



## Legislation Text

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**File #:** 18-0298, **Version:** 1

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Resolution Authorizing the Grant of an Encroachment, Pursuant to § 34-86 of the City Code, to CCJ Armistead, LLC, Into an Area of Public Right-of-Way Known as N. Armistead Avenue for a Force Main Connection Comprising 500 Square Feet, More or Less, for the Development at 1100 N. Armistead Avenue (LRSN 8000286)

### **PURPOSE/BACKGROUND:**

CCJ Armistead, LLC ("Licensee") owns the property located at 1100 N. Armistead Avenue (LRSN 8000286) ("Licensee's Parcel"), which it is being developed to build a fast food restaurant. On November 8, 2017, the City granted Licensee a revocable license to encroach into an approximate 4,000 square foot area of City-owned rights-of-way identified as N. Armistead Avenue, LaSalle Avenue, and Thomas Street (the "City Properties") for force main boring and open cut installation, which was recorded in the Clerk's Office of the Circuit Court for the City of Hampton, Virginia, on November 14, 2017, as Instrument No. 170014632, page 139 (the "Agreement"). Now Licensee desires a more direct connection to Hampton Roads Sanitation District's ("HRSD") sanitary sewer system rather than the circuitous connection to the City's system. Given that Licensee's intended uses of the City Properties under the Agreement will be substantially different from its original intent, the Agreement is no longer appropriate. Therefore, Licensee exercised its right to terminate the Agreement pursuant to Paragraph No. 6 therein and requests a different license.

Currently, Licensee requests permission to encroach into an area of public right-of-way known as N. Armistead Avenue comprising 500 square feet, more or less, for force main boring (the "Licensed Improvement") as illustrated on Exhibit "A" attached to the accompanying Encroachment Agreement. The Licensed Improvement requires connection with HRSD's force main on the west side of N. Armistead Avenue, and HRSD has approved the connection.

The request was routed to staff and local utility companies. None have any objection. However, in addition to the standard conditions, staff recommends approval subject to the following conditions: (i) the Licensed Improvement must maintain at least a 12" vertical separation between the new force main and the existing force mains, gas lines, and other utilities; (ii) Licensee's 2" high density polyethylene force main must be installed within a 4" casing under N. Armistead Avenue; and (iii) the new force main that connects with HRSD's force main must remain private.

Therefore, pursuant to § 34-86 of the City Code, staff recommends approval under the conditions outlined in the accompanying Encroachment Agreement.

### **Discussion:**

N/A

**Impact:**

N/A

**Recommendation:**

Approve Resolution

**WHEREAS**, CCJ Armistead, LLC (“Licensee”) owns the property located at 1100 N. Armistead Avenue (LRSN 8000286) (“Licensee’s Parcel”), which it is being developed to build a fast food restaurant;

**WHEREAS**, on November 8, 2017, the City granted Licensee a revocable license to encroach into an approximate 4,000 square foot area of City-owned rights-of-way identified as N. Armistead Avenue, LaSalle Avenue, and Thomas Street (the “City Properties”) for force main boring and open cut installation, which was recorded in the Clerk’s Office of the Circuit Court for the City of Hampton, Virginia, on November 14, 2017, as Instrument No. 170014632, page 139 (the “Agreement”);

**WHEREAS**, now Licensee desires a more direct connection to Hampton Roads Sanitation District’s (“HRSD”) sanitary sewer system rather than the circuitous connection to the City’s system;

**WHEREAS**, given that Licensee’s intended uses of the City Properties under the Agreement will be substantially different from its original intent, the Agreement is no longer appropriate; therefore, Licensee exercised its right to terminate the Agreement pursuant to Paragraph No. 6 therein and requests a different license;

**WHEREAS**, currently, Licensee requests permission to encroach into an area of public right-of-way known as N. Armistead Avenue comprising 500 square feet, more or less, for force main boring (the “Licensed Improvement”) as illustrated on Exhibit “A” attached to the accompanying Encroachment Agreement;

**WHEREAS**, the Licensed Improvement requires connection with HRSD’s force main on the west side of N. Armistead Avenue, and HRSD has approved the connection;

**WHEREAS**, the request was routed to staff and local utility companies; while none have any objection, in addition to the standard conditions, staff recommends approval subject to the following conditions: (i) the Licensed Improvement must maintain at least a 12” vertical separation between the new force main and the existing force mains, gas lines, and other utilities; (ii) Licensee’s 2” high density polyethylene force main must be installed within a 4” casing under N. Armistead Avenue; and (iii) the new force main that connects with HRSD’s force main must remain private; and

**WHEREAS**, pursuant to § 34-86 of the City Code, the City agrees to grant CCJ Armistead, LLC a revocable license for the proposed encroachment under the terms and conditions as specified in the attached Encroachment Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Hampton, Virginia, as follows:

1. That the Encroachment Agreement between the City of Hampton and CCJ Armistead, LLC is hereby approved; and

2. That the City Manager, or her authorized designee, and Clerk of Council are hereby authorized to execute and attest the Encroachment Agreement as set forth in this Resolution.