

AN ORDINANCE 2008 - 08 - 07 - 0644

**APPROVING AMENDMENT 1 TO THE LEASE AGREEMENT OF THE SAN ANTONIO ZOO AND AQUARIUM WITH THE SAN ANTONIO ZOOLOGICAL SOCIETY EXTENDING THE TERM FROM MAY 2023 TO MAY 2033 AND INCLUDING A PROVISION ALLOWING THE CITY TO ACCESS A PORTION OF THE ZOO'S LEASED PREMISES FOR CONSTRUCTION AND OPERATION OF A WATER TREATMENT FACILITY.**

\* \* \* \* \*

**WHEREAS**, the current lease agreement with the San Antonio Zoological Society (Zoological Society) was passed and approved by the City Council on April 30, 1998 for a twenty-five year term from May 1998 to May 2023; and

**WHEREAS**, the Zoological Society has leased the property in Brackenridge Park since 1959 and has operated this major tourist attraction and educational component for the benefit of the entire community; and

**WHEREAS**, under the terms of the current agreement, the Zoological Society operates, manages, and maintains the property; and

**WHEREAS**, the Zoological Society must maintain accreditation with the American Association of Zoos and Aquariums (AZA) ; and

**WHEREAS**, the recertification process is completed every five years and includes a review of safety and security policies and procedures and an inspection of the Zoo; and

**WHEREAS**, this process was completed in the spring of 2008 and the Zoo now has AZA accreditation through March 2013; and

**WHEREAS**, the lease agreement contains a provision allowing an extension of the term of the lease of five years for each \$5 million in capital improvements provided and paid for by the Zoological Society, with City Council approval; and

**WHEREAS**, the Zoological Society has requested a 10-year extension, from May 2023 to May 2033, in consideration of funding of improvements provided for the Africa Live! project in excess of \$10 million; and

**WHEREAS**, the amendment also contains a provision allowing the City to access a portion of the Zoo property for construction and operation of a San Antonio River Water Treatment Facility; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

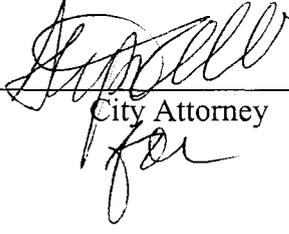
**SECTION 1.** The City Manager or her designee, or the Director of the Parks and Recreation Department or his designee, is authorized to execute Amendment 1 to the lease agreement of the San Antonio Zoo and Aquarium with the San Antonio Zoological Society extending the term from May 2023 to May 2033 and including a provision allowing the City to access a portion of the Zoo's leased premises for construction and operation of a water treatment facility. A copy of the amendment is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** This ordinance shall be effective on and after August 17, 2008.

PASSED AND APPROVED this 7<sup>th</sup> day of August, 2008.

  
M A Y O R  
**PHIL HARDBERGER**

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney

<b>Agenda Item:</b>	17A ( in consent vote: 8, 11, 12, 14, 15, 16, 17A, 17B, 18, 20, 21, 23, 24, 26, 28, 29, 31, 32, 34A, 34B, 34C, 34D, 34E, 34F, 34G, 34H, 34I, 34J, 34K, 35, 36A, 36B, 36C, 36D, 36E, 36F, 36G, 36H, 36I, 36J )						
<b>Date:</b>	08/07/2008						
<b>Time:</b>	03:08:26 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance approving Amendment 1 to the lease agreement of the San Antonio Zoo and Aquarium with the San Antonio Zoological Society extending the term from May 2023 to May 2033 and including a provision allowing the City to access a portion of the Zoo's leased premises for construction and operation of a water treatment facility.						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				x
Philip A. Cortez	District 4		x			x	
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

**LEASE AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND THE  
SAN ANTONIO ZOOLOGICAL SOCIETY FOR THE SAN ANTONIO ZOO AND  
AQUARIUM**

**AMENDMENT NO. 1**

This Amendment No. 1 (“AMENDMENT”) to Lease Agreement is by and between the City of San Antonio, a Texas municipal corporation (“CITY”), acting by and through its City Manager or her designee, pursuant to Ordinance No. 2008-08-07-0644 passed and approved on August 7, 2008, and the San Antonio Zoological Society, Inc. (“SOCIETY”).

