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CITY OF SAN DIEGO

and

YMCA OF SAN DIEGO COUNTY

**Scripps Ranch
Lease Agreement**

DOCUMENT NO. 00-19340

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OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA**

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**CITY OF SAN DIEGO
SCRIPPS RANCH YMCA
LEASE AGREEMENT**

THIS LEASE AGREEMENT ("Lease") is executed between the CITY OF SAN DIEGO, a municipal corporation ("CITY"), and YMCA OF SAN DIEGO COUNTY, a California nonprofit public benefit corporation ("LESSEE").

WHEREAS, CITY is the owner of a 4.467 acre parcel in the Scripps Ranch community ("Community").

WHEREAS, CITY and LESSEE wish to provide affordable recreational facilities in the Community that will benefit the general public and complement publicly-owned recreational facilities in the Community.

WHEREAS, CITY and LESSEE agree that these affordable recreation facilities will be completed in phases as set forth in the Development Plan.

NOW, THEREFORE, CITY and LESSEE agree as follows:

SECTION 1: USES

- 1.1 Premises. CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain City-owned real property situated approximately one-half mile east of Interstate 15, on the south side of Scripps Poway Parkway, in the City of San Diego, County of San Diego, State of California, described in Exhibit 10.1 attached hereto and by this reference made part of this Lease. The real property is hereinafter called the "Premises."
- 1.2 Uses. It is expressly agreed that the Premises are leased to LESSEE solely and exclusively for the purposes of construction, operation and maintenance of a YMCA facility for recreational, educational, health, social and cultural uses by YMCA members and the general public in accordance with the General Development Plan referenced in Section 6.12 below, and for other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose whatsoever.

The use of the Premises for any unauthorized purpose shall constitute a substantial default and subject this Lease to termination at the sole option of CITY.

LESSEE covenants and agrees to use the Premises for the above-specified purposes and to diligently pursue the purposes throughout the term of this Lease.

Failure to continuously use the Premises for the purposes, or the use thereof for purposes not expressly authorized, shall be grounds for termination by CITY.

- 1.3 Related Council Actions. By the granting of this Lease, neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes but is not limited to rezonings, variances, conditional use permits, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises.
- 1.4 Quiet Possession. LESSEE, paying the administrative fee and performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE at the commencement of the term, or if during the Lease term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then and in either of event, this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom.
- 1.5 Easements and Reservations.
- a. CITY hereby reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
 - b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable for the public good.
 - c. CITY has the right to enter the Premises for the purpose of making repairs to or developing municipal resources and services.

However, CITY shall not unreasonably or substantially interfere with LESSEE'S use of the Premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the administrative fee proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

- 1.6 Competent Management. Throughout the term of this Lease, LESSEE shall provide competent management of the Premises to the satisfaction of the City Manager. For the purposes of this paragraph, "competent management" shall

mean demonstrated ability in the management and operation of a nonprofit community recreational facility and related activities in a fiscally responsible manner.

- 1.7 Rates and Charges. All charges for merchandise and services or use of facilities on the Premises shall be in accordance with the schedule set forth in Section 10.5, Schedule of Rates and Charges, hereof. Any changes in the schedule are subject to prior written approval by the City Manager.
- 1.8 Operation of Facilities. A regular schedule of days and hours of operation shall be established by LESSEE to best serve the public as set forth in Section 10.6, Schedule of Days and Hours of Operation, hereof. Any changes in this schedule shall be subject to the prior written approval of the City Manager or his authorized representative. LESSEE shall diligently and in a creditable manner furnish services to the public in conformity with all applicable rules and regulations of the City of San Diego.
- 1.9 CITY Use. The Premises shall be available to CITY for civic events and special programs, free of charge, except where LESSEE has scheduled events or programs. After every CITY use, the Premises shall be left in the same condition found, and LESSEE shall not be required to incur any additional costs by reason of CITY use.
- 1.10 Political Activities. The Premises shall be used exclusively for the purposes specified in Section 1.2, Uses. The Premises shall not be used for working or campaigning for the nomination or election of any individual to any public office, be it partisan or nonpartisan. Provided, however, that LESSEE shall not be precluded from providing a forum for open public debate by candidates as occurs at a "candidate forum" and similar events.
- 1.11 Public Use. The general public shall not be wholly or permanently excluded from any portion of the Premises. LESSEE may develop reasonable restrictions for the facility use provided they are consistent with the rights of the general public and are designed to allow LESSEE to use the Premises for the purposes specified herein. LESSEE agrees that all activities conducted on the Premises will be as stated in Section 1.2, Uses.

LESSEE shall, at all times and at its sole expense, during the Lease term, maintain a CITY-approved sign identifying the property as City-owned and available for public use consistent with the terms of this Lease. The sign shall be installed by LESSEE at a location approved by CITY.

SECTION 2: TERM

- 2.1 Commencement. The term of this Lease shall be ten (10) years commencing on the first day of the calendar month following execution by the City Manager and approval by the City Attorney. "Lease Year" as used in this Lease shall mean the 12-month period commencing on the first day of the calendar month following the execution of this Lease by the City Manager and approval by the City Attorney.
- 2.2 Right to Extend. LESSEE has the right to extend this Lease once for an additional term of twenty-five (25) years, subject to all original agreements, considerations, covenants, and conditions and upon the following additional terms and conditions:
- a. LESSEE shall give CITY written notice of its intention to extend this Lease no sooner than one (1) year and no later than six (6) months prior to the expiration of the original term of this Lease;
 - b. LESSEE is not in default of this Lease at the time the option is exercised; and
 - c. LESSEE shall be in compliance with the General Development Plan as set forth in Section 6.12, Development Plan.
 - d. LESSEE has the right to further extend this Lease once for an additional term of ten (10) years, subject to all original agreements, considerations, covenants, and conditions, and to the terms of this Section 2.2, and subject to the terms and conditions stated in Section 6.12d, Determination of Phase III.
- 2.3 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in the administrative fee and to terminate the holdover tenancy at will.
- 2.4 Quitclaim and Surrender of LESSEE'S Interest. On execution of this Lease, LESSEE shall deliver to CITY a quitclaim deed in recordable form quitclaiming all its rights in and to the Premises. CITY may record the deed only on the expiration or earlier termination of this Lease. In the event that CITY requires any subsequent quitclaim deed, LESSEE or its successor in interest shall deliver the same within five (5) days after receiving written demand therefor.

At the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises to CITY free and clear of all liens and encumbrances, except those liens and encumbrances which existed on the date of execution hereof, and in a decent, safe, and sanitary condition. In the case of termination of this Lease by CITY prior to the end of the specified Lease term, any liens and encumbrances must be approved in writing by the City Manager. In the event of early termination of this Lease pursuant to Section 2.5 below, all studies commissioned by LESSEE shall become the exclusive property of CITY.

