



Legislation Details (With Text)

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On agenda: 6/9/2021 **Final action:**

Title: Authorize (1) a first amendment to the management agreement with Fair Park First to amend sections 3.01(c), 3.01(f), 3.02 (a), 4.20, 14.03; and add a section 3.02(b) regarding maintenance and operation of the Children’s Aquarium; and (2) funding through the Equity Revitalization Capital Fund and the General Fund - Not to exceed \$3,219,095.00 - Financing: Equity Revitalization Capital Fund (\$500,000.00) and General Fund (\$2,719,095.00) (subject to appropriations)

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Attachments: 1. Resolution

Date	Ver.	Action By	Action	Result
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STRATEGIC PRIORITY: Quality of Life

AGENDA DATE: June 9, 2021

COUNCIL DISTRICT(S): 7

DEPARTMENT: Park & Recreation Department

EXECUTIVE: John D. Jenkins

SUBJECT

Authorize (1) a first amendment to the management agreement with Fair Park First to amend sections 3.01(c), 3.01(f), 3.02 (a), 4.20, 14.03; and add a section 3.02(b) regarding maintenance and operation of the Children’s Aquarium; and (2) funding through the Equity Revitalization Capital Fund and the General Fund - Not to exceed \$3,219,095.00 - Financing: Equity Revitalization Capital Fund (\$500,000.00) and General Fund (\$2,719,095.00) (subject to appropriations)

BACKGROUND

On November 1, 2018, the City entered into a 20-year management agreement with Fair Park First (FPF) to operate, manage, promote, enhance, and improve Fair Park. After reviewing operations since FPF began managing Fair Park, staff and FPF management agree that the agreement needs to be amended to clarify the parties’ respective responsibilities. Below is a summary of the proposed amendments:

Amend Section 3.01(c) to allow for a fifty percent payment of the Annual Appropriation to be paid on

October 1st annually and three other 1/6th payments to be made on January 1st, April 1st, and July 1st of each contract year. The Annual Appropriation is currently paid on a month-to-month basis.

Amend Section 3.01(f), Capital Improvement Plan Appropriations, to modify the payment schedule from a month-to-month payment to a single payment to be made, upon Council appropriation, within 90 days of City's approval of the Capital Improvement Plan as submitted by FPF.

Amend Section 3.02(a), Use of Funds in Annual Appropriation to Support Resident Institutions, to place the responsibility for annual stipend funding on the City for following resident institutions: Music Hall at Fair Park, the African American Museum and The Hall of State. FPF will remain responsible for the management of the resident institutions per respective agreements with the resident institutions that were assigned to FPF by the City. Cultural Stipends for the resident institutions will be made directly from the City to the resident institutions at the sole discretion of the City and in accordance with recommendations of the City's Arts and Culture Advisory Commission. The stipends for DSM Management, Inc. at Music Hall are part of a multi-year contract through 2029 for reimbursements of up to \$290,000.00 annually; the stipends for African American Museum and Dallas Historical Society are part of the annual, single-year Cultural Organizations Program contracts, and were previously budgeted at \$109,095.00 per year. Cultural Organizations Program contracts for the 30+ current organizations are subject to appropriations and are brought to City Council for approval on an annual basis.

Add Section 3.02(b) to add The Children's Aquarium to the FPF agreement. This addition will add language to: 1) place the management and operations of the Children's Aquarium under FPF; 2) acknowledge that FPF is authorized to negotiate and perform a lease agreement with zoOceanarium (the lease agreement will require separate, subsequent Park Board and City Council approval); 3) require performance measures to be set for the operations of the Children's Aquarium; and 4) allocate a one time, lump sum payment of \$500,000.00, subject to approval of the Park and Recreation Board and approval and appropriation by City Council, to FPF for operation and maintenance of the Children's Aquarium. The allocation from the City is separate and apart from the Annual Appropriation. FPF will report to City on an annual basis all accounting related to the Aquarium. If zoOcenarium defaults or fails to operate pursuant to its lease agreement, FPF must notify the City, and FPF, the City, and zoOceanarium must collaborate to find a workable solution. If such efforts fail to produce a workable solution after 90 days, the zoOceanarium lease will automatically terminate, the City will become responsible for the operation and maintenance of the Children's Aquarium, and FPF will be responsible for finding a suitable replacement, subject to the review and approval of the City.

Amend Section 4.20, City Access, to clarify the City's ability to access and inspect Fair Park at all reasonable times for any and all public purposes as reasonably necessary to preserve the health, safety, and welfare of the public. Such use will be subject to an authorized short-term use agreement that will identify reimbursable expenses and parameters of the use.

Amend Section 5.01, Utilities, to identify that all utilities for Fair Park shall be in the City's name and the City shall be responsible for securing and paying for all utility services. City shall provide periodic statements, no less than quarterly, for the utility services and FPF shall continue to reimburse the City for actual costs for all utility services.

Amend Section 14.03, Security Interests, to clarify language regarding FPF's or Fair Park tenants' rights to mortgage, pledge, or encumber their respective rights and interests. Any security interest

will require the City Council’s prior approval.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 24, 2018, City Council authorized a twenty-year management contract, with two five-year extension options, with Fair Park First for the management and operation of Fair Park for the Park & Recreation Department by Resolution No. 18-1531.

On May 20, 2021, the Park and Recreation Board authorized **(1)** a first amendment to the management agreement with Fair Park First to amend sections 3.01(c), 3.01(f), 3.02 (a), 4.20, 14.03; and add a section 3.02(b) regarding maintenance and operation of the Children’s Aquarium; and **(2)** funding through the Equity Revitalization Capital Fund and the General Fund.

FISCAL INFORMATION

Fund	FY 2021	FY 2022	Future Years
Equity Revitalization Capital Fund	\$500,000.00	\$ 0.00	\$ 0.00
General Fund	\$399,095.00	\$290,000.00	\$2,030,000.00
Total	\$899,095.00	\$290,000.00	\$2,030,000.00

Future amounts beyond 2029 are subject to change due to contract negotiations. Any amount under \$50,000.00 will be handled via Administrative Action.

OWNER

Fair Park First

Darren L. James, President
Norman Alston, Secretary