

#19

10-0-1466

(Do Not Write Above This Line)

AN ORDINANCE  
BY COUNCILMEMBERS ALEX WAN  
AND KWANZA HALL

AN ORDINANCE TO AUTHORIZE THE  
MAYOR OR HIS DESIGNEE, THE  
COMMISSIONER OF PUBLIC WORKS,  
TO ENTER INTO AN AGREEMENT  
WITH THE MIDTOWN IMPROVEMENT  
DISTRICT RELATING TO THE  
"MIDTOWN ATLANTA HOME BANNER"  
PROGRAM; TO WAIVE SECTIONS  
138-60(a), 138-60(a)(4), 138-60(a)(5),  
138-60(a)(7) and 138-60(a)(8) OF THE CITY  
OF ATLANTA CODE OF ORDINANCES,  
TO WAIVE OTHER CONFLICTING  
ORDINANCES; AND FOR OTHER  
PURPOSES.

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

Date Referred 08/16/10

Referred To: C. U.

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

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

Committee City Utilities  
 Date Aug. 31, 2010  
 Chair Walter A. Cuchey  
 Action  
 Fav, Adv, Hold (see rev. side)  
 Other \_\_\_\_\_  
 Members  
Madream  
Carla Smith  
H. S. H.  
 Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action  
 Fav, Adv, Hold (see rev. side)  
 Other \_\_\_\_\_  
 Members  
**ADOPTED BY**  
**SEP 07 2010**  
**COUNCIL**  
 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

- 2nd     1st & 2nd     3rd  
 Readings  
 Consent     V Vote     RC Vote

CERTIFIED

CERTIFIED  
 SEP 07 2010  
 ATLANTA CITY COUNCIL PRESIDENT  
[Signature]

CERTIFIED  
 SEP 07 2010  
 Rhonda Daughin Johnson  
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED  
 SEP 1 2010  
[Signature]  
 MAYOR



**AN ORDINANCE  
BY COUNCILMEMBERS ALEX WAN AND KWANZA HALL**

**10-0-1466**

**AN ORDINANCE TO AUTHORIZE THE MAYOR OR HIS DESIGNEE, THE COMMISSIONER OF PUBLIC WORKS, TO ENTER INTO AN AGREEMENT WITH THE MIDTOWN IMPROVEMENT DISTRICT RELATING TO THE "MIDTOWN ATLANTA HOME BANNER" PROGRAM; TO WAIVE SECTIONS 138-60(a), 138-60(a)(4), 138-60(a)(5), 138-60(a)(7) and 138-60(a)(8) OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO WAIVE OTHER CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, by Resolution designated "00-R-0317," as amended by supplemental Resolutions "01-R-0744" and "03-R-0776," the City of Atlanta activated and consented to the creation of the Midtown Improvement District (the "District"), which District acts through the Midtown Business Association, Inc. d/b/a Midtown Alliance ("Midtown Alliance"), to provide, accelerate, supplement, and enhance governmental services and facilities in the geographic area served by the District as permitted under the Atlanta Community Improvement District Act, 1991 Ga. Laws 3653, as amended; and

**WHEREAS**, the City of Atlanta has determined that the Midtown Alliance's "Midtown Atlanta Home Banner" program to place decorative, non-commercial hanging banners on light poles and other standards in various locations in Midtown Atlanta will enhance the beauty of streets and sidewalks in the portion of the City of Atlanta served by the District and thus improve the general welfare of the City's citizens, workers, and visitors; and

**WHEREAS**, the City of Atlanta has determined that the Mayor or his designee, the Commissioner of Public Works, is the appropriate City official to execute and oversee an agreement with Midtown Alliance governing the "Midtown Atlanta Home Banner" program,

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**Section 1.** The City of Atlanta agrees to participate, in cooperation and partnership with Midtown Alliance, in the "Midtown Atlanta Home Banner" program wherein Midtown Alliance will place hanging decorative banners on light poles and other standards along streets in the geographic area served by the Midtown Improvement District.

**Section 2.** The Mayor, or his designee the Commissioner of Public Works, is hereby authorized to enter into an agreement with Midtown Alliance for the operation of the "Midtown Atlanta Home Banner" program substantially in the form attached hereto as Exhibit "A."

