

AN ORDINANCE No. 87-260-232

ADOPTED NOV 9 1987

To amend and reordain Ordinance No. 86-302-274, adopted December 8, 1986, entitled: "To authorize Hilton W. Goodwyn, Jr., and John W. Pearsall, Trustee, owners, and successors thereof, to encroach in, on, upon, across, into, through, under and along the south right of way line of Main Street, the east right of way line of 6th Street, and the north right of way line of an east-west alley 13.6 feet, more or less, in width that extends from the easterly right of way line of 6th Street to the westerly right of way line of 7th Street, with concrete pier bells, as shown on Department of Public Works Drawing No. N-21601, dated October 23, 1986, entitled: "Proposed Underground Encroachments (concrete pier bells) in Main St. (S/L), 6th St. (E/L), and an Alley (N/L) Between Main St. and Cary St. (Goodwyn Parking Deck)", upon certain terms and conditions", concerning approval by City Attorney of bond required as requisite for ordinance becoming effective.

Patron - City Manager (By Request)

Approved as to form and legality
by City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 86-302-274, adopted December 8, 1986, be and is hereby amended and reordained as follows:

§ 1. That Hilton W. Goodwyn, Jr., and John W. Pearsall, Trustee, owners, and any successor thereof, hereinafter referred to as "Licensee", are hereby permitted to encroach in, on, upon, across, into, through, under and along the south right of way line of Main Street, the east right of way line of 6th Street, and the north right of way line of an east-west alley 13.6 feet, more or less, in width

that extends from the easterly right of way line of 6th Street to the westerly right of way line of 7th Street, with concrete pier bells, to the extent and in the manner shown shaded on Department of Public Works Drawing No. N-21601, dated October 23, 1986, entitled: "Proposed Underground Encroachments (concrete pier bells) in Main St. (S/L), 6th St. (E/L), and an Alley (N/L) Between Main St. and Cary St. (Goodwyn Parking Deck)", a copy of which drawing is attached to the draft of this ordinance. The license herein granted shall continue until such time as the encroachments or a substantial part or parts thereof shall be removed or destroyed subject to the provisions and conditions contained in Section 2.04(e) of the Charter of the City of Richmond.

§ 2. That the permission granted in § 1 of this ordinance is granted upon and subject to the following additional terms and conditions:

(a) That all cost shall be borne by the Licensee, Hilton W. Goodwyn, Jr., and John W. Pearsall, Trustee, owners, or successors.

(b) That the Licensee, or successors, shall pay to the City for the use and occupancy of the space occupied in the streets such charges as Council has heretofore or may hereafter prescribe for such use of the public streets, which charges may be increased or decreased or otherwise modified at any time and from time to time by the Council.

(c) That the Licensee, or successors, shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons, firms and corporations and property growing out of such use of the streets and the installation, construction, maintenance, repair, operation and removal of the encroachments, and in the event that suit shall be brought against the City, either independently or jointly with the Licensee on account thereof, the Licensee will defend the City in any such suit at its cost, and in the event of a final judgment being obtained against the City either independently or jointly with the Licensee, it will pay such judgment and all costs and hold the City harmless therefrom.

(d) That the Licensee, or successors, shall insure its liability in connection with the encroachments providing indemnities of not less than \$500,000 for bodily injuries or property damage resulting from any one occurrence. The City shall be named as an additional insured under the insurance contract. The Licensee, or successors, shall keep the insurance in full force and effect at all times during the installation, maintenance, existence and removal of the encroachments. The Licensee shall provide the City with a certificate of such insurance which shall contain a statement that the insurance is provided to enable the Licensee to perform its obligation under this paragraph (d) and that

the insurance will not lapse or otherwise expire prior to sixty days' written notice thereof given by the Licensee's insurance carrier to the City Manager of the City, anything in such insurance contract to the contrary notwithstanding.

(e) That the Licensee, or successors, shall furnish the City a bond with [~~corporate~~] surety approved by the City Attorney in the sum of fifty thousand dollars conditioned upon the removal of the encroachments if required by the City or their being effectively filled or otherwise rendered incapable of constituting a hazard to the public or to any underakings of the City and upon replacement and restoration of the streets and any public utility including facilities of the City of Richmond therein damaged, disturbed or destroyed thereby in a manner and with such materials to the satisfaction of the Directors of Public Works, Public Utilities and Public Safety on order to do so by the Council, or upon repeal of this ordinance, or upon the failure, refusal or neglect of the Licensee to comply fully and in all respects with the provisions of this or any other ordinance relating thereto. The Licensee, or successors, shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times during the existence and removal of the encroachments. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty days written

notice to that effect given to the City Manager of the City, unless waived by the City Attorney. An irrevocable letter of credit in an amount of not less than fifty thousand dollars may be provided in lieu of such bond.

(f) Prior to commencing work in, on, across, into, upon, through, under or along any street any and all permits required for such work shall be obtained under provisions of ordinances and regulations relating to issuance of such permits. All work performed pursuant to such permits shall be performed in a manner satisfactory to the Director of Public Works, Public Safety, and Public Utilities.

(g) Licensee, or successors, shall restore and replace portions of streets and public utilities of either regulated utility companies or of the City disturbed or destroyed by construction, maintenance, repair, and use of the encroaching facilities.

(h) This ordinance is adopted pursuant to the power granted the Council by law. It is not intended by the adoption of this ordinance to offer or grant a franchise and the permission hereby granted shall at all times be subject to revocation by the Council and the terms and conditions upon which it is granted shall be subject to modification at any time and from time to time by the Council. Upon such revocation or modification the Licensee, or successors,

shall immediately conform to the requirements, if any, prescribed by the Council with respect thereto.

§ 3. This ordinance shall be in force upon adoption and shall become effective when within twelve months of the date of adoption the Licensee shall furnish the required insurance and bond (or letter of credit) and files with the City Clerk a written statement in form satisfactory to the City Attorney to the effect that Licensee agrees to the terms and conditions upon which such permission is granted and agrees to be bound thereby and to observe and comply therewith. The Licensee shall be responsible for furnishing all documents and data and meeting all other requirements, terms and conditions imposed as a requisite for this ordinance becoming effective.

ORDINANCE OR RESOLUTION SUMMARY

CITY OF RICHMOND, VIRGINIA

Resolution Ordinance No. <u>87-260</u>	Subject To Amend Ordinance No. 86-302-274 to add Surety Bond approval requirement
Patron(s) <u>City Manager (By Request)</u>	

SUMMARY

This Ordinance would amend Ordinance No. 86-302-274 to add the provision that approval of the bond by the City Attorney is required as requisite for Ordinance becoming effective.

COUNCIL ACTION

On Docket	<u>11/09/87</u>
Amended	_____
Adopted	_____
Rejected	_____
Stricken	_____