

**AGENDA**



**Recommendation for Council Action**

Austin City Council	Item ID	31065	Agenda Number	10.
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Meeting Date:	2/27/2014	Department:	Austin Convention Center
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**Subject**

Authorize the negotiation and execution of the Fifth Amendment to the Second Amended and Restated Lease Agreement with Greater Austin Performing Arts Center, Inc. for the cooperative scheduling of events and capital improvements funding to preserve and protect the City's long-term investment in the Long Center facility.

**Amount and Source of Funding**

**Fiscal Note**

A fiscal note is not required.

Purchasing Language:	
Prior Council Action:	
For More Information:	Mark Tester, Director / 404-4040
Boards and Commission Action:	
MBE / WBE:	
Related Items:	

**Additional Backup Information**

Under the Amendment, the City and Greater Austin Performing Arts Center, Inc. (GAPAC) would agree to participate in a planning process to schedule combined events, which are events that would utilize both the Long Center, Palmer Events Center, and other City facilities to maximize the economic impact of their respective event calendars and to take advantage of the synergy of co-location. It is anticipated that the cooperative scheduling of events will enhance the public purpose of the facilities and allow the City and GAPAC to accommodate major public events that either party could not otherwise accommodate separately. The process would provide the opportunity to jointly contract for a reasonable number of combined events per year to be determined by the City's Convention Center Director and GAPAC's Executive Director (the "Directors"). Based upon a to-be-agreed-upon set of event requirements, the City and GAPAC, acting through their respective Directors, may schedule events for several years out from the contracted event dates in accordance with national event center best practices. The City and GAPAC will cooperate and coordinate in the planning, support, and execution of any combined events with the City and GAPAC being fully responsible for all aspects of the scheduled event in their respective facilities to the exclusion of any such responsibility of the other party.

In addition, the City and GAPAC recognize that short-term maintenance and long-term capital repairs, replacements, and improvements to the Long Center facility are essential to its present and future condition. Unless the Lease is extended, the Lease will expire in August 2052. Under the Amendment, the City will provide an additional level of support for capital improvements over and above what may be required in the Lease in order to ensure the long-term protection of its investment in the Long Center. Subject to annual appropriations by Council, the City will fund a Long Center Capital Improvements Fund for long-term capital renewal and replacements of the Long Center with approximately \$300,000.00 in annual contributions beginning in FY 2015. The funding may only be used to reimburse GAPAC for future capital improvements, as the Long Center facility ages, and its use will require the approval of the City Manager, or his or her designated representative, and duly authorized representatives of GAPAC. The Long Center Capital Improvements Fund will protect the City's present and future interest in the condition of the Long Center facility by building a sufficient capital fund to deliver a fully functional, fully operational, and state of the art facility at the end of the Lease term.

Capital improvements are generally those improvements that materially add to the value of the Long Center, appreciably prolong its useful life, or adapt it to new uses. Specifically, a capital improvement may consist of: (a) a stand-alone piece of equipment or asset with a unit cost of \$2,500 or more, or a project to replace one or more units of a type of equipment or asset (e.g., seating, theatrical lighting) with an aggregate total cost for such units of \$5,000 or more, with each asset having an economic useful life of more than one year, capitalized after September 2014; or (b) a capital improvement project of \$10,000 or more having an economic useful life of more than one year, capitalized after September 2014. This Amendment will not affect GAPAC's responsibility for operation and maintenance as set forth in the Lease. GAPAC will continue to submit its long-term capital improvement plan for the City's approval as required in the current Lease and the parties will cooperate in long-term planning with the goal of maximizing the potential condition of the Long Center. All capital improvement work will be made in accordance with nationally recognized best practices and principles of architectural conservation. Any anticipated capital improvements will constitute public improvements to City real property and, as such, GAPAC will be responsible for complying with Council's third party resolutions.