- 2.5 Early Termination. At any time before LESSEE submits the General Development Plan to the City Manager, either party can terminate this Lease upon thirty (30) days written notice to the other party if there is no agreement on Phase I Interim Use improvements and programs or either party states its belief that the estimated cost of the Phase I Interim Use Facility will exceed the Available Phase I Funds, as defined in Section 6.12a.

SECTION 3: RENT

- 3.1 Time and Place of Payment. The administrative fee (defined below) is due annually in advance on or before the first day of each Lease Year. Checks should be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 122289, San Diego, California 92112-4165, or delivered to the Office of the City Treasurer, Civic Center Plaza, 1200 Third Avenue, First Floor, San Diego, California.

The place and time of payment may be changed at any time by CITY upon thirty (30) days written notice to LESSEE. Mailed fee payments shall be deemed paid upon the date payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

- 3.2 Rent and Administrative Fee.

- a. Rent Amount. The annual rent is One Dollar (\$1) per Lease Year, receipt of which is hereby acknowledged by CITY.
- b. Administrative Costs. LESSEE shall pay a fee of Two Thousand Six Hundred Twenty-One Dollars (\$2,621) per Lease Year ("Administrative Fee" or "Fee"), payable annually to partially offset the CITY'S costs of administering this Lease. The Administrative Fee is subject to annual adjustments based on percentage increases in the Consumer Price Index

("CPI") as hereinafter provided.

- c. (1) CPI Adjustments. On the anniversary date of each Lease Year following the commencement date of this Lease, the Fee shall be adjusted to reflect the percentage increase in the CPI based on the average of the indices for the third quarter (July, August, September) of the calendar year prior to each adjustment.

The index used will be the CPI for "All Urban Consumers" for Los Angeles/Riverside/Orange County, California. If this index is no longer published, the index for adjustment will be the U.S. Department of Labor's "Comprehensive Official Index" most comparable to the aforesaid index. If a Fee adjustment is calculated using an index from a different base year than 1982-84, which equaled a base figure of 100 for the CPI, the base figure used will first be converted under a formula supplied by the Bureau of Labor Statistics or its successor.

If the Department of Labor indices are no longer published, another index generally recognized as authoritative will be substituted by agreement of CITY and LESSEE. If the parties cannot agree within sixty (60) days after demand by either party, a substitute index will be selected by the Chief Officer of the Regional Office of the Bureau of Labor Statistics or its successor, notwithstanding continued reference herein to CPI in any event.

In no event shall the adjusted Fee as established by the CPI be less than the Fee in existence immediately prior to the adjustment date. The failure of CITY to deliver timely notice of any Fee adjustment shall not constitute a waiver by CITY of its rights hereunder.

- (2) CPI Adjustment Computation. The Fee for each one (1) year period shall be calculated by CITY as follows:

The "adjustment multiplier" shall be established by dividing the "current index" by the "base index" as defined below.

The "base index" denominator for the calculation is 178.5. This is a fixed number representing the three (3) month average of index figures published by the CPI using the months of July, August and September 2001.

The "current index" numerator for the calculation is a variable

number that shall be the three (3) month average of index figures published by the CPI using the months of July, August and September of the calendar year preceding the adjustment date.

The "base figure" for purposes of calculating the annual adjustment shall be a fixed amount of Two Thousand Five Hundred Dollars (\$2,500).

Example Calculation for Calendar Year 2004 Fee Adjustment

Current Index (Third Quarter 2003) 187.1333

Base Index (Third Quarter 2001) 178.5 ----- = 1.0484 (Adjustment Multiplier)

The "base figure" is then multiplied by the adjustment multiplier to determine the new Fee. Using the foregoing example, the adjusted Fee is calculated as follows:

\$2,500	(Base Figure)
x 1.0484	(Adjustment Multiplier)
\$2,621	(Adjusted Fee)

- (3) Maximum Increase. Notwithstanding the foregoing, the Fee adjustments shall not increase the Fee in excess of six percent (6%) per calendar year.

3.3 Inspection of Records. LESSEE agrees to make any and all records and accounts available to CITY for inspection at all reasonable times so that CITY can determine LESSEE'S compliance with this Lease. These records and accounts will be made available by LESSEE at the Premises and will be complete and accurate showing all income and receipts from use of the Premises. LESSEE'S failure to keep and maintain the records and make them available for inspection by CITY is a breach of this Lease and cause for termination. LESSEE shall maintain all the records and accounts for a minimum period of five (5) years.

3.4 Delinquent Administration Fee. If LESSEE fails to pay the Fee required in Section 3.2b hereof when due, LESSEE shall pay, in addition to the unpaid Fee, five percent (5%) of the Fee as a delinquent charge. If the Fee is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)], which is hereby mutually agreed by the parties to be appropriate to compensate CITY for loss resulting from Fee delinquency, including lost interest, opportunities, legal costs, and the cost of serving the

delinquent account. Notwithstanding the foregoing, in no event shall the charge for late payment of the Fee be less than Twenty-Five dollars (\$25).

In the event that a CITY audit, if applicable, discloses that the Fee for the audited period has been underpaid in excess of five percent (5%) of the total required Fee, then LESSEE shall pay CITY the cost of the audit plus ten percent (10%) per year on the amount by which the Fee was underpaid, in addition to the Fee as shown to be due CITY, as compensation to CITY for administrative costs and loss of interest as previously described herein. LESSEE agrees to pay the amount and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that CITY will incur from LESSEE'S late payment. Acceptance of late charges and any portion of the late payment by CITY shall in no event constitute a waiver of LESSEE default with respect to late payment, nor prevent CITY from exercising any of the other rights and remedies granted in this Lease.

- 3.5 Unauthorized Use Charge. LESSEE shall pay CITY fifty percent (50%) of the gross receipts for any service or use that is not permitted by this Lease. This payment is subject to the due date provided in this Lease for Fee payments and the provision for delinquent Fees. The existence of the fifty percent (50%) charge in this clause and the payment of this charge or any part of it does not constitute an authorization for a particular service or use, and does not waive any CITY rights to terminate a service or use or to default LESSEE for participating in or allowing any unauthorized use of the Premises.
- 3.6 Annual Budget. LESSEE shall submit to the City Manager by September 1 of each year copies of documents evidencing the proposed programs and financial status of LESSEE for the fiscal year commencing July 1. Without limiting the generality of the foregoing, such documents shall include (i) a copy of LESSEE'S proposed programs; (ii) a copy of a detailed operating budget showing expected sources of revenue and the nature of all proposed expenditures, including compensation for the director and staff of LESSEE; and (iii) an adequate reserve account, in the reasonable opinion of the City Manager, for maintenance and capital improvements to the Premises.

