

181864

December 12, 2018

WHEREAS, on May 21, 2003, the City and State Fair of Texas entered into the Fair Park Contract for a term of 25 years with two five-year extensions, to provide for the use of the City's Fair Park for the annual State Fair of Texas Exposition and to clearly define the roles and responsibilities of the City and the State Fair of Texas (the "Agreement") by Resolution No. 02-2405; and

WHEREAS, on October 24, 2018, City Council authorized a 20-year management agreement with the non-profit, Fair Park First, for the year-round private operation, maintenance, and enhancement of Fair Park by Resolution No. 18-1531; and

WHEREAS, it is the mutual goal and desire of the City and the State Fair of Texas to cooperate with Fair Park First throughout the term of the private management agreement in order to further the enhancement, development, and improvement of Fair Park as a year-round public entertainment facility, tourist attraction, campus for cultural facilities, and public park; and

WHEREAS, to facilitate that mutual goal and desire, the City and the State Fair of Texas now agree that the initial term of the Agreement should be extended to coincide with the initial term of the private management agreement with Fair Park First; and

WHEREAS, as part of the consideration for extending the term of the Agreement, the City and the State Fair of Texas also agree to amend the Agreement to incorporate: (i) certain financial processes and procedures; (ii) the wage rate requirements for all State Fair employees; (iii) certain security plan requirements; and (iv) certain miscellaneous provisions now required by state law; and

WHEREAS, all other terms, provisions, conditions, and obligations of the Agreement between the City and State Fair shall remain in full force and effect, and the Agreement, as previously amended, and this fifth amendment shall be construed together as a single contractual agreement.

Now, Therefore,

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

181864

December 12, 2018

SECTION 1. That the City Manager is hereby authorized to execute a fifth amendment to the Fair Park Contract dated May 21, 2003, as previously amended (the "Agreement") to: (1) extend the initial term of the agreement for a period of 10 years (the term shall expire on December 31, 2038); (2) establish annual rental fees for 2028 thru 2038; (3) incorporate financial processes and procedures for the allocation of funds; (4) require the State Fair of Texas to pay its full-time and part-time employees at least \$11.15 per hour or the federal minimum wage, whichever is higher; (5) incorporate a security plan process between the Dallas Police Department and the State Fair of Texas; and (6) incorporate miscellaneous provisions as required by state law, approved as to form by the City Attorney.

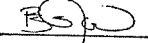
SECTION 2. That the Chief Financial Officer is hereby authorized to receive and deposit funds from the State Fair of Texas (Vendor 078069) in the Fair Park Naming Sponsorship Fund, Fund 0426, Department PKR, Unit 5234, Revenue Code 7199.

SECTION 3. That this contract is designated as Contract No. PKR-2019-00008943.

SECTION 4. 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
CITY COUNCIL

DEC 12 2018


CITY SECRETARY

THE STATE OF TEXAS §
 § FIFTH AMENDMENT TO
 § FAIR PARK CONTRACT
 COUNTY OF DALLAS §

THIS FIFTH AMENDMENT (the "Fifth Amendment") to the Fair Park Contract dated May 21, 2003, as previously amended (the "Agreement"), is entered into by and between the CITY OF DALLAS, TEXAS (the "City"), a Texas municipal corporation acting by and through its City Council, and STATE FAIR OF TEXAS ("State Fair"), a Texas nonprofit corporation.

WHEREAS, on May 21st, 2003, by Resolution No. 02-2405, the City and State Fair entered into the Agreement for a term of 25 years with two five-year extensions, to provide for the use of the City's Fair Park for the annual State Fair of Texas Exposition and clearly define the City's and State Fair's roles and responsibilities; and

WHEREAS, on October 24, 2018, by Resolution No. 18-1531, the Dallas City Council procured, authorized, and entered into a management agreement with the non-profit, Fair Park First, for the year-round private operation, maintenance, and enhancement of Fair Park; and

WHEREAS, it is the mutual goal and desire of the parties to cooperate with Fair Park First throughout the term of the private management agreement in order to further the enhancement, development, and improvement of Fair Park as a year-round public entertainment facility, tourist attraction, campus for cultural facilities, and public park; and

WHEREAS, to facilitate that mutual goal and desire, the parties now agree that the initial term of the Agreement should be extended to coincide with the initial term of the private management agreement with Fair Park First; and

WHEREAS, as part of the consideration for extending the term of the Agreement, the parties also agree to amend the Agreement to incorporate: (i) certain financial processes and procedures; (ii) the wage requirements for all State Fair employees; (iii) certain security plan requirements; and (iv) certain miscellaneous provisions as required by state law; and

WHEREAS, all other terms, provisions, conditions, and obligations of the Agreement between the City and State Fair shall remain in full force and effect, and the Agreement, as previously amended, and this Fifth Amendment shall be construed together as a single contractual agreement.

