

13-R-3099

(Do Not Write Above This Line)

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

FINAL COUNCIL ACTION

2<sup>nd</sup>     1<sup>st</sup> & 2<sup>nd</sup>     3<sup>rd</sup>  
Readings  
 Consent     V Vote     RC Vote

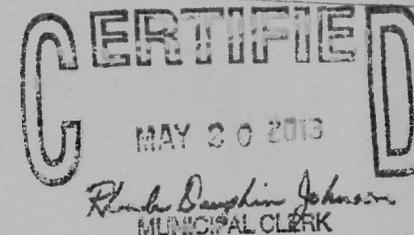
A RESOLUTION  
BY CITY UTILITIES COMMITTEE

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 TABERNACLE GROUP, LLC, OWNER OF REAL PROPERTY LOCATED AT 168 LUCKIE STREET, N.W. ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING THE TEMPORARY INSTALLATION OF A FERRIS WHEEL WHICH WILL PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY FOR APPROXIMATELY 23.29 FEET ON LUCKIE STREET AND 23.44 FEET ON NASSAU STREET, RESPECTIVELY; AND FOR OTHER PURPOSES.

ADOPTED BY

Committee City Utilities  
Date April 30, 2013  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other \_\_\_\_\_  
on condition of  
SAT Members \_\_\_\_\_  
Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_



- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1<sup>ST</sup> ADOPT 2<sup>ND</sup> READ & REFER
- PERSONAL PAPER REFER

Date Referred  
Referred To:

Date Referred  
Referred To:

Date Referred:

Referred To:

Committee City Utilities  
Date May 14, 2013  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other \_\_\_\_\_  
Members \_\_\_\_\_  
Carla Smith  
Adrian (Abs)  
Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

MAYOR'S ACTION

APPROVED

MAY 29 2013

WITHOUT SIGNATURE  
BY OPERATION OF LAW



**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 TABERNAACLE GROUP, LLC, OWNER OF REAL PROPERTY LOCATED AT 168 LUCKIE STREET, N.W. ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING THE TEMPORARY INSTALLATION OF A FERRIS WHEEL WHICH WILL PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY FOR APPROXIMATELY 23.29 FEET ON LUCKIE STREET AND 23.44 FEET ON NASSAU STREET, RESPECTIVELY; AND FOR OTHER PURPOSES.**

**WHEREAS**, Tabernacle Group, LLC ("the Owner") owns real property located at 168 Luckie Street, N.W., in Atlanta, Georgia ("Property"); and

**WHEREAS**, the Owner proposes to installing a ferris wheel which will partially extend into the public right-of-way approximately 23.29 feet on Luckie Street and 23.44 feet on Nassau Street; 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 ferris wheel to partially extend into the public right-of-way; and

**WHEREAS**, the owner intends to operate the ferris wheel until July 31, 2013; 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 ferris wheel 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 continue to maintain the ferris wheel; 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 Tabernacle Group, LLC for the purpose of granting the Owner the right to install on a temporary basis and to obligate the Owner to thereafter maintain the ferris wheel which will partially extend into the public right-of-way at 168 Luckie Street, N.W. between Andrew Young International Boulevard, N.W. and Spring Street, N.W. 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 ferris wheel shall be submitted for the review and approval of the Commissioner of Public Works.

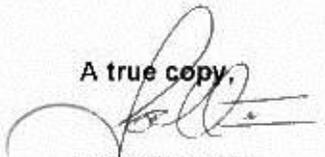
**BE IT FURTHER RESOLVED**, that the Owner shall indemnify the City for any damages to properties within the public right-of-way resulting for any damages to persons or properties resulting from the maintenance of said ferris wheel.