SECTION 4: ASSIGNMENT

- 4.1 Time is of Essence; Provisions Binding on Successors. Time is of the essence of all of the terms, covenants, and conditions of this Lease, and, except as otherwise provided herein, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

- 4.2 Assignment and Subletting. LESSEE shall not assign this Lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part thereof, without the prior written consent of the City Manager in each instance. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any assignment or subletting without consent shall be void and shall, at the option of CITY, terminate this Lease. This Lease shall not, nor shall any interest therein, be assignable as to the interest of LESSEE by operation of law, without the written consent of the City Manager.

"Assignment" for the purposes of this clause shall include any transfer of any ownership interest in this Lease by LESSEE or by any partners, principals, or stockholders, as the case may be, from the original LESSEE, its general partners, or principals.

Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have an interest in this Lease as a sublessee or assignee. The City Manager's approval will not be unreasonably withheld, provided all the persons and entities are of good character and reputation in the community.

- 4.3 Encumbrance. Subject to prior consent by CITY, which shall not be unreasonably withheld, LESSEE may encumber this Lease, its leasehold estate, and its improvements thereon by deed of trust, mortgage, chattel mortgage, or other security instrument to assure the payment of a promissory note or notes of LESSEE, upon the express condition that the proceeds of the loan or loans be devoted exclusively to the purpose of developing the Premises in accordance with Section 6.12, Development Plan. However, a reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance or other insurance or bonds required by CITY; title insurance premiums; reasonable loan costs such as discounts, interest, and commissions; and architectural, engineering, and attorneys' fees and other normal expenses incidental to the construction.

Any subsequent encumbrances on the Premises or on any permanent

improvements thereon must first have the approval in writing of the City Manager. Such subsequent encumbrances shall also be for the exclusive purpose of development of the Premises.

In the event any approved deed of trust or mortgage or other security-type instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, CITY will accept the approved mortgagee or beneficiary thereof as its new tenant under this Lease with all the rights, privileges, and duties granted and imposed in this Lease.

Upon prior written approval by CITY, the mortgagee or beneficiary may assign this Lease to its nominee, if nominee is a reputable, qualified, and financially responsible person or entity in the opinion of CITY. Any deed of trust, mortgage, or other security instrument shall be subject to all of the terms, covenants, and conditions of this Lease and shall not be deemed to amend or alter any of the terms, covenants, or conditions hereof. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have a financial interest in this Lease. The City Manager's approval will not be unreasonably withheld, provided all persons and entities are of good character and reputation in the community.

4.4 Defaults and Remedies.

a. Default. In the event that:

- (1) LESSEE shall default in the performance of any covenant or condition required by this Lease to be performed by LESSEE and shall fail to cure the default within thirty (30) days following written notice thereof from CITY; or if any default is not curable within thirty (30) days, and LESSEE shall fail to commence to cure the default(s) within the thirty-day period and diligently pursue cure to completion; or
- (2) LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming rights through LESSEE,

immediately terminate this Lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the Premises or to possession thereof; and CITY may enter and take possession of the Premises. Provided, however, in the event that any default described in Section 4.4a.(1) above is not curable within thirty (30) days after notice to LESSEE, CITY shall not terminate this Lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues cure to completion.

In the event there is a deed of trust or mortgage on the leasehold interest, CITY shall give the mortgagee or beneficiary written notice of the default(s) complained of, and the same mortgagee or beneficiary shall have thirty (30) days from the notice to cure the default(s) or, if any default is not curable within thirty (30) days, to commence to cure the default(s) and diligently pursue cure to completion. The thirty-day period may be extended during the time as mortgagee or beneficiary pursues the cure with reasonable diligence.

- b. Remedies of Lender. Should the default(s) be noncurable by LESSEE, then any lender holding a beneficial interest in the leasehold, whose qualifications as an assignee have been approved by CITY, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this Lease. If the mortgagee or beneficiary shall give notice in writing of its election to so substitute itself within the thirty-day period after receiving written notice by CITY of the default, and the default, if curable, is cured by the mortgagee or beneficiary, then this Lease shall not terminate pursuant to the default. In that event, CITY expressly consents to the substitution and authorizes the mortgagee or beneficiary to perform under this Lease with all the rights, privileges, and obligations of LESSEE, subject to cure of the default, if possible, by mortgagee or beneficiary. LESSEE expressly agrees to assign all its interest in and to its leasehold estate to mortgagee or beneficiary in that event.
- c. Abandonment by LESSEE. Even though LESSEE has breached the Lease and abandoned the property, this Lease shall continue in effect for so long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the administrative fee as it becomes due, plus damages.
- d. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY

delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY'S acceptance of any rents or administrative fees is not a waiver of any default preceding the rent or fee payment. CITY and LESSEE specifically agree that the property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after the default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

- 4.5 Eminent Domain. If all or part of the Premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) will be as follows:
- a. In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - b. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the Premises is unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
 - c. In the event of a partial taking, if, in the opinion of CITY, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The administrative fee shall be equitably reduced to reflect the portion of the Premises taken.
 - d. Award. All monies awarded in any taking shall belong to CITY, whether the taking results in diminution in value of the leasehold or the fee or both; provided, however, LESSEE shall be entitled to any award attributable to the taking of, or damages to LESSEE'S then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.

- e. Transfer. CITY has the right to transfer CITY'S interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.
- f. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

SECTION 5: INSURANCE RISKS/SECURITY

- 5.1 Indemnity. LESSEE agrees to defend, indemnify, protect, and hold CITY, its elected officials, representatives, agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE'S employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the leasehold or the work and operations to be performed under this Lease, and all expenses of investigating and defending against same; provided, however, that LESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its elected officials, representatives, agents, officers, or employees.
- 5.2 Insurance.
 - a. LESSEE shall take out and maintain at all times during the term of this Lease the following insurance at its sole expense:
 - (1) Public liability and property damage insurance in the amount of not less than Five Million Dollars (\$5,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the use or operation of the Premises.
 - (2) Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds

from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with Section 4.3, Encumbrance, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.

b. LESSEE'S responsibility to maintain the insurance also includes the following:

- (1) Additional Insured. All insurance policies will name CITY, its elected officials, officers, representatives, agents and employees as additional insureds, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the Lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Lease.
- (2) Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving LESSEE sixty (60) days prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. LESSEE also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this Lease.
- (3) Accident Reports. LESSEE shall report to CITY any accident causing more than Ten Thousand Dollars (\$10,000) worth of property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the

names and addresses of any witnesses, and other pertinent information.

- (4) Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. The reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection (4), if LESSEE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, CITY has the right to declare this Lease in default without further notice to LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of a default.