**Section 3.** The implementation of the Midtown Atlanta Home Banner program requires a waiver of multiple provisions contained in Section 138-60 of the Atlanta Code of Ordinances

entitled "Flags, banners, signs, displays." and those provisions in Section 138-60 that are hereby waived are described as follows:

- a. Section 138-60 (a) is hereby waived to the extent that a permit is required to be issued to the Midtown Alliance under the Midtown Atlanta Home Banner Program for the placement of banners on light poles or other standards located in the public right-of-way.
- b. Section 138-60 (a)(4) is hereby waived with respect to the Midtown Atlanta Home Banner Program to the extent that said section prohibits the display of banners for no more than thirty (30) days .
- c. Section 138-60 (a)(5) is hereby waived with respect to the Midtown Atlanta Home Banner Program to the extent that said section limits the banners that may be displayed to no more than one hundred (100) days.
- d. Section 138-60 (a)(7) is hereby waived to the extent that said section requires a deposit of \$1,000.00 to be made by the Midtown Alliance under the Midtown Atlanta Home Banner Program.
- e. Section 138-60 (a)(8) is hereby waived to the extent that said section requires that any base fee or additional fees as described in said subsection shall be assessed against the Midtown Alliance under the Midtown Atlanta Home Banner Program.

**Section 4.** All ordinances or parts of ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of such conflict.

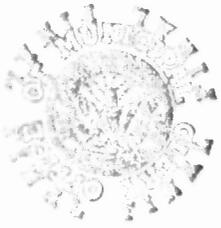
A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk

ADOPTED by the Atlanta City Council  
APPROVED by Mayor Kasim Reed

SEP 07, 2010  
SEP 14, 2010

- 
- c. Section 138-60 (a)(5) is waived with respect to the Program to the extent that said section limits the banners that may be displayed to no more than one hundred (100) days.
  - d. Section 138-60 (a)(7) is waived to the extent that said section requires a deposit of \$1,000.00 to be made by the Midtown Alliance under the Program.
  - e. Section 138-60 (a)(8) is waived to the extent that said section requires that any base fee or additional fees as described in said subsection shall be assessed against the Midtown Alliance under the Program.
2. For the purposes of this Agreement, "Home Banner" shall mean a banner designed to be attached to light poles and other standards in Midtown Atlanta that bears a design or designs approved by the Commissioner of Public Works, or his designated representative, for use on such banners.
  3. The major elements to the "Midtown Atlanta Home Banner" program are listed below:
    - a. The Program is funded entirely by Midtown Alliance, which will provide funding for the purchase, installation, and maintenance of all Home Banners and associated hardware. No City funds will be used to implement the Program.
    - b. Permanent Home Banner locations consisting of key intersections and other appropriate locations shall be identified by Midtown Alliance and approved by the Commissioner of Public Works, or his designated representative, within fifteen (15) days of the execution of this Agreement. Midtown Alliance will create a map identifying the intersections and other locations at which Type A or Type C light poles and other standards shall be designated as permanent Home Banner locations.
    - c. Midtown Alliance will place Home Banners, or cause such Home Banners to be placed, on the approved permanent Home Banner locations, and on such additional locations as may be approved from time to time by the Commissioner of Public Works or his designated representative. Home banner designs may change periodically provided all designs are approved by the Commissioner of Public Works or his designated representative.
    - d. Midtown Alliance shall be responsible for monitoring the condition of all Home Banners, and for replacing, within two business days, any Home Banners that are damaged, destroyed, stolen or lost by any means. If practical matters prevent the replacement of any Home Banners within two business days, Midtown Alliance shall notify the Commissioner of Public Works of such delay in writing as soon as possible, and shall state the reason



## **MEMORANDUM OF AGREEMENT FOR THE "MIDTOWN ATLANTA HOME BANNER" PROGRAM**

This Memorandum of Agreement (hereinafter the "**Agreement**") between the City of Atlanta (hereinafter the "**City**"), a municipal corporation of the State of Georgia, and the Midtown Business Association, Inc. d/b/a Midtown Alliance (hereinafter "**Midtown Alliance**"), a public corporation of the State of Georgia, is entered into this \_\_\_\_\_ day of August, 2010.

