is the intersection of the northern right-of-way line of Bolling Avenue and the western right-of-way line of Studeley Avenue, said intersection being shown on that certain plat entitled "Plan of Edgewater" dated December 11, 1924, being duly recorded in the Office of the Clerk of the Circuit Court in the City of Chesapeake, Virginia, in Map Book 12, at Page 95; thence from the point of commencement thus described, running westerly along said northern right-of-way line of Bolling Avenue, 40170 feet to the Point of Beginning; thence, from said point of beginning, continuing westerly along said northern right-of-way line of said Bolling Avenue 84 feet, more or less, to the mean low water of the Elizabeth River; thence, northeasterly along said mean low water, 27 feet, more or less, to a point; thence, easterly along a line lying parallel to and 25 feet from the said northern line of Bolling Avenue, 74 feet, more or less to a point; thence, southwesterly, 25 feet to the point of beginning, all as shown on an exhibit entitled "Exhibit Showing Temporary Construction Easements at Bolling Avenue", dated March 10, 2015, prepared by and on file in the City of Norfolk, Department of Public Works, Division of Surveys, in file number LF-334.

The above-described parcel contains 0.044 acre of land, more or less.

March 13, 2015

EXHIBIT B



NOTES:
1. MERIDIAN SOURCE AND COORDINATES SHOWN HEREON ARE BASED ON THE VIRGINIA COORDINATE SYSTEM OF 1983, SOUTH ZONE (NAD83)(1993–HARN).
2. AREA OF TEMPORARY CONSTRUCTION EASEMENT ON NORTHERN RIGHT–OF WAY LINE = 1935 SQUARE FEET OR 0.044 ACRE.
3. AREA OF TEMPORARY CONSTRUCTION EASEMENT ON SOUTHERN RIGHT–OF WAY LINE = 1796 SQUARE FEET OR 0.041 ACRE.

DENOTES AREA OF TEMPORARY CONSTRUCTION EASEMENT.

LF-334

EXHIBIT SHOWING TEMPORARY CONSTRUCTION EASEMENTS AT BOLLING AVENUE NORFOLK, VIRGINIA

40 0 40 80

DRAWING SCALE 1"=40' 140262

DATE	SCALE	DRAWN BY	CHECKED BY
03–10–2015	1"=40'	ELG	JTW

DIVISION OF SURVEYS
DEPARTMENT OF PUBLIC WORKS
NORFOLK, VIRGINIA

EXHIBIT

C

Prepared by: Nathaniel Beaman IV, VSB #18486
Deputy City Attorney
Return to: Office of the Norfolk City Attorney
810 Union Street
900 City Hall Building
Norfolk, Virginia 23510

THIS TEMPORARY CONSTRUCTION EASEMENT, made and entered into this ____ day of _____, 2015, by and between **WILLIAM S. MILLER, III** and **GEORGINA R. MILLER,** Grantors, and the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia, Grantee, whose address is 1101 City Hall, 810 Union Street, Norfolk, Virginia, 23510.

WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS ($10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantors hereby grant and convey to the Grantee, a Temporary Construction Easement on, over, across and through property owned by Grantors, said easement being shown on Exhibit A, attached hereto and made a part hereof, and being more particularly described as follows:

> A mostly rectangular-shaped lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows:
>
> COMMENCING at a point that is the intersection of the northern right-of-way line of Bolling Avenue and the western right-of-way line of Studeley Avenue, said intersection being shown on that certain plat entitled "Plan of Edgewater" dated December 11, 1924, being duly recorded in the Office of the Clerk of the Circuit Court in the City of Chesapeake, Virginia, in Map Book 12, at Page 95; thence from the point of commencement thus described, running westerly along said northern right-of-way line of Bolling Avenue, 40170 feet to the Point of Beginning; thence, from said point of beginning, continuing westerly along said northern right-of-way line of said Bolling Avenue 84 feet, more or less, to the mean low water of the Elizabeth River; thence, northeasterly along said mean low water, 27 feet, more or less, to a point; thence, easterly along a line lying parallel to and 25 feet from the said northern line of Bolling Avenue, 74 feet, more or less to a point; thence, southwesterly, 25 feet to the point of beginning, all as shown on an exhibit entitled

"Exhibit Showing Temporary Construction Easements at Bolling Avenue", dated March 10, 2015, prepared by and on file in the City of Norfolk, Department of Public Works, Division of Surveys, in file number LF-334.

The above-described parcel contains 0.044 acre of land, more or less.

Grantee and its contractors shall have the right to utilize the temporary construction easement for the purpose of providing a staging area, temporary work spaces, and construction site access for the Grantee and its contractors during demolition and removal of the existing rubble fill and installation of riprap adjacent to the western terminus of the right-of-way. The term of this easement shall be for such period of time as is necessary for the completion of the construction of the aforesaid improvements, but in any event it shall terminate no later than 180 days from the date of execution of this temporary construction agreement. Grantee agrees that the construction work shall be pursued as diligently and expeditiously as reasonably possible.

Grantee agrees to repair or to pay for any actual damage that may be caused by it or its contractors in the exercise of any of the rights granted herein, to the extent permitted by law.

At the conclusion of all construction work, Grantee shall see that Grantor's property is restored to its state and condition prior to construction. However, Grantor agrees that neither it nor its successors or assigns shall construct or install anything within the easement area prior to or during the term of the easement, including fences and shrubbery, without the written permission of the Grantee.

The terms, covenants, and provisions of this easement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto.

Grantors covenant that they have the right to convey the easement herein granted.

WITNESS the following signatures and seals:

(SIGNATURE PAGES TO FOLLOW)

By: _____
William S. Miller, III

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Rhonda L. Rowland, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on September 30, 2018 do hereby certify that William S. Miller, III, whose name is signed to the foregoing temporary construction easement, has acknowledged the same before me in my City and State aforesaid. He is personally known to me or has produced a driver's license as identification.

Given under my hand this 11th day of June, 2015.

RHONDA ROWLAND
NOTARY PUBLIC
REG. #269891
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES SEPTEMBER 30, 2018

_____
Notary Public

Registration No. 269891

By: _____
Georgina R. Miller

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, Rhonda L Rowland, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on September 30, 2018 do hereby certify that Georgina R. Miller, whose name is signed to the foregoing temporary construction easement, has acknowledged the same before me in my City and State aforesaid. She is personally known to me or has produced a driver's license as identification.

Given under my hand this 11th day of June, 2015.

RHONDA ROWLAND
NOTARY PUBLIC
REG. #269891
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES SEPTEMBER 30, 2018

_____
Notary Public

Registration No. 269891

The signature of Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, is affixed hereto on behalf of the Council of the City of Norfolk, Virginia, pursuant to an ordinance duly adopted by the City Council, to evidence the acceptance of this Deed by the City, in accordance with Section 15.2-1803, Code of Virginia, 1950, as amended.

CITY OF NORFOLK

By:_____(SEAL)
City Manager

Attest:

_____
City Clerk

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the _____ day of _____, 20__, do hereby certify that Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing temporary construction easement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2015.

_____
Notary Public

Registration No._____

Contents Approved:

_____
Director of Public Works

Approved as to Form and Correctness:

_____
Deputy City Attorney