

12-0-0084
 (Do Not Write Above This Line)

AN ORDINANCE BY
 COUNCILMEMBER ALEX WAN

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE PEDMONT PARK CONSERVANCY; TO WAIVE SECTION 110-3 (D) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA; AND TO AUTHORIZE THE CITY TO REIMBURSE THE PEDMONT PARK CONSERVANCY FOR SANITATION SERVICES TO BE CHARGED TO AND PAID FROM FUND, DEPARTMENT, ORGANIZATION AND ACCOUNT NUMBERS: 1001 (GENERAL FUND) 140206 (PRC PARK MAINTENANCE-NE) 5212001
 (CONSULTING/PROFESSIONAL) 6220000 (PARK AREAS) AND 7701 (TRUST FUND) 140106 (PRC PARKS DESIGN) 5212001
 (CONSULTING/PROFESSIONAL) 6220000 (PARK AREAS) 600023 (PEDMONT PARK RESTAURANT) 69999 (FUNDING SOURCE FOR NON CA); AND FOR OTHER PURPOSES.

Substituted ADOPTED BY

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

Date Referred: 1/17/12

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee CD/HR
 Date 1/23/12
 Chair Jennifer Hooper

Action Fav, Adv, Hold (see rev. side) *substituted on condition*

Members *Chad Spivey*

Refer To _____

Committee _____
 Date _____
 Chair _____

Action Fav, Adv, Hold (see rev. side)

Members

Refer To _____

Committee _____
 Date _____

Chair _____

Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Committee _____
 Date _____

Chair _____

Action Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Refer To _____

Refer To _____

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

CERTIFIED

CERTIFIED
 FEB 06 2012
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 FEB 06 2012
Rachel Douglas Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

FEB 15 2012

WITHOUT SIGNATURE
 BY OPERATION OF LAW



**AN ORDINANCE
BY COUNCILMEMBER ALEX WAN
AS SUBSTITUTED BY FULL COUNCIL**

A SUBSTITUTE ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE PIEDMONT PARK CONSERVANCY; TO WAIVE SECTION 110-3 (I) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA; AND TO AUTHORIZE THE CITY TO REIMBURSE THE PIEDMONT PARK CONSERVANCY FOR SANITATION SERVICES TO BE CHARGED TO AND PAID FROM FUND, DEPARTMENT, ORGANIZATION AND ACCOUNT NUMBERS: 1001 (GENERAL FUND) 140206 (PRC PARK MAINTENANCE-NE) 5212001 (CONSULTING/PROFESSIONAL) 6220000 (PARK AREAS); AND FOR OTHER PURPOSES.

WHEREAS, the Piedmont Park Conservancy (“PPC”) is a 501 (c)(3) non-profit organization dedicated to the preservation and restoration of Piedmont Park located in Atlanta, Georgia (the “Park”), to the benefit of both the citizens of Atlanta and its many visitors; and

WHEREAS, though the City of Atlanta (“City”) desires to assist PPC with its mission of developing, enhancing, rehabilitating and maintaining the Park, it does not currently have the resources to provide these services to the extent desired by PPC; and

WHEREAS, the City and PPC have created a cooperative collaboration with each other for the purpose of preserving, restoring, developing, enhancing, rehabilitating, operating and maintaining the Park. The terms of this collaboration have been set forth in formal agreements dating back to 1992. Most recently, the details, terms and conditions of the relationship are set forth in a Memorandum of Understanding dated May 18, 2006, authorized by Ordinance 06-O-0287, adopted by the City Council on February 20, 2006 and approved by the Mayor on February 28, 2006. Pursuant to the 2006 Memorandum of Understanding, PPC has the right to raise funds for the benefit of Piedmont Park and has in fact raised more than \$66 million in private funds to date, and oversees a significant majority of Piedmont Park’s daily operation, maintenance and care; and

WHEREAS, the City wishes to facilitate PPC’s work on the Park by creating a new cooperative relationship with PPC, as PPC is providing a valuable service to the City; and

WHEREAS, in order to provide the services it performs regarding the Park, PPC must raise a significant amount of funds. PPC desires to continue operating concessions sales in the Park (“Concessions Program”) as a means of fundraising. Fifty percent of the net revenues from the Concessions Program shall be retained by PPC for park improvements and maintenance. The remaining fifty percent of the net revenues shall be provided to the Department of Parks, Recreation and Cultural Affairs (“DPRCA”) to be deposited into a trust fund. The City shall not profit from this revenue, but rather shall utilize the revenue for park maintenance and improvements at parks throughout the City for which no conservancy is present; and



WHEREAS, section 110-3(i) of the Code of Ordinances of the City of Atlanta, Georgia, establishes a fee for vending within City parks of \$2,000 per month for weekends and \$2,000 per month for weekdays and also does not allow vending in the Park; and

WHEREAS, given that the mission of PPC is to improve and maintain the Park, given that the cost of PPC's work of improving and maintaining the park is high, and given the important of the concessions fundraising to enabling PPC to fulfill its mission, it is in the best interest of the City to allow PPC to obtain a new vending permit(s) for its Concessions Program. Additionally, given that fifty percent of PPC's Concessions Program net revenue will benefit PPC and consequently the Park, and given that fifty percent of PPC's Concessions Program net revenue will be given back to DPRCA, it is in the best interest of the City to maximize said net revenue by waiving the parks vending fee; and

WHEREAS, the Park requires certain sanitation and security services and under the circumstances it is in the City's best interest to have PPC provide these services, the City intends to reimburse PPC in an amount not to exceed thirty-four thousand dollars for sanitation and an amount not to exceed one hundred and ten thousand dollars for security services per year; and

WHEREAS, PPC raised funds to purchase and install sixty-five decorative, historic lighting fixtures through the Park, and each light fixture is equipped to hold two banners hanging side by side. The Atlanta City Council has previously permitted PPC to use these light fixtures to implement a banner program, whereby in 2004, PPC showed its appreciation of donors of \$100,000.00 or more by hanging banners with the donor's logo from the light fixtures. PPC would like to implement this program in the future. The City would also like to show its appreciation of such donors and finds that the banner program is in the best interest of the City; and

WHEREAS, it is in the best interest of the City to enter into a new Memorandum of Understanding ("MOU") with PPC to define the cooperative relationship between the two parties, and to establish the role and obligations of each party in that relationship.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

SECTION 1: The Mayor is hereby authorized, on behalf of the City, to enter into an MOU with the Piedmont Park Conservancy regarding the roles and obligations of each of the two parties in the development, maintenance, and enhancement of the Park in substantially similar form as attached hereto as Exhibit A. Said MOU shall at a minimum provide the following:

- (a) The MOU shall make clear that the City owns the Park and shall have authority to make all final decisions regarding the Park, but shall exercise its authority in the spirit of good faith cooperation with PPC.
- (b) The MOU shall provide PPC with the authority and the responsibility to develop, maintain, and enhance the Park in a manner consistent with the MOU.



