

City of Memphis

TENNESSEE

DR. W. W. HERENTON - Mayor
DAVID F. HANSEN - Chief Administrative Officer
DIVISION OF FINANCE & ADMINISTRATION
RICK MASSON - Director
Purchasing Agent

Friday, December 30, 1994

City Contract #N10713

Memphis Zoological Society
2000 Galloway
Memphis, TN 38112

Gentlemen:

We are enclosing, herewith, an executed copy of a Negotiated Contract for Management Agreement for Memphis Zoo & Aquarium for the division of Parks/ Administration.

This copy is for your files.

Sincerely,

Mr. Linrie Thomas, C.P.M.
Purchasing Agent

cc: City Comptroller
PARKS/ZOO
City Contract #N10713

ZOO MANAGEMENT AGREEMENT

This Zoo Management Agreement made and entered into as of this 30th day of ~~November~~^{December}, 1994, by and between MEMPHIS ZOOLOGICAL SOCIETY, a Tennessee not-for-profit corporation ("MZS") and the CITY OF MEMPHIS, TENNESSEE ("City"), a municipal corporation under the laws of the State of Tennessee, acting by and through the Memphis Park Commission ("MPC").

In consideration of the mutual promises stated below, the parties hereby agree as follows:

1. Definitions. As used in this Agreement, certain capitalized terms shall have the meanings indicated on Exhibit "A" hereto, which are in addition to other terms defined in this Agreement.

2. Term, Termination.

2.1. The initial term of this Agreement will be commence January 1, 1995 (the "Commencement Date") and end June 30, 1996.

2.2. Either the City or MZS can terminate this Agreement at any time, on sixty (60) days prior written notice, whether or not good cause exists for any such termination. Provided, however, that no such termination notice shall be effective unless approved in advance by a majority of the then serving appointed members of MPC, or a majority of the then serving members of the Executive Committee of MZS, as the case may be.

2.3. The notice described in Section 2.2 above shall describe the situation and reasons, if any, resulting in the termination; and the parties will attempt in good faith to correct such situation within the sixty (60) day notice period. If the situation is corrected to the reasonable satisfaction of both the City and MZS, the party seeking the termination may withdraw such notice, in which case this Agreement shall remain in full force and effect.

2.4. This Agreement shall automatically be extended for additional terms of one (1) year each unless, not less than sixty (60) days prior to the expiration of any term, either party shall give written notice to the other party, electing to terminate this Agreement at the expiration of the then term.

3. Management and Governance.

3.1. The City hereby appoints MZS as the manager of the Zoo, including all operations, maintenance, and programs at the Zoo. Except as specifically otherwise provided in this Agreement, MZS

will have full authority and responsibility for all aspects of the day to day operation of the Zoo.

3.2. The President of MZS will be the Chief Executive Officer of the Zoo and the Zoo Director will be the Chief Operating Officer.

3.3. MZS will have sole authority to determine the charges for admission to special events at the Zoo and the charges for uses of Zoo facilities (including parking areas), except that MZS will not change the per person prices for admission to the Zoo, the free period, or the parking fees without the prior approval of MPC.

3.4. MPC shall designate one of the appointed commissioners of MPC to be the primary representative of MPC to MZS and the Zoo (the "Designated Representative"). The parties acknowledge that Peggy Seessel is presently the Designated Representative. The Designated Representative shall be an ex officio voting member of the Board of Directors and Executive Committee of MZS during the term of this Agreement, and shall have authority to represent MPC. Each of the Executive Director of MPC, the President of MZS (chief executive officer), and the Zoo Director (chief operating officer) shall be an ex officio voting member of the Board of Directors and Executive Committee of MZS during the term of this Agreement.

3.5. Whenever the consent or approval of a party is required under this Agreement, such consent or approval shall not be unreasonably withheld or delayed, unless otherwise specifically designated in this Agreement as being in such party's sole and absolute discretion. No additional approval shall be required from MPC, the City, and/or MZS as to any item already approved by such party as part of a budget, plan, or report.

3.6. All concessions at the Zoo shall be under the control of MZS, and all rents or other proceeds from such concessions shall be paid to MZS. MZS shall be entitled to operate any such concessions itself or by contract with independent concessionaires, as it deems advisable. Without limiting the foregoing, MZS is hereby authorized to represent the City and MPC regarding their agreements with Midland Food Services, Inc. for food service at the Zoo, and with J.C. Levy as to the rides at the Zoo.

3.7. No contract made by MZS with a third party shall be binding on MPC unless either (a) such contract provides that MPC may terminate such contract on sixty (60) days notice to such third party, at any time following the termination of this Zoo Management Agreement, or (b) MPC shall have approved such contract in writing at the time it was made.

4. Funding and Finances.

4.1. The City will pay to MZS, throughout the term of this Agreement and any renewal or extension thereof, a management fee of One Hundred Thousand Dollars (\$100,000.00) per month, beginning January 1, 1995. Said fee will be paid in the accounting and payment process under Section 9.3 below.

