13-R-0186

(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 HEALEY WEATHERHOLTZ PROPERTIES, LLC, OWNER OF REAL PROPERTY LOCATED AT 3400 AROUND LENOX DRIVE N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING DUMPSTER ENCLOSURES WHICH WILL PARTIALLY EXTEND INTO THE RIGHT-OF-WAY FOR AN APPROXIMATE TOTAL OF SEVENTY FIVE SQUARE FEET; AND FOR OTHER PURPOSES.

ADOPTED BY

FEB 18 2013

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: February 12 2013

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

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

FEB 18 2013

ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED

FEB 18 2013

MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

FEB 25 2013

WITHOUT SIGNATURE
BY OPERATION OF LAW

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION BY
CITY UTILITIES COMMITTEE

13- R -0186

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 HEALEY WEATHERHOLTZ PROPERTIES, LLC, OWNER OF REAL PROPERTY LOCATED AT 3400 AROUND LENOX DRIVE N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING DUMPSTER ENCLOSURES WHICH WILL PARTIALLY EXTEND INTO THE RIGHT-OF-WAY FOR AN APPROXIMATE TOTAL OF SEVENTY FIVE SQUARE FEET; AND FOR OTHER PURPOSES.

WHEREAS, Healey Weatherholtz Properties, LLC ("the Owner") owns real property located at 3400 Around Lenox Drive, N.E. in Atlanta, Georgia ("Property"); and

WHEREAS, the Owner proposes to install dumpster enclosures which will extend into the public right-of-way approximately Seventy Five (75) square feet; and

WHEREAS, the City of Atlanta's ("City") Code of Ordinances, at Section 138-22 and 138-24, requires that an Encroachment Agreement be entered into between the City and the Owner for authorization to allow the dumpster enclosures to be installed 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 encroachments and has determined that the dumpster enclosures 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, the Owner desires to maintain the dumpster enclosures; and

WHEREAS, the Owner has agreed to conform to the conditions set out in the City's 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 Healey Weatherholtz Properties, LLC for the purpose of granting the Owner the right to install and to obligate the Owner to thereafter maintain the dumpster enclosures in the public right-of-way at 3400 Around Lenox Drive, N.E. between Peachtree Road, N.E. and Lenox Road, 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 dumpster enclosures shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that the Owner shall indemnify the City for any damages to property within the public right-of-way resulting from the erection and maintenance of said dumpster enclosures.

BE IT FURTHER RESOLVED, that the Owner 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 the Owner.

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 Healey Weatherholtz Properties, LLC.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council FEB 18, 2013
APPROVED as per City Charter Section 2-403 FEB 27, 2013

RCS# 2559
2/18/13
2:03 PM

Atlanta City Council

CONSENT I

CONSENT AGENDA SECTION I; 2/18/2013
ALL ITEMS
ADOPT

YEAS:	12
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	4
EXCUSED:	0
ABSENT	0

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

		02-18-13
ITEMS ADOPTED ON CONSENT	**ITEMS ADOPDED ON CONSENT**	**ITEMS ADVERSED ON CONSENT**
1. 13-O-0126	35. 13-R-0189	67. 13-R-0241
2. 13-O-0129	36. 13-R-0210	68. 13-R-0242
3. 13-O-0175	37. 13-R-0211	69. 13-R-0243
4. 12-O-1314	38. 13-R-0212	70. 13-R-0244
5. 13-O-0132	39. 13-R-0213	71. 13-R-0245
6. 13-O-0276	40. 13-R-0214	72. 13-R-0246
7. 13-O-0279	41. 13-R-0215	73. 13-R-0247
8. 13-O-0283	42. 13-R-0216	74. 13-R-0248
9. 13-R-0193	43. 13-R-0217	75. 13-R-0249
10. 13-R-0201	44. 13-R-0218	76. 13-R-0250
11. 13-R-0202	45. 13-R-0219	77. 13-R-0251
12. 13-R-0203	46. 13-R-0220	78. 13-R-0252
13. 13-R-0207	**ITEMS ADVERSED ON CONSENT**	79. 13-R-0253
14. 13-R-0286	47. 13-R-0221	80. 13-R-0254
15. 13-R-0007	48. 13-R-0222	81. 13-R-0255
16. 13-R-0011	49. 13-R-0223	82. 13-R-0256
17. 13-R-0013	50. 13-R-0224	83. 13-R-0257
18. 13-R-0204	51. 13-R-0225	84. 13-R-0258
19. 13-R-0205	52. 13-R-0226	85. 13-R-0259
20. 13-R-0208	53. 13-R-0227	86. 13-R-0260
21. 13-R-0209	54. 13-R-0228	87. 13-R-0261
22. 13-R-0195	55. 13-R-0229	88. 13-R-0262
23. 13-R-0196	56. 13-R-0230	89. 13-R-0263
24. 13-R-0197	57. 13-R-0231	90. 13-R-0264
25. 13-R-0198	58. 13-R-0232	91. 13-R-0265
26. 13-R-0277	59. 13-R-0233	92. 13-R-0266
27. 13-R-0181	60. 13-R-0234	93. 13-R-0267
28. 13-R-0182	61. 13-R-0235	94. 13-R-0268
29. 13-R-0183	62. 13-R-0236	95. 13-R-0269
30. 13-R-0184	63. 13-R-0237	96. 13-R-0270
31. 13-R-0185	64. 13-R-0238	97. 13-R-0271
32. 13-R-0186	65. 13-R-0239	98. 13-R-0272
33. 13-R-0187	66. 13-R-0240	
34. 13-R-0188		