- (c) The MOU shall provide PPC with the authority and primary responsibility for raising additional funds for the Park, and for overseeing the use of the funds it raises, making certain that the funds are utilized consistent with the MOU. Said fundraising efforts may include without limitation, operation of the Concessions Program and management and operation of a banner program in the Park that recognizes large donors.
- (d) The MOU shall have a term of five years with an option of one five-year renewal upon mutual agreement of the parties.

SECTION 2: To the extent that PPC is donating time and resources to the City, the City hereby accepts the donation.

SECTION 3: Section 110-3(i) of the Code of Ordinances of Atlanta, Georgia is hereby waived such that PPC is authorized to receive vending permit(s) for its Concessions Program for locations of the Park designated in the MOU, provided that PPC meets all of the criteria set forth in Atlanta Code of Ordinances section 30-1401 through 30-1460, entitled "Vending on Public Property", as may be amended and re-codified from time to time. PPC shall be permitted to operate its Concessions Program without paying a vending fee. Fifty percent of the net revenues from the Concessions Program shall be retained by PPC for park improvements and maintenance, and fifty percent of the net revenues from the Concessions Program shall be provided to the Department of Parks, Recreation and Cultural Affairs to be deposited into a trust fund to be utilized for park maintenance and improvements at parks throughout the City for which no conservancy is present.

SECTION 4: PPC is authorized to provide sanitation and security services in the Park and the City is authorized to reimburse PPC in an amount not to exceed thirty-four thousand dollars for sanitation and an amount not to exceed one hundred and ten thousand dollars for security services per year.

SECTION 5: All work shall be charged to and paid from Fund, Department, Organization and Account Number: 1001 (General Fund) 140206 (PRC Park Maintenance-NE) 5212001 (Consulting/ Professional) 6220000 (Park Areas).

SECTION 6: The City Attorney, or her designee, is hereby directed to prepare the MOU for execution by the Mayor, and the MOU shall be approved as to form by the City Attorney, or her designee.

SECTION 7: The MOU shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been executed by the Mayor and delivered to PPC.

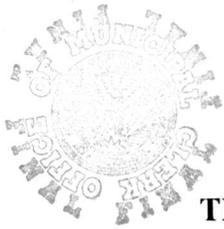
SECTION 8: All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of this Ordinance only, and only to the extent of the conflict.

A true copy,

Deputy Municipal Clerk

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

Feb. 06, 2012
Feb. 15, 2012



**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF ATLANTA AND THE PIEDMONT PARK CONSERVANCY, INC.**

This Memorandum of Understanding (“MOU”), dated this ____ day of _____, 2012, is between the City of Atlanta (“City”) and the Piedmont Park Conservancy, Inc. (“PPC”) (collectively, “the Parties”).

WHEREAS, PPC is a charitable non-profit organization dedicated to enhancing and preserving Piedmont Park in Atlanta, Georgia as a vital urban green space and as a cultural and recreational resource that enhances the quality of life for residents and guests of the City; and

WHEREAS, the real property comprising Piedmont Park (including the Active Oval and the Green Sward, but excluding the real property comprising the North Woods Expansion, that is dedicated property of the Department of Watershed Management and is also being utilized for park purposes) is owned by the City. Such City-owned real property is more particularly described on Exhibit A attached hereto and made a part hereof (the “*Park*”); and

WHEREAS, the City and PPC have created a cooperative collaboration with each other for the purpose of preserving, restoring, developing, enhancing, rehabilitating, operating and maintaining the Park. The terms of this collaboration have been set forth in formal agreements dating back to 1992. Pursuant to those agreements dating back to 1992, PPC (i) has the right to raise funds for the benefit of Piedmont Park and has, in fact, raised more than \$66 million in private funds to date, and (ii) oversees a significant majority of Piedmont Park’s daily operation, maintenance and care; and

WHEREAS, the City wishes to continue its relationship with PPC and facilitate PPC’s work at the Park by creating a new cooperative relationship with PPC, as PPC provides valuable services to the City; and

WHEREAS, this MOU was authorized by Resolution [____], adopted by the City Council on [____], and approved by the Mayor on [____].

NOW, THEREFORE, in consideration of the mutual promises presented herein, the expenditures in the past and future in furtherance of these purposes and other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:



I. General Agreements: Role of Each Party in Working Relationship

The following is a list of agreements regarding the basic roles of the City and PPC in their working relationship established by this MOU.

- A. The City shall maintain ownership of the Park.
- B. The City shall maintain its authority to make all final decisions regarding the Park, but shall exercise this authority in the spirit of good faith cooperation with the PPC.
- C. There currently exists a Piedmont Park Master Plan and Piedmont Park Technical Document, adopted and approved by the City in January 1996. In addition, the City adopted and approved an amendment to the Piedmont Park Master Plan entitled the Master Plan for Piedmont Park - North Woods. This North Woods Master Plan Amendment was approved and adopted by the City in December 2005 attached hereto as **Exhibit B**. In the event that the PPC wishes to make significant changes to the amended Piedmont Park Master Plan, as determined by the Commissioner in her/his sole discretion, it shall prepare a new master plan for the Park that shall include, but not be limited to, Park specifications, a blueprint for capital improvements, landscape details, and objectives for programming within the Park. In order to replace the current Master Plan with a new master plan, the PPC must comply with the City's review and approval process for park master plans, said process to be established by the Commissioner. The City's review and approval process shall include, but not be limited to, a presentation by the PPC to the local Neighborhood Planning Unit for its review and comment, submission to and consideration by other City Neighborhood Planning Units if applicable, the review and comment by the Urban Design Commission, and approval by the Atlanta City Council and Mayor. A new master plan shall not be deemed final, nor shall it be implemented, until after the PPC has successfully completed the master plan review and approval process. As used in this MOU, "Master Plan" shall refer to the Park master plan that is in effect at the time that this Agreement is being interpreted, and specifically either the Park Master Plan dated January 1996 as amended by the Master Plan for Piedmont Park - North Woods in December 2005, or any new Park master plan that has been approved as set forth in this MOU.
- D. All City decisions regarding the Park that arise from this MOU or the Master Plan (i) shall be made by the Commissioner of the Department of Parks, Recreation and Cultural Affairs, (the "Commissioner") or her/his designee, unless the Commissioner, the City Attorney, the Atlanta Mayor or the Atlanta City Council determines that the decision should be made in some other manner and (ii) shall be communicated in writing to the PPC.



