

11-R-1374

(Do Not Write Above This Line)

A RESOLUTION BY
COMMUNITY
DEVELOPMENT/HUMAN
RESOURCES COMMITTEE

A RESOLUTION AUTHORIZING
THE MAYOR, OR HIS DESIGNEE,
TO EXECUTE A LICENSE
AGREEMENT WITH THE
HOUSING AUTHORITY OF THE
CITY OF ATLANTA, GEORGIA
TO ACCESS, USE AND MAINTAIN
PROPERTY OWNED BY THE
HOUSING AUTHORITY OF THE
CITY OF ATLANTA GEORGIA
ABUTTING SELENA S. BUTLER
PARK; AND FOR OTHER
PURPOSES.

ADOPTED BY

OCT 03 2011

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd 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
CP/HR

Date
9/22/11

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:
Subst on Condit

Members

Walter Anderson

Robert S. Smith

Johnnie B. Johnson

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:

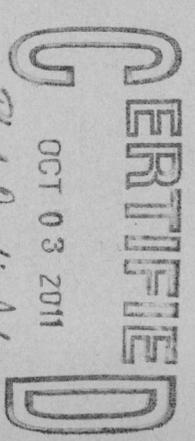
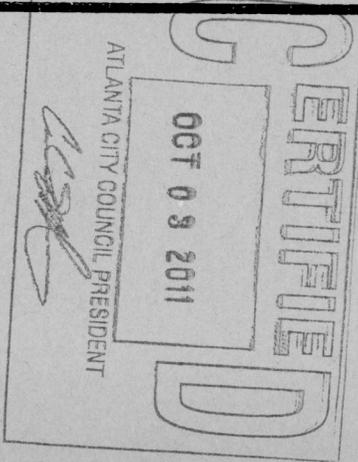
Members

Refer To

FINAL COUNCIL ACTION

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

CERTIFIED



MAYOR'S ACTION

APPROVED

OCT 12 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW



**A SUBSTITUTE RESOLUTION BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

11-R-1374

A SUBSTITUTE RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE A LICENSE AGREEMENT WITH THE HOUSING AUTHORITY OF THE CITY OF ATLANTA GEORGIA TO ACCESS, USE AND MAINTAIN PROPERTY OWNED BY THE HOUSING AUTHORITY OF THE CITY OF ATLANTA GEORGIA ABUTTING SELENA S. BUTLER PARK; AND FOR OTHER PURPOSES.

WHEREAS, The Housing Authority of the City of Atlanta (“Owner”) owns real property located in Land Lot 45 of the 14th District of Fulton County, Atlanta, Georgia consisting of 4.2262 acres as described in Exhibit A attached (“Property”); and

WHEREAS, a portion of the Property abuts City of Atlanta (the “City”) Selena S. Butler Park (the “Park”); and

WHEREAS, due to certain fencing on the Property a portion of the Property, consisting of an irregular rectangle of approximately 225’ by 50’ in size as described in Exhibit B attached (the “Licensed Area”) is incorporated into the Park; and

WHEREAS, the City desires to perform certain landscaping and other park-related improvements on the Licensed Area; and

WHEREAS, Owner desires to allow the City to access, use and maintain the Licensed Area; and

WHEREAS, Owner and City desire to enter into an agreement for maintenance, use and access of the Licensed Area (“License Agreement”).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor, or his designee, is authorized to enter into the License Agreement attached hereto as Exhibit C with Owner allowing the City to access, maintain and use the Licensed Area.

BE IT FINALLY RESOLVED, that the License Agreement will become binding upon the City and the City shall incur no obligation or liability thereunder until the agreement has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk and delivered to Owner.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk

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

OCT 03, 2011
OCT 12, 2011



EXHIBIT C
Revised

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "License") is made and entered into as of the ___ day of October, 2011, by and between **The Housing Authority of the City of Atlanta, Georgia** ("Owner"), a public body corporate and politic organized under the Housing Authorities Law of the State of Georgia, and the **City of Atlanta** ("Licensee").