4.2. All revenues generated by the Zoo, or by any event or program at the Zoo, or otherwise raised by or donated to MZS or the Zoo, shall be paid to MZS for use in the management, operation, and improvement of the Zoo and management and operation of MZS, including admissions, parking fees, concessions, rentals, special events, sales of goods, and other such revenues. Provided, however, that any donation made to the Zoo or MZS subject to a restriction imposed by the donor shall be used only in compliance with such restriction.

4.3. Attached hereto as Exhibit "B" is the budget for the operation of the Zoo, approved by MPC and the City for the fiscal year ending June 30, 1995 (the "Zoo Budget"). Any item which is contained in the Zoo Budget, without regard to the amount of money for such item contained in the Zoo Budget or needed in the future, will be paid for or reimbursed by MZS out of the revenues described in Sections 4.1 and 4.2 above and other revenues raised by MZS, to the extent such item is actually used by MZS in the operation of the Zoo. Such items paid for by the City shall be reimbursed by MZS within five (5) business days following MZS's receipt of a sufficiently detailed statement therefor. Provided, however, that

4.3.1. The City will provide MZS and the Zoo with all real and personal property insurance needed for the proper operation of the Zoo and protection of all real and personal property owned by the Zoo, the City, MPC, and (to the extent property owned by MZS is used for the benefit of the City, MPC or the Zoo) MZS, including (but not limited to) the Real Property, the Equipment, animals, buildings, contents, furniture, fixtures and equipment. MZS will reimburse the City for the first Twelve Thousand Dollars (\$12,000.00) in annual premiums for said insurance and the City will pay the balance of said premiums. The City will administer all such property insurance; any deductible will be paid pro rata by the City and MZS (based on relative value of insured property owned by each). Said property insurance will name the City, MPC, and MZS as the named insureds, as their respective interests may appear and shall cover standard and extended coverage hazards.

4.3.2. MZS shall pay all sewer fees properly attributable to actual sewer usage at the Zoo for the current period, up to a maximum of \$75,000.00 per year; and

4.3.3. City payroll items on the Zoo Budget will be reimbursed and managed as provided in Section 9 below.

4.4. "Non-Budget Items" means all goods, services, and other items which the City or MPC provides to or for the Zoo, on a regular basis or from time to time, which are not included in the Zoo Budget. The City and/or MPC will continue to provide Non-Budget Items to the Zoo, as and when needed, at the sole cost and expense of the City and at no cost to MZS or the Zoo. Non-Budget Items include:

4.4.1. All premiums for property insurance in excess of the \$12,000 premiums to be paid by MZS under Section 4.3.1 above;

4.4.2. Maintenance, repair, and replacement of the Real Property through the City's General Services;

4.4.3. Maintenance, repair, and replacement of the vehicles and other Equipment, including gasoline and oil, through the City's General Services;

4.4.4. Major maintenance of the Real Property, including (i) all replacements and major repairs to the walls, floors, ceilings, roofs, infrastructure, paving, and structural parts of the Real Property, (ii) all replacements or major repairs to mechanical, plumbing, and electrical systems, (iii) all repairs or replacements necessitated by extraordinary causes, such as weather or casualty, and (iv) all work required for compliance with applicable building and fire codes and laws and regulations relating to safety, the environment, or the disabled;

4.4.5. Replacement and acquisition of new (additional) capital equipment, vehicles and rolling stock as shown on the budget attached hereto as Exhibit "E" for fiscal years 1995 and 1996 and in comparable amounts for future fiscal years if applicable; and

4.4.6. Tree maintenance as shown on the budget attached hereto as Exhibit "E" for fiscal years 1995 and 1996 and in comparable amounts for future fiscal years if applicable.

4.5. MZS will provide MPC annually with a financial report on the operation of the Zoo, which is audited and certified by the firm of Certified Public Accountants then serving MZS, plus MZS's normal monthly interim, unaudited, reports.

4.6. All funds now or hereafter granted to the Zoo from other governmental entities (including the state of Tennessee or county of Shelby) shall be paid to MZS for the use designated by the grantor, or if no use is so designated, then for such use in the

operation and maintenance of the Zoo as MZS shall determine. This includes the \$3,000,000 unpaid balance of the \$5,000,000 grant heretofore made by the state of Tennessee. Funds received from any such other governmental agencies shall not replace any funds to be furnished for the Zoo by the City or MZS under this Agreement.

4.7. If MZS elects, from time to time, the City will administer the casualty/liability insurance program for the benefit of the City, MPC, the Zoo and MZS, which insurance shall be for such adequate limits as the City may deem appropriate (and MZS shall have approved in advance) and shall protect, indemnify and defend the City, MPC, and MZS, as their respective interests may appear. MZS will reimburse the City for the entire actual premiums and administrative costs for such insurance program, in the amounts which the City shall notify MZS and which are approved in advance by MZS. In lieu of such liability insurance provided by the City, MZS may elect from time to time to obtain, at its sole cost and expense, a policy of public liability insurance for the Zoo, in such amounts as are normal and adequate for zoo operations of the size and scope of the Zoo (but not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit). Said liability policy, and all other policies of insurance provided for or contemplated by this Agreement, shall name the City, MPC, and MZS as the insureds or additional insureds, and protect said parties, as their respective interests may appear.