- E. The City and PPC shall operate, develop, maintain, and manage the Park together, in good faith cooperation, consistent with the Master Plan and the MOU.
- F. Project proposals and implementation plans for improvements and other initiatives in the Park shall be prepared by the PPC, based on available and anticipated funds and the Master Plan. The PPC shall comply with the City's review and approval process for park projects, improvements and initiatives, said process to be established by the Commissioner. The PPC shall be responsible for determining any and all other governmental bodies and/or regulatory agencies from which approval must be obtained. The PPC shall not begin work on these projects, improvements or other initiatives until it has successfully completed the City's review and approval process, and it has received written approval from any other governmental body or regulatory agency from which approval is required.
- G. The PPC shall be responsible for implementing the projects, improvements or other initiatives that have been approved as set forth herein.
- H. When a decision regarding the Park is to be made solely by the Commissioner, the Commissioner shall review, provide feedback on, and if appropriate, provide approval of any and all submissions by the PPC within thirty days of receipt thereof. In the event that the approval process requires more than Commissioner approval, this thirty day time limit shall not apply but the City will not unduly delay approval.
- I. The City shall have the right to oversee all work performed upon the Park, including but not limited to projects, construction of capital improvements, landscaping, and other initiatives. Though the City has the right to oversee all work being performed at the Park by or on behalf of the PPC, it is not obligated to do so. In addition, though the City has the right to suspend a Park project being performed by or on behalf of the PPC if the project creates a safety hazard, it is not obligated to inspect the work to determine if a safety hazard exists, and shall not be deemed liable by the PPC in the event that the City does not detect a safety hazard. The quality and safety of the work performed by or on behalf of the PPC is the responsibility of the PPC and not the City.
- J. PPC shall remain the Park's primary fundraising agent and may conduct certain operations and/or capital campaigns during the term of this MOU in furtherance of its support of the Park.
- K. PPC may operate donor and sponsor recognition programs in the Park in an effort to encourage donors and sponsors for the Park's continued care,



maintenance, operation and programming. Such efforts include donor recognition in connection with capital improvements, a banner program sponsorship recognition in connection with any and all events, and programs which PPC is entitled to hold or conduct under the terms of this MOU.

- L. For purposes of this MOU, large donors are individuals or entities who have contributed \$25,000 or more annually to operating campaigns or \$100,000 or more to a capital campaign undertaken by PPC. An individual or entity that provides funding to PPC at a level of \$25,000 or more to the annual operating campaign shall receive the right to a minimum of thirty (30) banners on fifteen poles for thirty (30) days. PPC shall have the right to provide additional number of banners to individuals or entities that contribute larger amounts; provided however, that donors of equal contributions shall be afforded the same number of banners and time. All funds generated by the banner program shall be retained by PPC and shall be retained by PPC to be applied to operating expenses and/or for capital improvements in the Park. All banners will have a uniform look except for sponsor logos. PPC shall be responsible for the fabrication, installation and care of banners and the banner's replacement if necessary. PPC shall repair and replace any light poles damaged as a result of installing ore removing banners as a part of PPC banner program. In the event that PPC chooses to implement this program, it may not deny the participation of any donor that meets the herein described criteria. For the purposes of this banner program and based upon their level of contribution to the Park, the City and PPC shall be considered a large donor. The City and PPC shall be permitted to hang banners regarding City or PPC programs being held in the Park and the City and PPC will be exempt from the minimum sponsorship levels set forth above. PPC shall be responsible for paying the costs of fabricating, installing repairing and replacing its own banners. The City shall have the responsibility to fabricate, repair and replace its own banners. In the event that the City does not fabricate, repair and replace its own banners, PPC shall provide said services to the City and shall charge the City an amount that does not exceed the dollar amount for the services paid by PPC. PPC shall be responsible for installing or having installed the City's banners and shall charge the City an amount that does not exceed the dollar amount for installation paid by PPC.
- M. PPC shall have the primary responsibility to raise additional funds for the Park and will oversee the use of the funds it raises making certain that the funds are utilized consistent with the Master Plan and this MOU. In connection with those fund raising efforts, PPC shall be entitled, upon prior written approval from the Commissioner, to place the names of donors on banners (consistent with this MOU) and on equipment that is



part of a facility and shall also be entitled to install donor recognition plaques of reasonable size at discreet locations in any of facilities consistent with past practice and PPC shall be entitled to sell “bricks”, as part of its implementation of the Northwoods Master Plan (in a manner similar to the “bricks” program at Centennial Olympic Park), and PPC shall be entitled to retain all revenues to be applied to capital improvement projects or Park operating expenses. In the event that a private sponsor requests recognition for the contribution in the form of site signs or other notice to the public, PPC is not authorized to agree to such recognition unless and until receiving approval from the Commissioner.

- N. In addition to the above-referenced campaigns, PPC may also establish an endowment of which the corpus will remain with PPC and shall not pass to the City upon termination or expiration of this MOU for any reason. The corpus and all income from the endowment will be exclusively for the use of PPC in connection with its mission and purpose.
- O. Other parties may contribute to the improvement of the Park, as long as all gifts are in conformance with the Master Plan, are subject to PPC review, and are subject to City approval and oversight.
- P. The City shall be responsible for any claim, damage, loss or expense arising from the Park that is attributable to intentional or negligent acts, errors, or omissions by the City, its consultants/contractors or their officers, agents or employees, or, its consultants’/contractors’ subconsultants/subcontractors, or their officers, agent or employees. PPC shall be responsible for any claim, damage, loss or expense arising from the Park that is attributable to intentional or negligent acts, errors, or omissions by the PPC, its consultants/contractors or their officers, agents or employees, or, its consultants’/contractors’ subconsultants/subcontractors, or their officers, agent or employees. Neither this MOU, nor this provision specifically, shall waive the City’s nor the PPC’s right to be indemnified, defended and/or held harmless by consultants, contractors, their subconsultants and/or subcontractors, the officers, agents or employees of those companies, or anyone else performing work at or related to the Park.
- Q. Any personnel employed by or volunteering on behalf of PPC shall be deemed “employees” or “volunteers” respectively of PPC, and shall not be deemed employees or volunteers of the City. PPC shall remain responsible for the supervision, management and control of such employees and volunteers and any payroll, taxation or other employment obligation incident to their work. Any personnel employed by or volunteering on behalf of the City shall be deemed “employees” or



“volunteers” respectively of the City, and shall not be deemed employees or volunteers of the PPC.

