


#253

FROM	NAME & TITLE	Dr. Dwayne B. Thomas, PhD., Interim Director	CITY OF BALTIMORE MEMO PH: 410-396-7076	
	AGENCY NAME & ADDRESS	Department of Recreation and Parks 3001 East Drive - Room #106		
	SUBJECT	LICENSE AGREEMENT: BALTIMORE COUNTY FOR ROBERT E. LEE PARK		

December 3, 2009

TO Honorable President and Members
of the Board of Estimates
Dear Madame President and Members:

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve and authorize the execution of a License Agreement between the Mayor and City Council of Baltimore and Baltimore County for Robert E. Lee Park. The term of the agreement is a period of fifty(50) years, beginning on the date of approval by the Board of Estimates, and ending fifty years thereafter.

AMOUNT OF MONEY AND SOURCE OF FUNDS:

N/A

BACKGROUND AND EXPLANATION:

The City is the owner of Robert E. Lee Park, which is located in Baltimore County. Through the execution of this License agreement, Baltimore County will assume operational control and maintenance responsibility for the Park, including capital improvements. The park will remain accessible to the public throughout the term of the agreement and there will be no differentiation in fees charged to city or county residents. The Agreement provides for automatic renewals at 50-yr. intervals, unless one party provides written notice to the other within a prescribed period. The Space Utilization Committee has approved the agreement.

Dwayne B. Thomas
DR. DWAYNE B. THOMAS, INTERIM DIRECTOR
DEPARTMENT OF RECREATION AND PARKS

DBT:LSM:lsm
Attachments

C: Office of Mayor
Law Department

APPROVED BY THE BOARD OF ESTIMATES

Bernice W. Taylor DEC 16 2009
CLERK DATE

LICENSE AGREEMENT

This License Agreement (the "Agreement") is made this DEC 16 day of _____ 2009, by and between **THE MAYOR AND CITY COUNCIL OF BALTIMORE**, a municipal corporation of the State of Maryland (the "City") and **BALTIMORE COUNTY, MARYLAND**, a body corporate and politic (the "County").

RECITALS

WHEREAS, the Mayor and City Council of Baltimore (the "City") own approximately 450 acres of park land, more or less, and other appurtenant property and facilities located on Falls Road at Lakeside Drive in Baltimore County, Maryland 21209, which is commonly known as the Robert E. Lee Park (the "Park"); and

WHEREAS, the land which comprises the Park is described in deeds from multiple conveyances to the Mayor and City Council of Baltimore and recorded among the Land Records for Baltimore County in Liber and Folio as set out in the Fixed Capital Record, attached hereto as **Exhibit A**; and

WHEREAS, by reason of the Park's location, County residents use and enjoy the Park more than City residents; and

WHEREAS, by reason of the Park's location, maintenance, security and other matters concerning the Park can be handled more easily by the County than the City; and

WHEREAS, both the City and the County desire that the Park be used, enjoyed, maintained, and developed for the benefit of City residents, County residents, and others; and

WHEREAS, the City and the County are of the view that it is in their mutual interests, as well as in the interests of their respective residents, to enter into this

Agreement to set forth the understandings of the City and the County with respect to the Park;

NOW, THEREFORE, the City and the County (collectively the "Parties") in consideration of the mutual promises and covenants contained herein, and for good and valuable consideration, the receipt and adequacy of which both Parties hereby specifically acknowledge, the parties agree as follows:

1. The Recitals are hereby incorporated as substantive terms of this Agreement.

2. For a period of Fifty (50) Years from the date of this Agreement and during any renewal hereof (collectively, the "Term"), the City shall grant the County the right, license and privilege to enter upon and use the Park, including the land, buildings, fixtures, and facilities, upon the terms and conditions set forth in this Agreement.

