



To the Honorable Council  
City of Norfolk, Virginia

November 29, 2022

**From:** Sean Washington  
Acting Director of Development

**Subject:** Right of Entry Agreement with  
VDOT at 9401 4th View St

**Reviewed:**

Dr. Larry H. Filer II, City Manager

**Ward/Superward:** 1/6

**Approved:**

Dr. Larry H. Filer II, City Manager

**Item Number:** C-01

- I. **Recommendation:** Adopt Ordinance
- II. **Applicant:** Virginia Department of Transportation  
1401 E. Broad Street  
Richmond, VA 23219
- III. **Description:**  
This agenda item is an ordinance approving a right of entry permitting the Virginia Department of Transportation (VDOT) to enter, go upon and use the City of Norfolk's (the "City") property located 9401 4<sup>th</sup> View Street in order to make improvements to the property.
- IV. **Analysis**  
The City owns certain property located at 9401 4<sup>th</sup> View Street. VDOT is desirous to go upon the property and make improvements to the property in connection to a use of the property as a Visitor Center for VDOT for the Hampton Roads Bridge Tunnel Expansion. The proposed Right of Entry Agreement is for a period of 1 year or upon the execution of sub-license agreement between the City and VDOT, whichever first shall occur, and will commence after City Council approval and once the agreement is fully executed. The proposed agreement does grant to VDOT, its employees, volunteers, participants, subcontractors and consultants permission to enter upon and use the property to make certain improvements to the structure in anticipation of entering into a license agreement with the City for continued use of the structure.

**V. Financial Impact**

N/A

**VI. Environmental**

There are no known environmental issues associated with this property.

**VII. Community Outreach/Notification**

Public notification for this agenda item was conducted through the City's agenda notification process.

**VIII. Board/Commission Action**

N/A

**IX. Coordination/Outreach**

This letter and ordinance have been coordinated with the Department of Development and the City Attorney's Office.

**Supporting Material:**

- Exhibit A to Ordinance (PDF)

Form and Correctness Approved: *BAP*

Contents Approved:



By: \_\_\_\_\_  
Office of the City Attorney

By: \_\_\_\_\_  
DEPT. Development

NORFOLK, VIRGINIA

## Ordinance No.

AN ORDINANCE APPROVING A RIGHT OF ENTRY AGREEMENT PERMITTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO ENTER UPON AND USE CITY-OWNED PROPERTY LOCATED AT 9401 4<sup>TH</sup> VIEW STREET IN ORDER TO MAKE IMPROVEMENTS TO THE PROPERTY.

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

Section 1:- That the Right of Entry Agreement ("Agreement") between the City of Norfolk ("City") and the Virginia Department of Transportation ("VDOT") that permits VDOT to go upon and use City-owned facility located at 9401 4<sup>th</sup> View Street ("Property") for the purpose of making certain improvements to the facility in anticipation of entering into a license agreement with the City for continued use of the facility, a copy of which Agreement is attached hereto and incorporated herein as Exhibit A, is hereby approved.

Section 2:- That the City Manager and other proper officers of the City are authorized to execute the Agreement on behalf of the City and to do all things necessary and proper in furtherance thereof.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Agreement as he may deem appropriate, consistent with the Council's intent as expressed herein.

Section 4:- That this ordinance shall be in effect from and after the date of its adoption.

Attachments:

Exhibit A - Right of Entry Agreement (4 pages)

**EXHIBIT A TO ORDINANCE**

**THIS RIGHT OF ENTRY AGREEMENT** (“Agreement”), made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia (“City”), Grantor, and the **COMMONWEALTH OF VIRGINIA, BY AND THROUGH THE VIRGINIA DEPARTMENT OF TRANSPORTATION** (“VDOT”), Grantee.

**WITNESSETH:**

WHEREAS, the City owns a certain structure located at 9401 4<sup>th</sup> View Street (“Property”); and

WHEREAS, VDOT desires to use the Property for the purpose of making certain improvements to the structure in anticipation of entering into a license agreement with the City for continued use of the structure; and

WHEREAS, VDOT has requested permission to access and utilize the Property for such purpose, to which the City is agreeable upon certain terms and conditions.

NOW, THEREFORE, the City hereby grants to VDOT, its employees, volunteers, participants, subcontractors and consultants, permission to enter upon and use the Property for the purposes set forth above upon the following terms and conditions:

1. The permission granted by this Agreement shall commence on the date it is fully executed by all parties and shall terminate one (1) year thereafter or upon the execution of the sub-license agreement between the City and VDOT, whichever shall occur first.
2. The right of entry granted by this Agreement is subject to the City’s right of revocation at any time, in its sole discretion.
3. The City shall have access to the Property at all times.

4. The permission granted herein is a license only and confers no rights in the Property whatsoever.

5. Except as otherwise provided herein, VDOT shall take all necessary measures to ensure that the Property is kept in its original condition.

6. The City shall have the right to make periodic inspections of the manner in which VDOT is using the Facility and VDOT shall exercise reasonable care in the performance of its work and other authorized activities.

7. Any costs associated with violations of the law, including but not limited to, remediation, clean-up costs, fines, administrative or civil penalties or charges, and third-party claims imposed on the City by any regulatory agency or by any third-party as a result of the noncompliance with applicable federal, state or local environmental laws, regulations or nuisance statutes by VDOT, or by any of its employees, volunteers, participants, subcontractors, consultants or sub-consultants, in connection with the work or other activities contemplated herein, shall be paid by VDOT. However, notwithstanding the above paragraph, it is understood between the parties, that VDOT shall not be liable for any matter or item mentioned above that was in existence prior to the agreement and additionally, VDOT shall not be liable for any matter or item mentioned above that was not directly caused by VDOT during the term of this Agreement.

9. The City shall not be responsible or liable for injuries to persons, including death or damage to property, when such injuries or damages are caused by or result from VDOT's use of the Property under the terms of this Agreement, and to the extent permitted by law and without waiving sovereign immunity.

10. This Agreement shall not be assigned by VDOT to any other party or entity.

11. Upon completion of all activities on the Property permitted by this Agreement, VDOT shall leave the Property in the same condition as they existed prior to its entry upon the Property, with the exception of any improvements made to the structure in relation to this Agreement.

12. In exercising the rights granted hereby and undertaking activity pursuant to this Agreement, VDOT shall act in accordance with the applicable laws of the Commonwealth of Virginia and any other governmental body, state or federal, having jurisdiction over such matters.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the day and year first above written.

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF NORFOLK**

By: \_\_\_\_\_ (SEAL)  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Director of Development

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Assistant City Attorney