- R. PPC shall maintain general liability insurance in the amount of \$1,000,000 bodily injury and property damage combined single limit, regarding all work performed at the Park by PPC’s employees, volunteers, contractors and subcontractors, including but not limited to demolition and construction work, vending and/or concession sales, and provision of security services through any private security service company. (PPC shall not be responsible for maintaining coverage on off-duty City police officers retained by PPC.) The City shall be covered as an additional insured under the general liability insurance policy, and such insurance shall be primary with respect to the additional insured.
- S. The City and PPC shall not discriminate based upon race, creed, color, religion, sex, national origin, marital status, age, physical handicap, sexual orientation, or gender identity in the implementation of the Master Plan or this MOU.
- T. PPC shall maintain records and accounts in connection with the performance of this MOU that will accurately document all funds received by PPC and all costs incurred by PPC, both direct and indirect, of whatever nature, at all times for the previous eight (8) years unless otherwise specified by applicable law. The City of Atlanta or its designated representatives shall have the right to examine and copy the records and accounts at all reasonable times, with advance notification. The City reserves the right to audit PPC’s records and accounts. Any such audit will be commenced within one year of the expiration of this MOU.
- U. Title to all of PPC’s improvements of such a nature as cannot be removed without substantial damage to the Park, or some portion thereof, shall vest in the City upon completion of construction or installation.
- V. The Commissioner and PPC shall meet in January of each year of the Term of this MOU to discuss the Outdoor Festivals being scheduled by PPC for the upcoming year, and to determine which of those Outdoor Festivals shall be City sponsored.
- W. PPC shall submit to the Commissioner, copies of the monthly construction progress reports that PPC prepares and submits to PPC Board of Directors. When new improvements are completed by PPC, PPC will also submit copies of “as built” drawings to the Commissioner for future reference.

III. City Responsibilities



In addition to the responsibilities listed above, the City shall have the following responsibilities:

- A. Maintain the full range of existing commitments to the Park, including basic maintenance, litter control, and utilities commitments, and provide a letter reflecting those commitments to the PPC upon request for fundraising purposes.
- B. Provide maintenance of the Park infrastructure such that the management, operation and coordination of the Park's activities are consistent with the design features and other guidelines set forth in the Master Plan and shall maintain the full range of existing commitments to the Park, including maintenance of landscapes and preservation of the Park's natural resources and maintenance of the foundations, structural portions, exterior walls (including glass), roofs and systems and HVAC of picnic pavilions, pergolas, arbors, bandstands, public restrooms, and the Conservancy's on-site office.
- C. Provide sanitation services for the Park at no cost to the PPC except that the PPC shall be responsible for its own sanitation services costs for Outdoor Festivals, Assemblies, Large Gatherings, or other special events sponsored by the PPC, where the City Code of Ordinances requires the sponsor to assume the sanitation costs. Sanitation services shall include scheduled garbage collection and cleaning of restrooms. The City, at City's sole discretion and based on budget allocation and funds availability to be determined annually throughout the Term of this MOU, agrees to provide public restroom supplies, bath tissue and paper products and to reimburse PPC up to \$34,000 annually for its provision of sanitation services in the Park.
- D. Provide, or arrange and pay for provision of utilities for the Park.
- E. Protect the Park and the new investments therein by coordinating the management of events held in the Park with the PPC, such that the management is consistent with the City of Atlanta Outdoor Events Ordinance and with the design features and other guidelines set forth in the Master Plan. In no event shall the City permit any more than six (6) Class A Outdoor Festivals in the Park, of which four (4) shall be The Atlanta Dogwood Festival, The Peachtree Roadrace, The Atlanta Jazz Festival and The Atlanta Pride Festival, during any year during the Term of this Agreement, and one (1) additional outdoor festival shall be hosted each year by the Department of Parks, Recreation and Cultural Affairs and one (1) outdoor festival shall be hosted each year by PPC.
- F. Provide a letter to PPC or any potential donor, upon request, confirming that, in accordance with this MOU, PPC has the authority to manage and perform capital construction projects in the Park, and to raise funds for the same.
- G. Use all commercially reasonable efforts to ensure that all funds committed by the City to the Park are used effectively, efficiently, and as intended.



- H. Provide basic police services for the Park as determined by the Chief of Police or his designee in her/his sole discretion.
- I. Provide adequate monitors, in accordance with the City's monitor ordinances and regulations, for all Class A, B and C events in the Park for which the City grants a permit. The parties agree that PPC shall have no obligation to provide event monitors or to otherwise coordinate, facilitate or monitor Events whether or not monitored or supervised by the City other than those produced by PPC.

IV. PPC Responsibilities

In addition to the responsibilities listed above, PPC shall have the following responsibilities:

- A. Actively pursue and engage in fundraising to support initiatives for enhancing the Park.
- B. Create an environmentally friendly Park design that will include, but is not limited to, green spaces, lighting, native plant landscaping, Clara Meer, paths and water fountain(s), consistent with the Master Plan.
- C. In addition to the City's performance of routine maintenance, to the extent deemed reasonably appropriate and necessary by PPC, PPC may elect to provide additional maintenance so that the Park remains in a safe and attractive condition, and so that all capital improvements are adequately maintained to protect the investments made.
- D. Support and manage the maintenance activities of third parties to improve and protect the Park consistent with the Master Plan and this MOU.
- E. Organize, design, implement and/or support programming activities consistent with the Master Plan and this MOU including, but not limited to, PPC sponsored youth camps, Screen on the Green or another outdoor movie series, the Green Market and Season of Magic, which may include horse drawn carriage rides.
- F. Provide supplemental security services at the Park to augment the police services provided in the Park by the Atlanta Police Department. These services shall be in lieu of Piedmont Park security services that would otherwise be provided through the City's Citywide Security Services contract. The City, at City's sole discretion and based on budget allocation and funds availability to be determined annually throughout the Term of this MOU, agrees to reimburse PPC up to \$110,000 annually for its provision of security services.