NOW, THEREFORE, City and State Fair, in consideration of the mutual covenants, terms and conditions contained in this Fifth Amendment, and for other good and valuable consideration, agree as follows:

1. AGREEMENT TERM EXTENSION

Article II, "TERM", Sections 2.02 and 2.03 of the Agreement are hereby deleted and replaced with the following Section 2.02:

2.02 Extension of the Initial Term. Effective January 1, 2019, the Initial Term of this Agreement shall be extended for a period of ten (10) years. For the purposes of this Agreement, the definition of "Initial Term" shall include the ten-year extension as stated in this Section 2.02. The Initial Term shall expire on December 31, 2038.

2. REVISED ANNUAL RENTAL FEE

Article VIII, "ANNUAL RENTAL FEE", Sections 8.01 thru 8.03 of the Agreement are hereby deleted and replaced with the following Section 8.01:

8.01 Initial Term. During the remaining portion of the Initial Term, the State Fair shall pay the City an annual rental fee according to the following schedule:

Year	Annual Rental Fee	Quarterly Payment Amount
2018 thru 2022	\$1,550,000	\$387,500
2023 thru 2027	\$1,750,000	\$437,500
2028 thru 2032	\$1,950,000	\$487,500
2033 thru 2038	\$2,250,000	\$562,500

The annual rental fee shall be paid by the State Fair to the City in equal quarterly installments on or before the 15th of the first month of each calendar quarter (January, April, July, and October) during the Initial Term of this Agreement.

3. FINANCIAL PROCESSES AND PROCEDURES

The Agreement is hereby amended by adding Section 11.06 to the end of Article XI, "ALLOCATION OF NET REVENUES":

11.06 Financial Processes and Procedures. In accordance with the Memorandum of Understanding agreed to by the parties and effective June 28, 2017, the parties now agree herein:

- (a) Before the end of February of each year of this Agreement, the City and State Fair mutually agree to the following:
 - (i) State Fair will close-out financial books on prior year;
 - (ii) State Fair's Board of Directors will determine "reasonable and prudent reserves" and establish its "Reserve Fund" policy and amount for

current year that follows the guidelines set forth by the National Council of Nonprofits;

(iii) City, through its Director of the Park and Recreation Department or the Director's authorized representative (the "Director") and State Fair will hold an initial meeting for State Fair to present preliminary estimates of Net Revenues from the previous fiscal year;

(iv) State Fair will present a proposed schedule of capital expenditure projects and major maintenance projects to the Director (the "Preliminary Schedule"). City will have final approval of all major maintenance projects in the Preliminary Schedule;

(v) City will present its own list of proposed major maintenance projects to State Fair for review with State Fair and incorporation into the Preliminary Schedule;

(vi) During the review of the Preliminary Schedule, State Fair and the City will initially agree which party is best suited to undertake each major maintenance project, thereby initially determining and agreeing to the City's Allocation;

(vii) If feasible, State Fair will provide an initial portion of funding of the City's Allocation in the Fair Park Improvement Fund and such portion will be available to the City for agreed-upon City-designated major maintenance projects. Upon request, State Fair shall release funds to the City; and

(viii) City will provide State Fair a written list and status report of major maintenance projects previously funded by State Fair.

(b) Before the end of April of each year of this Agreement, the City and State Fair mutually agree to the following:

(i) State Fair will receive final audited financial statements, prepared in accordance with GAAP, from its independent public accountants;

(ii) State Fair will hold a second meeting with the Director to present final figures for Net Revenues from the previous fiscal year;

(iii) State Fair will present the Final Schedule, (which shall be inclusive of major maintenance project responsible party designations, as agreed to by the parties), for written approval by Director; and

(iv) Pursuant to Section 11.02 of this Agreement, no later than April 30, State Fair will provide the final dollar amount allocated to the City for the City's Allocation. That full amount for the City's Allocation will be earmarked and made available to the City from State Fair's board

designated restricted Fair Park Improvement Fund account, if not already fully-funded in February.

