

10-R-1264

(Do Not Write Above This Line)

**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH PROJECT O'HERN HOUSE, LLC, OWNER OF REAL PROPERTY LOCATED AT 16 WILLIAM HOLMES BORDERS DRIVE, S.E., FOR THE PURPOSE OF PERMITTING AN EXISTING UNDERGROUND STORAGE VAULT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; AND FOR OTHER PURPOSES.

ADOPTED BY

JUL 19 2010

COUNCIL

- 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 _____

City Utilities
Committee

July 13 2010
Date

Walter R. Williams
Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other

Members

Madelyn DeWaters
Hal Shuford
Kurt

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

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
 JUL 19 2010
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 JUL 19 2010
 Ronda Daughin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 JUL 27 2010
[Signature]
 MAYOR



**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH PROJECT O’HERN HOUSE, LLC, OWNER OF REAL PROPERTY LOCATED AT 16 WILLIAM HOLMES BORDERS DRIVE, S.E., FOR THE PURPOSE OF PERMITTING AN EXISTING UNDERGROUND STORAGE VAULT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; AND FOR OTHER PURPOSES.

WHEREAS, Project O’Hern House, LLC (“O’Hern House”), owns real property located at 16 William Holmes Borders Sr. Drive, S.E. in Atlanta, Georgia (“Property”); and

WHEREAS, the property currently has an underground storage vault which extends into the public right-of-way approximately One Thousand Thirteen (1,013) feet by Seven (7) feet; and

WHEREAS, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and O’Hern House for authorization to allow the underground storage vault to remain in the public right-of-way and for authorization for O’Hern House to continue to maintain the underground storage vault in the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the underground storage vault will not adversely impact the ability of the affected right-of-way to handle vehicular or pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, O’Hern House desires to maintain the underground storage vault; and

WHEREAS, O’Hern House has agreed to conform to the conditions set out in the City Code of Ordinances at Sections 138-22 and 138-24.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Non-Conforming Uses, as outlined in Section 138, Article II, of the City’s Code of Ordinances with Project O’Hern House, LLC for the purpose of granting to O’Hern House the right to continue to use and the obligation to maintain an underground storage vault in the public right-of-way located at 16 William Holmes Borders Sr. Drive, S.E., between Edgewood Avenue, S.E. and Chamberlain Street, S.E., in Atlanta, Georgia as depicted in Exhibit “A” attached hereto, in a form and pursuant to the conditions determined by the Commissioner of the Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interests of the City of Atlanta for this transaction.



BE IT FURTHER RESOLVED, that the plans and specifications for said underground storage vault shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that Project O'Hern House, LLC, shall indemnify the City for any damages to persons or properties resulting from the existence and maintenance of said underground storage vault.

BE IT FURTHER RESOLVED, that O'Hern House shall comply with the conditions set out at Sections 138-22 and 138-24 of the City's Code of Ordinances.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and O'Hern House.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk, and delivered to Project O'Hern House, LLC.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Kasim Reed

JUL 19, 2010
JUL 27, 2010

RCS# 449
7/19/10
3:09 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

EXCEPT 10-O-1227

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 4

B Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	B Martin	Y Watson
Y Young	B Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		07-19-10
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