3. During the Term the County shall have complete operational control and responsibility for the Park. Without limiting the generality of the preceding sentence, the County's operational control during the Term shall include control of scheduling and use of Park facilities, the establishment, collection, and benefit of entrance and use fees, the licensing of concessions, maintenance of buildings, grounds, and facilities, responsibility for upkeep, including grass cutting, tree trimming, snow removal, security and public safety, including police and fire response and enforcement, and development activities. Operational control and responsibility shall transfer from the City to the County no later than Ninety (90) Days from the date of execution of this Agreement.

4. Notwithstanding anything to the contrary herein, the County will assess the condition of any improvements, structures or facilities on the Premises, e.g., the

comfort station, the pavilion, the bridge, etc, and determine, in its sole discretion whether to maintain, repair and/or restore the same, but must give reasonable notice to the City. The County shall secure the City's consent, which shall not be unreasonably withheld, delayed or conditioned, in order to raze any improvement that has been used within three (3) years prior to razing. Further, all future development of the Park shall be at the County's sole discretion provided it does not violate any of the provisions herein.

5. Subject to appropriation of adequate funds by present and future county executives and county councils, and availability of those funds, the County will maintain the Park to a reasonable degree, comparable to other similar parks in the County, during the Term.

6. To the extent permitted by law, the County shall indemnify and hold the City harmless for any and all demands, claims, suits, or causes of action arising from or related to the acts or omissions of the County in its operation, control, maintenance, and development of the Park. This right of indemnification includes the City's right to a defense by the County in any lawsuit related to the County's operation, control, maintenance, and development of the Park. Nothing in this Agreement shall be construed to impose a duty on the County to indemnify the City for the acts or omissions of the City, its employees, representatives, or agents. To the extent permitted by law, the City shall indemnify and hold the County harmless for any and all demands, claims, suits, or causes of action arising from or related to the acts or omissions of the City, its employees, representatives, or agents, including any claims or liability arising out of the presence of lead paint, asbestos, or any other preexisting environmental hazards

located in or on existing buildings or property within the Park. This right of indemnification includes the County's right to a defense by the City in any lawsuit related to such actions or omissions.

7. As a local subdivision of the State of Maryland, the County is self-insured with respect to any and all claims concerning public liability and property damage liability. The amount of its liability coverage is limited by Maryland State Law as codified in Section 5-301 *et seq.* of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, also known as the "Local Government Tort Claims Act." In no event shall the County's obligation for indemnification herein be greater than that set forth in the Local Government Tort Claims Act, as may be amended from time to time.

8. The City, by and through its Department of Recreation and Parks (or any successor agency), shall have reasonable access to the Park. The City shall have the right to inspect all public and non-public areas of the Park, and, except in an emergency, shall give the County ten (10) days prior notice of any inspection. Upon the expiration of the Term, or sooner termination, the County shall provide to the City's Chief of Parks (or to the person holding the comparable position) all necessary keys, lock combinations, and security codes so that the Chief of Parks or his/her designee has access to the Park.

9. The County shall have the right to establish, charge, and collect such Park entry and user fees as the County determines to be appropriate; however, the County shall not charge or collect from a City resident any fee greater than the fee the County charges a County resident to enter the Park, or for use of Park facilities, or for any other purpose for which the County may decide to charge a fee. The County shall afford City

residents the same rights and privileges with respect to the use and enjoyment of the Park and its facilities as the County affords to its own residents, and the County shall not extend to its residents any privilege or benefit in connection with the Park unless the County extends the identical privilege or benefit to City residents. All fees, licenses, and other income derived from the operation of the Park shall belong solely to the County, without any obligation or liability to the City for any part or percentage of such income.

10. The County shall grant the City, through the Department of Recreation and Parks (or its successor agency), the right to review and comment upon the County's proposed plans for the Park. Further, the County shall give full and fair consideration to all reasonable comments and suggestions of the City with respect to the development and use of the Park.

11. Upon the expiration of the Initial Term, this Agreement shall automatically renew for consecutive terms of Fifty (50) Years each, unless one of the parties provides to the other written notice at least One Hundred Eighty Days (180) prior to the expiration of the Initial Term, or any renewal thereof, of its intention to terminate this Agreement.

