



## Handouts and Presentations For August 27, 2014

1. For Item 6  
Fresno's Chaffee Zoo Corporation Amended Budget
  
2. For Item 9  
Agreement Regarding Escrow Agreements for Security  
Deposits in Lieu of Retention

**Fresno's Chaffee Zoo Corporation**  
**Income Statement**  
 2014 Amended Budget

For Agenda Item 6

REVENUE		
	FY14 Budget Original	FY14 Budget Amended
<b>Self-Generated Revenue</b>		
Admissions	\$2,140,785	\$2,140,785
Adopt an Animal	\$35,000	\$35,000
Board Designated for Endow	\$50,000	\$50,000
Education	\$238,600	\$238,600
Food Services	\$266,000	\$266,000
Gift Shop	\$332,500	\$332,500
Giraffe Feeding	\$159,600	\$159,600
Grants/Fundraising	\$1,239,000	\$1,139,000
Group Event/Facility Rental	\$240,000	\$240,000
Interest Income	\$275,000	\$275,000
Investment Income	\$0	\$0
Membership	\$725,000	\$725,000
Special Events	\$493,100	\$493,100
Stingray Exhibit	\$272,650	\$272,650
Other	\$55,500	\$55,500
<b>Total Self-Generated Revenue</b>	<b>\$6,522,735</b>	<b>\$6,422,735</b>
City of Fresno	\$0	\$0
Measure Z-Capital Funds	\$20,250	\$20,250
Measure Z Operating Funds	\$3,928,683	\$3,928,683
<b>TOTAL REVENUE</b>	<b>\$10,471,668</b>	<b>\$10,371,668</b>

# Fresno's Chaffee Zoo Corporation

## Income Statement

### 2014 Amended Budget

	FY14 Budget Original	FY14 Budget Amended
<b>EXPENSES</b>		
<b>OPERATING EXPENSES</b>		
<b>Personnel Expenses</b>		
Administration	\$723,477	\$723,477
Animal	\$1,878,286	\$1,878,286
Education	\$758,654	\$758,654
Maintenance/Horticulture	\$656,458	\$656,458
Mem/Dev/Marketing	\$552,625	\$552,625
Veterinary	\$259,529	\$259,529
Visitor Services	\$635,165	\$635,165
<b>Total Personnel Expenses</b>	<b>\$5,464,194</b>	<b>\$5,464,194</b>
<b>Other Expenses</b>		
Advertising	\$212,500	\$212,500
Animal Services	\$305,400	\$305,400
Computer/Software	\$53,000	\$53,000
Conservation	\$65,000	\$65,000
Contracted Services	\$454,500	\$454,500
Depreciation Expense	\$285,720	\$285,720
Dues	\$40,630	\$40,630
Equipment	\$175,100	\$175,100
Fleet	\$31,900	\$31,900
Food/Catering	\$127,050	\$127,050
Insurance	\$142,000	\$142,000
Miscellaneous Business	\$51,345	\$51,345
Office Supplies	\$25,650	\$25,650
Postage	\$52,845	\$52,845
Printing	\$139,595	\$139,595
Professional Services	\$144,000	\$144,000
Repairs and Replacements	\$203,000	\$203,000
Service/Bank/Credit Card Fees	\$119,360	\$119,360
Signage	\$25,000	\$25,000

**Fresno's Chaffee Zoo Corporation**  
**Income Statement**  
 2014 Amended Budget

	<b>FY14 Budget Original</b>	<b>FY14 Budget Amended</b>
Specialized Services	\$30,350	\$30,350
Staff Development	\$71,250	\$71,250
Supplies	\$312,400	\$312,400
Telephone	\$36,800	\$36,800
Uniforms	\$25,650	\$25,650
Utilities	\$458,000	\$458,000
Other	\$29,550	\$29,550
<b>Total Other Expenses</b>	<b>\$3,617,595</b>	<b>\$3,617,595</b>
<b>TOTAL OPERATING EXPENSES</b>	<b>\$9,081,789</b>	<b>\$9,081,789</b>
Expansion/Nonoperating Exp.		
Expansion/Nonoperating Exp.	\$665,000	\$240,000
<b>Total Expansion/Nonoperating Exp.</b>	<b>\$665,000</b>	<b>\$240,000</b>
<b>TOTAL EXPENSES</b>	<b>\$9,746,789</b>	<b>\$9,321,789</b>
<b>BEGINNING FUND BALANCE</b>	<b>\$27,737,148</b>	<b>\$27,737,148</b>
<b>NET SURPLUS/(DEFICIT)</b>	<b>\$724,879</b>	<b>\$1,049,879</b>
<b>ENDING FUND BALANCE</b>	<b>\$28,462,027</b>	<b>\$28,787,027</b>

**AGREEMENT REGARDING ESCROW AGREEMENTS Attachment A  
FOR SECURITY DEPOSITS IN LIEU OF RETENTION**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of August, 2014, by and between the FRESNO COUNTY ZOO AUTHORITY, a political subdivision of the State of California, hereinafter referred to as "AUTHORITY," and the FRESNO'S CHAFFEE ZOO CORPORATION, a California nonprofit public benefit corporation, hereinafter referred to as "ZOOCORP." The Agreement is effective upon execution by both parties.

