

14-D-10694

(Do Not Write Above This Line)

AN ORDINANCE BY COUNCILMEMBER *Debra King* *Kwanza Holt* AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR AN EXISTING RIGHT-OF-WAY ENCROACHMENT ("ENCROACHMENT AGREEMENT") WITH BOXER F2 LP, OWNER OF THE REAL PROPERTY LOCATED AT 50 HURT PLAZA, S.E., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE FOR THE FEE AND YEARLY INSPECTION FEE FOR THE ENCROACHMENT AGREEMENT; TO EXECUTE A BUILDING ATTACHMENT EASEMENT AGREEMENT WITH BOXER F2 LP, FOR THE PURPOSE OF INSTALLING AND ATTACHING TO, AND THEREAFTER MAINTAINING, EYEBOLT AND SPAN WIRE ATTACHMENTS IN SUPPORT OF AN OVERHEAD CATENARY SYSTEM FOR THE ATLANTA STREETCAR PROJECT; AND FOR OTHER PURPOSES.

As Amended

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred: *2/3/14*
 Referred To: *City Depts*
 Date Referred:
 Referred To:
 Date Referred:
 Referred To:

Committee _____ First Reading
 Date _____
 Chair _____
 Referred To _____

Committee *City Depts*
 Date *February 14 2014*
 Chair *Michael C. Judy*
 Action *Fav Adv, Hold (see rev. side)*
 Other *AS AMENDED*
 Members *[Signature]*
 Refer To *[Signature]*

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

FINAL COUNCIL ACTION
 1st & 2nd _____
 3rd _____
 Readings
 Consent V. Vote RC Vote

CERTIFIED
 FEB 17 2014
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 FEB 17 2014
Ronda Dugan
 MUNICIPAL CLERK

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 _____

ADOPTED
 FEB 17 2014
COUNCIL

APPROVED
 FEB 20 2014
 WITHOUT SIGNATURES
 BY OPERATION OF LAW

Refer To _____

Refer To _____

MAYOR'S ACTION

AN ORDINANCE

BY COUNCIL MEMBERS CLETA WINSLOW AND KWANZA HALL

AS AMENDED BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR AN EXISTING RIGHT-OF-WAY ENCROACHMENT ("ENCROACHMENT AGREEMENT") WITH BOXER F2 L P, OWNER OF THE REAL PROPERTY LOCATED AT 50 HURT PLAZA, S.E., ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE, RENTAL FEE AND YEARLY INSPECTION FEE FOR THE ENCROACHMENT AGREEMENT; TO EXECUTE AN ATTACHMENT EASEMENT AGREEMENT WITH BOXER F2 L P, FOR THE PURPOSE OF INSTALLING AND ATTACHING TO, AND THEREAFTER MAINTAINING, EYEBOLT AND SPAN WIRE ATTACHMENTS IN SUPPORT OF AN OVERHEAD CATENARY SYSTEM FOR THE ATLANTA STREETCAR PROJECT; AND FOR OTHER PURPOSES.

WHEREAS, BOXER F2 L P ("Building Owner") is the owner of that certain parcel of land located at 50 Hurt Plaza, S.E., Atlanta, Georgia 30303 (as described on Exhibit A and hereinafter being referred to as "50 Hurt Plaza"); and

WHEREAS, the Building Owner has granted the City of Atlanta ("City") certain easement rights to install and thereafter maintain portions of an overhead catenary system ("OCS"), consisting of eyebolts, span wire attachments and related structural supports ("Facility"), (as visually depicted on Exhibit B) in order to facilitate the construction of the Atlanta Streetcar Project; and

WHEREAS, the 50 Hurt Plaza Building's basement exists below grade, a part of which encroaches on to the City's public right-of-way ("Encroachment"); and

WHEREAS, the Building Owner desires to maintain the existing basement; and

WHEREAS, the City's Code of Ordinances, at Sections 138-20, 138-22 and 138-24, require that an encroachment agreement be entered into between the City and Building Owner for authorization to allow 50 Hurt Plaza to maintain the existing basement in the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works will review the plans for the right-of-way encroachment and will determine that the existing basement 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, the Building Owner has agreed to conform to the conditions set forth in the City Code of Ordinances at Sections 138-20, 138-22 and 138-24; and

WHEREAS, the Building Owner desires to enter into an agreement with the City to grant the City an easement for the purpose of installing and attaching to the 50 Hurt Plaza Building, and thereafter maintaining, eyebolt and span wire attachments in support of the OCS (as visually depicted on Exhibit B) for the Atlanta Streetcar Project ("Easement Agreement"); and

WHEREAS, the City and Building Owner desire to enter into the above-referenced Encroachment Agreement to serve as, among other reasons, consideration for the Easement Agreement; and

WHEREAS, the Building Owner will be exempted from paying the application, rental and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances; and

WHEREAS, attachment of the Facility to the 50 Hurt Plaza Building is required for the operation of the Atlanta Streetcar Project.

