

AN ORDINANCE **2011-12-15-1058**

AUTHORIZING AN AMENDMENT TO THE NIX HEALTH CARE SYSTEM LICENSE AGREEMENT FOR USE OF THE HOUSTON STREET PARKING GARAGE TO FORMALIZE A DISCOUNT-FOR-VALIDATED-TICKET PROGRAM AND PROVIDE FOR ADDITIONAL EXTENSIONS OF THE AGREEMENT TERM.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City an instrument in substantially the form attached as Attachment I, which is incorporated for all purposes as if fully set forth. The City Manager and her designee, severally, should take all other actions conducive to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering ancillary documents and instruments conducive to effectuating the transaction.

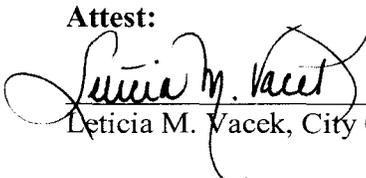
SECTION 2. Funds generated by this ordinance will be deposited into Fund 53001000, Internal Order 219000000127 and General Ledger 4403153.

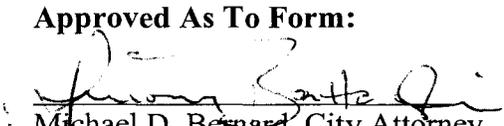
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 15th day of December 2011.


M A Y O R
Julián Castro

Attest:

Leticia M. Vacek, City Clerk

Approved As To Form:

Michael D. Bernard, City Attorney



Request for
**COUNCIL
 ACTION**

City of San Antonio

Agenda Voting Results - 39

| Name: | 6, 7, 8, 10, 11, 12, 13, 14, 16, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30A, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48 | | | | | | |
|---------------------|---|--------------------|------------|------------|----------------|---------------|---------------|
| Date: | 12/15/2011 | | | | | | |
| Time: | 10:36:06 AM | | | | | | |
| Vote Type: | Motion to Approve | | | | | | |
| Description: | An Ordinance authorizing an amendment to the Nix Health Care System license agreement for use of the Houston Street Parking Garage to formalize a discount-for-validated-ticket program and provide for additional extensions of the agreement term. [Pat DiGiovanni, Deputy City Manager; Paula X. Stallcup, Director, Downtown Operations Department] | | | | | | |
| Result: | Passed | | | | | | |
| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
| Julián Castro | Mayor | | x | | | | |
| Diego Bernal | District 1 | | x | | | | |
| Ivy R. Taylor | District 2 | x | | | | | |
| Jennifer V. Ramos | District 3 | | x | | | x | |
| Rey Saldaña | District 4 | | x | | | | x |
| David Medina Jr. | District 5 | | x | | | | |
| Ray Lopez | District 6 | | x | | | | |
| Cris Medina | District 7 | | x | | | | |
| W. Reed Williams | District 8 | | x | | | | |
| Elisa Chan | District 9 | | x | | | | |
| Carlton Soules | District 10 | | x | | | | |

Attachment I

Amendment to License Agreement

(Nix Hospital/Houston Street Garage)

This Amendment to License Agreement relates to the following:

**Ordinance Authorizing
Present Amendment:**

Licensor: City of San Antonio

Licensor's Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Director, Downtown Operations)

Licensee: Accord Medical Management, LP, successor by
conversion to Accord Medical Management, Inc., d/b/a
Nix Health Care System

Licensee's Address: 414 Navarro Street, Suite 600, San Antonio, Texas
78205-2523

Contract to be Amended: License Agreement between Licensor and Licensee
pertaining to Licensee's use of parking spaces at
Licensor's Mid-City Parking Garage, now known as
the Houston Street Garage, and authorized by the
Ordinance Authorizing Contract to be Amended

**Ordinance Authorizing
Contract to be Amended** 87741, April 30, 1998

**1st Renewal of Contract to
be Amended:** Renewal and Extension of License Agreement between
Licensor and Licensee pertaining to the Original
License and authorized by the Ordinance Authorizing
1st Renewal

**Ordinance Authorizing 1st
Renewal:** 98803, February 12, 2004

**2nd Renewal of Contract to
be Amended:** 2nd Renewal of License Agreement (Nix Hospital
Parking) between Licensor and Licensee and
authorized by the Ordinance Authorizing 2nd Renewal

**Ordinance Authorizing 2nd
Renewal:** 2008-05-01-0346

Effective Date: January 1, 2012

Background

Under the Contract to be Amended, Licensor has issued to Licensee 400 magnetic cards to permit Licensee's employees and tenants to park in the Houston Street Garage ("**Garage**").

To enter the Garage other than with a magnetic card, one must take a ticket ("**Ticket**") from a machine at the entrance.

In addition to the parking by magnetic cardholders, Licensor has been accepting payments at a discounted rate for Licensee's patients and visitors when they present Tickets validated by Licensee to indicate the parker is a patient or visitor ("**Visitor Validation**").

Licensor then bills Licensee monthly for the total of the discounts given for Licensee-validated Tickets.

Licensor and Licensee do not have a formal agreement setting out the terms of the discount-for-validated-Ticket relationship.

Licensor and Licensee wish to formalize the discount-for-validated-Ticket relationship by means of this amendment ("**Visitor Validation Program**").

The Contract to be Amended provided for up to three 5-year renewals.

Licensee is presently operating under the second of the three provided for.

The term under which Licensee is currently operating expires April 30, 2013.

Under the existing agreement, Licensee may seek to extend for one additional five-year term upon expiration of the present term ending April 30, 2013.

Licensor and Licensee wish to provide for additional extensions of the term of the Contract to be Amended.

Licensor and Licensee wish to further amend the contract to allow the City of San Antonio Director of Downtown Operations, at the request of Licensee, to manage the allocation of basement-level and above-ground parking spaces.

