

11- 0 -0899

(Do Not Write Above This Line)

AN ORDINANCE BY  
CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE  
MAYOR, ON BEHALF OF THE  
DEPARTMENT OF PUBLIC WORKS, TO  
ENTER INTO AN ENCROACHMENT  
AGREEMENT FOR NON-CONFORMING  
USES WITH THE BANK BUILDING, LP,  
OWNER OF REAL PROPERTY  
LOCATED AT 55 MARIETTA STREET,  
N.W., FOR THE PURPOSE OF  
PERMITTING AN EXISTING BASEMENT  
WHICH PRESENTLY EXTENDS INTO  
THE PUBLIC RIGHT-OF-WAY; TO  
WAIVE THE APPLICATION FEE AND  
YEARLY INSPECTION FEE; AND FOR  
OTHER PURPOSES.

ADOPTED BY

JUL 05 2011

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

Date Referred 6/20/2011

Referred To: City Utilities Committee

Date Referred

Referred To:

Date Referred

Referred To:

Committee City Utilities <sup>First Reading</sup>  
 Date JUL 14 2011  
 Chair Natalie Archuleta  
 Referred To CUC

Committee City Utilities  
 Date June 28 2011  
 Chair Natalie Archuleta  
 Action Fav, Adv, Hold (see rev. side)  
 Other

Members  
Osborne  
Jadun  
Hal Shih

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

JUL 05 2011

ATLANTA CITY COUNCIL PRESIDENT

*[Signature]*

CERTIFIED

JUL 05 2011

Kendra Daughen Johnson  
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUL 14 2011

WITHOUT SIGNATURE  
BY OPERATION OF LAW

**AN ORDINANCE BY  
CITY UTILITIES COMMITTEE**

**AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE DEPARTMENT OF PUBLIC WORKS, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH THE BANK BUILDING, LP, OWNER OF REAL PROPERTY LOCATED AT 55 MARIETTA STREET, N.W., FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Bank Building, LP (“Bank Building”) owns real property located at 55 Marietta Street, N.W., in Atlanta, Georgia (“Property”); and

**WHEREAS**, the property currently has an existing basement which extends into the public right-of-way approximately One Hundred Eighty Five (185) feet in length and Thirteen (13) feet in width; and

**WHEREAS**, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-20, 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and Bank Building for authorization to allow the basement to remain in the public right-of-way and for authorization for Bank Building to continue to maintain the existing basement in the public right-of-way; and

**WHEREAS**, Bank Building has been exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances; 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 existing basement will not adversely impact the ability of the affected right-of-way to handle pedestrian traffic or otherwise to perform its intended public function; and

**WHEREAS**, Bank Building desires to maintain the existing basement; and

**WHEREAS**, Bank Building has agreed to conform to the conditions set out in the City Code of Ordinances at Sections 138-20, 138-22 and 138-24.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:**

**SECTION 1:** That the Mayor 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 the Bank Building, LP, for the purpose of granting to Bank Building the right to continue to use and the obligation to maintain a basement in the public right-of-way located at 55 Marietta Street, N.W., with the encroachment being



located on Marietta Street, N.W., between Forsyth Street, N.W. and Fairlie Street, N.W., 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 and in the best interests of the City of Atlanta for this transaction.

**SECTION 2:** That the plans and specifications for said basement shall be submitted for the review and approval of the Commissioner of the Department of Public Works.

**SECTION 3:** That Bank Building is exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances, and said fee requirements are hereby waived.

**SECTION 4:** That Bank Building shall indemnify the City for any damages to persons or properties resulting from the maintenance of said basement.

**SECTION 5:** That Bank Building shall comply with the conditions set out at Sections 138-20, 138-22 and 138-24 of the City's Code of Ordinances.

**SECTION 6:** That that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and Bank Building.

**SECTION 7:** 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 Bank Building, LP.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council                      July 05, 2011  
RETURNED WITHOUT SIGNATURE OF THE MAYOR  
APPROVED as per City Charter Section 2-403              July 14, 2011