- G. Serve as the major catalyst for interested parties to be involved with the Park through advocacy, volunteer, and/or fundraising activities, and through working with the PPC Board of Directors.
- H. This section shall not apply to concessions at sites for which the City and PPC have a separate facility operating agreement. PPC shall have the right to operate or cause to be operated concessions at the Park, in locations designated on Exhibit A attached hereto and incorporated herein by reference, after receiving approval and appropriate building permits from the City, provided that fifty percent (50%) of the net revenues from the Park concessions exclusive of revenues generated through fixed beverage and snack vending machines, which fund the park's recycling program shall be retained by the PPC for Park improvements and maintenance, and fifty percent (50%) of the net revenues from the Park concessions shall be provided to the Department of Parks, Recreation, and Cultural Affairs to be deposited into a trust fund to be utilized for park maintenance and improvements at parks throughout the City for which no conservancy is present. The City shall waive any vending fee associated with the concession sales. All vending locations shall be approved by DPRCA on an annual basis no later January of each year.

PPC agrees that, without the permission of a permit holder, it will not operate mobile concessions locations within the footprint of any City-permitted event during that event. The City agrees to notify all permit holders of PPC's right to operate all other in-park concession activities uninterrupted by a City-permitted event including fixed beverage and snack vending machines and permanent concession locations.

- I. Notify the Commissioner within twenty-four hours of discovering a safety, sanitary, and/or maintenance issue that needs to be addressed in the Park regardless of whether the PPC intends to resolve the issue. The City agrees to use all good faith efforts to do the same.
- J. Notify the Commissioner within three hours or sooner of learning of any emergency event regarding or arising in the Park that involves the media, the police or fire departments or emergency medical services. The City agrees to use all good faith efforts to do the same.
- K. Use all commercially reasonable efforts to ensure that all funds committed by or to the PPC for use regarding the Park are used effectively, efficiently, and as intended. This section shall survive the termination or expiration of this MOU.

V. **Active Oval**



- A. PPC shall, at PPC's sole cost and expense, maintain and orchestrate reservations and scheduled activities for that certain area of the Park that includes the running track, soccer fields, softball fields and said volleyball courts ("the Active Oval") and that certain area of the Park that includes 1½ regulation basketball courts, including, flooring, backboards and rims, surrounding fencing and pathways and adjacent lights (the "Basketball Courts"), or shall cause an appropriately experienced and qualified maintenance or program services contractor that is approved by the Commissioner to maintain and schedule the Active Oval in a safe, clean, healthy and orderly manner so as to offer a high quality and affordable recreation experience to residents and guests of the City.
- B. In its operation of the Active Oval and Basketball Courts, PPC shall be permitted, among other things, to: (i) Charge fees in accordance with the City of Atlanta Code of Ordinances (the "Code") where applicable. Where the Code does not provide fees for amenities and locations (such as outdoor basketball courts, volleyball courts and bocce courts or similar, PPC may set reasonable fees with the prior written approval of the Commissioner. (ii) Charge users for amenity reservation on an hourly or daily basis for select special events and tournaments but not general admission or for routine use as otherwise described in this MOU; (iii) Charge reservation fees in advance of use of the Active Oval's fields and courts as PPC may from time to time deem appropriate, except that no advance reservations or associated fees are made or collected on any Friday, and no fees are to be collected from park patrons who wish to use the Active Oval's fields and courts or the Basketball Court without advance reservation. (iv) Collect a damage deposit related to advance reservations that is refundable to the reserving party if no restoration work is required related to that party's use of the Active Oval and Basketball Courts; (v) Collect rent for field day events for groups using the Active Oval solely for sports and recreational uses in keeping with the design of the Active Oval and following any and all applicable City ordinances and regulations, provided that such field day events are not held on any Friday and do not unreasonably interfere with the public's regular access to, and use of, the Active Oval; (vi) Collect rent for field day events for groups using the Basketball Courts solely for sports and recreational uses in keeping with the design of the Basketball Courts,.
- C. Any and all income, fees and revenues generated from each of the foregoing, together with any and all other income, fees, revenues and other amounts derived from PPC's operation and management of the Active Oval and Basketball Courts shall be retained by PPC and shall be applied by the PPC first to operating expenses incurred by PPC with respect to the Active Oval and Basketball Courts then in accordance with the terms of this MOU.

VI. Green Sward



- A. The grand fountain amenity in the Park, including two passive Bermuda-sod covered meadows (the upper of which is a 1.5 acre area hereinafter referred to as the "Promenade" and the lower of which is a .75 acre area hereinafter referred to as "Fountain Landing") adjoined by a set of Spanish steps (hereinafter referred to as "Fountain View") looking onto a marble-faced interactive fountain flanked by a grand arbor (together hereinafter referred to as "Legacy Fountain"), public restrooms and winding paths and operated via an underground control room, portrayed on Exhibit A attached hereto and all collectively hereinafter referred to as the "Green Sward" shall be used by the PPC (i) as a facility to be exclusively rented in whole or in parts by PPC to private parties that will hold private events (including serving concessions, food and alcoholic beverages, and PPC shall have the right to obtain a liquor license allowing the sale and/or serving of alcoholic beverages as part of any of the events to be held at the Green Sward) therein, including without limitation fundraising events, exhibitions, cultural performances, movie screenings, parties, receptions and weddings, (ii) PPC fundraising events, vending and concession sales, (iii) for storage in connection with PPC's operations, (iv) for community, non-profit and other private organizational functions, and (v) for PPC operated community engagement programming including but not limited to healthy-living activities and children's programming. The Green Sward shall be used for no other purpose without prior written consent from the Commissioner. Any revenue received by PPC or any sublessee from use of Green Sward that is not permitted herein, and that has not received written consent from the Commissioner, shall inure immediately and completely to the City. Notwithstanding the foregoing, the Parties agree that the Green Sward will be operated by PPC primarily for the general public's enjoyment.
- B. PPC shall have the exclusive right, without prior approval of the City and without review of the agreements by the City (unless required under the City's application or permitting process) to enter into event leases, licenses for catering agreements and other similar agreements with third parties in connection with events held, in whole or in parts, on the Green Sward.
- C. PPC shall have the right to retain any and all income, fees, revenues and other amounts derived from the management and operation of the Green Sward, from whatever source, including but not limited to services, rentals, event fees, and event food and beverage sales at Green Sward, provided that the uses, management and operation are consistent with this MOU. PPC shall apply any amounts retained pursuant to this Paragraph to (i) operating expenses incurred by PPC with respect to Green Sward, including without limitation repair, maintenance, and improvement thereof; (ii) projects for the renovation, restoration and beautification of other segments of Piedmont Park; (iii) expenses incurred from PPC's promotion of Piedmont Park; and (iv) such other expenses as may be incurred by PPC in connection with its mission to enhance and preserve Piedmont Park.