RECITALS

- A. Owner owns certain real property located in Land Lot 45 of the 14th District of Fulton County, City of Atlanta, Georgia, consisting of 4.2262 acres, more or less, and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Antoine Graves Property") and shown on the survey attached hereto as Exhibit B and incorporated herein by reference. A portion of the northerly boundary of the Antoine Graves Property abuts certain property owned by Licensee and commonly known as Selena S. Butler Park, all as more particularly shown on the survey detail attached hereto as Exhibit C and incorporated herein by reference;
- B. By reason of the location of certain fencing on the Antoine Graves Property, it appears as though a portion of that property, consisting of an irregular rectangle approximately 225' by 50' in size (such portion being shown by cross-hatching on Exhibit B and hereinafter referred to as the "License Area"), is incorporated into Butler Park, and certain landscaping and other park-related improvements encroach onto and/or have been installed within the License Area.
- C. Licensee acknowledges that it does not own the License Area. Owner wishes to retain ownership of the Antoine Graves Property, including the License Area, but is willing to grant Licensee a license to use the License Area, on the terms and conditions set forth below, to continue to maintain and use such improvements and the License Area as an expansion of Butler Park. Licensee desires to receive such grant of a license.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of License; Conditions of Use.

- (a) Grant. From the date hereof until this License terminates as hereinafter provided, and subject to the terms and conditions set forth in Section 1(b) below, Owner hereby grants to Licensee a license (the "License") to continue to maintain and use the License Area as a landscaped, passive portion of Butler Park. Licensee, at Licensee's sole cost and expense, shall have the right to enter upon and to cause its employees, contractors, agents and representatives to enter upon the License Area for purposes of maintaining, accessing and utilizing the License Area solely for such purpose.



(b) Conditions of Use. Licensee's rights pursuant to Section 1(a) above, and its use of the License, are expressly conditioned upon, and subject to, the following:

(i) To the extent permitted by law, Licensee shall indemnify, defend and hold harmless Owner, its successors and assigns in ownership of the Antoine Graves Property from and against all liability, loss, costs, damage or expense (including reasonable attorney's fees) (individually and collectively, "Costs") which Owner may sustain by reason of any activity of Licensee, its contractors, agents and representatives upon the Antoine Graves Property. Licensee acknowledges and agrees that Owner shall have no duty whatsoever to maintain License Area during the term of this License;

(ii) The License may be terminated by either party (and, in such event, Licensee's rights pursuant to this License shall terminate) upon not less than forty-five (45) days' prior written notice from one party (the "terminating party") to the other of the terminating party's intent to terminate the License;

(iii) This License is granted on the following express conditions: (A) members of the public shall be permitted to utilize Butler Park without charge within the meaning of the Georgia Recreational Property Act, O.C.G.A. 51-3-20 et seq.; and (B) the parties acknowledge and agree that the License is not an interest in real property, and under no circumstances shall Owner's decision to grant the License be construed as its intent to dedicate the License Area to the public for park use; moreover, Licensee shall neither act nor refrain from acting in such a manner as to suggest or imply that the License Area is to be dedicated to the public as a park or for any other purpose.

(iv) Licensee shall pay for the cost of any work performed at the Antoine Graves Property by Licensee, its employees, contractors, agents and representatives, and shall not permit any mechanics' or materialmen's liens to stand against the Antoine Graves Property or any portion thereof by reason of any such work.

2. Miscellaneous.

(a) Entire Agreement - No Oral Modifications. This License and the exhibits hereto constitute the final and complete agreement, and supersede any and all prior correspondence, memoranda or agreements between the parties relating to the subject matter hereof. This License cannot be changed or modified other than by a written agreement executed by both parties.

(b) Successors Bound. The provisions of this License shall extend to, bind and inure to the benefit of Owner, Licensee, and their respective successors and assigns.

(c) Governing Law. This License shall be governed by and construed in accordance with the laws of the State of Georgia.



(d) Counterparts. This License may be executed in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Legible fax copies and photocopies of documents signed by either party are deemed to be equivalent to originals.

(e) Captions. The captions of this License are inserted solely for convenience of reference only and do not define, describe or limit the scope or intent of this License or any term hereof.

(f) Exhibits. All exhibits attached hereto are hereby incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have entered into this License as of the day and year first set forth above.

