

RESOLUTION NO. 30906

A RESOLUTION AUTHORIZING THE INTERIM DEPUTY ADMINISTRATOR OF PARKS AND OUTDOORS TO ENTER INTO A SECOND AMENDMENT TO AQUARIUM PLAZA WATER FEATURE MAINTENANCE AGREEMENT WITH THE TENNESSEE AQUARIUM, A NON-PROFIT AGENCY, IN SUBSTANTIALLY THE FORM ATTACHED, FOR THE TERM OF THREE (3) YEARS, WITH THE OPTION TO RENEW FOR ADDITIONAL TERMS OF THREE (3) YEARS EACH, WITH A TERM EXPIRATION OF OCTOBER 10, 2030, WITH FULL COMPENSATION, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR THE ANNUAL AMOUNT OF THREE HUNDRED TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$322,500.00).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Interim Deputy Administrator of Parks and Outdoors to enter into a Second Amendment to Aquarium Plaza Water Feature Maintenance Agreement with the Tennessee Aquarium, a non-profit agency, in substantially the form attached, for the term of three (3) years, with the option to renew for additional terms of three (3) years each, with a term expiration of October 10, 2030, with full compensation, subject to the appropriation of funds, for the annual amount of \$322,500.00.

ADOPTED: October 5, 2021

/mem

**SECOND AMENDMENT TO
AQUARIUM PLAZA WATER FEATURE MAINTENANCE AGREEMENT**

This Second Amendment to Aquarium Plaza Water Feature Maintenance Agreement (the "Second Amendment") is made and entered into as of the _____ day of _____ 2021, by and between the CITY OF CHATTANOOGA ("City") and the TENNESSEE AQUARIUM ("Aquarium") (hereinafter collectively referred to as the "Parties"). The Parties agree as follows:

RECITALS

WHEREAS, City and Aquarium entered into an Aquarium Plaza Water Feature Maintenance Agreement dated October 10, 2018 (the "Agreement"); and

WHEREAS, the Parties entered into a First Amendment to Aquarium Plaza Water Feature Maintenance Agreement dated January 30, 2020 (the "First Amendment"); and

WHEREAS, the Parties now wish to further amend the Agreement as provided herein.

AMENDMENT

1. Term. Section 1 of the Agreement is hereby amended and restated in its entirety as follows: "The term of this Agreement shall be for three (3) years beginning on the Effective Date, with the option to renew the Agreement, upon mutual agreement of the Parties, for successive three (3) year periods. However, in no event shall the term of this Agreement go beyond October 10, 2030."
2. Scope of Services. Section 2 of the Agreement is hereby amended by incorporating an Updated Additional Scope of Services (Exhibit C) and an Updated Map (Exhibit D), both of which are attached hereto, as additional Exhibits to the Agreement.
3. Compensation and Method of Payment. Section 3(a) of the Agreement is hereby amended by amending and restating the section thereof to read as follows: "As full compensation for the Services rendered pursuant to this Agreement, the City agrees to pay the Aquarium a total of Three Hundred Twenty-Two Thousand Five Hundred Dollars and 00/100 (\$322,500.00) annually as set forth below:

Services Under Original Agreement: \$163,500

Additional Services: \$159,000

Adjusted Annual Price: \$322,500"

4. Compensation and Method of Payment. Section 3 of the Agreement is hereby amended by adding the following language immediately at the end of the section thereof as subsection (c): “This Agreement is subject to the appropriation and availability of City funds. In the event that the funds are unavailable, City reserves the right to terminate this Agreement upon written notice to the Aquarium. Said termination shall not be deemed a breach of this Agreement by City. Upon receipt of the written notice, the Aquarium shall cease all work associated with this Agreement. Should such an event occur, the Aquarium shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Aquarium shall have no right to recover from City any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.”

5. Invoice Requirements. Section 4(c) of the Agreement is hereby amended by amending and restating the section thereof to read as follows: “Pricing adjustments shall be presented to the City’s Director of Parks maintenance six (6) months prior to each three (3) year contract anniversary.”

NO OTHER AMENDMENTS

Except as expressly amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment as of the day and year first above written.