- D. The Parties agree that the Green Sward is an amenity to be managed primarily for the general public's enjoyment and that use of the amenity will be managed so as not to unduly lessen said enjoyment.
- E. For purposes of this MOU the annual period between the closing of the Atlanta Public Schools for summer break and Labor Day each year will be considered the Green Sward peak season ("Peak Season"). The General Public's access to Legacy Fountain will not be restricted by events held on the Green Sward more than twelve (12) days between the times of 10:00am and 8:00pm daily during the Peak Season and not more than three (3) Saturdays during the Peak Season. Events occurring entirely before 10:00am or after 8:00pm shall not be counted toward the twelve (12) allowable Peak Season restrictions, although notice of closure is still required below. Events scheduled in any portion of the Green Sward that do not restrict the general public's access to Legacy Fountain are not considered restrictions of use for purposes of this Agreement. During events, each day will count as a single occurrence.
- F. Absent approval of the Commissioner, access and use of Legacy Fountain shall not be restricted for more than three (3) days in a row at any time during the year and in no circumstances shall PPC lease or rent the entirety of the Green Sward more than four (4) times during any year during the Term of this MOU.
- G. Closure restrictions pertain to scheduled events only and do not apply to routine, emergency, weather or health department related closures. PPC will publicize notice of event(s) restricting the general public's access to Legacy Fountain via PPC website, utilizing e-blasts, on sandwich boards located at designated entrances and through other means necessary to convey closure to the general public.
- H. In instances of the scheduled closure of Legacy Fountain for maintenance, emergency or health department related inspections or in the event that the general public's access to Legacy Fountain is restricted due to the scheduling of an Event, PPC shall provide advance notice of same to the DPRCA and the Director of Parks.
- I. Based on the City's and PPC's understanding and intent to provide PPC exclusive rental ability described in Section VI(A) above, the parties agree that for Outdoor Events at Green Sward:
- (a) Additional definitions. In addition to the words, terms and phrases set forth elsewhere in this MOU, the following words, terms and phrases, when used in this section only, shall have the meanings



ascribed to them in this section, except where the context clearly indicates a different meaning.

(1)

90-day permit shall mean a non-exclusive 90-day outdoor festival permit issued by the City to PPC that authorizes Greensward festivals and other outdoor events that are sponsored by PPC.

(2)

Permitted event shall mean an outdoor event that is performed pursuant to this section and authorized by a 90-day permit, including without limitation outdoor festivals and large gatherings.

(b)

PPC shall be allowed to obtain a non-exclusive 90-day outdoor festival permit from the City that will authorize all outdoor festivals and other outdoor events sponsored by PPC within the Greensward during that 90-day period, without notifying the City or receiving an individual event permit for any specific large gathering, outdoor festival, or other outdoor event occurring during that time, subject to and except as set forth in the provisions established in this section. The City may issue the 90-day permit to PPC at any time after receiving PPC's application, without waiting for 90 days to pass. PPC may apply for a new 90-day permit at least 30 days prior to the expiration of an existing 90-day permit, so that there is no lapse in the City's authorization of PPC events in the Greensward. PPC's new application shall highlight any changes from the immediately preceding application. Upon submission of its first 90-day permit application, PPC shall pay to the City a \$100.00 application fee. Thereafter an application fee will be required only if there is a material change in PPC's application (other than the dates during which the permit is effective). Nothing in this section shall require the City to grant PPC a 90-day permit. The City shall have sole discretion regarding issuance of this type of permit, provided that a decision to deny the permit shall not be based upon any of the factors set forth in this section.

(c)

PPC shall perform or provide the following for each permitted event:

(1)

Restrooms shall be available during each permitted event in order to provide access to lavatories and water fountains. Additional restroom and sanitation will be fulfilled as directed by the Atlanta Fire Department ("AFD").

(2)



PPC shall perform all necessary banner permitting for permitted events through AFD. In addition, PPC shall submit a fire safety plan for every permitted event, but will not need to receive approval from the City fire marshal if the permitted event:

- a. Has tents that are no larger than ten feet by ten feet, or has no tents at all;
- b. Has no tents that are closer together than 12 feet,
- c. Has no grilling or other open flame activity, regardless of whether the activity is within or outside of tents;
- d. Does not include use of fireworks;
- e. Does not include exhibits with compressed gases, with flames or with ovens, such as glass blowing; and
- f. Has fewer than 2,000 attendees.

Where a permitted event exceeds the capacity of 2(f) or is inconsistent with 2(a-e) above, PPC agrees to provide AFD with the fire safety plan at least ten business days prior to the permitted event. In addition to other potential requirements, AFD shall mandate that PPC provide one or more crowd control/event managers where expected attendance is greater than 2,000. PPC shall be required to monitor crowd size during the permitted event and respond appropriately should there be an unanticipated increase in participants or should an overcrowding condition arise. PPC shall utilize AFD fire safety officers to implement compliance with all fire safety laws.

(3) PPC shall provide at least one first aid station and at least two emergency medical technicians-intermediate for a permitted event that exceeds 1,999 attendees. PPC shall submit a medical safety plan to AFD where the permitted event exceeds 9,999 attendees.

(4) PPC shall provide one trash receptacle and one recycling receptacle, if recycling services are available, for every



anticipated 100 attendees at the permitted event. Where the permitted event includes sale and/or distribution of food and/or beverages, PPC shall increase this number to five trash and five recycling 55-gallon receptacles per 100 people. PPC shall: monitor the waste and recycling receptacles throughout the permitted event to make certain that they do not overflow, and shall empty them as needed; dispose of refuse; dispose of recyclables to a location that processes them; at the conclusion of the permitted event, provide litter control and remove other debris from the Park and from the areas within 200 feet surrounding the Park; and pressure wash surfaces of the Park after the permitted event if needed. Where a permitted event includes grilling, PPC shall also provide coal disposal bins in the grilling area(s), and shall be responsible for safely disposing of the coals at the end of the permitted event.

