

AN ORDINANCE

2012-02-09-0098

AUTHORIZING AN AMENDMENT TO THE MINIATURE TRAIN AMUSEMENT RIDE, SOUVENIR, AND FOOD AND BEVERAGE INDEPENDENT CONTRACTOR CONCESSIONS AGREEMENT WITH THE SAN ANTONIO ZOOLOGICAL SOCIETY, INC. TO ELIMINATE THE COMPENSATION TO THE CITY FROM THE ZOO'S OPERATION OF THE CONCESSIONS IN BRACKENRIDGE PARK IN CONSIDERATION OF A REDUCED LEVEL OF OPERATIONAL SUPPORT FROM THE CITY.

* * * * *

WHEREAS, the current Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement (concession agreement) with the Zoo was approved by City Council on February 15, 2001, for a term concurrent with the Zoo lease; and

WHEREAS, the first Amendment adjusted the boundaries of the concession premises and was approved by City Council on August 7, 2008; and

WHEREAS, the City has historically provided operational funding to the Zoo and in recent years the funding has been in the amount of \$629,553.00; and

WHEREAS, the City's FY 2012 budget provided \$306,597.00 to the Zoo from the Hotel/Motel Fund; and

WHEREAS, in consideration of this reduced level of funding, effective with the end of FY 2011, the Zoo will cease making payments to the City based on 20% of gross revenue from the concession operations; and

WHEREAS, in FY 2011 these payments totaled \$300,980.00; and

WHEREAS, as a part of the current agreement, a capital reserve account exists for use within the concession premises and the City will disburse the balance in that account of approximately \$189,000.00 along with earned interest to the Zoo to be used to operate, maintain and improve the premises of the lease, including the Expansion Site and concession premises; **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 an amendment to the Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement with the San Antonio Zoological Society, Inc. to eliminate the compensation to the

City from the Zoo's operation of the concessions in Brackenridge Park in consideration of a reduced level of operational support from the City. A copy of the amendment is attached hereto and incorporated herein for all purposes as **Attachment I**.

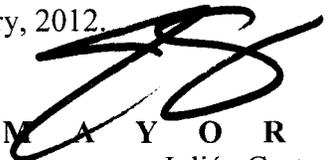
SECTION 2. Funding in the amount of \$188,431.00 plus accumulated interest for this ordinance is available in Fund 11001000, Cost Center 2601220001 and General Ledger 5407030, as part of the Fiscal Year 2012 Budget.

SECTION 3. Payment not to exceed the amount of \$188,431.00 plus accumulated interest is authorized to the San Antonio Zoological Society, Inc. and should be encumbered with a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 9th day of February, 2012.

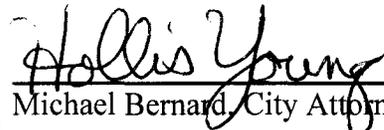

M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

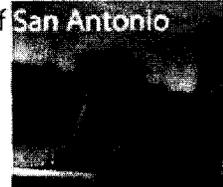


for Michael Bernard, City Attorney



Request for
COUNCIL
 ACTION

City of San Antonio



Agenda Voting Results - 19B

Name:	5, 6, 7, 8, 9, 10, 11, 12A, 12B, 12C, 12D, 12E, 12F, 12G, 12H, 12I, 13, 14, 15, 16, 17, 18, 19A, 19B						
Date:	02/09/2012						
Time:	09:55:02 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing an amendment to the Miniature Train Amusement Ride, Souvenir, and Food and Beverage Independent Contractor Concessions Agreement with the San Antonio Zoological Society, Inc. to eliminate the compensation to the City from the Zoo's operation of the concessions in Brackenridge Park in consideration of a reduced level of operational support from the City.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1	x					
Ivy R. Taylor	District 2		x				x
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x			x	
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

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

AMENDMENT NO. 2

This Amendment No. 2 ("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. _____ passed and approved on _____, 2012, and the San Antonio Zoological Society, Inc. ("Zoo").

1. Background

City and Zoo entered into a Lease Agreement for the San Antonio Zoo and Aquarium ("Lease Agreement") as approved by Ordinance 87751 passed and approved on April 30, 1998 and amended by Ordinance 2008-08-07-0644.

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 ("Concession Contract"), as approved by Ordinance No. 93463 passed and approved on February 15, 2001. Amendment No. 1 to the Contract, as approved by Ordinance No. 2008-08-07-0645, modified the premises and the term of the agreement and implemented other miscellaneous changes.

2. Amendment No. 2

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

1. ARTICLE 1. DEFINITIONS.

Sections 1.7 and 1.9, 1.12 are no longer applicable and are hereby deleted from the Concessions Contract.

2. ARTICLE 2 CONCESSION SERVICES PROVIDED

Section 2.8 is no longer applicable and is hereby deleted from the Concessions Contract

3. ARTICLE 3 DEFAULTS TERMINATIONS AND REMEDIES

Section 3.1 is no longer applicable and is hereby deleted from the Concessions Contract

4. ARTICLE 5. COMPENSATION TO THE CITY

Section 5.6 is added to the Concessions Contract, as follows:

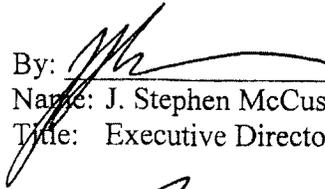
5.6 Effective October 1, 2011 notwithstanding the provisions of Sections 5.1 through 5.5 of the Concession Contract the Zoo will no longer provide compensation to the City in the form of the Minimum Concession Fee or Excess Fees and all such sums will be retained by the Zoo. Payments of the Minimum Concession Fee and Excess Fees based on Gross Receipts earned by the Zoo through September 30, 2011 will be paid by Zoo as described in this Article but discontinued after that date. The Zoo covenants and agrees that it will dedicate this revenue to their efforts to operate, maintain and improve the Premises of the Lease Agreement and Concession Contract. The balance remaining in the Capital Reserve Account at September 30, 2011, including interest on the funds, will be disbursed to the Zoo within 30 days from the effective date of this Amendment to be utilized by the Zoo in carrying out capital repairs and capital improvements to the Premises of both the Lease Agreement, including the Expansion Site, and the Concession Contract. Other than as outlined in this Section 5.6, no further deposits will be made to the Capital Reserve Account by Zoo or City and the Account will be discontinued once the balance is depleted.

2. Except as modified by this Amendment No. 2, all terms and conditions contained in the Contract entered into under the authority of Ordinance No. 93463 and amended by Ordinance No. 2008-08-07-0645 shall remain in full force and effect.

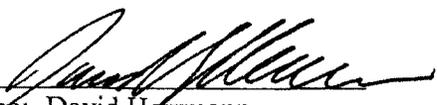
CITY OF SAN ANTONIO:

SAN ANTONIO ZOOLOGICAL SOCIETY, INC.

By: _____
City Manager

By: 
Name: J. Stephen McCusker
Title: Executive Director

Attest: _____
City Clerk

By: 
Name: David Herrmann
Title: Chairman of the Board

Approved as to Form: _____

City Attorney's Office