- 5.3 Waste, Damage, or Destruction. LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the Premises within ten (10) days of fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy, and sanitary, LESSEE agrees to make or cause to be made full repair of the damage and to restore the Premises to the condition which existed prior to the damage; or, at CITY'S option, LESSEE agrees to clear and remove from the Premises all debris resulting from the damage and rebuild the Premises in accordance with plans and specifications previously submitted to CITY and approved in writing in order to replace in kind and scope the operation which existed prior to the damage, using for either purpose the insurance proceeds as set forth in Section 5.2, Insurance.

LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the Premises shall be commenced by LESSEE within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter. CITY may determine an equitable deduction in the minimum annual rent requirement for the period or periods that the Premises are untenable by reason of the damage.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.1 Acceptance of Premises. By signing this Lease, LESSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. LESSEE agrees it is relying solely on the independent inspection, tests, investigations, and observations in making this Lease. LESSEE further acknowledges that the Premises are in the condition called for by this Lease, that CITY has performed all work with respect to the Premises, and that LESSEE does not hold CITY responsible for any defects whether apparent or latent, in the Premises, including the presence of any hazardous wastes.
- 6.2 Entry and Inspection. CITY reserves and shall always have the right, but not the obligation, to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Premises, or to inspect the operations conducted thereon. In the event that entry or inspection by CITY discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after ten (10) days written notice to LESSEE, to have any necessary maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having the necessary maintenance work done, in order to keep the Premises in a decent, safe, healthy, and sanitary condition. Further, if at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate in the opinion of CITY to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this Lease imposed on CITY.
- 6.3 Maintenance. LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the Premises throughout the term. LESSEE will make all repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with the Development Plan described in Section 6.12, Development Plan, all applicable codes and standards of CITY with respect to Phase I improvements and with all applicable laws.
- 6.4 Improvements/Alterations. No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by LESSEE without prior written approval by the City Manager. Further, LESSEE agrees that major structural or architectural design alterations to approved improvements,

structures, or installations may not be made on the Premises without prior written approval by the City Manager and that the approval shall not be unreasonably withheld. This provision shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this Lease to make or assume any expense for any improvements or alterations. No prior approval shall be required for emergency repairs to the improvements; provided, however, written notice of the repairs shall be delivered to the City Manager within twenty-four (24) hours of completion.

- 6.5 Utilities. LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the Premises. All utilities will be installed underground.
- 6.6 Construction Bond. Whenever there is any construction to be performed on the Premises, LESSEE shall deposit with CITY, prior to commencement of the construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to CITY. The bond or cash will be held in trust by CITY for the purpose specified above or at CITY'S option it may be placed in an escrow or other trust approved by CITY.
- 6.7 Liens. LESSEE shall at all times save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the Premises and the costs of defending against the claims, including reasonable attorneys' fees.
- If improvements, alterations, or repairs are made to the Premises by LESSEE or by any party other than CITY, and a lien or notice of lien is filed, LESSEE shall within five (5) days of the filing either:
- a. take all actions necessary to record a valid release of lien, or
 - b. file with CITY a bond, cash, or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.
- 6.8 Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any

buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the Premises, including any licenses or permits. LESSEE recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on the interest, and that LESSEE shall pay all the possessory interest taxes. LESSEE further agrees that payment for the taxes, fees and assessments will not reduce any rent due CITY.

- 6.9 Signs. LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of CITY. If any unauthorized item is found on the Premises, LESSEE agrees to remove the item at its expense within twenty-four (24) hours notice thereof by CITY, or CITY may thereupon remove the item at LESSEE'S cost.

6.10 Ownership of Improvements and Personal Property.

- a. Any and all improvements, trade fixtures, structures, and installations or additions to the Premises now existing or constructed on the Premises by LESSEE shall at Lease expiration or termination be deemed to be part of the Premises and shall become, at CITY'S option, CITY'S property free of all liens and claims, except as otherwise provided in this Lease.
- b. If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, CITY shall so notify LESSEE thirty (30) days prior to termination or one hundred eighty (180) days prior to expiration, and LESSEE shall remove all the improvements, structures and installations as directed by CITY at LESSEE'S sole cost on or before Lease expiration or termination. If LESSEE fails to remove any improvements, structures, and installations as directed, LESSEE agrees to pay CITY the full cost of any removal.
- c. LESSEE-owned machines, appliances, equipment (other than trade fixtures), and other items of personal property shall be removed by LESSEE by the date of the expiration or termination of this Lease. Any items which LESSEE fails to remove will be considered abandoned and become CITY'S property free of all claims and liens, or CITY may, at its option, remove the items at LESSEE'S expense.
- d. If any removal of personal property by LESSEE results in damage to the remaining improvements on the Premises, LESSEE agrees to repair all the damage.

- e. Any necessary removal by either CITY or LESSEE which takes place beyond the expiration or termination hereof shall require LESSEE to pay rent to CITY at the rate in effect immediately prior to the expiration or termination.
- f. Notwithstanding any of the foregoing, in the event LESSEE desires to dispose of any of its personal property used in the operation of the Premises upon expiration or termination of this Lease, then CITY shall have the first right to acquire or purchase the personal property.

6.11 Unavoidable Delay. If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, the party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rental or fees as required pursuant to this Lease. In the event LESSEE or CITY claims the existence of a delay, the party claiming the delay shall notify the other party in writing of the fact within ten (10) days after the beginning of any claimed delay.

6.12 Development Plan.

a. Phase I Interim Use Facility.

(1) Funding. CITY will fund up to \$425,000 for certain studies and construction of the Phase I Interim Use Facility from Developer Fund Account Nos. 392111, 392141, 392163 and 392102 ("City Funds"). LESSEE agrees that City Funds will be used by LESSEE for the following items only:

- (a) Marketing and Financial Impact Study and Goal Feasibility Study in an amount not to exceed \$95,000;
- (b) Design of the Phase I Interim Use Facility in an amount not to exceed \$30,000;
- (c) Construction of a Phase I Interim Use Facility in an amount not to exceed the balance of City Funds.

If any of the above items cost less than the amount indicated, the remainder shall go to and augment the next succeeding item, upon the approval of the City Manager, which approval shall not be

unreasonably withheld. For example, if item (1) requires only \$90,000, item (2) shall become \$35,000.

If a group of residents in the Community is organized to procure funds through gifts, grants and fund-raisers for the design and construction of the Phase I Interim Use Facility and/or the Phase II Facility ("Community Group"), LESSEE shall reasonably advise the Community Group as to fund-raising methods and strategies. Funds raised by this Community Group shall be called "Community Funds." LESSEE may, but is not required to, contribute its funds for the design and construction of the Phase I Interim Use Facility and/or the Phase II Facility.

LESSEE and/or the Community Group will provide the remainder of the funds to finance the Phase I Interim Use Facility. City Funds will be disbursed by the City Manager to LESSEE upon presentation by LESSEE to CITY of bona fide and accurate invoices for funds spent or immediately due, and each invoice shall be paid within thirty (30) days of its presentation.

