



A RESOLUTION BY

C. T. Martin

04- R-1202

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH RE SHARKS, LLC (CHATEAU DE VILLE TOWNHOMES). PROVIDING FOR THE NON-STANDARD LOCATION OF WATER METERS ON PRIVATE PROPERTY LOCATED IN THE CITY OF ATLANTA, FULTON COUNTY, GEORGIA, TO WHICH THE CITY PROVIDES WATER SERVICES; AND FOR OTHER PURPOSES.

WHEREAS, RE Sharks, LLC ("Chateau de Ville Town-homes") wishes to convert its potable water service to be converted from a single meter to individual meters to allow individual renters to be billed directly; and

WHEREAS, the town homes in the Complex are served with potable water from the City; and

WHEREAS, The City typically requires that water meters be located at the "service connection" location either on City property, in the right-of-way or within an easement or license granted to the City; and

WHEREAS, Section 154-116 of the City's Code of Ordinances regarding the City's water system provides that, upon request, individual meters can be located on private property if the certain conditions as outlined in the Section can be met; and

WHEREAS, RE Sharks, LLC proposes to locate twenty-eight (28) water meters at locations different than the service connection location, to allow each meter to be located on private property on an individual unit in the Complex; and

WHEREAS, the Commissioner of the City's Department of Watershed Management, after determining that the City's right of way is not suitable for installation of the water meters, has reviewed the request submitted by RE Sharks, LLC for the installation of individual water meters within the Complex and has approved the request as conditioned upon compliance with the requirements of Paragraph (5) of Section 154-116 for installation of individual water meters on private property; and

WHEREAS, RE Sharks, LLC has, accordingly, agreed to meet the conditions required by 154-116 of the City's Code of Ordinances; and

WHEREAS, it is desirable and in the best interests of the City to enter into an Agreement with RE Sharks, LLC setting forth the terms between the parties concerning the installation of and responsibility for water system infrastructure, including meters, within the Complex.



NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA THAT, the Mayor is authorized to execute with RE Sharks, LLC an Agreement for the non-standard location of water meters on private property located within the Complex upon substantially the following conditions:

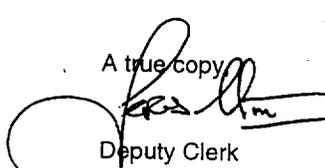
- 1) The Complex water meters and related appurtenances and infrastructure will be installed as required by City procedures and specifications, with the water meters located on private property.
- 2) The "service connection" will be located at the waterline saddle tap w/valves, ("Valves"), as shown on Exhibit 1, so that the City's responsibility for the public portions of the water system includes the Valves.
- 3) The City or its representatives will read each water meter at the locations indicated on Exhibit 1.
- 4) RE Sharks, LLC agrees to obtain, in writings to be delivered to the City, from any residential owner, prior to water service being established: [i] an acknowledgement of the City's or its representatives' license to enter private property to read the meter; [ii] an acknowledgment that the water lines between the meter and the residence and between the meter and the Valves must be maintained by the resident or Chateau de Ville; [iii] an appropriate City easement for the water meter location; and [iv] an indemnification agreement indemnifying the City from all damage claims resulting from its or its representatives' installation, maintenance and access to the meter.

BE IT FURTHER RESOLVED, that the Commissioner of the Department of Watershed Management is authorized to accept on behalf of the City easements appropriate for the water meter locations on private property that comply with the specifications of the Department.

BE IT FURTHER RESOLVED, that the City Attorney is authorized to prepare an Agreement with RE Sharks, LLC for this transaction, as deemed necessary and appropriate or as required by law.

BE IT FURTHER RESOLVED, that the Agreement will not become binding upon the City and the City will not be liable or obligated under it until it has been duly executed by RE Sharks, LLC, executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form and delivered to RE Sharks, LLC.

A true copy


Deputy Clerk

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

June 21, 2004

June 30, 2004

RCS# 5857
6/21/04
7:39 PM

Atlanta City Council

Regular Session

PERSONAL

AGRMNT W/RE SHARKS LLC PROVIDE NON-STAND
LOCATION WATER METER PRIVATE PROPERTY
ADOPT

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	NV Winslow	Y Shook	Y Martin	Y Mitchell
N Starnes	Y Archibong	NV Muller	NV Maddox	Y Norwood
Y Young	Y Fauver	Y Moore	B Mosley	Y Willis

PERSONAL



[Space Above Reserved for Recording Data]

After Recording Return To:
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, Fourth Floor
3500 Lenox Road
Atlanta, Georgia 30326

STATE OF GEORGIA

COUNTY OF FULTON

EASEMENT AGREEMENT

This EASEMENT AGREEMENT ("Agreement") is entered into this _____ day of _____, 2004, by and between RE Sharks, LLC ("Chateau de Ville Town-homes"), a Georgia corporation, and the City of Atlanta ("City"), a Georgia municipal corporation.