- (5) PPC shall provide APD police coverage by police officers or other post-certified public safety officers as required by City ordinance or coordinated with APD. Consistent with City policy, all events with 250 or more persons expected to be in attendance must submit a safety plan to APD.
- (6) Immediately prior to the submission of each 90-day permit application, PPC shall submit plans to the City's Bureau of Buildings regarding the stage and/or other temporary structures that may be utilized during permitted events, but only if PPC's plans have changed since the previous 90-day permit was issued. As per Bureau of Buildings Policy, permits will not be required for stages 200 square feet or less. Where no changes have been made, PPC shall provide a letter to that effect to the City's Bureau of Buildings. The Bureau of Buildings will determine which structures may be permitted for the full 90 days, even if PPC has not made changes to its plans. The Bureau of Buildings will provide the temporary structure sub-permit to PPC, and PPC shall present the sub-permit to the Mayor's office of special events to be included with PPC's 90-day permit. For temporary structures that are not covered by the 90-day permit, the PPC must receive a temporary structures sub-permit from the Bureau of Buildings prior to use.
- (7) PPC may use amplified sound during permitted events in accordance with the DPRCA's amplified sound sub-permit policy. . Should the City grant Outdoor Festival sound status, then the DPRCA amplified sound standard applies. .



- (8) Where an event includes consumption, distribution, and/or sale of alcoholic beverages, PPC shall obtain all necessary licenses from the governmental jurisdictions of purview. No alcohol shall be allowed in the Green Sward without proper permits except as authorized pursuant to PPC's obtained permit and license.
 - (9) Where an event includes an amusement and/or ride, PPC shall submit an amusement sub-permit application to the DPRCA and the Bureau of Buildings and receive a sub-permit from each as applicable.
- (d) PPC shall abide by the following rules throughout the duration of each 90-day permit:
- (1) The Green Sward shall remain a park that is owned by the City and PPC shall keep this park open to the public at all times, provided that certain parts of the Green Sward may be designated for private use consistent with other provisions in this MOU. . This provision notwithstanding, the City shall have the right to close the Green Sward at its discretion; provided, however, the City provides reasonable prior notice to PPC as may be practicable.
 - (2) PPC shall abide by the United States Constitution's First Amendment, and shall not interfere with speech and other forms of expression protected thereby, except as otherwise authorized by the First Amendment and resulting applicable case law.
 - (3) PPC shall be responsible for making certain that all permitted events comply with the applicable laws and rules established by the Fulton County Health Department.
 - (4) PPC shall comply with all other applicable laws, including without limitation the City's laws regarding conduct prohibited inside of City parks. PPC shall enforce such prohibitions amongst all attendees of permitted events.
 - (5) The rules set forth in this section shall apply to all permitted events, except to the extent that those rules are specifically modified elsewhere in this MOU. These rules shall include, without limitation, reimbursement of the City



for the cost of restoration services and supplemental services should they be required.

(6)

The City will assume that any other large gathering or outdoor festival that occurs in the Green Sward is a PPC sponsored, permitted event, and PPC shall be responsible for all restoration or other repair costs arising there from, unless PPC notifies the Chief of the Atlanta Police Department, or her/his designee, both by email and by telephone, that an unauthorized event is occurring. The notice must occur while the event is in progress. Where PPC provides such notice, and where the event was in fact not sponsored by PPC, PPC shall not be responsible for restoration and repair costs arising from the event.

(e)

PPC shall be required to pay the City for all applicable sub-permit fees, including without limitation temporary structure sub-permits. The City shall also charge PPC a permit application fee, but only as described in this section. The City shall not charge PPC any permit fees for its own Green Sward outdoor events, but only if PPC provides certain maintenance and other services for the Green Sward, as spelled out in this MOU between the City and PPC.

(f)

The City shall have the right to modify the requirements set forth in this section for any particular permitted event based upon the description of the permitted event and reasonable safety, sanitary, Park maintenance, or other similar issues related thereto, provided that those reasons are compliant with the regulations set forth in the Code and this MOU.

(g)

During those times that other Piedmont Park amenities are being utilized for City-permitted Class A, Class B or Class C Outdoor Festivals or ticketed-gated event (other than such Large Gatherings, Festivals or ticketed-gated Events being conducted by PPC), any event being held at Green Sward must remain completely within the footprint of the Green Sward and, except where Green Sward is rented by the organizer, the City shall not permit any organizer to use any portion of the Green Sward for set up, vending, exhibits, performances, retail sales, including without limitation food, alcohol and/or other beverage sales or for any other purpose.

VII. Contractors Performing Work on the Park

- A. PPC shall require all contractors and subcontractors performing any work related to this MOU to sign an agreement with the PPC that includes the following indemnification provision, with the exception that the name of



the contractor or subcontractor shall replace "Contractor" as used herein below:

"Indemnification and Hold Harmless Clause"

(1) Releases and Indemnification:

Contractor hereby releases and shall indemnify, defend, and hold harmless the City of Atlanta, its elected officials, officers, agents, employees, authorized representatives, successors, and assigns from and against any and all suits, actions, legal or administrative proceedings, claims, debts, demands, damages, liabilities, injuries, obligations, losses, judgments, charges, interest, attorneys' fees, costs, causes of action of every kind and character, whether in law or equity, and expenses of every kind or nature, whether arising before or after the termination of this Agreement and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of Contractor, its officers, employees, agents, subcontractors or of anyone acting under its direction or control or on its behalf in connection with or incidental to this Agreement.

(2) Negligence and Waiver

Contractor's aforesaid release, indemnity, and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified, or held harmless. Contractor specifically waives any immunity provided against this indemnity by any industrial insurance or workers' compensation statute. Contractor further agrees that this agreement to indemnify, defend, and hold harmless the parties released shall not be limited to the limits or terms of the insurance, if any, required under this Agreement. This Indemnification and Hold Harmless provision shall survive any termination or expiration of this Agreement.

- B. The following insurance requirements must be met by every contractor and subcontractor that performs work related to the Park for or on behalf of the PPC, and shall be included in a contract between the PPC and each of its contractors and subcontractors. Compliance is required by all contractors of any tier. Insurance requirements are based on information received as of the date of this MOU. The City reserves the right to adjust



or waive any or all requirements based on receipt of additional information pertinent to this MOU.

1. PPC shall not allow its contractors or subcontractors to commence any work of any kind pursuant to this MOU until all Insurance requirements contained in this MOU shall have been complied with, and until evidence of such compliance satisfactory to the City as to form and content has been filed with the City. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.

2. Any and all companies providing insurance required pursuant to this MOU must meet the minimum financial security requirements set forth below. These requirements conform to the ratings published by A.M. Best & Company in the current Best's Key Rating Guide - Property - Casualty. The ratings for each company must be indicated on the Accord Certificate of Insurance form. For all contracts, regardless of size, companies providing Insurance under this MOU must have a current:
 - i. Best's Rating not less than A-; and current;
 - ii. Best's Financial Size Category not less than Class IX; and
 - iii. Authorization issued by the Insurance Commissioner, State of Georgia, to conduct and transact insurance contracts.