- (2) Improvements and Programs for Phase I Interim Use Facility. CITY and LESSEE shall determine the improvements and programs constituting the Phase I Interim Use Facility in the following manner. Either prior to or promptly after execution of this Lease by the City Manager, and approval by the City Attorney, LESSEE shall, at its sole cost, perform a Community Needs and Priorities Study in the Community, the purpose of which is to determine the YMCA improvements and YMCA programs that are desired by the residents in the Community and the priority thereof. Thereupon, LESSEE and the City Manager shall confer and attempt to agree upon the YMCA improvements and programs which shall constitute the Phase I Interim Use Facility. The following process shall govern the conferring: (i) the programs shall be from those customarily operated by YMCA in San Diego County and (ii) the cost of the improvements shall not exceed the aggregate of \$300,000 (or greater amount if items (a) and (b) of Section 6.12 a.(1) above cost less than anticipated, but in no event to exceed \$425,000 total) from the City Funds and the available Phase I Community Funds ("Available Phase I Funds"). The Phase I Interim Use Facility improvements shall be developed in accordance with CITY Park and Recreation Department standards.

b. Phase II Facility.

- (1) Funding. The Phase II Facility will be funded entirely by Available Phase II Community Funds.
- (2) Improvements and Programs for Phase II Facility. LESSEE shall promptly engage qualified consultants to prepare a Marketing and Financial Impact Study and a Goal Feasibility Study. LESSEE and the City Manager shall confer and attempt to agree upon the improvements and YMCA programs which shall constitute the Phase II Facility. The programs for the Phase II Facility shall be selected from those customarily operated by YMCA in San Diego County.

c. General Development Plan. LESSEE agrees to develop the Phase I Interim Use Facility and the Phase II Facility on the Premises in accordance with the General Development Plan. The general contents and provisions to be included in the General Development Plan are described in Section 10.3 below. LESSEE shall submit the General Development Plan to the City Manager for review and approval no later than two (2) years after the effective date of this Lease.

In addition to the general contents and provisions included in Section 10.3, the General Development Plan shall contain the following provisions:

- (1) LESSEE shall include as part of the General Development Plan a review for compliance with the California Environmental Quality Act ("CEQA").
- (2) The City Manager shall have the authority to authorize changes to the approved General Development Plan provided that the proposed changes are consistent with the terms and conditions of this Lease and with any required development permit conditions and CEQA mitigation measures.
- (3) Construction of the Phase I Interim Use Facilities shall be completed no later than ten (10) years after the effective date of this Lease.
- (4) Construction of the Phase II Facility shall be completed no later than twenty-five (25) years after the effective date of this Lease.
- (5) The City Manager shall have the discretion to extend the period for

completion of the construction of the Phase I Interim Use Facility and/or the Phase II Facility for up to two (2) additional one (1)-year periods provided LESSEE submits a prior written request, which shall include a reasonable basis for an extension.

- (6) Failure by LESSEE to comply with the requirements of Section 6.12 of the Lease or with the approved General Development Plan shall constitute a major default and subject this Lease to termination by CITY.

The General Development Plan, upon approval by the City Manager, shall be attached hereto and made part of this Lease.

- d. Determination of Phase III. At a reasonable time(s) during the term of this Lease and any extensions of the Lease pursuant to Section 2.2, the parties shall, at the request of either party, confer and attempt to agree upon additional improvements to, and YMCA programs for, the Premises ("Phase III"). If an agreement is reached, this Lease may be further extended for ten (10) years pursuant to Section 2.2 and the General Development Plan shall be appropriately amended.
- e. Conferees. At any conference referred to in Subparagraphs a., b. or d. above, any member(s) of the Community Group determined by the parties may attend.
- f. City Funds. In addition to the City Funds expenditures described in Subparagraphs a. and b. above, the following expenditures from City Funds are hereby committed by CITY: (i) not to exceed \$30,000 for design of Phase I Improvements and (ii) not to exceed \$95,000 for cost of the Studies.
- 6.13 Hazardous/Toxic Waste. LESSEE shall not allow the release of hazardous substances in, on, under, or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated herein.

In the event of any release of a hazardous substance, LESSEE shall be responsible

for all costs of remediation and removal of the substances in accordance with all applicable rules and regulations of governmental authorities.

LESSEE agrees to assume the defense of, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE'S operations on the Premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

If LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Premises, LESSEE shall give written notice to the City Manager within ten (10) days of receipt of the knowledge or cause for belief. Provided, however, if LESSEE knows or has reasonable cause to believe that the substance is an imminent and substantial danger to public health and safety, LESSEE shall notify the City Manager immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate the danger. LESSEE will notify the City Manager immediately of any notice of violation received or initiation of environmental actions or private suits relative to the Premises. In addition, LESSEE and LESSEE'S sublessees shall not utilize or sell any hazardous substance on the property without the prior written consent of CITY.

At any time within the twelve (12) months before the expiration or earlier termination of this Lease, LESSEE, at CITY'S sole option, shall cause an environmental assessment of the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at the sole cost and expense of LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the Premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes and estimates of the cost of the remediation or removal. LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved and shall be solely responsible for all costs and expenses incurred.

- 6.14 Water Quality - Best Management Practices and Storm Water Pollution Prevention Plan. CITY and LESSEE are committed to the implementation of programs to manage activities on the Premises in a manner which aids in the

protection of the City of San Diego's precious water resources. LESSEE shall comply with the Best Management Practices ("BMP") including the Storm Water Pollution Prevention Plan ("SWPP") approved by CITY's Storm Water Management Program. LESSEE shall submit for review and approval by the City Manager or his designee, within ninety (90) days of the execution of this Lease, BMP and SWPP that will control erosion and reduce the amount of pollutants and other sediments discharged from the Premises. The BMP and SWPP will be reviewed periodically by CITY. Upon written notice from the City Manager requesting an update of the BMP, LESSEE shall submit updated BMP and SWPP for City Manager review and approval within ninety (90) days of receipt of notice. LESSEE shall implement any necessary changes to the BMP and SWPP as a result of any review by CITY to ensure compliance with any changes in laws or regulations.

When the BMP and SWPP have been developed and implemented by LESSEE, it is crucial that the practices be enforced and maintained. It is LESSEE'S responsibility to inform employees, contractors, subcontractors, agents and vendors of the BMP and SWPP.

- 6.15 Facilities Program Plan. No sooner than one (1) year and no later than six (6) months prior to the tenth anniversary of this Lease and within that time frame every ten (10) years thereafter, LESSEE shall submit a Facilities Program Plan to the City Manager describing the investment that LESSEE will make to construct new improvements and/or refurbish existing ones on the Premises during the next ten (10) year period. Each Facilities Program Plan shall be subject to review and approval by the City Manager as to sufficiency of investment to ensure that good quality improvements are maintained on the Premises at all times to satisfy LESSEE'S program requirements and the term of this Lease.