4.8. All agreements made by the City or MPC to provide funding are subject to normal City Council appropriations procedures.

5. Property.

5.1. Ownership of the Real Property and Equipment shall be and remain in the City. The City does hereby grant and convey to MZS license to use the Real Property and Equipment during the term of this Agreement for Zoo purposes only.

5.2. The City will provide, at no cost to MZS, such additional land for parking or additions to the Zoo, as may from time to time be requested by MZS and approved by MPC.

5.3. MZS shall have the right to make such changes in the appearance of the Real Property, routine non-structural changes, or additions or improvements paid for wholly by MZS, as it deems appropriate for the proper operation of the Zoo. MZS shall make no material changes to existing buildings and improvements on the Real Property without the prior approval of MPC in each instance. Capital additions are subject to Section 6 below.

5.4. The City does hereby grant to MZS, for the term of this Agreement and all extensions and renewal thereof, an exclusive and irrevocable license in and to the Intangible Property. MPC (or such other official of the City as is appropriate) is hereby authorized and directed to execute and deliver to MZS such assignments, licenses, and other instruments and documents as needed to effectively grant said license in and to all of the Intangible Property to MZS. Subject to the restrictions in Section 3.7 above, MZS is authorized to grant such sub-licenses in any item of the Intangible Property as it deems in the best interest of the Zoo, including those for a term which is longer than the term of this Agreement.

6. Capital Additions.

6.1. The City and MZS hereby agree and acknowledge that they have both approved the funding and construction of those additions to the Zoo described in Phases I through IIC, inclusive, of the approved Master Plan (the "Approved Capital Additions"). Each of the City and MZS hereby agrees that it will provide the funds for the Approved Capital Additions in accordance with the capital improvement budget for the city of Memphis, approved by the Memphis City Council in June, 1993, for the fiscal years 1995 and 1996 (attached hereto as Exhibit "C").

6.2. Not intending to bind either the City or MZS to pay for any part of future capital additions, both the City and MZS recognize and acknowledge the Zoo's need for additional capital additions and improvements, from and after the completion of the Approved Capital Additions, to be funded in part by MZS and in part by the City. Such additional capital additions and improvements shall be subject to the approval of both the City and MZS, in accordance with the standard procedures for such approvals.

6.3. All capital additions funded in whole or in part by City funds shall be built in accordance with such plans and specifications, and by such contractors, as shall be approved by both MPC and MZS. Such approval and construction for all such capital addition projects shall be subject to the normal City procedures and facilities for bidding, bonding, supervision, contract administration and the like, to the extent required by applicable laws, policies or procedures. It is the intent of the parties that any additional major improvements to the Zoo include funding and/or planning for maintenance of such improvements.

6.4. MZS may make capital additions (as well as structural changes) to the Real Property, without funding provided by the City, so long as such capital additions are made pursuant to plans and specifications approved by MPC, and so long as such work is done at the sole expense of MZS without any reimbursement by the

City. MZS may, but shall not be required to, have the work described in this Section 6.4 performed in accordance with normal City procedures and facilities for bidding, supervision, contract administration and the like. In any event, MZS will abide by the present policies and procedures of the city of Memphis regarding the employment of minority contractors and suppliers. All capital additions, construction, fixtures, equipment and other capital items, for or at the Zoo, heretofore or hereafter paid for in part or in whole by MZS, are the property of the City, which accepts ownership of and title to all such items.

7. Animal Collection and Animal Funds.

7.1. MZS will have full authority and discretion to display, not display, treat, buy, sell, loan, trade, breed, or otherwise manage or deal in the Animal Collection. All such actions regarding the Animal Collection must comply with proper zoo management standards, including all requirements of the AZA, the United States Department of Agriculture, the United States Department of Interior, and other appropriate federal, state and international laws and regulations.

7.2. MZS shall not take any material action with regard to the Animal Collection without the approval of the Designated Representative and the Executive Committee of MZS.

7.3. MZS will maintain the Animal Collection to at least the standards now maintained at the Zoo. The parties all acknowledge, however, that each animal which dies or is sold or traded may not necessarily be replaced in kind, but that the composition of the Animal Collection may vary over time. The parties also acknowledge that the present policy of the City not to insure the Animal Collection against loss by fire, theft, weather, vandalism, and other such risks will be continued by the City and MZS; and that MZS has no obligation to replace animals which are lost by reason of any such hazards, except if such loss is caused by the gross or willful misconduct or gross or willful negligence of MZS.

7.4. Ownership and possession of the Animal Funds shall be and remain in the City, but the City agrees it will only use and pay the Animal Funds as approved by the MZS Executive Committee during the term of this Agreement, for the acquisition of animals for the Zoo and otherwise in accordance with the restrictions now or hereafter imposed on such Animal Funds by the donors thereof, as those restrictions may be changed from time to time. The net proceeds from the sale of animals will be added to the Animal Funds. Interest earned on the Animal Funds will be added to principal. The restrictions described in this paragraph do not apply to other funds raised by MZS for the acquisition of animals or other purposes. At least quarterly, the City will furnish MZS

with complete financial reports on the status of the Animal Funds, including a statement of all payments to and from the Animal Funds.

