

Controller's Office

To the Honorable Mayor and City Council of the City of Houston:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- () Funds have been encumbered out of funds previously appropriated for such purpose.
- () Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- () Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- () No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- () The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- () A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.

(✓) Other - 3rd Amendment

CLB Brown
Jennifer

Date: 7-7, 2020

City Controller of the City of Houston

FUND REF: 5307-3600 AMOUNT: -0- ENCUMB. NO.: AF36027-20

0446-5624

C53987

City of Houston, Texas, Ordinance No. 2020 - 615

AN ORDINANCE APPROVING AND AUTHORIZING A THIRD AMENDMENT TO LEASE AND SERVICES AGREEMENT BETWEEN THE CITY OF HOUSTON, TEXAS, AS LANDLORD, AND HOUSTON ZOO DEVELOPMENT CORPORATION, AS TENANT, RELATING TO THE HOUSTON ZOO LOCATED AT HERMANN PARK; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON,
TEXAS:

Section 1. That the City Council hereby approves and authorizes the contract, agreement, or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document attached hereto as Exhibit "A" and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City. The City Secretary is hereby authorized to attest to all such signatures and to affix the City seal to all such documents.

Section 2. That the City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under such contract, agreement, or other undertaking without further authorization from the City Council.

Section 3. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor, however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 8th day of July, 2020.

APPROVED this _____ day of _____, 2020.

Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUL 14 2020.

City Secretary

[Signature]

(Prepared by Legal Department

(MFB:mtb June 22, 2020

(Requested by Steve Wright, Director, Houston Parks and Recreation Department)
(L.D. File No. 0490100086004)

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	AYE	✓
	NO	
MAYOR TURNER		
COUNCIL MEMBERS		✓
PECK		✓
DAVIS		✓
KAMIN		✓
EVANS-SHABAZZ		✓
MARTIN		✓
THOMAS		✓
TRAVIS		✓
CISNEROS		✓
GALLEGOS		✓
POLLARD		✓
MARTHA CASTEX-TATUM		✓
KNOX		✓
ROBINSON		✓
KUBOSH		✓
PLUMMER		✓
ALCORN		✓
	ADOPTED	

Exhibit "A"

Third Amendment to Lease and Services Agreement

THIRD AMENDMENT TO LEASE AND SERVICES AGREEMENT

This Third Amendment to Lease and Services Agreement is made by and between the CITY OF HOUSTON (the "City"), a Texas home rule municipality, as landlord, and HOUSTON ZOO DEVELOPMENT CORPORATION, a Texas local government corporation ("ZDC"), as tenant.

RECITALS

WHEREAS, the City and ZDC executed that certain Lease and Services Agreement approved by City Ordinance No. 2002-0574, passed and adopted by City Council on June 26, 2002, and made effective on July 3, 2002, as amended by that certain First Amendment to Lease and Services Agreement ("First Amendment") approved by City Ordinance No. 2017-389, passed and adopted by City Council on May 31, 2017, and made effective on June 8, 2017, and that certain Second Amendment to Lease and Services Agreement ("Second Amendment") approved by City Ordinance No. 2018-334, passed and adopted by City Council on April 18, 2018, and made effective on April 30, 2018 (as amended by the First Amendment and Second Amendment, the "Lease"), pursuant to which ZDC leases the Houston Zoo ("Zoo") from the City, and Houston Zoo, Inc. ("Operator"), under a separate operating agreement with ZDC ("Operating Agreement"), provides services for the operation, management and maintenance of the Zoo; and

WHEREAS, pursuant to the Lease, the City pays the Annual Management Fee to Operator on behalf of ZDC each fiscal year; and

WHEREAS, the City will expedite payments to the ZDC due to and to address the public health emergency with respect to the Coronavirus Disease 2019 pandemic; and

NOW, THEREFORE, in consideration of the mutual benefits described herein and in the Lease, and other good and valuable consideration, the Parties agree to amend the Lease as follows:

AMENDMENT TERMS

1. DEFINITION.

"Lease Year 2021" means the full twelve (12) month period beginning on July 1, 2020, and ending on June 30, 2021.

2. AMENDMENT TO PAYMENT TERMS. Notwithstanding Section 7.02 or any other provision of the Lease to the contrary, the City and ZDC agree as follows:

During Lease Year 2021, in lieu of the City's payment to Operator of the Annual Management Fee applicable to the Lease Year 2021 in twelve (12) equal monthly installments, the City will pay to Operator \$10,407,622 on or before August 31, 2020.

3. CONSENT, WAIVER AND AGREEMENT OF OPERATOR. Pursuant to Sec. 24.13 of the Lease, and in consideration of the City's payment to Operator pursuant to Section 2

of this Third Amendment, Operator hereby (i) consents to the terms and conditions of this Third Amendment; (ii) waives its right to receive the Annual Management Fee for Lease Year 2021; and (ii) agrees that it shall not be a default under the Lease or the Operating Agreement for the City to forego payment of the Annual Management Fee for Lease Year 2021.

4. MISCELLANEOUS.

a. All capitalized terms in this Third Amendment that are not otherwise defined herein shall have the meanings assigned to those terms in the Lease.

b. Except as amended hereby, the Lease shall remain in full force and effect. The Lease, as hereby amended, is hereby ratified and confirmed.

c. To the extent of a conflict between the terms of the Lease and the terms of this Third Amendment, the terms of this Third Amendment control.

d. The Parties may execute this Third Amendment in multiple copies, each of which is an original. The Parties hereby agree that each Party may sign and deliver this Third Amendment electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature. Each person signing this Third Amendment represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Third Amendment. Each Party represents and warrants to the other that the execution and delivery of this Third Amendment and the performance of such Party's obligations hereunder have been duly authorized and that the Third Amendment is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

5. EFFECTIVE DATE; TERM. This Third Amendment is made effective as of the date of countersignature by the City Controller ("Third Amendment Effective Date"), and, unless otherwise extended or amended by the Parties, shall terminate on June 30, 2021, at which time the terms and conditions of this Third Amendment shall have no further force or effect.

[Execution Page Follows]

This Third Amendment is executed in multiple counterparts as of the Countersignature Date set forth below:

ATTEST:

CITY OF HOUSTON, TEXAS

By: _____
Name: Pat Jefferson-Daniel
Title: Interim City Secretary

By: _____
Name: Sylvester Turner
Title: Mayor

COUNTERSIGNED:

APPROVED AND RECOMMENDED:

By: _____
Name: Chris B. Brown
Title: City Controller

By: _____
Name: Steve Wright
Title: Director, Houston Parks Department

DATE OF COUNTERSIGNATURE
_____, 2020

APPROVED AS TO FORM:

By: _____
Name: Mary Frances Buzak
Title: Senior Assistant City Attorney
LD No. 0490100086004

By: _____
Name: _____
Title: _____

HOUSTON ZOO, INC.

CONSENT:

By: _____
Name: _____
Title: _____

HOUSTON ZOO DEVELOPMENT CORPORATION