

RESOLUTION 2016-98R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AMENDED AND RESTATED PROPERTY USE AGREEMENT BETWEEN THE CITY AND TEXAS STATE UNIVERSITY FOR THE CITY'S USE OF A PARKING AREA DOWNTOWN AND TEXAS STATE UNIVERSITY'S USE OF A PARKING AREA ALONG CHARLES AUSTIN; AUTHORIZING THE CITY MANAGER TO EXECUTE THIS AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. By Resolution 2003-43R, the City Council approved a Property Use Agreement with Southwest Texas State University, now known as Texas State University (the "Agreement") under which the City authorized Texas State University to use designated parking areas along Charles Austin Drive and Texas State authorized the City to use designated parking areas behind the Fire Station Studio in downtown.

2. The Agreement was renewed and extended through August 31, 2018.

3. The parties wish to amend the Agreement to modify the parking spaces subject to the Agreement and to extend the term through July 31, 2019.


BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Parking Use Agreement (Amended and Restated) between the City and Texas State University is hereby approved.

PART 2. The City Manager is authorized to execute the Parking Use Agreement (Amended and Restated) on behalf of the City.

PART 3. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on August 2, 2016.


Daniel Guerrero
Mayor

Attest:


Jamie Lee Case
City Clerk

**Property Use Agreement
(Amended and Restated)**

This property use agreement, dated August 2, 2016 is between Texas State University (TEXAS STATE) and the City of San Marcos (the CITY).

1. Background

- 1.1 The CITY owns property along Charles Austin Drive in San Marcos, Hays County, Texas that TEXAS STATE desires to use for parking purposes. This property (called the Charles Austin Drive Property in this agreement) is more particularly described in Exhibit A, attached to this agreement and made a part of it for all purposes.
- 1.2 TEXAS STATE owns property on Hutchison Street (called the Fire Station Studio Parking Lot in this agreement) located behind the Fire Station Studio in San Marcos, Hays County, Texas. The property included in this agreement is more particularly described in Exhibit B, attached to this agreement and made a part of it for all purposes. The CITY desires to use this property for parking purposes.
- 1.3 This agreement sets forth the terms under which the CITY will permit TEXAS STATE to use the Charles Austin Drive Property and TEXAS STATE will permit the CITY to use the Fire Station Studio Parking Lot.

2. Agreement and Term

- 2.1 TEXAS STATE agrees to allow the CITY the exclusive use of the portion of the Fire Station Studio Parking Lot described in Exhibit B and the CITY agrees to allow TEXAS STATE the exclusive use of the Charles Austin Drive Property described in Exhibit A, for a period of three years, beginning August 1, 2016 and ending July 31, 2019.
- 2.2 The parties may, by written agreement, extend the term of this use agreement for such additional time as they later determine is appropriate. However, at the end of this agreement's term, each party will surrender the property it has received to the other in good order and condition, reasonable wear and tear excepted.
- 2.3 Either party may terminate this agreement for any reason by giving the other party at least 60 days' written notice.

3. Property Use and Maintenance

- 3.1 TEXAS STATE will use the property that it receives under this agreement for vehicle parking. As shown in Exhibit A, four parking spaces (#20-23) are reserved for CITY use.
- 3.2 The CITY will use the property that it receives under this agreement for vehicle parking and trash dumpster siting. As shown in Exhibit B, thirteen parking spaces (#1-13) are reserved for TEXAS STATE use. Neither party will use the property for any other

purpose without the other party's prior written consent. Similarly, neither party will erect permanent improvements on the property it receives without the other party's prior written consent. If either party makes permanent improvements to the property it receives, such permanent improvements will become the real property owner's property when this agreement terminates.

- 3.3 Each party will pay for utilities associated with the property it receives under this agreement.
- 3.4 Each party may, at its own expense, pave and improve paved surfaces on the property each receives under this agreement. Each party will keep the property it receives free of refuse and obstructions.
- 3.5 Neither party may assign any of its interests under this agreement without the other party's prior written consent.

4. Parking Meters and Regulations

- 4.1 The CITY may, but is not required to, use parking meters on the property described in Exhibit B. The CITY may enact ordinances establishing regulations and setting fines for overtime parking or other violations of regulations for use of the parking spaces within the property described in Exhibit B. The CITY is entitled to all revenues associated with the operation of the property described in Exhibit B, including parking meter fees and fine revenues.
- 4.2 Similarly, TEXAS STATE may establish rules for parking on the Charles Austin Drive Property during the term of this agreement and may collect parking charges and other revenues associated with the Charles Austin Drive Property. TEXAS STATE agrees to maintain signs along the Charles Austin Drive property designating TEXAS STATE exclusive use of the parking spaces.

