

Memorandum



CITY OF DALLAS

DATE August 26, 2016

TO Honorable Mayor and Members of the City Council

SUBJECT Fair Park Management Agreement with Fair Park Texas Foundation

On Monday, August 29, 2016, you will be briefed on the Fair Park Management Agreement with Fair Park Texas Foundation. Attached are the materials for the briefing.

Please let me know if you have any questions or concerns.

A handwritten signature in black ink, appearing to read 'Willis C. Winters'.

Willis C. Winters, FAIA, Director
Park and Recreation Department

c: Honorable Mayor and Members of the City Council
A.C. Gonzalez, City Manager
Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager

Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Joey Zapata, Assistant City Manager
Mark McDaniel, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

Fair Park Management Agreement with Fair Park Texas Foundation

**City Council Briefing
August 29, 2016**



BACKGROUND

- A 277-acre signature park in the heart of Dallas
 - Largest collection of art deco buildings in United States
 - Designated a National Historic Landmark by the National Park Service in 1986
 - Home to cultural institutions, sporting and performance venues, signature events and attractions
 - Designated one of America's "Great Public Spaces" by American Planning Association in 2011
 - Recognized with two Venue Excellence Awards by the International Association of Venue Managers in 2016

MAYOR'S FAIR PARK TASK FORCE

- In 2013, Mayor Mike Rawlings appointed the Mayor's Fair Park Task Force (Mayor's FPTF)
- Charged with:
 - Examining the future of Fair Park
 - Capitalizing on the many strengths of Fair Park
 - Enabling Fair Park to reach its full potential
 - Making recommendations that would address long-standing challenges and realize real improvements
- Recommendations would address:
 - Inadequate funding
 - Absence of green space
 - Lack of cohesive governing and marketing body
 - Misconceptions regarding park safety



MAYOR'S FAIR PARK TASK FORCE

- “A Park For All People” – presented at a joint session of the City Council and the Park and Recreation Board on September 3, 2014
- Recommendations:
 - Enhance access and connectivity with community and city
 - Establish a community park on south side of Fair Park
 - Empower new non-profit organization as operational and marketing authority for Fair Park



PARK BOARD AND COUNCIL REVIEW

- September 2014 – May 2015: Park and Recreation Board discussion of Mayor’s FPTF recommendations
- December 2014 – February 2016: Four Public Input Meetings were held
- May 7, 2015: Park Board authorized adoption of resolution in support of Mayor’s FPTF recommendations with modifications
- November 17, 2015: Councilmember Tiffinni Young hosts “The Future of Fair Park” community meeting at the African American Museum

PARK BOARD AND COUNCIL REVIEW

- November 18, 2015: City Council was briefed on “The Future of Fair Park” by Walter J. Humann
- February 8, 2016: City Council hosts a public input meeting at the Hall of State
- April – August 2016: Park and Recreation Board discussion of deal points for a proposed Management Agreement with the Fair Park Texas Foundation
- August 4, 2016: Park and Recreation Board approval of draft Management Agreement

PUBLIC PRIVATE PARTNERSHIP

- Sufficiently fund the operation of the park
 - Increase staffing in the areas of marketing, events and programming, development and community outreach
 - Add trades staff (plumbers, painters, carpentry etc.) to address periodic maintenance and enhance facilities and amenities upkeep
 - Engage administrative services such as human resources, legal, accounting, communications and information technologies
- Leverage private and public dollars for park enhancements and improvements
 - Improve aesthetics and functionality of spaces and facilities
 - Create a new community park and green spaces
 - Stimulate economic growth through investment in Fair Park and surrounding community

DEAL POINTS
for the
RECOMMENDED
MANAGEMENT AGREEMENT
WITH THE FAIR PARK TEXAS
FOUNDATION

RECOMMENDATIONS

- City of Dallas (City) to contract with Fair Park Texas Foundation (Foundation) for the management, maintenance, operation and marketing of Fair Park
- Fair Park will continue to be an asset owned by the City of Dallas and managed by the Foundation
- City to pay an annual management fee to Foundation to fully support Fair Park as a public park, maintaining and managing the grounds and facilities as a vibrant, year-round location for events, daily activities, cultural enrichment and a place for quiet enjoyment *1.01 (a)*

Article I

PURPOSE AND TERM

- City appoints Foundation as the exclusive operator and manager of Fair Park
 - Foundation commits to fully and completely support Fair Park as a public park, solely for park purposes, for the benefit of the City's residents and visitors *1.01 (a)*
- Foundation will pursue certain performance objectives *1.01(b)*
 - Creation and maintenance of a community park
 - Support and enhancement of Fair Park as a national historic landmark
 - Maintenance and enhancement of the various cultural institutions
 - Maintenance and enhancement of the sporting and recreational venues
- Term
 - Twenty-year term to commence on January 1, 2017 *1.02*
 - Two consecutive five-year renewal options *1.03*

OWNERSHIP, TRANSFERS AND TRANSITION

- City retains ownership of land, real property interests and improvements *2.01*
- City will convey to Foundation personal property utilized by Fair Park for daily operations including but not limited to equipment, furniture, fixtures, supplies, computers, vehicles, permits, and other tangible and intangible property *2.03* except Public Art *2.03 (e)* and Historic Furnishings *2.03 (f)* used in connection with and necessary to the operation of Fair Park

OWNERSHIP, TRANSFERS AND TRANSITION

- City shall assign and Foundation shall assume Fair Park contracts *2.05 (a)*
 - Foundation shall provide upkeep, maintenance, repair, security, storage or other services to the extent Foundation receives funding from the City *2.05 (b)*
 - Foundation shall assume the City's payment obligations related to the three annual football games played in the Cotton Bowl *2.05 (d)*
- Children's Aquarium at Fair Park will not be assigned to the Foundation and will continue to be governed by the Dallas Zoo Agreement executed on September 30, 2009 *2.05 (e)*

MANAGEMENT FEE AND OTHER FISCAL MATTERS

- City to pay Foundation annual Management Fee 3.01(a)
- FY2016-17: \$12,525,000
 - Less \$1M in transition funds provided no later than 10/31/2016
 - Balance (\$11,525,000) to be paid in full at Commencement Date 1/1/2017
- FY2017-18: \$18.7M
- FY2018-19: \$20.7M
- Beginning in October 2017 Management Fee shall be paid in equal quarterly installments 3.01 (b)

MANAGEMENT FEE AND OTHER FISCAL MATTERS

- City, subject to City Council approval, will seek voter consideration to authorize bond funds for certain Fair Park capital bond projects* in the next two (2) upcoming bond programs 3.03
 - Proposed 2017 Bond Program
 - City: \$75M
 - Foundation \$50M in matching funds
 - Proposed Second Bond Program
 - City: \$50M
 - Foundation: \$50M in matching funds

* Does not include funding for projects outside of Fair Park boundaries

MANAGEMENT FEE AND OTHER FISCAL MATTERS

- Foundation shall fund resident institutions to support programming, utilities, maintenance and other facility support *3.05 (a)*
 - If City Council appropriates the full management fee, Foundation shall allocate at least \$1.3M to the Resident Institutions *3.05 (a)*
 - If City Council appropriates less than the full management fee, Foundation will reduce proportionately the funding amount to residential institutions *3.05 (b)*
 - Foundation will utilize the Office of Cultural Affairs annual application and review process for evaluation and recommendation for funding support *3.05 (d)*
- Foundation has an obligation to conserve public art work at the direction of the OCA Director in proportion to any bond funds received *2.03 (b)*

Article IV

MANAGEMENT AND OPERATION

- Fair Park Texas Foundation, Inc. is a non-profit newly formed to operate Fair Park
 - Governed by a nine-member Board of Directors 4.02
 - At least one member shall be from and represent the surrounding Fair Park community
 - At least one member shall be from and represent the historic preservation community
- Fair Park will be used solely for park purposes: recreation; culture; sports; entertainment; and education with a recreation or cultural component 4.05

Article IV

MANAGEMENT AND OPERATION

- A performance plan with performance indicators will be developed in order for the Park and Recreation Board to evaluate the performance of the Foundation 4.03 (a)
 - Indicators will include but not be limited to: number of visitors; number of events; operating revenues; capital expenditures; contributions from city and non-city sources; contributions for the signature community park; amount of green space created; and Foundation's progress in meeting the City's BID plan
 - Foundation will submit the performance plan to the Park and Recreation Board, subject to Park Board review and approval 4.03 (b)

Article IV

MANAGEMENT AND OPERATION

- The Foundation shall provide to the Park and Recreation Board reports on activities at Fair Park 4.03 (c)
 - For the first two years no less than quarterly, Foundation will report on significant activities and accomplishments including the transition of Fair Park Management to Foundation
 - Beginning in the year 2020, Foundation will provide an annual report to the Park and Recreation Board summarizing its performance under the performance plan
- If Foundation fails to meet any performance indicator in the performance plan by a deviation of 10% or more, Foundation will engage at its own expense, an independent consultant to develop and oversee the implementation of a remediation plan 4.03 (d)

Article IV

MANAGEMENT AND OPERATION

- Personnel *4.11*
 - Foundation shall employ, pay, supervise, and discharge all personnel the Foundation determines to be necessary for Fair Park Management and its performance under this agreement
 - Foundation shall make an offer of employment to all city employees currently based at Fair Park, to become effective on the Commencement Date

Article IV

MANAGEMENT AND OPERATION

- Public Relations, Marketing, Promotion, Advertising and Fundraising *4.16*
 - Foundation shall have exclusive authority for all public relations, marketing, promotions and advertising activities *4.16 (a)*
 - Foundation shall have exclusive right to plan, design, implement and manage all fundraising efforts, including donor recognition and donor benefits programs *4.16 (b) (c)*
- Naming and Sponsorships *4.17*
 - Foundation shall have the right to contract for and grant sponsorships, advertising space and naming rights

MAINTENANCE, ALTERATIONS AND CONSTRUCTION

- Foundation shall maintain and repair Fair Park on a regular basis and as needed to keep Fair Park in good working order; in a safe, attractive and orderly condition; and in compliance with comparable park industry standards *6.01*
 - With respect to any repair, maintenance or alterations performed by the Foundation or its contractors, all such work shall be at the Foundation's sole cost and expense *6.04*
 - All Foundation contracts relating to said activity shall require the contractor to use good faith efforts to comply with the City's BID Plan *6.04*
 - All plans and specifications for alterations exceeding \$100,000 (construction threshold amount) shall be submitted by the Foundation to the Director for review and approval *6.05 (a) (b)*

MAINTENANCE, ALTERATIONS AND CONSTRUCTION

- Community Park *6.16*
 - During the first year of the term of this agreement, Foundation will undertake conceptual designs for a signature community park located within Fair Park
 - The park, when constructed, will be open to the public free of charge on a year-round basis, including during the annual State Fair of Texas
 - Foundation shall commence construction of the signature community park within 24 months of funding becoming available

Article VII

REVENUE OPPORTUNITIES

- Fair Park revenues shall be retained by Foundation for the operation, marketing and maintenance of Fair Park
- Revenues shall include but are not limited to: *7.01*
 - Parking fees
 - Rents and other user fees
 - Programming fees and revenues
 - Concession and vendor revenue
 - Naming, advertising and sponsorship opportunities
 - Revenues from any Fair Park contracts
- Except for the annual State Fair of Texas and other special events, admission to the general grounds of Fair Park shall remain free of charge *7.02*

FINANCIAL REPORTS, ENTITY STATUS, AND TRANSPARENCY

- Foundation shall submit its annual operating budget for the next fiscal year not less than 60 days prior to the end of each Foundation fiscal year *9.01 (a)*
- Foundation shall furnish to the city within 90 days after the close each quarter, unaudited financial statements of such quarter including: balance sheets; statements of operation; statements of cash flows *9.01 (c)*
- Foundation shall furnish to the City within 120 days after the close of the fiscal year audited financial statements prepared by an independent certified public accountant and certified by such accountant *9.01 (d)*

DEFAULTS, REMEDIES AND REVERSION

- In the event of any Foundation Default, City will have the right upon notice to Foundation, terminate this Agreement effective not less than 90 nor more than 180 days after notice *13.02*
- In the event of any City Default, Foundation may, upon notice to the City, terminate this Agreement effective not less than 90 nor more than 180 days after notice *13.04*
- City and Foundation have the right to terminate for non-appropriation of management fee *13.05 (a)*
- Foundation has right to terminate if bond election is unsuccessful and City is unable to secure alternate financing by the 4th anniversary of the date of bond election *13.05 (b)*

Fair Park Management Agreement with Fair Park Texas Foundation

**City Council Briefing
August 29, 2016**

DRAFT - August 29, 2016

**MANAGEMENT AGREEMENT
FOR FAIR PARK
BETWEEN
THE CITY OF DALLAS
AND
FAIR PARK TEXAS FOUNDATION**

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Exhibits

DRAFT

**MANAGEMENT AGREEMENT
FOR
FAIR PARK**

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This Management Agreement (this “**Agreement**”) is made and entered into on the Effective Date (as herein defined) by and between **THE CITY OF DALLAS**, a Texas municipal corporation (the “**City**”), and **FAIR PARK TEXAS FOUNDATION**, a Texas nonprofit corporation (the “**Foundation**”).

WHEREAS, the City owns a tract of land containing approximately two hundred seventy-seven (277) acres of land and improvements commonly known as “**Fair Park**”, as generally depicted in Exhibit A attached hereto and incorporated herein by reference;

WHEREAS, Fair Park is the location of various cultural institutions and sporting and performance venues and events, including but not limited to the Cotton Bowl, the Fair Park Music Hall, the Texas Hall of State, the State Fair of Texas, and the Gexa Energy Pavilion;

WHEREAS, Fair Park is a national historic landmark and the home of the largest collection of art deco exposition buildings in the United States;

WHEREAS, Fair Park has heretofore primarily been managed and operated by the City, and the City now desires for the Foundation to manage and operate Fair Park;

WHEREAS, the quality operation, management, maintenance, promotion, enhancement, and improvement of Fair Park is in the best interest of the City’s residents;

WHEREAS, this Agreement falls under a bidding exemption provided under Section 252.022 of the Texas Local Government Code;

WHEREAS, the Foundation is a newly formed Texas nonprofit corporation, the primary purpose of which is to operate, manage, maintain, promote, enhance, and improve Fair Park; and

WHEREAS, the City desires to engage the Foundation to operate, manage, maintain, promote, enhance, and improve Fair Park, and the Foundation desires to accept such engagement, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants, terms and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed, the parties do hereby covenant and agree as follows:

**ARTICLE I
PURPOSE AND TERM.**

Section 1.01 Purpose.

(a) **General.** Subject to the terms and conditions set forth in this Agreement, the City hereby appoints the Foundation as the exclusive operator and manager of Fair Park, and the Foundation hereby accepts such appointment for the benefit of the City's residents and the visitors to Fair Park in accordance with the terms of this Agreement. The Foundation hereby commits to fully and completely support Fair Park as a public park, maintaining and managing the grounds and facilities of Fair Park as a vibrant, year-round location for events, daily activities, cultural enrichment, and place for quiet enjoyment. The Foundation agrees that Fair Park will only be used for the Permitted Use, as defined in Section 4.05. The purpose of this Agreement is to set forth the terms and conditions upon which the City retains the Foundation and the Foundation undertakes and agrees to operate, manage, maintain, promote, enhance, and improve Fair Park ("**Fair Park Management**").

(b) **Performance Objectives.** The City, acting through its Park and Recreation Board (the "**Park Board**"), has identified certain performance objectives for the Foundation to pursue in the course of Fair Park Management, subject to the terms and conditions set forth in this Agreement. These performance objectives include (i) the creation and maintenance of a community park to be located in Fair Park, as more fully described in Section 6.16; (ii) the support and enhancement of Fair Park as a national historic landmark; (iii) the maintenance and enhancement of the various cultural institutions located in Fair Park; and (iv) the maintenance and enhancement of the sporting and recreation venues located in Fair Park. The Foundation acknowledges that these performance objectives form the City's primary purposes for entering in to this Agreement. The City acknowledges that the aforementioned performance objectives are non-exclusive and that the Foundation may pursue additional performance objectives with respect to Fair Park, subject to the terms and conditions of this Agreement.

Section 1.02 Effective Date, Commencement Date, and Initial Term. This Agreement shall commence and be binding on the parties as of the date of approval by the Dallas City Council (the "**City Council**") as set forth on the last page of this Agreement (the "**Effective Date**"), which will in no event be later than September 30, 2016. The City shall turn over and the Foundation shall assume Fair Park Management as of 12:01 a.m., January 1, 2017 (the "**Commencement Date**"). This Agreement shall expire and terminate twenty (20) years after the Commencement Date, as of 11:59 p.m., December 31, 2036, unless terminated earlier or renewed in accordance with this Agreement (such initial twenty (20) year period, the "**Initial Term**", and as earlier terminated or renewed, the "**Term**").

Section 1.03 Renewal Terms. The Term of this Agreement may be extended by up to two (2) consecutive five (5) year renewal terms (each, a "**Renewal Term**", and together, the "**Renewal Terms**"). If either party hereto wishes to extend the Term of this Agreement, such party (the "**Requesting Party**") shall send to the other party hereto (the "**Receiving Party**") a request for such renewal (the "**Renewal Request**") at least twelve (12) months, but no sooner than eighteen (18) months, prior to the expiration of the then current Initial Term or Renewal Term, whichever applicable. Upon receipt of the Renewal Request, the Receiving Party shall

have ninety (90) days in which to either consent to or reject such Renewal Request by providing the Requesting Party with written notice of such consent or rejection. If the Receiving Party rejects such Renewal Request, this Agreement will expire at the end of the then current Initial Term or Renewal Term, whichever applicable. If the Receiving Party consents to such Renewal Request or fails to provide written notice of its consent or rejection within ninety (90) days, the Term shall be extended on the same terms and conditions for an additional five (5) years after the expiration of the then current Initial Term or Renewal Term, whichever applicable.

ARTICLE II OWNERSHIP, TRANSFERS, AND TRANSITION.

Section 2.01 Ownership of Land and Improvements. The City has and will retain ownership of any and all land, real property interests, buildings, and improvements comprising and utilized for Fair Park. Any new, expanded, or additional land, real property interests, buildings, and improvements acquired for or to become a part of Fair Park during the Term shall belong to and be owned by the City upon the City's acceptance of same. Subject to Section 4.14, the City shall be free to convey, encumber, or otherwise alienate any of the land, real property interests, buildings, and improvements within or comprising a part of Fair Park as then constituted, and the Foundation's rights under this Agreement with respect to that part of Fair Park shall terminate as a result thereof. The City shall give the Foundation not less than ninety (90) days' prior written notice of the City's intention to so convey, encumber, or alienate.

Section 2.02 Foundation Access.

(a) Transition. During the period between the Effective Date and the Commencement Date, the Foundation shall have the right to enter Fair Park for purposes of implementing transition activities in preparation for the commencement of operation and management under this Agreement, during which time all provisions of this Agreement will be in effect to the extent applicable to the status of transition completed to date. The Foundation will not interfere with and will use its best reasonable efforts to minimize disruption of the City's operations prior to the Commencement Date. The City will use its best reasonable efforts to accommodate and facilitate the Foundation transition activities; provided, however, matters involving the health, safety, and welfare of Fair Park employees and the public shall be of paramount concern and the City's determination with regard to any such matters shall be final.

(b) From Commencement Date. As of the Commencement Date, the Foundation shall have full access to and control of Fair Park for Fair Park Management in accordance with the terms and conditions of this Agreement.

Section 2.03 Transfer of Fair Park Personal Property.

(a) Generally. The City shall convey to the Foundation prior to the Commencement Date, by an Assignment and Bill of Sale (or other applicable instrument) to be effective as of the Commencement Date and subject to the reversion and re-conveyance to the City of any such items existing on the date of expiration or termination of this Agreement as set forth herein, the equipment, furniture, fixtures, supplies, computers, inventory, Fair Park Vehicles, permits, and other tangible and intangible personal property owned by the City (except for the public art work

listed in Exhibit 2.03(e) and the historic furnishings listed in Exhibit 2.03(f) and used in connection with and necessary to the operation of Fair Park (such property, the “**Fair Park Personal Property**”). Title to Fair Park Personal Property transferred as of the Commencement Date will remain in the Foundation until said items of Fair Park Personal Property are replaced, disposed of, transferred, terminated, or allowed to expire by the Foundation in accordance with this Agreement. All tangible and intangible personal property acquired by the Foundation during the Term to replace, increase, or augment the original Fair Park Personal Property will also be deemed Fair Park Personal Property, owned by the Foundation and subject to this Agreement. Attached hereto and incorporated herein by reference as Exhibit 2.03(a) is an inventory of Fair Park Personal Property to be conveyed.

(b) Fair Park Vehicles. Without in any way limiting the foregoing, the term “**Fair Park Vehicles**” means all of the trucks, cars, carts, trailers and other vehicles used by the City in the operation of Fair Park and identified on Exhibit 2.03(b).

(c) Permits. The City will endeavor to transfer to the Foundation any permits, licenses, registrations, and certifications necessary, appropriate, or convenient to Fair Park Management (the “**Permits**”), as may be transferred. Any cost related to said transfers shall be an Operating Expense to be borne by the Foundation.

(d) Books and Records. The City shall provide the Foundation with copies of requested books and records applicable to the City’s operation of Fair Park to the extent not confidential or otherwise prohibited from being disclosed, as determined by the City in its sole discretion. Any cost related to said transfers shall be an Operating Expense to be borne by the Foundation.

(e) Public Art Work. Title to the public art work as listed in Exhibit 2.03(e) (the “**Public Art Work**”) shall not be transferred to the Foundation and shall remain the property of the City. Notwithstanding the foregoing, the Foundation has the right to add art work, subject to approval by the Director of the City’s Office of Cultural Affairs (together with his or her designee, the “**OCA Director**”) in advance, and upon installation such art work shall be vested in title to the City. Without limiting the obligations set forth in this Agreement, subject to the full Management Fee pursuant to Article III, the Foundation shall be responsible for all maintenance and upkeep of the Public Art Work at the direction of the OCA Director. Any removal of the Public Art Work by the Foundation (including but not limited to for purposes of maintenance and repair) shall be approved in advance by the OCA Director. The Foundation shall be obligated, subject to proportional reductions as set forth below in the event the Foundation receives less than the full Bond Funds for Priority #1 projects, to conserve the Public Art Work at the direction of the OCA Director. The maintenance and upkeep responsibilities shall be reduced proportionally by the amount of such reduction in the Management Fee, and with respect to conservation, that the Foundation’s conservation responsibilities shall be reduced proportionally by the amount of such reduction in Bond Funds allocated for Priority #1 projects under this Agreement.

(f) Historic Furnishings. Title to the historic furnishings as listed in Exhibit 2.03(f) shall not be transferred to the Foundation and shall remain the property of the City. The Foundation may use the historic furnishings for its operations throughout the Term of this

Agreement and shall maintain them to preserve their historic value. The Foundation acknowledges that the historic furnishings shall not be removed from their location as of the Commencement Date.

(g) Substitution and Replacement. If any Fair Park Personal Property is not owned by the City (for example, items on loan to or leased by the City) or is subject to financing or other contractual restrictions that would prohibit or limit its transferability, that fact shall be noted on the Fair Park Personal Property inventory on Exhibit 2.03(a). To the extent any such Fair Park Personal Property is essential to the operation of Fair Park but not readily available to be transferred to the Foundation by the City, the parties will endeavor to address same through a master equipment lease by the City to the Foundation or some similar arrangement to be determined.

Section 2.04 Fair Park Intellectual Property.

(a) During the Term, the City will license to the Foundation the exclusive, royalty-free right to use the trademark FAIR PARK™; all domain names registered by the City in connection with Fair Park; any other trade names, trademarks, service marks, copyrights, logos, or slogans used in connection with Fair Park; and other such rights or interests owned by the City for the benefit of or in connection with Fair Park (all of the foregoing, the “**Fair Park Intellectual Property**”) for the sole purpose of performing this Agreement. Unless expressly so provided, said rights and interests will not be exclusive of City’s right to use and/or otherwise exploit same. During the term of the Agreement, City will not use the Fair Park Intellectual Property without prior notification to the Foundation.

(b) The Foundation shall have the limited right to grant sublicenses in the Fair Park Intellectual Property to any third-party vendor, supplier, tenant, advertiser, or operator for the sole purpose of and only for so long as may be necessary for such third party to assist the Foundation in fully performing this Agreement. By way of example and not limitation, the Foundation may grant a sublicense to a graphic design firm to use the Fair Park Intellectual Property for the sole and exclusive purpose of creating signage or advertising materials required for the Foundation to perform this Agreement.

(c) Any intellectual property of any kind created by the Foundation or its permitted sub-licensees for the purpose of or in the course of performing this Agreement shall be owned by the City and shall be deemed a “work made for hire” under the U.S. Copyright Act; provided, however, that the Foundation shall and hereby does assign to the City any work that cannot be deemed a work made for hire and shall cause its permitted sub-licensees to assign to the City any work that cannot be deemed a work made for hire. The Foundation shall execute and deliver any documents necessary and/or convenient to effectuate and evidence such assignment and shall cause its permitted sub-licensees to do the same.

(d) The Foundation’s use of the Fair Park Intellectual Property shall (i) be consistent with such guidelines as the City may provide to the Foundation from time to time; (ii) comply with all applicable laws, including but not limited to the marking provisions of the patent, trademark and copyright laws of the United States; and (iii) be of a high quality which is at least equal to the City’s use of the Fair Park Intellectual Property in connection with comparable

goods and services as of the Commencement Date. At all times during the Term, the City shall have the right to inspect and approve any and all uses of the Fair Park Intellectual Property by the Foundation or its permissible sub-licensees during normal business hours and, if the City finds that the quality of the Foundation's use of the Fair Park Intellectual Property falls below such standard of quality, the Foundation shall use its best efforts to restore such quality.

(e) If and to the extent that the Foundation deems it necessary or convenient to use any other intellectual property owned by the City not licensed hereunder, the parties will work together in good faith to agree upon appropriate terms for a non-exclusive, royalty-free license to allow the Foundation to use such intellectual property for such purposes and such period as the parties mutually agree is necessary.

(f) No license or sublicense granted or permitted hereunder shall create any right, title, or interest in or to the Fair Park Intellectual Property on the part of the Foundation or its permitted sub-licensees.

(g) Except as otherwise provided by this Agreement, the foregoing license and all permitted sublicenses are granted on an AS IS, WHERE IS basis, and the City disclaims all warranties in and to the Fair Park Intellectual Property to the fullest extent permissible by law.

(h) Upon termination or expiration of this Agreement for any reason, all right of the Foundation or its permitted sub-licensees to use the Fair Park Intellectual Property shall immediately terminate, and the Foundation shall, and shall cause its permitted sub-licensees to, cease making new uses of the Fair Park Intellectual Property and shall take such other steps as the City may, in its sole discretion, deem appropriate.

(i) Notwithstanding anything to the contrary in this Section 2.04, the Foundation shall, promptly upon termination or expiration of this Agreement for any reason, fully and finally transfer and assign to the City all rights in and to any Fair Park Intellectual Property or any other intellectual property created by or on behalf of the Foundation in connection with this Agreement. By way of example and not limitation, the Foundation shall promptly transfer to the City any domain name containing the FAIR PARK™ trademark that was registered by the Foundation prior to or during the Term.

Section 2.05 Fair Park Contracts.

(a) **Assignment and Assumption.** Upon the Commencement Date, the City shall and does hereby assign to the Foundation and the Foundation shall and does hereby assume from the City all of the obligations and duties under the contracts set forth on Exhibit 2.05(a) as owner (including departments of the owner), landlord, or licensor (such contracts, including current short-term leases, the "**Fair Park Contracts**"), subject to the limitations described in this Section 2.05. Copies of all Fair Park Contracts shall be separately delivered to the Foundation by the Director of the City's Park and Recreation Department or his or her designee (the Director together with his or her designee, the "**Director**"). On the Commencement Date, all of the duties and obligations of the City under the Fair Park Contracts shall be assumed by the Foundation. Fair Park facility leases for events that will take place in the City's 2016-2017 fiscal year shall be assigned to the Foundation, and the Foundation shall comply with all of the terms and conditions

of such short-term leases. With respect to this Section 2.05(a), “short-term lease” is defined as a lease term that does not exceed one year, with no option for any renewals. The City, through its Director, will provide notice of each assignment and assumption to each party to the Fair Park Contracts in accordance with the notice provision of each Fair Park Contract. The parties agree that the assignments of the Fair Park Contracts are not intended to effect a sale of the City’s property interest in Fair Park to the Foundation.

(b) Obligations Subject to Appropriation. Notwithstanding anything to the contrary in this Section 2.05, this Agreement, or any of the Fair Park Contracts, with respect to any and all of the City’s obligations under the Fair Park Contracts which are made subject therein to annual City Council appropriation (however so set forth or described), including but not limited to the City’s obligations to provide upkeep, maintenance, repair, security, storage, or other services, the Foundation will assume the City’s obligations with respect thereto only to the extent that the Foundation receives funding from the City expressly and specifically designated for such particular obligation.

(c) Insurance Obligations. Notwithstanding anything to the contrary in this Section 2.05, this Agreement, or any of the Fair Park Contracts, the Foundation will only be required to obtain insurance as specifically set forth in Section 5.03. For the avoidance of doubt, the Foundation will only assume the City’s obligations under any of the Fair Park Contracts with respect to insurance insofar as such obligations are in accordance with Section 5.03.

(d) Athletic Events. The Foundation shall assume the City’s payment obligations under those Fair Park Contracts which are related to athletic events taking place at the Cotton Bowl at Fair Park. The parties acknowledge that a portion of the Management Fee is comprised of various game stipends subject to appropriation amounts due by City under the Athletic Event contracts listed on Exhibit 2.05(d). Therefore, should any one of the Athletic Events be discontinued, the Management Fee shall thereafter be permanently reduced to that amount less the game stipend amount for the discontinued event; provided however, the Foundation shall have a cure period of eighteen (18) months to find a game or other Athletic Event replacement to avoid the permanent reduction impact to the Management Fee.

(e) Children’s Aquarium. The City’s obligations with respect to the Children’s Aquarium at Fair Park will continue to be governed by the Management Agreement entered into by and between the City of Dallas, Dallas Zoological Society and Dallas Zoo Management, Inc., executed on September 30, 2009 pursuant to Resolution No. 09-1968 (the “**Zoo Agreement**”). For the avoidance of doubt, none of the City’s obligations under the Zoo Agreement are assigned to the Foundation under this Section.

(f) State Fair of Texas Contract. The contract entered into between the City and the State Fair of Texas, pursuant to Resolution No. 02-2405 and approved by the City Council on August 28, 2002 (the “**State Fair Contract**”), is not freely assignable by the City without the consent of the State Fair of Texas. Attached hereto as Exhibit 2.05(f) is the executed Assignment of the State Fair Contract to the Foundation, effective upon the Commencement Date of this Agreement.

(g) Texas Department of Transportation Contract for Parry Avenue Parking Lot. The Multiple Use Agreement entered into between the City and the Texas State Department of Highways and Transportation, dated February 5, 1990, providing for the use of land owned by the State of Texas as a parking lot on the State Highway 352 right of way between First Avenue, Second Avenue, Ash Lane, and Parry Avenue, is not freely assignable by the City without the consent of the Texas Department of Transportation. The Texas Department of Transportation has consented to such assignment effective upon the Commencement Date of this Agreement, as set forth in the executed Assignment of Multiple Use Agreement attached hereto as Exhibit 2.05(g). As required in the aforementioned Assignment of Multiple Use Agreement, the Foundation shall promptly contribute any revenues earned through the Multiple Use Agreement and from the parking lot described in this Section 2.05(g) to the City's multi-year fund, so as to allow the State of Texas the ability to audit such revenues. Thereafter, the City shall promptly remit such revenues to the Foundation on no less than a quarterly basis and the Foundation shall use said revenues in accord with the Multiple Use Agreement.

Section 2.06 Fair Park Technology.

(a) Leased Computer Equipment. Attached hereto and incorporated herein by reference as Exhibit 2.06(a) is an inventory of computer equipment located at Fair Park which is currently leased by the City. The Foundation shall pay to the City the monthly rental reflected on Exhibit 2.06(a) for the equipment for the term reflected or until such earlier time as the Foundation returns such equipment to the City. The Foundation shall have the right during the term of the individual equipment leases to return equipment to the City, after which time the monthly rental amount shall be reduced accordingly. Upon the expiration of the lease term for a particular item of equipment as reflected on Exhibit 2.06(a), if the Foundation has not previously returned such item of equipment to the City, then ownership of the item of equipment will pass to the Foundation.

(b) Leased Telephone Equipment. Attached hereto and incorporated herein by reference as Exhibit 2.06(b) is an inventory of telephone equipment located at Fair Park which is currently leased by the City. The Foundation shall pay to the City the monthly rental reflected on Exhibit 2.06(b) for the equipment for the term reflected or until such earlier time as the Foundation returns such equipment to the City. The Foundation shall have the right during the term of the individual equipment leases to return equipment to the City, after which time the monthly rental amount shall be reduced accordingly. Upon the expiration of the lease term for a particular item of equipment as reflected on Exhibit 2.06(b), if the Foundation has not previously returned such item of equipment to the City, then ownership of the item of equipment will pass to the Foundation.

(c) Other Leased Technology Equipment. Attached hereto and incorporated herein by reference as Exhibit 2.06(c) is an inventory of other technology equipment located at Fair Park which is currently leased by the City. The Foundation shall pay to the City the monthly rental reflected on Exhibit 2.06(c) for the equipment for the term reflected or until such earlier time as the Foundation returns such equipment to the City. The Foundation shall have the right during the term of the individual equipment leases to return equipment to the City, after which time the monthly rental amount shall be reduced accordingly. Upon the expiration of the lease term for a particular item of equipment as reflected on Exhibit 2.06(c), if the Foundation has not

previously returned such item of equipment to the City, then ownership of the item of equipment will pass to the Foundation.

(d) Compliance With Underlying Leases. With regard to all equipment leased by the City and used by the Foundation pursuant to this Section 2.06 (such equipment, the “**Leased Technology Equipment**”), the Foundation shall not knowingly commit any action or inaction with respect to such Leased Technology Equipment that would violate, terminate, or otherwise default the City’s underlying equipment lease. If the Foundation’s use of any of the Leased Technology Equipment would constitute a default of or otherwise impair the City’s underlying equipment lease or any City financing (including tax treatment) related to same, the Foundation shall return such item(s) of Leased Technology Equipment to the City upon ten (10) days’ prior written notice, and such Leased Technology Equipment will not be subject to the Foundation’s use pursuant to this Section 2.06. The City will endeavor to provide the Foundation with as much notice as circumstances allow, but in no event less than the ten (10) day minimum. The Foundation will indemnify the City of and from any loss, cost, or expense under or by reason of the leases arising from the Foundation’s use of the Leased Technology Equipment.

(e) Owned Technology Equipment. Attached hereto and incorporated herein by reference as set forth in Exhibit 2.06(e) is an inventory of other technology equipment, e.g., PC’s, servers, printers, scanners, copiers, telephone and fax equipment, located at Fair Park which is currently owned by the City (the “**Owned Technology Equipment**”). On the Commencement Date, the Owned Technology Equipment shall be conveyed by the City to the Foundation.

(f) City Technology Services. Attached hereto and incorporated herein by reference as Exhibit 2.06(f) is a schedule of fees for technology or communication services to be provided by the City to the Foundation (such services, the “**City Technology Services**”), for which the Foundation shall pay the City on a month-to-month basis so long as the Foundation, in its sole discretion, elects to utilize such services. With the exception of radio services, the City shall be obligated to provide the City Technology Services for no more than nine (9) months after the Commencement Date.

(g) Software. The City shall transfer to the Foundation those software licenses that are readily transferable without cost to the City, and the transfer of which would not otherwise negatively impact the City’s operations and use. The Foundation shall be responsible for new versions support and updates of any software required for Fair Park Management.

(h) Radio Frequencies and Systems. Throughout the Term, the City shall keep in effect those certain radio frequencies and systems used at Fair Park as of the Commencement Date and shall make such radio frequencies and systems available to the Foundation in connection with the operation of Fair Park to the same extent as existed as of the Effective Date. The Foundation shall pay the City for said radio frequencies and systems as set forth in Exhibit 2.06(h), attached hereto and incorporated herein by reference. Should either party wish to discontinue the Foundation’s use of such radio frequencies and systems, the party electing to discontinue such service shall provide the other party with ninety (90) days’ prior written notice, after which such service will be discontinued. The Foundation may return all or a portion of the

systems and equipment reflected on Exhibit 2.06(h) to the City from time to time with a related equitable fee reduction.

(i) **New Equipment and Services; Transition Costs; Electronic Records.** The Foundation shall bear the cost of any new equipment, systems, licenses, or IT services to be acquired, installed, or implemented after the Commencement Date. The parties shall bear the cost of their respective technical support to effect the transfer of Fair Park Management on the Commencement Date. All electronic documents and data files specific to Fair Park, exclusive of personnel records of current and past City personnel and any information deemed by the City to be confidential or privileged, including e-mails, will be transferred to the Foundation's new systems as soon as practicable, with copies retained by the City as it deems appropriate.

Section 2.07 Reversion or Other Conveyance Upon Expiration or Termination. Effective upon and simultaneously with the expiration or termination of this Agreement, all of the Foundation's right, title, and interest in and to Fair Park Personal Property (if any remaining) will automatically revert to the City or will be conveyed by the Foundation as otherwise directed by the City, pursuant to Section 13.09(a).

Section 2.08 Disclaimer of Warranties; AS IS Condition. The City has not made, does not make, and hereby specifically disclaims any representations, warranties, promises, covenants, agreements, or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, or with respect to (i) the nature, quality or condition of Fair Park and the Fair Park Personal Property; (ii) the suitability of Fair Park and the Fair Park Personal Property for any and all activities and uses which the Foundation may conduct; (iii) the compliance of or by Fair Park and the Fair Park Personal Property or of operations involving Fair Park and the Fair Park Personal Property with any Applicable Laws; (iv) the habitability, merchantability, or fitness for a particular purpose of Fair Park and the Fair Park Personal Property; (v) the accuracy or completeness of any materials provided to the Foundation under the provisions of this Agreement or otherwise; or (vi) any other matter with respect to Fair Park and the Fair Park Personal Property. The Foundation acknowledges and consents to such disclaimer of warranties by the City, and the Foundation accepts Fair Park Management and the Fair Park Personal Property **AS IS, WHERE IS, WITH ALL FAULTS**, based solely on its own inspection thereof. Notwithstanding the foregoing, the parties acknowledge the Capital Needs Inventory for Fair Park as set forth in Exhibit 3.03. Further, any transfers by the City to the Foundation provided in this Agreement and the right to Fair Park Management granted by this Agreement is expressly granted subject to all matters of record in the Dallas County, Texas Official Real Property Records and applicable zoning.

Section 2.09 Applicable Laws and Governmental Authority. For purposes of this Section 2.09 and throughout this Agreement, "**Applicable Laws**" means (i) any law, legislation, statute, act, rule, charter, code, ordinance, decree, treaty, regulation, order, judgment, holding of a judicial or administrative tribunal, or other similar legal requirement, or (ii) any legally binding announcement, directive or published practice or interpretation thereof, enacted, issued or promulgated by any Governmental Authority. "**Governmental Authority**" means the federal government of the United States, or any state, county, municipal or local government (including the City of Dallas) or regulatory department, body, political subdivision, commission, agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other

authority (e.g., the Dallas Landmark Commission) thereof having jurisdiction over any of the parties, Fair Park, Fair Park Management, or this Agreement, whether acting under actual or assumed authority.

ARTICLE III MANAGEMENT FEE AND OTHER FISCAL MATTERS.

Section 3.01 Management Fee.

(a) Amount. As compensation for Fair Park Management by the Foundation, the City shall pay to the Foundation an annual management fee (the “**Management Fee**”). For the City’s fiscal year beginning on October 1, 2016, the Management Fee will be Twelve Million Five Hundred Twenty-Five Thousand Dollars (\$12,525,000), One Million Dollars (\$1,000,000) of which will be the Transition Funds payable to the Foundation prior to the Commencement Date pursuant to Section 3.02. For the City’s fiscal year beginning on October 1, 2017, the Management Fee will be Eighteen Million Seven Hundred Thousand Dollars (\$18,700,000). For the City’s fiscal year beginning on October 1, 2018 and continuing through the end of the Term (including any Renewal Term), the Management Fee will be Twenty Million Seven Hundred Thousand Dollars (\$20,700,000).

(b) Payment. For the City’s fiscal year beginning on October 1, 2016, the entire Management Fee shall be due and payable to the Foundation in one lump sum on January 1, 2017, except for the Transition Funds, as provided in Section 3.02. In all subsequent City fiscal years, the Management Fee shall be due in equal quarterly installments in advance no later than October 21st, January 15, April 15, and July 15 of each year. The Management Fee shall be prorated on a daily basis for any partial year resulting from the expiration or termination of this Agreement. The City will be entitled to a credit against quarterly installments in an amount equal to the aggregate of any amounts owed by the Foundation to the City pursuant to this Agreement with respect to the preceding quarterly period(s) or portions thereof.

Section 3.02 Transition Funds. No later than October 31, 2016, the City shall pay to the Foundation One Million Dollars (\$1,000,000), to be used by the Foundation for such reasonable purposes to facilitate an orderly transition of Fair Park Management (such funds, the “**Transition Funds**”). The Foundation may use the Transition Funds for operations or for capital expenditures in its reasonable discretion.

Section 3.03 Bond Funds. The City intends to seek voter approval to authorize the issuance of bonds for certain capital expenditures (including major maintenance and improvements) at Fair Park (the “**Fair Park Capital Bond Expenditures**”) in the next two (2) upcoming general obligation bond programs. The decision to call a bond election is subject to the decision of the City Council serving at the time a bond election may be called, and is further subject to state and federal law existing at the time a bond election is called relating to the issuance of bonds. The issuance of bonds shall be subject to then prevailing market conditions, and the City reserves the right to delay or postpone bond sales until such time as the City determines that favorable market conditions exist to allow for the economic sale of bonds. Certain portions of the proceeds received from the sale of bonds authorized to finance Fair Park Capital Bond Expenditures (“**Bond Funds**”) shall only be disbursed by the City upon

the Foundation successfully obtaining matching funds from Non-City Sources, as set forth in the table, below. “**Non-City Sources**” means funding obtained from private foundations; for-profit corporations; nonprofit corporations; federal, state, or local (non-City) governmental entities; or any other source of funding other than the City. Non-City Sources shall be obtained prior to the sale of bonds by the City to finance Fair Park Capital Bond Expenditures, as set forth in the table, below. For purposes of clarity, Non-City Sources includes funds obtained by the Foundation for naming and sponsorship purposes pursuant to Section 4.17, as well as donations in kind. “Donations in kind” means goods or services other than donations of art work, unless and until such time as such art work is liquidated by the Foundation. The Foundation shall provide documentation to the City prior to the sale of bonds to finance Fair Park Capital Bond Expenditures of the fair market value of the goods or services provided as donations in kind. The Director may elect for an appraisal of any donations in kind obtained by the Foundation, as provided in Section 3.04.