12. This Agreement is not a lease or sale of real or personal property, nor does this Agreement convey or transfer title to any property, rather, this Agreement permits the County to license the Park from the City during the Term in accordance with this Agreement.

13. It is agreed that all notices that are required to be given by either party hereunder may be either hand-delivered, sent by recognized receipted courier, or by certified mail, return receipt requested, postage prepaid, and addressed or delivered as follows:

To the City: Director, Department of Recreation and Parks
3001 East Drive, Druid Hill Park
Baltimore, MD 21217
Phone: 410. 396. 6132

With copy to: City Solicitor's Office
101 City Hall
Baltimore, MD 21202
Phone: 410. 396.8393

To the County: Director, Department of Recreation and Parks
The Jefferson Building
105 W. Chesapeake Avenue, Suite 302
Towson, MD 21204
Phone: 410. 887.3806

With copy to: Baltimore County Office of Law
Courthouse, 2nd Floor
400 Washington Avenue
Towson, MD 21204
Phone: 410.887.4420

Telephone numbers are for the convenience of the parties only and communication via telephone does not constitute the requisite notice hereunder.

14. In the event that the City declares the Park to be surplus property, the County shall have a first right of refusal with respect to any proposed sale or transfer of the Park. Any sale or transfer of such interest shall be in accordance with the provisions of the Baltimore City Charter, the Baltimore City Code, and all other applicable laws or regulations and shall be subject to the review and approval by the City Board of Estimates.

15. This Agreement shall be interpreted and enforced in accordance with Maryland law.

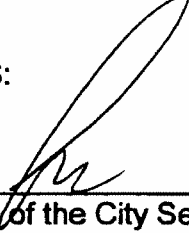
16. The persons executing this Agreement on behalf of the City and County, respectively, expressly represent and warrant that they have authority to enter into this Agreement and to bind the City or the County, respectively.

17. This Agreement represents the Parties' entire agreement as to the matters set forth herein. No amendment of this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both the City and the County.

(Signatures on Next Page)

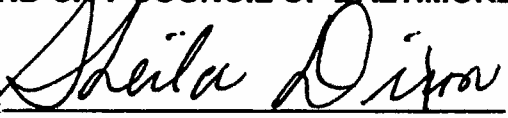
IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be duly executed the day and year first above written.

WITNESS:




Custodian of the City Seal

MAYOR AND CITY COUNCIL OF BALTIMORE


By: 

Sheila Dixon, Mayor

WITNESS:

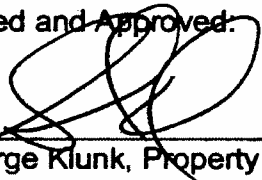


BALTIMORE COUNTY, MARYLAND

By: 

James T. Smith, Jr.
County Executive

Reviewed and Approved:



By: _____
George Klunk, Property Manager

Reviewed and Approved:

By: 


Robert J. Barrett, Director
Department of Recreation and Parks

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:
(SUBJECT TO EXECUTION BY THE DULY AUTHORIZED
ADMINISTRATIVE OFFICIAL)



Office of the County Attorney 14026
*Approval of Legal Form and Sufficiency Does
Not Convey Approval Or Disapproval of the
Substantive Nature of This Transaction.
Approval is Based Upon Typeset Document -
All Modifications Require Re-Approval

NO CERTIFICATION NECESSARY



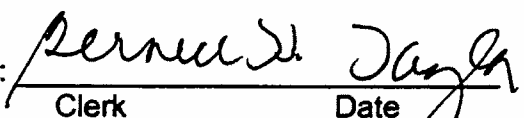
Office of Budget and Finance Date 10/23/09 BT

Approved as to form and legal sufficiency:



City Solicitor

Approved by the Board of Estimates:

By: 

Clerk Date DEC 16 2009