8. Parking and Access.

8.1. MZS shall have the right to make such reasonable restrictions on the use of the parking areas now or hereafter included in the Real Property as may be necessary for the proper operation and management of the Zoo.

8.2. The City will be responsible for such asphalt and concrete work as is needed to keep the parking areas for the Zoo in good repair. MZS will be responsible for cleaning, striping, light bulb changing, and other such maintenance of the parking areas.

8.3. The City will maintain the present access roads to the Zoo, and any additional access roads to the Zoo hereafter built, in a good state of repair and cleanliness. Upon request by MZS to MPC at any time, and from time to time, subject to the approval of MPC, MPC will permit MZS to restrict the use of such access roads to visitors to the Zoo or to restrict any access road(s) to the Zoo to one way traffic. The City will not restore access from Overton Park Road to the Zoo's access road without the prior permission of MZS.

8.4. MZS and the City agree to cooperate in the use and construction of roadways through, and into and out of, Overton Park, so as to maintain safe and efficient traffic patterns for the Zoo, other facilities in Overton Park, and the neighboring properties.

9. Employees.

9.1. The Zoo Budget presently includes the City's employee positions listed in Exhibit "D" to this Agreement (the "Budgeted Employee Positions"). The City agrees that the number and/or type of Budgeted Employee Positions will not be changed in the current or any future year, without the approval of MPC and MZS. There will be no employees of the City or MPC working at the Zoo on Zoo business except either (a) the Budgeted Employee Positions or (b) other positions with the prior approval of MZS.

9.2. All individuals employed at the Zoo in one of the Budgeted Employee Positions at December 31, 1994 (the "Existing Employees") will continue to be employed at the Zoo and will continue to be City employees, subject to City personnel requirements and policies and City payroll and benefits. The City will not fill any vacant Budgeted Employee Positions between the date of this Agreement and January 1, 1995, without the prior consent of MZS. The City will not increase the compensation or

benefits of any Budgeted Employee Position at a rate which is materially larger than the rate of increase generally given to other City employees, without the prior consent of MZS.

9.3. On the tenth (10th) day of each calendar month (or next business day, if a weekend or holiday), the City will furnish MZS with a detailed statement of its actual costs of compensation and benefits paid to or for each Budgeted Employee Position actually paid by the City during the prior month; said statement shall be furnished for each month during the term of this Agreement (and extensions and renewals thereof). Such statement shall not include any administrative or overhead charge for the City's administration of such payroll and shall otherwise be calculated in the same manner as in the Zoo Budget. The City shall furnish MZS with a detailed roster and accounting for each such monthly statement. MZS may contest the accuracy of any such monthly statement within fifteen (15) days following its receipt of such statement.

9.4. On or before the tenth (10th) day following receipt of all three monthly statements under Section 9.3 above for a calendar quarter, MZS shall pay to the City an amount equal to (a) the compensation and benefits shown on such monthly statements, for the three months in such quarter, less (b) Three Hundred Thousand Dollars (\$300,000.00), being three months' management fee under Section 4.1 above. The time for MZS's obligation to pay any such amount shall be extended correspondingly if any statement under Section 9.3 above is received late. If such subtraction results in a negative number, then the City shall pay the amount of such negative number to MZS on or before said tenth (10th) day.

9.5. If any Budgeted Employee Position should be vacant, because the individual in such position should voluntarily terminate his/her employment or have his/her employment terminated by the City for cause, or because the position was not filled on December 31, 1994, or for any other reason, that Budgeted Employee Position shall not be filled by the City unless MZS shall approve both the filling of such Budgeted Employee Position and, if so approved, the individual chosen for the position. This includes individuals selected by the City through new hires or transfers from other City employment.

9.6. Except as specifically provided in Sections 9.1 through 9.5 above, MZS will have sole authority to employ or terminate any employee at the Zoo and determine the terms and conditions of such employment, from and after the Commencement Date.

9.7. MZS shall be an equal opportunity employer and shall not discriminate in its employment practices on the basis of race, sex, age, color, religion, national origin, or disabilities.

10. Licenses, Laws.

10.1. MZS will manage the Zoo in compliance with all applicable laws and regulations regarding the loan, sale, movement, purchase, and exchange of animals and the operation of zoos.

10.2. MZS will maintain or renew all permits and licenses required for the operation of the Zoo throughout the term of this Agreement, which may be maintained in the name of the City and/or MZS, as appropriate under the circumstances.

10.3. MZS will use its best efforts to continue to operate the Zoo in a manner which will qualify for professionally accredited membership status in AZA. MZS will not discontinue the Zoo's membership in AZA without giving advance notice to MPC, stating in such notice the reasons for such discontinuance.

11. MZS Charitable Status. All funds raised by, or donated to, MZS, through special events or exhibits, sales of goods or services, memberships, advertising, sponsorships, private donations, or otherwise, shall be the sole and exclusive property of MZS, subject to any restrictions imposed on the use of such funds by the Charter and Bylaws of MZS and/or the terms of the donation. No such funds will be used in a manner which will cause MZS to lose its status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code. MZS will engage in no activities which would cause MZS to lose its status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code.

