

10-R-1266

(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 BEULAH HEIGHTS UNIVERSITY, OWNER OF REAL PROPERTY LOCATED ON THE WEST SIDE OF VERNON AVENUE, S.E. BETWEEN MERCER STREET, S.E. AND BERNE STREET, S.E., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF TWO PRESENTLY EXISTING RETAINING WALLS WHICH PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE WEST SIDE OF VERNON AVENUE FOR AN APPROXIMATE TOTAL OF THIRTY EIGHT (38) FEET; 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

Date 7/13/2010

Chair [Signature]

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

Members

[Signatures]

[Signatures]

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
- 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 19 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 BEULAH HEIGHTS UNIVERSITY, OWNER OF REAL PROPERTY LOCATED ON THE WEST SIDE OF VERNON AVENUE, S.E. BETWEEN MERCER STREET, S.E. AND BERNE STREET, S.E., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF TWO PRESENTLY EXISTING RETAINING WALLS WHICH PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE WEST SIDE OF VERNON AVENUE FOR AN APPROXIMATE TOTAL OF THIRTY EIGHT (38) FEET; AND FOR OTHER PURPOSES.

WHEREAS, Beulah Heights University (“Beulah Heights”), owns certain real property attached hereto as Exhibit “A” and incorporated herein by this reference, which land is adjacent to 892 Berne Street, S.E. in Atlanta, Georgia; and

WHEREAS, it has been determined that a portion of two presently existing retaining walls (hereinafter “Walls”) currently owned by Beulah Heights, extend into the public right-of-way for a total distance of approximately Thirty Eight (38) feet; and

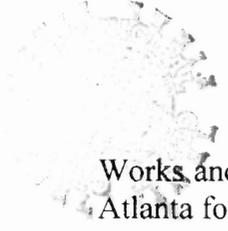
WHEREAS, the City of Atlanta (“City”) Code of Ordinances, at Sections 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and Beulah Heights for authorization to allow the Walls to remain in the public right-of-way and for authorization for Beulah Heights to continue to maintain the Walls that are 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 Walls 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, Beulah Heights desires to continue to maintain the presently existing Walls in the public right-of-way; and

WHEREAS, Beulah Heights 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 Beulah Heights University for the purpose of granting to Beulah Heights the right to maintain two retaining walls in the public right-of-way on Vernon Avenue, S.E. between Mercer Street, S.E. and Berne Street, S.E. in Atlanta, Georgia as depicted in Exhibit “A” attached hereto, 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 of Atlanta for this transaction.

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

BE IT FURTHER RESOLVED, that Beulah Heights shall indemnify the city for any damages to persons or properties resulting from the maintenance of said Walls.

BE IT FURTHER RESOLVED, that Beulah Heights 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 Beulah Heights.

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 as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to Beulah Heights University.

A true copy,


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
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
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33. 10-R-1275		
34. 10-R-1336		
35. 10-R-1277		
36. 10-R-1278		
37. 10-R-1284		
38. 10-R-1285		