

ORDINANCE NO. 7604-20

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN FIRST AMENDMENT TO PARKING EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND WHITTAKER PLACE, LLC, DATED THE 28TH DAY OF JANUARY, 2020, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 1033 28TH STREET, NEWPORT NEWS, VIRGINIA.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain First Amendment to Parking Easement by and between the City of Newport News, Virginia, and Whittaker Place, LLC, dated the 28th day of January, 2020, for an easement across City-owned property located at 1033 28th Street, Newport News, Virginia.
2. That a copy of the said First Amendment to Parking Easement is attached hereto and made a part hereof.
3. That this ordinance shall be in effect on and after the date of its adoption, January 28, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JANUARY 28, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

Prepared by and:
After recording return to:
Peter L. Henderer, VSB # 40994
McCandlish Holton, PC
P.O. Box 796
Richmond, VA 23218

Exemption Claimed Under Section
58.1-811.C.4. For Taxes Imposed
by Section 58.1-802 on a Conveyance
by a Virginia City.

FIRST AMENDMENT TO PARKING EASEMENT

This First Amendment to Parking Easement (this “Amendment”), made as of this 28th day of January, 2020, by and between the **CITY OF NEWPORT NEWS, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“**Grantor**”), and **WHITTAKER PLACE, LLC**, a Virginia limited liability company, (“**Grantee**”) whose principal address is 627 36th Street, Newport News, Virginia 23607, hereby recites and provides:

RECITALS:

- A. Grantor is the owner that certain parcel of real property located in the City of Newport News, Virginia, commonly known as 1033 28th St, Newport News, VA 23607 and Tax Map Number 307010101 (“Grantor’s Property”).
- B. Grantee is the owner of that certain parcel of real property located in the City of Newport News, Virginia, adjacent to Grantor’s Property and commonly known as 1003 28th St, Newport News, VA 23607 and Tax Map Number 307010152 (“Grantee’s Property”).
- C. Grantee’s Property is also commonly known as the old Whittaker Hospital property, which Grantee has been renovating into apartments.
- D. Grantee took title to Grantee’s Property by a Special Warranty Deed dated December 21, 2017, and recorded among the land records of the Circuit Court of the City of Newport News (the “Land Records”) as Instrument Number 170018169.
- E. Grantee’s title includes an easement for parking on Grantor’s Property, first created of record by Deed from Grantor to Whittaker Memorial Hospital Association, Incorporated dated December 10, 1979, and recorded among the Land Records in Deed Book 1030, page 953 (the “Parking Easement”).
- F. The Parking Easement grants Grantee the “rights, privileges and easements of use for parking purposes over that certain parcel of land measuring 84 feet by 200 feet lying immediately adjacent to and east of the herein before described property, said land to be used for parking purposes in connection with the East End Health Center.”

- G. Pursuant to Article VII, Section 9 of the Virginia Constitution and Va. Code Section 15.2-2100(B), Grantor's authority to convey easements such as the Parking Easement is limited to easements with a 40 year term.
- I. In connection with Grantee's renovation of Grantee's Property, Grantee has developed a driveway on Grantee's Property that is accessed from Grantor's Property.
- J. Grantor and Grantee have agreed to amend the Parking Easement (1) to renew the Parking Easement for a new 40 year term, and (2) to permit Grantee to have ingress and egress to Grantee's Property from Grantor's Property.

AGREEMENT:

Now, therefore, for and in consideration of the foregoing recitals, the covenants contained herein, the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

- 1. Recitals. The foregoing recitals are hereby incorporated by reference.
- 2. Renewal of Parking Easement. The Parking Easement, as described in the Deed from Grantor to Whittaker Memorial Hospital Association, Incorporated dated December 10, 1979, and recorded among the Land Records in Deed Book 1030, page 953, is hereby renewed by Grantor for an additional term of 40 years from the date of this instrument.
- 3. Amendment of Parking Easement for Ingress and Egress. As an amendment to the Parking Easement, Grantor hereby grants and conveys, for a term of 40 years from the date of this instrument, an easement to Grantee on, over, upon, in, and through Grantor's Property included in the Parking Easement area so that Grantee may have the rights of ingress and egress across Grantor's Property to access Grantee's Property with vehicular traffic and pedestrians in the area where Grantee's driveway abuts the western edge of Grantor's Property.
- 4. Ratification of Parking Easement. Except as expressly amended hereby, all terms and conditions of the Parking Easement are hereby ratified and affirmed.

[See Attached Pages for Signatures and Seals.]

Witness the following signatures and seals:

IN WITNESS WHEREOF, the City of Newport News has caused this Amendment to be executed by its City Manager, thereunto first duly authorized; and Whittaker Place, LLC, has caused this Amendment to be executed by John F. Biagas, the Manager of Whittaker Manager, LLC, the Manager of Whittaker Place, LLC, thereunto first duly authorized.

**CITY OF NEWPORT NEWS,
VIRGINIA**, a political subdivision of the
Commonwealth of Virginia

By: _____
Cynthia D. Rohlf, City Manager

Approved as to Form:

Attest:

Collins L. Owens, Jr., City Attorney

Mabel Washington Jenkins, City Clerk

COMMONWEALTH OF VIRGINIA
City of Newport News, to-wit:

The foregoing was executed and acknowledged before me, a Notary Public in and for the jurisdiction aforesaid, this _____ day of _____, 2020, by Cynthia D. Rohlf, the City Manager and Mabel Washington Jenkins, as City Clerk, respectively, of the **CITY OF NEWPORT NEWS, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, for and on behalf of the same for the purposes contained therein.

Notary Public

My Commission Expires: _____
Registration No.: _____

WHITTAKER PLACE, LLC, a Virginia limited liability company

By: **WHITTAKER MANAGER, LLC**, a Virginia limited liability company, Manager

By: _____
Printed Name: John F. Biagas
Title: Manager

COMMONWEALTH OF VIRGINIA
City of Newport News, to-wit:

The foregoing was executed and acknowledged before me, a Notary Public in and for the jurisdiction aforesaid, this _____ day of _____, 2020, by John F. Biagas, the Manager of Whittaker Manager, LLC, a Virginia limited liability company, which is the Manager of **Whittaker Place, LLC**, a Virginia limited liability company, for and on behalf of the same for the purposes contained therein.

Notary Public

My Commission Expires: _____
Registration No.: _____