SECTION 7: GENERAL PROVISIONS

7.1 Notices.

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at the Premises or at the other address designated in writing by LESSEE; and to CITY as follows:

TO CITY

City Manager
Attention Real Estate Assets Director
City Administration Building
202 "C" Street, M.S. 9B
San Diego, CA 92101-4155

TO LESSEE

Mr. Richard A. Collato
President & CEO
YMCA of San Diego County
4715 Viewridge Avenue, Suite 100
San Diego, CA 92123

or to any mortgagee, trustee, or beneficiary, as applicable, at the appropriate address designated in writing by the respective party.

- b. Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.

- 7.2 Compliance with Law. LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE'S sole cost and expense. In addition, LESSEE shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any law, statute, ordinance, or regulation.
- 7.3 CITY Approval. The approval or consent of CITY, wherever required in this Lease, shall mean the written approval or consent of the City Manager or his authorized representative unless otherwise specified, without need for further resolution by the City Council.
- 7.4 CITY Approval or Notice. The approval or consent of CITY or notice to CITY, wherever required in this Lease, shall mean the written approval or consent of, or notice to, the City Manager or his authorized representative unless otherwise specified, without need for further resolution by the City Council. "Authorized representative" shall mean the Director of the Real Estate Assets Department or any other individual designated by the City Manager in written notice to LESSEE.
- 7.5 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation,

medical status, national origin, age, marital status, or physical disability in LESSEE'S use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

7.6 Compliance with CITY'S Equal Opportunity Contracting Program.

- a. Equal Opportunity Contracting. LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. LESSEE and all of its subcontractors are individually responsible to abide by its contents.

LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

LESSEE submitted and CITY acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that LESSEE will take to achieve the CITY'S commitment to equal employment opportunities.

LESSEE agrees to insert the foregoing provisions in all subcontracts for any work covered by this Lease so that the provisions will be binding upon each subcontractor. LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the CITY'S Equal Opportunity Contracting Program staff.

- b. Local Business and Employment. LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LESSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Lease from local residents and firms as opportunities occur. LESSEE agrees to hire qualified local residents and firms whenever feasible.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may

result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

- 7.7 Partial Invalidity. If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
- 7.8 Legal Fees. In the event of any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.
- 7.9 Number and Gender. Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
- 7.10 Captions. The lease outline, section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. The lack of consecutive numbers is intentional and shall have no effect on the enforceability of this Lease.
- 7.11 Entire Understanding. This Lease contains the entire understanding of the parties. LESSEE, by signing this Lease, agrees that there is no other written or oral understanding between the parties with respect to the Premises. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each of the parties in this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease.

The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or alteration of this Lease will be valid unless it is in writing and signed by all parties.

- 7.12 CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements, or leases with consultants, vendors, or LESSEES shall include a condition that the contract, agreement, or lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if the contractor or LESSEE employs an individual who, within the twelve months immediately preceding the employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the

recommendation made to the City Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of the City Council.

7.13 Drug-free Workplace. LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the leasehold and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The LESSEE'S policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employees assistance programs.
 - (4) The penalties that may be imposed upon employees' for drug abuse violations.
- c. LESSEE shall include in each sublease language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and sublessees shall be individually responsible for their own drug-free workplace programs.

7.14 Disabled Access Compliance. LESSEE agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE'S compliance shall include but not necessarily be limited to the following:

- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
- c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, LESSEE shall comply with CITY'S disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All improvements and alterations shall be at the sole cost of LESSEE.
- e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own ADA employment programs.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.

SECTION 8: SPECIAL PROVISIONS

- 8.1 Bylaws. Membership in LESSEE'S organization shall be open to anyone meeting the requirements of its rules and bylaws. All restrictions, rules, bylaws, and fees, if any, and changes thereto proposed by LESSEE'S organization shall, before being put into effect, be submitted to and receive the written approval of the City Manager. Bylaws shall be on file in the office of the Real Estate Assets Department prior to CITY execution of this Lease.
- 8.2 Corporate Authority. Each individual executing this Lease on behalf of LESSEE represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of the corporation, in accordance with a duly adopted resolution of the Board of Directors of the corporation or in accordance with the bylaws of the corporation, and that this Lease is binding upon the corporation in accordance with its terms, and that LESSEE is a duly qualified corporation and all steps have been taken prior to the date hereof to qualify LESSEE to do business in the state where the Premises are situated.
- 8.3 Standard of Employees. LESSEE and its employees shall at all times conduct themselves and the operations on the Leased Premises in a creditable manner.

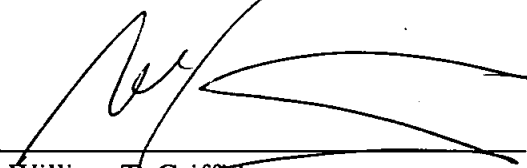
SECTION 9: SIGNATURES

9.1 Signature Page.

IN WITNESS WHEREOF, this Lease is executed by CITY, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

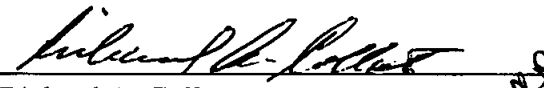
CITY OF SAN DIEGO

Date 12-14-04

By 
William T. Griffith
Real Estate Assets Director

LESSEE: YMCA OF SAN DIEGO COUNTY,
a California nonprofit public benefit corporation

Date 11/15/04

By 
Richard A. Collato
President AKP

APPROVED as to form and legality this 15th day of December, 2004.