RECITALS:

WHEREAS, Chateau de Ville Town-homes is located in the City of Atlanta, County of Fulton, State of Georgia; and

WHEREAS, the RE Sharks, LLC is the true and lawful Owner existing and operating at Chateau de Ville Town-homes ; and

WHEREAS, the town homes consists of common elements, limited common elements, and twenty-eight (28) separate town home units; and

WHEREAS, the common elements ("Common Elements") are defined as all portions of the town homes not located within the boundaries of the units; and

WHEREAS, the Common Elements are private property; and

WHEREAS, the Owner, RE Sharks, LLC has the irrevocable power to grant easements and licenses through and over the Common Elements; and

WHEREAS, the twenty-eight (28) separate town home units located at the Complex are owned by RE Sharks, LLC; and



WHEREAS, the RE Sharks, LLC wishes to convert its potable water service from a single meter to individual meters to allow individual town home unit renters to be billed directly and further wishes to grant the City an easement through and over the Common Elements to install, maintain and access individual water meters to the twenty-eight (28) separate town home units; and

WHEREAS, the twenty-eight (28) separate town home units located at the Complex are served with potable water from the City; and

WHEREAS, the City typically requires that water meters be located at the "service connection" location either on City property, in the right-of-way, or within an easement or license granted to the City; and

WHEREAS, Section 154-116 of the City's Code of Ordinances regarding the City's water system provides that, upon request, individual meters can be located on private property if the certain conditions as outlined in the Section can be met; and

WHEREAS, RE Sharks, LLC proposes to locate twenty-eight (28) water meters at locations different than the service connection location, to allow each meter to be located on the Common Elements of the Town-home; and

WHEREAS, the Commissioner of the City's Department of Watershed Management, after determining that the City's right of way is not suitable for installation of the water meters, has reviewed the request submitted by RE Sharks, LLC for the installation of individual water meters on the Common Elements of the Town-home and has approved the request as conditioned upon compliance with the requirements of Paragraph (5) of Section 154-116 for installation of individual water meters on private property; and

WHEREAS, RE Sharks, LLC has, accordingly, agreed to meet the conditions required by 154-116 of the City's Code of Ordinances; and

WHEREAS, the City has consented to the change to individual meters and, by legislation adopted on _____, 2004, by the City's Council and approved by the City's Mayor on _____, 2004, attached hereto as Exhibit "A," authorized the City to execute with RE Sharks, LLC an agreement pertaining to the proposed nonstandard locations of the water meters; and

NOW, THEREFORE, for and in consideration of the mutual agreements and promises set forth herein, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto agree as follows:

1. **Grant of Easement.** RE Sharks, LLC does hereby grant and convey to the City a permanent non-exclusive easement and license through and over the Common Elements for the installation, maintenance and access to the twenty-eight (28) water meters.

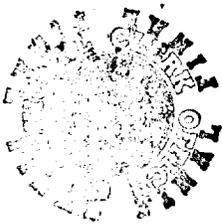


2. **Installation and Location of Meters.** As a condition precedent to installation of the water meters, all appurtenances and pipes associated with the potable water services located on the Common Elements of the Condominium must meet City specifications and design requirements. The water meters will be installed on the Common Elements of the Condominium by the City, with all costs of installation borne by the RE Sharks, LLC, in accordance with the City's specifications and requirements. The water system for the Condominium will contain individual water meters at the locations shown on Exhibit "B" attached hereto. The City agrees that each individual water meter will be read by the City or its representatives at the locations set forth on Exhibit "B" for the purposes of rendering bills to each individual town home unit renter for such renter's respective and independent water use. RE Sharks, LLC agrees that, to the extent that the City or its representatives have to enter the Common Elements to read any meter, this Agreement constitutes an easement, license and agreement by RE Sharks, LLC that the City or its representatives are authorized to enter such private property and that entry will not constitute a trespass.
3. **Representations of the Owner.** The Owner, RE Sharks, LLC represents, acknowledges and agrees to the following:
 - a. that the City or its representatives hereby have authority under this Agreement, and the easement and license contained herein, to enter the Common Elements, as private property, to read meters;
 - b. that the City's Code of Ordinances shall apply with respect to water services provided to the Complex and water infrastructure located within the Complex;
 - c. that the water services provided to the Complex are governed, in addition to the City's Code of Ordinances and applicable law, by this Agreement; and
 - d. that the Owner shall indemnify the City from all damage claims resulting from the installation, maintenance and access to the meters located on the Common Elements.
4. **"Service Connection;" Infrastructure Responsibilities.** The "service connection" location for the town home will not be located where any water meter is located. Instead, the "service connection" location will be at the point of the water system saddle tap w/valves ("Valves"), as shown on Exhibit "B," so that the City's responsibility for the public portions of the water system includes the Valves. The Owner agrees that it is entirely responsible, at its expense, for the construction, operation, maintenance and repair of all water services infrastructure located immediately after the "cutoff valve" and Meter Box and throughout the Common Elements. Further, the City's approval of the location of the individual water meters as identified as Exhibit "B" does not encompass an approval that the materials installed in the town home in the form of water services infrastructure, except for materials identified on the Exhibit as being installed per City or County requirements or regulations, are fit or appropriate for their intended use (e.g. non-standard pvc pipe, etc.).



