

13- R-3425

(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 WITH CRESCENT HOWELL MILL VENTURE, LLC, FOR THE CONSTRUCTION AND OPERATION OF TEMPORARY TIE-BACK SUPPORTS UNDER THE RIGHT-OF-WAY OF BECK STREET, N.W. AND EMERY STREET, N.W.; AND FOR OTHER PURPOSES.

**ADOPTED BY**  
SEP 3 2013  
**COUNCIL**

- 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:

First Reading

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

Committee City Utilities  
 Date Adopted 27 2013  
 Chair Nelda C. Gandy  
 Action Fav.  
 Fav, Adv, Hold (See rev.side)  
 Other  
 Members Adrian Abo  
Carla Smith  
[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

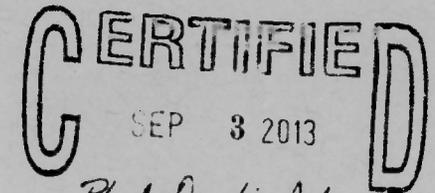
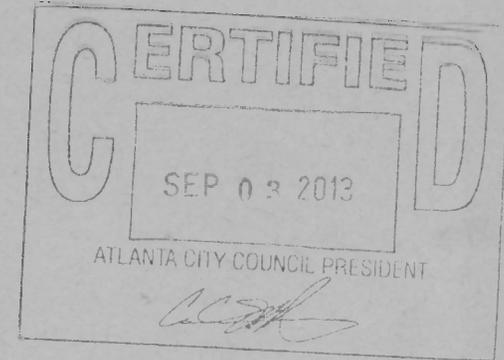
FINAL COUNCIL ACTION

2<sup>ND</sup>       1<sup>ST</sup> & 2<sup>ND</sup>       3<sup>RD</sup>

Readings

Consent       V Vote       RC Vote

CERTIFIED



Rhonda Daughlin Johnson  
MUNICIPAL CLERK

MAYOR'S ACTION

**APPROVED**

SEP 12 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 WITH CRESCENT HOWELL MILL VENTURE, LLC, FOR THE CONSTRUCTION AND OPERATION OF TEMPORARY TIE-BACK SUPPORTS UNDER THE RIGHT-OF-WAY OF BECK STREET, N.W. AND EMERY STREET, N.W.; AND FOR OTHER PURPOSES.**

**WHEREAS**, Crescent Howell Mill Venture, LLC (“the owner”) proposes to construct an expansion of the current retail development on property located at 1950 Howell Mill Road, N.W. in Atlanta, Georgia, said property being in Land Lot 153, 17<sup>th</sup> District, Fulton County; and

**WHEREAS**, a temporary tie-back support system is required for the construction of perimeter cast-in-place concrete retaining walls for below grade parking levels on Beck Street, N.W. and Emery Street, N.W.; and

**WHEREAS**, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-22 and 138-24, requires that an Encroachment Agreement be entered into between the City and the owner for authorization to allow the temporary tie-back support system to be installed under the public right-of-way and for authorization for the owner to continue to maintain the temporary tie-back support system under the public right-of-way; and

**WHEREAS**, the Commissioner of the Department of Public Works has reviewed the plans for the proposed facilities and has determined that said plans meet the technical requirements set forth in Section 138-24(b) of the City of Atlanta Code of Ordinances.

**WHEREAS**, the owner desires to maintain the temporary tie-back support system; 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, as outlined in Section 138, Article II of the Official Code of the City of Atlanta, with Crescent Howell Mill Venture, LLC, for the construction, installation, operation, use and maintenance of temporary tie-back supports in the public right-of-way of 1950 Howell Mill Road, N.W. as depicted in Exhibit “A” attached hereto.

**BE IT FURTHER RESOLVED**, that the temporary tie-back support system shall be comprised of 200 tie-backs installed along Beck Street, N.W. and 103 tie-backs installed along Emery Street, N.W.



**BE IT FURTHER RESOLVED**, that Crescent Howell Mill Venture, LLC shall indemnify the City for any damages to property within the public right-of-way resulting from the construction, installation, operation, use, maintenance and removal of said supports.

**BE IT FURTHER RESOLVED**, that Crescent Howell Mill Venture, LLC 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 Crescent Howell Mill Venture, LLC.

**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 Crescent Howell Mill Venture, LLC.

A true copy,

A handwritten signature in black ink, appearing to be "K. Miller", written over a horizontal line.

Deputy Clerk

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

SEP 03, 2013  
SEP 12, 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

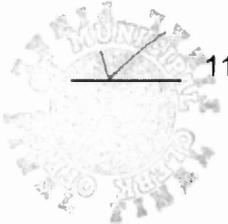
DEXTER C. WHITE  
Deputy Commissioner

### 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.
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 Crescent Howell Mill Venture LLC
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: ~~Ryan Smith~~ BENJAMIN COLLINS  
Title: ~~Project Manager~~ SOUTHEAST REGIONAL DIRECTOR
9. Full corporate name of the encroaching party  
  
Hayward Baker, Inc.
10. Mailing address of encroaching party  
  
515 Nine North Court  
Alpharetta, GA 30107



11. Name and telephone number of contact person for encroaching party.  
Ryan Smith  
770-442-1801

N/A 12. When applicable, the date that the Urban Design Commission completed its review and approval of the design and location of the project  
Name: N/A  
Date: N/A

13. The amount of the public liability insurance that will be required for this project (as determined by Risk Management). \$2,000,000

14. Whether the encroachment is permanent or temporary Temporary  
If temporary, the expected length of time the encroachment will be in place  
2 Years

N/A 15. Whether a performance/completion bond is required for this encroachment N/A  
If a bond is required, the dollar amount that will be required for the bond:  
N/A

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  
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

RCS# 2987  
9/03/13  
2:16 PM

Atlanta City Council

13-R-3425

ENTER AND ENCROACHMENT AGREEMENT WITH  
CRESCENT HOWELL MILL VENTURE, LLC  
ADOPT

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

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

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