### **A. PURPOSE**

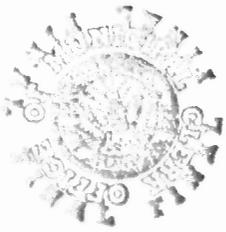
The Purpose of this Agreement is to establish and govern a program for the permanent placement of hanging decorative banners in the public right-of-way to enhance the beauty of Midtown Atlanta. This program, the "Midtown Atlanta Home Banner" Program (the "Program"), is a joint program of the City and Midtown Alliance intended to improve the general welfare of the City's citizens, workers, and visitors.

### **B. PROGRAM AREA**

The Program area shall be limited to the boundaries of the Midtown Community Improvement District which were originally established by legislation adopted by the Atlanta City Council on March 6, 2000 in Resolution No. 00-R-0317. The boundaries were subsequently expanded by the Atlanta City Council through the adoption of Resolution No. 01-R-0744 on May 21, 2001, and Resolution No. 03-R-0776 on May 19, 2003. Copies of maps depicting the original boundary area along with the two expanded areas are appended hereto as Exhibit "A". Any future expansions of the Midtown Community Improvement District are included as part of the program area at the time that said boundary expansion is approved by the City of Atlanta.

### **C. GENERAL UNDERSTANDING**

1. It is agreed and understood by Midtown Alliance that it must, at all times, comply in general with the requirements contained in Article II entitled "Encroachments" of Chapter 138 of the City of Atlanta Code of Ordinances, and further, to comply in particular (except for provisions that are waived by the City), with Section 138-60, entitled "Flags, banners, signs, displays". Those provisions of Section 138-60 that are waived by the City for the purposes of this program are as follows:
  - a. Section 138-60 (a) is waived to the extent that a permit is required to be issued to the Midtown Alliance under the Program for the placement of banners on light poles or other standards located in the public right-of-way.
  - b. Section 138-60 (a)(4) is waived with respect to the Program to the extent that said section prohibits the display of banners for no more than thirty (30) days .



for such delay, as well as the anticipated date by which all Home Banners will be replaced.

- e. Midtown Alliance shall coordinate the installation and removal of all Home Banners using a contractor approved in writing by the Commissioner of Public Works or his designated representative.
  - f. No City agency may use any City personnel or any City Equipment to install or to aid in the installation of any Home Banners along the city right-of-way associated with this Program.
  - g. Midtown Alliance shall be permitted to install and display Home Banners on poles and light standards not equipped with existing brackets upon approval of the Commissioner of Public Works or his designated representative.
  - h. Midtown Alliance may install and display at its own cost additional Home Banners at authorized locations in support of special events, either at its own discretion, or at the request of the Mayor or the Commissioner of Public Works.
4. The Commissioner of Public Works or his designated representative shall require any person or entity granted a permit for the installation of special event banners on designated Permanent Home Banner locations to pay for removal, storage, and reinstallation of any permanent Home Banners removed from such locations. Such payment shall be made through an agreement between the person or entity sponsoring the special event and the city approved contractor who shall be responsible for removing the Home Banners, installing the special event banners, storing the Home Banners, removing the special event banners, and reinstalling the Home Banners.
  5. Midtown Alliance agrees to indemnify and hold the city, its officers, agents, and employees harmless from any and all claims arising out of the placement of, maintenance of, use of, or removal of Home Banners, including claims of Home Banners or brackets falling on persons or property, except for such claims arising out of work associated with paragraph C. 3. above.
  6. The Commissioner of Public Works shall have the authority to rescind this Agreement upon a written determination that Midtown Alliance has failed to substantially comply with the conditions of this Agreement; provided, that the Commissioner of Public Works shall first provide written notice containing such determination to Midtown Alliance, and allow ten (10) business days from receipt of such notice for Midtown Alliance to demonstrate substantial compliance with all the conditions of this Agreement.
  7. The Commissioner of Public Works, in addition to the provisions contained in Paragraph 6 set out immediately above, shall have the authority to rescind this Agreement upon a written determination that removal is required to maintain the health, safety, or welfare of the public or to improve or maintain the public right-of-way for transportation uses; provided, that the Commissioner of Public Works shall first provide written notice containing such



determination to Midtown Alliance, and allow ten (10) business days from receipt of such notice for Midtown Alliance to remove all banners installed under the Program, at Midtown Alliance's expense.