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, as outlined in Section 138, Article II, of the City's Code of Ordinances with the Building Owner for the purpose of granting to Building Owner the right to continue to use, and the obligation to maintain, a basement in the public right-of-way located at the 50 Hurt Plaza Building 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 the Building Owner shall indemnify the City for any damages to persons or properties resulting from the maintenance of said basement.

SECTION 4: That the Building Owner shall comply with the conditions set forth in Sections 138-20, 138-22 and 138-24 of the City's Code of Ordinances.

SECTION 5: That the Building Owner is exempted from paying the application, rental and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances for the 50 Hurt Plaza Building, said fee requirements are hereby waived.

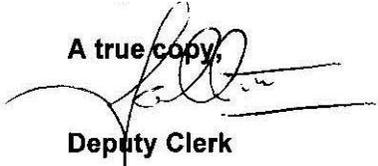
SECTION 6: That the Mayor is authorized, on behalf of the Department of Public Works, to enter into a Building Attachment Easement Agreement for the purpose of installing and attaching to the 50 Hurt Plaza Building, and thereafter maintaining, the Facility in support of an OCS.

SECTION 7: That the City Attorney is directed to prepare an Encroachment Agreement and Building Attachment Easement Agreement acceptable as to form, for execution by the Mayor and Building Owner.

SECTION 8: That the referenced Encroachment Agreement and Building Attachment Easement Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the agreements have been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and executed by the Building Owner.

SECTION 9: That this Ordinance shall become effective immediately upon signing by the Mayor or as otherwise provided by operation of law.

A true copy,



Deputy Clerk

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

FEB 17, 2014
FEB 26, 2014

EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 52 & 77 of the 14th District, City of Atlanta, Fulton County, Georgia and more particularly described as follows:

Tract 1

Beginning at the intersection formed by the northwesterly right-of-way line of Peachtree Center Avenue (variable r/w) and the northeasterly right-of-way line of Hurt Plaza (45' r/w +); from the Point of Beginning thus established, proceed northwesterly along said right-of-way line of Hurt Plaza North $59^{\circ}57'12''$ West a distance of 315.49 feet to a point at the southerly mitered intersection of Hurt Plaza and the southerly right-of-way line of Edgewood Avenue (variable r/w); thence northeasterly along said mitered intersection North $29^{\circ}49'58''$ East a distance of 6.87 feet to a point on the southerly right-of-way line of Edgewood Avenue (variable r/w); thence northeasterly along said right-of-way line of Edgewood Avenue North $89^{\circ}32'02''$ East a distance of 370.33 to a point on the northerly mitered intersection of Edgewood Avenue and Peachtree Center Avenue (variable r/w); thence southeasterly along said mitered intersection South $26^{\circ}55'46''$ East a distance of 16.47 feet to a point on the northwesterly right-of-way line of Peachtree Center Avenue (variable r/w); thence southwesterly along said right-of-way line of Peachtree Center Avenue South $35^{\circ}22'23''$ West a distance of 186.73 feet to a point on the northeasterly right-of-way line of Hurt Plaza and the Point of Beginning; said property containing 0.76229 of an acre or 33,205 square feet.

RCS# 99
2/17/14
2:51 PM

Atlanta City Council

CONSENT I

CONSENT AGENDA SECTION I: ALL ITEMS
EXCEPT 14-O-1072
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

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

CONSENT I

+

ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	02-17-14
1. 14-O-1068 2. 14-O-1099 3. 14-O-1055 4. 14-O-1085 5. 14-O-1086 6. 14-O-1088 7. 14-O-1096 8. 14-O-1100 9. 14-O-1083 10. 14-O-1084 11. 14-O-1094 12. 14-R-3179 13. 14-R-3180 14. 14-R-3181 15. 14-R-3182 16. 14-R-3183 17. 14-R-3140 18. 14-R-3141 19. 14-R-3142 20. 14-R-3143 21. 14-R-3145 22. 14-R-3149 23. 14-R-3190 24. 14-R-3191 25. 14-R-3192 26. 14-R-3194 27. 14-R-3195 28. 14-R-3196 29. 14-R-3198 30. 14-R-3150 31. 14-R-3151 32. 14-R-3152 33. 14-R-3153	34. 14-R-3154 35. 14-R-3155 36. 14-R-3156 37. 14-R-3157 38. 14-R-3158 39. 14-R-3159 40. 14-R-3160 41. 14-R-3161 42. 14-R-3162 43. 14-R-3163 44. 14-R-3164 45. 14-R-3165 46. 14-R-3166 47. 14-R-3167 48. 14-R-3168 49. 14-R-3169 50. 14-R-3170 51. 14-R-3171 52. 14-R-3172 53. 14-R-3173 54. 14-R-3174 55. 14-R-3175 56. 14-R-3176 57. 14-R-3177 58. 14-R-3178	