

AN ORDINANCE      **2008-08-07-0645**

**APPROVING AMENDMENT 1 TO THE MINIATURE TRAIN AMUSEMENT RIDE, SOUVENIR, AND FOOD AND BEVERAGE INDEPENDENT CONTRACTOR CONCESSIONS AGREEMENT WITH THE SAN ANTONIO ZOOLOGICAL SOCIETY MODIFYING THE LICENSED PREMISES AND EXTENDING THE TERM FROM MAY 2023 TO MAY 2033.**

\* \* \* \* \*

**WHEREAS**, 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; and

**WHEREAS**, the amendment reflects several changes including deleting the Japanese Tea Garden snack bar from the premises; and

**WHEREAS**, the site of the upper skyride roundhouse is also being deleted from the premises; and

**WHEREAS**, the Youth Orchestra Building will be added to the Zoo's premises and used for educational, office and/or storage uses; and

**WHEREAS**, this building has most recently been used by the City for equipment storage; and

**WHEREAS**, the obligation to have train conductors obtain the National Association of Amusement Ride Safety Officials (NAARSO) certification deleted; and

**WHEREAS**, this certification is applicable to safety inspectors, not operators; and

**WHEREAS**, 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; and

**WHEREAS**, in addition, the term of this agreement is being extended to 2033 to remain coterminous with the lease agreement; **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 Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement with the San Antonio Zoological Society modifying the licensed premises and extending the term from May 2023 to May 2033. A copy of the amendment is attached hereto and incorporated herein for all purposes as **Attachment I**.

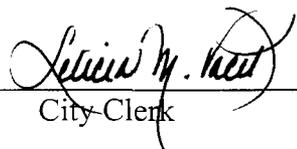
SW/mgc  
08/07/08  
Item #17b

**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 HARBERGER**

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney

| <b>Agenda Item:</b>    | 17B ( 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 Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement with the San Antonio Zoological Society modifying the licensed premises and extending the term from May 2023 to May 2033. |                    |            |            |                |               |               |
| <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          |            |                |               |               |

**MINIATURE TRAIN AMUSEMENT RIDE, SOUVENIR, AND FOOD AND  
BEVERAGE INDEPENDENT CONTRACTOR CONCESSIONS AGREEMENT**

**AMENDMENT NO. 1**

This Amendment No. 1 (“Amendment”) to the Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions 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. 2008.08-07-0645 passed and approved on August 7, 2008, and the San Antonio Zoological Society, Inc. (“Zoo”).

WHEREAS, pursuant to Ordinance No. 93463, passed and approved on February 15, 2001, City and Zoo entered into a Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement for certain operations located within Brackenridge Park, for a twenty-two year term ending on May 9, 2023 (“Contract”); and

WHEREAS, the Zoo has since 2001 successfully operated amusement and concession operations within Brackenridge Park since 2001, and

WHEREAS, entering into an Amendment to the Contract is in the best interests of City and Zoo, NOW THEREFORE,

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

1. ARTICLE 2. CONCESSION SERVICES:

Article 2. Effective on July 1, 2008, the Zoo shall have the right to use the Youth Orchestra Building for educational, office, storage, or other uses approved by City and the Youth Orchestra Building will become part of the Premises. Effective with the execution of this Amendment No. 1, the Tea Garden Snack Bar and the Upper Skyride Roundhouse will be deleted from the Premises. As such, this Section is modified as follows:

- A. All references to the Tea Garden Snack Bar and adjacent patio in Section 2.2 and the entirety of Section 2.5 are hereby deleted
- B. The 11<sup>th</sup> bullet in Section 2.2 is deleted and replaced with the following: “The Lower Skyride Roundhouse located at the traffic circle”
- C. Section 2.9, as follows, is added: “The Youth Orchestra Building (“YOB”), including the porches but excluding the restrooms, is added to the Premises effective July 1, 2008. Zoo shall have the right to use the YOB for educational, office, storage, or other uses as may be approved by City. The Zoo shall be responsible for the maintenance of the YOB, as outlined in Article 11 of the Contract, but the City shall be responsible for the cost of any utility services used in or on the YOB so long as there is no change in the current volume of use that results in a significant increase in utility costs.”

2. ARTICLE 4. TERM OF CONTRACT

The first sentence of Section 4.1 is hereby deleted and replaced with the following: "Except as otherwise provided for herein, this Contract shall begin immediately upon its execution by the City and the Zoo and shall terminate May 9, 2033."

3. ARTICLE 7. CONCESSION OPERATIONS

Article 7.1 is hereby modified by deleting f).

4. ARTICLE 8. PUBLIC SAFETY

Section 8.6 is hereby deleted and the following new Section 8.6 is added in its place

8.6 Each year during the term of this Contract, the Zoo shall ensure that a National Association of Amusement Ride Safety Officials (NAARSO) certified inspector reviews and evaluates the safety, operation, and operator training program of the Miniature Train Ride and the Zoo shall address all recommendations that result from this review and evaluation.

5. EXHIBITS

- A. Exhibit A is hereby deleted and Exhibit A – Amended is added.
- B. Exhibit B is hereby deleted and Exhibit B – Amended is added
- C. Exhibit B – Schedule 1 is hereby deleted

Except as modified herein, all terms and conditions contained in the Contract entered into under the authority of Ordinance No. 93463 shall remain in full force and effect.

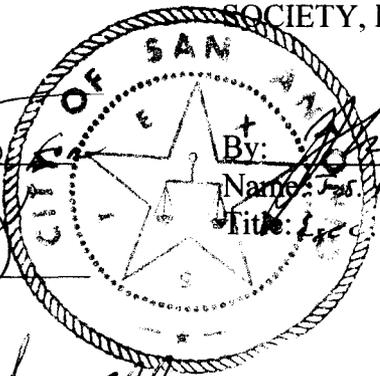
EXECUTED on this 3rd day of September, 2008.

CITY OF SAN ANTONIO: SAN ANTONIO ZOOLOGICAL SOCIETY, INC.

By: [Signature]  
 City Manager

By: [Signature]  
 Name: For McCusker  
 Title: Exec. Dir.

Attest: [Signature]  
 City Clerk



Approved as to Form: [Signature]

RE: Ordinance NO. 2008-08-07-0645; August 7, 2008



## **EXHIBIT "B" - AMENDED**

### **Premises**

The Premises shall consist of:

- (i) The areas including the existing railroad tract and the areas 10 feet on each side of that track.
- (ii) Each of the areas described in Section 2.2 of the Contract, in certain cases as more particularly described on Schedules 2-6 attached hereto. As to each of these Schedules the Zoo intends to have a survey prepared which, when completed and approved by the Zoo and the Director, shall be attached to this Contract to more specifically identify these areas of the Premises.
- (iii) The Youth Orchestra Building (YOB).



**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