

**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, NW 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. (HELD 4/30/13 FOR FURTHER REVIEW)**

**Review List:**

Santana Kempson Wright	Completed	04/22/2013 11:23 AM
Saul Sschultz	Completed	04/22/2013 10:01 AM
Rita Braswell	Completed	04/22/2013 9:36 AM
Richard Mendoza	Completed	04/30/2013 11:55 AM
Mayor's Office	Completed	04/30/2013 12:21 PM
Office of Research and Policy Analysis	Completed	04/30/2013 12:46 PM
City Utilities Committee	Completed	05/08/2013 5:10 PM
Atlanta City Council	Completed	05/17/2013 1:37 PM
Atlanta City Council	Pending	

**HISTORY:**

04/30/13      City Utilities Committee      **HELD IN COMMITTEE**      Next: 05/14/13

<b>RESULT:</b>	<b>HELD IN COMMITTEE [UNANIMOUS]</b>	<b>Next: 5/14/2013 9:30 AM</b>
<b>MOVER:</b>	Yolanda Adrean, Councilmember, District 8	
<b>AYES:</b>	Wan, Shook, Archibong, Adrean, Martin, Smith, Watson	

05/06/13      Atlanta City Council

05/14/13      City Utilities Committee      **FAVORABLE**

<b>RESULT:</b>	<b>FAVORABLE [4 TO 0]</b>	<b>Next: 5/20/2013 1:00 PM</b>
<b>MOVER:</b>	Carla Smith, Councilmember, District 1	
<b>AYES:</b>	Howard Shook, Natalyn Mosby Archibong, Clarence "C. T." Martin, Carla Smith	
<b>ABSTAIN:</b>	Alex Wan, Yolanda Adrean	
<b>AWAY:</b>	Aaron Watson	

Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

**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, NW 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. (HELD 4/30/13 FOR FURTHER REVIEW)**

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.