**WITNESSETH:**

WHEREAS, the adoption of Measure Z in 2004 has allowed ZOOCORP to construct new exhibits and to modernize other exhibits at the Fresno Chaffee Zoo;

WHEREAS, for previous projects constructed by ZOOCORP and funded by the AUTHORITY, such as Sea Lion Cove, ZOOCORP has submitted periodic requests for reimbursement to the AUTHORITY during the course of construction of the project;

WHEREAS, upon receipt of each invoice, the AUTHORITY reviews the invoice, and if appropriate, authorizes payment of the amount requested, less 10% of the requested amount, which has been held by the AUTHORITY as a retention until the completion of the project;

WHEREAS, upon completion of previous projects, ZOOCORP has issued a final invoice to the AUTHORITY with a request for payment of the final invoice and any retention;

WHEREAS, if the Authority is satisfied that the final invoice is in order and the project has been completed satisfactorily, it has paid the amount specified in the final invoice plus the accumulated retentions withheld during the construction of the project;

WHEREAS, ZOOCORP is currently constructing a project called "African Adventure", a multi-acre exhibit with African animals including elephants, giraffes, zebra, rhinoceros, lions, cheetahs, vultures and meerkats, all in a natural setting; the Mahali or lodge with a café and rest area; a children's play area; a giraffe feeding station; a botanical garden; and sculptures;

1 WHEREAS, it is common on certain construction projects for the owner, such as  
2 ZOOCORP, and the construction manager, to enter into an agreement providing for any  
3 retention to be deposited into an interest bearing escrow account under the ownership and  
4 control of the owner;

5 WHEREAS, at the conclusion of the construction project, the owner certifies that project  
6 has been completed satisfactorily; and,

7 WHEREAS, escrow agreements are specifically authorized under the Public Contract  
8 Code;

9 WHEREAS, ZOOCORP entered into an "Escrow Agreement for Security Deposit in Lieu  
10 of Retention" with Harris Construction, the Construction Manager (the "Harris Escrow  
11 Agreement"), a copy of which is attached hereto as Exhibit "A" and incorporated by this  
12 reference as though fully set forth herein;

13  
14 WHEREAS, ZOOCORP has requested that the AUTHORITY permit amounts that have  
15 been and would otherwise be retained by the AUTHORITY during the construction of the  
16 African Adventure project to be deposited by ZOOCORP to the escrow account owned and  
17 controlled by ZOOCORP;

18 WHEREAS, the AUTHORITY is willing to disburse funds to the ZOOCORP under the  
19 terms and conditions set forth below.

20 NOW, THEREFORE, in consideration of the promises, performances and considerations  
21 set forth in this Agreement, the parties agree as follows:

22 1. **Retention Defined.** For purposes of this Agreement, "Retention" means funds retained  
23 by the AUTHORITY from the amounts paid to ZOOCORP for invoices received on or before  
24 July 15, 2014 related to work performed in constructing the African Adventure project.

25 2. **Escrow Account Defined.** For purposes of this Agreement, "Escrow Account" means  
26 that certain account established at United Security Bank, whose address is 2151 West Shaw  
27 Avenue, Fresno, California 93711, pursuant to the Harris Escrow Agreement".  
28

1       3. **Release of Retention.** Within fourteen (14) days of the date this Agreement is  
2 executed by both parties hereto, the AUTHORITY shall disburse the Retention to the  
3 ZOOCORP. Not later than two (2) business days from its receipt of the Retention, ZOOCORP  
4 shall deposit the Retention in the Escrow Account. Within one (1) business day of deposit of  
5 funds in the Escrow Account, ZOOCORP shall send proof of deposit of the funds to the  
6 AUTHORITY.

7       4. **Procedures For Payment of Future Invoices By The AUTHORITY.** Invoices from the  
8 ZOOCORP related to the construction of the African Adventure project that are received  
9 by the AUTHORITY subsequent to the date referenced in Paragraph 1 above ("Future  
10 Invoices") shall be:

11               a. Received, reviewed, and paid in accordance with the terms of the "Agreement  
12 Regarding Procedures For Distribution Of Tax Revenue To The Chaffee Zoo" entered into by  
13 the AUTHORITY and ZOOCORP on December 21, 2005 and the "Procedures for Approving  
14 and Administering Measure Z Funds", most recently revised and approved by the Board of  
15 Directors of the AUTHORITY on March 28, 2012.