In the first bond program, tentatively scheduled to be included in the proposed 2017 election, the City intends to seek a total of Seventy-Five Million Dollars (\$75,000,000) in Bond Funds to be allocated for Fair Park Capital Bond Expenditures. Such Bond Funds from the first bond program are intended to be disbursed as follows:

FIRST BOND PROGRAM – Tentatively planned for a May 2017 Election			
	City of Dallas Bond Program (\$000’s)	Required Match From Non-City Sources (\$000’s)	Total Funds (\$000’s)
1st Sale¹	25,000	0	25,000
2nd Sale²	25,000	25,000	50,000
3rd Sale³	25,000	25,000	50,000
TOTAL CAPITAL EXPENDITURE FUNDING	\$75,000	\$50,000	\$125,000
Footnote #1 -	The City pays for Priority #1 projects indicated in Capital Needs Inventory for Fair Park		
Footnote #2 -	The City pays for Priority #1 and Priority #2 projects; the Foundation pays for Priority #3 and/or Priority #4 projects		
Footnote #3 -	The City pays for Priority #2 projects; the Foundation pays for Priority #3 and/or Priority #4 projects		

Reference is made in the tables above and below to that certain Capital Needs Inventory for Fair Park, attached hereto as Exhibit 3.03 and incorporated herein by reference. During the term of the Agreement, the Capital Needs Inventory for Fair Park shall be subject to change only upon Director approval.

In the second bond program, tentatively scheduled to be included in the proposed election to be held in 2020 or 2022, the City intends to seek a total of fifty million dollars (\$50,000,000) in Bond Funds for Fair Park Capital Bond Expenditures. Such Bond Funds from the second bond program are intended to be disbursed as follows:

SECOND BOND PROGRAM - Tentatively planned for a 2020 to 2022 Election			
	City of Dallas Bond Program (\$000's)	Required Match From Non-City Sources (\$000's)	Total Funds (\$000's)
1st Sale⁴	25,000	25,000	50,000
2nd Sale⁵	25,000	25,000	50,000
TOTAL CAPITAL EXPENDITURE FUNDING	50,000	50,000	100,000
Footnote #4 -	The City pays for Priority #2 and Priority #3 projects; the Foundation pays for Priority #4 projects		
Footnote #5 -	The City pays for Priority #3 projects; the Foundation pays for Priority #4 projects		

If the Bond Funds described in this Section 3.03 are not authorized, the Foundation and the Director will work together to determine other sources of capital to meet the capital needs of Fair Park. Nothing in the preceding sentence shall limit the rights of the Foundation under Section 13.05.

For Purposes set forth herein the Priority classifications shall be defined as follows:

Priority 1: expenditures for public safety, security, ADA compliance;

Priority 2: expenditures for deferred major maintenance;

Priority 3: expenditures for programs or projects directed to maintain customer base and prevent attrition;

Priority 4: expenditures for programs or projects directed to obtain new customers, expand Fair Park identity into new markets.

Section 3.04 Appraisal. If the Director elects for an appraisal of any donations in kind obtained by the Foundation pursuant to Section 3.03, the Director and the Foundation shall mutually agree on a qualified appraiser who will conduct the appraisal. Such appraiser's determination regarding the fair market value of the in-kind donation(s) in question shall be binding on the parties. If the Director and the Foundation are unable to mutually agree on such an appraiser, then the Director and the Foundation shall each select an appraiser, which appraisers shall then select an independent appraiser who will conduct the appraisal. Such independent appraiser's determination regarding the fair market value of the in-kind donation(s) shall be binding on the parties. All costs associated with any appraisal under this Section 3.04, including but not limited to costs related to the independent appraisal, shall be paid for solely by the Foundation.

Section 3.05 Foundation Funding of Resident Institutions.

(a) Appropriation of Full Management Fee. (i) If the City Council appropriates the full Management Fee owed to the Foundation pursuant to this Article III for any given City fiscal year beginning on October 1, then the Foundation shall allocate at least One Million Three Hundred Thousand Dollars (\$1,300,000), and may allocate up to One Million Seven Hundred

Thousand Dollars (\$1,700,000), in the aggregate to those institutions listed on Exhibit 3.05 (such institutions, the “**Resident Institutions**”) during the Foundation Fiscal Year beginning on the following January 1. The Foundation acknowledges that these Resident Institutions receive annual subsidies subject to appropriation of funding from the City, which subsidies, effective as of the Commencement Date shall thereafter during the term of this Agreement be the responsibility of the Foundation. Such allocation shall be used for programming, utilities, facility maintenance, and other facility support of these Resident Institutions in accordance with an allocation plan mutually agreed to by the Director, the Foundation, and the OCA Director. Consistent with the Management Fee, commencing on October 1, 2020, the allocation to Resident Institutions shall be adjusted proportionally per any modification to the Management Fee.

(ii) Notwithstanding anything to the contrary set forth in the preceding paragraph (a), the parties acknowledge and agree that there are various operators and occupants within the various buildings comprising Fair Park that the City has deemed as resident institutions due to their longstanding tenancy but do not receive annual City subsidies as the Resident Institutions described in Exhibit 3.05.

(b) Appropriation of Less Than Full Management Fee. If the City Council ever appropriates less than the full Management Fee owed to the Foundation pursuant to this Article III for any given City fiscal year beginning on October 1, then the Foundation shall only be required to allocate to the Resident Institutions One Million Three Hundred Thousand Dollars (\$1,300,000) reduced proportionally by the amount of such reduction in the Management Fee during the Foundation Fiscal Year beginning on the following January 1. For purposes of illustration, if the City Council appropriates to the Foundation the Management Fee in an amount that is ten percent (10%) less than that owed under this Article III, then the Foundation shall only be required to allocate to the Resident Institutions One Million Three Hundred Thousand Dollars (\$1,300,000) less ten percent (10%) of such amount, which equals One Million One Hundred Seventy Thousand Dollars (\$1,170,000).

(c) No Further City Funding. If the Resident Institutions obtain funding from the Foundation during any given year in accordance with this Section 3.05, then it shall be the policy of the City that those Resident Institutions may not seek any additional funding from the City during such given year, except that such Resident Institutions, if eligible, may seek funding (for special exhibitions or projects) from the Office of Cultural Affairs’ Cultural Organizations Program, or its equivalent.

(d) Funding Recommendations. Except for the Texas Discovery Garden, the Foundation will utilize the Office of Cultural Affairs’ annual application and review process for the evaluation and recommendation of the funding support for the Resident Institutions described in this Section 3.05.

Section 3.06 Non-Appropriation. The City’s obligation to pay any monetary amounts or fiscal obligations provided in this Agreement, including each fiscal year’s Management Fee to the Foundation, shall be subject to and strictly contingent on annual appropriation thereof by the City; provided, however, that upon the City’s failure to appropriate said amounts in any City

fiscal year, this Agreement may be terminated by the City or Foundation, as set forth in Section 13.05.

ARTICLE IV MANAGEMENT AND OPERATION OF FAIR PARK.

Section 4.01 Foundation Management and Operation. From and after the Commencement Date, the Foundation shall do all things and take all actions, at its cost and expense, necessary for Fair Park Management in accordance with this Agreement. The Foundation shall fully support and facilitate, both financially and otherwise, Fair Park under this Agreement. The Foundation is and at all times shall be an independent contractor retained by the City to provide Fair Park Management as herein provided. The City shall not be responsible for any of the costs of Fair Park Management. All such costs shall be the responsibility of the Foundation.

Section 4.02 Foundation Governance. Throughout the Term, the Foundation shall be governed by a board of directors (the “**Foundation Board**”) consisting of no fewer than nine (9) members, the composition of which shall be diverse and inclusive. Throughout the Term, no less than the greater of (i) one (1) member or (ii) ten percent (10%) of the membership of the Foundation Board will consist of *each* of (A) persons from and representing the historic preservation community and (B) persons from and representing the surrounding Fair Park community. The Director of the City’s Park and Recreation Department will serve as the Park and Recreation Department’s liaison to the Foundation Board but shall not be a member of the Foundation Board and shall serve in a non-voting capacity. In addition to the Foundation Board, throughout the Term, the Foundation may be advised by an advisory board.

Section 4.03 Performance Plan and Reports to Park Board.

(a) Performance Plan. In order for the Park Board to evaluate the performance of the Foundation during the Term of this Agreement, the Foundation shall submit to the Park Board a Performance Plan for Fair Park (the “**Performance Plan**”) as described in this Section 4.03. The Performance Plan will set forth the performance objectives for Fair Park, which shall address (but not necessarily be limited to addressing) those performance objectives identified by the City set forth in Section 1.01(b). The Performance Plan will identify “performance indicators” reasonably related to the performance objectives. The performance indicators to be included in the Performance Plan shall include but not necessarily be limited to (i) the number of visitors to Fair Park; (ii) the number of events held at Fair Park and at the various institutions and venues located thereon; (iii) the Foundation’s net and gross operating revenues; (iv) Capital Expenditures at Fair Park, including the Fair Park Capital Bond Expenditures; (v) contributions to the Foundation or other contributions obtained for the benefit of Fair Park, from both the City and Non-City Sources; (vi) the amount of contributions raised for the signature community park; (vii) the amount of green space created at Fair Park; and (viii) the Foundation’s progress in meeting the City’s BID Plan as hereinafter defined in Section 4.13(a). The year beginning on January 1, 2018 and ending on December 31, 2018 will serve as the base year to measure the Foundation’s performance under the Performance Plan. During the Term of this Agreement, the Performance Plan will be updated by the Foundation from time to time or as reasonably requested by the Director.

(b) Development of Performance Plan. No later than April 30, 2017, the Foundation shall identify the performance indicators measuring performance of the performance objectives to be included in the Performance Plan and shall provide a written report to the Park Board with respect to same. No later than December 31, 2017, the Foundation, in collaboration with Park Department staff, shall identify and develop the various devices and systems that will be used to measure the Foundation's performance with respect to the performance indicators and shall provide a written report to the Park Board with respect to same. The Performance Plan shall be subject to Park Board review and approval. During the year beginning on January 1, 2018, the Foundation shall collect the data necessary to measure the baseline with respect to each of the performance indicators. After the collection of this data and no later than April 30, 2019, the Foundation shall submit the initial Performance Plan to the Park Board.

(c) Reports to Park Board. During the first two (2) years of the Term of this Agreement, the Foundation shall provide to the Park Board a report regarding significant activities at Fair Park, including but not limited to the transition of Fair Park Management to the Foundation, no less than quarterly. Starting in the year beginning on January 1, 2020, the Foundation shall provide to the Park Board an annual report summarizing its performance under the Performance Plan during the preceding year, such annual report to be provided no later than April 30 of each year. The annual report will also include other significant activities and accomplishments that occurred at Fair Park during the preceding year and information regarding activities or improvements planned for the future.

(d) Remediation Plan. If in any given year the Foundation fails to meet any one of the performance indicators as set forth in the Performance Plan by a deviation of ten percent (10%) or more, the Director or Park Board may, after taking all factors into consideration, require the Foundation to engage an independent consultant at its sole expense to develop and oversee the implementation of a remediation plan. As part of the remediation plan, the Foundation shall provide periodic updates to the Park Board on the remedial action being taken.

Section 4.04 Accessibility.

(a) Policies and Programs. The Foundation will manage and operate Fair Park with a goal of providing broad, nondiscriminatory access to Fair Park for the City's residents and the general public. In furtherance of that goal, the Foundation will develop and maintain policies and programs designed to ensure broad access to Fair Park by economically disadvantaged City residents.

(b) Control. In the admission of visitors to Fair Park, there will be no discrimination by reason of race, color, creed, national origin, gender, political adherence, sexual orientation, religion or otherwise; provided, however, that this will not prevent or prohibit reasonable and lawful rules and regulations for attendance at Fair Park. Nothing herein shall prevent the exclusion or ejection from Fair Park of any person or group of persons whose conduct is, or in the past has proven itself to be, offensive, disruptive, dangerous, or otherwise detrimental to good order and decorum, or to the peace, safety, and quiet enjoyment of other persons properly attending Fair Park.

Section 4.05 Permitted Use. Fair Park will be used solely for park purposes, including as the location of recreational facilities and activities, cultural institutions and programs, sporting events, entertainment, other support facilities and activities, concessions, and parking, as well as the marketing, promotion and development thereof, all in accordance with the terms and conditions of this Agreement (the “**Permitted Use**”), and for no other purpose without the prior written consent of the City, acting through the Director. Without limiting the foregoing, any educational use at Fair Park must include a recreation or cultural component and be available to the general public.

Section 4.06 Continuous Operations. The Foundation will not at any time during the Term abandon Fair Park Management, and will in good faith, continuously throughout the Term, conduct and support within the entirety of Fair Park the type of activities herein contemplated, save and except during such periods of time when the construction, reconstruction or renovation of any portion of Fair Park renders the same impractical, but then only as to the impacted portions of Fair Park.

Section 4.07 Not For Profit. Fair Park will be maintained and operated as a public facility for the benefit and enjoyment of the citizens of Dallas and the general public. The Foundation shall be responsible for maintaining its not-for-profit status throughout the Term of this Agreement. During the Term of this Agreement, general admittance to the general grounds of Fair Park will remain free of charge, except as provided in Section 7.02. Nothing in this Section 4.07 will prevent or prohibit the imposition of reasonable admission fees or other charges for special events; the granting of concessions or other uses consistent with the general purposes of the operation of Fair Park; the granting of naming rights or sponsorships pursuant to Section 4.17 or any other section of this Agreement; or the payment of compensation to employees, consultants, contractors, or other service providers.

Section 4.08 No Nuisance. All Fair Park Management will be conducted in an orderly and proper manner considering the nature of Fair Park operations. The Foundation will not do or permit to be done anything which may result in the creation, commission, or maintenance of a nuisance, unsanitary condition, waste, or injury on Fair Park. The Foundation will not do nor permit to be done anything that materially adversely affects the effectiveness or accessibility of the drainage system, sewerage system, or fire hydrants and hoses, if any, installed or located in or around Fair Park. The Foundation will have the right to make alterations to such systems as it deems necessary or desirable for Fair Park Management, so long as any such alteration to such systems will not materially adversely affect any other common user of the lines or other distribution facilities of such systems. The Foundation will arrange for the collection of all garbage, debris and waste material, whether solid or liquid, arising out of Fair Park Management; arrange for the storage of same pending disposal in covered metal or other rigidly and sturdily constructed receptacles; and arrange for the disposal of same off Fair Park at regular intervals, except for sewage and storm water runoff which may be disposed of in the City’s sewer system and storm-sewer system, respectively. The Foundation shall not permit Fair Park to be used in any manner that would render the insurance thereon void or the insurance risk more hazardous.

Section 4.09 Compliance With Applicable Laws. The Foundation and the officers, employees, and agents under its control shall abide by, conform to, and comply with all Applicable Laws as they relate to Fair Park, this Agreement, and the Foundation’s performance

hereunder. Throughout the Term, the Foundation will keep fully informed concerning, and promptly comply or cause compliance with, all required approvals from Governmental Authorities (including the Dallas Landmark Commission) (such approvals, “**Governmental Approvals**”). The Foundation will, at its sole cost, procure all required Governmental Approvals; pay any charges, license fees, or taxes incident to its activities under this Agreement; and give all notices necessary and incident to the lawful and proper execution of its activities under this Agreement.

Section 4.10 Expenses. The Foundation will pay all Operating Expenses from its own various revenue sources, including the Management Fee under Article III, as well as its share of the Capital Expenditures as set forth in Section 3.03, from the Commencement Date and throughout the Term of this Agreement. “**Operating Expenses**” means all expenses, costs and disbursements of every kind and nature relating to or incurred or paid in connection with Fair Park Management, determined in accordance with generally accepted accounting principles as in effect from time to time in the United States of America consistently applied (“**GAAP**”), including the following: (i) wages and salaries (including all taxes, insurance, and benefits payable by the employer and training expenses) of all persons directly engaged by the Foundation for Fair Park Management; (ii) all supplies, tools, equipment and materials used in Fair Park Management; (iii) cost of all maintenance and service agreements for Fair Park, its buildings and improvements, and all systems and equipment therein, including without limitation mechanical, electrical, plumbing, and HVAC systems and equipment; (iv) cost of repairs and maintenance; (v) cost of all insurance, including required or permitted insurance under the Agreement; (vi) all accounting, legal and other professional or consulting services; (vii) cost of all marketing, advertising, promotions, and fundraising; and (viii) all other expenses normally considered operating expenses consistent with GAAP. “**Capital Expenditures**” means costs or expenditures which are considered capital costs or expenditures under GAAP, including capital expenditures for improvements, alterations, additions, replacements, equipment, tools and other items having a useful life in excess of one (1) year; rentals and related expenses, if any, incurred in leasing systems or other equipment normally considered to be of a capital nature; sculptures, paintings and other art work used to decorate the facilities at Fair Park; asbestos removal costs; and renovations or improvements at Fair Park other than routine repairs not considered to be capital items under GAAP.

Section 4.11 Personnel. The Foundation shall employ, pay, supervise, and discharge all personnel the Foundation determines to be necessary, appropriate, and convenient for Fair Park Management and its performance under this Agreement. The Foundation will have sole discretion and responsibility regarding initial and future personnel matters and to determine its personnel policies, procedures, and practices, including compensation, benefits, and perquisites. The City shall not have any responsibility for or exercise any control over the Foundation personnel, and in no event shall any of said personnel be deemed City employees. Notwithstanding any of the foregoing, the Foundation shall make an offer of employment to all employees of the City currently based at Fair Park, with such employment to become effective as of the Commencement Date, and the Foundation shall comply with the non-discrimination and other similar provisions of this Agreement in its employment matters and will provide and maintain at all times reasonable “whistleblower” protections for its employees.

Section 4.12 Grant Administration.

(a) **Application and Management.** The Foundation will have the exclusive right during the Term to apply for and accept, receive, and manage all financial grants or other donations from Non-City Sources with regard to Fair Park Management. Proceeds of all such grants or other donations will be held in the Foundation's restricted or unrestricted account for the benefit of Fair Park, as the case may be, based on the purpose and requirements of such grants.

(b) **Cooperation.** Upon the request of the Foundation, the City shall cooperate with the Foundation in connection with its application for any grants or other donations related to Fair Park and Fair Park Management offered by Non-City Sources, including serving as "sponsor" for the Foundation. Notwithstanding the foregoing, the City shall have no liability for repayment of any or all of such grants or other donations in the event of default under any grant terms or requirements unless it expressly consents to such obligation, in its discretion.

Section 4.13 Contracts Related to Fair Park Management; General Provisions.

(a) **General Requirements.** The Foundation may perform any obligation or activity required or permitted of it pursuant to this Agreement through its own personnel or by subcontracting for the performance thereof by others. If the Foundation subcontracts for the performance by others of any of the duties set forth in this Agreement, each such subcontract or agreement will require at least the same standards and preserve to the City at least the same controls with which the Foundation would be required to observe and comply. All such contracts, agreements, and undertakings will be in the name of the Foundation, as applicable, and not the City. In no event will the Foundation enter into any contracts, agreements, or undertakings in connection with Fair Park and this Agreement, including any concession agreement or occupancy agreement relating to such concession that extends beyond the Term of this Agreement. All such contracts, agreements, or undertakings will expressly (i) be made subject to the terms of this Agreement; (ii) be made subject to all Applicable Laws; (iii) provide for the automatic termination thereof upon the expiration or termination of this Agreement, unless the City (through its Director and Park Board) approves the continuation and the assumption by the City of such contract, agreement, or undertaking as of the date of such expiration or termination of this Agreement; (iv) require the contractor to use good faith efforts to comply with the City's Business Inclusion and Development Plan, as amended from time to time (the "**BID Plan**"); (v) contain commercially reasonable insurance requirements for coverages and limits not less than those which are customarily required by the City of its like contractors, naming the City and its officers and employees as additional insureds; (vi) indemnify the City and its officers and employees against any costs or liabilities thereunder using language substantially similar to the Foundation's indemnifications of the City found in this Agreement; and (vii) if applicable, contain vendor qualification requirements sufficiently broad so as not to exclude minority vendors as a class, and general contract specifications sufficiently broad so as not to favor a single vendor.

(b) **City Review.** A current list of all such contracts, agreements or undertakings, including the parties thereto, the primary purpose thereof and applicable contract, agreement or license fees, shall be maintained by the Foundation and, upon the City's request, shall be provided to the City without delay.

(c) **Additional Information.** Upon the City's request, the Foundation shall make and provide copies of any contracts, agreements, undertakings, and other information requested by the Director. If any such material is labeled confidential or trade secret, the City shall follow the applicable state law provision (the Texas Public Information Act) with respect to any open records request. Transparency of Fair Park operations being a prime objective of this Agreement, the Foundation will endeavor and use reasonable efforts to minimize the instances of confidential agreements.

(d) **Commercially Reasonable.** All such contracts, agreements, and undertakings as well as staff salaries, compensation, perquisites, and benefits shall be commercially reasonable and consistent with comparable park industry standards.

Section 4.14 Leases or Licenses. During the Term of this Agreement, the Foundation shall have the exclusive right to lease or license Fair Park facilities for any Permissible Use. All such agreements entered into by the Foundation must comply with all Applicable Laws. Notwithstanding the foregoing, (i) any contracts or series of contracts creating an occupancy interest in any facility at Fair Park in excess of one year, including amendments to existing contracts to extend or create an occupancy interest for periods in excess of one year, except for concessionaire or vendor contracts, shall be subject to Park Board approval, and the Park Board may in its sole discretion elect to obtain City Council approval, and (ii) any change in occupancy or operator of any facility at Fair Park that is occupied as of the Commencement Date shall be subject to the approval of the Director.

Section 4.15 Operating Hours. Fair Park shall remain open and accessible for public use subject to reasonable rules, regulations, policies, procedures, operating hours, and holidays established by the Foundation, which shall be commercially reasonable and consistent with comparable park industry standards. Any material reduction or shortening of operational days and hours shall be submitted in advance to the Director and the Park Board for review and approval prior to implementation.

Section 4.16 Public Relations, Marketing, Promotion, Advertising, & Fundraising.

(a) **Marketing.** The Foundation shall have and exercise exclusive authority and control over all public relations, marketing, promotions, and advertising activities of any nature or character whatsoever on behalf of and for the benefit of Fair Park or taking place at Fair Park.

(b) **Fundraising.** The Foundation will have the exclusive right to plan, design, implement, and manage all fundraising efforts for Fair Park, including the right to negotiate all marketing sponsorships for Fair Park, and to solicit funds from Non-City Sources. Subject to the other provisions of this Agreement, including Section 4.17, the Foundation will have the right to incorporate donor recognition programs in connection with its fundraising and capital campaigns.

(c) **Donor Benefits and Incentives.** The Foundation will have the right to develop appropriate donor benefits that are competitive with other cultural institutions in the region.

Section 4.17 Naming and Sponsorship.

(a) Compliance. During the Term of this Agreement, the Foundation shall have the right to contract for and grant sponsorships, advertising space, and naming rights for all current and future assets, facilities, events, programs, and advertising panels involving Fair Park. Any such arrangements shall (i) not conflict with any existing naming and/or sponsorship arrangements in effect with the City, through its Park and Recreation Department, as of the Commencement Date for their stated term or commitment; (ii) be subject to the historic overlay ordinance and the requirements of the Dallas Landmark Commission; (iii) terminate with the expiration of this Agreement; (iv) in no way obligate, commit or bind the City; (v) be of a first class quality, tasteful, attractive, and suitable for facilities catering to families, children and youth patrons; and (vi) be on commercially reasonable terms and consistent with good commercial practices. Sponsorships, advertising, and/or naming rights involving Fair Park shall not promote, advertise, or relate to tobacco products or companies, sexually oriented business, or be of a non-commercial or cause-oriented nature (e.g., promoting or criticizing a political party, public official, or candidate; a political or social cause or movement; or a religion, religious establishment, or religious movement).

(b) Approval. The Park Board's approval is required for any permanent re-naming of any buildings or facilities existing at Fair Park as of the Commencement Date. In addition, the Director's approval is required for any sponsorship that exceeds five (5) years for any Fair Park amenity (including picnic areas, landscape areas, and/or new amenities such as a carousel or any proposed recreational equipment). If a sponsorship arrangement requires the name to be on a building or facility located at Fair Park, such arrangement must be submitted to the Director for approval regardless of the term of such arrangement, and the name must come after the name of the facility. By way of example and not limitation, an activity sponsored by the History Channel at the Hall of State may be presented, subject to the Director's approval, as "Hall of State, presented by the History Channel". Notwithstanding the foregoing, neither the City nor the Foundation may sell the naming rights for Fair Park as a whole except with the prior consent of both parties, which in the City's case shall require approval by the Park Board and the City Council. Any such sponsorship or naming rights arrangement as discussed under this Section 4.17 and entered into by the Foundation shall be assumable by the City at its election upon any termination of this Agreement pursuant to which the Foundation ceases to occupy Fair Park. The City, through its Park Board, reserves the right to require renaming if a named corporation ceases to exist or if a named corporation or individual is conclusively linked to a felony conviction.

Section 4.18 Concessionaire and Vendor Contracts. The Foundation shall have the exclusive authority to negotiate and execute (in its own name and not the name of the City) and perform vendor contracts involving Fair Park and its visitors. The Foundation may, by itself or through any concessionaires and licensees, provide such concessions, products, services, and facilities at Fair Park as it deems appropriate and consistent with the Permitted Use. Any and all concessionaires and licensees that operate within Fair Park under contract with the Foundation shall (i) operate under contract terms commercially reasonable for the type of concession, product, service, or facility offered, (ii) comply with all Applicable Laws and the BID Plan concerning their operations, (iii) be of a first class and professional quality, (iv) be subject to the terms of this Agreement, (v) carry insurance appropriate to its activities and consistent with that required of the Foundation under this Agreement, and (vi) indemnify, defend, and hold harmless the City from and against any and all loss, cost, claim, liability, expense, or damage, including

without limitation attorney's fees and court costs, in any way related to or arising from its activity at Fair Park.

Section 4.19 Other Activity. Without limiting any other provision of this Agreement, the Foundation is hereby authorized to and shall:

(i) commence, defend, and settle in good faith, at no cost or liability to the City, such legal actions or proceedings concerning the management and operation of Fair Park as are necessary or required in the opinion of the Foundation;

(ii) maintain and make available to the public a schedule of basic rates, fees, and charges for admittance for special events, services, and programs at Fair Park, recognizing that general admittance to the general grounds of Fair Park is free of charge, except as otherwise provided in Section 7.02;

(iii) purchase and maintain all materials, tools, machinery, equipment, and supplies necessary for Fair Park Management, at its expense, and maintain, repair, upgrade, dispose of, replace, and/or add to the Fair Park Personal Property as necessary or convenient for Fair Park Management during the Term of this Agreement;

(iv) maintain Fair Park and the Fair Park Personal Property in a good, safe, clean, attractive, sanitary, repaired, and useable condition consistent with Applicable Laws and establish, coordinate, and administer a preventive maintenance program for Fair Park and the Fair Park Personal Property;

(v) promptly furnish to the City such reports, records, and other information concerning Fair Park and Fair Park Management as may be reasonably requested from time to time by the Director and comply with any record retention requirements as may be requested by the City or required by Applicable Laws or for Governmental Approvals; and

(vi) in the ordinary course of business, make prompt payment to its vendors, concessionaires, consultants, contractors, and similar parties, provided that nothing herein shall prevent the Foundation from contesting and litigating, in good faith, any payment alleged to be due to any such person.

Section 4.20 City Access. Notwithstanding anything to the contrary in this Agreement, the City reserves the right to and may enter Fair Park (and all areas therein) at any and all times for any and all purposes, including inspection, provided that the City shall use its best efforts to not interfere with Fair Park Management (unless such interference is necessary to preserve the health, safety and welfare of the public or the Foundation employees or is made pursuant to its police powers). The Foundation shall provide to the City, without cost, reasonable office space at Fair Park for any on-site presence the City reasonably deems appropriate.

Section 4.21 Payment of Outstanding Invoices. The City shall remain obligated for all goods and services provided to Fair Park prior to the Commencement Date for which an invoice has been rendered to the City and such invoice is classified as an open encumbrance by the City. Should any invoiced goods or services provided to Fair Park prior to the

Commencement Date be subsequently returned for credit after the Commencement Date, the Foundation shall pay to the City any such credit it receives.

Section 4.22 City Departments or Affiliates. Notwithstanding anything to the contrary in this Agreement, at no time during the Term of this Agreement shall the Foundation displace WRR 101.1 FM, Dallas City News Television (DCNTV), or Dallas Police Department – Mounted and Canine Units from their location within Fair Park, as such exists as of the Effective Date, without the prior authorization of the City. The City shall continue to be responsible throughout the Term of this Agreement for the utility, maintenance, repair, and other Operating Expenses and Capital Expenditures related to such facilities so long as they are occupied by City departments, and the Foundation shall have no such obligations with respect thereto.

Section 4.23 Bleacher Lot. The Foundation shall have the right to access and shall maintain and operate the real property set forth and described in Exhibit 4.23, which is owned by the City and commonly referred to as the “Bleacher Lot.” Any reference in this Agreement to “Fair Park” will be deemed to include the real property described in this Section 4.23.

ARTICLE V UTILITIES, TAXES, INSURANCE, AND INDEMNIFICATION.

Section 5.01 Utilities. Because the parties have determined that it is more advantageous, practical, and economical for the Foundation to acquire utilities for Fair Park through the City’s utility arrangements, the City shall be responsible for securing and paying for all Utility Services rendered to or used in, on, or about Fair Park during the Term of this Agreement. “**Utility Services**” means water, sewer, electricity, wastewater, storm water drainage, garbage and refuse disposal, natural gas, lights, heat, and telecommunications services used in connection with Fair Park Management. Beginning on the Commencement Date, the Foundation shall reimburse the City for all Utility Services at the City’s cost. The City shall provide the Foundation periodic statements for the Utility Services (in no event less than quarterly), and the Foundation shall pay the City for the Utility Services within thirty (30) days of receipt of such statement from the City. The Foundation shall pay the City a late payment penalty equal to ten percent (10%) of the total amount due to the City for all payments that are not received by the aforementioned date. The City may offset and credit any charges for Utility Services owed to it by the Foundation against any Management Fee payments. In no event and under no circumstances shall the City be liable to the Foundation for any loss, disruption or reduction of Utility Services. Notwithstanding anything to the contrary in this section, the Foundation shall be responsible for acquiring any additional utility service other than the Utility Services or any increased capacity of the Utility Services that it may need.

Section 5.02 Taxes and Assessments. The Foundation shall be responsible for and timely pay any and all legally due sales taxes, ad valorem taxes, licenses, permits, assessments, and fees or other taxes incumbent upon and attributable to the Foundation and Fair Park and/or Fair Park Management, irrespective of whether such tax or assessment or any portion thereof was specifically allocated to Fair Park or the City’s interest therein. The Foundation shall furnish to the City receipts or other appropriate evidence of the payment of such amounts. All payments by the Foundation of such taxes and/or assessments shall be made on or before thirty (30) days before the last day on which such payments may be made without penalty or interest;

provided, however, that the Foundation shall have the right to contest such payment in good faith and to take all such action as it deems reasonable under the circumstances to vigorously contest such payment (including but not limited to litigation), and the Foundation shall not be obligated to make such payments during the period of such contest. Notwithstanding the foregoing, the parties acknowledge that the Foundation is intended to be a tax-exempt nonprofit entity and that Fair Park is and continues to be City-owned property. To that end, the parties will fully cooperate with each other and take all reasonable steps to secure and maintain the tax-exempt benefits available to each by reason of said facts.

Section 5.03 Insurance. The Foundation shall obtain and maintain from the Commencement Date and continuing thereafter during the Term of this Agreement insurance coverage, of the type, in the form and substance, and in the amounts described in the attached Exhibit 5.03. The Foundation will cause its contractors, subcontractors, concessionaires, and vendors to carry levels of insurance that are necessary and appropriate for the services being performed, complying with all Applicable Laws. Notwithstanding the foregoing, the City will at all times keep the buildings and other improvements at Fair Park insured under its property damage insurance policy or policies in the same manner as the City's other public improvements. Proceeds of insurance resulting from damage to or destruction of Fair Park shall be used to repair or restore Fair Park as provided in this Agreement.

Section 5.04 Indemnification. THE FOUNDATION SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS THE CITY, ITS OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL:

(i) COSTS, LIABILITIES, DAMAGES, AND EXPENSES, INCLUDING COSTS OF SUIT AND REASONABLE EXPENSES FOR LEGAL SERVICES CLAIMED OR RECOVERED BY ANY PERSON WHOMSOEVER OR SUFFERED BY CITY, AS A RESULT OF ANY OPERATIONS, WORKS, ACTS, OR OMISSIONS OF FOUNDATION, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR CONTRACTORS;

(ii) DAMAGE TO, DESTRUCTION OF, OR LOSS OF USE OF ANY AND ALL PROPERTY, INCLUDING THE CITY'S PROPERTY, DIRECTLY OR INDIRECTLY ARISING OR RESULTING FROM OR RELATED TO ANY OPERATION, WORKS, ACTS, OR OMISSIONS OF THE FOUNDATION OR ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR CONTRACTORS; AND

(iii) COSTS, LIABILITIES, DAMAGES, AND EXPENSES, INCLUDING COSTS OF SUIT AND REASONABLE EXPENSES FOR LEGAL SERVICES EXPERIENCED BY THE CITY AS A RESULT OF THE FOUNDATION'S BREACH OF THIS AGREEMENT OR FAILURE TO PERFORM AS HEREIN PROVIDED.

Upon the filing by anyone of a claim against the City for damages arising out of a matter for which the Foundation herein agrees to indemnify and hold the City harmless, the City will notify the Foundation of such claim, and if the Foundation does not settle or compromise such claim, then the Foundation will undertake the legal defense of such claim on behalf of the City. It is specifically agreed, however, that the City, at its own cost and expense, may participate in

the legal defense of such claim, with legal counsel of its own choosing. Any final judgment rendered against the City for any cause for which the Foundation is liable under this Agreement will be conclusive against the Foundation as to liability and amount upon the expiration of the time for appeal.

ARTICLE VI MAINTENANCE, ALTERATIONS, AND CONSTRUCTION.

Section 6.01 Regular Maintenance and Repair. At all times during the Term of this Agreement, the Foundation shall maintain and repair Fair Park on a regular basis and as needed from time to time in order to keep Fair Park in good working order; in a safe, attractive and orderly condition; and in substantial compliance with comparable park industry standards and with this Agreement. If Fair Park fails to substantially comply with such standards, the Foundation will have a reasonable period of time in which to attain such standards. The Foundation shall promptly perform any maintenance and repair necessitated by Applicable Laws, for safety reasons, or to maintain any applicable licensing and permitting requirements. The Foundation shall perform or cause to be performed any and all maintenance and repairs in a good and workmanlike manner, consistent with any and all Applicable Laws. To the extent that funding is only partially provided, the Foundation shall be responsible for such maintenance and repair in proportion to the funds received from all sources.

Section 6.02 Alterations. Subject to complying with any and all Applicable Laws and any required Governmental Approvals (including those of the Dallas Landmark Commission and the historic overlay district), the Foundation may make such additions, modifications, replacements, renovations, expansions, and enhancements, including the remodeling or demolishing of any existing improvements and the constructing and installing of new improvements (all of the foregoing, “**Alterations**”) as the Foundation deems necessary or desirable for Fair Park Management, substantially consistent with the Fair Park Comprehensive Development Plan, as amended, for the period during which such Alterations are performed. The Foundation acknowledges and agrees that certain public art work at Fair Park, including without limitation the murals, is attached to and a part of the buildings and improvements at Fair Park and that any Alterations to such buildings and improvements will incorporate the maintenance, upkeep and conservation needs of such public art work. Notwithstanding the foregoing, any Substantial Projects performed by the Foundation during the Term of this Agreement shall be subject to the Director’s approval, as more fully described under Section 6.05. Immediately upon completion and acceptance by the City, acting through its Director, all Alterations will become part of Fair Park and become the property of the City. All such Alterations, when any of such work is completed, must substantially comply with all Applicable Laws, including without limitation the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et. seq.), as amended, restated, or replaced from time to time.

Section 6.03 Condition at End of Agreement. Upon the expiration or termination of this Agreement for any reason, the Foundation shall leave all improvements thereon in the state of repair, except for ordinary wear and tear, and cleanliness required to be maintained during the Term of this Agreement, and shall peaceably surrender the same to the City. If the improvements are not in substantial conformity with this Section 6.03, the City may, at its option and in addition to any other remedies under this Agreement, (i) direct the Foundation to remove

non-complying improvements constructed by the Foundation at Fair Park and to return that portion of Fair Park to its condition as it existed on the Commencement Date, and the Foundation shall promptly comply at its sole cost and expense, or (ii) repair same, in which case the Foundation shall promptly pay to the City the cost of same without demand by the City.

Section 6.04 General Requirements. With respect to any repair, maintenance or Alterations performed by the Foundation or its contractors, all such work shall be at the Foundation's sole cost and expense and the City shall bear no cost of same. The Foundation agrees to enter into (in its own name) and perform all contracts necessary to fully complete said work. All Foundation contracts relating to said activity shall (i) require the contractor to use good faith efforts to comply with the City's BID Plan; (ii) contain language subordinating and subjecting such contract to the terms of this Agreement and exculpating the City from any obligations and liability thereunder; (iii) contain insurance and payment and performance bond requirements not less than those which are customarily required by the City of its like contractors, naming the City and its officers and employees as additional insureds and obligees, as applicable; (iv) indemnify the City and its officers and employees against any costs or liabilities thereunder; and (v) if applicable, contain contractor qualification requirements sufficiently broad so as not to exclude minority contractors as a class and general contract specifications sufficiently broad so as not to favor a single contractor.

Section 6.05 Director Review and Approval of Substantial Projects.

(a) Substantial Projects. All plans and specifications for Alterations exceeding the Construction Threshold Amount in hard construction costs (such Alterations, "**Substantial Projects**") shall be submitted by the Foundation to the Director for review and approval prior to the commencement of any work thereon. All design and construction must conform to the approved plans and specifications and any and all Applicable Laws. All aforementioned plans and specifications must have received any required Governmental Approvals, including but not limited to the approval of the Dallas Landmark Commission. Any revisions to approved plans and specifications shall be submitted to the Director for prior review and approval. The Foundation shall provide at least three (3) sets of construction documents to the Director. The Foundation shall also furnish complete as-built drawings within sixty (60) days after construction is complete.

(b) Construction Threshold Amount. The "**Construction Threshold Amount**" shall be One Hundred Thousand Dollars (\$100,000) on the Commencement Date. At the request of the Foundation, this amount may be adjusted periodically by the Director using an industry standard escalation index.

(c) Timing. Within thirty (30) days after receipt of plans and specifications for any Substantial Projects, the Director shall, in writing, either approve or disapprove the plans and specifications or inform the Foundation of the additional time required to complete the review thereof. In the case of any emergency repairs which constitute Substantial Projects, the Foundation shall notify the Director of such repairs and proceed with such repairs unless the Director advises otherwise.

(d) City Benefit. The City's review of any plans or specifications for Substantial Projects is solely for the City's own purposes, and the City does not make any representation or warranty concerning the appropriateness of any such plans or specifications for any purpose. The City's approval of (or failure to disapprove) any such plans and specifications shall not render the City liable for same, and the Foundation assumes and shall be responsible for any and all claims arising out of or from the use of such plans and specifications.

Section 6.06 Permits and Other Approvals. All building permits, certificates of occupancy, and other permits, licenses, permissions, consents, and Governmental Approvals (including but not limited to that of the Dallas Landmark Commission) required to be obtained from any Governmental Authority or third party in connection with Alterations, occupancy or uses of any improvements, and any maintenance or repairs of Fair Park to be performed by the Foundation shall be obtained as required by Applicable Laws by and at the sole cost and expense of the Foundation, which shall furnish to the City evidence thereof.

Section 6.07 Conditions to Commencing Construction by the Foundation. The Foundation shall not commence construction on a Substantial Project unless and until it has (i) received approval of all plans and specifications in accordance with the procedures set forth above; (ii) provided the Director with proof of the commitment of sufficient financing and financial resources and commitments to ensure proper completion of the project; (iii) obtained all building permits, zoning and Governmental Approvals required for the construction and renovation; (iv) provided the City with copies of all construction contracts and bonds; (v) provided the City with certificates, policies, or other proof of the required insurance; and (vi) provided the City with lien waivers from all general contractors.

Section 6.08 City's Right to Observe and Inspect. With respect to Substantial Projects, the City shall have the right (but not the obligation) to observe and inspect work performed by the Foundation or any contractor(s). The City shall coordinate such observation or inspection with the Foundation so as to minimize inconvenience and delay. During construction, the Foundation's construction manager and architect shall be accessible to the City at all times. The Director shall be entitled to receive notice of and attend all construction meetings, at which a representative of the Foundation shall be present.

Section 6.09 City's Business Inclusion and Development Plan. The Foundation and its engineers, construction managers, contractors, and subcontractors shall adopt good faith efforts in compliance with the BID Plan in hiring and contracting with minority- and women-owned local businesses certified by the City or the North Central Texas Regional Certification Agency in implementing any maintenance, repairs, and Alterations.

Section 6.10 City's Police Powers. The Foundation recognizes and acknowledges the City's authority under its charter, codes, and ordinances (and other Applicable Laws) to exercise its police powers to protect the public health, safety, and welfare, including the issuance of building permits, the inspection of construction, the issuance of certificates of occupancy and the enforcement of various construction codes and zoning. Such powers extend to the Foundation and its contractors' construction activities in Fair Park. The Foundation acknowledges the City's authority to take appropriate enforcement action under its charter, codes, and ordinances (and

other Applicable Laws) to provide such protection, and nothing in this Agreement is intended to or does in fact limit, restrict, or condition that authority.

