

AN ORDINANCE 2017-06-08-0422

**AUTHORIZING THE EXECUTION OF AMENDMENT  
NO. 1 TO THE AGREEMENT WITH THE SAN  
ANTONIO GARDEN CENTER, INC. TO EXERCISE  
THE FIRST OF TWO, 10 YEAR EXTENSIONS TO THE  
CONTRACT PERIOD AND ADJUSTING THE  
CONTRACT END DATE TO JUNE 30, 2027.**

\* \* \* \* \*

**WHEREAS**, since 1956, the City of San Antonio has maintained a long-standing partnership with the San Antonio Garden Center, Inc. to allow the non-profit organization the ability to use and operate the San Antonio Garden Center; and

**WHEREAS**, this facility is located east of north New Braunfels Avenue within Mahncke Park and is adjacent to the San Antonio Botanical Garden; and

**WHEREAS**, this collaboration has provided an area for the community to learn more about horticulture, gardening, landscaping, and it includes a facility that is available for events; and

**WHEREAS**, the San Antonio Garden Center, Inc. has responsibility for operation and electricity costs in lieu of paying rental fees; and

**WHEREAS**, the organization retains all revenue generated from membership fees, rental and fundraising events to offset its operating expenses; and

**WHEREAS**, the City will have free use of the facility and will continue to maintain the grounds and irrigation system, repair paved surfaces, and address infrastructure needs; and

**WHEREAS**, in 1992, the City executed an Agreement with the organization for a 20 year term which included an additional five year extension contingent upon major repairs being completed by the organization to the facility; and

**WHEREAS**, allowable under this Agreement which expires on June 30, 2017, are two, 10 year extensions; and

**WHEREAS**, this Amendment authorizes the Department to exercise the first 10 year extension and adjusting the contract end date to June 30, 2027; **NOW THEREFORE:**

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

**SECTION 1.** The City Manager or her designee, or the Director of the Parks and Recreation Department or his designee is hereby authorized to execute Amendment No. 1 to the Agreement with the San Antonio Garden Center, Inc. to exercise the first of two, 10 year extensions to the

contract period and adjusting the contract end date to June 30, 2027. A copy of Amendment No. 1 is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 3.** This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

**PASSED AND APPROVED this 8th day of June, 2017.**

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

  
**M A Y O R**  
Ivy R. Taylor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Andrew Segovia, City Attorney

<b>Agenda Item:</b>	<b>17 ( in consent vote: 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 17, 18A, 18B, 19, 20, 21, 22, 23, 24 )</b>						
<b>Date:</b>	06/08/2017						
<b>Time:</b>	09:24:45 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing the execution of Amendment No. 1 to the Agreement with the San Antonio Garden Center, Inc. to exercise the first of two, 10 year extensions to the contract period and adjusting the contract end date to June 30, 2027. [María Villagómez, Assistant City Manager; Xavier D. Urrutia Director, Parks & Recreation]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Ana E. Sandoval	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

**AMENDMENT #1 TO THE  
USE AND OPERATIONS AGREEMENT WITH THE  
SAN ANTONIO GARDEN CENTER, INC.**

This Amendment to the Use and Operations Agreement ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of San Antonio, a Texas municipal corporation, acting by and through its City Manager or her designee pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_ ("City"), and the San Antonio Garden Center, Inc., a Texas non-profit corporation ("Garden Center"), collectively known as the "Parties";

**BACKGROUND**

1. The City of San Antonio ("City") owns the building and associated improvements identified as the San Antonio Garden Center which is located at: 3310 N. New Braunfels Avenue, located on the grounds of Mahncke Park, Bexar County, Texas (the "Premises").
2. The City and the Garden Center entered into a Use and Operations Agreement ("Agreement"), on December 22, 1992. The publicly beneficial objectives of the Garden Center are to promote the dissemination of garden knowledge, hold public events and create public interest in the conservation of plants and the beautification of public parks.
3. As outlined in Section 12.4, Maintenance and Repair Responsibilities, the City extended this Agreement by one (1) year for each \$5,000.00 increment of expenditure for major repairs/replacements made by the Garden Center; for the maximum of five (5) years available beyond the initial term of this Agreement. Accordingly, the current Use and Operations Agreement will expire on June 30, 2017.

**TERM AND RENEWAL OPTIONS**

Subject to the terms of Section 4.2, the City hereby exercises its option to extend this Use and Operations Agreement for the first additional term of ten (10) years, beginning on July 1, 2017, and terminating on June 30, 2027.

All other terms of the original Use and Operations Agreement shall stand as otherwise stated.

[Signatures appear on the next page.]

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF SAN ANTONIO

SAN ANTONIO GARDEN CENTER, INC.

By: \_\_\_\_\_

Xavier D. Urrutia, Director  
Parks and Recreation Department

By: *J. Dodier*

Janie Dodier, President

Date: \_\_\_\_\_

Date: *May 11, 2017*

Attest: \_\_\_\_\_

City Clerk

Approved as to Form:

\_\_\_\_\_

City Attorney