16       5. **ZOOCORP'S Deposit of Funds Received From AUTHORITY.** Not later than two (2)  
17 business days from its receipt of funds from the AUTHORITY for reimbursement of Future  
18 Invoices related to the African Adventure project, ZOOCORP shall deposit 10 percent of those  
19 funds in the Escrow Account. Within 1 business day of deposit of funds in the Escrow Account,  
20 ZOOCORP shall send proof of deposit of the funds to the AUTHORITY.

21       6. **Certification to the AUTHORITY.** Not later than 10 days prior to releasing any funds  
22 from the Escrow Account, ZOOCORP will certify to the AUTHORITY that all conditions of the  
23 escrow agreement have been met, that the construction project is final and complete in  
24 accordance with the construction contract, and that the release of funds in the Escrow Account  
25 is appropriate. ZOOCORP shall not release funds from the Escrow Account without the prior  
26 written consent of the AUTHORITY.  
27  
28

1       **7. AUTHORITY Consent to Distribution of Escrow Funds.** Upon receipt of certification  
2 from ZOOCORP that the project is final and complete in accordance with the construction  
3 contract, the AUTHORITY will not unreasonably withhold its consent to the release of the funds  
4 held in escrow. If it withholds consent, AUTHORITY will set forth in writing its objections,  
5 stating those items that are not final and complete according to the construction contract.

6       **8. TERMINATION**

7               a. Non-Receipt of Funds - The terms of this Agreement, and the funding to be  
8 provided thereunder, are contingent on the receipt of funds by the AUTHORITY. Should the  
9 funds received be insufficient to allow the AUTHORITY to transfer funding to the ZOOCORP  
10 under this Agreement, this Agreement may be modified or terminated at any time by giving the  
11 ZOOCORP thirty (30) days advance written notice.

12              b. Breach of Contract - The AUTHORITY may immediately suspend or terminate this  
13 Agreement in whole or in part, where in the determination of the AUTHORITY there is:

14                       i. An illegal or improper use of funds;

15                       ii. A failure to comply with any term of this Agreement;

16                       iii. A substantially incorrect or incomplete report submitted to the  
17 AUTHORITY.  
18

19              In no event shall any payment by the AUTHORITY constitute a waiver by the  
20 AUTHORITY of any breach of this Agreement or any default which may then exist on the part of  
21 the ZOOCORP. Neither shall such payment impair or prejudice any remedy available to the  
22 AUTHORITY with respect to the breach or default. The AUTHORITY shall have the right to  
23 demand of the ZOOCORP the repayment to the AUTHORITY of any funds disbursed to the  
24 ZOOCORP under this Agreement, which in the judgment of the AUTHORITY were not  
25 expended in accordance with the terms of this Agreement. The ZOOCORP shall promptly  
26 refund any such funds upon demand.  
27  
28

1           **9. INDEPENDENT CONTRACTOR**

2           In performance of the work, duties and obligations assumed by the ZOOCORP under  
3 this Agreement, it is mutually understood and agreed that the ZOOCORP, including any and all  
4 of the ZOOCORP's officers, agents, and employees will at all times be acting and performing as  
5 an independent contractor, and shall act in an independent capacity and not as an officer,  
6 agent, servant, employee, joint venturer, partner, or associate of the AUTHORITY.  
7 Furthermore, the AUTHORITY shall have no right to control or supervise or direct the manner  
8 or method by which the ZOOCORP shall perform its work and function. However, the  
9 AUTHORITY shall retain the right to administer this Agreement so as to verify that the  
10 ZOOCORP is performing its obligations in accordance with the terms and conditions thereof.  
11 The ZOOCORP and the AUTHORITY shall comply with all applicable provisions of law and the  
12 rules and regulations, if any, of governmental authorities having jurisdiction over matters the  
13 subject thereof.  
14

15           **10. HOLD HARMLESS**

16           The ZOOCORP agrees to indemnify, save, hold harmless, and at the AUTHORITY's  
17 request, defend the AUTHORITY, its officers, agents, and employees from any and all costs  
18 and expenses, damages, liabilities, claims, and losses occurring or resulting to the  
19 AUTHORITY in connection with the performance, or failure to perform, by the ZOOCORP, its  
20 officers, agents, or employees under this Agreement, and from any and all costs and expenses,  
21 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation  
22 who may be injured or damaged by the performance, or failure to perform, of the ZOOCORP,  
23 its officers, agents, or employees under this Agreement.  
24