Section 6.11 Completion. The Foundation shall perform the work contemplated by this Agreement or cause it to be performed in a good and workmanlike manner and in compliance with Applicable Laws. Upon substantial completion of construction on any Substantial Project, the Foundation shall furnish the City with a certificate of substantial completion executed by the Foundation's architect, project engineer, and/or general contractor for the project in a form and of a substance acceptable to the Director. The Foundation shall also furnish to the City copies of Certificates of Occupancy or other similar documents issued to certify the completion of construction in compliance with applicable requirements. Notwithstanding the foregoing, the Director may request a walk-through inspection and/or equipment testing to confirm substantial completion of any project in conformity with this Agreement, and the Foundation, its architect, engineer, construction manager, representatives, and contractor(s) shall attend if requested.

Section 6.12 Mechanic's Liens. The Foundation shall not permit any claim of lien made by any mechanic, materialman, laborer, or other similar lien to stand against Fair Park for work or materials furnished to the Foundation in connection with any maintenance, repairs or Alterations thereof made by the Foundation or any contractor, agent, or representative of the Foundation. The Foundation shall cause any such claim of lien to be fully discharged no later than ten (10) days after the date of filing thereof; provided, however, that the Foundation, in good faith, may dispute the validity or amount of any such claim of lien and provide the City such security as the City may reasonably require to insure payment thereof. In such case, the Foundation shall diligently pursue a resolution of such dispute with continuity and, upon entry of final judgment resolving the dispute, immediately discharge said lien.

Section 6.13 Construction Warranties. Upon the expiration or termination of this Agreement, the Foundation shall formally assign to the City all warranties and warranty obligations of the contractor(s) and equipment manufacturers applicable to Fair Park; provided, however, that such assignment shall not relieve the Foundation and its contractor(s) of responsibility for defective work or equipment supplied by or for them under this Agreement. The Foundation shall administer said warranties during the term of this Agreement and the City shall reasonably cooperate with and facilitate the Foundation's efforts in this regard. Upon request, but in any event upon expiration or termination of this Agreement, the Foundation shall provide the City with copies of all building systems, training, operation and maintenance manuals for Fair Park, including all of the improvements located at Fair Park, it has from time to time.

Section 6.14 City's Right to Perform Work. The City and its agents and employees shall have the right, at any time and from time to time, to enter Fair Park to perform any maintenance, repairs, or Alterations to Fair Park, both interior or exterior, and of every kind or nature which may be required of the Foundation under this Agreement but which the Foundation has failed to perform after having received written notice from the City at least ninety (90) days prior to the City's entry; provided, however, that such notice shall not be required in the event of an emergency condition threatening the health, safety and welfare of the general public. The Foundation shall not offer any obstruction or hindrance to any such maintenance, repairs or

Alterations. Nothing contained in this section shall be deemed to impose on the City any obligation to perform any maintenance, repairs or Alterations to Fair Park.

Section 6.15 City Improvements and Projects.

(a) General. The City may, during the Term of this Agreement, construct additions or renovations to Fair Park, unless (i) the construction activity or the resulting renovations or additions to Fair Park would unreasonably interfere with the Foundation's operations and/or Fair Park Management; (ii) the operation, management, and maintenance of such renovations or additions would materially increase the Foundation's expenses; or (iii) the renovations or additions to Fair Park would not be compatible with the Fair Park Comprehensive Development Plan. The foregoing limitations on construction additions and renovations by the City shall not apply to any construction addition required (i) by Applicable Law, (ii) to protect the public health and safety, or (iii) as a result of the Foundation's failure to perform as otherwise required by this Agreement. The Foundation and the City will take all reasonable steps to facilitate said City construction activity while minimizing disruption to Fair Park Management. Upon completion, such renovations or additions will be subject to Fair Park Management by the Foundation as provided by this Agreement, unless otherwise agreed by the parties. The parties also acknowledge that such renovations and additions shall be vested in title to the City. Notwithstanding anything herein to the contrary, the City shall be free without restriction or requirement to pursue and perform any Alterations it believes are required by Applicable Laws or otherwise necessary or convenient in order to protect, preserve, or promote the public health, safety, and welfare.

(b) Development Rights. The City shall be free to grant, construct, and operate within Fair Park such public easements (e.g., utilities, rights of way, drainage, flood control) and public infrastructure as it deems advisable for Fair Park and/or the surrounding city. The City shall notify the Foundation in advance of any such actions it intends to take. The City shall restore any portions of Fair Park impacted by such activity to a functional state at its sole cost and expense. The City shall take all precautions and planning opportunities to minimize any disruption to or impact on Fair Park and the Foundation's activities; provided, however, that the City's determination in these matters is final.

(c) Current Construction Projects. Bond-funded and other construction projects involving Fair Park that are ongoing as of the Commencement Date will remain with and under the sole, exclusive, and unqualified control of the City as to any and all aspects of same, including but not limited to scope, scheduling, institution, prosecution, and completion of same. The City has no obligation or commitment to the Foundation with regard to same. The Foundation shall cooperate and facilitate any and all such projects and related activities. Upon completion, such renovations or additions will be subject to the Foundation's operation, management, and maintenance as set forth in this Agreement, unless otherwise agreed by the parties.

(d) Future Bond-Funded Projects. The parties shall coordinate and cooperate on any future bond-funded projects and construction activities, including the Fair Park Capital Bond Expenditures, so as to minimize disruption of Fair Park operations, while expediting and facilitating such projects' economical and efficient completion. With respect to City-funded

bond projects, the City may either award and administer such projects or award and assign such projects to the Foundation. Nevertheless, as part of such coordination and cooperation, the Foundation will participate in the design of such projects, acknowledging, however, that final design and construction documents and budget, as well as any change orders or amendments thereto, shall be subject to the Director's approval.

Section 6.16 Community Park. During year one (1) of the Term of this Agreement, the Foundation shall undertake conceptual designs for a signature community park to be located within Fair Park in the vicinity of Robert B. Cullum Boulevard, Martin Luther King Junior Boulevard, Grand Avenue, and Second Avenue, as shown on Exhibit 6.16, to be open to the public free of charge so as to allow the surrounding neighborhood year-round access to green space, a children's play area, and recreational opportunities. Pursuant to Section 6.05(a), the Foundation shall obtain the approval of the Director prior to the commencement of any construction of the community park. Subject to any necessary consents or approvals, the community park referenced in this Section 6.16 shall remain open to the public free of charge on a year-round basis, including during the annual run of the State Fair of Texas. The Foundation acknowledges that construction of this community park is the Park Board's top priority. The Foundation shall commence construction of the signature community park within twenty-four (24) months of funding becoming available pursuant to Section 3.03.

ARTICLE VII REVENUE OPPORTUNITIES.

Section 7.01 Fair Park Revenues. The Foundation shall develop and exploit all revenue opportunities from and related to Fair Park. Said revenues shall be used by the Foundation solely for Fair Park Management as provided for in this Agreement. If revenues derived from or by reason of Fair Park are insufficient to maintain and operate Fair Park pursuant to this Agreement, the Foundation shall use reasonable efforts to supplement those funds from other sources in order to provide proper maintenance and operation of Fair Park as provided in this Agreement. Unless as otherwise provided in this Agreement, revenues derived from or by reason of Fair Park shall include the Management Fee; admissions fees (if applicable); parking fees; rents and other user fees, except for revenues derived from licenses from the communications tower located at Fair Park; programming revenue; concession and vendor revenue; revenues from any Fair Park Contracts; interest and investments revenue; revenue from exploitation of intellectual property rights; advertising, naming, and sponsorship revenue; and any other revenues generated on or from the premises of Fair Park. Subject to the Foundation's obligation under this Agreement to maintain, repair, replace and, upon the expiration or termination of this Agreement, re-convey the Fair Park Personal Property as stated in this Agreement, revenue from the sale and disposal of the Fair Park Personal Property shall also constitute Fair Park revenue. Any insurance proceeds and condemnation awards received by the Foundation shall also constitute Fair Park revenue.

During the Term of this Agreement, any and all funds received by the Foundation for the benefit of Fair Park referenced in this Section 7.01 shall be dedicated, directly or indirectly, to the benefit of Fair Park, allowing for reasonable overhead and expenses of the Foundation. In the event the Foundation should cease to operate or determine to liquidate and dissolve, all of its remaining assets at such time will be distributed pursuant to Section 13.09(c).

Section 7.02 Fees and Charges. The Foundation may specify, control, and establish any and all fees, deposits, charges, and consideration for goods, services, concessions, admission to special events, parking, use, advertising, sponsorship, naming rights, or any other designated purposes involving Fair Park, provided that they are commercially reasonable and consistent with this Agreement and the Permitted Use. Except for the State Fair of Texas and any other special events, general admittance to the general grounds of Fair Park shall remain free of charge throughout the Term of this Agreement, unless the Park Board so otherwise approves. It is acknowledged by the parties hereto that charges for parking have been previously permitted at Fair Park and will continue to be permitted at Fair Park during the Term of this Agreement.

Section 7.03 Funds and Accounts.

(a) Establishment of Accounts and City's Audit Rights. The Foundation may establish such operating, reserve, capital improvement, and maintenance accounts in amounts reasonably determined by it and consistent with similar industry practice to ensure the financial stability of Fair Park. Such accounts shall be established in the name of the Foundation in one or more federally insured commercial banks or savings and loan associations consistent with similar industry practice. The City shall at all times have a right to audit such accounts at said institutions at the City's expense, and the Foundation shall sign such agreements evidencing the City's authority to conduct such audits or receive such accountings as it may deem reasonably necessary for this purpose. Any interest and capital gains from any such account shall be used for the benefit of Fair Park. Upon the expiration or termination of this Agreement, said funds and accounts shall be transferred pursuant to Section 13.09(c).

(b) Texas Vietnam Veterans Memorial Fund.

(i) The City and the Foundation acknowledge that there is a current Texas Vietnam Memorial Fund (the "Memorial Fund") that was established through a charitable donation made to the City for the benefit of the Texas Vietnam Veteran's Memorial at Fair Park (the "Memorial"). The balance above the corpus of the Memorial Fund has been used by the City to defray extraordinary maintenance and extraordinary repair costs associated with the Memorial on a nominal cost basis. During the Term of this Agreement, the Foundation shall be permitted to submit, not more frequently than annually, a nominal cost reimbursement request to the City for any extraordinary maintenance or extraordinary repairs incurred during the Term of this Agreement. The City agrees to remit reimbursement of nominal cost to the Foundation on an as available funds basis, available funds meaning any available balance of the Memorial Fund above the corpus. For purposes of this Section 7.03(b), "nominal cost" is defined as any cost of Five Thousand Dollars (\$5,000) or less, unless otherwise approved by the Director.

(ii) The Foundation acknowledges and agrees that it is obligated to regularly maintain and repair the Memorial during the Term of this Agreement pursuant to Section 6.01, as the Memorial constitutes a part of Fair Park notwithstanding the existence of the Memorial Fund. Furthermore, the Foundation will generally seek to promote the Memorial as it would any other part of Fair Park under the other terms of this Agreement. If the Foundation receives a donation made "to the City" or "to the City of Dallas" for the specific benefit of the Memorial during the Term of this Agreement, the Foundation shall

forward such donation to the City for the inclusion of such funds in the Memorial Fund. Notwithstanding the foregoing, the Foundation shall be permitted to accept donations made to it for the benefit of the Memorial which do not contain the language contained in the foregoing sentence (or similar language).

(c) **South Dallas Trust Fund.** The Foundation agrees that it shall carry out the funding obligations of the City arising out of antique shows and flea market Fair Park operations subject to City Council Resolution 15-1264, set forth on Exhibit 7.03(c), for so long as such resolution remains in effect during the Term of this Agreement.

Section 7.04 Endowments and Restricted Assets. The Foundation will establish endowment accounts and other restricted accounts as required or appropriate under Applicable Laws, GAAP, and similar industry practices to accommodate restricted, qualified, and conditioned gifts, donations, contributions and endowments. Upon the expiration of such donor restriction, qualification, and condition, that is, when a stipulated time restriction ends or the purpose restriction is accomplished, such assets shall be distributed or released consistent with the donor's expressed intent or, if no expressed intent was provided, released to, treated as, and become Fair Park revenue. The Foundation will use its best efforts to discourage unreasonable and unduly burdensome restrictions, qualifications, and conditions on donations, gifts, contributions, and endowments. Endowment accounts shall be subject to the same account and institution requirements as provided in Section 7.03.

ARTICLE VIII OTHER CITY SUPPORT.

Section 8.01 Public Access to Fair Park. The City shall at all times provide access to Fair Park, and to currently existing parking for Fair Park located on City property, via public roads. The Foundation will not bear any costs of maintaining, repairing, repaving, or re-aligning such public roads. The City shall at all times endeavor to provide reasonable directional signage to Fair Park consistent with its other public recreational venues.

Section 8.02 Fair Park Security. The City will have no responsibility for security of and within Fair Park, and the Foundation shall provide for same. Notwithstanding the foregoing, however, the City shall provide police, fire, and emergency services for and within Fair Park and on the public streets providing access to Fair Park on the same basis as it provides such services throughout the City of Dallas.

ARTICLE IX FINANCIAL REPORTS, ENTITY STATUS, AND TRANSPARENCY.

Section 9.01 Budget, Records, and Financial Statements.

(a) **Annual Operating Budget.** The Foundation shall adopt and maintain its fiscal year to coincide with the calendar year (the "**Foundation Fiscal Year**"). The Foundation shall submit its annual operating budget (as approved by the Foundation Board) for the next Foundation Fiscal Year to the Director not less than sixty (60) days prior to the end of each Foundation Fiscal Year. The Foundation's annual operating budget shall include detailed

information showing estimated income to be received from all sources and estimated Operating Expenses. The Foundation shall maintain its financial records pursuant to GAAP.

(b) Records. The Foundation shall keep and maintain complete and accurate records of Fair Park operations. The Foundation will retain said records for not less than five (5) years following the last day of the Foundation Fiscal Year during which the record was generated, unless the City requests longer retention, in which event the Foundation shall comply. The City shall be entitled to receive copies of, inspect, and audit the records during the Term of this Agreement and for five (5) years thereafter, at the Foundation's office during reasonable times upon not less than twenty-four (24) hours' notice.

(c) Quarterly Unaudited Financial Statements. The Foundation shall furnish to the City within ninety (90) days after the close of each quarter of each Foundation Fiscal Year financial statements prepared by the Foundation in its ordinary course of business reflecting the financial condition of the Foundation as of the end of such quarter, including (i) balance sheets as of the close of such quarter; (ii) statements of operations for such quarter; and (iii) statements of cash flows for such quarter. All such documents shall be prepared in conformity with GAAP but need not be audited, or prepared or certified by an independent certified public accountant.

(d) Annual Audited Financial Statements. The Foundation shall furnish to the City within one hundred twenty (120) days after the close of each Foundation Fiscal Year audited financial statements prepared by an independent certified public accountant and certified by such accountant as accurately reflecting the financial condition of the Foundation as of the end of such Foundation Fiscal Year, including (i) balance sheets as of the close of such Foundation Fiscal Year; (ii) statements of operations for such Foundation Fiscal Year; and (iii) statements of cash flows for such Foundation Fiscal Year. All such documents shall be prepared in conformity with GAAP.

(e) IRS Form 990. The Foundation shall provide a copy of its annual IRS Form 990 within thirty (30) days after its filing with the IRS.

Section 9.02 Corporate Status. At all times during the Term of this Agreement, the Foundation shall maintain its corporate existence, shall not dissolve or otherwise dispose of all or substantially all of its assets, and shall not consolidate with or merge into another corporation or into a partnership or permit one or more other corporations or partnerships to consolidate with or merge into it. The Foundation shall maintain at all times its status as a Texas nonprofit corporation and as a 501(c)(3) corporation pursuant to the Internal Revenue Code. As of the Effective Date, the Foundation is in the process of applying for determination of 501(c)(3) status with the IRS. The Foundation shall not take or fail to take any action that would jeopardize such nonprofit, tax-exempt status.

Section 9.03 Mission Safeguards. The Foundation's purposes are set forth in its Certificate of Formation and Bylaws, copies of which have been provided to the City. The Foundation shall provide to the City copies of any amendments to said documents occurring from time to time. Any proposed amendments to the purpose provisions and dissolution and distribution provisions of said documents shall be provided to and approved by the Director not less than thirty (30) days prior to said amendments being voted on and becoming effective.

Section 9.04 Public Transparency. The Foundation acknowledges and agrees that it is subject to the Texas Public Information Act, as amended (the “**TPIA**”).

ARTICLE X ENVIRONMENTAL QUALITY.

Section 10.01 Compliance. The Foundation shall comply with, and shall require that its agents, contractors, and subcontractors comply with all Applicable Laws regarding the use, removal, storage, transportation, disposal, and remediation of Hazardous Material and the environmental quality and condition of Fair Park. “**Hazardous Material**” means any chemical, substance, material, or waste (or component thereof) which is now or hereafter listed, defined, or regulated as a hazardous or toxic chemical, substance, material, or waste (or component thereof) by any Governmental Authority having jurisdiction, or which would trigger any employee or community “right-to-know” requirements adopted by any Governmental Authority, or for which any Governmental Authority has adopted any requirements for the preparation or distribution of a material safety data sheet (“**MSDS**”) under Applicable Laws.

Section 10.02 Generation, Storage, and Transport. The Foundation will not transport, use, store, maintain, generate, manufacture, handle, dispose, release or discharge any Hazardous Material upon or about Fair Park, nor permit its employees, agents, contractors and subcontractors to engage in such activities upon or about Fair Park, except that the foregoing provisions will not prohibit the transportation to and from, and use, generation, storage, maintenance and handling, in, on or about Fair Park of Hazardous Materials customarily used or generated in owning, managing, repairing, or operating similar premises devoted to similar uses; provided (i) such Hazardous Materials will be used, generated and maintained only in such quantities as are reasonably necessary and in accordance with Applicable Laws and (ii) such substances will be disposed of, released or discharged in compliance with Applicable Laws.

Section 10.03 Compliance With Environmental Laws.

(a) The Foundation shall comply with all state and federal environmental laws applicable to its use and maintenance of Fair Park, including but not limited to its using, storing or applying chemicals (including pesticides) on Fair Park. Any pesticides (insecticides, herbicides, fungicides) applied to Fair Park must comply with applicable requirements of the Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), Texas Department of Agriculture (TDA), and the Park and Recreation Department’s Integrated Pest Management Policy. The Foundation shall ensure that all pesticides are applied by a licensed Pesticide Applicator and that the application of all chemicals will be within the guidelines as set forth in the City’s accepted IPM Program (Integrated Pest Management).

(b) The Foundation shall possess or obtain any necessary permits required by City ordinance or State or Federal law for the performance of any of its services under this Agreement. The City has developed an Environmental Management System (“**EMS**”), based upon International Standards Organization (ISO) Standard 14001. As part of the EMS, the City has adopted an environmental policy. The Foundation acknowledges receipt of the environmental policy as a part of this Agreement and shall adhere to the policy and provide information to the City in the form and at the times requested by the Director in furtherance of

the policy. Furthermore, the Foundation acknowledges receipt of the Integrated Pest Management Program policy.

Section 10.04 Notices. Each party will promptly notify the other party upon becoming aware of (i) any enforcement, cleanup, or other regulatory action taken or threatened against the either party by any Governmental Authority with respect to the presence of any Hazardous Material on or environmental matters involving Fair Park; (ii) any demands or claims made or threatened by any person against either party relating to any Hazardous Material or environmental matters involving Fair Park; (iii) any unlawful release, unlawful discharge, or unlawful disposal or transportation of any Hazardous Material on or from Fair Park; and (iv) any matters where the party is required by law to give a notice to any Governmental Authority relating to any Hazardous Material on or environmental matters involving Fair Park. At such times as the City may reasonably request, the Foundation will provide the City with a written list identifying (A) any material quantities of Hazardous Material then actually known to the Foundation to be then used, stored, or maintained upon Fair Park; (B) a copy of any MSDS issued by the manufacturer thereof, to the extent the Foundation is required by Applicable Laws to maintain such MSDS; (C) written information concerning the removal, transportation, and disposal of same, to the extent the Foundation is required by Applicable Laws to develop and maintain such records; and (D) such other information as the City may reasonably require or as may be required by Applicable Laws.

Section 10.05 Remediation. If any Hazardous Material is released, discharged, or disposed of by the Foundation or its employees, agents, contractors, or subcontractors on or about Fair Park during the Term of this Agreement in violation of the foregoing provisions, the Foundation will promptly and properly remove or remediate the Hazardous Material on Fair Park and any other affected property to the extent required by and in material compliance with Applicable Laws at the Foundation's sole cost and expense. Such remediation work will be subject to the City's prior written approval, not to be unreasonably withheld, conditioned, or delayed and will include, without limitation, any testing, investigation, and/or preparation and implementation of any remediation plan required by any Governmental Authority having jurisdiction. If the Foundation fails to make reasonable efforts to comply with the provisions of this Section 10.05, the City may provide written notice to the Foundation that it intends to arrange for such compliance through its own contractors or other parties selected by the City at the Foundation's sole cost and expense. If the Foundation fails to make reasonable efforts to comply with this Section within thirty (30) days after such written notice from the City, or within such shorter time that is required by law and is stated in such written notice from the City, the City may (but will not be obligated to) arrange for such compliance.

Section 10.06 Disclaimer. WITHOUT LIMITING THE OTHER PROVISIONS OF THIS AGREEMENT, THE CITY DOES NOT MAKE AND HAS NOT MADE ANY REPRESENTATION OR WARRANTY REGARDING THE PRESENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS ON, UNDER, OR ABOUT FAIR PARK AND THE FAIR PARK PERSONAL PROPERTY OR ENVIRONMENTAL MATTERS IMPACTING FAIR PARK AND ITS OPERATIONS OR THE COMPLIANCE OR NON-COMPLIANCE OF FAIR PARK AND THE FAIR PARK PERSONAL PROPERTY WITH ANY AND ALL APPLICABLE LAWS REGULATING, RELATING TO, OR IMPOSING LIABILITY OR STANDARDS OF CONDUCT CONCERNING ANY HAZARDOUS MATERIALS OR

ENVIRONMENTAL MATTERS IMPACTING FAIR PARK AND ITS OPERATIONS. Notwithstanding any other provision of this Agreement, the City acknowledges that the Foundation does not assume liability or responsibility for any violations of Applicable Laws or any other acts or omissions regarding Hazardous Materials or environmental matters occurring prior to the Commencement Date to the extent not caused or contributed to by the Foundation.

ARTICLE XI CASUALTY LOSS.

Section 11.01 City Not Obligated. The City shall have no duty or obligation to repair or restore any loss, damage, or destruction due to fire or other casualty to all or any part of Fair Park during the Term.

Section 11.02 Total Casualty Loss. If Fair Park suffers a physical loss due to fire or other casualty that requires its closure to the public or renders it impractical to continue or promptly restore operations as a viable attraction, as reasonably determined by the Foundation (any of the foregoing, a “**Total Casualty Loss**”), then the City or the Foundation may terminate this Agreement by providing notice to the other party hereto within thirty (30) days after the occurrence of such Total Casualty Loss. The termination will be effective on the date specified in such notice but in no event sooner than the ninetieth (90th) day after such notice. During the period between the date of such Total Casualty Loss and the date termination becomes effective, the Foundation shall close and secure Fair Park or all affected portions thereof as may be necessary or appropriate to protect the health and safety of the public. If this Agreement is not terminated by either party following a Total Casualty Loss, the Foundation shall promptly proceed to restore and reconstruct Fair Park.

Section 11.03 Major Casualty Loss. In the event of major damage to or complete destruction of any building(s) or other structure(s) at Fair Park due to fire or other casualty which renders the building(s) or other structure(s) unusable or unsafe and which cannot be reasonably restored or repaired within one hundred eighty (180) days of the casualty (but not rising to the level of a Total Casualty Loss) (any of the foregoing, a “**Major Casualty Loss**”), the City and the Foundation will mutually agree whether to repair or replace the building(s) or other structure(s) at their former location or at an alternate location within Fair Park. If mutual agreement cannot be reached, the relevant building(s) or other structure(s) will be rebuilt or restored to the condition and at the location existing before such Major Casualty Loss, and the Foundation shall promptly proceed to restore and reconstruct such building(s) or other structure(s).

Section 11.04 Partial Loss. In the event of any loss, damage, or destruction less than a Total Casualty Loss or a Major Casualty Loss, the Foundation shall proceed with reasonable diligence, at its sole cost and expense, to rebuild and repair the portion of Fair Park so damaged to substantially the condition as existed prior to the casualty.

Section 11.05 Insurance Proceeds. The Foundation’s duty to repair and restore any damage or destruction of Fair Park or any improvements thereon shall not be conditioned upon the availability of any insurance proceeds to the Foundation from which the cost of repair and restoration may be paid. Any insurance proceeds payable to the Foundation by reason of such

damage or destruction shall be made available to pay the cost of such restoration; provided, however, that in the event the Foundation is in material default under the terms of this Agreement at the time such damage or destruction occurs, the City may elect to terminate this Agreement and the City shall thereafter have the right to receive and retain all insurance proceeds payable as a result of such damage or destruction. Insurance proceeds from the Foundation's policies in excess of the cost of such repair and restoration shall be treated as Fair Park revenue. Insurance proceeds from the City's policies received by reason of any such damage or destruction shall be made available for repair and restoration; provided, however, that any excess proceeds shall be retained by the City.

Section 11.06 Repair and Restoration Work. All repair, reconstruction, and restoration of casualty losses shall be performed in accordance with the requirements of Article VI of this Agreement.

ARTICLE XII CONDEMNATION.

Section 12.01 Notice and Date of Taking. Promptly upon becoming aware of the commencement of any effort to acquire any part of Fair Park by any Governmental Authority for a public or quasi-public use through eminent domain action ("**Condemnation**"), either party shall provide notice to the other party hereto. The City shall control any and all negotiations and litigation involving a total or partial taking. The term "**Date of Taking**" shall mean the date on which title to Fair Park or any portion thereof passes to and vests in the condemnor or the effective date of any order for possession, if such order is issued prior to the date title vests in the condemnor. For purposes of this Agreement, Condemnation shall include a negotiated sale to a competent authority in lieu of an eminent domain proceeding.

Section 12.02 Whole Taking. If the whole of Fair Park or so much thereof shall be subject to Condemnation, and as a result thereof the balance of Fair Park cannot be used for substantially the same purpose and use as expressed in Article I, this Agreement shall then terminate on the Date of Taking and any award, compensation, or damage ("**Award**") shall be paid to and be the sole property of the City, notwithstanding whether such Award shall be made as compensation for diminution of the value of this Agreement, the improvements or the fee interest in Fair Park or otherwise, and the Foundation hereby assigns to the City the Foundation's right, title and interest in and to any and all such Award. In the case of any Condemnation, the Foundation and the City will take all appropriate steps and use their best efforts to close, vacate, and/or secure Fair Park or any portion thereof as may be necessary or appropriate to protect the health and safety of the public.

Section 12.03 Partial Taking. If only a portion of Fair Park shall be taken through a Condemnation, and as a result thereof the balance of Fair Park can be substantially used for the Permitted Use, this Agreement shall not terminate and the Foundation shall repair and restore Fair Park to an operational whole. The Foundation shall promptly and diligently proceed to restore the functionality and utility of the remainder of Fair Park and affected improvements, complying with the procedures set forth in Article VI. For such purpose, the City shall receive and shall hold in trust the amount of any Award relating to Fair Park and shall disburse such Award to apply on the cost of such restoration. Any proceeds and Award in excess of that need

for restoration shall belong to the City without restriction. If the parties cannot mutually agree on the restoration plans or if the Award is insufficient to accomplish the restoration, either party may terminate this Agreement by providing notice to the other party hereto within thirty (30) days after the Date of Taking. The termination of this Agreement will be effective on the date specified in such notice but in no event sooner than the ninetieth (90th) day after such notice. During the period between the Date of Taking and the date of such termination, the Foundation will take all appropriate steps to secure Fair Park and the impacted portions thereof and protect the health, safety, and welfare of the public.

Section 12.04 Temporary Taking. A temporary taking of any part of Fair Park shall not affect this Agreement and each party may pursue its own recovery for said temporary taking as may be provided by Applicable Laws.

ARTICLE XIII DEFAULTS, REMEDIES AND REVERSION.

Section 13.01 Defaults by Foundation. The occurrence of any of the following events and the expiration of the applicable cure period set forth below without such event being cured or remedied will constitute a “**Foundation Default**”:

(i) Failure of the Foundation to maintain its nonprofit, tax-exempt status under Applicable Laws;

(ii) Failure of the Foundation to perform or comply with any term, covenant, or condition of this Agreement, which failure is not cured within ninety (90) days from the date of notice from the City (other than those covenants for which a different cure period is provided); provided, however, that if such failure is not capable of being cured within such ninety (90) day period, the Foundation will have a reasonable period (not to exceed an additional thirty (30) days, unless otherwise agreed in writing by the Foundation and the Park Board) to complete such cure if the Foundation promptly undertakes action to cure such failure within such ninety (90) day period and thereafter diligently prosecutes the same to completion;

(iii) Any lien is filed against Fair Park, the Foundation’s interest in this Agreement or any part of either thereof, and same remains unreleased for a period of ninety (90) days after the Foundation’s discovery of such lien, unless within such period the Foundation is contesting in good faith the validity of such lien and such lien is appropriately bonded;

(iv) Failure of the Foundation to maintain the insurance coverage required by this Agreement; or

(v) The dissolution or liquidation of the Foundation or the filing by the Foundation of a voluntary petition in bankruptcy, or failure by the Foundation promptly to remove any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations of Fair Park, or the issuance of an order or decree by any court of competent jurisdiction providing for the appointment of a receiver, liquidator, assignee, trustee, sequestrate or other similar official of the Foundation or any

substantial part of the Foundation's property or ordering the winding up or liquidation of the Foundation's affairs, or general assignment by the Foundation for the benefit of its creditors, or the entry by the Foundation into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Foundation in any proceeding for its reorganization instituted under the provisions of Title II, United States Code, as amended, or under any similar act in any domestic or foreign jurisdiction, which may now be in effect or hereafter enacted (other than a reorganization not saying or impeding the collectability or enforceability of the liabilities or obligations of the Foundation).

Section 13.02 City's Remedies. In the event of any Foundation Default, the City will have the following rights and remedies, together with any other rights or remedies to which it may be entitled at law or in equity:

(a) **Right to Terminate.** The City (through its Park Board) may, upon notice to the Foundation, terminate this Agreement effective not less than ninety (90) nor more than one hundred eighty (180) days after the date of such notice.

(b) **Damages, Specific Performance, and Injunctive Relief.** The City may sue for direct, actual damages arising out of such Foundation Default, for specific performance, or for whatever injunctive relief as may appear necessary or desirable to enforce the performance and observance of any obligation, agreement, or covenant of the Foundation under this Agreement.

(c) **Right to Cure and Reimbursement.** If such Foundation Default creates a situation or condition that the City reasonably determines is a threat to the health or safety of the general public or to the patrons and visitors of Fair Park, the City may enter Fair Park (without such entering causing or constituting a termination of this Agreement or an interference with performance by the Foundation) and cure such Foundation Default and do all reasonably necessary work and make all reasonably necessary payments on behalf of and at the expense of the Foundation. The Foundation will pay the City on demand the costs incurred and any amounts so paid by the City on behalf of the Foundation, together with all interest accrued thereon at the Default Rate from the date so incurred until the City has been completely reimbursed.

Section 13.03 Defaults by City. Subject to Section 13.05, the occurrence of any of the following events and the expiration of the applicable cure period set forth below without such event being cured or remedied will constitute a "City Default":

(i) Failure of the City to fully and timely pay (after due application of credits and offsets expressly provided in this Agreement) any monetary obligation due by the City under this Agreement, which failure is not cured within forty-five (45) days from the date when such payment is due, subject to the terms of this Agreement; or

(ii) Failure of the City to perform or comply with any non-monetary covenant or condition made under this Agreement, which failure is not cured within ninety (90) days from the date of notice from the Foundation; provided, however, that if such default is not capable of being cured within such ninety (90) day period, the City will have a

reasonable period (not to exceed an additional thirty (30) days, unless otherwise agreed in writing by the parties) to complete such cure if the City promptly undertakes action to cure such failure within such ninety (90) day period and thereafter diligently prosecutes the same to completion.

Section 13.04 Foundation's Remedies. In the event of any City Default, the Foundation will have the following rights and remedies, together with any other rights or remedies to which it may be entitled at law or in equity:

(a) **Right to Terminate.** The Foundation may, upon notice to the City, terminate this Agreement effective not less than ninety (90) nor more than one hundred eighty (180) days after the date of such notice, and surrender possession of Fair Park to the City on the effective date of such termination.

(b) **Specific Performance and Injunctive Relief.** Except for City Default under Section 13.03(i) or as expressly provided in Section 13.05, the Foundation may sue for specific performance or for injunctive relief as may appear necessary or desirable to enforce the performance and observance of any obligation, agreement, or covenant of the City under this Agreement.

Section 13.05 Annual Appropriations and Bond Funding.

(a) Notwithstanding anything to the contrary in this Agreement, in the event of any failure by the City (i) to include in any City budget the Management Fee due under this Agreement, or (ii) to make, in accordance with action taken by City Council, annual appropriations in any year for the Management Fee or any other monetary obligations becoming due and payable by the City under or by reason of this Agreement during such year (any of the foregoing events, a "Non-Payment Event"), the Foundation shall have the right to terminate this Agreement effective not less than ninety (90) nor more than one hundred eighty (180) days after providing written notice to the City. Notwithstanding anything to the contrary in this Agreement, the Foundation's sole and exclusive remedy for any Non-Payment Event shall be the termination of this Agreement.

(b) Without limiting any of the foregoing, the parties acknowledge and agree that Bond Funds are necessary to the Capital Needs Inventory of Fair Park and thus necessary to the success of Fair Park. Therefore, the City commits to the Foundation to put forth a Bond package to the City's voters as described in and subject to the provisions of Section 3.03, and the Foundation agrees that neither the voters' failure to approve the propositions submitted to authorize bonds to provide Bond Funds nor the City's failure to issue bonds approved by the voters to finance the full amount of the Bond Funds shall constitute a Non-Payment event or a default by the City under this Agreement. Nonetheless, if by the fourth anniversary of the date an election to authorize bonds to provide Bond Funds fails to receive a majority vote of the voters at said election and the City has not secured alternative funding sources to satisfy the purposes set forth in Section 3.03, the Foundation shall thereafter have the right to terminate the Agreement in the manner provided in this Section 13.05. For the purposes set forth herein, alternative funding sources shall in no event include Park Department budget funds.

Section 13.06 Limitation of Liability.

(a) **No Consequential Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER OF THE PARTIES HERETO WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGE, COST, EXPENSE, OR OTHER LIABILITY, INCLUDING LOSS OF REVENUE OR PROFITS, WHETHER ARISING OUT OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER CAUSE OF OR FORM OF ACTION WHATSOEVER. Nothing contained in this Agreement is intended to waive, nor will be construed as waiving, the City's statutory limitation of liability for actual damages and immunities provided by Applicable Laws.

(b) **No Officer, Director, or Employee Liability.** In no event will any elected official or employee of the City or any director, officer or employee of the Foundation have any personal liability for actions taken by such individual in good faith in the course of carrying out his or her responsibilities on behalf of the parties pursuant to this Agreement.

(c) **Statutory Limitation of Liability.** Nothing contained in this Agreement is intended to waive, nor will be construed as waiving, the City's statutory limitation of liability for actual damages and immunities provided by Applicable Laws.

Section 13.07 Notice of Breach of Contract Claim. This Agreement is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against the City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Agreement as if written word for word herein. Notwithstanding and in addition to all other requirements in this Agreement related to notices, claims, and notice of claims, the Foundation shall fully comply with the requirements of Section 2-86, including filing a notice of claim with the City Manager in writing, in the form prescribed in Section 2-86, as a condition precedent and a jurisdictional prerequisite to the filing of a lawsuit to recover damages for any alleged City breach of this Agreement.

Section 13.08 Alternative Dispute Resolution.

In the event of a dispute between the parties arising under or in connection with this Agreement, the parties agree to promptly enter discussions between the Director and the Chief Executive Officer of the Foundation to resolve the dispute. If the Director and the Chief Executive Officer of the Foundation cannot resolve the dispute within a reasonable time, the parties will refer the dispute to the Dallas City Manager (or his or her designee) and the Foundation Board for further discussions. If the Dallas City Manager (or his or her designee) and the Foundation Board are unable to resolve the dispute within a reasonable time, the parties agree to continue further discussions in good faith for a period of at least thirty (30) days prior to filing any legal action based on this Agreement. Such discussions will be non-binding unless an agreement is reached by the parties, and each party will bear its own costs and attorney's fees for participation in such discussions. The parties also acknowledge that any documents in

connection with these discussions may be subject to the TPIA. Notwithstanding this Section 13.08, the Foundation acknowledges that it must comply with Section 13.07.

Section 13.09 Reversion and Re-conveyance.

(a) Reversion of Property. Effective upon and simultaneously with the expiration or termination of this Agreement, all of the Foundation's right, title, and interest in and to the Fair Park Personal Property, and license and right to perform Fair Park Management will automatically revert to the City, or will be conveyed by the Foundation as otherwise directed by the City. Notwithstanding the foregoing, however, at the request of the City, the Foundation shall promptly execute an Assignment and Bill of Sale and/or other documents necessary, convenient, or desirable to effectuate and evidence such reversion and re-conveyance to the City of any and all such items. Pursuant to Section 2.03(a), all tangible and intangible personal property acquired by the Foundation during the Term of this Agreement to replace, increase, or augment the original Fair Park Personal Property will also be deemed to be Fair Park Personal Property, and as such shall be subject to reversion or conveyance pursuant to this Section 13.09(a).

(b) Contracts. All contracts relating to Fair Park entered into by the Foundation pursuant to its rights and obligations under this Agreement will automatically expire or terminate or, if so elected by the City, be assigned by the Foundation to the City at the same time that this Agreement expires or terminates, unless otherwise expressly provided herein to the contrary.

(c) Turnover. Upon the expiration or termination of this Agreement:

(i) The Foundation will turn over the operation and management of Fair Park to the City;

(ii) The Foundation will transfer to the City any remaining private donations or pledges of contributions, including but not limited to those related to naming and sponsorship, held by the Foundation, to the extent (A) they are pledged or otherwise intended for the support and/or promotion of Fair Park and its programs and (B) applicable tax laws and/or the terms of such private donations or pledges of contributions do not prohibit such transfer; and

(iii) The Foundation will transfer to the City any operation, maintenance, capital improvement, reserve or endowment accounts, and cash balances relating to Fair Park operations.

In the event that the Foundation should cease to operate or determine to liquidate and dissolve, all of its remaining assets at such time shall be distributed either to the City for the benefit of Fair Park or to another 501(c)(3) charitable organization for the benefit of Fair Park.

(d) Operating Expenses. All Operating Expenses outstanding at the time of the expiration or termination of this Agreement will be prorated as of the date of such expiration or termination. All revenues derived from operating Fair Park and received by the Foundation prior to such expiration or termination will be applied by the Foundation to pay, satisfy, and discharge any Operating Expenses and other liabilities and obligations of the Foundation relating to Fair

Park and accruing with respect to periods up to and including the effective date of such expiration or termination. All such revenues received by the Foundation after such expiration or termination will be paid over to the City within ten (10) business days after receipt thereof except for any amounts of such revenues that arise out of events that occurred, and the Operating Expenses for which were incurred, before the date of the expiration or termination of this Agreement, which amounts may be retained by the Foundation and used solely for the purpose of paying, satisfying, and discharging such Operating Expenses.

(e) Timing. In order to provide for the orderly transition, reversion, and reconveyance of Fair Park to the City upon the termination of this Agreement for any reason prior to the scheduled expiration date hereof, unless otherwise provided in this Agreement, said termination will be effective no sooner than ninety (90) days after written notice thereof given by the terminating Party to the other. During the period between the date such notice of termination is given and the effective date of such termination, each party will cooperate with the other reasonably and in good faith to arrange for the transition of the operations and management of Fair Park back to the City; provided, however, that such duty to cooperate will not preclude any party from disputing the termination of this Agreement as a result of such party's alleged default under the Agreement. From and after the date on which a notice of termination is given, the Foundation will have no right to enter into any new contract for the construction, remodeling, or repair of improvements in Fair Park unless all such work under such contract is required to be, and can reasonably be expected to be, completed by the sixtieth (60th) day after such termination notice is given, and unless such contract is otherwise permitted under this Agreement. If any contract for the construction, remodeling or repair of improvements is in effect on the date such termination notice is given and (i) any procurement or construction work under such contract has commenced prior to the day such termination notice is given, and (ii) the work under such contract is not scheduled to be, and cannot reasonably be expected to be, completed by a date that is at least thirty (30) days prior to the effective date of termination specified in such notice, then the termination of this Agreement will become effective on the thirtieth (30th) day after the earlier of (A) the scheduled completion date under such contract, or (B) substantial completion of all work under such contract. In such event, the Foundation shall continue to administer such contract, supervise the work, and pay all sums due under such contract in accordance with the terms thereof until such extended termination date of this Agreement.

(f) Foundation to Vacate. Effective at midnight on the date on which the Term of this Agreement expires or is otherwise terminated as contemplated herein, the Foundation shall have removed its presence from Fair Park and turned Fair Park over to the City in a condition conforming to the requirements of this Agreement and at least as safe and orderly as it existed as of the Commencement Date. The Foundation shall have removed any of its personal property (excluding the Fair Park Personal Property) from Fair Park prior thereto. Any personal property of the Foundation left at Fair Park after the expiration or termination of this Agreement shall, at the City's election, either become the City's property or be disposed of by the City as it deems fit, including destroying same.

(g) Agent and Attorney-In-Fact. The Foundation does hereby irrevocably name and appoint the City as its agent and attorney-in-fact (said appointment being coupled with an interest in favor of the City) to take any and all actions on behalf of the Foundation to

accomplish said transition, reversion, and re-conveyance, including execution and delivery of any instruments necessary or convenient to effectuate and evidence same.