5. Notices

- 5.1 All notices required to be given to the CITY shall be given by certified mail, return receipt requested to:

City Manager
City of San Marcos
630 E. Hopkins Street
San Marcos, TX 78666

- 5.2 All notices required to be given to TEXAS STATE shall be given by certified mail, return receipt requested to:

Texas State University
Vice President for Finance and Support Services

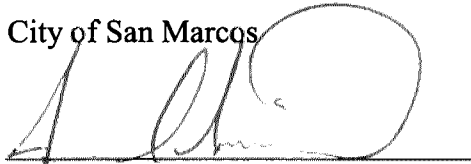
601 University Drive
San Marcos, TX 78666

- 5.3 Each party will notify the other of any change in its address.

6. General Provisions

- 6.1 The parties will construe this agreement under the laws of the State of Texas and will perform all their obligations in Hays County, Texas.
- 6.2 This is the only agreement of the parties respecting this subject, and it supersedes any prior written or oral agreements between the parties regarding this subject, including that certain Renewal and Extension of a Property Use Agreement Between the City of San Marcos and Texas State University as executed between the Parties with an effective date of June 25, 2015. The parties may not amend this agreement except in writing, dated after the date of this agreement and signed by each party's representative.
- 6.3 If any of this agreement's provisions is held to be illegal, invalid, or unenforceable, that holding will not affect any other provision of this agreement. The parties will construe the agreement as if the illegal, invalid, or unenforceable provision had never been contained in this agreement.

City of San Marcos



Jared H. Miller
City Manager

Texas State University



Eric Algoe
Vice President for Finance and
Support Services

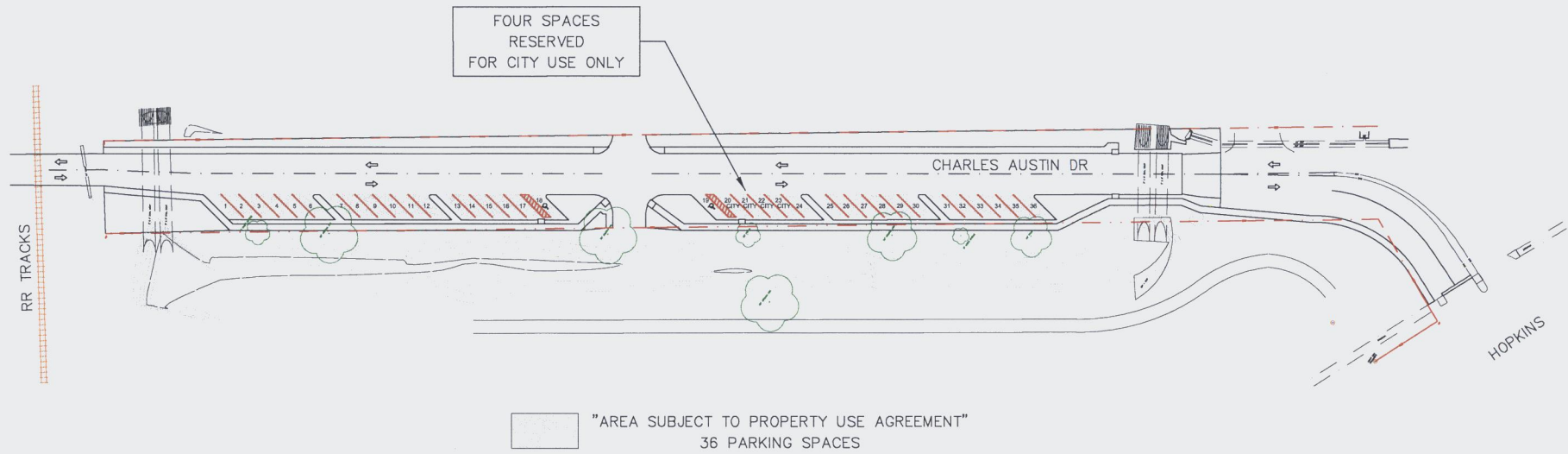


Exhibit "A"

Property Use Agreement

