

ORDINANCE 2020-08-20-0551

**AUTHORIZING EXTENSION OF AN EXISTING LEASE AGREEMENT
WITH THE SAN ANTONIO PARKS FOUNDATION FOR THE
CONTINUED USE OF 1,119 SQUARE FEET OF OFFICE SPACE IN THE
ST. MARY'S STREET PARKING GARAGE FOR ITS ADMINSTRATIVE
OFFICES LOCATED AT 400 N ST. MARY'S STREET IN COUNCIL
DISTRICT 1.**

* * * * *

WHEREAS, the mission of the non-profit San Antonio Parks Foundation ("SAPF") is to provide enhancements to the City of San Antonio's park systems with the goal of improving the quality of life for all citizens; and

WHEREAS, SAPF staff has been located in street level space at the St. Mary's Garage building since 2014 where SAPF pays \$4,252.20 annually to cover the cost of utilities; and

WHEREAS, terms of the existing agreement also assess a fair market rent for the location but allow that in lieu of a rent payment, SAPF is given credit towards the rent for projects they undertake during the course of the lease term to improve and enhance existing parks in the downtown area; during the previous five years SAPF has documented improvements to several parks including Travis Park, Milam Park and Maverick Park resulting in any rent due being forgiven; and

WHEREAS, on an annual basis SAPF will present to the Department of Parks and Recreation a list of proposed improvements to specific parks, then upon completion of those improvements City staff work with SAPF to document the investment and apply a credit toward any rent due; and

WHEREAS, the City of San Antonio and SAPF desire to renew this lease and such action will extend the term of the lease for an additional five years; **NOW THEREFORE:**

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

SECTION 1. The City Council authorizes the City Manager or designee to an agreement to extend an existing lease for a period of five years ending January 31, 2025 with the San Antonio Parks Foundation for 1,119 square feet of street level office space in the St. Mary's Street Parking Garage substantially in the same form as shown in **Attachment I**.

SECTION 2. The lease agreement shall require SAPF to pay a fee equal to their cost of occupancy into the Parking Fund which increases over time starting at \$4,252.20 annually during the first year of the extension term and increasing to \$5,168.64 annually during the fifth and final year of the extended term. Additionally, SAPF is obligated to pay fair market rent for the occupied space, which can be forgiven in the event SAPF successfully completes City approved improvements to specific parks. The chart below details the various aspects of the lease agreement:

	Terms During the Extended Term
Occupancy	1,119 SF
Term Extension	Ends January 31, 2025
Minimum Rent During Term	\$23,496.24 over five years
Forgivable Rent Subject to Credit	\$117,215.25 over five years

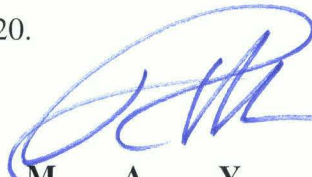
The lease agreement shall also provide for the use of four parking spaces for which SAPF pays fair market rate, currently \$100 monthly per parking space. All revenues collected from this lease will be deposited into the Parking Operating and Maintenance Fund.

SECTION 3. Funds generated by this ordinance will be deposited in Fund 53001000, Internal Order 219000000123 and General Ledger 4407718.


SECTION 4. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5: This Ordinance becomes effective immediately upon its passage by eight (8) votes or more and 10 days after passage upon its approval by less than eight (8) votes.


PASSED AND APPROVED this 20th day of August, 2020.


M A Y O R
Ron Nirenberg

ATTEST:


Tina Flores, Acting City Clerk

APPROVED AS TO FORM:


Andrew Segovia, City Attorney



City of San Antonio

City Council
August 20, 2020

Item: 21

Enactment Number:
2020-08-20-0551

NAME	MOTION	SECOND	ABSTAIN	AYE	NAY	ABSENT
Roberto Treviño Council District 1				√		
Jada Andrews-Sullivan Council District 2	√			√		
Rebecca Viagran Council District 3				√		
Adriana Rocha Garcia Council District 4				√		
Shirley Gonzales Council District 5				√		
Melissa Cabello Havrda Council District 6				√		
Ana Sandoval Council District 7		√		√		
Manny Pelaez Council District 8						√
John Courage Council District 9				√		
Clayton Perry Council District 10				√		
Ron Nirenberg Mayor				√		

Comments:

Office of the City Clerk

VS
8/20/20
Item No. 21

Attachment I

Attachment I

First Amendment and Extension to Lease (San Antonio Parks Foundation – Saint Mary's Garage)

WHEREAS, the City of San Antonio ("Landlord"), as landlord, and San Antonio Parks Foundation ("Tenant"), as tenant, entered into that certain lease authorized by City ordinance 2014-06-26-0508 ("Lease") for approximately 1,200 rentable square feet for a term of five (5) years; and

WHEREAS, Tenant has met its obligations as detailed in the original lease agreement authorized by the Original Authorizing Ordinance ("Lease"), and is not in default; and

WHEREAS, the City and Tenant wish to amend and renew the Lease;

NOW, THEREFORE, for good and valuable consideration, it is agreed by the Landlord and Tenant, together referred to as the "Parties", as follows:

1. Identifying Information.

Original Authorizing Ordinance: 2014-06-26-0508

**Authorizing Ordinance
First Amendment and
Extension:**

Landlord: City of San Antonio

Landlord's Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Tenant: San Antonio Parks Foundation

Tenant's Address: 400 N. St. Mary's St., Suite 101, San Antonio, Texas 78205

Premises: As shown in **Exhibit A** of the Lease and stated to be 1,200 square feet in said lease restated here by mutual agreement to be 1,119 square feet of space on the first floor of the St. Mary's Street Garage, San Antonio, Texas commonly known as 400 N. St. Mary's St., Suite 101, San Antonio, Texas 78205 (the "Building")

Parking: Four (4) unreserved spaces in the St. Mary's Street Garage at \$100.00 each per month subject to increase as provided in Section 3.02 below.

Renewal Term 5 years

Attachment I

Renewal Term
Commencement Date: February 1, 2020

Renewal Term
Expiration Date: January 31, 2025

Binding Date: This agreement is binding on the parties on the later of: (A) the effective date of the Authorizing Ordinance; or (B) the later of the signatures of the two Parties.

2. Defined Terms.

All terms defined in the Lease and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Lease. References to "Lease" in this amendment include the original Lease.

3. Renewal and Extension.

The Term of this Lease shall be extended. The renewal term shall commence on February 1, 2020 for a five-year term to expire on January 31, 2025.

4. Grant and Termination Right.

- a. Section 2.01 shall be deleted in its entirety and shall be replaced with the following language:

2.01 Landlord leases the Premises to Tenant, and Tenant takes the Premises from Landlord on the terms and conditions of this Lease. As a part of the Lease, Landlord must provide Tenant four (4) unreserved parking spaces in St. Mary's Street parking garage and Tenant shall comply with the most current parking facility guidelines.

- b. Section 2.02 shall be deleted in its entirety and shall be replaced with the following language:

2.02 Either party to this Lease may terminate it any time without cause with 30-days prior written notice to the other party.

5. Rent.

- a. Sections 3.02 through 3.05 of the Lease shall be deleted in their entirety and shall be replaced with the following language:

3.02. TABLE 1 RENT. Tenant must pay Rent in the amounts described in Table 1 on or before the first day of each month throughout the Renewal Term. Rent under Table 1 is due as of the Renewal Term Commencement Date and includes all sums due to

Attachment I

Landlord under that table and is not subject to offset as provided in Section 3.03 below. Amounts due for four parking spaces is calculated at \$100 a month per space and the parking rate is subject to change at any time upon 30-days priority written notice by Landlord. The Utility User Fee is calculated at \$3.80 per square foot per year. Except to the extent expressly provided in this Lease to the contrary below, Table 1 Rent is due without notice, demand, offset, or deduction. Landlord may submit monthly invoices to Tenant; however, regardless whether a monthly invoice is received by Tenant, Tenant is obligated to pay all these amounts due on or before the first day of each month. Due but unpaid amounts bear interest at the prime rate of interest in effect on the due date as published from time to time in The Wall Street Journal (or, if The Wall Street Journal ceases publication, another financial publication reasonably selected by Landlord) plus four percent per annum (Interest Rate) from the due date until paid in full. In addition, if Tenant is delinquent in paying an amount, Tenant must pay to Landlord upon demand a \$50 late charge. Interest and late charges are in addition to all Landlord's other rights and remedies. For purposes of Section 3.09 of the Lease as amended below, Tenant shall not be obligated to pay Table 1 Rent subsequent to a properly noticed termination.

Table 1

Category	Monthly Amounts Due	Annual Amounts Due	5-Year Total Amounts Due
4 Parking Spaces			
Years 1 – 5*	\$400.00	\$4,800.00	\$24,000.00
Utility User Fee			
February 1, 2020 – January 31, 2021	\$354.35	\$4,252.20	\$23,496.24
February 1, 2021 – January 31, 2022	\$372.07	\$4,464.84	
February 1, 2022 – January 31, 2023	\$390.67	\$4,688.04	
February 1, 2023 – January 31, 2024	\$410.21	\$4,922.52	
February 1, 2024 – January 31, 2025	\$430.72	\$5,168.64	
Totals:		\$23,496.24	\$47,496.24
* Monthly Parking Charge subject to change upon 30 days prior notice			

- b. 3.03. TABLE 2 RENT. Landlord and Tenant agree that as of the Renewal Term Commencement Date, all amounts due pursuant to Table 2 of the Lease have been paid as a result of offsets documented by Tenant and accepted by Landlord and no rent attributable to Table 2 in the Lease is due and owing. Notwithstanding that fact, the parties agree that as of the Renewal Term Commencement Date Tenant must pay Rent depicted in Table 2 below in the annual amounts described on or before the annual anniversary of the Renewal Term Commencement Date. Base Rent is calculated at \$20 per square foot. The Common Area Maintenance Fee is calculated at \$.95 per square foot. Landlord may abate future Table 2 Rent consisting of Base Rent and the Common Area Maintenance Fee, and may offset amounts due to Landlord on a dollar for dollar

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basis through fundraising and contributions paid in support of and as improvements to the following Parks:

PARKS	
Downtown Parks	Other Parks
Travis Park	Martin Luther King Park
Christopher Columbus Park	Maverick Park
Milam Park	Japanese Tea Garden
Arneson Theatre	
Madison Park	

If Tenant requests abatement or offset of Table 2 Rent consisting of Base Rent and the Common Area Maintenance Fee, no less than \$5,860.76 annually or \$29,303.81 over the Renewal Term (25% of offset amounts due to Landlord on a dollar for dollar basis through fundraising and contributions) must be expended on the Downtown Parks listed in the Parks table above.