ARTICLE XIV GENERAL PROVISIONS.

Section 14.01 Action by City. Whenever the Foundation is obligated or allowed to transmit or deliver information to the City or to seek the consent of the City as to any specific matter, the Foundation shall have complied with such requirement by transmitting or delivering information to the Director or seeking the approval or consent of the Director, unless otherwise expressly stated herein. Actions of the City shall be determined and performed by the Director and his or her designees, unless such action is expressly reserved to the Park Board or the City Council. Notwithstanding the foregoing, in no event may the Director act in place or stead of the City Council or the Park Board, if otherwise required by the Dallas City Code or Charter or state law.

Section 14.02 Successors and Assigns. Neither this Agreement nor any interest in same may be assigned by either party hereto without the express written consent of the other party. Any attempt to so assign is void. The provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 14.03 Security Interests. The Foundation shall not mortgage, pledge, or otherwise encumber its rights and interests under this Agreement, including to secure financing, except with the City's prior written approval, but nothing herein will prevent the Foundation from obtaining financing based upon funds anticipated to be received by it, including the Management Fee to be paid to the Foundation as long as said financing (i) does not involve an assignment, pledge, or other encumbrancing of any interest in this Agreement or Fair Park; (ii) under no circumstances would constitute a liability or obligation of the City; and (iii) is in all respects subject to and inferior to this Agreement and the City's rights hereunder.

Section 14.04 Nondiscrimination. The Foundation shall take all necessary actions to ensure that in connection with its obligations under this Agreement and the operation and management of Fair Park it will not discriminate in the treatment, consideration, or employment of, or deny admission to or use of Fair Park by, any individual or groups of individuals on the grounds of race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance, either directly, indirectly, or through contractual or other arrangements. The Foundation shall also comply with all applicable requirements of the Americans with Disabilities Act (42 U.S.C. §§ 12101 et. seq.), as amended, restated, or replaced from time to time. To the maximum extent permitted by Applicable Laws, the Foundation shall, in the conduct of its operations, comply with the City's minority, women, and disadvantaged business enterprise policies in effect from time to time.

Section 14.05 Venue. Venue for any legal action arising out of or related to this Agreement shall lie exclusively in Dallas County, Texas. The parties acknowledge and agree that this Agreement is reasonably susceptible of being performed in Dallas County, Texas.

Section 14.06 Applicable Law. This Agreement and the rights of the parties hereunder shall be governed by, interpreted, and construed in accordance with the laws and court decisions of the State of Texas.

Section 14.07 Titles and Subtitles. The titles and subtitles of the articles, sections, paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 14.08 Notices. Any notice required or desired to be given under this Agreement shall be in writing with copies directed as indicated herein and shall be personally served or given by mail. Any notice given by mail shall be deemed to have been given when deposited in the U.S. mails, certified, return receipt requested, and postage prepaid, addressed to the party to be served at the last address given by that party to the other parties under the provisions of this Section 14.08. Notice given by courier, fax, or other form of personal delivery shall be deemed given only upon actual receipt. Any change in address shall be promptly given in writing to the other parties pursuant to this notice provision. The initial addresses for notice are as follows:

THE CITY:

Address:

City of Dallas – Park and Recreation Department
1500 Marilla, 6FN
Dallas, TX 75201
Attn: Director
Telephone: 214-670-4060
Facsimile: 214-670-4084

With notice copy to:

City of Dallas
City Attorney's Office
1500 Marilla, 7CN
Dallas, TX 75201
Attn: J. Arthur Hudman
Telephone: 214-670-5940
Facsimile: 214-670-0622

THE FOUNDATION:

Address:

Fair Park Texas Foundation

Attn: President/Chief Executive Officer
Telephone: _____
Facsimile: _____

With notice copy to:

Attn: _____
Telephone: _____
Facsimile: _____

Section 14.09 Severability; Survival. If any provision of this Agreement is held to be unlawful, invalid, or unenforceable under any present or future laws, such provision will be fully severable; and this Agreement will then be construed and enforced as if such unlawful, invalid, or unenforceable provision had not been a part hereof. The remaining provisions of this Agreement will remain in full force and effect and will not be affected by such unlawful, invalid, or unenforceable provision or by its severance. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there will be added automatically as part of this Agreement a provision as similar in terms to such unlawful, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable. All terms, obligations, and liabilities under this Agreement that contemplate performance or impact after expiration or termination of this Agreement shall survive and remain effective from and after such expiration or termination.

Section 14.10 No Implied Waiver. The failure of either party hereto to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement shall not be construed as a waiver or relinquishment thereof for the future. The waiver of redress for any violation of any term, covenant, agreement, or condition contained in this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. No express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

Section 14.11 Cumulative Remedies. Except as expressly provided in this Agreement to the contrary, each right, power, and remedy of either of the parties hereto provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. The exercise or beginning of the exercise by either of the parties hereto of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by such party of any or all such other rights, powers, or remedies.

Section 14.12 Consent. Unless expressly provided otherwise, consents, approvals, or actions by the City are in the City's sole and unqualified discretion. With regard to the reasonableness or good faith of any consent, approval, or action by the City hereunder, the Foundation acknowledges that the City is acting as a trustee of public lands and must observe a fiduciary duty in managing Fair Park in a manner that maximizes the public benefit derived therefrom and that minimizes the risk incurred in connection therewith.

Section 14.13 Time of Essence. Time is expressly declared to be of the essence of this Agreement and each and every covenant hereunder.

Section 14.14 Relationships; No Third Party Beneficiaries. The Foundation is an independent contractor and not the agent of the City. As such, the Foundation will have full

authority and responsibility to discharge the duties imposed upon it under this Agreement without restrictions other than those imposed by this Agreement or by Applicable Laws. Neither of the parties hereto will have the right or authority to bind the other party without the express written authorization of such other party to any obligation to any third party, except as expressly provided in this Agreement. No third party is intended by the parties to be a beneficiary of this Agreement or to have any rights under or to enforce this Agreement against any party hereto. Nothing contained in this Agreement shall establish the relationship or status of partnership or joint venture between the parties, it being the express intention of the parties that no such partnership or joint venture relationship should exist.

Section 14.15 No Recordation. Neither this Agreement nor any memorandum thereof shall be recorded in the real property records of any county in the State of Texas, including Dallas County.

Section 14.16 Language. The terms used herein shall be applicable to one or more persons, as the case may be, and the singular shall include the plural, and the neuter shall include the masculine and feminine, and if there be more than one, the obligations hereof shall be joint and several. The words “persons,” whenever used, shall include individuals, firms, associations, and corporations. The parties to this Agreement have freely negotiated this Agreement and its terms. Separate legal counsels have represented the parties. The language in all parts of this Agreement shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed more strictly against any party by reason of authorship. The words “herein,” “hereof,” and “under this Agreement” will refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; the words “include,” “includes,” or “including” will mean “including, but not limited to;” and the words “best efforts” will mean a level of effort which, in the exercise of reasonable judgment in the light of facts known at the time a decision is made, can be expected to accomplish the desired result at a reasonable cost, and in a timely manner. All references herein to Applicable Laws or any specific law will be to such law as amended, supplemented, modified, or replaced from time to time. All references to a particular person will include such person’s successor and permitted assigns. All references herein to any contract or other agreement will be to such contract or other agreement as amended, supplemented, or modified to the date of reference. All accounting terms not specifically defined herein will be construed in accordance with GAAP. The term “and” and “and/or” shall include both the conjunctive and the disjunctive unless expressly provided to the contrary.

Section 14.17 Default Interest. In the event the Foundation fails to make any payment to the City due hereunder upon the date due or the City pays any sum or incurs any expense that the Foundation is obligated to pay hereunder or that is made on behalf of the Foundation, the City shall be entitled to receive reimbursement thereof from the Foundation upon demand, together with interest thereon from the due date or date of expenditure (as applicable) at the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum non-usurious rate allowed by Applicable Laws to be charged by the City (such interest rate, the “**Default Rate**”). Notwithstanding the foregoing provisions, any interest provided herein shall never exceed the maximum amount of non-usurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of the maximum amount will be credited to the

amounts otherwise owed hereunder, or if none is owed, then refunded. This provision overrides any conflicting provision in this Agreement.

Section 14.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 14.19 Conflicts of Interest. The following section of the Charter of the City of Dallas shall be one of the conditions, and a part of, the consideration for this Agreement, to-wit (with the portions in brackets having been added for clarity of application in this Agreement):

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER PROHIBITED –

(a) No city official or employee shall have any financial interest, direct or indirect, in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or services, except on behalf of the city as a city official or employee. Any violation of this section shall constitute malfeasance in office, and any city official or employee guilty thereof shall thereby forfeit the city official’s or employee’s office or position with the city. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the city shall render the contract involved voidable by the City Manager or the City Council.

(b) The alleged violations of this section shall be matters to be determined either by the trial board in the case of employees who have the right to appeal to the trial board, and by the City Council in the case of other employees.

(c) The prohibitions of this section shall not apply to the participation by city employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.

(d) This section does not apply to an ownership interest in a mutual or common investment fund that holds securities or other assets unless the person owns more than 10 percent of the value of the fund.

(e) This section does not apply to non-negotiated, form contracts for general city services or benefits if the city services or benefits are made available to the city official or employee on the same terms that they are made available to the general public.

(f) This section does not apply to a nominee or member of a city board or commission, including a city appointee to the Dallas Area Rapid Transit Board. A nominee or member of a city board or commission, including a city appointee to the Dallas Area Rapid Transit Board, must comply with any applicable conflict of interest or ethics provisions in the state law and the Dallas City Code. (Amend. of 8-12-89, Prop. No. 1; Amend. of 8-12-89, Prop. No. 15; Amend. of 11-4-14, Prop. Nos. 2 and 9.)

Section 14.20 Gift to Public Servant. The Foundation shall not, and shall use commercially reasonable efforts to cause its employees, agents, and contractors to not, offer or

agree to confer any benefit upon a City employee or official that such City employee or official is prohibited by law from accepting. For purposes of this Section 14.20, “benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law. Notwithstanding any other legal remedies, the City may require the Foundation to remove any employee or contractor who has violated the restrictions of this section (or any similar state or federal law) from performance responsibilities under this Agreement.

Section 14.21 Further Assurances. Each of the parties, at all times and from time to time hereafter, and upon reasonable written request to do so, will make, do, execute, deliver, or cause to be made, done, executed, and delivered, all such further acts, instruments, assurances, and things as may be required for more effectually implementing and carrying out the true intent and meaning of this Agreement.

Section 14.22 Authorization to Contract. Each party hereto represents and warrants to the other party hereto that the execution and delivery of this Agreement by it has been duly authorized by all proper actions and proceedings and that this Agreement constitutes the legal, valid, and binding obligation of such party.

Section 14.23 Dates; Calculating Time. For purposes of this Agreement, the term “day” will mean calendar day. Where the context requires an event to be performed by a particular date or specifies a period of time or a period ends on a particular date, and such date falls or period of time ends on a weekend or on a day that is not a business day (legal holiday, etc.), the event must be performed or the period will end on the next succeeding business day.

Section 14.24 Entire Agreement. This Agreement (together with any exhibits, attachments, and addenda attached and incorporated by reference) constitutes and embodies the full, complete and final agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties that relate to the subject of this Agreement. This Agreement cannot be modified, amended, waived, terminated, or discharged except by a written instrument signed by both parties hereto. Any exhibits, attachments, and addenda attached and referred to in this Agreement are incorporated in this Agreement for all purposes.

**ARTICLE XV
DEFINITIONS.**

Each of the following capitalized terms is defined in the Section set forth opposite such capitalized term below:

Agreement.....	Preamble	GAAP.....	Section 4.10
Alterations.....	Section 6.02	Governmental Approvals.....	Section 4.09
Applicable Laws.....	Section 2.09	Governmental Authority.....	Section 2.09
Award.....	Section 12.02	Hazardous Material.....	Section 11.01
BID Plan.....	Section 4.13(a)	Initial Term.....	Section 1.02
Bond Funds.....	Section 3.04	Leased Technology	
Capital Expenditures.....	Section 4.10	Equipment.....	Section 2.06(h)
City.....	Preamble	Major Casualty Loss.....	Section 11.03
City Council.....	Section 1.02	Management Fee.....	Section 3.01
City Default.....	Section 13.03	MSDS.....	Section 11.01
City Technology Services.....	Section 2.06(f)	Non-City Sources.....	Section 3.04
Commencement Date.....	Section 1.02	Non-Payment Event.....	Section 13.05
Condemnation.....	Section 12.01	Operating Expenses.....	Section 4.10
Construction Threshold		Owned Technology	
Amount.....	Section 6.05(b)	Equipment.....	Section 2.06(e)
Date Of Taking.....	Section 12.01	Park Board.....	Section 1.01(b)
Default Rate.....	Section 14.17	Performance Plan.....	Section 4.03(a)
Director.....	Section 2.03(e)	Permits.....	Section 2.03(c)
Effective Date.....	Section 1.02	Permitted Use.....	Section 4.05
EMS.....	Section 11.03(b)	Public Art Work.....	Section 2.03(e)
Fair Park.....	Preamble	Receiving Party.....	Section 1.03
Fair Park Capital Bond		Renewal Request.....	Section 1.03
Expenditures.....	Section 3.04	Renewal Term.....	Section 1.03
Fair Park Contracts.....	Section 2.05(a)	Renewal Terms.....	Section 1.03
Fair Park Intellectual		Requesting Party.....	Section 1.03
Property.....	Section 2.04	Resident Institutions.....	Section 3.05
Fair Park Management.....	Section 1.01	State Fair Contract.....	Section 2.05(b)
Fair Park Personal		Substantial Projects.....	Section 6.05(a)
Property.....	Section 2.03(a)	Term.....	Section 1.02
Fair Park Vehicles.....	Section 2.03(b)	Total Casualty Loss.....	Section 11.02
Foundation.....	Preamble	TPIA.....	Section 9.04
Foundation Board.....	Section 4.02	Transition Funds.....	Section 3.03
Foundation Default.....	Section 13.01	Utility Services.....	Section 5.01
Foundation Fiscal Year.....	Section 9.01	Zoo Agreement.....	Section 2.05(f)

EXECUTED this ____ day of _____, 2016, by the City, by and through the President of the City of Dallas Park and Recreation Board and the Dallas City Manager, duly authorized to execute same by action of the Park and Recreation Board on _____, 2016 and City Council Resolution No. 16-_____, approved by City Council on _____, 2016, and by the Foundation, acting through its duly authorized officers.

CITY:

APPROVED AS TO FORM:
CHRISTOPHER D. BOWERS
Interim City Attorney

CITY OF DALLAS
A.C. GONZALEZ
City Manager

By: _____
Name: _____
Title: Assistant City Attorney

By: _____
Name: _____
Title: Assistant City Manager

ATTEST:

PARK AND RECREATION BOARD

By: _____
Name: _____
Title: City Secretary

By: _____
Name: Max Wells
Title: President

PARK AND RECREATION DEPARTMENT:

By: _____
Name: _____
Title: Assistant Director

FAIR PARK TEXAS FOUNDATION,
A Texas nonprofit corporation

By: _____
Name: Walter J. Humann
Title: President and Chief Executive Officer

**Exhibit A
Fair Park**

See attached.

DRAFT

Exhibit 2.03(a)
Fair Park Personal Property

See attached.

DRAFT

Exhibit 2.03(b)
Fair Park Vehicles

See attached.

DRAFT

Exhibit 2.03(e)
Public Art Work

See attached.

DRAFT

Exhibit 2.03(f)
Historic Furnishings

See attached.

DRAFT

Exhibit 2.05(a)
Fair Park Contracts

See attached.

DRAFT

Exhibit 2.05(f)
Assignment of State Fair of Texas Contract

See attached.

DRAFT

Exhibit 2.05(g)
Texas Department of Transportation Contract for Parry Avenue Parking Lot

See attached.

DRAFT

Exhibit 2.06(a)
Fair Park Technology – Leased Computer Equipment

See attached.

DRAFT

Exhibit 2.06(b)
Fair Park Technology – Leased Telephone Equipment

See attached.

DRAFT

Exhibit 2.06(c)
Fair Park Technology – Other Leased Technology Equipment

See attached.

DRAFT

Exhibit 2.06(e)
Fair Park Technology – Owned Technology Equipment

See attached.

DRAFT

Exhibit 2.06(f)
Fair Park Technology – Technology Services

See attached.

DRAFT

Exhibit 2.06(h)
Fair Park Technology – Radio Frequencies and Systems

See attached.

DRAFT

Exhibit 3.03
Capital Needs Inventory for Fair Park

See attached.

DRAFT

Exhibit 3.05
Resident Institutions

DRAFT

Exhibit 4.23
Bleacher Lot

See attached.

DRAFT

**Exhibit 5.03
Insurance**

See attached.

DRAFT

**Exhibit 6.16
Community Park**

See attached.

DRAFT

Exhibit 7.03(c)
South Dallas Trust Fund Resolution

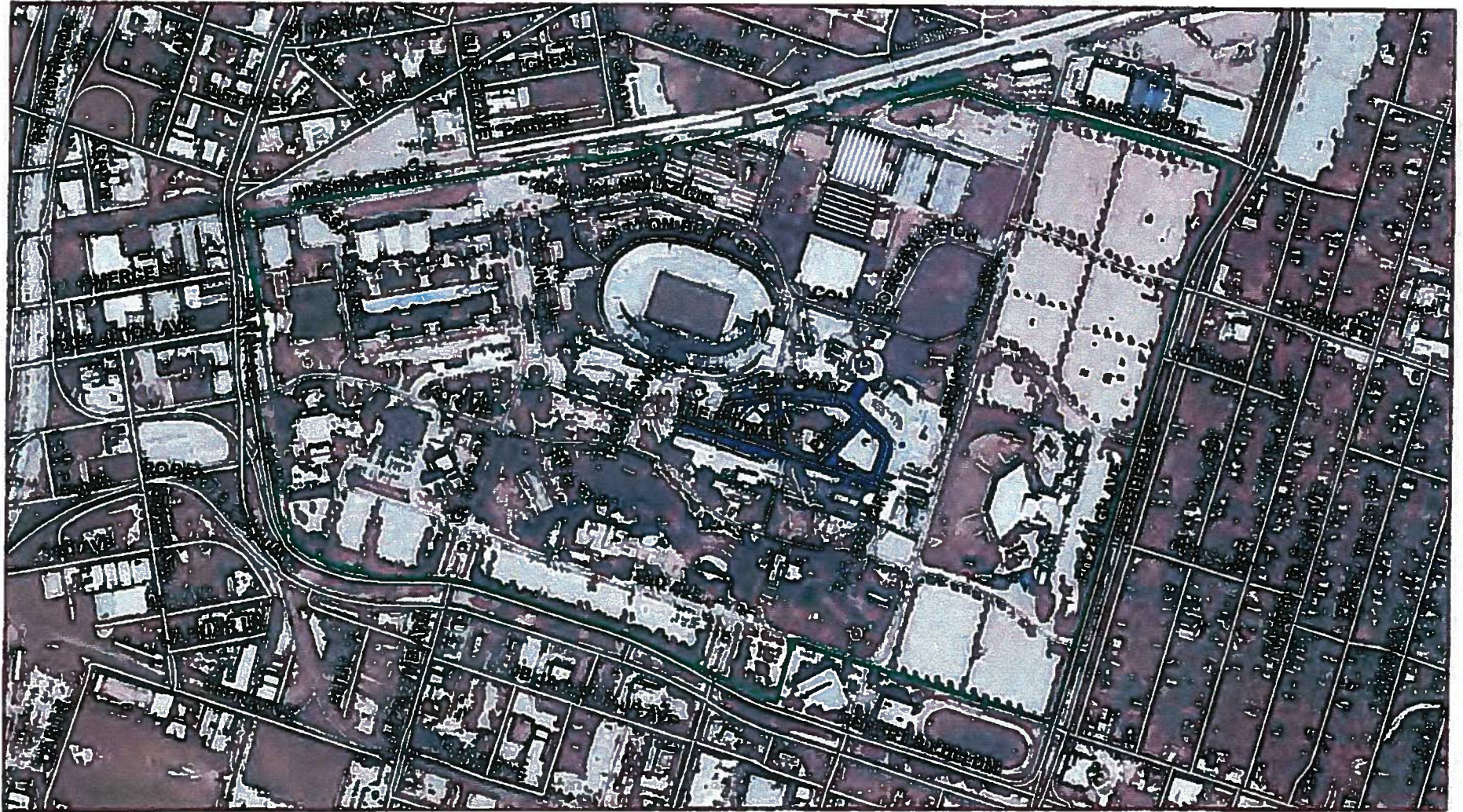
See attached.

DRAFT

**Exhibit A
Fair Park**

See attached.

DRAFT



0 250 500 1,000 1,500 Feet

Exhibit A
Fair Park (1200 Second Avenue)



Mapsc0 CD
46 P Q 7

July 28, 2016

Exhibit 2.03(a)
Fair Park Personal Property

See attached.

DRAFT

2.03 (a) Fair Park Personal Property - Uncommon Equipment

EQP_NO	MAKE	MODEL	PURCH_DATE
240	YAZOO	BLOWER	5/7/1986
254	YAZOO	BLOWER	5/7/1986
289398	YAZOO	PUSH MOWER	2/4/1997
289399	YAZOO	PUSH MOWER	2/4/1997
271146	TURFCO PRO	SOD CUTTER	11/9/1993
271071	TURFCO	TOP DRESSER	10/21/1993
303050	TURFCO	SPREADER & SPRAYER	10/17/2014
263718	TRUE LINE PAINT MARKER	LINE MARKER	6/24/1993
271079	TORO WORKMAN	TRUCKSTER	10/25/1993
9763	TORO PARK MASTER	REEL MOWER	5/27/1981
201484	TORO	TRUCKSTER	6/13/2001
271174	TORO AERIFIER	TRUCKSTER	9/27/1993
282453	TORO	PUSH MOWER	3/2/1995
282454	TORO	PUSH MOWER	3/2/1995
300285	TORO	PUSH MOWER	5/17/2000
303004	TORO	CAB	2/26/2015
500190	TORO COM 20	PUSH MOWER	3/4/2009
500191	TORO COM 20	PUSH MOWER	3/4/2009
500192	TORO COM 20	PUSH MOWER	3/4/2009
500193	TORO COM 20	PUSH MOWER	3/4/2009
605674	TORO	AERATOR 686	7/8/2013
607258	TORO	WORKMAN	8/12/2014
607428	TORO	WORKMAN HD	9/30/2014
607429	TORO	WORKMAN HD	9/30/2014
607430	TORO	CANOPY	9/30/2014
607431	TORO	CANOPY	9/30/2014
271595	TITAN PAINT SPRAYER	LINE MARKER	5/27/1994
271595	TITAN	SPRAYER	N/A
271596	TITAN PAINT SPRAYER	LINE MARKER	5/27/1994
248298	TENNANT SWEEPER	SWEEPER	7/11/1989
292556	TENNANT	SWEEPER	N/A
271275	TEEL	WATER PUMP	10/1/1993
263927	TANAKA STICK	EDGER	9/22/1993
263928	TANAKA STICK	EDGER	9/22/1993
263932	TANAKA	LINE TRIMMER	9/22/1993
263933	TANAKA	LINE TRIMMER	9/22/1993
271127	STIHL	CHAINSAW	N/A
282610	STIHL	CHAINSAW	4/28/1995
282611	STIHL	CHAINSAW	4/28/1995
292526	STIHL	CONCRETE SAW	3/12/1998
301672	STIHL	LINE TRIMMER	4/2/2001
301674	STIHL	LINE TRIMMER	4/3/2001
301675	STIHL	LINE TRIMMER	4/2/2001
301724	STIHL	CHAINSAW	4/19/2001
301740	STIHL	CHAINSAW	4/19/2001

2.03 (a) Fair Park Personal Property - Uncommon Equipment

301741	STIHL	CHAINSAW	4/19/2001
301743	STIHL	EDGER	4/18/2001
301744	STIHL	EDGER	4/19/2001
304554	STIHL	HEDGE TRIMMER	8/10/2004
304555	STIHL	HEDGE TRIMMER	8/10/2004
304556	STIHL	HEDGE TRIMMER	8/10/2004
305813	STIHL	LINE TRIMMER	7/11/2005
305814	STIHL	LINE TRIMMER	7/15/2005
305973	STIHL	BLOWER	3/21/2006
305979	STIHL	BLOWER	3/21/2006
305982	STIHL	CHAINSAW	3/21/2006
305983	STIHL	EDGER	3/21/2006
305984	STIHL	EDGER	3/21/2006
305985	STIHL	EDGER	3/21/2006
305986	STIHL	EDGER	3/21/2006
305987	STIHL	HEDGE TRIMMER	3/21/2006
305988	STIHL	HEDGE TRIMMER	3/21/2006
305991	STIHL	BLOWER	3/20/2006
305992	STIHL	LINE TRIMMER	3/20/2006
305993	STIHL	LINE TRIMMER	3/20/2006
305994	STIHL	LINE TRIMMER	3/20/2006
305995	STIHL	LINE TRIMMER	3/20/2006
305996	STIHL	LINE TRIMMER	3/20/2006
305997	STIHL	CHAINSAW	3/20/2006
305998	STIHL	CHAINSAW	3/20/2006
317479	STIHL	BLOWER	8/14/2006
317911	STIHL	BLOWER	5/23/2007
317913	STIHL	BLOWER	5/23/2007
400316	STIHL	LINE TRIMMER	6/16/2008
400317	STIHL	LINE TRIMMER	6/16/2008
400318	STIHL	EDGER	6/16/2008
600351	STIHL BLOWER	HANDHELD BLOWER	7/27/2010
600352	STIHL BLOWER	HANDHELD BLOWER	7/27/2010
600353	STIHL BLOWER	HANDHELD BLOWER	7/27/2010
600354	STIHL HEDGE TRIMMER	KO HEDGE TRIMMER	7/27/2010
600355	STIHL HEDGE TRIMMER	KO HEDGE TRIMMER	7/27/2010
600356	STIHL HEDGE TRIMMER	KO HEDGE TRIMMER	7/27/2010
600357	STIHL HEDGE TRIMMER	KO HEDGE TRIMMER	7/27/2010
600358	STIHL HEDGE TRIMMER	HEDGE TRIMMER	7/27/2010
600359	STIHL HEDGE TRIMMER	HEDGE TRIMMER	7/27/2010
600360	AUGER DRILL	EARTH AUGER DRILL	7/27/2010
600361	AUGER DRILL	EARTH AUGER DRILL	7/27/2010
600362	STIHL TRIMMER	TRIMMER	7/27/2010
600363	STIHL TRIMMER	TRIMMER	7/27/2010
600364	STIHL TRIMMER	TRIMMER	7/27/2010
601567	STIHL	POLE SAW	6/10/2011
601568	STIHL	POLE SAW	6/10/2011

2.03 (a) Fair Park Personal Property - Uncommon Equipment

601569	STIHL	POLE SAW	6/10/2011
601570	STIHL	HEDGE TRIMMER	6/10/2011
601571	STIHL	HEDGE TRIMMER	6/10/2011
601572	STIHL	HEDGE TRIMMER	6/10/2011
601573	STIHL	CHAINSAW	6/10/2011
601574	STIHL	CHAINSAW	6/10/2011
601806	STIHL	BLOWER	8/4/2011
601807	STIHL	BLOWER	8/4/2011
601808	STIHL	L.TRIMMER	8/4/2011
601809	STIHL	L.TRIMMER	8/4/2011
601810	STIHL	L.TRIMMER	8/4/2011
601811	STIHL	L.TRIMMER	8/4/2011
603037	STIHL	BLOWER	2/3/2012
603038	STIHL	BLOWER	2/3/2012
604312	STIHL	BACK PACK BLOWER	7/3/2012
604313	STIHL	BACK PACK BLOWER	7/3/2012
605877	STIHL	BATTERY L TRIMMER	6/13/2013
605878	STIHL	BATTERY L TRIMMER	6/13/2013
605879	STIHL	BATTERY L TRIMMER	6/13/2013
605880	STIHL	BATTERY CHAINSAW	6/13/2013
605881	STIHL	BATTERY CHAINSAW	6/13/2013
605882	STIHL	BATTERY HEDGE TRIM	6/13/2013
605883	STIHL	BATTERY HEDGE TRIM	6/13/2013
605892	STIHL	BATTERY EX HED TRIM	6/13/2013
605894	STIHL	BATTERY EX HED TRIM	6/13/2013
605895	STIHL	TILLER	6/13/2013
605970	STIHL	EDGER	8/27/2013
605971	STIHL	EDGER	8/27/2013
605972	STIHL	EDGER	8/27/2013
605973	STIHL	EDGER	8/27/2013
605978	STIHL	BLOWER	9/19/2013
605979	STIHL	BLOWER	9/19/2013
605980	STIHL	HEDGE TRIMMER	9/19/2013
605981	STIHL	HEDGE TRIMMER	9/19/2013
605982	STIHL	HEDGE TRIMMER	9/19/2013
605983	STIHL	LINE TRIMMER	9/19/2013
605984	STIHL	LINE TRIMMER	9/19/2013
605985	STIHL	LINE TRIMMER	9/19/2013
605986	STIHL	LINE TRIMMER	9/19/2013
605987	STIHL	LINE TRIMMER	9/19/2013
605988	STIHL	LINE TRIMMER	9/19/2013
605989	STIHL	LINE TRIMMER	9/19/2013
605990	STIHL	LINE TRIMMER	9/19/2013
606192	STIHL	HAND HELD BLOWER	11/12/2013
606464	STIHL	BACK PACK BLOWER	12/26/2013
606465	STIHL	BACK PACK BLOWER	12/31/2013
606466	STIHL	BACK PACK BLOWER	12/31/2013

2.03 (a) Fair Park Personal Property - Uncommon Equipment

606467	STIHL	EDGER STRAIGHT SHAFT	12/31/2013
606468	STIHL	EDGER STRAIGHT SHAFT	12/31/2013
606469	STIHL	EDGER CURVE SHAFT	12/31/2013
606470	STIHL	EDGER CURVE SHAFT	12/31/2013
606512	STIHL	HAND HELD BLOWER	12/26/2013
606513	STIHL	BACK PACK BLOWER	12/26/2013
607228	STIHL	YARD BOSS	7/31/2014
607229	STIHL	YARD BOSS	7/31/2014
607230	STIHL	YARD BOSS	7/31/2014
607231	STIHL	EARTH AUGER DRILL	7/31/2014
607232	STIHL	EARTH AUGER DRILL	7/31/2014
607233	STIHL	EARTH AUGER DRILL	7/31/2014
608217	STIHL	LINE TRIMMER	3/26/2015
608218	STIHL	LINE TRIMMER	3/26/2015
609183	STIHL	BLOWER	4/13/2015
609184	STIHL	BLOWER	4/13/2015
262823	SPEEDAIRE	AIR COMPRESSOR	4/7/1993
294034	SOUTHWEST	TRAILER	7/1/1998
603053	SNAPPER TILLER	TILLER 800	6/10/2011
601107	SCAG	ZERO TURN	3/3/2011
601108	SCAG	ZERO TURN	3/3/2011
607234	SCAG	RIDING MOWER	7/31/2014
280548	ROOTER SENIOR	SEWER MACHINE	6/9/1994
299307	ROBIN ENGINE TAPPER	TOOL	1/13/2000
262796	RED MAX PACK BLOWER	BLOWER	4/1/1993
262797	RED MAX PACK BLOWER	BLOWER	4/1/1993
262798	RED MAX	BLOWER	4/1/1993
282606	RED MAX	RECIPROCATOR	4/28/1995
282607	RED MAX	RECIPROCATOR	4/28/1995
263959	POWERTEC FLOOR SCRUBBE	TOOL	9/27/1993
306355	PORTA PRO	PRESSURE WASHER	2/15/1995
262244	POULAN	LINE TRIMMER	10/10/1991
262245	POULAN	LINE TRIMMER	10/10/1991
252510	PERKINS	GENERATOR	N/A
262183	PERKINS	GENERATOR	9/11/1991
206584	OLATHE	TRAILER	8/16/1984
303019	NILFISK	INDUSTRIAL SWEEPER	10/24/2014
162	MCCULLOCH	CHAINSAW	N/A
111129	N/A	SPRAYER	N/A
217586	ELECTRIC EEL	SEWER MACHINE	4/16/1986
233044	DISC	IMPLEMENT	N/A
236829	BINKS	LINE MARKER	11/2/1988
251933	DRILL	TOOL	N/A
251934	DRILL	TOOL	N/A
263299	ECHO	LINE TRIMMER	12/17/1991
288250	SPREADER	IMPLEMENT	N/A
292729	UTILITY TRAILER	TRAILER	N/A

2.03 (a) Fair Park Personal Property - Uncommon Equipment

294301	TECUMSEH	PRESSURE WASHER	N/A
306889	DAYTON CHARGER	TOOL	N/A
308217	REMCOR	SPRAYER	3/3/2003
308219	REMCOR	SPRAYER	3/3/2003
600379	SPRAYER/TRAILER	SPRAYER	N/A
111137	MOTT FLAIL 88	IMPLEMENT	5/27/1981
3008	MOTAR	CEMENT MIXER	6/27/1986
374	MERRY	TILLER	5/9/1986
2683	MCLANE	EDGER	4/28/1986
252110	MCLANE	EDGER	10/30/1990
252111	MCLANE	EDGER	10/30/1990
252116	MCLANE	EDGER	10/30/1990
540	MCCULLOCH	HEDGE TRIMMER	8/26/1988
541	MCCULLOCH	HEDGE TRIMMER	8/26/1988
543	MCCULLOCH	HEDGE TRIMMER	8/26/1988
662	MCCULLOCH	CHAINSAW	8/9/1988
251938	MCCULLOCH	WATER PUMP	11/1/1991
252106	MCCULLOCH	CHAINSAW	10/26/1990
252107	MCCULLOCH	CHAINSAW	10/26/1990
252436	MCCULLOCH	LINE TRIMMER	2/20/1991
252438	MCCULLOCH	LINE TRIMMER	2/20/1991
263126	MCCULLOCH	CHAINSAW	1/31/1992
280962	MCCULLOCH	CHAINSAW	11/29/1994
280963	MCCULLOCH	CHAINSAW	11/29/1994
280964	MCCULLOCH	CHAINSAW	11/29/1994
289316	MCCULLOCH	CHAINSAW	12/20/1996
289317	MCCULLOCH	CHAINSAW	12/20/1996
306887	SPRAYER	SPRAYER	3/15/2003
306885	SPRAYER	SPRAYER	3/15/2003
306886	SPRAYER	SPRAYER	3/15/2003
317597	MASTER	GENERATOR	12/20/2006
248189	MANTEK BACK PACK SPRAYE	SPRAYER	1/2/1989
217191	LITTLE WONDER	HEDGE TRIMMER	8/2/1985
300387	LESCO	BLOWER	6/14/2000
300388	LESCO	BLOWER	6/14/2000
300389	LESCO	BLOWER	6/14/2000
304536	KUBOTA	TRACTOR	6/3/2004
282510	KOHLER	GENERATOR	10/1/1993
282511	KOHLER	GENERATOR	10/1/1991
263820	KAWASAKI 4 WHEELER	ATV	7/22/1993
604314	KAWASAKI	KAW POWER UNIT	5/8/2012
604315	KAWASAKI	KAW POWER UNIT	5/8/2012
604316	KAWASAKI	TWIN TURBO ATTACHMENT	5/8/2012
604317	KAWASAKI	TWIN TURBO ATTACHMENT	5/8/2012
606179	kawasaki	twinturbo blade attachment	10/7/2013
284170	KAUFMAN	TRAILER	8/8/1995
222992	JOHN HENARD	TRAILER	10/23/1986

2.03 (a) Fair Park Personal Property - Uncommon Equipment

600	JOHN DEERE	EDGER	7/30/1987
304402	John Deere	RIDING MOWER	6/3/2004
304403	John Deere	RIDING MOWER	6/3/2004
606758	JLG	BOOM LIFT	2/7/2014
217694	JCT ELECTRIC WINCH	TOOL	5/8/1986
271147	JAGUAR	PRESSURE WASHER	11/10/1993
252076	JACOBSEN REEL MOWER	REEL MOWER	9/25/1990
252080	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252082	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252086	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252088	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252089	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252091	JACOBSEN COM 20	PUSH MOWER	10/18/1990
252370	JACOBSEN COM 20	PUSH MOWER	1/31/1991
282296	JACOBSEN COM 20	PUSH MOWER	1/26/1995
282297	JACOBSEN COM 20	PUSH MOWER	1/26/1995
282298	JACOBSEN COM 20	PUSH MOWER	1/26/1995
282299	JACOBSEN COM 20	PUSH MOWER	1/26/1995
298850	JACOBSEN GREENS	REEL MOWER	11/16/1999
298851	JACOBSEN GREENS	REEL MOWER	11/16/1999
601791	JACOBSEN	REEL MOWER	8/29/2011
601792	JACOBSEN	REEL MOWER	8/29/2011
607265	CUSHMAN	TRUCKSTER SPRAYER	8/20/2014
306880	INGERSOLL RAND	AIR COMPRESSOR	4/12/2002
305137	HUSQVARNA	BLOWER	12/20/2004
305138	HUSQVARNA	BLOWER	12/20/2004
606389	husqvarna	concrete saw	11/20/2013
252415	HONDA	GENERATOR	2/19/1991
252703	HONDA	GENERATOR	3/29/1991
282315	HONDA	GENERATOR	2/6/1995
304015	Honda	PRESSURE WASHER	3/17/2004
315	HOMELITE	GENERATOR	5/20/1986
484	HOMELITE	WATER PUMP	1/30/1986
607432	Haulotte	Scissor Lift	10/6/2014
601610	HARMSCO	VACUM	7/21/2011
601611	HARMSCO	VACUM	7/21/2011
400315	GRAINGER	PRESSURE WASHER	6/8/2008
400068	GRACO	LINE MARKER	1/29/2008
236715	GOSH STEAM CLEANER	PRESSURE WASHER	10/17/1988
298479	GENIE	MAN LIFT	10/18/1999
303042	FORD	SHUTTLE	8/13/2008
838	FORD	TRACTOR	N/A
271388	FORD LOADER	FRONT END LOADER	2/3/1994
605689	ECO LAWN	FIELD DRESSER	8/19/2013
595	ECHO	BLOWER	8/3/1988
263742	ECHO	LINE TRIMMER	7/8/1993
263929	ECHO	BLOWER	9/22/1993

2.03 (a) Fair Park Personal Property - Uncommon Equipment

263930	ECHO	BLOWER	9/22/1993
263931	ECHO	BLOWER	9/22/1993
271579	ECHO	HEDGE TRIMMER	5/19/1994
280607	ECHO CULTIVATOR ATTACHM	CULTIVATOR	6/28/1994
280608	ECHO CULTIVATOR ATTACTM	CULTIVATOR	6/28/1994
282280	ECHO PACK BLOWER	BLOWER	1/25/1995
282281	ECHO PACK BLOWER	BLOWER	1/25/1995
282283	ECHO	LINE TRIMMER	1/25/1995
282284	ECHO	LINE TRIMMER	1/25/1995
282608	ECHO	HEDGE TRIMMER	4/28/1995
282609	ECHO	HEDGE TRIMMER	4/28/1995
282661	ECHO	CHAINSAW	5/3/1995
282662	ECHO	CHAINSAW	5/3/1995
289331	ECHO	LINE TRIMMER	12/20/1996
289499	ECHO	HEDGE TRIMMER	3/20/1997
290179	ECHO	BLOWER	7/15/1997
292523	ECHO	EDGER	3/12/1998
292525	ECHO	EDGER	3/12/1998
292553	ECHO	HEDGE TRIMMER	3/18/1998
292554	ECHO	HEDGE TRIMMER	3/18/1998
292555	ECHO	HEDGE TRIMMER	3/18/1998
292739	ECHO	HEDGE TRIMMER	6/4/1998
292740	ECHO	LINE TRIMMER	6/4/1998
292743	ECHO	EDGER	6/4/1998
300454	ECHO	LINE TRIMMER	6/19/2000
300456	ECHO	HEDGE TRIMMER	7/11/2000
308507	ECHO POWER SOURCE	POLE SAW	5/28/2003
308508	ECHO ARTICULATEING HEDG	HEDGE TRIMMER	5/28/2003
308509	ECHO LINE TRIMMER ATTACI	LINE TRIMMER	5/28/2008
600350	ECHO	BACKPACK BLOWER	7/27/2010
263935	EARTHWAY SPREADER	IMPLEMENT	9/22/1993
33601	DRIVEMATIC	CONCRETE SAW	5/1/1986
236800	DODGE BUS	TRUCKSTER	12/7/1988
236735	DAIHATSU	TRUCKSTER	10/17/1988
252042	DAIHATSU	TRUCKSTER	9/29/1989
3085	CUSHMAN	TRUCKSTER	7/12/1984
3096	CUSHMAN	TRUCKSTER	8/8/1986
252098	CUSHMAN	TRUCKSTER	10/26/1990
252099	CUSHMAN	TRUCKSTER	10/26/1990
303005	CUSHMAN	1200X HAULER	2/9/2015
294076	CAMPBELL HAUSFELD	SPRAYER	N/A
601812	BRUSH BANDIT	CHIPPER	8/24/2011
304414	BROYHILL	SPRAYER	5/25/2004
306881	BROADCAST	IMPLEMENT	4/12/2002
306882	BROADCAST	IMPLEMENT	4/12/2002
306883	BROADCAST	IMPLEMENT	4/12/2002
306884	BROADCAST	IMPLEMENT	4/12/2002

2.03 (a) Fair Park Personal Property - Uncommon Equipment

282523	BOLENS	TILLER	3/29/1995
290489	BILLY GOAT	VACUUM	12/1/1997
290490	BILLY GOAT	VACUUM	12/1/1997
317514	BILLY GOAT VACUUM	VACUUM	9/27/2006
317818	BILLY GOAT	VACUUM	5/3/2007
607435	BIG TEX	TRAILER	9/11/2014
607436	BIG TEX	TRAILER	9/11/2014
607437	BIG TEX	TRAILER	9/11/2014
284344	BARBER BOATS	BOAT	9/15/1995
284345	BARBER BOATS TRAILER	TRAILER	9/15/1995
607417	B & E	PRESSURE WASHER	9/23/2014
290267	AMERICAN EZ GO	TRUCKSTER	9/5/1997
217957	ACME PRESSURE WASHER	PRESSURE WASHER	8/6/1986
301552	CLUB CAR	TRUCKSTER	12/4/2000
414202	CLARK	FORKLIFT	8/31/2015
504068	GRACO	LINE MARKER	1/29/2008
403245	GRACO	LINE MARKER	1/29/2008

Exhibit 2.03(b)
Fair Park Vehicles

See attached.