If the issuing company does not meet these minimum requirements, or for any other reason shall be or become unsatisfactory to the City, written notification shall be mailed by the City to the PPC, who shall promptly itself, or require its contractor to, obtain a new policy issued by an insurer acceptable to the City, and shall submit evidence of the same to the City as required herein.

3. Workers' Compensation and Employer's Liability Insurance

Every contractor and subcontractor that performs work related to the Park for or on behalf of the PPC shall procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits, such insurance to cover each and every employee who is or may be engaged in work related to the Park:

Workers' Compensation Statutory

Employer's Liability

Bodily Injury by Accident/Disease \$100,000 each accident



Bodily Injury by Accident/Disease \$100,000 each employee
Bodily Injury by Accident/Disease \$500,000 policy limit

4. Automobile Liability Insurance

Every contractor and subcontractor that performs work related to the Park for or on behalf of the PPC shall procure and maintain Automobile Liability Insurance with not less than \$500,000 Bodily Injury and Property Damage combined single limit. The following extensions of coverage shall be provided and shall be indicated on the Certificate of Insurance:

1. Comprehensive Form
2. Owned, Hired, Leased and Non-owned vehicles to be covered.

In the event the contractor or subcontractor does not own any automobiles in the corporate name, non-owned and hire automobile coverage will be maintained in the amount indicated above.

5. Upon failure of the PPC to ascertain that each of its contractors and subcontractors furnishes, delivers, and maintains such insurance as herein provided, this MOU, at the election of the City, may be declared forthwith suspended, discontinued, or terminated. Failure of a PPC's contractor or subcontractor to take out and/or to maintain any required insurance shall not relieve the PPC, its contractors or subcontractors, from any liability under this MOU, nor shall these requirements be construed to conflict with the obligation of this MOU concerning indemnification.
6. The City shall be covered as an additional insured under any and all Insurance required pursuant to this MOU, and such insurance shall be primary with respect to the additional insured. Confirmation of this shall appear on the Accord Certificate of Insurance and on any and all applicable Insurance policies.
7. Each and every agent acting as Authorized Representative on behalf of a company affording coverage pursuant to this MOU shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by the company for the agent to bind coverage as required and to execute the Accord Certificate of Insurance as evidence of such coverage. In addition, each every agent shall warrant when signing the Accord Certificate



of Insurance that the agent is licensed to do business in the State of Georgia and that the company or companies are currently in good standing in the State of Georgia.

VIII. Term of MOU

This MOU will commence as of the date of its full execution, as shall be reflected on the first page of the MOU, and the MOU will continue in effect for five (5) years. Upon mutual agreement of the Parties, the Parties may renew this MOU for one additional five-year term.

IX. Suspension of Work and Termination of MOU

- A. In the event that the City determines that any work being performed on the Park, or any failure to perform work on the Park, is inconsistent with the Master Plan, this MOU, and/or the project, improvement or initiative plans approved as set forth in section II above, the City shall immediately contact the PPC in writing and shall articulate the corrective action required. The City shall state the number of days that the PPC shall have to implement the corrective action, and shall make such determination based upon the seriousness of the matter, the safety implications of the matter, and the amount of time that it would reasonably take to implement that type of correction. The City shall be reasonable with regard to granting extensions of time if the PPC indicates that it needs additional time and is making a good faith effort to implement the corrective action.
1. The PPC shall use all commercially reasonable efforts to implement the corrective action within the time set forth by the City in its written notice. In the event that the PPC needs additional time to implement the corrective action, it shall request an extension of time for a defined time period.
 2. In the event that the PPC does not make a good faith effort to implement the corrective action within the time frame established by the City, either originally or in an extension of time, the City shall have the right to suspend the offending project until the corrective action is implemented, at no cost to the City.
 3. In the event that the offending action is a failure to perform work, including but not limited to maintenance work, and in the event that the PPC does not make a good faith effort to implement the corrective action within the time frame established by the City, either originally or in an extension of time, the City shall have the right to perform the



work or direct that the work be performed. PPC shall reimburse the City for the reasonable cost of performing the work.

4. In the event that the City and the PPC disagree about the corrective action to be implemented, the Parties shall attend Alternative Dispute Resolution (“ADR”) in an attempt to resolve the matter. The work at issue shall be suspended until the completion of the ADR.
5. Should the Parties be unable to resolve the corrective action issue after ADR, the City shall have the right to terminate this MOU for cause, at no cost to the City.

- B. In the event that the City determines that any work being performed on the Park creates a safety hazard, the City shall suspend the work immediately and shall bear no cost associated with the suspension. The City shall immediately notify the PPC, in writing and by telephone, that the work has been suspended and the corrective action required. The work shall remain suspended until the corrective action is implemented.
- C. In the event that the City determines that any failure to perform work on the Park is creating a safety hazard, the City may close the Park, and shall bear no cost associated with the closure. The City shall immediately notify the PPC, in writing and by telephone that the Park has been closed and the corrective action required. The City may keep the Park closed until the corrective action is implemented.
- D. Either Party shall have the right to terminate this MOU without cause at any time prior to the MOU’s expiration by giving written notice to the other Party at least thirty (30) days prior to the date such termination is to be effective, and such termination shall be at no cost to either of the Parties. In the event of such termination, the PPC shall remain obligated to utilize or cause to be utilized all donated and/or committed funds as intended by the donor, pursuant to this MOU.

IN WITNESS WHEREOF, the City and PPC have caused this MOU to be executed by their duly authorized officials, the day and year first above written.

ATTEST:
Sworn to and subscribed
Before me this ____ day
of _____, 2012.

**PIEDMONT PARK
CONSERVANCY, INC.:**



Notary Public

_____, PRESIDENT

(Signature lines on next page)

ATTEST:

CITY OF ATLANTA:

Municipal Clerk (Seal)

MAYOR

RECOMMENDED:

Commissioner,
Department of Parks, Recreation,
and Cultural Affairs

APPROVED:

Chief Procurement Officer

APPROVED AS TO FORM:

Senior Assistant City Attorney

RCS# 1727
2/06/12
2:46 PM

Atlanta City Council

12-O-0084

EXECUTE MOU W/PIEDMONT PARK CONSERVANCY
REIMBURSEMENT FOR SANITATION SERVICES
ADOPT ON SUB

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

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

12-O-0084