12. Miscellaneous.

12.1. No Waiver. No waiver of any term, condition, default, or breach of this Agreement, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Agreement or of such document. No delay or failure to enforce any provision in this Agreement or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Agreement or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

12.2. Use of Certain Words. All words used herein shall be construed according to their proper gender and number, as the context shall require. Unless specifically designated otherwise,

a reference to "including" shall mean "including, but not limited to."

12.3. Effect of Agreement. This Agreement sets forth the entire understanding of the parties, replacing any and all prior agreements relating to the subject matter hereof, including the agreement dated September 20, 1989. This Agreement may be changed, amended, or terminated only by similar written instrument executed by all parties to be bound thereby.

12.4. Parties Bound. All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of, and be enforceable by and against, the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

12.5. Assignment Limited. No party may assign or delegate its rights or duties under this Agreement without the prior written consent of the other parties in each instance.

12.6. Severability. If any provision of this Agreement is held to be unlawful, invalid, or unenforceable under any present or future laws, such provision shall be fully severable; and this Agreement shall then be construed and enforced as if such unlawful, invalid, or unenforceable provision had not been a part hereof. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such unlawful, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such unlawful, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

12.7. Notices. Any and all notices, requests, communications, or demands required or permitted to be given pursuant hereto (a) shall be in writing, (b) shall be delivered either (i) in person or by electronic facsimile, (ii) by an established overnight delivery service, such as Federal Express, or (iii) mailed by registered or certified mail, return receipt requested, and (c) shall be addressed as follows:

City of Memphis:

City of Memphis, Tennessee
125 North Main Street
Memphis, Tennessee 38103
Attn: _____

Copy To:

Monice Hagler, Esquire
City Attorney

Memphis Park Commission:

Memphis Park Commission
2599 Avery Avenue
Memphis, Tennessee 38111
Attn: Bob Brame, Exec. Dir.

Copy to:

John Malmo, Chairman

Copy to:

Peggy Seessel

Copy To:

John Maxwell, Esquire
Memphis Park Commission Attorney

Memphis Zoological Society:

Memphis Zoological Society
2000 Galloway
Memphis, Tennessee 38112
Attn: Roger T. Knox, President

Copy to:

James H. Prentiss, Chairman

Copy To:

James B. Jalenak, Esquire
Memphis Zoological Society Atty

or to such other address or addresses as any party may designate to the others, by notice in writing, given as above provided. Notices delivered in person or by electronic facsimile shall be deemed to have been given on the date of delivery; notices delivered by overnight delivery service shall be deemed to have been given on the business day following the date of deposit with such overnight delivery service; and notices given by mail shall be deemed to have been given three (3) days after the date of mailing.

12.8. Headings Not Part of Contract. The headings preceding each paragraph, and the Table of Contents (if any) are inserted merely as a matter of convenience and shall not be deemed to be a part of the contract terms.

12.9. Governing Law. This Agreement has been accepted, executed and delivered, and is intended to be performed, in the state of Tennessee. The rights and duties of the parties, and the validity, construction, enforcement, and interpretation of this Agreement, shall be governed and construed according to the laws of such state.

12.10. Exhibits. All of the Exhibits attached to this Agreement are a part of this Agreement when so attached and initialed by a representative of each party, and are incorporated herein by reference as fully as if copied herein verbatim.

12.11. Further Assurances. Each of the parties, at all times and from time to time hereafter, and upon reasonable written

request to do so, shall make, do, execute, deliver, or cause to be made, done, executed and delivered, all such further acts, deeds, instruments, assurances, and things as may be required for more effectually implementing and carrying out the true intent and meaning of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement, by their duly authorized officers, as of the day and year first above written.

ATTEST:

James B. Jalenak
James B. Jalenak
Secretary, Counsel

APPROVED:

Bob Brame
Bob Brame
Executive Director
MEMPHIS PARK COMMISSION

APPROVED:

John Maxwell
John Maxwell, Attorney
MEMPHIS PARK COMMISSION

MEMPHIS ZOOLOGICAL SOCIETY

By Roger T. Knox
Roger T. Knox, President
By James H. Prentiss
James H. Prentiss, Chairman

MEMPHIS PARK COMMISSION

By John Malmo
John Malmo, Chairman

ATTEST:

Liz Stockdale
Secretary
MEMPHIS PARK COMMISSION

APPROVED for CITY OF MEMPHIS:

Dr. W. W. Herenton
Dr. W. W. Herenton, Mayor
Monice Hagler
Monice Hagler, City Attorney

LIST OF EXHIBITS:

- A Definitions of Terms
- B Zoo Budget
- C CIP Budgets for FY 1995 & 1996
- D The Budgeted Employee Positions
- E Capital Equipment, Vehicles and Rolling Stock, and Tree Maintenance for FY 1995 & 1996

EXHIBIT "A"

DEFINITIONS

1. "Animal Collection" means all of the animals now or hereafter owned by the City or otherwise kept or displayed at the Zoo, including those animals on loan to other zoos.