DRAFT

Exhibit 2.03 (b) - Fair Park Vehicles

Unit Number	UDC DESCRIPTION	Model Year	Make	Model
009029	6500 POUND SKID STEER LOADER	2000	BOBCAT	863
011114	1 TON 4X2 CREW CAB 2-3 C/Y DUMP TRUCK	2001	FORD	F350
011141	1/2 TON 4X2 STANDARD CAB CNG PICKUP	2001	FORD	F150
016015	3/4 TON CNG DISPLAY VAN	2001	DODGE	RAM 3500
019007	1 TON TRUCK MOUNTED SWEEPER	2001	FORD/TYMCO	F350SD/210
021010	1/2 TON 4X2 STANDARD CAB CNG PICKUP	2002	FORD	F150
021145	1 TON 4X2 STANDARD CAB 2-3 C/Y DUMP TRU	2002	DODGE	3500
021146	1 TON 4X2 STANDARD CAB UTILITY TRUCK	2002	DODGE	3500
048017	1/2 TON 4X2 STANDARD CAB CNG PICKUP	2004	FORD	F150
051041	1 TON 4X2 STANDARD CAB FLAT BED TRUCK	2005	FORD	F350
061050	3/4 TON 4X2 CREW CAB GAS PICKUP	2006	FORD	F250
068060	1/2 TON 4X2 STANDARD CAB GAS PICKUP	2006	FORD	F150
071046	3/4 TON 4X2 STANDARD CAB DIESEL PICKUP	2007	DODGE	RAM 2500
078021	1/2 TON 4X2 STANDARD CAB GAS PICKUP	2007	DODGE	1500
081001	3/4 TON 4X2 EXT CAB GAS PICKUP	2008	FORD	F250
081012	1 TON 4X2 STANDARD CAB BUCKET TRUCK	2008	FORD	F450
081091	3/4 TON 4X2 STANDARD CAB GAS PICKUP	2008	FORD	F250
089013	8000 POUND FORKLIFT	2008	HYSTER	H80FT
091072	1 TON 4X2 STANDARD CAB 2 3 C/Y DUMP TRUC	2009	FORD	F450
136019	1/4 TON CNG CARGO VAN	2013	TRANSIT	CONNECT VAN
141029	3/4 TON 4X2 CREW CAB CNG PICKUP	2014	FORD	F250 4X2
148063	1/2 TON 4X2 STANDARD CAB CNG PICKUP	2014	FORD	F150
148064	1/2 TON 4X2 STANDARD CAB CNG PICKUP	2014	FORD	F150
926008	1/2 TON GASOLINE CARGO VAN	1992	CHEVROLET	1500

**Exhibit 2.03(e)
Public Art Work**

See attached.

DRAFT

Exhibit 2.03 (e) - Public Art Work

Artist	Title/Description	Date	Location	Medium
Austin, Dorothy	Cowboy	1936	Hall of State	sculpture-wood
Austin, Dorothy	Doors Representing the Flora of Texas	1936	Front of Hall of State	sculpture-bronze
Bourdelle, Pierre	Locomotive Power	1936	Centennial Building	sculpture-bas relief
Bourdelle, Pierre	Man Taming Wild Horse	1936	Centennial Building	sculpture-bas relief
Bourdelle, Pierre	Pylon with Pegasus and Sirens	1936	Centennial Building	sculpture-bas relief
Bourdelle, Pierre	Pylon with Pegasus and Sirens II	1936	Centennial Building	sculpture-bas relief
Bourdelle, Pierre	Speed	1936	Centennial Building	sculpture-bas relief
Bourdelle, Pierre	Streamline	1936	Centennial Building	sculpture-bas relief
Carpenter James	Light Veil	2013	Cotton Bowl	sculpture-stainless steel
Chandler, Clyde Giltner	The Gulf Stream	1916	East of Music Hall	sculpture-bronze
Clampaglia, Carlo	Aeroplane Transportation	1936	Centennial Building	mural
Clampaglia, Carlo	Automobile Transportation	1936	Centennial Building	mural
Clampaglia, Carlo	Fecundity	1936	Food and Fiber Building	mural
Clampaglia, Carlo	Future Transportation	1936	Centennial Building	mural
Clampaglia, Carlo	Motion	1936	Centennial Building	mural
Clampaglia, Carlo	Navigation	1936	Centennial Building	mural
Clampaglia, Carlo	Old Methods of Transportation	1936	Centennial Building	mural
Clampaglia, Carlo	Pollination of Nature	1936	Food and Fiber Building	mural
Clampaglia, Carlo	Railroad Transportation	1936	Centennial Building	mural
Clampaglia, Carlo	Traction	1936	Centennial Building	mural
Clampaglia, Carlo	Untitled Lunette Mural	1936	Food and Fiber Building	mural
Clampaglia, Carlo	Wheat Harvester	1936	Food and Fiber Building	mural
Coppini, Pompeo Luigi	Bust of Prospero Bernardi	1936	West of Hall of State	sculpture-bronze
Coppini, Pompeo Luigi	James W Fannin	1936	Hall of State	sculpture-bronze
Coppini, Pompeo Luigi	Mirabeau B Lamar	1936	Hall of State	sculpture-bronze
Coppini, Pompeo Luigi	Sam Houston	1936	Hall of State	sculpture-bronze
Coppini, Pompeo Luigi	Stephen F Austin	1936	Hall of State	sculpture-bronze
Coppini, Pompeo Luigi	Thomas J Rusk	1936	Hall of State	sculpture-bronze

Exhibit 2.03 (e) - Public Art Work

Coppini, Pompeo Luigi	William B Travis	1936	Hall of State	sculpture-bronze
Davidson, George	Stenciled Ceiling	1936	Hall of State	mural-painting
Ford, Lynn	Cotton and Wheat Allegory	1936	Hall of State	sculpture-wood
Ford, Lynn	History of Romance Allegory	1936	Hall of State	sculpture-wood
Garnsey, Julian Ellsworth	Federal Medallion I	1936	Tower Building	sculpture-bas relief
Garnsey, Julian Ellsworth	Federal Medallion II	1936	Tower Building	sculpture-bas relief
Garnsey, Julian Ellsworth	Texas History Frieze 1540-1836	1936	Tower Building	sculpture-bas relief
Gibson, Henry Lee	The Symbolic Seal of Texas	1936	Hall of State	sculpture-bas relief
I.e. creative	Imago	2011	Texas Discovery Gardens	sculpture-stainless steel and glass
Johanson, Patricia	Pterius Multifida	1986	Lagoon	sculpture-concrete
Johanson, Patricia	Sagittaria Platphylla	1986	Lagoon	sculpture-concrete
Josset, Raoul	Fountain Sculpture of Five Fish	1936	Fair Park : 46K : The Women's Museum	sculpture
Josset, Raoul	France	1936	front of Automobile Building	sculpture-concrete
Josset, Raoul	Mexico	1936	front of Automobile Building	sculpture-concrete
Josset, Raoul	Spirit of the Centennial	1936	Women's Museum	sculpture-concrete
Josset, Raoul	Tower Eagle	1936	Tower Building	sculpture-gilded plaster
Josset, Raoul	United States	1936	front of Automobile Building	sculpture-concrete
Kliem	Berlin Bear	1970	West of Hall of State	sculpture-bronze
Lea, Tom	Cowboy	1936	Hall of State	mural-painting
Lea, Tom	Frontier Family	1936	Hall of State	mural-painting
Mahoney Jr, James Owen	Allegorical View of South Texas	1936	Hall of State	mural-painting
Mahoney Jr, James Owen	Group of 8 Decorative Panels	1936	Hall of State	mural-painting
Martin, Jose	Allegorical Figure of the State of Texas	1936	Parry Ave Entrance	sculpture-concrete
Martin, William	Crystal Chandelier	1979	Music Hall	sculpture-glass and metal
Miller, Madalyn	Doors Representing the Symbols of Various Arts	1936	Fine Arts Building	sculpture-bronze
Newton, David	Contraito and Tenor	2009	Esplanade	sculpture
Newton, David	The Texas Woolfus	2002	Near Agricultural Building	bronze
Niendorff, Arthur Starr	Old Man Texas/Commerce	1936	Hall of State	mural-painting

Exhibit 2.03 (e) - Public Art Work

Renier, Joseph Emile	Great Medallion of Texas	1936	Hall of State	sculpture-bas relief
Savage, Eugene	Texas of History	1936	1200 Second Ave	mural-interior
Savage, Eugene	The State of Texas	1936	1200 Second Ave	mural-interior
Stevens, Laurence Tenney	Spain	1936	front of Centennial Building	sculpture-concrete
Stevens, Laurence Tenney	Texas	1936	front of Centennial Building	sculpture-concrete
Stevens, Laurence Tenney	The Confederacy	1936	front of Centennial Building	sculpture-concrete
Tauch, Waldine	R.L. Thornton	1969	In front of the Hall of State	sculpture-bronze
Tennant, Allie Victoria	Sea Horse Panels	1936	Aquarium	sculpture-bas relief
Tennant, Allie Victoria	Tejas Warrior	1936	Hall of State	sculpture-bronze
Tennant, Allie Victoria	Untitled, Aquatic Freeze	1936	Aquarium	sculpture-bas relief
Tischler, Tom	Jumbo	1989	Museum of Natural History	sculpture-bronze
Travis, Olin Herman	East Texas After Oil/Sleeping Giants	1936	1200 Second Ave	mural-interior
Travis, Olin Herman	East Texas Before Oil/Sleeping Giants	1936	1200 Second Ave	mural-interior
Umlauf, Charles Julius	The Torch Bearers	1972	Music Hall	sculpture-bronze
Unknown, Artist	Animal Head Medallion: Bull	1936	Parry Ave Entrance	sculpture-bronze
Unknown, Artist	Animal Head Medallion: Burro	1936	Parry Ave Entrance	sculpture-bronze
Unknown, Artist	Animal Head Medallion: Goat	1936	Parry Ave Entrance	sculpture-bronze
Unknown, Artist	Animal Head Medallion: Horse	1936	Parry Ave Entrance	sculpture-bronze
Unknown, Artist	Animal Head Medallion: Sheep	1936	Parry Ave Entrance	sculpture-bronze
Unknown, Artist	Confederacy Medallion	1936	1200 Second Ave	mural-fresco
Unknown, Artist	Spain Medallion	1936	1200 Second Ave	mural-fresco
Unknown, Artist	Statue of Liberty	1950 s	east side of Hall of State	sculpture-copper
Unknown, Artist	Texas Medallion	1936	1200 Second Ave	mural-fresco
Winblad, Bjorn	The Gossip	1985	Texas Discovery Gardens	sculpture-bronze
Winn, James Buchanan	Buffalo Hunt and Wagon Train Frieze	1936	Esplanade entrance	sculpture-bas relief

Exhibit 2.03(f)
Historic Furnishings

See attached.

DRAFT

Exhibit 2.03 (f) Historic Furnishings

Hall of State Inventory of Historic Furniture, Fixtures, Objects:

	OCA ID#	State of Texas ID	Description	Current Location	Notes
1	1936.124.1		Bronze Lamp	Great Hall Storage	
2	1936.124.2	303-8063	Bronze Lamp	Great Hall Storage	
3	1936.124.3	303-8066	Bronze Lamp	Great Hall Storage	
4	1936.124.4	303-8065	Bronze Lamp	Great Hall Storage	
5	1936.144.1		Flag Pole Standard and Bronze Flagpoles	Great Hall Storage	
6	1936.144.2		Flag Pole Standard and Bronze Flagpoles	Great Hall Storage	
7	1936.146.1		Gilded Planter	Great Hall	Protected in place
8	1936.146.2		Gilded Planter	Great Hall	Protected in place
9	1936.147.1		Limestone Urn	Great Hall	Protected in place
10	1936.147.2		Limestone Urn	Great Hall	Protected in place
11	1936.148.1	303-2761	Great Hall Throne / Chair	Great Hall Storage	
12	1936.148.2	303-2762	Great Hall Throne / Chair	Great Hall Storage	
13	1936.148.3	303-2756	Great Hall Throne / Chair	Great Hall Storage	
14	1936.148.4	303-2757	Great Hall Throne / Chair	Great Hall Storage	
15	1936.148.5	303-2760	Great Hall Throne / Chair	Great Hall Storage	
16	1936.148.6	303-2759	Great Hall Throne / Chair	Great Hall Storage	
17	1936.148.7	303-2755	Great Hall Throne / Chair	Great Hall Storage	
18	1936.148.8	303-2758	Great Hall Throne / Chair	Great Hall Storage	
19	1936.150.1		Standard Lamp	Great Hall Storage	
20	1936.150.2		Standard Lamp	Great Hall Storage	
21	1936.151.1		Console with Two Table Lanterns	Great Hall	Protected in place

Exhibit 2.03 (f) Historic Furnishings

22	1936.151.2		Console with Two Table Lanterns	Great Hall	Protected in place
23	1936.217	303-2681	Vanity Table	Great Hall Storage	
24	1936.218.1	303-2811	Foyer Settee/High-Backed Wood Benches, Leather Upholstered	Great Hall Storage	
25	1936.218.2	303-2806	Foyer Settee/High-Backed Wood Benches, Leather Upholstered	Great Hall Storage	
26	1936.218.3	303-2807	Foyer Settee/High-Backed Wood Benches, Leather Upholstered	Great Hall Storage	
27	1936.218.4	303-2810	Foyer Settee/High-Backed Wood Benches, Leather Upholstered	Great Hall Storage	
28	1936.220	303-3207	Vanity Stool	Great Hall Storage	
29	1936.225.1		Ash Stand	Great Hall Storage	
30	1936.225.2		Ash Stand	Great Hall Storage	
31	1936.225.3		Ash Stand	Great Hall Storage	
32	1936.225.4		Ash Stand	Great Hall Storage	
33	1936.227.1		Console/Bronze Pedestals	Great Hall Storage	
34	1936.227.2		Console/Bronze Pedestals	Great Hall Storage	
35	1936.227.3		Console/Bronze Pedestals	Great Hall Storage	
36	1936.227.4		Console/Bronze Pedestals	Great Hall Storage	
37	1936.228.1	303-2804	Flagpole Stand/Wood	Great Hall Storage	
38	1936.228.2		Flagpole Stand/Wood	Great Hall Storage	
39	1936.230.1		Black Earthenware Planter	Great Hall Storage	
40	1936.230.2		Black Earthenware Planter	Great Hall Storage	
41	1936.238.1	303-2890	Exhibition Case Type D	South Texas Storage	
42	1936.238.2	303-2905	Exhibition Case Type D	South Texas Storage	
43	1936.239.1	303-2913	Exhibition Case Type E	South Texas Storage	
44	1936.239.2	303-2911	Exhibition Case Type E	South Texas Storage	

Exhibit 2.03 (f) Historic Furnishings

45	1936.239.3	303-2916	Exhibition Case Type E	East Texas Storage	
46	1936.239.4	303-2889	Exhibition Case Type E	East Texas Storage	
47	1936.239.5	303-2906	Exhibition Case Type E	East Texas Storage	
48	1936.239.6	303-2901	Exhibition Case Type E	East Texas Storage	
49	1936.239.7	303-2900	Exhibition Case Type E	East Texas Storage	
50	1936.239.8	303-2896	Exhibition Case Type E	East Texas Storage	
51	1936. 1G	303-2871	Exhibition Case Type G	South Texas Storage	
52	1936. 2G	303-2881	Exhibition Case Type G	South Texas Storage	
53	1936. 3G	303-2878	Exhibition Case Type G	South Texas Storage	
54	1936. 4G	303.2879	Exhibition Case Type G	South Texas Storage	
55	1936. 5G	303-2866	Exhibition Case Type G	East Texas Storage	
56	1936. 6G	303.2869	Exhibition Case Type G	East Texas Storage	
57	1936. 1H	303-2897	Exhibition Case Type H	South Texas Storage	
58	1936. 2H	303-2907	Exhibition Case Type H	South Texas Storage	
59	1936. 3H	303.2903	Exhibition Case Type H	South Texas Storage	
60	1936. 1K	303.2891	Exhibition Case Type K	South Texas Storage	
61	1936. 1J	303-2893	Exhibition Case Type J	South Texas Storage	
62	1936. 2J	303.2892	Exhibition Case Type J	South Texas Storage	
63	1936.243.1	303-2766	Upholstered Bench	Great Hall Storage	
64	1936.243.2	303-2767	Upholstered Bench	Great Hall Storage	
65	1936.243.3	303-2764	Upholstered Bench	Great Hall Storage	
66	1936.243.4	303-2768	Upholstered Bench	Great Hall Storage	
67	1936.243.5	303-2773	Upholstered Bench	Great Hall Storage	
68	1936.243.6	303-2770	Upholstered Bench	Great Hall Storage	
69	1936.243.7	303-2772	Upholstered Bench	Great Hall Storage	
70	1936.243.8	303-2771	Upholstered Bench	Great Hall Storage	
71	1936.243.9	303-2769	Upholstered Bench	Great Hall Storage	
72	1936.243.10	303-2763	Upholstered Bench	Great Hall Storage	
73	1936.243.11	303-2765	Upholstered Bench	Great Hall Storage	

Exhibit 2.03 (f) Historic Furnishings

74	1936.245.1	303-2776	Stool / Wood Bench	Great Hall Storage	
75	1936.245.2	303-2775	Stool / Wood Bench	Great Hall Storage	
76	1936.245.6	303-2784	Stool / Wood Bench	Great Hall Storage	
77	1936.245.7	303-2777	Stool / Wood Bench	Great Hall Storage	
78	1936.245.8	303-2778	Stool / Wood Bench	Great Hall Storage	
79	1936.246	303.2719	Large Sideboard Table/Wood	Great Hall Storage	
80	1936.247.1	303-2717	Sideboard Table with Ornamental Chromium Brace/Wood	Great Hall Storage	
81	1936.247.2	303-2720	Sideboard Table with Ornamental Chromium Brace/Wood	Great Hall Storage	
82	1936.247.3	303-718	Sideboard Table with Ornamental Chromium Brace/Wood	Great Hall Storage	
83	1936.248.1	303-2672	1-Drawer Wood Desk	Great Hall Storage	
84	1936.248.2	303-2671	1-Drawer Wood Desk	Great Hall Storage	
85	1936.248.3	303-2673	1-Drawer Wood Desk	Great Hall Storage	
86	1936.249.1	303-2662	2-Drawer Wood Desk	Great Hall Storage	
87	1936.249.2	303-2660	2-Drawer Wood Desk	Great Hall Storage	
88	1936.249.3	303-2668	2-Drawer Wood Desk	Great Hall Storage	
89	1936.249.4	303-2659	2-Drawer Wood Desk	Great Hall Storage	
90	1936.249.5	303-2665	2-Drawer Wood Desk	Great Hall Storage	
91	1936.249.6	303-2670	2-Drawer Wood Desk	Great Hall Storage	
92	1936.249.7	303-2666	2-Drawer Wood Desk	Great Hall Storage	
93	1936.249.8	303-2664	2-Drawer Wood Desk	Great Hall Storage	
94	1936.249.9	303-2663	2-Drawer Wood Desk	Great Hall Storage	
95			1 acrylic exhibit case top (two others placed on restored bases)	East Texas Storage	
96			Cast Iron Safe	Basement	Protected in place

Exhibit 2.03 (f) Historic Furnishings

Additional items

	Item	Description	Location	Notes
1	4233	New wood podium	Great Hall Storage	Found, not part of original survey
2	Case Glass 1-15	15 pieces of glass for exhibit cases	South Texas Storage	Found, not part of original survey
3	Case Glass Frame	1 frame only, no glass	South Texas Storage	Found, not part of original survey
4	Historic Elements Small Fixtures 1-3	3 small light fixtures with glass reflector located on level FR	Great Hall Storage	
5	Historic Elements Large Fixtures 1-25	25 large fixtures & frames with glass reflectors located above colonnade	North Texas Storage	
6	#19 of 25	contains 4 frames only	North Texas Storage	
7	#20 of 25	contains fixture with broken reflector	North Texas Storage	
8	#21 of 25	contains fixture with broken reflector	North Texas Storage	
9	Historic Elements Boxes 1-3	3 boxes with lamps, fixture parts & broken shards of reflector glass located above colonnade	North Texas Storage	Found, not part of original survey
10	Historic Element #26	1 light fixture for 15 lamps 12' in length located above colonnade	North Texas Storage	Found, not part of original survey
11	Glass Tops	7 glass exhibit case tops for exhibit cases undergoing restoration	East Texas Storage	Found, not part of original survey
13	1936.121.1	Plant Stand	Hall of Heroes	Not part of original survey, protect in place
14	1936.121.2	Plant Stand	Hall of Heroes	Not part of original survey, protect in place
15	1936.121.3	Plant Stand	Hall of Heroes	Not part of original survey, protect in place
16	1936.121.4	Plant Stand	Hall of Heroes	Not part of original survey, protect in place
17	1936.229	Floor Stand Hat Rack	Great Hall Storage	Found, not part of original survey

18	1936.233.1	Side Chair	OCA Storage	Removed and stored off site
19	1936.233.2	Side Chair	OCA Storage	Removed and stored off site
20	1936.233.3	Side Chair	OCA Storage	Removed and stored off site
21	1936.245.3	Wooden Bench	OCA Storage	Removed and stored off site
22	1936.245.4	Wooden Bench	OCA Storage	Removed and stored off site
23	1936.245.5	Wooden Bench	OCA Storage	Removed and stored off site
24		Wood Piano Bench		Not Found
25	1936.242	Lectern (Podium)		Not Found

Exhibit 2.03 (f) Historic Furnishings

Tower Building

ID	Location	Fixed Asset Number	Item Description
1	Tower Lobby		Couch, Sectional Light Blue with White Lining
2	Tower Lobby	5030	Couch, Sectional Light Blue with White Lining
3	Tower Lobby	5038	Chair, Oval Blue/Burgundy Leather Antique
4	Tower Lobby	5040	Chair, Oval Blue/Burgundy Leather Antique
5	Tower Lobby	5041	Chair, Oval Blue/Burgundy Leather Antique
6	Tower Lobby	5043	Chair, Oval Blue/Burgundy Leather Antique
7	Tower Lobby	5044	Chair, Oval Blue/Burgundy Leather Antique
8	Tower Lobby	5045	Chair, Oval Blue/Burgundy Leather Antique
9	Tower Lobby	5046	Chair, Oval Blue/Burgundy Leather Antique
10	Tower Lobby	5047	Chair, Oval Blue/Burgundy Leather Antique
11	Tower Lobby	5048	Chair, Oval Blue/Burgundy Leather Antique
12	Tower Lobby	5049	Chair, Oval Blue/Burgundy Leather Antique
13	Tower Lobby	5051	Chair, Oval Blue/Burgundy Leather Antique
14	Tower Lobby	5055	Table, Round Red Formica with Metal Leg
15	Tower Lobby	5057	Table, Round Red Formica with Metal Leg
16	Tower Lobby	5064	Table with Glass Top Podium Antique
17	Tower Lobby	5065	Table with Glass Top Antique
18	Tower Lobby	5066	Table with Glass Top Antique
19	Tower Lobby	5067	Table with Glass Top Antique
20	Tower Lobby	5068	Table with Glass Top Antique
21	Tower Lobby		Antique White Chair
22	Tower Lobby		Antique White Chair
23	Tower Lobby		Antique White Chair
24	Tower Lobby		Antique White Chair
25	Tower Lobby		Antique White Chair
26	Tower Lobby		Antique White Chair

Exhibit 2.05(a)
Fair Park Contracts

See attached.

DRAFT

**EXHIBIT 2.05 (a)
EXISTING FAIR PARK CONTRACTS***

CONTRACT NAME	CONTRACTING PARTY
Concession Contract for Portable Food And Non-Alcoholic Beverage Stand	Sharon Thomas d/b/a Texas Snow Cones
Concession Contract for the Automobile Building at Fair Park (Supplements 1, 2 and 3)	Weiss Enterprises, Inc.
Concession Contract for the Centennial Building (Supplements 1 and 2)	Fiesta Enterprises, Inc.
Concession Contract for the Cotton Bowl Stadium (Supplements 1, 2, 3 and 4)	Ed Campbell Concessions Company, Inc.
Concession Contract for the Fair Park Coliseum (Supplements 1, 2 and 3)	Ed Campbell Concessions Company, Inc.
Concession Contract for the Old Mill Inn Restaurant (Supplements 1 and 2)	Ed Campbell Concessions Company, Inc.
Concessions Contract for Crowd Management	Platinum Event Services, Inc.
Concessions Contract for Parking Services	Ace Parking Management, Inc.
DSM Parking Agreement	DSM Management Group, Inc.
Land Lease Agreement for the Continental Daughters of American Revolution (DAR) House (Supplement No. 1)	Building Committee of the Jane Douglas Chapter, Daughters of the American Revolution
Lease Agreement for the Dallas Summer Musical	DSM Management Group, Inc.
Lease and Use Agreement for Gexa Energy Pavilion (1989 Amendment and Second Amendment)	Live Nation Worldwide Inc.
License Agreement for Storage with the American National Red Cross	American National Red Cross
Management Agreement with the Friends of Fair Park (First Amendment-bicycle rental program) and Second Amendment	Friends of Fair Park, Inc.
Management Agreement with the Texas	Texas Discovery Gardens

CONTRACT NAME	CONTRACTING PARTY
Discovery Gardens (Supplement No. 1)	
Management Contract for the Dallas Museum of Natural History (Supplement Nos. 1 and 2)	Perot Museum of Nature and Science (formerly known as Dallas Museum of Natural History)
Management Contract for the Hall of State (First and Second Amendments and Supplemental Agreement No. 1)	Dallas Historical Society
Management Contract for the Museum of African-American Life and Culture (Supplement Agreement No. 1)	Museum of African-American Life and Culture
Use Agreement for the Band Shell	Dallas Wind Symphony, Inc.
Telecommunications Radio Tower Lease Agreement	T-Mobile West LLC
Telecommunication Radio Tower Lease Agreement	New Cingular Wireless PCS, LLC
Telecommunication Radio Tower Lease Agreement	Dallas MTA, L.P. dba Verizon Wireless
AT&T Equipment Lease (Tower Building)	Southwestern Bell Telephone Company
Cotton Bowl Stadium Agreement (First and Second Amendments)	State Fair of Texas, the Board of Regents of the University of Oklahoma, the Board of Regents of the University of Texas
Heart of Dallas Agreement	The HOFD d/b/a The Heart of Dallas

***Supplements and Amendments are listed in the parenthesis**

This exhibit may not be an exhaustive list of all contracts as there may be other contracts/licenses/leases that are less than one year entered into by the City prior to the effective date of the Agreement that will also be subject to assignment,

Exhibit 2.05(d)
Athletic Events

See attached.

DRAFT

EXHIBIT 2.05 (D)
ATHLETIC EVENTS

Red River Showdown – \$1,000,000 (\$500,000 to each team)

Annual Big 12 Conference Game between University of Texas and Oklahoma University held during the State Fair of Texas

State Fair Classic - \$150,000 (\$75,000 to each team)

Annual rivalry game between Grambling State University and Prairie View A&M held during the State Fair of Texas

Zaxby's Heart of Dallas Bowl - \$400,000

NCAA Bowl Game between a to be determined Big 10 Conference and Conference USA team played at Cotton Bowl Stadium in December.

Exhibit 2.05(f)
Assignment of State Fair of Texas Contract

See attached.

DRAFT

Exhibit 2.05(g)
Texas Department of Transportation Contract for Parry Avenue Parking Lot

See attached.

DRAFT



DALLAS SUMMER MUSICALS

Fax 214/428-4526

TO: *Steve Park*

FROM: TOM HUGHES

DATE: *May 20, 1991*

NUMBER OF PAGES INCLUDING COVER: *18*

Please call if you have problems with the transmission of this fax.

*To follow is the entire contract /
agreement for your files.*

P i ! - i k i - i - + i i - i

Tom Hughes



COMMISSION
ROBERT M. DESMAN, CHAIRMAN
RAY STONER, JR.
WAYNE B. DUCOLESTEN

STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION

PO BOX 1087
DALLAS, TEXAS 75210-1087
(214) 230-4100

February 9, 1990

ENGINEER IN CHARGE
ARNOLD W. OLIVER, P.E.

CONTACT

Control 197-1
Highway SH 352
Dallas County

Mr. Sam Wilson, P.E.
Assistant Director of Transportation
City of Dallas
City Hall
Dallas, Texas 75201

Dear Mr. Wilson:

Please find attached a completely executed Multiple Use Agreement for use as a parking facility for the block bounded by 1st Ave., 2nd Ave., Ash Lane and Parry Avenue.

Please provide Mr. Connie Jones, Maintenance Superintendent a copy of your traffic handling plans for work that affects highway traffic and contact Mr. Jones at least two days prior to starting work at phone number 225-2326.

Sincerely,

Leroy Wallen, P.E.
District Transportation Engineer

Attachment

MULTIPLE USE AGREEMENT

THE STATE OF TEXAS

COUNTY OF DALLAS

THIS AGREEMENT made this 5th day of February 1990, by and between the State Department of Highways and Public Transportation, hereinafter referred to as "State", party of the first part, and the City of Dallas, a municipal corporation, hereinafter called the "City", party of the second part.

WITNESSETH

WHEREAS, the City has requested the State to permit the construction, maintenance and operation of public off-street parking facilities on the SH 352 right of way between First Avenue, Second Avenue, Ash Lane and Parry Avenue as shown on the location map marked Exhibit No. 1 and as detailed on plans marked Exhibit No. 2, and both made a part hereof; and

WHEREAS, the State has indicated its willingness to approve the establishment of such facilities and other uses conditioned that the City will enter into agreements with the State for the purpose of determining the respective responsibilities of the City and State with reference thereto, and conditioned that such uses are in the public interest and will not damage the highway facilities, impair safety, impede maintenance or in any way restrict the operation of the highway facility, all as determined from engineering and traffic investigations conducted by the State.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

1. The parties hereto will prepare or provide for the construction plans for the facility, and will provide for the construction work as required by said plans. Said plans shall include the design of the access control, necessary horizontal and vertical clearances from highway structures, adequate landscape treatment, and general layout; and the plans shall also delineate and define the construction responsibilities of both parties hereto and when approved shall be attached to the agreement and made a part thereof in all respects. Any future revisions or additions of permanent improvements shall be made after prior approval of the State.

~~2. Ingress and egress shall be allowed at all times to such facility for State forces and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all parking or other activities for periods required for such operations will be prohibited.~~

2. ingress and egress shall be allowed at all times to such facility for State forces and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all parking or other activities for periods required for such operations will be prohibited.
3. Parking regulations shall be established limiting parking to single unit motor vehicles of size and capacity no greater than prescribed for 1 1/2 ton trucks, such vehicles to conform in size and use to governing laws.
4. Regulations shall be established prohibiting the parking of vehicles transporting inflammable or explosive loads and prohibiting use of area in any manner for peddling, advertising, or other purposes not in keeping with the objective of a public facility. The erection of signs other than those required for proper usage of the area will be prohibited. All signs shall be approved by the State.
5. Maintenance and operation of the facility shall be entirely the responsibility of the City. Such responsibility shall not be transferred, assigned or conveyed to a third party without approval of the State. Further, such responsibility shall include picking up trash, moving, and otherwise keeping the facility in a clean and sanitary condition, and surveillance by police patrol to eliminate the possible creation of nuisance or hazard to the public. Hazardous or unreasonably objectionable smoke, fumes, vapor or odors shall not be permitted to rise above the grade line of the highway, nor shall the facility subject the highway to hazardous or unreasonably objectionable dripping, droppings, or discharge of any kind, including rain or snow.
6. Any fees levied for use of the facilities in the area shall be nominal and no more than are sufficient to defray the cost of construction, maintenance and operation thereof, and shall be subject to State approval.
7. This provision is expressly made subject to the rights herein granted to both parties to terminate this agreement upon notice, and upon the exercise of any such right by either party, all obligations herein to make improvements to said facility shall immediately cease and terminate.
8. All structures located or constructed within the area covered by the agreement shall be fireproof. The storage of inflammable materials or other operations deemed to be a potential fire hazard shall be subject to regulation by the State.

If in the sole judgement of the State it is found at any future time that traffic conditions have so changed that the existence or use of the facility is impeding maintenance, damaging the highway facility, impairing safety, or that the facility is not being properly operated, that it constitutes a nuisance, or if for any other reason it is the State's judgement that such facility is not in the public interest, this agreement under which the facility was constructed may be: (1) modified

If corrective measures acceptable to both parties can be applied to eliminate the objectionable features of the facility, or (2) terminated and the use of the area as proposed herein discontinued.

10. After the first year of operations, upon written notification by either party hereto that such facility shall be discontinued, each party shall, within thirty (30) days, clear the area of all facilities that were its construction responsibility under this agreement, as necessary to restore the area to a condition satisfactory to the State.
11. It is understood that this agreement in no way modifies or supercedes the terms and provisions of any existing agreements between the parties hereto.
12. The City shall, insofar as it is legally permitted and subject to such limitations, indemnify the State against any and all damages and claims for damages, including those resulting from injury to or death of persons or for loss of or damage to property, arising out of, incident to or in any manner connected with its construction, maintenance or operation of the facility, which indemnification shall extend to and include any and all court costs, attorney's fees and expenses related to or connected with any claims or suits for damages and shall, if requested in writing by the State to do so, assist the State with or relieve the State from defending any suit brought against it. Neither party hereto intends to waive, relinquish, limit or condition its right to avoid any such liability by claiming its governmental immunity.

When notified by the State to do so, the other party hereto shall promptly pay the State for the full cost of repairing any damages to the highway facility which may result from its construction, maintenance or operation of the facility, or its duly authorized agents or employees, and shall promptly reimburse the State for cost of construction and/or repair work made necessary by reason of such damages.

Nothing in this agreement shall be construed as creating any liability in favor of any third party or parties against either of the parties hereto nor shall it ever be construed as relieving any third party or parties to the parties hereto, but the other party hereto shall become fully subrogated to the State and shall be entitled to maintain an action over and against third party or parties legally liable for having caused it to pay or disburse any sum of money hereunder.

13. The City shall provide necessary safeguards to protect the public on State maintained highways including adequate insurance for payment of any damages which might result during the construction of the facility occupying such airspace or thereafter, and to save the State harmless from damages, to the extent of said insurance coverage and insofar as it can legally do so.
14. It is to be understood that the State by execution of this agreement does not impair or relinquish the State's right to use such land for right of way purposes when it is required for the construction or

reconstruction of the traffic facility for which it was acquired, nor shall use of the land under such agreement ever be construed as abandonment by the State of such land acquired for highway purposes.

15. If the facility is located on the Federal-aid highway system, "ATTACHMENT A", which states additional requirements as set forth in the Federal Highway Administration's Federal-Aid Highway Program Manual, shall be attached to and become a part of this agreement.

The City, for itself, its personal representatives, successors and interests and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no persons, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facility; (2) that in the construction of any improvements on, over or under such land the furnishing of services thereon, no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the City shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That if in the event of any breach of the above non-discrimination covenants, the State shall have the right to terminate the lease and re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

IN WITNESS WHEREOF, the parties have hereunto affixed their signature, the City of Dallas on the 5th day of January, A.D. 1990 and the State on the 5th day of February, A.D. 1990.

CITY OF DALLAS

By: Clifford V. Kehaley
Clifford V. Kehaley
Assistant City Manager

reads as per memo JHJ
APPROVED AS TO FORM:
ANALBSLIE MUNCY, City Attorney

By: Helen M. Sparks
Assistant City Attorney

STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs, heretofore approved by the State Highway and Public Transportation Commission under the authority of Minute Order 82513.

By: B. D. ...
Chief Engineer, Maintenance and Operations Division

APPROVAL RECOMMENDED:

By: ...
District Engineer

JHJ
By: Billy L. ...
Chief Engineer of Highway Design

MAY-20-81 MON 3:12

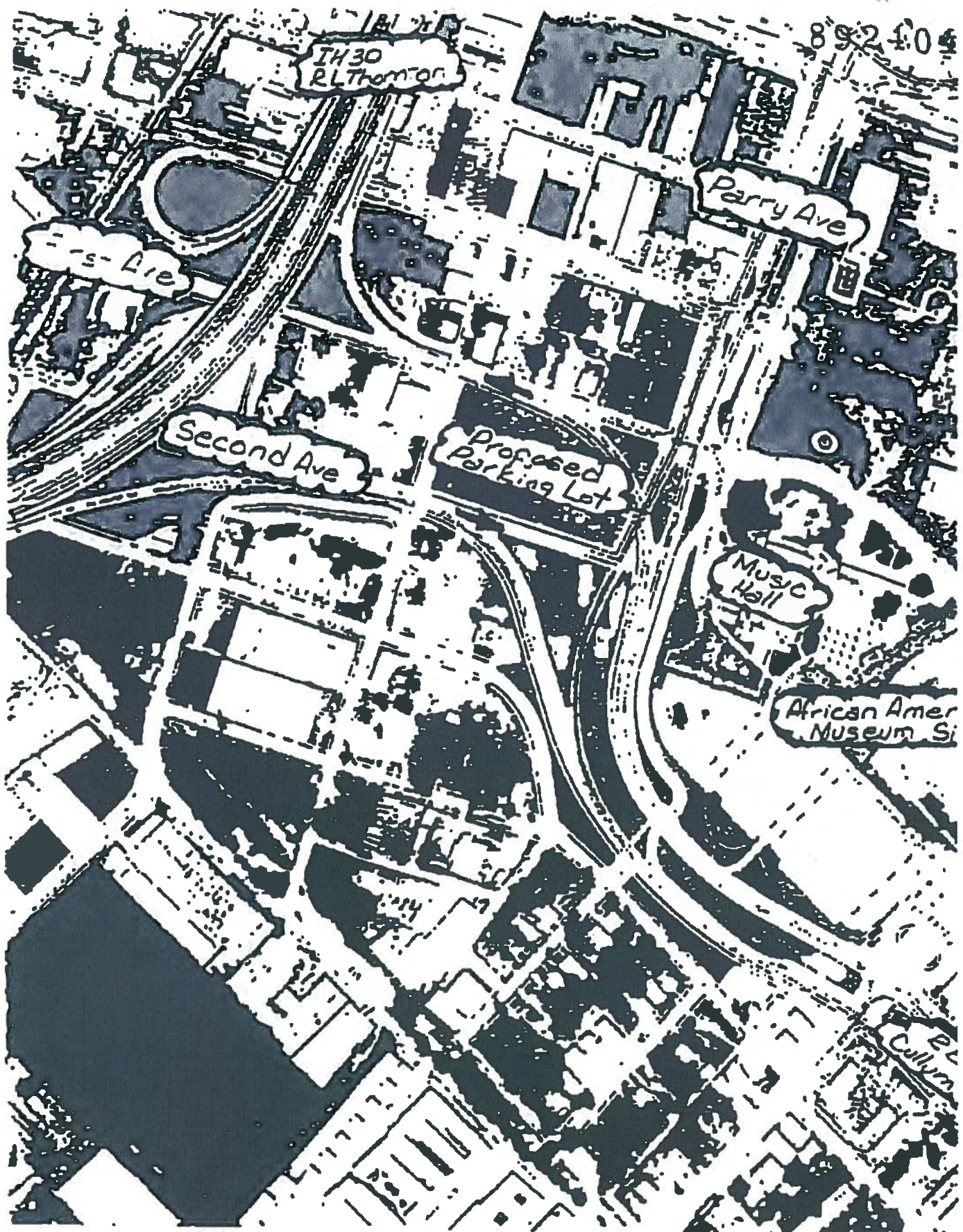
MUSIC HALL AT FAIR PARK

FAK NC. 2:44284528

PAGE

EXHIBIT NO. 1

MAP



TH30
RLThomson

Parry Ave

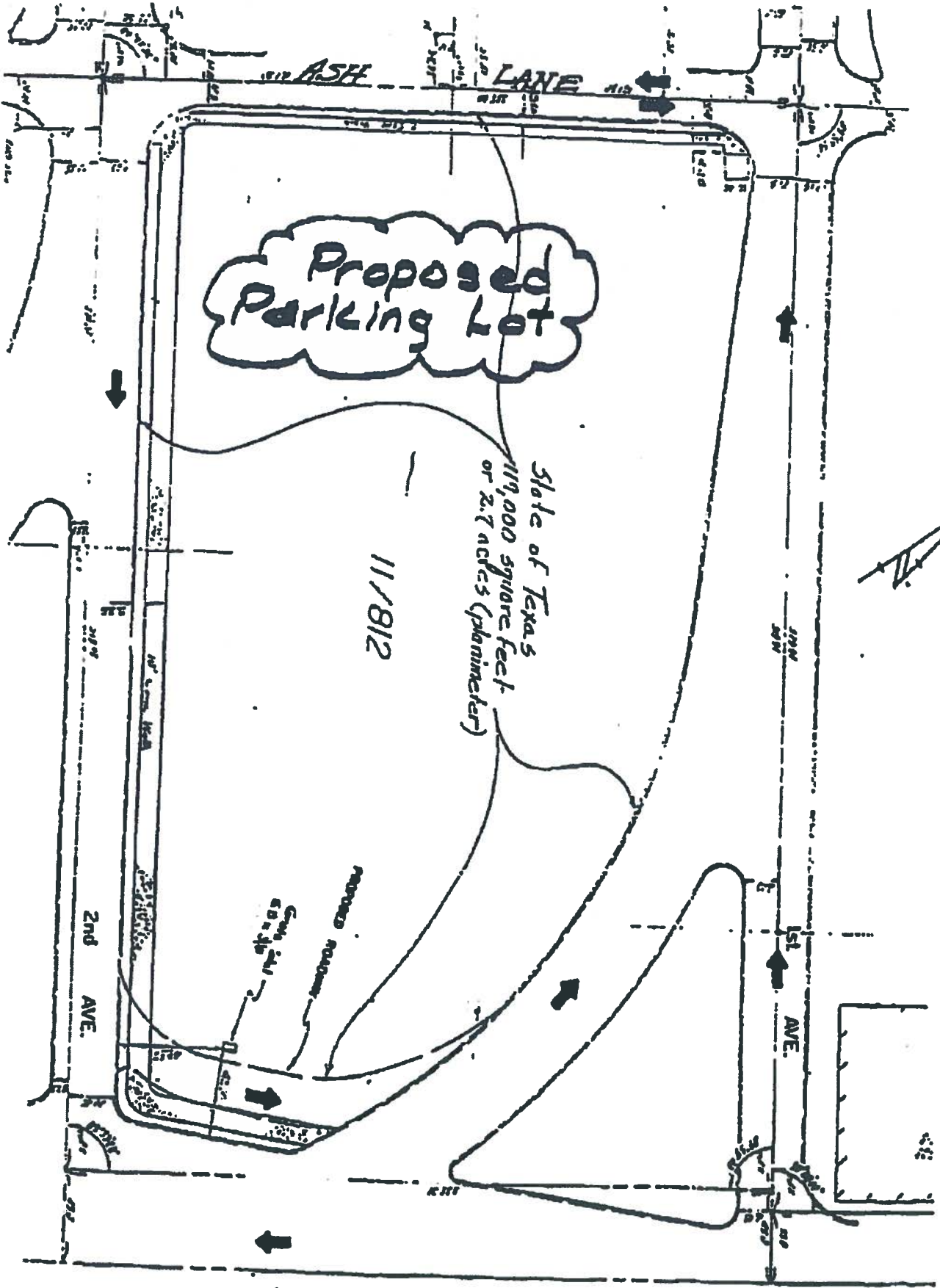
Second Ave

Proposed
Parking Lot

Music
Hall

African Amer
Museum Si

Cullum



11443-112
MAY-20-91 MON 3:14

MUSIC HALL AT FAIR PARK

FAX NO. 2144294526

EXHIBIT NO. 2

METES & BOUNDS

FIELD NOTES DESCRIBING PROPOSED FAIR PARK PARKING AREA IN BLOCK 11/812. - -

BEING part of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19 and 20 in Block 11 of Exposition Park Addition, an addition to the City of Dallas according to the map or plat thereof filed July 30, 1889 and recorded in Volume 106, Page 201, Deed Records, Dallas County, Texas and being part of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19 and 20 in Block 11/812, official City numbers and being part of the land conveyed to the State of Texas by five (5) deeds as follows;

1. By Aliright Motorpark, Incorporated by Quitclaim Deed dated July 1, 1975 and recorded in Volume 75152, Page 0271 of said Deed Records.
2. By Fair Park Investment Company by Deed dated July 2, 1975 and recorded in Volume 75152, Page 0259 of said Deed Records.
3. By Midcity Realty Company by deed dated June 19, 1975 and recorded in Volume 75152, Page 0743 of said Deed Records.
4. By Fair Park Investment Company by deed dated July 2, 1975 and recorded in Volume 75152, Page 0263 of said Deed Records.
5. By Fair Park Investment Company by deed dated July 2, 1975 and recorded in Volume 75152, Page 0267 of said Deed Records.

and being more particularly described in two (2) tracts as follows:

TRACT NO. 1

COMMENCING at the intersection of the easterly line of Ash Lane (50 feet wide) with the northerly line of Second Avenue (variable width), said intersection being the original southwest corner of said Lot 20, Block 11/812;

THENCE in a northerly direction along said easterly line of Ash Lane, same being the westerly line of said Lot 20 as conveyed to the State of Texas by said deed recorded in Volume 75152, Page 0267 of said Deed Records, a distance of 10.00 feet to the POINT OF BEGINNING of the herein described Tract 1;

THENCE continuing in a northerly direction along said easterly line of Ash Lane, same being said westerly line of Lot 20, a distance of 120.00 feet to the northwest corner of said Lot 20;

THENCE deflect right 90°00'28" and in an easterly direction along the northerly line of Lots 20, 19, 18, 17, 16, 15, 14, 13 and 12 (in said Block) as conveyed to the State of Texas by said deed recorded in Volume 75152, Page 0267 of said Deed Records, said northerly line being the southerly line of a 15 feet wide east - west alley in said Block and as dedicated by said Exposition Park Addition, a distance of 426.53 feet;

THENCE in a southerly direction bearing to the right along a curve which is 10.00 feet, radial distance, westerly from and concentric with the westerly back of curb line of a proposed traffic lane, said curve having a radius of 190.00 feet, a central angle of 3°28'19" and a long chord of 11.51 feet which deflects right 64°15'35" from the last described course, an arc distance of 11.51 feet to a point

D.R.