Table 2

Category	Annual Amounts Due	5-Year Total Amounts Due
Base Rent	\$22,380.00	\$111,900.00
Common Area Maintenance Fee	\$1,063.05	\$5,315.25
Totals:	\$23,443.05	\$117,215.25

- c. 3.04. In order for the Table 2 Rent to be eligible for offset, within 90 days of the Renewal Term Commencement Date and on the anniversary day of that date thereafter, until such time that either (i) the entirety of the Table 2 Rent has been fully offset as provided in Section 3.07 of the Lease or (ii) Tenant has paid the Table 2 rent in full, Tenant will create and submit in writing a list of recommended park improvements for each park listed in Section 3.03 above and Landlord, through its Parks & Recreation Department Director, or other person as Landlord may designate, who shall have final approval authority on all proposed projects has approved the improvements suggested by Tenant (Approved Projects). Funds raised and contributed to the Arneson River Theatre Trust Fund and Travis Park Redevelopment shall count towards offset actions. Funds raised by solicitation, exclusive of federal or state funding sources, and amounts expended on Tenant events and programming that occur from the Renewal Term Commencement Date through either the date of early termination or the last day of the Renewal Term, that are not required by previous contractual obligations, and that occur or benefit downtown may also be counted towards offset actions.
- d. 3.05. No later than January 31st of each year of the Renewal Term, unless the Table 2 Rent has been fully offset as provided in Section 3.07 of the Lease, Tenant shall submit documentation to Landlord confirming how the Approved Projects were financed including executed contracts for services, cancelled checks, lien releases and other reasonable documentation as may be requested by Landlord confirming the amount eligible for offset towards the Table 2 Rent. Service hours shall not be included within report. Only amounts raised and expended on Approved Projects from the Renewal Term

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Commencement Date through the Renewal Term Expiration Date will be considered for offsetting purposes.

- e. 3.09 shall be amended to reflect that the reference to Initial Term shall now be Renewal Term

6. Repair, Maintenance, and Replacement Responsibilities.

- a. The following language shall be added to the Lease:

Landlord and Tenant each must bear costs associated to the repair, maintenance, and replacement, if necessary, of any building component allocated to it in the table below:

Item	Tenant Responsibility	Landlord Responsibility
Janitorial Services to Premises	Yes	No
Janitorial Services to Common Areas	No	Yes
Utility Services	Yes	No
Pest Control Services	Yes	No
Exposed Electrical Systems	Yes	No
Light bulbs and tubes	Yes	No
Concealed Electrical Systems	Yes	No
Exposed Plumbing Systems	Yes	No
Concealed Plumbing Systems including under slab drain lines	No	Yes
HVAC Systems	No	Yes

7. Landlord's Affirmative Promises.

- a. Section 8.05 of the Lease shall be added as follows:

8.05. Bear costs related to the repair, replacement, and maintenance of the (a) roof, (b) foundation, (c) common areas, (d) all interior and exterior walls, doors, corridors, and windows, including all interior and exterior glass, (e) floors (but not carpeting or similar floor covering, unless damaged by a problem with the floor), (g) life-safety systems including the fire-sprinkler system if installed in the Building, (h) damage to Tenant's improvements caused by failure or malfunctioning of building features or equipment for which Landlord is responsible, (i) and all other parts of the Premises the repair, replacement, and maintenance of which is not otherwise expressly allocated to Tenant.

8. Miscellaneous.

Section 29.15. of the Lease shall be deleted in it's entirely and shall be replaced with the following language:

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29.15. *Square Footage.* For all purposes for which square footage of the Premises is relevant, the Premises are 1,119 square feet.

9. No Default.

Neither Landlord nor Tenant is in default under the Lease and neither party is aware of a cause of action against the other arising out of or relating to the period before the date of the Landlord's signature on this amendment.

10. Same Terms and Conditions.

Except as specifically set forth in this First Amendment and Extension to Lease Agreement, all the terms and provisions of the Lease shall remain unmodified and in full force and effect.

In Witness Whereof, the parties have caused their representatives to set their hands.

Landlord:
City of San Antonio,
a Texas municipal corporation

Tenant:
San Antonio Parks Foundation

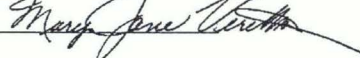
By: _____

By: _____ President & CEO _____

Printed
Name: _____

Printed
Name: Mary Jane Verette _____

Signature: _____

Signature:  _____

Date: _____

Date: May 26, 2020 _____

Attest:

City Clerk

Approved as to Form:

City Attorney