Rights and Obligations

1. Defined Terms.

All terms defined in the Contract to be Amended and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Contract to be Amended. References to "Contract to be Amended" in this amendment include both the original Contract to be Amended and all previous amendments to it.

2. Visitor Validation Program.

2.01. Licensee may validate Tickets for one-hour, two-hour, and full-day periods. When someone presents a Ticket with a Licensee validation, Licensor will charge the presenter and Licensee as follows:

2.01.01. *One Hour Validation:* Licensor charges the presenter of the validated Ticket only for the time, if any, over one hour and bills Licensee for one hour of parking at the Visitor Validation Program Discounted Rate. The charge to the customer for time exceeding the validation is at normal, non-discounted rates.

2.01.02. *Two Hour Validation:* Licensor charges the presenter of the validated Ticket only for the time, if any, over two hours and bills Licensee for two hours of parking at the Visitor Validation Program Discounted Rate. The charge to the customer for time exceeding the validation is at normal, non-discounted rates.

2.01.03. *Full Validation:* The presenter of the validated Ticket pays nothing. Licensor bills Licensee the daily flat rate.

2.02. The Visitor Validation Program Discounted Rates are set out in **Exhibit A**.

2.03. Licensor determines the Visitor Validation method, and Licensor may change that method from time to time. Licensee must obtain and maintain at its own expense all equipment necessary for operating its end of the Visitor Validation method in effect at any given time, and Licensor will obtain and maintain at its expense all equipment for operating its end of the method. Licensor's Parking Manager determines whether Licensee has the appropriate equipment. Licensee bears all risk of misuse or theft of its Visitor Validation equipment. Licensor need not honor any validation not performed properly under Licensor's system in effect from time to time.

2.04. Licensor's standard rates for parking in the Garage will be increased from time to time by City Council, and the higher rates replace those shown on Exhibit A as the "Current Full Rate."

2.05. This Article 2 supersedes all previous oral or written agreements relating to the Visitor Validation Program and is a fully integrated statement of the rights and obligations pertaining to it.

3. Payment.

Licensee must pay Licensor the full amount of all invoices from Licensor within ten calendar days of the invoice due date. Failure to timely pay the full amount is an event of default. In each case of such default, Licensee must further pay Licensor a late fee of \$500 to compensate Licensor for the administrative costs associated with accounting for late payments. The late fee is due on the 11th day after the due date of the invoice.

4. Authority for Modification of Parking Space Allocation.

At the request of Licensee, the City of San Antonio Director of Downtown Operations, at the Director's sole discretion, may make adjustments to the allocation of basement-level and above-ground parking spaces.

5. Extensions of Term of Contract to be Amended.

5.01. Licensee may extend the term of the Contract to be Amended for up to two additional five-year terms. To effect the extensions, Licensee must give prior, written notice as required by the Contract to be Amended, and City Council must approve each extension before it goes into effect.

5.02. The term extensions provided for in this amendment are in addition to, and not in lieu of, the remaining five-year term remaining under the Contract to be Amended. The final potential extension of term of the Contract to be Amended expires April 30, 2028.

6. No Default.

Neither Licensor nor Licensee is in default under the Contract to be Amended and neither party is aware of a cause of action against the other arising out of or relating to the period before this Amendment.

7. Same Terms and Conditions.

This amendment is a fully integrated statement of the modifications to the Contract to be Amended. Except as expressly modified by this Amendment, the Contract to be Amended remains a comprehensive statement of the rights and obligations of Licensee and Licensor. Licensee and Licensor reaffirm the Contract to be Amended.

8. Public Information.

Licensor acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

Remainder of Page Intentionally Left Blank

9. Incorporation of Exhibits.

All exhibits to this agreement are incorporated into it for all purposes as if fully set forth.

In Witness Whereof, the parties have caused their representatives to set their hands,

Licensor

Licensee

City of San Antonio,
a Texas municipal corporation

Accord Medical Management, LP,
successor by conversion to Accord
Medical Management, Inc., d/b/a Nix
Health Care System, a Texas limited
partnership, by and through its sole
general partner

By: _____

Printed Name: Sheryl L. Sculley

Title: City Manager

Date: _____

Merit San Antonio General, LLC, a
Texas limited liability company

By: _____

Attest:

Printed

Name: _____

City Clerk

Title: _____

Date: _____

Approved As To Form:

City Attorney

Exhibit A

Current, Non-Discounted (Normal) Rates¹

| <i>Length of Stay</i> | <i>Current Full Rate²</i> |
|-----------------------|--------------------------------------|
| ½ Hour | \$2.00 |
| Up to 1 Hour | \$3.00 |
| Up to 1 ½ Hours | \$5.00 |
| Up to 2 Hours | \$7.00 |
| Up to 2 ½ Hours | \$8.00 |
| Over 2 ½ Hours | \$9.00 |
| Daily Flat Rate | \$10.00 |

Visitor Validation Program Discounted Rates

| <i>Type of Validation</i> | <i>Discounted Rate</i> |
|--------------------------------|------------------------|
| 1 Hour Validation ³ | \$2.00 |
| 2 Hour Validation ⁴ | \$5.00 |
| Full Validation ⁵ | \$10.00 |

¹ Applicable to ordinary public parking. Vehicles parked overnight are charged separately for each day.

² City Council will raise the normal parking rates from time to time. When that occurs, the formulas in the succeeding footnotes apply to the revised normal parking rates to adjust the Discounted Rates.

³ The Discounted Rate for one hour is the normal rate for ½ hour.

⁴ The Discounted Rate for two hours is the Discounted Rate for the first hour plus the normal one-hour rate (\$2.00 + \$3.00 = \$5.00)

⁵ The rate for a Full Validation is the daily flat rate.