Handwritten signature/initials

CONTINUATION OF FIELD NOTES DESCRIBING PROPOSED FAIR PARK PARKING AREA IN BLOCK 11/812. PAGE TWO.

of compound curvature;

THENCE in a southerly and southwesterly direction bearing to the right along a curve which is 10.00 feet, radial distance, westerly from and concentric with the westerly back of curb line of said proposed traffic lane, said curve having a radius of 65.30 feet, a central angle of 32°43'36" and a long chord of 36.66 feet which deflects right 13°06'58" from the long chord of the last described curve, an arc distance of 37.17 feet;

THENCE deflect right 16°22'48" from the long chord of the last described curve and in a southwesterly direction along a line 10.00 feet, perpendicular distance, northwesterly from and parallel with the northwesterly back of curb line of said proposed traffic lane, a distance of 47.94 feet;

THENCE in a southwesterly and westerly direction, bearing to the right along a curve which is 10.00 feet, radial distance, northwesterly from and concentric with the northwesterly back of curb line of said proposed traffic lane, said curve having a radius of 40.00 feet, a central angle of 44°22'28" and a long chord of 30.21 feet which deflects right 22°11'14" from the last described course, an arc distance of 30.98 feet;

THENCE deflect right 59°03'25" from the long chord of the last described curve and in a westerly direction along a line which is 10.00 feet, perpendicular distance, northerly from and parallel with said northerly line of Second Avenue, same being the original southerly line of said Lots 12, 13, 14, 15, 16, 17, 18, 19 and 20 (in said Block 11/812) as conveyed to the State of Texas by said deed recorded in Volume 75152, Page 0267 of said Deed Records, a distance of 413.56 feet to the POINT OF BEGINNING of the herein described Tract 1 and containing approximately 51,766 square feet or 1.188 acres of land.

W. H. ...

TRACT NO. 2

COMMENCING at the intersection of the southerly line of First Avenue (60 feet wide at this point) with the easterly line of Ash Lane (50 feet wide), said intersection being the original north or northwesterly corner of said Lot 1 (in said Block 11/812) as conveyed to the State of Texas by said deeds recorded in Volume 75152, Page 0271 and Volume 75152, Page 0259 of said Deed Records;

THENCE in a southerly direction along said easterly line of Ash Lane, same being the westerly line of said Lot 1, a distance of 0.68 feet to the POINT OF BEGINNING of the herein described Tract 2;

THENCE deflect left 64°38'58" from said easterly line of Ash Lane and in an easterly direction along a line 10.00 feet, perpendicular distance, southwesterly from and parallel with the existing southwesterly curb line of First Avenue, a distance of 176.09 feet;

THENCE in an easterly and southeasterly direction bearing to the right along a curve (which is 10.00 feet (radial distance) more or less, southwesterly from and concentric with said existing curb line which crosses said Lots 4, 5, 6 and 7) having a radius of 507.68 feet, a central angle of 18°48'06" and a long chord of

R.A.

CONTINUATION OF FIELD NOTES DESCRIBING PROPOSED FAIR PARK PARKING AREA IN BLOCK 11/812. PAGE THREE.

165.25 feet which deflects right $9^{\circ}24'04''$ from the last described course, an arc distance of 166.60 feet;

THENCE in a southeasterly and southerly direction bearing to the right along a curve (which is 10.00 feet radial distance, southwesterly and westerly from and concentric with the southwesterly and westerly curb line of a proposed traffic lane which crosses said Lots 7, 8 and 9) having a radius of 190.00 feet, a central angle of $33^{\circ}08'57''$ and a long chord of 108.40 feet which deflects right $25^{\circ}58'30''$ from the long chord of the last described curve, an arc distance of 109.93 feet;

copy
THENCE deflect right $139^{\circ}16'51''$ from the long chord of the last described curve and in a westerly direction along the southerly line of said Lots 9, 8, 7, 6, 5, 4, 3, 2, and 1 in said Block 11/812 and as conveyed to the State of Texas by said deeds recorded in Volume 75152, Page 0271 and Volume 75152, Page 0259 and Volume 75152, Page 0743 and Volume 75152, Page 0263 of said Deed Records, said southerly line being the northerly line of said 15 feet wide east - west alley in said Block, a distance of 417.86 feet;

THENCE deflect right $89^{\circ}59'32''$ and in a northerly direction along said easterly line of Ash Lane, same being the westerly line of said Lot 1, a distance of 129.32 feet to the POINT OF BEGINNING of the herein described Tract 1 and containing approximately 40,195 square feet or 0.923 acres of land.

D.R.H.

DLE/mb
12-19-89/11976
dk55

MAY-20-81 MCH 0:12

MUSIC HALL AT FAIR PARK
PARKY AVE

FAX NO. 214224226

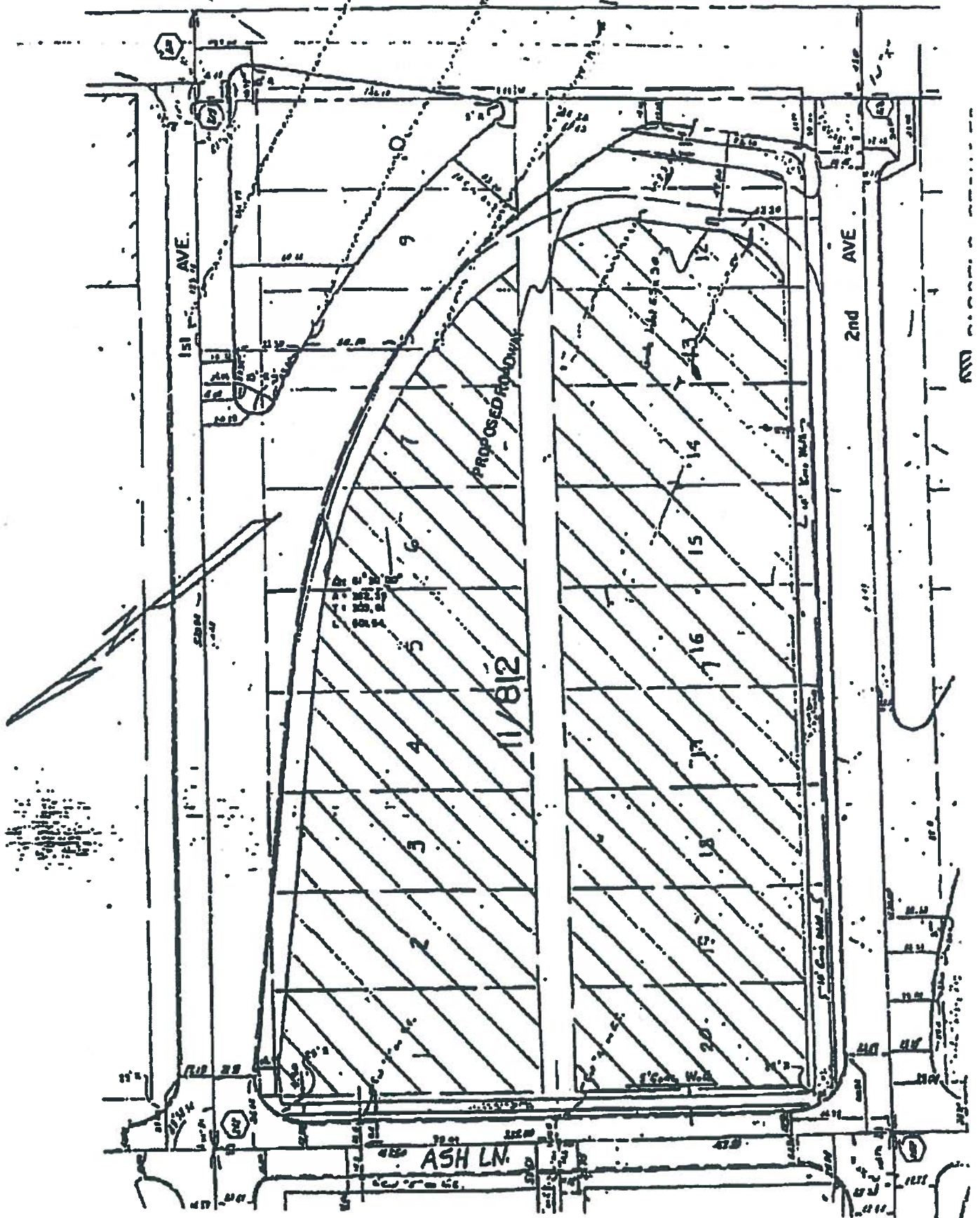


EXHIBIT NO. 3

ENVIRONMENTAL CONSIDERATION

It is recommended that the project be considered a non-major action, and as such, no Negative Environmental Statement will be required.

August 9, 1989

89-2404

DEPT. OF TRANSPORTATION
AUG 16 1989

Agenda item 51: Fair Park Parking improvements

Resolution authorizing a multiple use agreement with the State Department of Highways and Public Transportation to develop a surface parking lot bounded by First Avenue, Second Avenue, Parry Avenue and Ash Lane for visitors to the Music Hall, African-American Museum and general Fair Park events including State Fair and Cotton Bowl - No cost consideration

The following individuals addressed the council regarding this agenda item:

- Ted Wright, 5523 Greenbrier Dr., representing the Dallas Summer Musicals, The Dallas Opera and the SOO, Inc. Wright also spoke on agenda item 52 in accordance with the City Council Rules of Procedure, Section 6.3(d)(2).
- Chuck Kuba, 5523 Greenbrier Dr., representing the Dallas Summer Musicals, The Dallas Opera and the SOO, Inc. Kuba also spoke on agenda item 52 in accordance with the City Council Rules of Procedure, Section 6.3(d)(2).

Councilman Buerger moved approval of the item.

Motion seconded by Councilman Box and unanimously adopted.

After discussion, the mayor called the vote on the motion:

Voting Aye: Strauss, Evans, Tandy, Palmer, Bartos,
Wells, Box, Lipscomb, Miers, Buerger
Voting Nay: Ragsdale

-10
- 1

The mayor declared the motion adopted.

From: MEC SLW ES REC

To:

For:

Rent _____ Review & Comment _____
 _____ Info & File _____
 _____ Expedite _____
 Recommendation _____
 Post _____ Per Your Request _____

WHEREAS, the Department of Transportation recommends that additional peripheral facilities be developed in the vicinity of Fair Park to facilitate the loss of Music Hall parking caused by the construction of the African-American Museum; and

WHEREAS, this construction will help in addressing the parking shortage both during and after construction of the museum; and

WHEREAS, the State Department of Highways and Public Transportation has agreed to enter into a multiple use agreement with the City of Dallas to permit the City to develop a surface parking lot bounded by First Avenue, Second Avenue, Parry Avenue and Ash Lane;

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Manager be and is hereby authorized to execute a multiple use agreement with the State Department of Highways and Public Transportation to provide for the development of a surface parking lot bounded by First Avenue, Second Avenue, Parry Avenue and Ash Lane.

SECTION 2. That this resolution shall take effect immediately from and after its passage in accordance with provisions of the Charter of the City of Dallas and it is accordingly so resolved.

cc: Department of Transportation

APPROVED BY
CITY COUNCIL

AUG 9 1969

[Signature]
City Secretary

APPROVED *[Signature]*
HEAD OF DEPARTMENT

APPROVED *[Signature]*
CITY CLERK

APPROVED
CITY MANAGER

FAIR PARK AREA PARKING

WHEREAS, the Park and Recreation Board recognizes that there exists a significant shortage of parking within Fair Park; and

WHEREAS, the planned construction of the African American Museum will produce an even greater demand for parking; and

WHEREAS, the State of Texas has expressed willingness to permit the use of a 2.7 acre tract for parking, and the Dallas Summer Musicals, Inc. has expressed willingness to build the parking accommodations on this 2.7 acre tract; and

WHEREAS, prompt action is mandatory in order to ensure existing program success; Now, Therefore,

BE IT RESOLVED BY THE PARK AND RECREATION BOARD AND THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the Park and Recreation Board be authorized to negotiate and enter into a contract with Dallas Summer Musicals, Inc. to construct permanent parking improvements on a 2.7 acre tract of land at 3400 Parry Avenue.

SECTION 2: That the Dallas Summer Musicals, Inc. shall be authorized to manage the parking facility for the period necessary to recover their costs.

SECTION 3: That upon the recovery of their costs, the Dallas Summer Musicals, Inc. will give all of the subject improvements to the Park and Recreation Board for its continued use as a Fair Park parking facility.

SECTION 4: That the President of the Park and Recreation Board and the City Manager are authorized to execute the contracts after approval as to form by the City Attorney.

SECTION 5: That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

Approved by the Park
and Recreation Board
August 3, 1989

Geneva L. Muirhead
Geneva L. Muirhead, Secretary
Park and Recreation Board

APPROVED BY
CITY COUNCIL

AUG 9 1989

Robert S. ...
City Secretary

APPROVED *Carolyn Bray*
HEAD OF DEPARTMENT

APPROVED *J.M. Whit*
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER
DC

892405

City Council Resolution No. 89-2405
Approved: August 9, 1989

STATE OF TEXAS)
)
COUNTY OF DALLAS)

PARKING LOT OPERATING AGREEMENT: DALLAS SUMMER MUSICALS

WHEREAS, the City of Dallas owns and operates Fair Park, a multi-use cultural and entertainment facility, which includes a substantial concert and theatrical facility known as the "Music Hall"; and

WHEREAS, Dallas Summer Musicals, Inc., is one of the primary tenants and users of the Music Hall at Fair Park; and

WHEREAS, there is an acute need for additional parking facilities in the vicinity of Fair Park and the Music Hall in order to provide adequate parking for patrons of Dallas Summer Musicals productions at the Music Hall, other lessees of the Music Hall, as well as other events at Fair Park; and

WHEREAS, the City of Dallas has entered into a multiple use agreement with the Texas State Department of Highways and Public Transportation for the use of a tract of land at 3400 Parry Avenue, consisting of approximately 2.7 acres, more or less, which tract is well located and suitable for parking use for events scheduled at the Music Hall and as a supplement to existing Fair Park parking facilities; and

WHEREAS, Dallas Summer Musicals, Inc. is willing to construct permanent parking improvements on said tract and to operate a parking lot thereon pursuant to the terms and provisions of this operating agreement, for the mutual benefit of the City, Dallas Summer Musicals, Inc., other lessees of the Music Hall, patrons of events at Fair Park generally, and to maintain the Music Hall as an attractive rental facility; Now Therefore

W I T N E S S E T H

This operating agreement contract, by and between the City of Dallas, a Texas municipal corporation (hereinafter called "City"), and Dallas Summer Musicals, Inc., a Texas non-profit corporation (hereinafter called "DSMI"), shall be as follows:

1.00 PURPOSES AND OBJECTIVES OF AGREEMENT**1.01 Purposes and Objectives:**

It is the intent, purpose and objective of the parties hereto to provide for the development and operation of a Parking Lot located on a tract of land of approximately 2.7 acres at 3400 Parry Avenue in the City of Dallas, Texas, which tract of land is owned by the State of Texas through its State Department of Highways and Public Transportation. The City of Dallas is authorized to use this property pursuant to a Multiple Use Agreement by and between the City of Dallas and State of Texas, a copy of which is attached hereto as Exhibit "A" and incorporated by reference herein for all purposes. DSMI intends to construct permanent parking improvements on said tract at no cost to the City, and to operate said tract as a commercial parking lot for the mutual benefit of the City, DSMI, lessees of the Music Hall, and the public until such time as DSMI has fully recovered the cost of the parking improvements as described herein. After the costs described below have been recovered by DSMI, the parties will negotiate in good faith a continuation of the operation and maintenance of the Parking Lot and improvements upon such terms and conditions as may be acceptable to the City, DSMI, and the Texas State Department of Highways and Public Transportation.

1.02 Public Policy:

DSMI recognizes and agrees that, as a matter of public policy, the operation of a Parking Lot in the vicinity Fair Park shall be conducted on a nondiscriminatory basis, and that the parking lot shall be available for use by persons regardless of race, color, creed, age, sex, handicap, or national origin. In order to assure that adequate parking is available to DSMI, the patrons attending events at the Music Hall, and for patrons attending other events at Fair Park, there is hereby established a priority usage agreement specifying DSMI as the first priority user, followed by other lessees of the Music Hall, followed by any event at Fair Park. This covenant establishing priority usage shall survive the termination of this Agreement. DSMI further agrees to require all subcontractors constructing improvements at the parking lot or providing parking lot operation services to employ good faith efforts to achieve the City's goals for hiring MBE/WBE/DBE firms certified by the City's Office of Minority Business Enterprises.

1.03 Rates and Charges:

The rates charged for parking at the Parking Lot shall be within the range of rates charged for parking at similar city operated facilities in Fair Park.

1.04 Compliance with Multiple Use Agreement:

DSMI agrees to comply with any applicable terms and conditions of the Multiple Use Agreement between the City and the State of Texas (State Department of Highways and Public Transportation) relating to the use and management of the Parking Lot.

2.00 TERM

2.01 Term and Renewals:

The term of this agreement shall be for a period of three (3) years beginning upon execution hereof. The term will be extended upon the same terms and conditions for additional periods of one (1) year each until DSMI shall have recovered its costs of the parking lot improvements, such other additional costs actually incurred by DSMI such as increase in insurance premiums, security and other directly related reasonable and necessary operating costs of the parking lot, and ten (10%) percent annually on its unrecovered construction costs. It is anticipated that DSMI will recover the foregoing in approximately 3-4 years. In the event DSMI does not fully recover its parking lot improvement and operating costs within the term hereof, including the option years, the parties will further extend the term hereof until such time as all such parking improvement construction and operating costs have been fully recovered by DSMI. The City agrees that DSMI, the other lessees of the Music Hall and patrons of events at Fair Park shall have priority in the foregoing order on use of the parking lot during the term of this agreement, any renewals and thereafter for so long as a parking lot is permitted to be operated at the site by the City pursuant to a Multiple Use Agreement with the Texas Department of Highways and Public Transportation. This covenant shall survive the termination of this Agreement.

2.02 Approval of SDHPT:

This Agreement is contingent upon approval by the State Department of Highways and Public Transportation.

3.00 OPERATION BY THIRD-PARTY CONTRACTOR

3.01 Third Party Contractor:

DSMI may operate the Parking Lot by contract with a third-party parking lot operator, on a concession basis. Any such third party operator shall be selected at the discretion of DSMI on an open and competitive basis, by solicitation of proposals. DSMI agrees to require any such third-party parking services operator to use good faith efforts to comply with the City's MBE and Affirmative Action Programs as required in 1.02 above.

4.00 BONDS AND INSURANCE**4.01 INSURANCE:**

DSMI agrees to procure and maintain, during the full term of this contract and any extensions thereof, the insurance policies set forth in Exhibit "B," attached hereto and incorporated by reference herein.

4.02 Bonds:

DSMI agrees to require, as a specific condition of each contract, that all contractors performing construction of improvements or operation of the parking lot shall provide performance and payment bonds, acceptable to the City, to the same extent and in the same amounts as if such contractors were performing such work or services directly for City.

4.03 Indemnification:

DSMI agrees to defend, indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages sought that may arise out of any of the terms or provisions of this contract, or by any other negligent or strictly liable act or omission of DSMI, its officers, agents, employees or subcontractors, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of City, its officers, agents, employees or separate contractors, and in the event of joint and concurring responsibility of the DSMI and the City, responsibility, if any, shall be apportioned comparatively in accordance with the law of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

5.00 INDEPENDENT CONTRACTOR

DSMI's status shall be that of an Independent Contractor and not an agent, servant, employee, or representative of City in the performance of the Services. No term or provision of, or act of DSMI or City under, this Contract shall be construed as changing that status.

6.00 CONSIDERATION

The consideration for this agreement shall be the intent of DSMI to convey the improvements to the City according to the foregoing terms and conditions and, the covenant establishing priority usage agreement described in Paragraph 1.02 above. No other consideration shall be paid by DSMI to the City.

7.00 COMPLIANCE WITH CODES**7.01 City Code Compliance:**

DSMI shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended.

7.02 Audit of Books:

City shall have the right to conduct, at its sole expense and cost, an audit of the parking lot operation, at such reasonable times and upon reasonable notice as may be agreed by the parties.

8.00 ASSIGNMENT

DSMI shall not sell, assign, transfer or convey this Contract in whole or in part, without the prior written consent of City's Director; and as a condition of such consent, DSMI shall still remain liable for completion of the Services in the event of default by the successor contractor or assignee.

9.00 TERMINATION**9.01 Termination for Convenience:**

After the recovery of all DSMI costs and expenses as defined in Paragraph 2.01 above, City may, at its option and without prejudice to any other remedy it may be entitled at law or equity, or elsewhere under this Contract, terminate this Contract, in whole or in part by giving at least 30 days prior written notice thereof to DSMI, with the understanding that all operations being terminated shall cease upon the date specified in such notice.

9.02 Automatic Termination:

This agreement shall terminate automatically, without formal notice to DSMI, in the event the State of Texas cancels the Multiple Use Agreement, withdraws consent for the operation of the Parking Lot, or in any other way causes the performance of this agreement to be impossible or impractical.

9.03 Termination for Cause:

In the event DSMI fails to comply with any of the terms and conditions of this Agreement, and if such default continues for ten days after receipt by DSMI of notice of such default, City may, at City's option, terminate this agreement for cause, without limiting or otherwise affecting any other remedies at law.

10.00 NOTICES

Any notice, payment, statement, or demand required or permitted to be given hereunder by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If intended for City, to:

Mildred Cox
Director, Transportation Department
SCS City Hall
1500 Marilla Street
Dallas, Texas 75201

If intended for Contractor, to:

Thomas L. Hughes
Producer and Managing Director
Dallas Summer Musicals, Inc.
P.O. Box 26188
Dallas, Texas 75226

11.00 APPLICABLE LAWS

This Contract is entered into subject to the Charter and ordinances of City, as amended, and all applicable State of Texas and Federal Laws.

12.00 VENUE

The obligations of the parties to this contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Dallas County, Texas.

13.00 GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws and court decision of the State of Texas.

14.00 LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this contract.

15.00 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

16.00 CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

17.00 SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Contract, their assigns.

18.00 ENTIRE AGREEMENT

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written agreement of the parties.

EXECUTED this 19th day of December, 1989, by the City, duly authorized to execute same by Resolution No. 89-2405, passed by the City Council on August 9, 1989, and by Dallas Summer Musicals, Inc., by its duly authorized corporate officers.

Submitted to City Attorney *AMB*
APPROVED AS TO FORM:
ANALESIE MUNCY
City Attorney

CITY OF DALLAS
RICHARD KNIGHT, JR.
City Manager

By: *Helen M Sparks*
Assistant City Attorney

By: *[Signature]*
Assistant City Manager

892405

ATTEST:

By: *Geneva Muirhead*
Geneva Muirhead
Park Board Secretary

ATTEST:

By: *Lynn Moroney*
Lynn Moroney
Corporate Secretary

PARK AND RECREATION BOARD

By: *J.P. Graham*
James P. Graham
President

DALLAS SUMMER MUSICALS, INC.

By: *J. Ronald Horowitz*
J. RONALD HOROWITZ
President

Exhibit 2.06(a)
Fair Park Technology – Leased Computer Equipment

See attached.

DRAFT

Exhibit 2.06(b)
Fair Park Technology – Leased Telephone Equipment

See attached.

DRAFT

Exhibit 2.06(c)
Fair Park Technology – Other Leased Technology Equipment

See attached.

DRAFT

Fair Park Technology – Other Leased Technology Equipment 2.06 (c)

Service/Software Name	Service Type	Service Description	Status
(5)Xerox Printers	Hardware / Services	Xerox Company	Non Transferable

Exhibit 2.06(e)
Fair Park Technology – Owned Technology Equipment

See attached.

DRAFT

Exhibit 2.06 (e) Fair Park Technology – Owned Technology Equipment

Service/Software Name	Service Type	Service Description	Status
(29) Desktop Pc Systems	Hardware	Dell Pc	Transferable
(2) Servers	Hardware	HP Server	Transferable
(9) Laptop Ststems	Hardware	Laptop Systems	Transferable
(5) None Xerox Printer	Hardware	Printer	Transferable
(7) Verizon IPads	Hardware	Verizon Mobile Device	Transferable
(3) Microsoft Surface	Hardware	Verizon Mobile Device	Transferable
(2) Verizon Windows Phone	Hardware	Verizon Mobile Device	Transferable
All Networking Equipment	Hardware	Switches, Routers, Etc	Transferable
(31, Approximate) CISCO Phone Devices	Hardware	SISCO Phone Devices	Transferable

Exhibit 2.06(f)
Fair Park Technology – Technology Services

See attached.

DRAFT

Fair Park Technology - Exhibit 2.06(f)

Service/Software Name	Service Type	Service Description	Status
Microsoft Window 7 Enterprise Edition	Software	Microsoft Client Operating System	Non Transferable
Microsoft Office Professional plus	Software	Office productivity suit(Ms Word, Excel, Outlook, Access, Publisher)	Non Transferable
McAfee Anti virus software	Software	System Protection and security Software	Non Transferable
Microsoft VISIO	Software	Microsoft diagram, Flow Chart and mapping software	Non Transferable
Microsoft Project	Software	Microsoft Project Management software(Client version)	Non Transferable
Adobe Creative Suite	Software	Graphic and digital imaging Product bundle	Non Transferable
Adobe Acrobat Professional	Software	Professional Portable Document (PDF) Creator	Non Transferable
Adobe Illustrator	Software	Adobe Publishing and imaging software	Non Transferable
Windows Active Directory	Software	User account and network resource Management system	Non Transferable
MICROS Point of Sale System (Cotton Bowl)	Software	Cotton Bowl POS(Point of sales) System. Contract includes : Windows Server 2008- Microsoft SQL server 2008	Non Transferable
MicroMain	Software	Maintenance Management / Work Order System (Requires Microsoft SQL Server)	Non Transferable
Exchange 365 Email System	Software		Non Transferable
Unger Boeck	Software		Non Transferable
Gov Delivery ,List serve.org	Software		Non Transferable
Lawson(HR and Payroll Managing system	Software		Non Transferable
AMS(Financial Management System)	Software		Non Transferable
Kronos Workforce management system	Software		Non Transferable
Performance soft	Software	Employee Performance Management and Measure	Non Transferable
T2 Flex	Software	Parking Lot Management System	Non Transferable
Mobile Services including Tablets & Cellphones	Services	Verizon mobile services	Non Transferable
Data and voice system	Services	AT&T	Non Transferable

Exhibit 2.06(h)
Fair Park Technology – Radio Frequencies and Systems

See attached.

DRAFT

**Exhibit 3.03
Capital Needs Inventory for Fair Park**

See attached.

DRAFT

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
1	August 25, 2017 - DRAFT	Note: Yellow=Park Dept; White=AECOM assessment; Light Peach=Art Assessment with Owner's Costs added				
2	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
3	ADA Improvements - Site - Parking, sidewalks, access to buildings	\$ 1,500,000	\$ 1,500,000			
4	African American Museum - Resolve water intrusion; repair interior finishes; flush condenser water system; complete mechanical and electrical repairs	\$ 1,790,198	\$ 409,468	\$ 1,380,730		
5	Aquarium - Bas Relief Conservation	\$ 18,000		\$ 18,000		
6	Aquarium Annex - Roof repairs and complete façade repairs; replace some interior finishes; replace plumbing fixtures; upgrade fire alarm system; provide new security and telecomm systems	\$ 633,068		\$ 96,428		\$ 536,640
7	Automobile Building - Relocate food service to Esplanade side	\$ 1,021,440				\$ 1,021,440
8	Automobile Building - Electrical life safety items	\$ 250,000	\$ 250,000			
9	Automobile Building - Repair roof and canopies; repair plumbing issues; replace chilled water / condenser pump; replace condensing units; replace boilers; replace electrical distribution system; lighting fixtures, and other electrical repairs; install security system, repair fire alarm system and replace PA system; relocation of food service	\$ 9,659,520	\$ 1,067,690		\$ 8,591,830	
10	Band Shell - Roof; Mechanical / Electrical; Structure; Water Infiltration	\$ 1,303,868		\$ 1,303,868		
11	Band Shell - Phase 2 Restoration	\$ 2,130,000			\$ 2,130,000	
12	Band Shell - Retractable shade system	\$ 1,260,000				\$ 1,260,000
13	Centennial Building - Conservation of Exterior Murals and Medallions	\$ 160,000		\$ 160,000		
14	Centennial Building - Bas relief conservation and associated remedial work	\$ 1,500,000		\$ 1,500,000		
15	Centennial Building - Roof repair; interior, exterior; electrical / mechanical	\$ 6,422,910	\$ 1,094,243		\$ 5,328,667	
16	Centennial Building - Restoration at east end and relocate food service to Esplanade side	\$ 3,863,000			\$ 1,863,000	\$ 2,000,000
17	Centennial Building - Fire alarm system	\$ 200,000	\$ 200,000			
18	Children's Aquarium - Sea water reclaim system	\$ 55,000	\$ 55,000			
19	Children's Aquarium - Plumbing, electrical and HVAC needed repairs	\$ 300,000		\$ 300,000		
20	Coliseum - Phase 1 renovation	\$ 4,446,400				\$ 4,446,400
21	Coliseum - Water infiltration; flooring; plumbing; electrical / mechanical; rest rooms	\$ 5,165,160	\$ 410,865		\$ 4,754,295	
22	Consultant studies - Historic lighting master plan	\$ 350,000				\$ 350,000
23	Consultant studies - Historic paint analysis (Science Pl, Band Shell Office, Old Mill Inn, Hall of Religion, Police mounted Maintenance Bldg., and 3 historic gates.	\$ 448,000				\$ 448,000
24	Cotton Bowl - Façade lighting	\$ 1,533,000				\$ 1,533,000
25	Cotton Bowl - Plaza Renovation	\$ 3,500,000	\$ 3,500,000			
26	Cotton Bowl - Replace field lights	\$ 3,000,000				\$ 3,000,000
27	Cotton Bowl - Scoreboard renovation	\$ 6,000,000				\$ 6,000,000
28	Cotton Bowl - Water infiltration; roof; HVAC (NoR22); Heater, Boiler / Chiller / Mechanical / Electrical	\$ 761,638		\$ 761,638		
29	Court of Honor - Reconstruction	\$ 5,098,000				\$ 5,098,000
30	Creative Arts Building - Restoration	\$ 6,105,000			\$ 6,105,000	
31	Creative Arts Building - Exterior wall; plumbing; mechanical / electrical; lighting	\$ 674,993		\$ 69,875	\$ 605,118	
32	Embarcadero and Creative Arts - Mural conservation exterior and interior	\$ 2,230,000				\$ 2,230,000

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2	Embarcadero - Repair and clean exterior façade; replace condensing units; install security system and complete minor electrical repairs; replace lamps and ballasts	\$ 3,785,418	\$ 335,400	\$ 2,230,000	\$ 1,220,018	
33	Esplanade - Repaving of sidewalks at Centennial and Automobile Buildings	\$ 1,506,000	\$ 800,000		\$ 706,000	
34	Esplanade Centennial and Automobile - Exterior lighting	\$ 1,920,000				\$ 1,920,000
35	Esplanade - Contralto and Tenor Sulptures - Conservation	\$ 4,000		\$ 4,000		
36	Esplanade Fountain - Pylons and bas relief restoration	\$ 450,000		\$ 450,000		
37	Esplanade Fountain - Main vault - seal vault so watertight; replace pumps; replace corroded metal housing on all equipment	\$ 3,141,580	\$ 2,303,080			\$ 838,500
38	Esplanade restoration - Phase 2 (light pylons, flagpoles, benches)	\$ 1,840,000				\$ 1,840,000
39	Esplanade Sculpture - conservation	\$ 100,000		\$ 100,000		
40	Food and Fiber Building - Roof, replace exterior condensing units; minor electrical repairs	\$ 2,371,558		\$ 354,965	\$ 2,016,593	
41	Food and Fiber Building - Structural stabiization and repairs	\$ 1,500,000	\$ 1,500,000	\$ -		
42	Food and Fiber Building - Exterior Mural Conservation	\$ 66,000		\$ 66,000		
43	Food and Fiber Building - Interior Mural - Remove overpaint and restore	\$ 500,000				\$ 500,000
44	Fountains - Restorations	\$ 1,500,000				\$ 1,500,000
45	Grand Avenue - Historic gates restoration	\$ 733,000		\$ 733,000		
46	Grand Plaza - Restoracion (landscape, concession, sound pylons, light poles, moving monuments, drinking fountain)	\$ 2,023,840				\$ 2,023,840
47	Grand Place - Repair façade cracks; replace rest room finishes; replace rest room plumbing fixtures; replace mechanical equipment; replace switchgear and lighting panels in fire control room; replace emergency light fixtures	\$ 3,228,225			\$ 3,228,225	
48	Hall of Religion (Business Center) - Repair exterior wall system and complete interior renovation; replace rooftop package units; minor electrical repairs	\$ 2,106,598		\$ 2,106,598		
49						

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2						
50	Hall of State - Art Conservation - Sculptures, Murals and Ceiling	\$ 550,000		\$ 550,000		
51	Hall of State - Repair or replace exterior doors and windows; other architectural interior and exterior repairs; repair sump pump; other plumbing repairs; address dehumidification issues; replace heaters and other mechanical repairs; electrical repairs	\$ 6,418,718	\$ 282,295	\$ 6,136,423		
52	Hall of State - Exterior wall and plaza restoration; exterior drainage and lighting	\$ 4,124,800	\$ 4,124,800			
53	Infrastructure improvements - Utilities (storm water, waste water, water and electrical)	\$ 14,030,000	\$ 7,000,000		\$ 7,030,000	
54	Lagoon - Restoration	\$ 7,892,640			\$ 7,892,640	
55	Lagoon - Sculpture conservation ("Pterius Multifida" and Saggitaira Platphylla")	\$ 85,000		\$ 85,000		
56	Landscape enhancement - Parkwide	\$ 2,000,000				\$ 2,000,000
57	Magnolia Lounge - Roof replacement; repair façade; complete minor interior work; replace heat pumps and FCUs; replace interior lighting; install security system	\$ 825,923		\$ 825,923		
58	Maintenance Building (Behind Food and Fiber Building - Replace concrete slab; replace windows, repair roof; replace interior finishes; replace shower; replace A/C unit; replace electrical and lighting systems interior and replace exterior lights	\$ 4,450,000	\$ 445,000	\$ 890,000	\$ 3,115,000	
59	MLK historic gate - Restoration	\$ 733,000		\$ 733,000		
60	Museum of Natural History - Sculpture conservation ("Jumbo")	\$ 17,000		\$ 17,000		
61	Museum of Natural History - Renovation of public spaces	\$ 2,500,000				\$ 2,500,000
62	Museum of Natural History - Repair windows to prevent further water infiltration; replace water heater and sump pump; replace HVAC equipment; clean and repair equipment; electrical repairs	\$ 2,379,943		\$ 2,379,943		
63	Music Hall - Backstage and dressing room renovation	\$ 150,410			\$ 150,410	
64	Music Hall - Elevator modernization	\$ 185,900	\$ 185,900			
65	Music Hall - Exterior building lighting	\$ 1,616,160				\$ 1,616,160
66	Music Hall - New interior lighting and signage	\$ 148,200.00				\$ 148,200
67	Music Hall - Outdoor lighting on building and surrounding areas	\$ 231,400.00			\$ 231,400	
68	Music Hall - Remodel and expansion of concession	\$ 81,900				\$ 81,900
69	Music Hall - Renovate lobby	\$ 293,800				\$ 293,800
70	Music Hall - Replace and repair paving around building	\$ 2,002,000	\$ 2,002,000			
71	Music Hall - Repair interior and exterior architectural finishes; replace air handling system; replace condensing unit; other mechanical repairs; replace electrical system	\$ 9,264,028		\$ 9,264,028		
72	Music Hall - Sculpture conservation ("The Torch Bearers")	\$ 2,500		\$ 2,500		

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2						
73	Old Mill Inn - ADA Improvements	\$ 390,000	\$ 390,000			
74	Old Mill Inn - Roof, electrical system replacement; replace damaged interior finishes; replace floor drains and new A/C unit	\$ 2,022,183	\$ 110,403	\$ 1,911,780		
75	Pan American Complex - Arena - Repair interior finishes; mechanical and electrical repairs	\$ 1,700,758		\$ 971,263	\$ 729,495	
76	Parry Ave entrance - Animal Head Medallion conservation (Bull)	\$ 7,200		\$ 7,200		
77	Pan American Complex - Sheep and Goat - Repair façade and replace light fixtures	\$ 1,066,293		\$ 257,140	\$ 809,153	
78	Pan American Complex - Police Mounted Patrol - Repair concrete, stucco, doors, columns, ventilation for electrical and elevator rooms	\$ 650,000	\$ 650,000			
79	Pan American Complex - Poultry - Exterior restoration, repair interior doors	\$ 650,000		\$ 650,000		
80	Pan American Complex - Poultry Building - Mural conservation	\$ 700,000				\$ 700,000
81	Pan American Complex - Roof and louver	\$ 390,000		\$ 390,000		
82	Pan American Complex - Sheep and Goat - Renovation of concrete columns and stucco	\$ 274,000			\$ 274,000	
83	Park furnishing and lighting package	\$ 1,250,000				\$ 1,250,000
84	Parking - Lot 5A - Repair and landscape (Cullum)	\$ 800,000			\$ 800,000	
85	Parking - Lot 6A - Repair and landscape (Cullum)	\$ 800,000			\$ 800,000	
86	Parking - Lot 12AA - Pave to Pennsylvania	\$ 2,400,000			\$ 2,400,000	
87	Parking - Lot 12B (behind Cattle Barns) - Repair and landscape	\$ 797,000			\$ 797,000	
88	Parking - Lot 12C (north of Cattle Barns) - Repair and landscape	\$ 1,225,000			\$ 1,225,000	
89	Parking - Lot 6B (Cullum near Texas Discovery Garden) - Paving and curb repair	\$ 150,000			\$ 150,000	
90	Parking - Lot 8A (southwest to Gexa) - Paving repair	\$ 150,000			\$ 150,000	
91	Parking - Lot 9A (between Gexa and Fitzhugh) - Paving and curb repair	\$ 100,000			\$ 100,000	
92	Parking - Lot 9B (between Gexa and Fitzhugh) - Paving and curb repair	\$ 100,000			\$ 100,000	
93	Parking - Pave at old Railroad Museum site	\$ 460,000			\$ 460,000	
94	Parking - Repave and landscape Lot 3A (next to Women's Museum)	\$ 350,000			\$ 350,000	
95	Parking - Repave and landscape Lot 3C (north of Women's Museum)	\$ 555,000			\$ 555,000	
96	Parking - Repave and landscape Lot 3D (Behind Centennial Building)	\$ 255,000			\$ 255,000	
97	Parking - Repave and landscape Lot 4B (Behind Auto Building)	\$ 355,000			\$ 355,000	
98	Parking - Repave Lot 3E (Behind Centennial and Food and Fiber)	\$ 646,000			\$ 646,000	
99	Parking - Repave Lot 3EE (Behind Tower Building)	\$ 50,000			\$ 50,000	
100	Parry Ave entrance - Bas Relief conservation (Buffalo Hunt and Wagon Train Frieze)	\$ 3,500		\$ 3,500		
101	Parry Ave entrance - Sculpture conservation ("Allegorical Figure of the State of Texas")	\$ 15,000		\$ 15,000		