WHEREAS, pursuant to Ordinance No. 87751, passed and approved on April 30, 1998, CITY and SOCIETY entered into a Lease Agreement between the City of San Antonio and the San Antonio Zoological Society for the San Antonio Zoo and Aquarium for the property located within Brackenridge Park, for a twenty-five year term ending on May 9, 2023 (“LEASE AGREEMENT”); and

WHEREAS, SOCIETY has, for more than 75 years, managed, operated and maintained the San Antonio Zoological Gardens and Aquarium and continues to be a vital center for education and recreation in the City of San Antonio and is a valuable asset to the collaborative conservation and education effort of professionally run zoos and aquariums in North America, and

WHEREAS, entering into an Amendment to the LEASE AGREEMENT is in the best interests of CITY and SOCIETY, NOW THEREFORE,

In consideration of the mutual covenants and agreements set forth below, CITY and SOCIETY agrees as follows:

1. ARTICLE I. TERM IS MODIFIED AS FOLLOWS:

Section 1.4, as follows, is added:

In consideration of capital improvements completed by SOCIETY in 2007 and 2008 in an amount exceeding \$10 million, the term of the LEASE AGREEMENT is extended by ten (10) years, to May 9, 2033.

2. ARTICLE VIII CITY PROVISION OF WATER FOR THE ZOO

Section 8.6, as follows, shall be added:

8.6 CITY and SOCIETY shall work cooperatively to facilitate the improvement of water quality discharged from the Premises to the San Antonio River through the placement of a water treatment facility (“Water Treatment Facility”) within the Premises of the LEASE AGREEMENT at the

approximate location shown on Exhibit D attached hereto. In addition, CITY and SOCIETY will cooperate on access associated with the Water Treatment Facility. All capital improvement costs associated with the construction of the Water Treatment Facility and all operating costs for the Water Treatment Facility are to be the responsibility of the CITY.

Except as modified herein, all terms and conditions contained in the LEASE AGREEMENT entered into under the authority of Ordinance No. 87751 shall remain in full force and effect.

EXECUTED on this 3rd day of September, 2008.

CITY OF SAN ANTONIO:

SAN ANTONIO ZOOLOGICAL  
SOCIETY, INC.

By: [Signature]  
City Manager

By: [Signature]  
Name: J S McCusker  
Title: Exec. Dir.

Attest: [Signature]  
City Clerk



Approved as to Form: [Signature]

RE: Ordinance No. 2008-08-07-0644; August 7, 2008





**CITY OF SAN ANTONIO**  
**Request for Council Action**

Agenda Item # 17  
Council Meeting Date: 8/7/2008  
RFCA Tracking No: R-3611

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**DEPARTMENT:** Parks & Recreation

**DEPARTMENT HEAD:** Xavier Urrutia

**COUNCIL DISTRICT(S) IMPACTED:**  
Council District 9

**SUBJECT:**  
Amendments to Lease and Concessions Agreements with Zoological Society

**SUMMARY:**

**Item A** of this ordinance will approve Amendment 1 to the lease agreement of the San Antonio Zoo and Aquarium with the San Antonio Zoological Society. The Amendment will extend the term from May 2023 to May 2033 and include a provision allowing the City to access a portion of the Zoo's Leased Premises for construction and operation of a water treatment facility.

**Item B** of this ordinance will approve Amendment 1 to the Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement with the San Antonio Zoological Society. The amendment will modify the premises to delete and add certain areas and extend the term from May 2023 to May 2033 to be coterminous with the lease agreement.

**BACKGROUND INFORMATION:**

**Item A:**

The current lease agreement with the San Antonio Zoological Society (Zoological Society) was passed and approved by the City Council on April 30, 1998 for a twenty-five year term from May 1998 to May 2023. The Zoological Society has leased the property in Brackenridge Park since 1959 and has operated this major tourist attraction and educational component for the benefit of the entire community. Under the terms of the current agreement, the Zoological Society operates, manages, and maintains the property. The Zoological Society must maintain accreditation with the American Association of Zoos and Aquariums (AZA). The recertification process is completed every five years and includes a review of safety and security policies and procedures and an inspection of the Zoo. This process was completed in the spring of 2008 and the Zoo now has AZA accreditation through March 2013.

