

11-0-1437

(Do Not Write Above This Line)

AN ORDINANCE BY
CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH COLO PROPERTIES ATLANTA, LLC, OWNER OF REAL PROPERTY LOCATED AT 56 MARIETTA STREET, N.W., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT AND AN EXISTING SUB-BASEMENT WHICH PRESENTLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.

ADOPTED BY
NOV 07 2011
COUNCIL

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

Date Referred 10/17/11
 Referred To: City Utilities
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee City Utilities
 Date Nov 7 2011
 Chair [Signature]
 Referred To [Signature]

Committee City Utilities
 Date Nov. 7, 2011
 Chair [Signature]
 Action Fav. Adv. Hold (see rev. side)
 Other _____
 Members [Signature]
C. T. Minton
[Signature]
[Signature]
 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
 NOV 07 2011
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 NOV 07 2011
 Rhonda Daughin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION
 APPROVED
 NOV 16 2011
 WITHOUT SIGNATURE
 BY OPERATION OF LAW



**AN ORDINANCE BY
CITY UTILITIES COMMITTEE**

11-0-1437

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH COLO PROPERTIES ATLANTA, LLC, OWNER OF REAL PROPERTY LOCATED AT 56 MARIETTA STREET, N.W., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT AND AN EXISTING SUB-BASEMENT WHICH PRESENTLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.

WHEREAS, Colo Properties Atlanta, LLC (“Colo Properties”) owns real property located at 56 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 Fifty Three (53) feet in length and Nine (9) feet from the face of the building at sidewalk level along Marietta Street and extends approximately One Hundred (100) feet in length and Two (2) from the face of the building at sidewalk level along Forsyth Street; and

WHEREAS, the property currently has an existing sub-basement approximately which extends into the public right-of-way approximately Forty Eight (48) feet in length and Eight (8) feet from the face of the building at sidewalk level along Marietta Street; 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 Colo Properties for authorization to allow the basements to remain in the public right-of-way and for authorization for Colo Properties to continue to maintain the existing basements in the public right-of-way; and

WHEREAS, Colo Properties 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 basements 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, Colo Properties desires to maintain the existing basements; and

WHEREAS, Colo Properties 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 Colo Properties Atlanta, LLC for the purpose of granting to Colo Properties the right to continue to use and the obligation to maintain:

- a. A basement in the public right-of-way located at 56 Marietta Street, N.W., with the encroachment being located on Marietta Street, N.W. extending out into and under the Marietta Street right of way at a width of approximately Nine (9) feet from the face of the building at sidewalk level and for approximately Fifty Three (53) feet in length along Marietta Street into and out and under the Forsyth Street right of way at a width of approximately Two (2) feet from the face of the building at sidewalk level and for approximately One Hundred (100) feet in length along Forsyth Street in Atlanta, Georgia.
- b. A sub-basement in the public right-of-way located at 56 Marietta Street, N.W., with the encroachment being located on Marietta Street, N.W., approximately twenty (22) feet east of the Marietta Street basement described in Section 1 a. above, with the encroachment extending out into and under the Marietta Street right of way at a width of approximately Eight (8) feet from the face of the building at sidewalk level and for approximately Forty Eight (48) feet in length along Marietta Street 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.

The encroachments described in section a. and b. above are 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 Colo Properties 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 Colo Properties shall indemnify the City for any damages to persons or properties resulting from the maintenance of said basement.

SECTION 5: That Colo Properties shall comply with the conditions set out at Sections 138-120, 138-22, and 138-24 of the City's Code of Ordinances.



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

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 Colo Properties Atlanta, LLC.

A true copy,

A handwritten signature in black ink, appearing to be "John [unclear]", written over a horizontal line.

Deputy Municipal Clerk

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

**Nov. 07, 2011
Nov. 16, 2011**

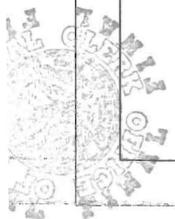
EXHIBIT "A"



THE TFI-X GROUP INC.
 56 MARIETTA ST. ATL - GA
 BASEMENT & SUB-BASEMENT
 ENCHROACHMENT PLAN

SCALE: NOT TO SCALE
DATE:
DRAWN BY:
REVISIONS:

CITY OF ATLANTA	
DEPARTMENT OF PUBLIC WORKS	
DESIGN AND STANDARDS	
DESIGNED BY:	CHECKED BY:



RCS# 1513
11/07/11
3:15 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
NOVEMBER 7, 2011
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

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

CONSENT I