**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 Owner shall operate the ferris wheel until July 31, 2013.

**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 Tabernacle Group, LLC.

A true copy  
  
Deputy Clerk

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

MAY 20, 2013  
MAY 29, 2013

# EXHIBIT A



## CITY OF ATLANTA

KASIM REED  
MAYOR

68 MITCHELL STREET, S.W.  
SUITE 4900, CITY HALL SOUTH  
ATLANTA, GEORGIA 30303-3531  
TEL. (404) 330-6501  
FAX. (404) 658-7085

DEPARTMENT OF PUBLIC WORKS  
RICHARD MENDOZA  
Commissioner

DEXTER C. WHITE  
Deputy Commissioner

### Department of Public Works Office of Transportation

#### Information Checklist – Encroachment Agreements

In order for the Law Department to prepare Encroachment Agreements pursuant to legislation adopted by City Council, the following information needs to be provided to the Law Department by the Department of Public Works.

- 1. Scaled Engineering Drawings/Plan of the location
- 2. Scaled Engineering Drawings of the encroachment e.g. monuments, awnings, etc.
- Air Rights** 3. Structural calculations with a Professional Engineer's stamp
- 4. Area and Volume calculation for the encroachment
- 5. Ordinance/Resolution number of legislation authorizing the project
- 6. The date that DPW completed its review and approval of the plans and technical specification for the project \_\_\_\_\_
- 7. Owner of the property **\_Tabernacle Group, LLC, 84 Peachtree St NW, Ste 901, Atlanta GA 30303**
- 8. Name and title of encroaching party official who will execute the agreement. This person must have legal authority to bind the encroaching party to the terms of the encroachment agreement.

Name: **Bill Clear,**

Title: **MEMBER**

- 9. Full corporate name of the encroaching party. **Atlanta Partners LLC**
- 10. Mailing address of encroaching party

**Atlanta Partners, LLC  
10845 Olive Blvd, Ste 306  
St Louis , MO 63141  
Attn: Al Mers**



11. Name and telephone number of contact person for encroaching party.

**Al Mers 314-809-3871**

\_\_\_\_\_

12. When applicable, the date that the Urban Design Commission completed its review and approval of the design and location of the project

Name: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

13. The amount of the public liability insurance that will be required for this project (as determined by Risk Management). \_\_\_\_\_

14. Whether the encroachment is permanent or temporary Temporary If temporary, the expected length of time the encroachment will be in place. **Through 12/31/14**

15. Whether a performance/completion bond is required for this encroachment \_\_\_\_\_

If a bond is required, the dollar amount that will be required for the bond:

\_\_\_\_\_

16. Fees to be charged by DPW to the encroaching party – If none indicate with a zero in the appropriate blank below:

a. Application and review fee: 1300.00 Check # 1210 Expo Ventures LLC

b. ROW use fee (rental): \_\_\_\_\_ \$100.00

If the right-of-way use is to be imposed, please provide the basis upon which the fees has been determined:

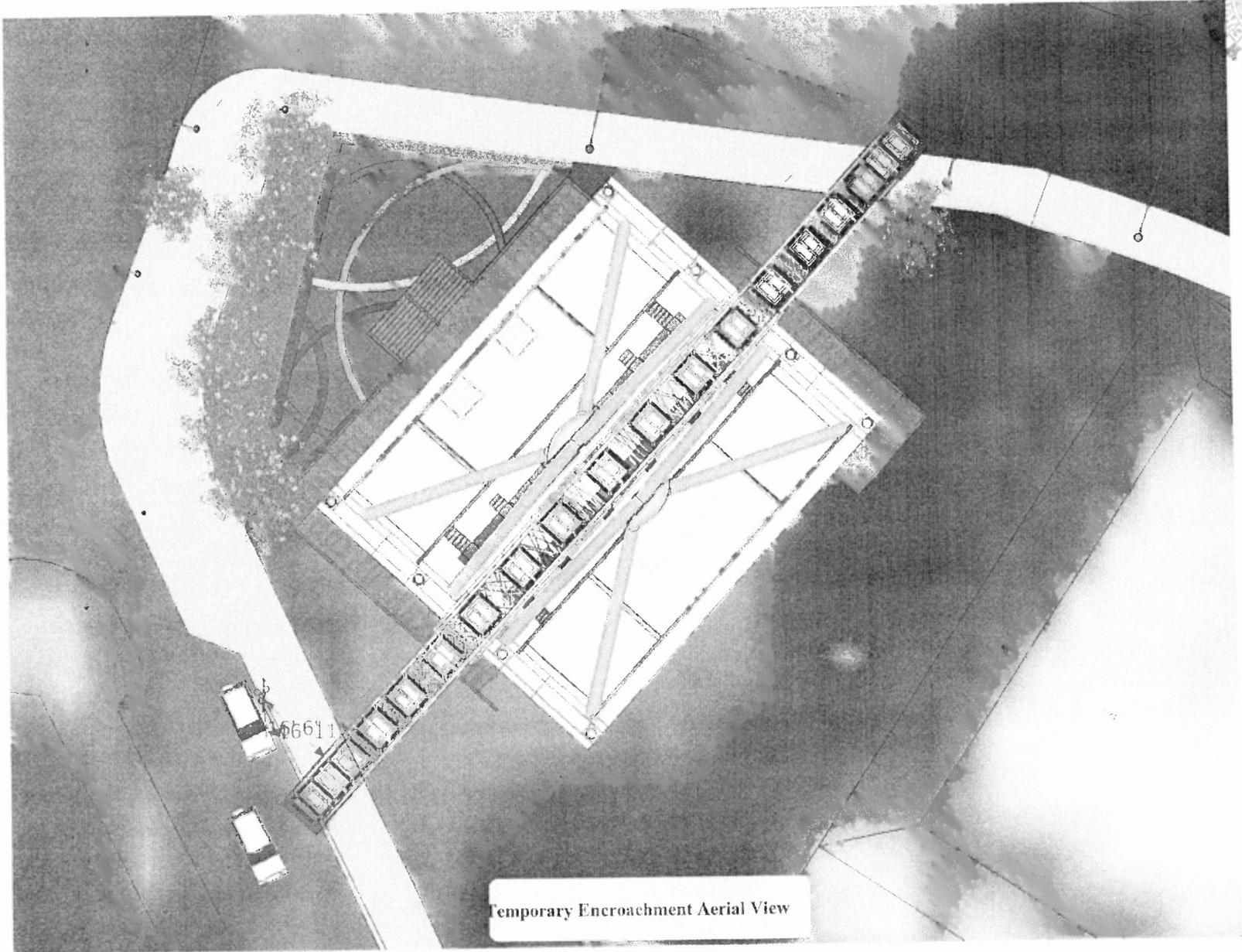
\_\_\_\_\_  
\_\_\_\_\_

DPW contact Name: Wahab Alabi Tel: 404-330-6501



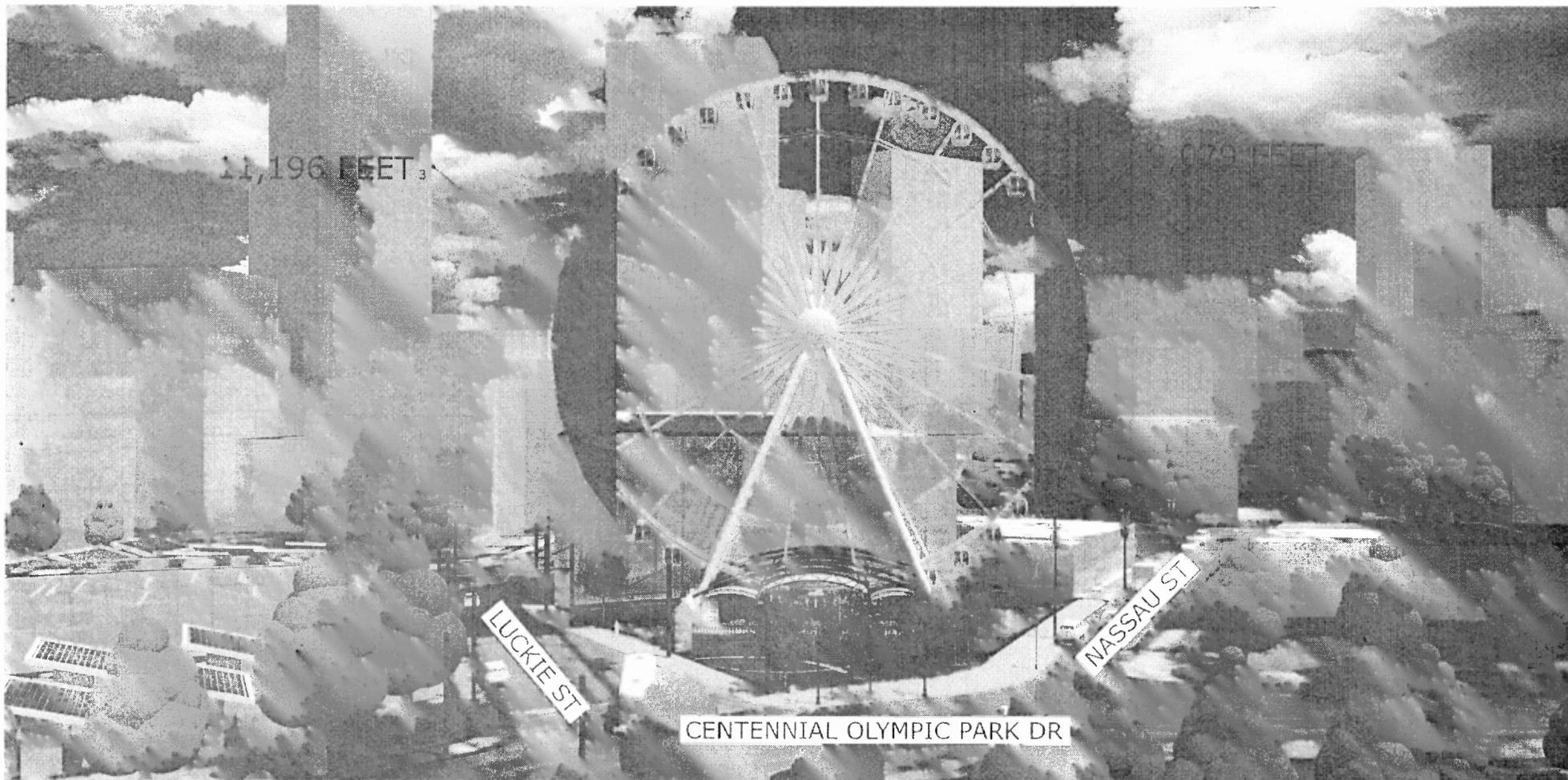






66611

Temporary Encroachment Aerial View



WHEEL VOLUME BEYOND PROPERTY BOUNDARIES



TROLLEY CLEARANCE EXHIBIT



UTILITY CLEARANCE EXHIBIT

CASH ONLY IF ALL CHECK LOCK SECURITY FEATURES TESTED ON BACK INDICATE NO TAMPERING OR COUWING



**Expo 60 Venture, LLC**  
10845 Olive Blvd Suite 306  
St. Louis, MO 63141  
314-727-4949

**BANK OF THE SOUTH**  
63-157/632

1210

3/28/2013

PAY TO THE ORDER OF City of Atlanta

\$ **1,300.00**

One Thousand Three Hundred and 00/100\*\*\*\*\* DOLLARS

▲ TAMPER RESISTANT TONER AREA ▲

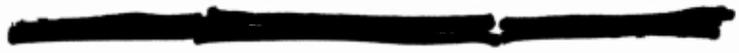


City of Atlanta  
55 Trinity Avenue, S.W.  
Suite 3350  
Atlanta, GA 30303-0331

*[Handwritten Signature]*  
MP



MEMO  
Encroachment fee



Details on Back  
Intuit® CheckLock™ Secure Check

**Expo 60 Venture, LLC**

1210

City of Atlanta

Date      Type    Reference  
2/28/2013    Bill

Original Amt.      Balance Due  
1,300.00            1,300.00

3/28/2013

Discount      Payment  
Check Amount      1,300.00  
1,300.00

Operating      Encroachment fee      1,300.00

RCS# 2707  
5/20/13  
3:38 PM

Atlanta City Council

13-R-3099

ENTER INTO AN ENCROACHMENT FOR NON  
CONFORMING USES: FERRIS WHEEL @ LUCKIE  
ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

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

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