2. "Animal Funds" means all funds now held by the City for the purchase or other acquisition of animals, including the Zoo Animal Fund and the fund established by the Plough Foundation and known as the "Aquarium Fund."

3. "AZA" means the American Zoo and Aquarium Association and any successor organization replacing it and performing the same functions.

4. "City" means the city of Memphis, Tennessee, a municipal corporation.

5. "Equipment" means all items of furniture, furnishings, equipment, vehicles, machinery, tools, fixtures (whether or not attached to the Real Property), supplies, and other tangible personal property, now or hereafter owned or leased by the City and used in the operation and maintenance of the Zoo.

6. "Force Majeure" means one or more of: weather or other acts of God; fire or other casualty; war; civil commotion or riots; strikes, labor disturbances, picketing, or other labor production difficulties; embargo; shortage, curtailment, or unavailability of products, materials, transportation, utility services, and/or labor; the orders of any court or regulatory agency; the imposition of an economically prohibitive tax, duty, fee, or penalty by any governmental agency; or any other cause or causes beyond the reasonable control of the applicable party.

7. "Intangible Property" means all trade names, trade marks, service marks, patents, copyrights, covenants not to compete, goodwill, and other intangible property owned by the City in connection with the Zoo and all of the City's rights in and to the foregoing.

8. "MPC" means Memphis Park Commission, a division of the City, and any successor division or organization replacing it and performing substantially the same functions.

9. "MZS" means Memphis Zoo, Inc., a Tennessee not-for-profit corporation, d/b/a Memphis Zoological Society.

10. "Person" means any individual, firm, corporation, association, trust, partnership, joint venture, governmental agency, or other entity.

11. "Real Property" means the land described in the Master Plan for the Zoo and all buildings, exhibits, structures, walks, drives, parking areas, paving, moats, large trees, and other improvements and vegetation which are built on or affixed to the land, together with all future additions, replacements, and/or improvements, owned by the City.

12. "Zoo" means the Memphis Zoo and Aquarium and all of the assets and properties which constitute the Memphis Zoo and Aquarium, including the Real Property, the Equipment, the Animal Collection and the Intangible Property. All assets and properties which are used as a part of the Zoo, but which may be held in the name of MPC or any other division of the City, are deemed to be owned by the City and a part of the Zoo.

Parks

Zoo

Description	FY 1993 Actual	FY 1994 Revised Budget	FY 1995 Proposed
Full Time Salaries	1,508,782	1,733,976	1,612,889
Holiday	29,767	69,358	100,115
Overtime	49,738	26,780	27,500
Out Of Rank	710	1,468	1,375
Hazardous Duty	83	685	642
Shift Differential	628	562	527
Retirement	14,129	0	0
Pension	178,262	197,130	184,628
Social Security	27,500	38,058	35,417
Blue M	78,201	105,562	114,451
Group Life	5,873	5,263	4,931
Unemployment Compensation	3,465	3,600	3,600
Prucare	3,769	5,245	0
Long Term Disability	6,975	9,017	8,387
Salary Increase	0	0	29,645
Payroll Reserve	5,525	6,730	5,928
Part-Time/Temporary	84,411	73,046	75,760
Total Personnel	1,997,818	2,276,480	2,205,795
City Hall Printing	3,214	5,000	5,200
City Hall Postage	0	433	433
Document Reproduction	2,086	2,305	2,305
City Storeroom Supplies	13,260	13,000	13,520
IS Computer/Office Machine Charges	3,531	6,156	8,000
Centrex	17,213	26,988	27,600
City Shop - Fuels	0	1,500	1,600
Outside Printing	5,391	6,000	5,300
Outside Supplies	3,290	5,000	5,500
Food Expense	185,467	234,000	243,000
Hand Tools	60	0	0
Clothing	8,692	10,175	10,105
Household Supplies	789	4,000	4,000
Safety Supplies	0	500	550
Drafting & Photo Supplies	139	300	100
Medical Supplies	23,944	23,000	23,000
Athletic/Recreation Supplies	81	0	0
Outside Postage	1,911	250	1,000
Lime, Cement, & Gravel	8,760	10,600	10,965
Chemicals	9,647	10,500	30,870
Misc Operating Supplies	65,652	60,000	62,500
Outside Equipment Repair	1,018	1,188	3,600
Med/Dental/Vet Services	6,439	7,800	8,000
Tphone/Tgraph/Comm	11,787	0	0
Security Services	130,329	130,000	132,950
Misc Professional Services	144,088	163,000	15,100
Travel	0	2,100	2,100

