

**AN AMENDED RESOLUTION BY
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE, THE PURCHASING DIRECTOR, TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH WAYNE MILLER, RONNIE MILLER, PEGGY MILLER MARBACH, ERIC MILLER AND CAPITOL MATERIALS INCORPORATED, OR THEIR DESIGNEE(S), FOR THE INSTALLATION OF PRIVATE UTILITY FACILITIES CROSSING OVER BISHOP STREET IN THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, Wayne Miller, Ronnie Miller, Peggy Miller Marbach and Eric Miller (“Millers”) are the owners of a commercial office building complex (the “Development”), commonly known as 451 Bishop Street, that has been developed for lease to tenants engaged in commercial and light industrial businesses;

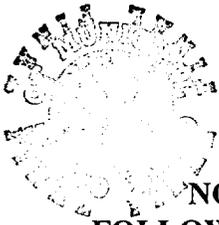
WHEREAS, Capitol Materials Incorporated (“Capitol Materials”) is the owner of the property located at 464 Bishop Street, across the street from the Development, where it operates a business engaged in the sale of materials that are used by the construction industry;

WHEREAS, Capitol Materials is desirous of maintaining and expanding its business in the City, requires additional space within which to operate and has negotiated an agreement with the Millers to lease space within the Development;

WHEREAS, in order to service the business of its customers, it is necessary for Capitol Materials to connect the telecommunications services of its business located at 464 Bishop Street with the telecommunications services for the expansion that will be located at the Development;

WHEREAS, Capitol Materials has approached the City seeking an encroachment (“Encroachment”) that will allow the installation of a strand of fiber optic cable that will extend from its offices located at 464 Bishop Street to the Development; the fiber optic cable will cross over Bishop Street utilizing an existing utility pole;

WHEREAS, the Director of the Bureau of Buildings and the Commissioner of the Department of Public Works have reviewed the plans for the Development and the installation of the Encroachment over Bishop Street, have determined that the plans meet the appropriate technical requirements and believe it to be desirable and in the best interests of the City to authorize the City to execute an Encroachment Agreement with the Millers and Capitol Materials allowing the installation of the Encroachment.



NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:

- Section 1.** The Mayor or his designee, the Purchasing Director, are each authorized to enter into an Encroachment Agreement, as outlined in Section 138, Article II, of the City's Code of Ordinances, with the Millers and Capitol Materials, or their designee(s), for the installation of the Encroachment over the right-of-way of Bishop Street, in a form and pursuant to conditions determined by the Commissioner of the City's Department of Public Works and the City Attorney to be desirable, appropriate and in the best interests of the City for this transaction, provided, however, that the performance bond requirements set forth in Section 138, Article II, of the City's Code of Ordinances are waived.
- Section 2.** That, in consideration of the City's entering into the Encroachment Agreement with the Millers and Capitol Materials, a one-time encroachment fee of \$1000 will be paid to the City.
- Section 3.** That the City Attorney is directed to prepare an Encroachment Agreement in accordance with Section 138, Article II, of the City's Code of Ordinances.
- Section 4.** That the Encroachment Agreement will not become binding upon the City and the City will incur no liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk and delivered to the appropriate parties.

A true copy,

Phonda Daughin Johnson
Municipal Clerk, OMC

ADOPTED as amended by the Council
APPROVED by the Mayor

MAY 20, 2002
MAY 28, 2002

RCS# 3731
5/20/02
2:33 PM

Atlanta City Council

Regular Session

CONSENT I PGS. 1-15: Except 02-O-0852; 02-R-0729

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
NV Young	Y Shook	Y Maddox	B Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

CONSENT AGENDA MAY 20, 2002

ITEMS ADOPTED ON THE
CONSENT AGENDA

02-R-0813 02-R-0753
02-R-0812 02-R-0754
02-R-0807 02-R-0755
02-R-0805 02-R-0756
02-R-0721 02-R-0757
02-R-0504 02-R-0758
02-R-0808 02-R-0759
02-R-0708 02-R-0760
02-R-0707 02-R-0761
02-R-0882
02-R-0881
02-R-0809
02-R-0798
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02-R-0732
02-R-0706
02-R-0724
02-R-0802
02-R-0888
02-R-0887
02-R-0733
02-R-0731
02-R-0728
02-R-0727
02-O-0846
02-O-0830
02-O-0703
02-O-0699
02-O-0671
02-O-0606
02-O-0605
02-O-0833
02-O-0601
02-O-0488
02-O-0836
02-O-0845
02-O-0844
02-O-0843
02-O-0835
02-O-0834
02-O-0603
02-R-0735
02-R-0752

ITEMS ADVERSED ON THE
CONSENT AGENDA

02-R-0762
02-R-0763
02-R-0764
02-R-0765
02-R-0766
02-R-0767
02-R-0768
02-R-0769
02-R-0770
02-R-0771
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02-R-0792
02-R-0793
02-R-0794
02-R-0795
02-R-0796

02-12-0733

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A RESOLUTION BY

CITY UTILITIES COMMITTEE

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ADOPTED BY
MAY 20 2002
COUNCIL

AS AMENDED

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee City Utilities
 Date May 14 2002
 Chair Clare Mulley
 Action: AS AMENDED
 Fav/Adv, Hold (see rev. side) _____
 Other: _____
 Members [Signatures]
 Refer To: [Signature]

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav, Adv, Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 MAY 20 2002
 ATLANTA CITY COUNCIL PRESIDENT
Catherine W. Woodard

CERTIFIED
 MAY 20 2002
 CITY CLERK
[Signature]

MAYOR'S ACTION

Mulley
 MAY 28 2002
 MAYOR