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2						
102	Parry Ave entrance - Phase 2 restoration	\$ 3,750,000			\$ 3,750,000	
103	Paving - Repave Big Tex Circle area	\$ 155,000			\$ 155,000	
104	Paving - Repave Centennial Building driveway (behind building)	\$ 200,000			\$ 200,000	
105	Paving - Repave Constitution Place between Tower and Grand Place	\$ 350,000			\$ 350,000	
106	Paving - Repave Cotton Bowl Circle	\$ 1,150,000			\$ 1,150,000	
107	Paving - Repave East Grand entrance gate with special pavement	\$ 814,000			\$ 814,000	
108	Paving - Repave Grand Plaza	\$ 600,000			\$ 600,000	
109	Paving - Repave road NW of Auto Building from Second Ave to Esplanade	\$ 200,000			\$ 200,000	
110	Science Place 1 and IMAX Theater - Alarm panel	\$ 325,000	\$ 325,000			
111	Science Place 1 - provide water-tight envelope; conduct mold testing; replace plumbing fixtures and wtaer heater; replace aged mechanical equipment; replace fire alarm; public address, security and telecomm equipment	\$ 8,494,005				\$ 8,494,005
112	Science Place - IMAX Theater - Replace interior finishes; conduct mold testing;replace plumbing fixtures; scope floorand roof drains; replace aged mechanical equipment; provide security, fire alarm and telecomm system	\$ 5,866,705		\$ 714,123	\$ 5,152,582	
113	Science Place - Exhibition - Replace roof and interior finishes; replace elevator; replace plumbing fixtures and water heater; replace aged mechanical equipment; replace all electrical systems	\$ 8,326,305		\$ 497,510	\$ 7,828,795	
114	Science Place 2 - Bomb shelter renovation	\$ 2,350,000				\$ 2,350,000
115	Science Place 2 - WRR Studio - Replace portion of leaking roof; remediate water intrusion; replace damaged finishes; replace AC units; replace AHU; new security system and electrical repairs	\$ 596,733		\$ 596,733		
116	Science Place 2 - Repair or replace interior and exterior architectural finishes due to water damage, replace water heaters, replace furnaces; new tele/datasystem and other electrical repairs	\$ 132,763	\$ 132,763			
117	Signage - Interpretation program, Phase 2	\$ 1,550,000				\$ 1,550,000
118	Signage - Wayfinding, Phase 2	\$ 200,000			\$ 200,000	
119	Swine Building - Restoration	\$ 7,635,000	\$ 3,088,000	\$ 4,547,000		
120	Texas Discovery Gardens - Replace A/C units and underground duct work	\$ 300,000		\$ 300,000		
121	Texas Discovery Gardens - Replace irrigation system	\$ 250,000		\$ 250,000		
122	Texas Discovery Gardens - Portland Cement House - Roof and envelope repairs	\$ 400,000		\$ 200,000	\$ 200,000	
123	Texas Discovery Gardens - Minor roof and façade repairs; replace cooling tower and AHU; replace exterior lighting; minor electrical repairs	\$ 982,443		\$ 982,443		
124	Texas Discovery Gardens - Extend wrought iron security fence along 2nd Avenue to Grand	\$ 112,000			\$ 112,000	
125	Texas Discovery Gardens - Renovation of Grand Allee fountain and surrounding concrete sidewalks	\$ 280,000		\$ 280,000		
126	Texas Discovery Gardens - Renovation of all other water features for filtration, masonry, plumbing, electric, etc.	\$ 224,000		\$ 224,000		
127	Texas Discovery Gardens - Renovation of outside rest rooms to add hot water, showers, waterless fixtures, HVAC, etc.	\$ 168,000			\$ 168,000	

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2						
128	Texas Discovery Gardens - Reclamation of Ranger Drive, converting asphalt to native habitat and water features	\$ 336,000				\$ 336,000
129	Texas Discovery Gardens - Installation of new elevator	\$ 200,000			\$ 200,000	
130	Texas Discovery Gardens - Renovation of Grand Hall to include lighting; A/V; and full service hot kitchen	\$ 300,000				\$ 300,000
131	Texas Discovery Gardens - Greenhouse Garden Center - Repair minor façade damage; minor mechanical and plumbing repairs; replace light fixtures	\$ 26,553			\$ 26,553	
132	Texas Discovery Gardens - Sculpture conservation ("The Gossip")	\$ 4,600		\$ 4,600		
133	Tower Building - Bas relief conservation	\$ 115,000		\$ 115,000		
134	Tower Building - Eagle sculpture conservation	\$ 28,000		\$ 28,000		
135	Tower Building - Water intrusion repairs; office; plumbing; mechanical / electrical	\$ 4,649,483		\$ 582,758	\$ 4,066,725	
136	Tower Building - Exterior building renovation and plaza	\$ 1,500,000				\$ 1,500,000
137	Tower Building - Exterior lighting	\$ 2,800,000				\$ 2,800,000
138	Tower Building - Restoration of offices	\$ 250,000			\$ 250,000	
139	Tower Building - Restoration of rotunda including artwork conservation	\$ 3,750,000				\$ 3,750,000
140	Tower Building - Underground drain at food court area	\$ 250,000	\$ 250,000			
141	Visitors Center - Renovate existing building	\$ 1,680,000			\$ 1,680,000	
142	Washington Ave. historic gate - Restoration	\$ 600,000		\$ 600,000		
143	Women's Museum - Roof, flooring, replace chillers, mechanical / electrical	\$ 3,123,413		\$ 387,108		\$ 2,736,305
144	Women's Museum - Mural and sculpture conservation	\$ 70,000		\$ 70,000		
145	Woofus Sculpture Conservation	\$ 3,000		\$ 3,000		
146						
147	Totals	\$ 241,548,673	\$ 32,411,907	\$ 47,107,077	\$ 93,077,499	\$ 68,952,190
148						
149						

Fair Park - Capital Needs Inventory

	A	B	C	D	E	F
	Description	Total Estimate	Priority #1 - Must Safety	Priority #2 - Cost More	Priority #3 - Lose Visitors	Priority #4 - Gain Customers/ Improve Park
2						
150						
151	Fair Park - Community Park and Long-Term Needs					
152	25-Aug-16					
153						
154						
155	Community Parks at Fair Park					
156	Museum Green with Underground Parking Garage (Option A) - Remove parking between Cullum, Second Ave., MLK and Grand (Lot 5A and 6A) and construct underground parking with park above (425 parking spaces)	\$ 29,999,250				
157	Music Green with Underground Parking Garage (Option A) - Remove parking Lot 4A between the African American	\$ 38,932,848				
158	Museum Green (Option B) - (Between Cullum, Second, Grand and MLK) - Remove Lot 5A and 6A and convert to landscaped area on grade	\$ 9,918,000				
159	Music Green (Option B) - Remove Lot 4A and convert to landscaped area on grade	\$ 12,000,348				
160						
161	Community Parks - Option A (Underground Parking)	\$ 68,932,098.00				
162	Community Parks - Option B (No Underground Parking)	\$ 21,918,348.00				
163						
164						
165	Long Term Enhancements					
166	Bank of Lights - Reconstruct historic lighting behind the Hall of State	\$ 3,800,000				
167	Coliseum - Phase 2 renovation	\$ 15,344,000				
168	Cotton Bowl - Upgrades: Suites N and S end zones; broadcast cabling; railing / fencing; improvements to concessions; TV truck locations; storage areas; additional graphics; painting underside of bowl; POS system	\$ 28,996,800				
169	Ford Buiding - Reconstruction	\$ 42,853,000				
170	Hall of Religion (Business Center) - Reconstruction of missing wing	\$ 3,459,300				
171	Livestock Complex - Replace Cattle Barns 1 and 2, and Show Pavilion with new building	\$ 21,760,000				
172	Livestock Complex - Replace Horse Barn with new building	\$ 8,448,000				
173						
174	Totals	\$ 124,661,100				

RESIDENT INSTITUTIONS

EXHIBIT 3.05

“Resident Institutions” are the following facilities listed below:

- **The Museum of African-American Life and Culture**
 - **African American Museum**
- **Texas Discovery Garden**
 - **Texas Discovery Garden in Fair Park**
- **Hall of State**
 - **Dallas Historical Society**
- **Dallas Museum of Natural History**
 - **Perot Museum of Nature and Science**
- **Music Hall at Fair Park**
 - **Dallas Summer Musical**

Foundation and Director may jointly agree to add new Resident institutions throughout the Term of this Agreement. The new institutions will be treated as the Resident Institutions listed in this Exhibit.

**Exhibit 4.23
Bleacher Lot**

See attached.

DRAFT



0 75 150 300 450 Feet

Exhibit 4.23
Bleacher Lot



Mapsc
46 P Q

CD
7

July 28, 2016

**Exhibit 5.03
Insurance**

See attached.

DRAFT

**Exhibit 6.16
Community Park**

See attached.

DRAFT



0 120 240 480 720 Feet

Exhibit 6.16 Community Park



MapSCO
46 P Q

CD
7

July 28, 2016

Exhibit 7.03(c)
South Dallas Trust Fund Resolution

See attached.

DRAFT

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, the governing body of a municipality may establish and provide for the administration of programs, including programs for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, on February 18, 1987, City Council approved and adopted the South Dallas/Fair Park Neighborhood Preservation and Economic Development Plan which established the South Dallas/Fair Park Trust Fund (sometimes herein called the "Trust Fund") by Resolution No. 87-0632; and

WHEREAS, on November 8, 1989, City Council, acting on certain recommendations put forth by the Fair Park Task Force, authorized Resolution No. 89-3605 which created guidelines and projects concerning the Trust Fund; and

WHEREAS, on August 26, 1992, City Council affirmed its commitment to the Trust Fund and directed the City Manager and South Dallas/Fair Park Trust Fund Board (Board) to submit recommendations for a long-range plan for the Trust Fund; and

WHEREAS, on March 24, 1993, City Council approved and adopted certain recommendations contained in the long-range plan submitted for the Trust Fund by Resolution No. 93-1145; and

WHEREAS, on October 27, 1999, City Council authorized Resolution No. 99-3439 to replace and rescind Resolution No. 93-1145 regarding the programs and administration of the Trust Fund; and

WHEREAS, on February 25, 2004, City Council authorized that unused Trust Fund monies under certain conditions may be used in subsequent fiscal years by Resolution No. 04-0801; and

WHEREAS, on May 9, 2006, City staff presented certain recommendations to the Economic Development and Housing Committee regarding certain modifications to the administration and programs of the Trust Fund, which recommendations were adopted by the committee; and

WHEREAS, on June 13, 2006, the Board reviewed the recommendations approved by the Economic Development and Housing Committee and approved the recommendations being submitted to the City Council for its review and approval; and

WHEREAS, in order to accomplish certain of the recommendations adopted by the Economic Development and Housing Committee and the South Dallas/Fair Park Trust Fund Advisory Board, the City Council desires to act to replace by Resolution No. 99-3439.

WHEREAS, on June 28, 2006, City Council authorized Resolution No. 06-1833 to replace and rescind Resolution No. 99-3439; and

WHEREAS, on October 10, 2007, pursuant to Resolution No. 07-2962, City Council amended Resolution No. 06-1833 providing modifications to certain policies, procedures and guidelines for funding sources, administrative cost and name change for operating the South Dallas/Fair Park Trust Fund; and

WHEREAS, it has been determined that, in part, due to its complexity, the visitors' formula intended to be established in Resolution No. 87-0632 in order to provide revenues for the South Dallas/Fair Park Trust Fund was never implemented and monies from this source of revenue was not appropriated by previous City Councils; and

WHEREAS, monies have now been identified to provide the South Dallas/Fair Park Trust Fund with funds to restore the money that would have been set aside for the Trust Fund under the visitors' formula, but not appropriated by the City; and

WHEREAS, additional programs for the Trust Fund have been identified for which monies may be appropriated on an annual basis in order to assist the purpose of the Trust Fund; and

WHEREAS, additional revisions to South Dallas/Fair Park Trust Fund programs and operations have been proposed and the City now desires to implement; and

WHEREAS, the City wishes to rescind Resolutions No. 06-1833 and No. 07-2962 and to continue the South Dallas/Fair Park Trust Fund Program in the manner described as follows; and

WHEREAS, the City wishes to continue the South Dallas/Fair Park Trust Fund Program.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Council adopts this resolution to replace City Council Resolution Nos. 06-1833 and 07-2962, previously approved on June 28, 2006 and October 10, 2007 respectively, to: (1) re-establish certain existing policies, programs, procedures and guidelines for the South Dallas/Fair Park Trust Fund; (2) provide for a new South Dallas Adaptive Reuse Program serving the South Dallas Fair Park area; (3) establish revised funding sources for the South Dallas/Fair Park Trust Fund and other programs supporting the area; (4) allocate funding from existing programs for water conservation at City facilities; and (5) add Public Safety Grant Program to the South Dallas/Fair Park Trust Fund Program Offerings.

Section 2. That the City Council approves the following regarding the Trust Fund:

- A. The following program areas may be funded through the Trust Fund:
- a. Business and economic development initiatives to:
 - (i) promote local economic development;
 - (ii) improve and stimulate business and commercial; activities/opportunities;
 - (iii) create and retain jobs;
 - b. Community service programs to provide job related and human services assistance.
- B. The following initiatives may be funded in the program areas:
- a. Business Plan Technical Assistance and Market Analysis Program. Technical assistance for detailed market analyses and business plan assistance for business owners, property owners, and interested investors/developers. The individual(s) receiving assistance and the Trust Fund would share in the cost of developing the business plan. The Board will develop a sliding scale for the cost of this service.
 - b. Revolving Business Loan Program. A revolving loan fund program may be established to provide low interest business loans of up to \$50,000. Applications for loans under this program may not be forwarded to the Board for the Board's review and recommendation unless and until either: (i) two Board Members with loan underwriting experience have reviewed the application, or, (ii) one Board Member with loan underwriting experience has reviewed the application as well as one City staff member from the City's Office of Economic Development (OED) will have reviewed and commented on the application.
 - c. Micro Grant Program. A micro grant award program may be established in which \$1,000 to \$2,000 micro grant awards may be provided to businesses in good legal standing to be used in case of emergency situations. Emergency situations are defined as natural disasters (other than flood), or man-made disasters not covered by insurance.
 - d. Community-Based Non-Profit Organization Grant Program. A competitive grant award program may be established that funds community-based non-profit organizations determined to be tax-exempt under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code (26 U.S.C.A. §501(c)(3)) at an amount up to \$35,000 per year per organization to undertake program initiatives in the three approved program areas.

Section 2. (Continued)

The maximum award to the same organization may not exceed \$75,000 and the same organization may receive no more than three (3) grants. It is the objective that multiple grant awards to the same organization shall decrease through the three years of eligibility.

The grant award funds shall be used to supplement other matching sources which may include in-kind service and goods contributions up to twenty-five percent (25%) of the grant award. The match must include at least seventy-five percent (75%) cash.

- e. **Challenge Grants.** A competitive challenge grant award program for direct assistance may be established to provide grant funding to neighborhood groups for activities that are consistent with Trust Fund objectives. These grant awards shall be a maximum of \$5,000 per grant and shall be matched by: (i) appropriately documented one-hundred percent (100%) volunteer in-kind service or goods, or (ii) one-hundred percent (100%) matching funds raised, or, (iii) a combination of both volunteer in-kind service or goods and matching funds raised that equals the grant award.

Trust Fund monies may be paid to grantees prior to the grantees having received its match where City staff has determined that the match commitment is binding, will be imminently provided and that the grantee project will be jeopardized without the Trust fund monies being contributed prior to the match commitment being accomplished.

- f. **Public Safety Grant.** The Public Safety Grant Program provides direct assistance to neighborhood groups and nonprofit organizations for public safety and crime reducing activities. Projects or programs must be reasonable, and directly and measurably enhance the public safety of a significant and clearly identifiable segment of the Trust Fund Target area.

Organizations are not required to be 501(c)3 certified, but must have a certified organizational structure with a listing of member and officers. For the purpose of the Public Safety Grant program, neighborhood groups are defined primarily as community-based, self-help groups, which are operated primarily by unpaid community volunteers and carry out projects of limited scope and duration; providing social/human services in the Fair Park community.

The maximum eligible organizations may receive from this grant is \$10,000 per applicant per year for no more than three consecutive years.

Section 2. (Continued)

- g. **Special Grant/Loan Program.** A special economic development grant/loan program may be established to be used as catalyst funding to promote economic development, or to stimulate business and commercial activity in the South Dallas/Fair Park area. Funding may include, but is not limited to, interim financing for businesses or projects promoting economic development, workforce development, retail development projects, development studies, public safety projects and other economic development purposes that benefit the South Dallas/Fair Park community. Eligible recipients for such funding shall include: (i) for-profit entities that are in good legal standing and that are authorized to do business in the state of Texas; (ii) non-profit entities that have been determined to be tax-exempt under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code (26 USCA. §501(c)(3)) that have as their purpose either: (1) the development or diversification of the South Dallas/Fair Park economy, (2) the elimination of unemployment or underemployment in the South Dallas/Fair Park community, or, (3) the development or expansion of commerce in the South Dallas/Fair Park community; and (iii) governmental entities that are authorized to accept funding for economic development purposes and have pledged to use the funding in the South Dallas/Fair Park community for that purpose.

Projects should have tangible economic or community impact. Such loans/grants shall be recommended by the Board reviewed by and approved by the City manager or City Council, where applicable, under City contracting guidelines. Loans/grants may or may not require match funding and may or may not have collateral support. Applications for the special grant/loan program may be accepted throughout the fiscal year and grant/loan disbursements may be through reimbursement to the grant/loan recipient or the direct payment of invoice by a vendor providing documented services or goods to the project in accordance with city contracting procedures.

- h. **Donor-Designated Grants.** A donor-designated grant award program may be established in which the Board shall advise the City Manager or City Council, where applicable under City contracting guidelines, in determining funding in amounts and for lawful purposes determined by the donor for projects that have positive benefit to the South Dallas/Fair Park community.
- C. The following measures will be utilized in the implementation of approved funding activities:

Section 2. (Continued)

- a. The geographic focus of the program shall be the thirteen (11) census tracts identified in the 2000 Census as Census Tracts 25, 27.01, 27.02, 29, 34, 35, 37, 38, 39.01, 39.02 and 40.
 - b. The Trust Fund will primarily support activities which are designed to assist current residents, businesses and programs in the target community, and, to a lesser degree, support to assist those businesses wishing to relocate or start up activities that would benefit the area. Marketing of the program will target all ethnic and economic groups in the area to ensure opportunities for community wide participation. A good-faith effort shall be made to identify Hispanic recipients for at least ten percent (10%) of the loans/grants.
- D. The following measures shall govern the funding of the Trust Fund:
- a. A target amount of \$500,000 annually from Fair Park Activities as specified herein, shall flow into the Trust Fund from the following sources: (i) GEXA ticket sales in accordance with the most current agreement with operator (ii) funding from flea market and antique shows held at Fair Park in accordance with Resolution No. 89-1674 adopted May 24, 1989. The Chief Financial Officer is hereby authorized to accept and deposit revenues collected to fund 0351, Unit 0448, Revenue Source 8529 (GEXA, and to fund 0351, Unit 0448, Revenue Source 8529) (flea market and antique shows).
 - b. If revenues from Section 2.D.a. (i) and (ii) above do not reach \$500,000 for a particular fiscal year, funding will be augmented by an allocation of funding from the City's Public/Private Partnership Fund to attain the annual target funding amount of \$500,000. The Chief Financial Officer is hereby authorized to transfer funds in such amount as is determined to be the difference between actual revenue collected and the target of \$500,000 from PPPF 0352, Unit 9949, Object Code 3690 to South Dallas/Fair Park Trust Fund 0351, Unit 0448, Revenue Source 9201.
 - c. If revenues received from Section 2. D. a. (i) and (ii) total \$500,000 or more in any fiscal year, no Public/Private Partnership Fund resources will be allocated to the Trust Fund to augment actual revenues received.
 - d. Annual funding from Fair Park Activities described in Section 2.D.a. (i) and (ii) is capped at \$1,000,000.

Section 2. (Continued)

- e. Principal and Interest from Trust Fund Business Loan payments, Interest on Trust Fund account balances and sponsorships from Enterprise activity that generates income may be used above the \$500,000 annual funding sources.
 - f. In order to supplement the annual funding target of \$500,000 from Fair Park Activities and other sources described within this Section above, the Chief Financial Officer is hereby authorized to transfer an additional \$800,000 from the City's General Fund: (Fund 0001, Department TBD, Unit TBD, Object Code 3690 to Fund 0351, Department ECO, Unit 0448, Revenue Source 9201) to the Trust Fund annually commencing FY 16/17 for a period not to exceed four years (total not to exceed \$3,200,000) and allocated to the Special Grant/Loan Program for catalyst economic development initiatives.
 - fg. Funds available for annual Trust Fund programs shall consist of funds received by the Trust Fund from July 1st of the previous calendar year through June 30th of the next succeeding calendar year. Funds from each funding source shall be available for Trust Fund programs in the City fiscal year beginning October 1st, with the annual program appropriation equal to funds received from all funding sources. The Board, through the City Manager, may recommend in accordance with Resolution No. 04-0801 that unused and unencumbered Trust Fund monies which have been accrued at the end of a fiscal year be used in a subsequent fiscal year to fund and support activities that are consistent with the Trust Fund's approved program areas.
- E. The following measures shall govern the administration of the Trust Fund:
- a. Trust Fund Disbursements. The Trust Fund shall disburse funds through one funding cycle per year (except for disbursements for the ~~basic home-repair grant/loan program~~, the micro grant program and the special grant/loan program), based on an annual budget. Emergency grants may be approved throughout the year or until budgeted funds for programs have been committed.
 - b. Administration. Program administration shall remain in the OED and continued as an activity funded by the Trust Fund. In order to provide fiscally responsible management, fiscal management of the Trust Fund shall be the responsibility of the OED Budget/Finance Manager. Trust Fund operating expenses are to be budgeted annually by the Trust Fund Manager and OED Budget/Finance Manager with review by the Trust Fund Advisory Board.

Section 2. (Continued)

The final approval of the Trust Fund budget shall be determined by the City Council through the City budgeting process. An internal mid-year budget re-programming may be recommended by the Board to the City Manager if a significant amount of funds become available. The Board and the City staff should formulate a budget by April of each year and submit a recommended budget to the City Manager and City Council during the budget cycle.

Loan payments are to be posted as they are received to the proper accounts, money deposited with cashier and deposits reconciled monthly. A monthly report of all accounts showing current account balance and activity will be made available to the Trust Fund Manager by the 20th of each month. The Trust Fund Manager will work with OED Budget/Finance Manager to pursue the collection of delinquent accounts according to the procedures that the City Comptroller's Office has developed for the collection of business loan accounts. OED Budget/Finance Manager will reconcile the Trust Fund's business loans with other financial systems.

- c. Administrative Costs. Trust Fund monies may be used for at least one (1) City staff position to serve as a South Dallas/Fair Park Neighborhood Advocate/Public Information Officer and/or Trust Fund Manager to assist community groups, individuals and business owners with community services, economic development and housing and neighborhood improvement initiatives and to promote the Trust Fund and develop marketing materials. Administrative costs for the Trust Funds operations, including staff expense, will be paid from the ~~General Fund unit assigned to the Trust Fund~~ Program funding unit currently 0351.

Before the end of the program year, to the PPPF Fund 0352, Unit P151, will be reimbursed from the Trust Fund. Fund 0351, Unit 0448, in an amount that is no more than 15% of budgeted annual operating expenses. Beginning FY 16/17, for a period of four years ending FY 20/21, ALL administrative costs will be reimbursed to PPPF Fund 0352, Unit P151 from Trust Fund: Fund 0351, Unit 0448. THEREAFTER, commencing FY21/22, administrative cost for Trust Fund operations will be reimbursed from the Trust Fund: Fund 0351, Unit 0448 to the PPPF Fund 0352, Unit P151 in an amount that is no more than 15% of budgeted annual operating expenses.

- d. Support of Trust Fund from Other City Departments. The Trust Fund will be supported by other City departments in carrying out its programs.

Section 2. (Continued)

- (i) Parks & Recreation Department. The City's Department of Parks and Recreation, under the terms of the Pace Contract, will allocate and deposit to the Trust Fund the monies described in the Pace Contract for events held at GEXA and will deposit the allocated antique show and flea market monies to the Trust Fund in accordance with Council Resolution No. 89-1674. The Parks and Recreation Department will also validate the accuracy of the number of tickets sold with regards to the events described herein. (subject to appropriations)

In order to supplement the annual funding target of \$500,000 from Fair Park Activities (subject to future appropriations the Chief Financial Officer is hereby authorized to transfer an additional \$800,000 from the City's General Fund: Fund 0001, Department PKR, Unit 9487, Object Code 3690 to fund 0351, Department ECO, Unit 0448, Revenue Source 9201) shall be provided to the Trust Fund annually commencing FY 16/17 for a period not to exceed four years (total not to exceed \$3,200,000) and allocated to the Special Grant/Loan Program for catalyst economic development initiatives.

- (ii) Water Utilities Department. The Water Utilities Department will be responsible for funding and implementing a City Leadership Grant Program specific to South Dallas Fair Park for three years beginning FY2015/16, funded at \$200,000 annually for the three year period (total funding not to exceed \$600,000). (subject to appropriations)
- (iii) The City Attorney's Office. The City Attorney's Office will advise the Board and will prepare all pertinent loan documents, review and approve documentation for loans and grants, make demand on delinquent loan accounts as inappropriate and facilitate collateral lien perfection and recovery.

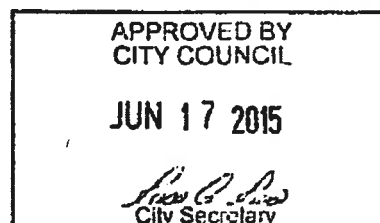
Section 2. (Continued)

- (iv) The City Auditor's Office. The City Auditor shall perform an annual audit of the Trust Fund and its operations. The annual audit shall include an audit of cash coming into the Trust Fund account as well as expenditures. The City Auditor shall conduct the fiscal audit requirement and shall also require an annual audit of operations of the Trust Fund and the Board. The annual audit of the operations of the Trust Fund and the Board shall be conducted with the Trust Fund Manager.
- (v) The Office of Economic Development. Beginning in FY2016/17, the Office of Economic Development (OED) will allocate "Seed Money" through the City's Public/Private Partnership Fund in the amount of \$250,000 annually for four years (total not to exceed \$1 million) (subject to appropriations) for Grand Park South Tax Increment Finance (TIF) District projects approved by the TIF Board.

The OED will further allocate funding for FY2016/17 in the amount of \$250,000 (subject to appropriations) through the City's Public/Private Partnership Fund (total not to exceed \$250,000) to the South Dallas Adaptive Reuse Program herein established and described on Exhibit 1.

- F. The composition of the Board shall be changed to insure that at least eight members must have direct connection to South Dallas/Fair Park community (live, own a business, work, active community involvement). Seven (7) positions will be "at large" having qualifications related to business, housing, non-profit management and/or community building. At least two (2) current board members must have loan underwriting experience. The Board shall hold a minimum of one public hearing a year, hold at least six monthly meetings in the Trust Fund area each year and shall provide citizens an opportunity to address the Board at each regular meeting.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.



ATTACHMENT A

<u>Item</u>	<u>Description</u>	<u>Amount</u>	<u>Frequency</u>	<u>Total</u>	<u>Funding Source/ Responsible Department</u>
Supplement to existing special grant program for catalyst initiatives	To be used for re-development/development purposes (Examples include: Grand Park Place development, Hatcher Gardens Phase II, South Fair redevelopment, Spring Ave. Retail development, and private development throughout the area.	\$800K	Annually for 4 years	\$3.2M	General Fund (Special Fair Park Program)
"Seed" \$ for Grand Park South TIF	Supplement to Tax Increment generated by TIF for project support	\$250K	Annually 4 years	\$1M	PPP Program
South Dallas Adaptive Reuse Program	Modeled after existing Southern Dallas programs	\$250K	Once	\$250K	PPP Program
City Leadership Grant Program	Address water conservation at City owned facilities	\$200K	Annually for 3 years	\$600K	DWU-CLEP
				\$5,050M	

151264

Attachment B

October 10, 2007

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, the governing body of a municipality may establish and provide for the administration of programs, including programs for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, on February 18, 1987, the City Council approved and adopted the South Dallas/Fair Park Neighborhood Preservation and Economic Development Plan which established the South Dallas/Fair Park Trust Fund (Trust Fund) by Resolution No. 87-0632; and

WHEREAS, on November 8, 1989, the City Council, acting on certain recommendations put forth by the Fair Park Task Force, authorized Resolution No. 89-3605 which created guidelines and projects concerning the Trust Fund; and

WHEREAS, on August 26, 1992, the City Council affirmed its commitment to the Trust Fund and directed the City Manager and South Dallas/Fair Park Trust Fund Board (Board) to submit recommendations for a long-range plan for the Trust Fund; and

WHEREAS, on March 24, 1993, the City Council approved and adopted certain recommendations contained in the long-range plan submitted for the Trust Fund by Resolution No. 93-1145; and

WHEREAS, on October 27, 1999, the City Council approved Resolution No. 99-3439 to replace Resolution No. 93-1145 regarding the programs and administration of the Trust Fund; and

WHEREAS, on February 25, 2004, the City Council authorized that unused Trust Fund monies under certain conditions may be used in subsequent fiscal years by Resolution No. 04-0801; and

WHEREAS, on May 9, 2006, City staff presented certain recommendations to the Economic Development and Housing Committee regarding certain modifications to the administration and programs of the Trust Fund, which recommendations were adopted by the committee; and

WHEREAS, on June 13, 2006, the Board reviewed the recommendations approved by the Economic Development and Housing Committee and approved the recommendations being submitted to the City Council for its review and approval; and

WHEREAS, in order to accomplish certain of the recommendations adopted by the Economic Development and Housing Committee and the South Dallas/Fair Park Trust Fund Advisory Board, the City Council desires to act to replace by Resolution No. 99-3439.

WHEREAS, on June 28, 2006, City Council authorized Resolution No. 06-1833 to replace and rescind Resolution No. 99-3439; and

WHEREAS, on October 10, 2007, pursuant to Resolution No. 07-2962, City Council amended Resolution No. 06-1833 providing modifications to certain policies, procedures and guidelines for funding sources, administrative cost and name change for operating the South Dallas/Fair Park Trust Fund; and

Attachment B

October 10, 2007

WHEREAS, it has been determined that, in part, due to its complexity, the visitors' formula intended to be established in Resolution No. 87-0632 in order to provide revenues for the South Dallas/Fair Park Trust Fund was never implemented and monies from this source of revenue was not appropriated by previous City Councils; and

WHEREAS, monies have now been identified to provide the South Dallas/Fair Park Trust Fund with funds to restore the money that would have been set aside for the Trust Fund under the visitors' formula, but not appropriated by the City; and

WHEREAS, additional programs for the Trust Fund have been identified for which monies may be appropriated on an annual basis in order to assist the purpose of the Trust Fund; and

WHEREAS, additional revisions to South Dallas/Fair Park Trust Fund programs and operations have been proposed and the City now desires to implement; and

WHEREAS, the City wishes to rescind Resolutions No. 06-1833 and No. 07-2962 and to continue the South Dallas/Fair Park Trust Fund Program in the manner described as follows.

WHEREAS, the City wishes to continue the South Dallas/Fair Park Trust Fund Program.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

~~Section 1. That the City Manager, upon approval as to the form by the City Attorney, is hereby authorized to amend subsection D (a), (b), (c), subsection E (e) and subsection G in Section 2 of Resolution No. 06-1833, previously approved on June 28, 2006, that authorized modifications to certain policies, procedures and guidelines for funding sources, administrative cost and name change for operating the South Dallas/Fair Park Trust Fund.~~

Section 1. That the City Council adopts this resolution to replace City Council Resolution Nos. 06-1833 and 07-2962, previously approved on June 28, 2006 and October 10, 2007 respectively, to: (1) re-establish certain existing policies, programs, procedures and guidelines for the South Dallas/Fair Park Trust Fund; (2) provide for a new South Dallas Adaptive Reuse Program serving the South Dallas Fair Park area; (3) establish revised funding sources for the South Dallas Fair Park Trust Fund and other programs supporting the area; (4) allocate funding from existing programs for water conservation at City facilities; and (5) add Public Safety Grant Program to the South Dallas/Fair Park Trust Fund Program Offerings.

Section 2. That the City Council approves the following modifications regarding the Trust Fund:

- A. The following program areas may be funded through the Trust Fund:**
- a. Business and economic development initiatives to:**
 - (i) promote local economic development;**
 - (ii) improve and stimulate business and commercial activities/opportunities;**
 - (iii) create and retain jobs; and**
 - ~~**(iv) encourage affordable housing development.**~~

Attachment B

October 10, 2007

Section 2 (Continued)

~~b. Housing and neighborhood improvement projects to provide assistance for low cost repairs of owner occupied residences and provide needed community improvements.~~

eb. Community service programs to provide job-related and human services assistance.

B. The following initiatives may be funded in the program areas:

a. Business Plan Technical Assistance and Market Analysis Program. Technical assistance for detailed market analyses and business plan assistance for business owners, property owners, and interested investors/developers. The individual(s) receiving assistance and the Trust Fund would share in the cost of developing the business plan. The Board will develop a sliding scale for the cost of this service.

b. Revolving Business Loan Program. A revolving loan fund program may be established to provide low interest business loans of up to \$50,000. Applications for loans under this program may not be forwarded to the Board for the Board's review and recommendation unless and until either: (i) two Board Members with loan underwriting experience have reviewed the application, or, (ii) one Board Member with loan underwriting experience has reviewed the application as well as one City staff member from the City's Office of Economic Development (OED) will have reviewed and commented on the application.

c. Micro Grant Program. A micro grant award program may be established in which \$1,000 to \$2,000 micro grant awards may be provided to businesses in good legal standing to be used in case of emergency situations. Emergency situations are defined as natural disasters (other than flood), or man-made disasters not covered by insurance.

~~d. Home Repair Program. A basic home repair grant/loan program may be established to provide grants for low income and elderly homeowners and/or low interest loans to moderate income homeowners not to exceed \$8,000 per household. The program shall be managed by the Housing Department which shall submit a request for no more than \$100,000 annually to the Board. The program shall be funded upon the recommendation of the Board and approval by the City Manager and City Council. Contractors should be from the program area whenever possible. Low and moderate income limits shall be consistent with those used in the Community Development Block Grant Program.~~

ed. Community-Based Non-Profit Organization Grant Program. A competitive grant award program may be established that funds community-based non-profit organizations determined to be tax-exempt under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code (26 U.S.C.A. §501(c)(3)) at an amount up to \$35,000 per year per organization to undertake program initiatives in the three approved program areas.

Attachment B

October 10, 2007

Section 2 (Continued)

The maximum award to the same organization may not exceed \$75,000 and the same organization may receive no more than three (3) grants. It is the objective that multiple grant awards to the same organization shall decrease through the three years of eligibility. The grant award funds shall be used to supplement other matching sources which may include in-kind service and goods contributions up to twenty-five percent (25%) of the grant award. The match must include at least seventy-five percent (75%) cash.

- e. Challenge Grants. A competitive challenge grant award program for direct assistance may be established to provide grant funding to neighborhood groups for activities that are consistent with Trust Fund objectives. These grant awards shall be a maximum of \$5,000 per grant and shall be matched by: (i) appropriately documented one-hundred percent (100%) volunteer in-kind service or goods, or (ii) one-hundred percent (100%) matching funds raised, or, (iii) a combination of both volunteer in-kind service or goods and matching funds raised that equals the grant award.

Trust Fund monies may be paid to grantees prior to the grantees having received its match where City staff has determined that the match commitment is binding, will be imminently provided and that the grantee project will be jeopardized without the Trust fund monies being contributed prior to the match commitment being accomplished.

- f. Public Safety Grant. The Public Safety Grant Program provides director assistance to neighborhood groups and nonprofit organizations for public safety and crime reducing activities. Projects or programs must reasonable, directly and measurable enhance the public safety of a significant and clearly identifiable segment of the Trust Fund Target area.

Organizations are not required to be 501(c)3 certified, but must have a certified organizational structure with a listing of member and officers. For the purpose of the Public Safety Grant program, neighborhood groups are defined primarily as community-based, self-help groups, which are operated primarily by unpaid community volunteers and carry out projects of limited scope and duration; providing social/human services in the Fair Park community.

The maximum eligible organizations may receive from this grant is \$10,000 per applicant per year for no more than three consecutive years.

- g. Special Grant/Loan Program. A special economic development grant/loan program may be established to be used as catalyst funding to promote economic development, or to stimulate business and commercial activity in the South Dallas/Fair Park area, including, but not be limited to, interim financing for businesses or projects promoting economic development, workforce development projects, retail development projects, development studies, public safety projects and for other economic development purposes that benefit the South Dallas/Fair Park community.

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Section 2 (Continued)

Eligible recipients for such funding for such grants/loans shall include: (i) for-profit entities that are in good legal standing and that are authorized to do business in the state of Texas; (ii) non-profit entities that have been determined to be tax-exempt under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code (26 U.S.C.A. §501(c)(3)) that have as their purpose either: (1) the development or diversification of the South Dallas/Fair Park economy, (2) the elimination of unemployment or underemployment in the South Dallas/Fair Park community, or, (3) the development or expansion of commerce in the South Dallas/Fair Park community; and (iii) governmental entities that are authorized to accept funding for economic development purposes and have pledged to use the funding in the South Dallas/Fair Park community for that purpose.

Projects should have tangible immediate ~~(within one year)~~ economic or community impact. Such loans/grants shall be recommended by the Board reviewed by and approved by the City manager or City Council, where applicable, under City contracting guidelines. Loans/grants may or may not require match funding and may or may not have collateral support. Applications for the special grant/loan program may be accepted throughout the fiscal year and grant/loan disbursements may be through reimbursement to the grant/loan recipient or the direct payment of invoice by a vendor providing documented services or goods to the project in accordance with city contracting procedures.

- h. Donor-Designated Grants. A donor-designated grant award program may be established in which the Board shall advise the City Manager or City Council, where applicable under City contracting guidelines, in determining funding in amounts and for lawful purposes determined by the donor for projects that have positive benefit to the South Dallas/Fair Park community.
- C. The following measures will be utilized in the implementation of approved funding activities:

 - a. The geographic focus of the program shall be the thirteen (~~4311~~) census tracts identified in the 2000 Census as Census Tracts 25, 27.01, 27.02, ~~28~~, 29, 34, 35, ~~36~~, 37, 38, 39.01, 39.02 and 40.
 - b. The Trust Fund will primarily support activities which are designed to assist current residents, businesses and programs in the target community, and, to a lesser degree, support to assist those businesses wishing to relocate or start up activities that would benefit the area. Marketing of the program will target all ethnic and economic groups in the area to insure opportunities for community wide participation. A good-faith effort shall be made to identify Hispanic recipients for at least ten percent (10%) of the loans/grants.

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Section 2 (Continued)

D. The following measures shall govern the funding of the Trust Fund:

- a. ~~Trust Fund funding sources shall include: (i) an annual \$200,000 contribution from the General Fund (contingent on the annual approval by the City Council); (ii) funding from the visitors formula described in Council Resolution 91-1597 adopted on May 22, 1991; (iii) funding from Smirnoff Music Center ticket sales in accordance with that certain agreement with Pace Entertainment Group, Inc. dated December 9, 1987, as that agreement is amended (the Pace Contract); (iv) funding from flea market, and antique shows, held at Fair Park in accordance with the proposal developed in accordance with Council Resolution 89-1674 adopted on May 24, 1989; (v) Trust Fund business loan repayments (both principal and interest); and (vi) interest on Trust Fund account balances. The Trust Fund may sponsor enterprise activities (e.g., vending at Fair Park events) to generate additional income and shall seek to leverage other public-private funding sources when feasible.~~

A target amount of \$500,000 annually from Fair Park Activities as specified herein, shall flow into the Trust Fund from the following sources: (i) GEXA ticket sales in accordance with the most current agreement with operator (ii) funding from flea market and antique shows held at Fair Park in accordance with Resolution No. 89-1674 adopted May 24, 1989. The Chief Financial Officer is hereby authorized to accept and deposit revenues collected to fund 0351, Unit 0448, Revenue Source 8529 (GEXA, and to fund 0351, Unit 0448, Revenue Source 8529) (flea market and antique shows).

- b. ~~If allowable under state and federal law, the City Manager may recommend that Community Development (CD) funds of up to \$100,000 be allocated to the Trust Fund's basic home repair program, and, if such allocation is approved by the Community Development Commission and City Council, the General Fund appropriation described in Section 2.D.a.i. above shall be reduced by an amount equal to such allocation.~~

If revenues from Section 2.D.a. (i) and (ii) above do not reach \$500,000 for a particular fiscal year, funding will be augmented by an allocation of funding from the City's Public Private Partnership Fund to attain the annual target funding amount of \$500,000. The Chief Financial Officer is hereby authorized to transfer funds in such amount as is determined to be the difference between actual revenue collected and the target of \$500,000 from PPPF 0352, Unit 9949, Object Code 3690 to South Dallas/Fair Park Trust Fund 0351, Unit 0448, Revenue Source 9201.