Parks

Zoo

Description	FY 1993 Actual	FY 1994 Revised Budget	FY 1995 Proposed
Auto Allowance	864	900	920
Other Transportation	8,924	14,000	12,800
Utilities (not incl water)	218,981	230,000	234,000
Sewer Fees	0	226,000	312,000
Insurance	0	12,000	12,000
Dues/Memberships/Periodicals	9,660	9,100	9,150
Misc Services Charges	2,442	8,000	8,204
Claims	0	0	5,000
OJI	27,837	10,000	25,000
Total Supplies/Services	915,496	1,233,795	1,236,372
Equipment	0	16,000	16,570
Total Capital	0	16,000	16,570
Gross Expenditures	2,913,314	3,526,275	3,458,737
Expense Recovery - Pers	0	900	900
Expense Recovery - M&S	11,908	12,000	12,515
Total Expense Recovery	11,908	12,900	13,415
Total Expenditures	2,901,406	3,513,375	3,445,322
Admission Fee	1,682,795	1,990,169	1,928,354
Commissioned Rides	34,490	43,400	76,085
Parking	20,748	17,000	13,000
Concessions	311,403	194,500	242,574
Total Revenue	2,049,436	2,245,069	2,260,013
Net City Expenditures	851,970	1,268,306	1,185,309

SECTION

PARKS

PROJECT NUMBER

157611

SUBJECT TITLE

ZOO MAJOR MAINTENANCE

PRIORITY NUMBER

13

BOOK ONE:

NEW PROJECT

X

IF EXISTING, FUNDS APPROP. TO DATE

EXISTING PROJECT

G.O. BONDS

0

OTHER

0

EXISTING, GIVE STATUS.

COMPLETE DESCRIPTION AND JUSTIFICATION OF THIS REQUEST.

project makes major renovations to various existing buildings and facilities in the Zoo, in order to be in compliance with building and health codes and ADA requirements. Included in this renovation will be repairs to the Hippo Cage, the Bear Moat, the Bird House, the Reptile House, the Eagle Cage and the Atrium

EFFECT OF THIS REQUEST ON OPERATING BUDGET.

PROJECT REVENUE

CAL YEAR	G.O. BONDS	FEDERAL GRANTS	STATE GRANTS	LOCAL SHARED	LOCAL OTHER (PRIVATE)	OTHER	TOTAL
5	327,184	0	0	0	0	0	327,184
6	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0
1	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0
TOTAL	327,184	0	0	0	0	0	327,184

PROJECT EXPENDITURES

CAL YEAR	ENGINEERING/ ARCHITECTURE	LAND ACQUISITION	LAND DEVELOPMENT	CONSTRUCTION COST	OTHER COST	TOTAL
5	29,744	0	0	297,440	0	327,184
6	0	0	0	0	0	0
7	0	0	0	0	0	0
8	0	0	0	0	0	0
9	0	0	0	0	0	0
0	0	0	0	0	0	0
1	0	0	0	0	0	0
2	0	0	0	0	0	0
3	0	0	0	0	0	0
4	0	0	0	0	0	0
TOTAL	29,744	0	0	297,440	0	327,184

VISION PARKS PROJECT NUMBER 157610
 PROJECT TITLE WOODMISTLE PRIORITY NUMBER 2
 CHECK ONE: NEW PROJECT _____ IF EXISTING, FUNDS APPROP. TO DATE
 EXISTING PROJECT X G.O. BONDS _____
 OTHER _____

EXISTING. GIVE STATUS.

imate World and Restaurant under construction.

COMPLETE DESCRIPTION AND JUSTIFICATION OF THIS REQUEST:

is project will cover construction of the Children's Village which includes a petting zoo, a train, and an interpretation center. Also included are a tram and
 eractive exhibits.

EFFECT OF THIS REQUEST ON OPERATING BUDGET.

PROJECT REVENUE

SCAL YEAR	G.O. BONDS	FEDERAL GRANTS	STATE GRANTS	LOCAL SHARED	LOCAL OTHER (PRIVATE)	OTHER	TOTAL
95	0	0	0	0	1,000,000	0	1,000,000
96	168,730	0	0	0	0	0	168,730
97	0	0	0	0	0	0	0
98	0	0	0	0	0	0	0
99	0	0	0	0	0	0	0
00	0	0	0	0	0	0	0
01	0	0	0	0	0	0	0
02	0	0	0	0	0	0	0
03	0	0	0	0	0	0	0
04	0	0	0	0	0	0	0
TOTAL	168,730	0	0	0	1,000,000	0	1,168,730

PROJECT EXPENDITURES

SCAL YEAR	ENGINEERING/ ARCHITECTURE	LAND ACQUISITION	LAND DEVELOPMENT	CONSTRUCTION COST	OTHER COST	TOTAL
95	0	0	0	1,000,000	0	1,000,000
96	0	0	0	0	168,730	168,730
97	0	0	0	0	0	0
98	0	0	0	0	0	0
99	0	0	0	0	0	0
00	0	0	0	0	0	0
01	0	0	0	0	0	0
02	0	0	0	0	0	0
03	0	0	0	0	0	0
04	0	0	0	0	0	0
TOTAL	0	0	0	1,000,000	168,730	1,168,730

FISCAL YEAR 1995 FORECAST

PARK COMMISSION

ZOO: 1552

COMPLEMENT DETAIL (ANNUALIZED)