MICHAEL J. AGUIRRE, City Attorney

By 
Deputy City Attorney

CY/cdj
11/9/04
I:\YOUNGLEASE-YMCA-SCRIPPS RANCH-5.wpd

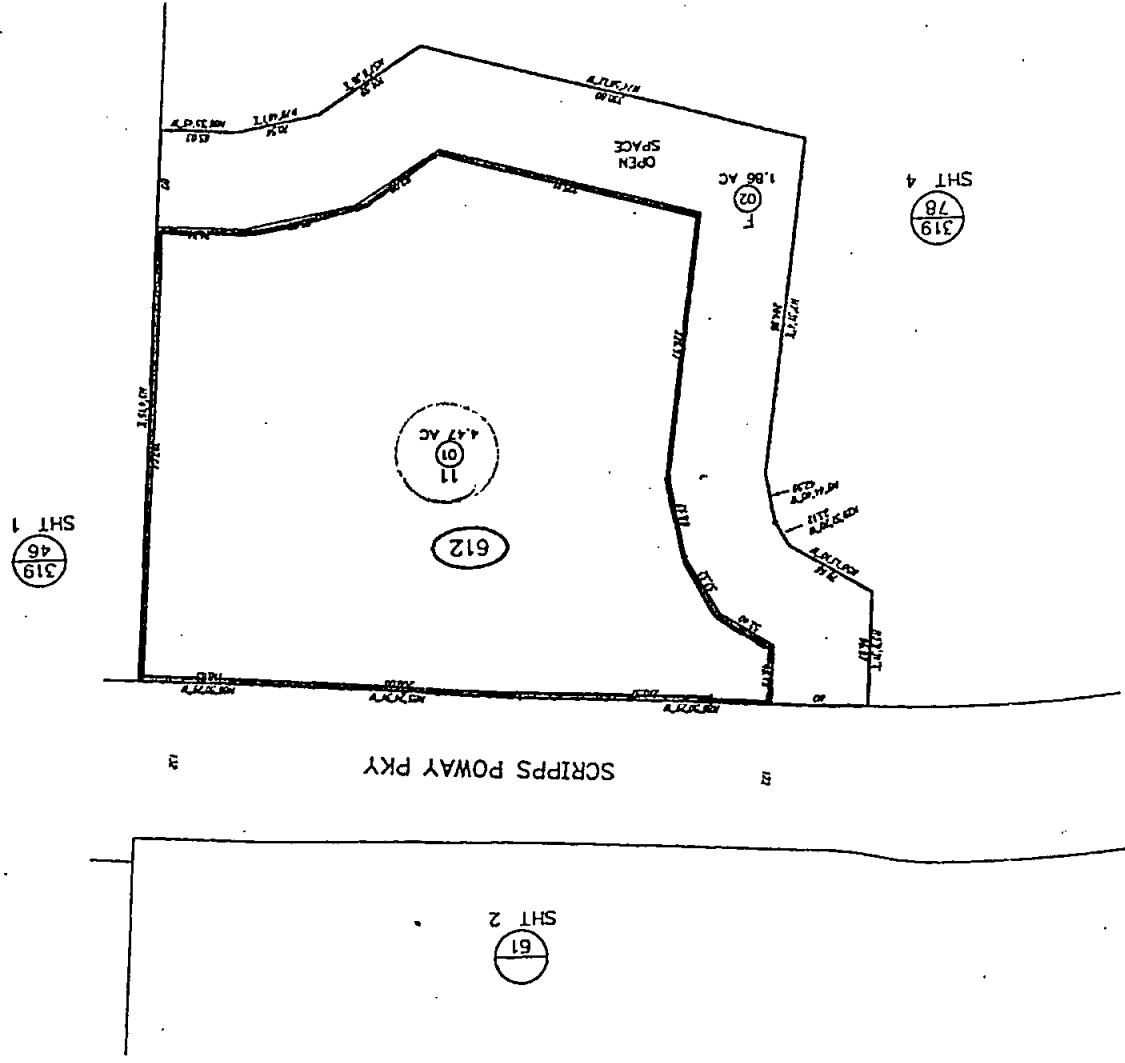
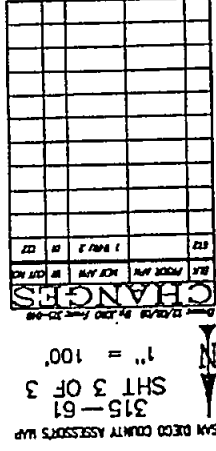
SECTION 10: EXHIBITS

10.1 Legal Description.

LOT 11 OF SCRIPPS GATEWAY UNIT NO. 3, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 14063, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 1, 2000.

10.2 Parcel Map.

Description: San Diego, CA Assess Map 315.61 Page: 3 of 3
 ID: 1200594 Comment:



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT BE SHOWN IN ACCORDANCE WITH BUILDING ORDINANCES.

10.3 General Development Plan.

The General Development Plan consists of:

- a. Plot Plan
- b. Development Schedule
- c. Estimated Construction Costs
- d. Financial Plan
- e. Schematic Elevations
- f. Landscape Plan
- g. Others as applicable

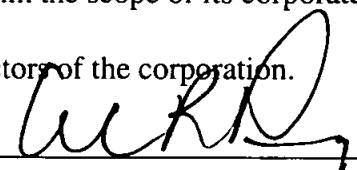
and is filed in the Office of the City Clerk referenced in this Lease.

10.4 Corporate Name.

YMCA OF SAN DIEGO COUNTY

CORPORATE NAME

I, ALAN R. PERRY, certify that I am the ASST. SECRETARY
of the corporation named in the attached Lease; that RICHARD A. GOLLATE, who signed
this Lease on behalf of the corporation, was then PRESIDENT & CEO of the
corporation; that the Lease was duly signed for and on behalf of the corporation by authority of
its governing body, pursuant to a resolution duly adopted by its Board of Directors on
OCTOBER 27, 2004, and is within the scope of its corporate powers; and that set
out below are the names of the officers and directors of the corporation.

By 

CORPORATE SEAL

Name _____
Title _____

Name _____
Title _____

Name _____
Title _____

Name _____
Title _____

YMCA of San Diego County

2004-05 Board of Directors & Officers

OSCAR M. ANCIRA
YMCA Vice Chair
President
Mission Hills Foods, LLC

TODD J. ANSON
Managing Member
Cisterra Partners, LLC

CELIA BALLESTEROS
Attorney at Law

JOHN A. BELLI
Managing Partner
Ernst & Young

JOE BENOIT
YMCA Treasurer
Market President
Union Bank of California

ROBERT D. BUELL
Partner
Luce Forward Hamilton & Scripps

GLENN R. CARLSON
Chief Executive Officer
Brandes Investment Partners, LLC

RUDY M. CASTRUITA, Ed.D.
Superintendent of Schools
San Diego County School District

FREDERICK W. CLOSE, M.D.
Orthopedic Surgeon

RICHARD A. COLLATO
President & CEO
YMCA of San Diego County

STEVE CONNER
Real Estate Investments

JAMES M. COWLEY
Partner
Holland & Knight

DEREK M. DALTON
Vice President & General Manager
KGTV Channel 10

THOMAS E. DARCY
Corporate Executive Vice President
& Chief Financial Officer
SAIC

LAURA STANLEY De MARCO
Former Partner
Nicholas Applegate Capital
Management

DIANE De ROUSSEAU
YMCA Vice Chair
Senior Vice President/
& Market President (retired)
Wells Fargo Bank

GERI DILLINGHAM
YMCA Board of Governors Chair
Executive Vice President
North Island Financial Credit
Union

THERESA J. DREW
Office Managing Partner
Deloitte & Touche

CHARLES C. EDWARDS, M.D.
YMCA Vice Chair
President & CEO (Retired)
Scripps Institutions of
Medicine & Science

