

11- P-1230
 (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 JAY-UDAY, INC., OWNER OF REAL PROPERTY LOCATED AT 111 CONE STREET, N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN OVERHEAD CANOPY TO PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE EAST SIDE OF CONE STREET; SAID CANOPY BEING APPROXIMATELY FIFTEEN (15) FEET IN WIDTH, SIX (6) FEET IN DEPTH AND BEING FIFTEEN FEET IN HEIGHT ABOVE THE SIDEWALK; AND FOR OTHER PURPOSES.

**ADOPTED BY
 SEP 06 2011
 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 _____

Committee City Utilities
 Date August 30, 2011
 Chair U. C. Williams
 Action Fav/Adv, Hold (see rev. side)
 Other _____
 Members
[Signature]
[Signature]
[Signature]
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____
 Members _____
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Committee _____
 Date _____
 Chair _____
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 Other _____
 Members _____
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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
 SEP 06 2011
 COUNCIL PRESIDENT PROTEM

CERTIFIED
 SEP 03 2011
 Rhonda Daughlin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION
APPROVED
 SEP 14 2011
 WITHOUT SIGNATURE
 BY OPERATION OF LAW



**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

11- R-1230

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 JAY-UDAY, INC., OWNER OF REAL PROPERTY LOCATED AT 111 CONE STREET, N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN OVERHEAD CANOPY TO PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE EAST SIDE OF CONE STREET; SAID CANOPY BEING APPROXIMATELY FIFTEEN (15) FEET IN WIDTH, SIX (6) FEET IN DEPTH AND BEING FIFTEEN FEET IN HEIGHT ABOVE THE SIDEWALK; AND FOR OTHER PURPOSES.

WHEREAS, Jay-Uday, Inc., (“Jay-Uday”) owns certain real property located at 111 Cone Street, N.E. in Atlanta, Georgia (“Property”); and

WHEREAS, Jay-Uday proposes to install an overhead canopy which would extend into the public right-of-way approximately Fifteen (15) feet in width, Six (6) feet in depth and being Fifteen (15) feet in height above the sidewalk; and

WHEREAS, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-22, 138-24 and 138-26, requires than an Encroachment Agreement be entered into between the City and Jay-Uday for authorization to allow the canopy to be installed in the public right-of-way and for authorization for Jay-Uday to continue to maintain the canopy 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 canopy 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, Jay-Uday desires to maintain the canopy; and

WHEREAS, Jay-Uday has agreed to conform to the conditions set out in the City Code of Ordinances at Sections 138-22, 138-24 and 138-26.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf o 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 Jay-Uday for the purpose of granting Jay-Uday the right to install and the obligation to thereafter maintain an overhead canopy in the public right-of-way at 111 Cone Street, N.E. between Luckie Street, N.E. and Williams Street, N.E., in Atlanta, Georgia as depicted in Exhibit “A” attached hereto, in a form pursuant to conditions determined by



The Commissioner of the Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interest of the City of Atlanta for this transaction.

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

BE IT FURTHER RESOLVED, that Jay-Uday shall indemnify the City for any damages or properties resulting from the erection and maintenance of said canopy.

BE IT FURTHER RESOLVED, that Jay-Uday shall comply with the conditions set out at Sections 138-22, 138-24 and 138-26 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 Jay-Uday.

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 Jay-Uday.

A true copy,

Deputy Municipal Clerk

**ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403**

**Sept. 6, 2011
Sept. 15, 2011**

RCS# 1358
9/06/11
2:37 PM

Atlanta City Council

REGULAR SESSION

CONSENT

CONSENT AGENDA SECTION I

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 2

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

CONSENT