Signed, sealed and delivered in the presence of:

OWNER:

The Housing Authority of the City of Atlanta, Georgia

Witness

By: _____
Its: President and Chief Executive Officer

Notary Public

Attest: _____
Its: Assistant Secretary

My Commission Expires:

[CORPORATE SEAL]

[NOTARIAL SEAL]



Signed, sealed and delivered in the

presence of:

Witness

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

LICENSEE:

The City of Atlanta, Georgia

By: _____

Its:

Attest: _____

Its:

[CORPORATE SEAL]



Exhibit A

Legal Description of the Antoine Graves Property

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 45 OF THE 14TH DISTRICT OF FULTON COUNTY, (CITY OF ATLANTA) GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" REBAR FOUND AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE (APPARENT 50 FOOT TOTAL RIGHT OF WAY WIDTH) AND THE NORTHERLY RIGHT OF WAY LINE OF DECATUR STREET (RIGHT OF WAY WIDTH VARIES);

THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE, NORTH 14 DEGREES 32 MINUTES 38 SECONDS WEST, 110.00 FEET TO A 1/2" REBAR AND SURVEYOR'S CAP SET (STAMPED "SEILER #2388) AT THE INTERSECTION OF SAID WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE AND THE NORTHERLY LINE OF AN UNNAMED 10 FOOT ALLEY, SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE AND ALONG SAID NORTHERLY LINE OF SAID UNNAMED 10 FOOT ALLEY, SOUTH 79 DEGREES 11 MINUTES 32 SECONDS WEST, 507.04 FEET TO A 1/2" REBAR AND SURVEYOR'S CAP SET (STAMPED "SEILER #2388) ON THE EASTERLY RIGHT OF WAY LINE OF HILLIARD STREET (APPARENT 46 FOOT TOTAL RIGHT OF WAY WIDTH);

THENCE LEAVING SAID NORTHERLY LINE OF AN UNNAMED 10 FOOT ALLEY AND ALONG SAID EASTERLY RIGHT OF WAY LINE OF HILLIARD STREET, NORTH 00 DEGREES 38 MINUTES 35 SECONDS EAST, 863.93 FEET TO A 1/2" REBAR AND SURVEYOR'S CAP SET (STAMPED "SEILER #2388);

THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE OF HILLIARD STREET, SOUTH 88 DEGREES 41 MINUTES 33 SECONDS EAST, 192.30 FEET TO 1/2" REBAR AND SURVEYOR'S CAP SET (STAMPED "SEILER #2388);

THENCE SOUTH 10 DEGREES 33 MINUTES 21 SECONDS EAST, 95.50 FEET TO A HOLE IN TOP OF A ROCK WALL FOUND;

THENCE SOUTH 01 DEGREES 37 MINUTES 47 SECONDS EAST, 295.95 FEET TO A 1/2" REBAR FOUND ON THE NORTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE (AKA PITTMAN'S ALLEY, 20 FOOT TOTAL RIGHT OF WAY WIDTH);

THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE NORTH 87 DEGREES 30 MINUTES 08 SECONDS WEST, 2.13 FEET TO A PK-NAIL SET IN CONCRETE AT THE WESTERLY TERMINUS OF SAID NORTHERLY RIGHT OF WAY LINE;

THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE AND ALONG SAID WESTERLY TERMINUS, SOUTH 02 DEGREES 11 MINUTES 04 SECONDS WEST, 20.00 FEET TO A PK-NAIL SET IN CONCRETE AT THE WESTERLY TERMINUS OF THE SOUTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE, SOUTH 87 DEGREES 30 MINUTES 08 SECONDS EAST, 2.07 FEET TO A PK-NAIL SET IN CONCRETE;

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE, SOUTH 87 DEGREES 48 MINUTES 56 SECONDS EAST, 235.61 FEET TO A 1/2" REBAR AND SURVEYOR'S CAP SET (STAMPED "SEILER 2388") AT THE INTERSECTION OF SAID SOUTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE AND THE WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE;

THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE OF PITTMAN PLACE AND ALONG SAID WESTERLY RIGHT OF WAY LINE OF WILLIAM HOLMES BORDERS, SR. DRIVE, SOUTH 14 DEGREES 32 MINUTES 38 SECONDS EAST, 150.57 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINING 4.2262 ACRES (184,092 SQUARE FEET).



Exhibit B

**Survey of the Antoine Graves Property,
with License Area Shown by Cross-Hatching**



Exhibit C

Survey of the Selena S. Butler Park Property

RCS# 1466
10/03/11
3:15 PM

Atlanta City Council

REGULAR SESSION

11-R-1374

EXECUTE AGREEMENT W/ AHA FOR USE OF
PROPERTY ABUTTING SELENA S. BUTLER PARK
ADOPT SUBST

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 0

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

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