CITY OF CHATTANOOGA

TENNESSEE AQUARIUM

By: _____

By: _____

Title: _____

Title: _____

Exhibit C

Water Feature Maintenance Plan – Updated Additional Scope of Services

The updated additional maintenance services, as set forth below, for the Aquarium Plaza grounds includes City of Chattanooga owned property within the block of Market Street, Aquarium Way, Chestnut Street, and Riverside Drive as depicted on the map attached hereto as Exhibit D.

Maintenance Services included within this agreement

- Janitorial services for public restrooms
- Minor plumbing repairs
- Security monitoring of property
- Landscaping to include; mowing, trimming, pruning of trees and plants, replacement of dead plants, leaf removal, irrigation, annual mulching, aeration, fertilizing, reseeding and litter removal. Includes 42 tree pits along the city streets.
- Brick paver leveling up to 6 square foot per issue and large square paver leveling up to 16 square foot per issue
- Minor repairs to concrete sidewalks; cleaning, crack filling, minor patching and grinding of high spots to address trip hazards
- General maintenance of concrete structures; cleaning, crack filling, and minor patching
- Handrail repairs and painting
- Minor electrical and lighting repairs for the plaza property to include the bunker, raised planters, public restrooms and the water features
- Pressure washing of plaza walkways, and concrete surfaces
- Service plaza garbage cans and 16 garbage cans along the city streets (to use city waste disposal services)
- Minor door hardware adjustments and repairs
- Perform general maintenance of the concrete structures within the water features; clean, patch, seal, etc.
- General maintenance of the waterproofing and joint sealant within the water features
- HVAC filter replacement and coil cleaning for the bunker and public restrooms

Services managed that are reimbursable

Minor Repairs

- Materials or parts replaced due to failure other than normal wear and tear
- Repairs due to damage from graffiti or other vandalism
- HVAC unit service and repairs

Major Repairs

- Major damage from weather related events
- Failures that require major equipment replacement
- Major repairs are to be priced and submitted to the City for approval prior to starting work
- New work or upgrades to the grounds and/or equipment
- Capital Improvement recommendations shall be submitted to the City by January 1 each year

Reimbursement Procedures

- The Tennessee Aquarium shall notify the Director of Parks Maintenance whenever a major repair is needed with an estimated cost for the repair and a timeline for when the repairs will be completed.
- Upon completion of the work, an expense report along with receipts shall be issued to the Director of Parks Maintenance. Payment should be issued to the Tennessee Aquarium within 30 days of receiving the expense report.

Services not included within this service agreement

- Liability associated with equipment, and grounds that are the property of the City of Chattanooga
- Waste disposal services for garbage. (We will use the current city dumpsters)
- Utility services; water, electric, gas or solar
- Trimming of trees along the roadways
- Pole lighting currently maintained by EPB
- Replacement or removal of dead or undesirable trees
- Irrigation of the trees along the City streets
- Major repairs of concrete walkways
- Brick paver repairs of more than 6 square foot per issue.
- Large square paver repairs of more than 16 square foot per issue.
- Major concrete structure repairs

Service schedule

- Grounds maintenance, and landscaping shall be provided during normal business hours 7AM – 4PM/TBT, 7 days a week
- Security and janitorial services shall be provided during normal operating hours, subject to change depending on season and event. November - March 8AM – 7PM, 7 days a week, April –October 7:30AM – 9PM, 7 days a week.
- No services will be provided on Thanksgiving day or Christmas day

City of Chattanooga	Tennessee Aquarium
_____	_____
Authorized Representative	Authorized Representative
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title
Date _____	Date _____

GISMO 5

Exhibit D - Updated Map



Legend

□ Parcels

0 100.00 200.0 Feet

NAD_1983_StatePlane_Tennessee_FIPS_4100_Feet
© Latitude Geographics Group Ltd.



Disclaimer: This map is to be used for reference only, and no other use or reliance on the same is authorized. This map was automatically generated using HCGIS Mapping System. Parcel lines are shown for reference only and are not intended for conveyances, nor is it intended to substitute for a legal survey or property abstract.