- c. If revenues from Section 2. D. a. (i) and (ii) reach \$500,000 or more in any fiscal year, no Public/Private Partnership Fund resources will be allocated to the Trust Fund to augment actual revenues received.
- d. Annual funding from Fair Park Activities described in Section 2.D.a. (i) and (ii) is capped at \$1,000,000.

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Section 2 (Continued)

- e. Principal and Interest from Trust Fund Business Loan payments, Interest on Trust Fund account balances and sponsorships from Enterprise activity that generates income may be used above the \$500,000 annual funding sources.
 - f. In order to supplement the annual funding target of \$500,000 from Fair Park Activities and other sources described within this Section above, the Chief Financial Officer is hereby authorized to transfer an additional \$800,000 from the City's General Fund: (Fund 0001, Department TBD, Unit TBD, Object Code 3690 to Fund 0351, Department ECO, Unit 0448, Revenue Source 9201) to the Trust Fund annually commencing FY 16/17 for a period not to exceed four years (total not to exceed \$3,200,000) and allocated to the Special Grant/Loan Program for catalyst economic development initiatives.
 - g. Funds available for annual Trust Fund programs shall consist of funds received by the Trust Fund from July 1st of the previous calendar year through June 30th of the next succeeding calendar year. Funds from each funding source shall be available for Trust Fund programs in the City fiscal year beginning October 1st, with the annual program appropriation equal to funds received from all funding sources. The Board, through the City Manager, may recommend in accordance with Resolution No. 04-0801 that unused and unencumbered Trust Fund monies which have been accrued at the end of a fiscal year be used in a subsequent fiscal year to fund and support activities that are consistent with the Trust Fund's approved program areas.
- E. The following measures shall govern the administration of the Trust Fund:
- a. Trust Fund Disbursements. The Trust Fund shall disburse funds through one funding cycle per year (except for disbursements for the ~~basic home repair grant/loan program~~, the micro grant program and the special grant/loan program), based on an annual budget. Emergency grants may be approved throughout the year or until budgeted funds for programs have been committed.
 - b. Administration. Program administration shall remain in the OED and continued as an activity funded by the Trust Fund. In order to provide fiscally responsible management, fiscal management of the Trust Fund shall be the responsibility of the OED Budget/Finance Manager. Trust Fund operating expenses are to be budgeted annually by the Trust Fund Manager and OED Budget/Finance Manager with review by the Trust Fund Advisory Board. The final approval of the Trust Fund budget shall be determined by the City Council through the City budgeting process. An internal mid-year budget re-programming may be recommended by the Board to the City Manager if a significant amount of funds become available. The Board and the City staff should formulate a budget by April of each year and submit a recommended budget to the City Manager and City Council during the budget cycle.
- Loan payments are to be posted as they are received to the proper accounts, money deposited with cashier and deposits reconciled monthly. A monthly report of all accounts showing current account balance and activity will be made available to the Trust Fund Manager by the 20th of each month.

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Section 2 (Continued)

The Trust Fund Manager will work with OED Budget/Finance Manager to pursue the collection of delinquent accounts according to the procedures that the City Comptroller's Office has developed for the collection of business loan accounts. OED Budget/Finance Manager will reconcile the Trust Fund's business loans with other financial systems.

- c. Administrative Costs. Trust Fund monies may be used for at least one (1) City staff position to serve as a South Dallas/Fair Park Neighborhood Advocate/Public Information Officer and/or Trust Fund Manager to assist community groups, individuals and business owners with community services, economic development and housing and neighborhood improvement initiatives and to promote the Trust Fund and develop marketing materials. Administrative costs for the Trust Fund operations, including staff expense, will be paid from the General Fund unit assigned to the Trust Fund. ~~Before the end of the program year, the General Fund will be reimbursed from the Trust Fund Program funding unit currently 0351 no more than 15 percent of budgeted annual operating expenses.~~

Before the end of the program year, to the PPPF Fund 0352, Unit P151, will be reimbursed from the Trust Fund. Fund 0351, Unit 0448, no more than 15% of budgeted annual operating expenses. Beginning FY 16/17, for a period of four years ending FY 20/21, ALL administrative costs will be reimbursed to PPPF Fund 0352, Unit P151 from Trust Fund Fund 0351, Unit 0448. THEREAFTER, commencing FY21/22, administrative cost for Trust Fund operations will be reimbursed from the Trust Fund: Fund 0351, Unit 0448 to the PPPF Fund 0352, Unit P151 no more than 15% of budgeted annual operating expenses.

- d. Support of Trust Fund From Other City Departments. The Trust Fund will be supported by other City departments in carrying out its programs.
- (i) Parks & Recreation Department. The City's Department of Parks and Recreation, under the terms of the Pace Contract, will allocate and deposit to the Trust Fund the monies described in the Pace Contract for events held at the ~~Smirnoff Music Center~~ GEXA and will deposit the allocated antique show and flea market monies to the Trust Fund in accordance with Council Resolution 89-1674. The Parks and Recreation Department will also validate the accuracy of the number of tickets sold with regards to the events described herein. (subject to appropriations), ~~compile statistics for the visitor's formula annually per Resolution No. 91-1697 and allocate and deposit to the Trust Fund the appropriate monies based on that formula.~~

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Section 2 (Continued)

In order to supplement the annual funding target of \$500,000 from Fair Park Activities (subject to future appropriations the Chief Financial Officer is hereby authorized to transfer an additional \$800,000 from the City's General Fund: Fund 0001, Department PKR, Unit 9487, Object Code 3690 to fund 0351, Department ECO, Unit 0448, Revenue Source 9201) shall be provided to the Trust Fund annually commencing FY 16/17 for a period not to exceed four years (total not to exceed \$3,200,000) and allocated to the Special Grant/Loan Program for catalyst economic development initiatives.

- (ii) ~~Water Utilities Department. Special Collections will set up loan accounts, assign account numbers and mail out payment coupons with customer letters outlining the terms of the loan agreement and informing Trust Fund loan recipients of when, how and where to make payments. Payments are to be posted as they are received to the proper accounts, money deposited with cashiering and deposits reconciled monthly. A monthly report of all accounts showing current account balance and activity will be sent to the Trust Fund Manager by the 11th of each month. Special Collections will assist the Trust Fund Manager in the collection of delinquent accounts according to the procedures that the City Comptroller's Office has developed for the collection of business loan accounts. Special Collections will also reconcile the Trust Fund's business loan system with other financial systems.~~

The Water Utilities Department will also be responsible for funding and implementing a City Leadership Grant Program specific to South Dallas Fair Park for three years beginning FY 15/16, funded at \$200K annually for the three year period (total funding not to exceed \$600,000). (subject to appropriations)

- (iii) The City Attorney's Office. The City Attorney's Office will advise the Board and will prepare all pertinent loan documents, review and approve documentation for loans and grants, make demand on delinquent loan accounts as inappropriate and facilitate collateral lien perfection and recovery.
- (iv) The City Auditor's Office. The City Auditor shall perform an annual audit of the Trust Fund and its operations. The annual audit shall include an audit of cash coming into the Trust Fund account as well as expenditures. The City Auditor shall conduct the fiscal audit requirement shall also require an annual audit of operations of the Trust Fund and the Board. The annual audit of the operations of the Trust Fund and the Board shall be conducted with the Trust Fund Manager.

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October 10, 2007

Section 2 (Continued)

- (v) The Office of Economic Development. Beginning in FY2015/16, the Office of Economic Development (OED) will allocate "Seed Money" through the City's Public Private Partnership Fund in the amount of \$250,000 annually for four years (total not to exceed \$1 million) for Grand Park South Tax Increment Finance (TIF) District projects approved by the TIF Board.

The OED will further allocate additional funding for FY2016/17 in the amount of \$250,000 through the City's Public Private Partnership Fund (total not to exceed \$250,000) to the South Dallas Adaptive Reuse Program herein established and described on Exhibit 1.

- F. The composition of the Board shall be changed to insure that at least eight members must have direct connection to South Dallas/Fair Park community (live, own a business, work, active community involvement). Seven (7) positions will be "at large" having qualifications related to business, housing, non-profit management and/or community building. At least two (2) current board members must have loan underwriting experience. The Board shall hold a minimum of one public hearing a year, hold at least six monthly meetings in the Trust Fund area each year and shall provide citizens an opportunity to address the Board at each regular meeting.

~~Section 3. That Resolution No. 06-1833 approved on June 28, 2007, shall remain in full force and effect except as amended herein.~~

Section-4 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas; and it is accordingly so resolved.

ARTICLE I PURPOSE AND TERM.

Section 1.01 Purpose.

(a) **General.** Subject to the terms and conditions set forth in this Agreement, the City hereby appoints the Foundation as the exclusive operator and manager of Fair Park, and the Foundation hereby accepts such appointment for the benefit of the City's residents and the visitors to Fair Park in accordance with the terms of this Agreement. The Foundation hereby commits to fully and completely support Fair Park as a public park, maintaining and managing the grounds and facilities of Fair Park as a vibrant, year-round location for events, daily activities, cultural enrichment, and place for quiet enjoyment. The Foundation agrees that Fair Park will only be used for the Permitted Use, as defined in Section 4.05. The purpose of this Agreement is to set forth the terms and conditions upon which the City retains the Foundation and the Foundation undertakes and agrees to operate, manage, maintain, promote, enhance, and improve Fair Park ("**Fair Park Management**").

(b) **~~Goals~~Performance Objectives.** The City, acting through its Park and Recreation Board (the "**Park Board**"), has identified certain goalsperformance objectives for the Foundation to pursue in the course of Fair Park Management, subject to the terms and conditions set forth in this Agreement. These goals-performance objectives include (i) the creation and maintenance of a community park to be located in Fair Park, as more fully described in Section 6.16; (ii) the support and enhancement of Fair Park as a national historic landmark; (iii) the maintenance and enhancement of the various cultural institutions located in Fair Park; and (iv) the maintenance and enhancement of the sporting and recreation venues located in Fair Park. The Foundation acknowledges that these goals-performance objectives form the City's primary purposes for entering in to this Agreement. The City acknowledges that the aforementioned goals-performance objectives are non-exclusive and that the Foundation may pursue additional goals-performance objectives and objectives with respect to Fair Park, subject to the terms and conditions of this Agreement.

ARTICLE II OWNERSHIP, TRANSFERS, AND TRANSITION.

Section 2.03 Transfer of Fair Park Personal Property.

(a) **Generally.** The City shall convey to the Foundation prior to the Commencement Date, by an Assignment and Bill of Sale (or other applicable instrument) to be effective as of the Commencement Date and subject to the reversion and re-conveyance to the City of any such items existing on the date of expiration or termination of this Agreement as set forth herein, the equipment, furniture, fixtures, supplies, computers, inventory, Fair Park Vehicles, permits, ~~intellectual property~~, and other tangible and intangible personal property owned by the City (except for the public art work listed in Exhibit 2.03(e) and the historic furnishings listed in Exhibit 2.03(f)) and used in connection with and necessary to the operation of Fair Park (such

property, the “**Fair Park Personal Property**”). Title to Fair Park Personal Property transferred as of the Commencement Date will remain in the Foundation until said items of Fair Park Personal Property are replaced, disposed of, transferred, terminated, or allowed to expire by the Foundation in accordance with this Agreement. All tangible and intangible personal property acquired by the Foundation during the Term to replace, increase, or augment the original Fair Park Personal Property will also be deemed Fair Park Personal Property, owned by the Foundation and subject to this Agreement. Attached hereto and incorporated herein by reference as Exhibit 2.03(a) is an inventory of Fair Park Personal Property to be conveyed.

(e) **Public Art Work.** Title to the public art work as listed in Exhibit 2.03(e) (the “**Public Art Work**”) shall not be transferred to the Foundation and shall remain the property of the City. Notwithstanding the foregoing, the Foundation has the right to add art work, subject to approval by the Director of the City’s Office of Cultural Affairs (together with his or her designee, the “OCA Director”) in advance, and that upon installation such art work shall be vested in title to the City. Without limiting the obligations set forth in this Agreement, and subject to ~~the Foundation’s receipt of~~ the full Management Fee pursuant to Article III, the Foundation shall be responsible for all maintenance and upkeep of the Public Art Work at the direction of the OCA Director. Any removal of the Public Art Work by the Foundation (including but not limited to for purposes of maintenance and repair) shall be approved in advance by the ~~Director of the City’s Park and Recreation Department or his or her designee (the Director together with his or her designee, the “Director”)~~ OCA Director. ~~The City acknowledges that the~~ Foundation ~~is not~~ shall be obligated, subject to proportional reductions as set forth below in the event the Foundation receives less than the full Bond Funds for Priority #1 projects, to restore- conserve the Public Art Work at the direction of the OCA Director, ~~except insofar as the Foundation receives funding that is specifically designated for such purpose from the City. Any restoration or maintenance of the Public Art Work shall be subject to review by the Public Art Program Manager in the City’s Office of Cultural Affairs and the approval of the Director. The maintenance and upkeep responsibilities shall be reduced proportionally by the amount of such reduction in the Management Fee, and (ii) with respect to conservation, that the Foundation’s conservation responsibilities shall be reduced proportionally by the amount of such reduction in Bond Funds allocated for Priority #1 projects under this Agreement.~~

Section 2.04 Fair Park Intellectual Property.

(a) During the Term, the City will license to the Foundation the exclusive, royalty-free right to use the trademark FAIR PARK™; all domain names registered by the City in connection with Fair Park; any other trade names, trademarks, service marks, copyrights, logos, or slogans used in connection with Fair Park; and other such rights or interests owned by the City for the benefit of or in connection with Fair Park (all of the foregoing, the “**Fair Park Intellectual Property**”) for the sole purpose of performing this Agreement. Unless expressly so provided, said rights and interests will not be exclusive of City’s right to use and/or otherwise exploit same. During the term of the Agreement, City will not use the Fair Park Intellectual Property without prior notification to the Foundation.

Section 2.05 Fair Park Contracts.

(a) **Assignment and Assumption.** Upon the Commencement Date, the City shall and does hereby assign to the Foundation and the Foundation shall and does hereby assume from the City all of the obligations and duties under the contracts set forth on Exhibit 2.05(a) as owner (including departments of the owner), landlord, or licensor (such contracts, including current short-term leases, the “**Fair Park Contracts**”), subject to the limitations described in this Section 2.05. Copies of all Fair Park Contracts shall be separately delivered to the Foundation by the Director of the City’s Park and Recreation Department or his or her designee (the Director together with his or her designee, the “Director”). On the Commencement Date, all of the duties and obligations of the City under the Fair Park Contracts shall be assumed by the Foundation. Fair Park facility leases for events that will take place in the City’s 2016-2017 fiscal year shall be assigned to the Foundation, and the Foundation shall comply with all of the terms and conditions of such short-term leases. With respect to this Section 2.05(a), “short-term lease” is defined as a lease term that does not exceed one year, with no option for any renewals. The City, through its Director, will provide notice of each assignment and assumption to each party to the Fair Park Contracts in accordance with the notice provision of each Fair Park Contract. The parties agree that the assignments of the Fair Park Contracts are not intended to effect a sale of the City’s property interest in Fair Park to the Foundation.

(d) **Athletic Events.** ~~Provided the City appropriates the full Management Fee to the Foundation pursuant to Article III, the~~ The Foundation shall assume the City’s payment obligations under those Fair Park Contracts which are related to athletic events taking place at the Cotton Bowl at Fair Park. The parties acknowledge that a portion of the Management Fee is comprised of various game stipends subject to appropriation amounts due by City under the Athletic Event contracts listed on Exhibit 2.05(d). Therefore, should any one of the Athletic Events be discontinued, the Management Fee shall thereafter be permanently reduced to that amount less the game stipend amount for the discontinued event; provided however, the Foundation shall have a cure period of eighteen (18) months to find a game or other Athletic Event replacement to avoid the permanent reduction impact to the Management Fee.

ARTICLE III MANAGEMENT FEE AND OTHER FISCAL MATTERS.

Section 3.01 Management Fee.

(a) **Amount.** As compensation for Fair Park Management by the Foundation, the City shall pay to the Foundation an annual management fee (the “**Management Fee**”). For the City’s fiscal year beginning on October 1, 2016, the Management Fee will be Twelve Million Five Hundred Twenty-Five Thousand Dollars (\$12,525,000), One Million Dollars (\$1,000,000) of which will be the Transition Funds payable to the Foundation prior to the Commencement Date pursuant to Section 3.02. For the City’s fiscal year beginning on October 1, 2017, the Management Fee will be Eighteen Million Seven Hundred Thousand Dollars (\$18,700,000). For the City’s fiscal year beginning on October 1, 2018 and continuing through the end of the Term (including any Renewal Term), the Management Fee will be Twenty Million Seven Hundred Thousand Dollars (\$20,700,000).

(b) **Payment.** For the City’s fiscal year beginning on October 1, 2016, the entire Management Fee shall be due and payable to the Foundation in one lump sum on January 1, 2017, except for the Transition Funds, as provided in ~~Section 1.01~~Section 3.02. In all subsequent City fiscal years, the Management Fee shall be due in equal quarterly installments in advance no later than October ~~21st~~, January ~~15~~, April ~~15~~, and July ~~15~~ of each year. The Management Fee shall be prorated on a daily basis for any partial year resulting from the expiration or termination of this Agreement. The City will be entitled to a credit against quarterly installments in an amount equal to the aggregate of any amounts owed by the Foundation to the City pursuant to this Agreement with respect to the preceding quarterly period(s) or portions thereof.

Section 3.02 Transition Funds. No later than ~~fourteen (14) days after the Effective Date~~October 31, 2016, the City shall pay to the Foundation One Million Dollars (\$1,000,000), to be used by the Foundation for such reasonable purposes to facilitate an orderly transition of Fair Park Management (such funds, the “**Transition Funds**”). The Foundation may use the Transition Funds for operations or for capital expenditures in its reasonable discretion.

Section 3.03 Bond Funds. The City intends to seek voter ~~consideration~~approval to authorize the issuance of bonds funds (the “Bond Funds”) for certain capital expenditures (including major maintenance and improvements) at Fair Park (the “Fair Park Capital Bond Expenditures”) in the next two (2) upcoming general obligation bond programs. The decision to call a bond election is subject to the decision of the City Council serving at the time a bond election may be called, and is further subject to state and federal law existing at the time a bond election is called relating to the issuance of bonds. The issuance of bonds shall be subject to then prevailing market conditions, and the City reserves the right to delay or postpone bond sales until such time as the City determines that favorable market conditions exist to allow for the economic sale of bonds. Certain portions of ~~such~~the proceeds received from the sale of bonds authorized to finance Fair Park Capital Bond Expenditures (“Bond Funds”) shall only be disbursed by the City upon the Foundation successfully obtaining matching funds from Non-City Sources, as set forth in the table, below. “Non-City Sources” means funding obtained from private foundations; for-profit corporations; nonprofit corporations; federal, state, or local (non-City) governmental entities; or any other source of funding other than the City. Non-City Sources shall be obtained prior to the sale of bonds by the City to finance Fair Park Capital Bond Expenditures, as set forth in the table, below. For purposes of clarity, Non-City Sources includes funds obtained by the Foundation for naming and sponsorship purposes pursuant to Section 4.17, as well as donations in kind. “Donations in kind” means goods or services other than donations of art work, unless and until such time as such art work is liquidated by the Foundation. The Foundation shall provide documentation to the City prior to the sale of bonds to finance Fair Park Capital Bond Expenditures of the fair market value of the goods or services provided as donations in kind. The Director may elect for an appraisal of any donations in kind obtained by the Foundation, as provided in Section 3.04.

In the first bond program, tentatively scheduled ~~for to be included in the proposed~~ a 2017 election, the City intends to seek a total of Seventy-Five Million Dollars (\$75,000,000) in Bond Funds to be allocated for Fair Park Capital Bond Expenditures. Such Bond Funds from the first bond program ~~shall are intended to~~ be disbursed as follows:

FIRST BOND PROGRAM – Tentatively planned for a May	
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2017 Election			
	City of Dallas Bond Program (\$000's)	Required Match From Non-City Sources (\$000's)	Total Funds (\$000's)
1st Sale¹	25,000	0	25,000
2nd Sale²	25,000	25,000	50,000
3rd Sale³	25,000	25,000	50,000
TOTAL CAPITAL EXPENDITURE FUNDING	\$75,000	\$50,000	\$125,000
Footnote #1 -	The City pays for Priority #1 projects indicated in Capital Needs Inventory for Fair Park		
Footnote #2 -	The City pays for Priority #1 and Priority #2 projects; the Foundation pays for Priority #3 and/or Priority #4 projects		
Footnote #3 -	The City pays for Priority #2 projects; the Foundation pays for Priority #3 and/or Priority #4 projects		

Reference is made in the tables above and below to that certain Capital Needs Inventory for Fair Park, attached hereto as Exhibit 3.03 and incorporated herein by reference. During the term of the Agreement, the Capital Needs Inventory for Fair Park shall be subject to change only upon Director approval.

In the second bond program, tentatively scheduled ~~for a to be included in the proposed 2020 to 2022~~ election to be held in 2020 to 2022, the City intends to seek a total of fifty million dollars (\$50,000,000) in Bond Funds for Fair Park Capital Bond Expenditures. Such Bond Funds from the second bond program ~~shall~~ are intended to be disbursed as follows:

SECOND BOND PROGRAM - Tentatively planned for a 2020 to 2022 Election			
	City of Dallas Bond Program (\$000's)	Required Match From Non-City Sources (\$000's)	Total Funds (\$000's)
1st Sale⁴	25,000	25,000	50,000
2nd Sale⁵	25,000	25,000	50,000
TOTAL CAPITAL EXPENDITURE FUNDING	50,000	50,000	100,000
Footnote #4 -	The City pays for Priority #2 and Priority #3 projects; the Foundation pays for Priority #4 projects		
Footnote #5 -	The City pays for Priority #3 projects; the Foundation pays for Priority #4 projects		

If the Bond Funds described in this Section 3.03 are not authorized, the Foundation and the Director will work together to determine other sources of capital to meet the capital needs of Fair Park. Nothing in the preceding sentence shall limit the rights of the Foundation under Section 13.05.

For Purposes set forth herein the Priority classifications shall be defined as follows:

Priority 1: expenditures for public safety, security, ADA compliance;

Priority 2: expenditures for deferred major maintenance;

Priority 3: expenditures for programs or projects directed to maintain customer base and prevent attrition;

Priority 4: expenditures for programs or projects directed to obtain new customers, expand Fair Park identity into new markets.

Section 3.05 Foundation Funding of Resident Institutions.

(a) **Appropriation of Full Management Fee.** (i) If the City Council appropriates the full Management Fee owed to the Foundation pursuant to this Article III for any given City fiscal year beginning on October 1, then the Foundation shall allocate at least One Million Three Hundred Thousand Dollars (\$1,300,000), and may allocate up to One Million Seven Hundred Thousand Dollars (\$1,700,000), in the aggregate to ~~the those~~ institutions ~~set listed forth~~ on Exhibit 3.05 (such institutions, the “**Resident Institutions**”) during the Foundation Fiscal Year beginning on the following January 1. The Foundation acknowledges that these Resident Institutions receive annual subsidies subject to appropriation funding from the City, which subsidies, effective as of the Commencement Date shall thereafter during the term of this Agreement be the responsibility of the Foundation. Such allocation shall be used for programming, utilities, facility maintenance, and other facility support of these Resident Institutions in accordance with an allocation plan mutually agreed to by the Director, the Foundation, and the OCA Director. Consistent with the Management Fee, commencing on October 1, 2020, the allocation to Resident Institutions shall be adjusted proportionally per any modification to the Management Fee.

(ii) Notwithstanding anything to the contrary set forth in the preceding paragraph (a), the parties acknowledge and agree that there are various operators and occupants within the various buildings comprising Fair Park that the City has deemed as resident institutions due to their longstanding tenancy but do not receive annual City subsidies as the Resident Institutions described in Exhibit 3.05.

(b) **Appropriation of Less Than Full Management Fee.** If the City Council ever appropriates less than the full Management Fee owed to the Foundation pursuant to this Article III for any given City fiscal year beginning on October 1, then the Foundation shall only be required to allocate to the Resident Institutions One Million Three Hundred Thousand Dollars (\$1,300,000) *reduced* proportionally by the amount of such reduction in the Management Fee during the Foundation Fiscal Year beginning on the following January 1. For purposes of illustration, if the City Council appropriates to the Foundation the Management Fee in an amount that is ten percent (10%) less than that owed under this Article III, then the Foundation shall only be required to allocate to the Resident Institutions One Million Three Hundred Thousand Dollars (\$1,300,000) less ten percent (10%) of such amount, which equals One Million One Hundred Seventy Thousand Dollars (\$1,170,000).

(c) **No Further City Funding.** If the Resident Institutions obtain funding from the Foundation during any given year in accordance with this Section 3.05, then it shall be the policy of the City that those Resident Institutions may not seek any additional funding from the City during such given year, except that such Resident Institutions, if eligible, may seek funding (for special exhibitions or projects) from the Office of Cultural Affairs' Cultural Organizations Program, or its equivalent.

(d) **Funding Recommendations.** Except for the Texas Discovery Garden, the Foundation will utilize the Office of Cultural Affairs' annual application and review process for the evaluation and recommendation of the funding support for the Resident Institutions described in this Section 3.05.

Section 3.06 Non-Appropriation. The City's obligation to pay any monetary amounts or fiscal obligations provided in this Agreement, including each fiscal year's ~~the~~ Management Fee to the Foundation, shall be subject to and strictly contingent on annual appropriation thereof by the City; provided, however, that upon the City's failure to appropriate or pay the full amount of the Management Feesaid amounts in any City fiscal year, this Agreement may be terminated by the City, or Foundation, as set forth in Section 13.05.

ARTICLE IV MANAGEMENT AND OPERATION OF FAIR PARK.

Section 4.01 Foundation Management and Operation. From and after the Commencement Date, the Foundation shall do all things and take all actions, at its cost and expense, necessary for Fair Park Management in accordance with this Agreement. The Foundation shall fully support and facilitate, both financially and otherwise, Fair Park under this Agreement. The Foundation is and at all times shall be an independent contractor retained by the City to provide Fair Park Management as herein provided. The City shall not be responsible for any of the costs of Fair Park Management. All such costs shall be the responsibility of the Foundation.

Section 4.02 Foundation Governance. Throughout the Term, the Foundation shall be governed by a board of directors (the "**Foundation Board**") consisting of no fewer than nine (9) members, the composition of which shall be diverse and inclusive. Throughout the Term, no less than the greater of (i) one (1) member or (ii) ten percent (10%) of the membership of the Foundation Board will consist of *each* of (A) persons from and representing the historic preservation community and (B) persons from and representing the surrounding Fair Park community. The Director of the City's Park and Recreation Department will serve as the Park and Recreation Department's liaison to the Foundation Board but shall not be a member of the Foundation Board and shall serve in a non-voting capacity. In addition to the Foundation Board, throughout the Term, the Foundation may be advised by an advisory board.

Section 4.03 Performance Plan and Reports to Park Board.

(a) **Performance Plan.** In order for the Park Board to evaluate the performance of the Foundation during the Term of this Agreement, the Foundation shall submit to the Park Board a Performance Plan for Fair Park (the “**Performance Plan**”) as described in this Section 4.03. The Performance Plan will set forth the performance objectives for Fair Park, which shall address (but not necessarily be limited to addressing) those ~~goals~~ performance objectives identified by the City set forth in Section 1.01(b). The Performance Plan will identify “performance indicators” reasonably related to the performance objectives. The performance indicators to be included in the Performance Plan shall include but not necessarily be limited to (i) the number of visitors to Fair Park; (ii) the number of events held at Fair Park and at the various institutions and venues located thereon; (iii) the Foundation’s net and gross operating revenues; (iv) Capital Expenditures at Fair Park, including the Fair Park Capital Bond Expenditures; ~~and~~ (v) contributions to the Foundation or other contributions obtained for the benefit of Fair Park, from both the City and Non-City Sources; (vi) the amount of contributions raised for the signature community park; (vii) the amount of green space created at Fair Park; and (viii) the Foundation’s progress in meeting the City’s BID Plan as hereinafter defined in Section 4.13(a). The year beginning on January 1, 2018 and ending on December 31, 2018 will serve as the base year to measure the Foundation’s performance under the Performance Plan. During the Term of this Agreement, the Performance Plan will be updated by the Foundation from time to time or as reasonably requested by the Director.

(b) **Development of Performance Plan.** No later than April 30, 2017, the Foundation shall identify the ~~performance objectives and~~ performance indicators measuring performance of the performance objectives to be included in the Performance Plan and shall provide a written report to the Park Board with respect to same. No later than December 31, 2017, the Foundation, in collaboration with Park Department staff, shall identify and develop the various devices and systems that will be used to measure the Foundation’s performance with respect to the performance indicators and shall provide a written report to the Park Board with respect to same. The Performance Plan shall be subject to Park Board review and approval. During the year beginning on January 1, 2018, the Foundation shall collect the data necessary to measure the baseline with respect to each of the performance indicators. After the collection of this data and no later than April 30, 2019, the Foundation shall submit the initial Performance Plan to the Park Board.

(c) **Reports to Park Board.** During the first two (2) years of the Term of this Agreement, the Foundation shall provide to the Park Board a report regarding significant activities at Fair Park, including but not limited to the transition of Fair Park Management to the Foundation, no less than quarterly. Starting in the year beginning on January 1, 2020, the Foundation shall provide to the Park Board an annual report summarizing its performance under the Performance Plan during the preceding year, such annual report to be provided no later than April 30 of each year. The annual report will also include other significant activities and accomplishments that occurred at Fair Park during the preceding year and information regarding activities or improvements planned for the future.

(d) **Remediation Plan.** If in any given year the Foundation fails to substantially achieve-meet any one of the performance indicators as set forth in the Performance Plan by a deviation of ten percent (10%) or more, the Director or Park Board shall may, after taking all factors into consideration, require the Foundation to engage an independent consultant at its sole

expense to develop and oversee the implementation of a remediation plan. As part of the remediation plan, the Foundation shall provide periodic updates to the Park Board on the remedial action being taken. ~~The parties acknowledge and agree that this Section 1.01(a) is subject to the City's payment to the Foundation of the full Management Fee pursuant to Article III.~~

Section 4.13 Contracts Related to Fair Park Management; General Provisions.

(a) **General Requirements.** The Foundation may perform any obligation or activity required or permitted of it pursuant to this Agreement through its own personnel or by subcontracting for the performance thereof by others. If the Foundation subcontracts for the performance by others of any of the duties set forth in this Agreement, each such subcontract or agreement will require at least the same standards and preserve to the City at least the same controls with which the Foundation would be required to observe and comply. All such contracts, agreements, and undertakings will be in the name of the Foundation, as applicable, and not the City. In no event will the Foundation enter into any contracts, agreements, or undertakings in connection with Fair Park and this Agreement, including any concession agreement or occupancy agreement relating to such concession that extends beyond the Term of this Agreement. All such contracts, agreements, or undertakings will expressly (i) be made subject to the terms of this Agreement; (ii) be made subject to all Applicable Laws; (iii) provide for the automatic termination thereof upon the expiration or termination of this Agreement, unless the City (through its Director and Park Board) approves the continuation and the assumption by the City of such contract, agreement, or undertaking as of the date of such expiration or termination of this Agreement; (iv) require the contractor to use good faith efforts to comply with the City's Business Inclusion and Development Plan, as amended from time to time (the "**BID Plan**"); (v) contain commercially reasonable insurance requirements for coverages and limits not less than those which are customarily required by the City of its like contractors, naming the City and its officers and employees as additional insureds; (vi) indemnify the City and its officers and employees against any costs or liabilities thereunder using language substantially similar to the Foundation's indemnifications of the City found in this Agreement; and (vii) if applicable, contain vendor qualification requirements sufficiently broad so as not to exclude minority vendors as a class, and general contract specifications sufficiently broad so as not to favor a single vendor.

(b) **City Review.** A current list of all such contracts, agreements or undertakings, including the parties thereto, the primary purpose thereof and applicable contract, agreement or license fees, shall be maintained by the Foundation and, upon the City's request, shall be provided to the City without delay.

(c) **Additional Information.** Upon the City's request, the Foundation shall make and provide copies of any contracts, agreements, undertakings, and other information requested by the Director. If any such material is labeled confidential or trade secret, the City shall follow the applicable state law provision (the Texas Public Information Act) with respect to any open records request. Transparency of Fair Park operations being a prime objective of this Agreement, the Foundation will endeavor and use reasonable efforts to minimize the instances of confidential agreements.

(d) **Commercially Reasonable.** All such contracts, agreements, and undertakings as well as staff salaries, compensation, perquisites, and benefits shall be commercially reasonable and consistent with comparable park industry standards.

Section 4.14 Leases or Licenses. During the Term of this Agreement, the Foundation shall have the exclusive right to lease or license Fair Park facilities for any Permissible Use. All such agreements entered into by the Foundation must comply with all Applicable Laws. Notwithstanding the foregoing, (i) any contracts or series of contracts creating an occupancy interest in any facility at Fair Park in excess of one year, including amendments to existing contracts to extend or create an occupancy interest for periods in excess of one year, except for concessionaire or vendor contracts, shall be subject to Park Board approval, and the Park Board may in its sole discretion elect to obtain City Council approval, and (ii) any change in occupancy or operator of any facility at Fair Park that is occupied as of the Commencement Date shall be subject to the approval of the Director.

Section 4.15 Operating Hours. Fair Park shall remain open and accessible for public use subject to reasonable rules, regulations, policies, procedures, operating hours, and holidays established by the Foundation, which shall be commercially reasonable and consistent with comparable park industry standards. Any material reduction or shortening of operational days and hours shall be submitted in advance to the Director and the Park Board for review and approval prior to implementation.

ARTICLE VI MAINTENANCE, ALTERATIONS, AND CONSTRUCTION.

Section 6.01 Regular Maintenance and Repair. ~~Subject to the Foundation's receipt of the full Management Fee pursuant to Article III of this Agreement, at~~ At all times during the Term of this Agreement, the Foundation shall maintain and repair Fair Park on a regular basis and as needed from time to time in order to keep Fair Park in good working order; in a safe, attractive and orderly condition; and in substantial compliance with comparable park industry standards and with this Agreement. If Fair Park fails to substantially comply with such standards, the Foundation will have a reasonable period of time in which to attain such standards. The Foundation shall promptly perform any maintenance and repair necessitated by Applicable Laws, for safety reasons, or to maintain any applicable licensing and permitting requirements. The Foundation shall perform or cause to be performed any and all maintenance and repairs in a good and workmanlike manner, consistent with any and all Applicable Laws. To the extent that funding is only partially provided, the Foundation shall be responsible for such maintenance and repair in proportion to the funds received from all sources.

Section 6.02 Alterations. Subject to complying with any and all Applicable Laws and any required Governmental Approvals (including those of the Dallas Landmark Commission and the historic overlay district), the Foundation may make such additions, modifications, replacements, renovations, expansions, and enhancements, including the remodeling or demolishing of any existing improvements and the constructing and installing of new improvements (all of the foregoing, "**Alterations**") as the Foundation deems necessary or desirable for Fair Park Management, substantially consistent with the Fair Park Comprehensive Development Plan, as amended, for the period during which such Alterations are performed.

The Foundation acknowledges and agrees that certain public art work at Fair Park, including without limitation the murals, is attached to and a part of the buildings and improvements at Fair Park and that any Alterations to such buildings and improvements will incorporate the maintenance, upkeep and conservation needs of such public art work. Notwithstanding the foregoing, any Substantial Projects performed by the Foundation during the Term of this Agreement shall be subject to the Director's approval, as more fully described under **Error! Reference source not found.** Immediately upon completion and acceptance by the City, acting through its Director, all Alterations will become part of Fair Park and become the property of the City. All such Alterations, when any of such work is completed, must substantially comply with all Applicable Laws, including without limitation the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et. seq.), as amended, restated, or replaced from time to time.

Section 6.16 Community Park. ~~No later than six (6) months from the Commencement Date During year one (1) of the Term of this Agreement,~~ the Foundation ~~intends to begin~~ shall undertake conceptual designs for a signature community park to be located within Fair Park in the vicinity of Robert B. Cullum Boulevard, Martin Luther King Junior Boulevard, Grand Avenue, and Second Avenue, as shown on Exhibit 6.16, to be open to the public free of charge so as to allow the surrounding neighborhood year-round access to green space, a children's play area, and recreational opportunities. Pursuant to Section 6.05(a), the Foundation shall obtain the approval of the Director prior to the commencement of any construction of the community park. Subject to any necessary consents or approvals, the community park referenced in this Section 6.16 shall remain open to the public free of charge on a year-round basis, including during the annual run of the State Fair of Texas. The Foundation acknowledges that construction of this community park is the Park Board's top priority, ~~and the City acknowledges that the Foundation's ability to construct this community park will be dependent on the ability to raise the necessary funding.~~ The Foundation shall commence construction of the signature community park within twenty-four (24) months of funding becoming available pursuant to Section 3.03.

ARTICLE VII REVENUE OPPORTUNITIES.

Section 7.01 Fair Park Revenues. The Foundation shall develop and exploit all revenue opportunities from and related to Fair Park. Said revenues shall be used by the Foundation solely for Fair Park Management as provided for in this Agreement. If revenues derived from or by reason of Fair Park are insufficient to maintain and operate Fair Park pursuant to this Agreement, the Foundation shall use reasonable efforts to supplement those funds from other sources in order to provide proper maintenance and operation of Fair Park as provided in this Agreement. Unless as otherwise provided in this Agreement, R revenues derived from or by reason of Fair Park shall include the Management Fee; admissions fees (if applicable); parking fees; rents and other user fees, except for revenues derived from licenses from the communications tower located at Fair Park; programming revenue; concession and vendor revenue; revenues from any Fair Park Contracts; interest and investments revenue; revenue from exploitation of intellectual property rights; advertising, naming, and sponsorship revenue;

~~revenue derived from the communications tower located at Fair Park;~~ and any other revenues generated on or from the premises of Fair Park. Subject to the Foundation's obligation under this Agreement to maintain, repair, replace and, upon the expiration or termination of this Agreement, re-convey the Fair Park Personal Property as stated in this Agreement, revenue from the sale and disposal of the Fair Park Personal Property shall also constitute Fair Park revenue. Any insurance proceeds and condemnation awards received by the Foundation shall also constitute Fair Park revenue.

ARTICLE XIII DEFAULTS, REMEDIES AND REVERSION.

Section 13.01 Defaults by Foundation. Subject to Section 13.05, The-the occurrence of any of the following events and the expiration of the applicable cure period set forth below without such event being cured or remedied will constitute a "**Foundation Default**":

Failure of the Foundation to maintain its nonprofit, tax-exempt status under Applicable Laws;

Failure of the Foundation to perform or comply with any term, covenant, or condition of this Agreement, which failure is not cured within ninety (90) days from the date of notice from the City (other than those covenants for which a different cure period is provided); provided, however, that if such failure is not capable of being cured within such ninety (90) day period, the Foundation will have a reasonable period (not to exceed an additional thirty (30) days, unless otherwise agreed in writing by the parties Foundation and the Park Board) to complete such cure if the Foundation promptly undertakes action to cure such failure within such ninety (90) day period and thereafter diligently prosecutes the same to completion;

Any lien is filed against Fair Park, the Foundation's interest in this Agreement or any part of either thereof, and same remains unreleased for a period of ninety (90) days after the Foundation's discovery of such lien, unless within such period the Foundation is contesting in good faith the validity of such lien and such lien is appropriately bonded;

Failure of the Foundation to maintain the insurance coverage required by this Agreement; or

The dissolution or liquidation of the Foundation or the filing by the Foundation of a voluntary petition in bankruptcy, or failure by the Foundation promptly to remove any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations of Fair Park, or the issuance of an order or decree by any court of competent jurisdiction providing for the appointment of a receiver, liquidator, assignee, trustee, sequester or other similar official of the Foundation or any substantial part of the Foundation's property or ordering the winding up or liquidation of the Foundation's affairs, or general assignment by the Foundation for the benefit of its creditors, or the entry by the Foundation into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Foundation in any proceeding for its reorganization instituted under the provisions of Title II, United States Code, as amended, or under any similar act in any domestic or foreign jurisdiction, which may now be in effect or hereafter enacted (other than a

reorganization not saying or impeding the collectability or enforceability of the liabilities or obligations of the Foundation).

Section 13.05 Annual Appropriations and Bond Funding.

(a) Notwithstanding anything to the contrary in this Agreement, in the event of any failure by the City (i) to include in any City budget the ~~full~~ Management Fee due under this Agreement, or (ii) to make, in accordance with action taken by the City Council, annual appropriations in any year for the ~~full~~ Management Fee or any other monetary obligations becoming due and payable by the City under or by reason of this Agreement during such year, ~~or (iii) to include the full amount of the Bond Funds provided under in any applicable bond package, or (iv) in the event any bond proposition to provide for the Bond Funds is not approved by the voters~~ (any of the foregoing events, a “Non-Payment Event”), the Foundation shall have the right to terminate this Agreement effective not less than ninety (90) nor more than one hundred eighty (180) days after providing written notice to the City. Notwithstanding anything to the contrary in this Agreement, the Foundation’s sole and exclusive remedy for any Non-Payment Event shall be the termination of this Agreement.

(b) Without limiting any of the foregoing, the parties acknowledge and agree that Bond Funds are necessary to the Capital Needs Inventory of Fair Park and thus necessary to the success of Fair Park. Therefore, the City commits to the Foundation to put forth a Bond package to the City’s voters as described in and subject to the provisions of Section 3.03, and the Foundation agrees that neither the voters’ failure to approve the propositions submitted to authorize bonds to provide Bond Funds nor the City’s failure to issue bonds approved by the voters to finance the full amount of the Bond Funds shall constitute a Non-Payment event or a default by the City under this Agreement. Nonetheless, if by the fourth anniversary of the date an election to authorize bonds to provide Bond Funds fails to receive a majority vote of the voters at said election and the City has not secured alternative funding sources to satisfy the purposes set forth in Section 3.03, the Foundation shall thereafter have the right to terminate the Agreement in the manner provided in this Section 13.05. For the purposes set forth herein, alternative funding sources shall in no event include Park Department budget funds.