4. LIVING WAGE, SECURITY PLAN, & MISCELLANEOUS PROVISIONS

The Agreement is hereby amended by adding the following Articles to the Agreement:

XXV. LIVING WAGE

25.01 For 2019, State Fair shall pay both its full-time and part-time employees at least \$11.15 per hour. Beginning in 2020, and thereafter adjusted on an annual basis, State Fair shall pay all of its employees an hourly wage equal to or in excess of the living wage for a single adult, as calculated by the Massachusetts Institute of Technology Living Wage Calculator for Dallas County, Texas.

XXVI. SECURITY PLAN

26.01 City representatives from the Dallas Police Department (“DPD”) and State Fair shall meet 180 days prior to each annual Fair to develop a security plan for that year's Fair. The security plan shall include, but not be limited to: (i) crowd control; (ii) perimeter traffic control; (iii) number of necessary personnel from police agencies or security service providers, including DPD officers; (iv) estimated direct costs for DPD officers, including those costs that would be normally provided in accordance with the practices and policies of the City of Dallas as well as DPD officers provided via overtime assignment; (v) reasonable and necessary reimbursement for special services provided; and (vi) other mutually agreeable security measures for operation of the Fair (collectively, the “Security Plan”). If private security personnel or elements from police agencies other than DPD or off-duty DPD personnel are included in the Security Plan, DPD shall provide the command structure, coordination, and deployment oversight for the implementation of the Security Plan. State Fair will be responsible for direct payment to non-DPD agencies and off-duty DPD personnel for services performed under the Security Plan.

26.02 Once the Security Plan is developed and agreed upon by DPD and State Fair, DPD shall implement and oversee the plan during the twenty-four operating days of the Fair. DPD will then invoice State Fair by December 31 of that year for reimbursement for services provided, including full cost recovery of both on-duty and overtime assignments based on actual hours worked. Within thirty (30) days of receipt, State Fair shall pay the full invoice amount.

XXVII MISCELLANEOUS

27.01 Pursuant to Section 2270.002, Texas Government Code, State Fair hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the Term. As used in the immediately preceding sentence, "boycott Israel" shall have the meaning given such term in Section 2270.001, Texas Government Code.

27.02 State Fair hereby represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code."

5. ENTIRE AGREEMENT

All other terms, provisions, conditions, and obligations between City and State Fair shall remain in full force and effect, and the Agreement, as previously amended, and this Fifth Amendment shall be construed together as a single contractual agreement. All capitalized terms in this Fifth Amendment not otherwise defined herein shall have the meanings described in the Agreement. This Fifth Amendment cannot be modified without written agreement of the parties. To the extent of any conflicts between this Fifth Amendment and the Agreement, the terms and conditions of this Fifth Amendment shall control.

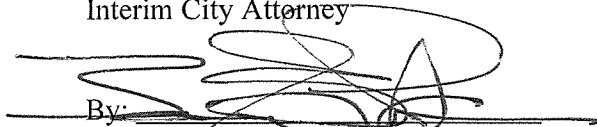
[Signatures are on the following page.]

EXECUTED this the 12th day of December 2018, by CITY, signing by and through its City Manager, duly authorized to execute same by Resolution No. 18-1804, adopted by the City Council on December 12, 2018, and by STATE FAIR, acting through its duly authorized officials.

APPROVED AS TO FORM:

CITY OF DALLAS

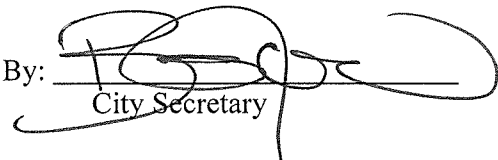
CHRISTOPHER J. CASO,
Interim City Attorney

By: 
Assistant City Attorney

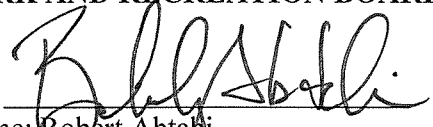
T.C. BROADNAX,
City Manager

By: 
Assistant City Manager

ATTEST:

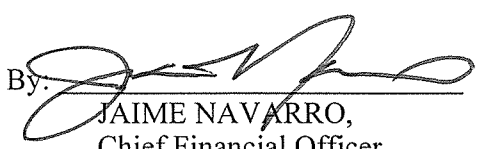
By: 
City Secretary

PARK AND RECREATION BOARD

By: 
Name: Robert Abtahi
Title: President

STATE FAIR OF TEXAS,
a Texas nonprofit corporation

By: 
MITCHELL GLIEBER,
President

By: 
JAIME NAVARRO,
Chief Financial Officer
Senior Vice President, Finance

ATTEST:

By: 
Corporate Secretary