The lease agreement contains a provision allowing an extension of the term of the lease of five years for each \$5 million in capital improvements provided and paid for by the Zoological Society, with City Council approval. The Zoological Society has requested a 10-year extension, from May 2023 to May 2033, in consideration of funding of improvements provided for the Africa Live!

project in excess of \$10 million.

The amendment also contains a provision allowing the City to access a portion of the Zoo property for construction and operation of a San Antonio River Water Treatment Facility.

**Item B:**

The current concessions agreement with the Zoological Society was passed and approved by the City Council on February 15, 2001 for a term concurrent with the Zoo's lease agreement ending May, 2023.

The amendment reflects several changes. The Japanese Tea Garden snack bar is being deleted from the premises. The Zoo had the right, but not the obligation, to operate a snack bar in this area but has not done so to date. In addition, the site of the upper skyride roundhouse is being deleted from the premises as this equipment was removed several years ago. The Youth Orchestra Building will be added to the Zoo's premises and used for educational, office and/or storage uses. This building has most recently been used by the City for equipment storage. The obligation to have train conductors obtain the National Association of Amusement Ride Safety Officials (NAARSO) certification deleted. This certification is applicable to safety inspectors, not operators. This obligation is being replaced with an obligation for the Society to obtain a NAARSO inspection each year and address all recommendations from that review. In addition, the term of this agreement is being extended to 2033 to remain coterminous with the lease agreement.

**ISSUE:**

**Item A:**

This ordinance will approve Amendment 1 to the lease agreement with the San Antonio Zoological Society. The amendment will extend the term from May 2023 to May 2033 and include a provision allowing the City to access a portion of the Zoo for construction and operation of a water treatment facility on the leased premises. In compliance with contract terms, amendments to the contract are allowed if mutual consent is reached by the vendor and the City of San Antonio. Therefore, City Council action is required to authorize Amendment 1 to the lease agreement of the San Antonio Zoo and Aquarium with the San Antonio Zoological Society.

**Item B:**

This ordinance will approve Amendment 1 to the miniature train amusement ride, souvenir, and food and beverage independent contractor concessions agreement with the San Antonio Zoological Society. The amendment addresses several changes to the premises, extends the term to 2033 to be coterminous with the lease agreement, and other miscellaneous modifications.

**ALTERNATIVES:**

**Item A:**

The City has the option to wait for the expiration of the lease agreement for an extension for the management of the San Antonio Zoo and Aquarium in Brackenridge Park. However, the City would like to add a provision to the lease agreement allowing access of a portion of the Zoo for construction and operation of a water treatment facility on the leased premises.

**Item B:**

The City has the option to wait for the expiration of the current concessions agreement. However, the City would like to amend the term to coincide with the lease agreement and update provisions

to the agreement.

**FISCAL IMPACT:**

There is no fiscal impact associated with the amendments.

**RECOMMENDATION:**

**Item A:**

Staff recommends approval of Amendment 1 to the lease agreement of the San Antonio Zoo and Aquarium with the San Antonio Zoological Society.

**Item B:**

Staff recommends approval of Amendment 1 to the miniature train amusement ride, souvenir, and food and beverage independent contractor concessions agreement with the San Antonio Zoological Society.

The Discretionary Contracts Disclosure Form required by the Ethics ordinance is attached.

**ATTACHMENT(S):**

File Description	File Name
<a href="#">Amendment 1 to Lease Agreement with SA Zoological Society for Zoo</a>	Amendment 1 - Lease Agreement with the SA Zoological Society for Zoo.pdf
<a href="#">Amendment 1 - Concessions Agreement with the SA Zoological Society within Brackenridge Park</a>	Amendment 1 - Concessions Agreement with SA Zoological Society within Brackenridge Park.pdf
<a href="#">San Antonio Zoological Society Discretionary Contracts Disclosure Form</a>	San Antonio Zoological Society Discretionary Contracts Disclosure Form.pdf
<a href="#">Voting Results</a>	
<a href="#">Voting Results</a>	
<a href="#">Ordinance/Supplemental Documents</a>	200808070644.pdf
<a href="#">Ordinance/Supplemental Documents</a>	200808070645.pdf

**DEPARTMENT HEAD AUTHORIZATIONS:**

Xavier Urrutia Director (Interim) Parks & Recreation

**APPROVED FOR COUNCIL CONSIDERATION:**

A.J. Rodriguez Deputy City Manager