- 8. The Program will be renewed on an annual basis as long as both parties agree, and adequate funding is available. Upon termination of the Program, regardless of the circumstances, Midtown Alliance agrees to remove all Home Banners within ten (10) business days, at Midtown Alliance's expense.
- 9. In consideration of Midtown Alliance's ongoing commitment to fund the Home Banner Program, and as set out at Paragraph C. 1. above, no permits shall be required and no fees will be assessed by the City to Midtown Alliance for this Program. However, any damage to light poles or other standards as a direct result of the Program will be the responsibility of Midtown Alliance.
- 10. Any amendment, change, or modification to this Agreement must be agreed to in writing by both parties.
- 11. The Effective Date of this Agreement shall be the date first noted above.
- 12. Each party represents and warrants that it has the authority to enter into this Agreement and that its governing body has authorized, by proper action, the execution and delivery of this agreement.

**MIDTOWN BUSINESS ASSOCIATION, INC. d/b/a  
MIDTOWN ALLIANCE**

**CITY OF ATLANTA  
DEPARTMENT OF PUBLIC WORKS**

\_\_\_\_\_  
Susan Mendheim  
President and CEO  
Midtown Alliance

\_\_\_\_\_  
Richard Mendoza, P.E.  
Commissioner of Public Works  
City of Atlanta

Date \_\_\_\_\_

Date \_\_\_\_\_

RCS# 523  
9/07/10  
2:48 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

10-R-1577

ADOPT EXCEPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 4  
EXCUSED: 0  
ABSENT 0

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

CONSENT I

ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	<b>09-07-10</b> ITEMS ADVERSED ON CONSENT
1. 10-O-1464 2. 10-O-1470 3. 10-O-1397 4. 10-O-1398 5. 10-O-1465 6. 10-O-1467 7. 10-O-1373 8. 10-R-1462 9. 10-R-1463 10. 10-R-1480 11. 10-R-1481 12. 10-R-1482 13. 10-R-1483 14. 10-R-1484 15. 10-R-1485 16. 10-R-1558 17. 10-R-1559 18. 10-R-1560 19. 10-R-1561 20. 10-R-1562 21. 10-R-1563 22. 10-R-1564 23. 10-R-1565 24. 10-R-1568 25. 10-R-1537 26. 10-R-1538 27. 10-R-1539 28. 10-R-1540 29. 10-R-1543 30. 10-R-1544 31. 10-R-1545 32. 10-R-1546 33. 10-R-1547 34. 10-R-1548 35. 10-R-1549 36. 10-R-1551 37. 10-R-1578	38. 10-R-1579 39. 10-R-1580 40. 10-R-1581 41. 10-R-1374 42. 10-R-1491 43. 10-R-1492 44. 10-R-1493 45. 10-R-1494 46. 10-R-1495 47. 10-R-1496 48. 10-R-1497 49. 10-R-1498 50. 10-R-1499 51. 10-R-1500 52. 10-R-1501 53. 10-R-1502 54. 10-R-1503 55. 10-R-1504 56. 10-R-1505 57. 10-R-1506 58. 10-R-1541	59. 10-R-1507 60. 10-R-1508 61. 10-R-1509 62. 10-R-1510 63. 10-R-1511 64. 10-R-1512 65. 10-R-1513 66. 10-R-1514 67. 10-R-1515 68. 10-R-1516 69. 10-R-1517 70. 10-R-1518 71. 10-R-1519 72. 10-R-1520 73. 10-R-1521 74. 10-R-1522 75. 10-R-1523 76. 10-R-1524 77. 10-R-1525 78. 10-R-1526 79. 10-R-1527 80. 10-R-1528 81. 10-R-1529 82. 10-R-1530 83. 10-R-1531 84. 10-R-1532 85. 10-R-1533 86. 10-R-1534 87. 10-R-1571 88. 10-R-1572