		NUMBER		SOCIAL			
RAD	JCC	POSITION	AUTH	VACAN	SALARIES	PENSION	SECURIT
				BLUE	M	PRUCARE	GROUP
				LMB	DICAR		
					105,069	0	4,931 13,291
0	F005ZZ	DIRECTOR-ZOO 155211	1	0	67,959	9,039	
0	F072PK	FOREMAN-PARKS	1	0	25,118	3,341	
5	F101ZZ	MGR-ZOO/ANIMAL SVC	1	0	42,600	5,666	
3	F613CT	CASHIER-TBLER	3	0	62,358	8,294	
1	F120BZ	SUPER-BUSINESS/ZOO	1	0	32,931	4,380	
6	F172GC	CLERK-GEN/B	1	0	20,039	2,665	
7	F192AC	CLERK-ACCNTNG/B	1	0	28,027	3,728	
7	F192AC	CLERK-ACCNTNG/B	1	0	23,469	3,121	
7	F212SE	SECRETARY/A	1	0	19,760	2,628	
0	F005VZ	VBT-ZOO 155221	1	0	46,852	6,231	
8	F263VM	VBT MEDICAL TECH	2	1	47,841	6,363	
1	F032ZZ	CURATOR-EDUC/ZOO 15	1	0	30,572	4,066	
3	F030ZZ	CURATOR-ZOO 155241	1	0	39,103	5,201	
0	F033AZ	CURATOR-AST/ZOO	1	0	28,409	3,778	
5	F611ZK	ZOO KEEPER	23	1	498,387	66,285	
3	F030ZZ	CURATOR-ZOO 155251	1	0	35,450	4,715	
0	F033AZ	CURATOR-AST/ZOO	1	0	25,930	3,449	
5	F611ZK	ZOO KEEPER	9	0	195,025	25,938	
3	F030ZZ	CURATOR-ZOO 155261	1	0	39,103	5,201	
0	F033AZ	CURATOR-AST/ZOO	1	0	26,967	3,587	
5	F611AK	ZOO KEEPER	6	0	130,018	17,292	
3	F071ZZ	FOREMAN-ZOO GRNDS	1	1	34,644	4,608	
0		FOREMAN HORTICULTUR	1	0	22,787	3,031	
0		ASST. CURATOR	1	1	24,539	3,264	
5	F611CC	CREWCHIEF	1	0	21,669	1,658	
5	F613TD	TRUCK DRIVER	1	0	20,786	1,590	
5	F611SE	OPER-SPCL EQUIPMENT	1	0	21,669	1,658	
2	F614CR	CREWPERSON	4	0	81,411	6,228	
3	F613TD	TRUCK DRIVER	2	0	41,572	3,180	
2	F614CR	CREWPERSON	1	0	20,345	1,556	
1	F615CU	CUSTODIAN	2	0	39,807	3,045	
6		OPER-EQUIPMENT	1	1	21,228	1,624	
9	F543FW	SWEEPER OPERATOR	1	0	30,859	2,361	
			76	5	=====		
ANNUAL					101,779,273	196,830	22,900 105,069 0 4,931 13,291

EXHIBIT D

REMAINING ITEMS FROM FISCAL YEAR 1995
CAPITAL OUTLAY BUDGET

DIVISION PRIORITY	ITEM CLASS ITEM	USEFUL LIFE	QUAN.	UNIT COST	TOTAL COST	NEW/ REPLACE
ZOO	E Pediatric Scale	7	1	1,500	1,500	
155211	E Electronic Scale	5	1	2,000	2,000	
	V 1/2 Ton Pickup	7	1	12,000	12,000	
	E Egg Incubators	8	3	2,500	7,500	
	E Egg Incubators	8	1	4,000	4,000	
	E Auger for Bob Cat	8	1	1,570	1,570	
	V 1/2 Ton Pickup	7	1	13,000	13,000	
	E Laparoscope	5	1	<u>8,000</u>	<u>8,000</u>	
				44,570	49,570	

EXHIBIT E-1

FY 1996 CAPITAL DETAIL LIST
CAPITAL OUTLAY BUDGET

DIVISION PRIORITY	ITEM CLASS	ITEM	USEFUL LIFE	QUAN.	UNIT COST	TOTAL COST
ZOO	E	Cash Registers	8	4	2,000	8,000
155211	E	Blood Pressure Monitor	5	1	3,200	3,200
	E	Surgical Cabinet Unit	10	1	5,000	5,000
	V	1/2 Ton Pick-up truck	7	2	17,000	34,000
	E	Carpet/bird house	10	1	4,000	4,000
	E	Air purifiers	5	4	1,300	5,200
	E	Slide doors eleph.house	15	2	6,000	12,000
	E	Sea lion pump/filter	10	1	6,500	6,500
	E	Bush hog	7	1	3,500	3,500
	V	Passenger van	7	1	21,000	21,000
	V	Stake-bed truck	7	1	20,000	20,000
	E	Fork-lift	10	1	27,500	27,500
	E	Cat crate	10	2	4,000	8,000
	E	Dump-bed trailer	10	1	5,000	5,000
	E	Pre-fab building	15	1	20,000	20,000
	E	Trailer w/loading ramp	7	1	1,300	1,300
		Total			147,300	184,200