5. **Miscellaneous:**

- a. **Binding Effect.** This Agreement will inure to the benefit of and be binding upon the Owner and the City, their legal representatives and permitted successors and assigns.
- b. **Severability.** In the event any provision in this Agreement is held by any Court of competent jurisdiction to be invalid or unenforceable, that will not effect the remainder of this Agreement, and the remaining provisions of this Agreement will continue in force and effect to the extent as would have been the case had the invalid or unenforceable provisions of this Agreement had never been a part of this Agreement.
- c. **Applicable Law.** This Agreement will be governed by and construed and enforced in accordance with the laws of the State of Georgia.
- d. **Forum Selection Clause.** The City and Owner agree that any judicial review of any claim arising under or concerning this Agreement must be brought in Fulton County, Georgia. Accordingly, the parties fix venue and jurisdiction for any claim concerning this Agreement in Fulton County, Georgia.
- e. **Ethics: Gratuities And Kickbacks.**
 - i. **Gratuities and Kickbacks.** The right of the Owner to proceed under this Agreement may be terminated if, after notice and hearing, the City determines that the Owner:
 - 1) offered or gave a gratuity or kick-back (e.g. an entertainment, fee, commission, compensation of any kind or gift) to an officer, official, or employee of the City; and
 - 2) intended, by the gratuity, to obtain a contract or favorable treatment under a contract.
 - ii. **Rights and Remedies.** The rights and remedies of the City provided in this Clause are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- f. **Contingent Fees.** The Owner warrants that it has not employed or retained any company or person, other than a bona fide employee working for it to solicit or secure this Agreement; and that Owner has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for it, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this warranty, and upon a finding after notice and hearing, the City will have the right to terminate this Agreement, and collect from the Owner the full amount of such fee, commission, percentage, gift or consideration.
- g. **Further Acts.** The Owner agrees to perform any additional acts and execute and deliver any additional documents as may reasonably be expected.



CITY:

RE SHARKS, LLC (CHATEAU DE VILLE TOWN-HOMES).

MAYOR

Name: _____
Title: _____

ATTEST:

ATTEST:

MUNICIPAL CLERK (Seal)

SECRETARY/ASSISTANT
SECRETARY (Seal)

APPROVED:

APPROVED AS TO FORM:

COMMISSIONER, DEPARTMENT OF
WATERSHED MANAGEMENT

CITY ATTORNEY

APPROVED:

RECOMMENDED:

CHIEF FINANCIAL OFFICER

CHIEF PROCUREMENT OFFICER
DEPARTMENT OF PROCUREMENT

CHIEF OPERATING OFFICER

#2
 (Do Not Write Above This Line)
04-1202

RESOLUTION BY
E. J. Marlow

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH RE SHARKS, LLC PROVIDING FOR THE NON-STANDARD LOCATION OF WATER METERS ON PRIVATE PROPERTY LOCATED IN THE CITY OF ATLANTA, FULTON COUNTY, GEORGIA, TO WHICH THE CITY PROVIDES WATER SERVICES; AND FOR OTHER PURPOSES.

ADOPTED BY

JUN 2 1 2004

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER **ADOPTED**

Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading
 Committee _____
 Date _____
 Chair _____
 Referred 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 _____
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FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED

JUN 2 1 2004

[Signature]
 COUNCIL PRESIDENT PRO TEM

CERTIFIED
 JUN 2 1 2004
Richard Benjamin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUN 3 0 2004

WITHOUT SIGNATURE
 BY OPERATION OF LAW