25           The AUTHORITY agrees to indemnify, save, hold harmless, and at the ZOOCORP's  
26 request, defend the ZOOCORP, its officers, agents, and employees from any and all costs and  
27 expenses, damages, liabilities, claims, and losses occurring or resulting to the ZOOCORP in  
28 connection with the performance, or failure to perform, by the AUTHORITY, its officers, agents,

1 or employees under this Agreement, and from any and all costs and expenses, damages,  
2 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may  
3 be injured or damaged by the performance, or failure to perform, of the AUTHORITY, its  
4 officers, agents, or employees under this Agreement.

#### 5 **11. AUDITS AND INSPECTIONS**

6 The ZOOCORP shall, upon request by the AUTHORITY, permit the AUTHORITY to  
7 audit and inspect all of its records and data with respect to the matters covered by this  
8 Agreement. The ZOOCORP shall at all times during business hours, and as often as the  
9 AUTHORITY may deem necessary, make available to the AUTHORITY for examination all of  
10 such records and data related to the completion of the work and ZOOCORP's certification of  
11 completion.

12 The AUTHORITY may also require the ZOOCORP to provide independently audited  
13 statements or other reports on an annual or other basis at the ZOOCORP's expense. If this  
14 Agreement exceeds ten thousand dollars (\$10,000), the ZOOCORP shall be subject to the  
15 examination and audit of the State Auditor for a period of three (3) years after final payment  
16 under the contract (Gov. Code, § 8546.7).  
17

#### 18 **12. NOTICES**

19 The persons and their addresses having authority to give and receive notices under this  
20 Agreement shall be the following:

##### 21 AUTHORITY

22 FRESNO COUNTY ZOO  
23 AUTHORITY  
24 c/o Zoo Authority Coordinator  
25 Department of Public Works and  
26 Planning  
27 County of Fresno  
28 2220 Tulare Street, Sixth Floor  
Fresno, California 93721

##### ZOOCORP

FRESNO'S CHAFFEE ZOO CORPORATION  
c/o Chief Executive Officer  
Chaffee Zoological Gardens  
894 W. Belmont  
Fresno, California 93728

1 Any and all notices between the AUTHORITY and the ZOOCORP provided for or  
2 permitted under this Agreement or by law shall be in writing and shall be deemed duly served  
3 when personally delivered to one of the parties, or in lieu of such personal service, when  
4 deposited in the United States Mail, postage prepaid, addressed to such party.

5 **13. GOVERNING LAW**

6 The rights and obligations of the parties and all interpretation and performance of this  
7 Agreement shall be governed in all respects by the laws of the State of California.

8 **14. CONSTRUCTION.**

9 Should any paragraph, clause or provision of this Agreement be construed to be against  
10 public policy or determined by a court of competent jurisdiction to be void, invalid or  
11 unenforceable, such construction and decision shall affect only those paragraphs, clauses or  
12 provisions so construed or interpreted, and shall in no way affect the remaining paragraphs,  
13 clauses or provisions of this Agreement, which shall remain in force.

14 **15. ENTIRE AGREEMENT.**

15 This Agreement states the entire agreement between the parties with respect to escrow  
16 agreements in lieu of retentions. It supersedes any prior agreement, negotiation or  
17 understanding. Neither party has made any promise, representation or warranty, express or  
18 implied, not set forth in this Agreement. This Agreement may not be altered, amended or  
19 modified, except by a writing executed by duly authorized representatives of both parties.  
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1  
2 IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and  
3 year hereinabove written.

4 FRESNO'S CHAFFEE ZOO  
5 CORPORATION

FRESNO COUNTY ZOO AUTHORITY

6 By: \_\_\_\_\_  
7 John Valentino, Chair

By: \_\_\_\_\_  
Peter Herzog, Chair

8  
9 By: \_\_\_\_\_  
10 Brian Goldman, Chief Financial Officer

11 APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

12  
13 Daniel C. Cederborg, County Counsel

14  
15 By: \_\_\_\_\_  
16 Douglas M. Larsen,  
Zoo Corporation Legal Counsel

By: \_\_\_\_\_  
Arthur G. Wille, Senior Deputy  
County Counsel

17 APPROVED AS TO ACCOUNTING FORM

18 Vicki Crow, Auditor-Controller/Treasurer-  
19 Tax Collector

20 By: \_\_\_\_\_

21 FOR ACCOUNTING USE ONLY:  
22 Org No.:  
23 Account No.:  
24 Requisition No.:  
25  
26  
27  
28