JEROME C. FOSTER
Chief Executive Officer
Pegasus

SCOTT FREE
President
Lusardi Construction Company

K. KEN FUYUNO
President & CEO (retired)
Nippon Monier Company

EDWIN A. GUILLES
YMCA Vice Chair
Group President Regulated
Business Units
Sempra Energy

DUNCAN ROYCE HADDEN
Innkeeper
The Inn at Rancho Santa Fe

RICK F. HALL
YMCA Vice Chair
President & CEO
La Jolla Bank

KARLA C. HERTZOG
President
Innovative Employee Solutions

T. W. HOEHN
YMCA Vice Chair
President
Hoehn Motors

J. ALLEN HOLLINGSWORTH
Senior Vice President (Retired)
Hughes Aircraft Company

ROBERT HORSMAN
President & CEO
San Diego National Bank

MURRAY HUTCHISON
Chairman of the Board (Retired)
IT Corporation

PAT HYNDMAN
Chairman
The Executive Committee (TEC)

NORA N. JAESCHKE
President
N.N. Jaeschke, Inc.

GORDON JOHNS
Partner, (Retired)
Deloitte & Touche

HENRY M. KILLMAR
Private Investments

RODNEY N. LANTHORNE
YMCA Chairman of the Board
President
Kyocera International, Inc.

ROBERT L. LOOMIS
Publisher & CEO
San Diego Daily Transcript

SUSAN TEN EYCK MALLORY
YMCA Vice Chair
Region President
Northern Trust Bank

JAMES T. MCCARTHY
President
Olmeda Investment Company

GARY MEADS
President/CEO
MeadsDurket

RICHARD W. MEADS
Marketing Consultant

ALBERTO MIER Y TERAN
General Manager
Univision KBNT17

JOSÉ MUÑOZ
Director
BC Abalone

ANDREW MURPHY
YMCA Vice Chair
Division President
Fieldstone Communities Inc.

MIKE MURPHY
President & CEO
Sharp Healthcare

CATHERINE NICHOLAS
Founding Partner
Wagonhound Investments
Former Chief Investment Officer
Nicholas Applegate Capital
Management

GREG NOONAN
Broker Associate
Prudential California Realty

OSCAR PADILLA
President
Oscar Padilla Mexican Insurance

ALAN R. PERRY
YMCA Assistant Secretary
Attorney
Musick, Peeler & Garrett

JAMES H. REED
President (Retired)
A. O. Reed & Company

TRINDL REEVES
YMCA Secretary
Managing Director
Marsh Risk & Insurance Services

SYLVIA RIOS
President
First Security Mortgage

JOHN SARKISIAN
YMCA Vice Chair
Chief Executive Officer
ProPerformance Sports

PHILLIP SCHNEIDER
Senior Vice President & CFO
(retired)
Idec Pharmaceuticals Corporation

PHYLLIS SCHWARTZ
President & General Manager
NBC 7/39

CECILIA SCOTT-STANFEL
Chief Financial Officer
Caterpillar/Solar Turbines

LAWRENCE W. SHEA
YMCA Immediate Past Chair
Managing Principal
Barney & Barney, LLC

JAMES SIMPSON
General Partner
Sunrise Ventures

CECIL STEPPE
President & CEO
San Diego Urban League

JOHN STISKA
YMCA Vice Chair
Chairman
Commercial Bridge Capital

ROBERT A. TJOSVOLD
President San Diego Market
Bank of America

RICHARD VANDERHOFF
YMCA Vice Chair

BILL WEBER
Program Manager (Retired)
Hughes Aircraft Company

JAMES R. WILLIAMS
President (retired)
Kearny Mesa Toyota

WALTER J. ZABLE
CEO & Chairman of the Board
Cubic Corporation

10.5 Schedule of Rates and Charges.

After the determination of the Phase I improvements and programs as set forth in Section 6.12 of this Lease, LESSEE shall submit to the City Manager a schedule of rates and charges comparable to similar facilities operated by LESSEE in the San Diego area.

10.6 Schedule of Days and Hours of Operation.

After the determination of the Phase I improvements and programs as set forth in Section 6.12 of this Lease, LESSEE shall submit to the City Manager a schedule of days and hours of operation comparable to similar facilities operated by LESSEE in the San Diego area.

RECEIVED
04 NOV 16 AM 11:33
CITY CLERKS OFFICE
SAN DIEGO, CA

ORDINANCE NUMBER O- 19340 (NEW SERIES)

ADOPTED ON DEC 6 7 2004

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A 10-YEAR LEASE AGREEMENT WITH YMCA OF SAN DIEGO COUNTY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A YMCA FACILITY IN SCRIPPS RANCH AND AUTHORIZING THE EXPENDITURE OF \$425,000 FOR STUDIES, DESIGN, AND CONSTRUCTION FROM CERTAIN DEVELOPER FUND ACCOUNTS.

WHEREAS, in April 2002, a 4.467-acre vacant parcel near the Scripps Ranch Marketplace was purchased for public recreational use by the City from Shea Homes Limited Partnership [Shea] for \$1 million; and

WHEREAS, the purchase was made pursuant to a Settlement and Release Agreement dated July 24, 2001, between Shea, Shea Properties and the City; and

WHEREAS, to facilitate the commencement of the development project, community funds of \$425,000 from developer interest accounts have been earmarked for the development of recreational facilities in the Scripps Ranch community; and

WHEREAS, members of the Scripps Ranch community contacted the YMCA to solicit the YMCA to expand into Scripps Ranch; and

WHEREAS, the City of San Diego and YMCA of San Diego County have negotiated a lease for the 4.467-acre vacant parcel for the construction, operation and maintenance of a YMCA facility. The term of the lease is ten years with one 25-year option to extend. If an agreement is reached on additional improvements, another 10-year option to extend will be

added for a potential term of 45 years. City funds in an amount not to exceed \$425,000 from certain Developer Fund accounts will be used to fund a marketing and financial impact study, and design and construction of the YMCA facility. Annual rent will be \$1 per year along with an annual administrative fee of \$2,621 per year, subject to annual CPI adjustments;

WHEREAS, the City's valuation staff has determined the fair market value of the unimproved property is between \$4.5 million and \$5.5 million; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the City Manager is authorized to execute, for and on behalf of the City of San Diego, a lease agreement with YMCA of San Diego County for the lease of approximately 4.467 acres of vacant land in Scripps Ranch for the construction, operation, and maintenance of a YMCA facility, at the rental rate of \$1 a year plus \$2,621 a year in administrative fees, for a term of 10 years with one 25-year option to extend, and, if an agreement is reached on additional improvements, another 10-year option to extend, under the terms and conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. OO- **19340**.

Section 2. That the City Auditor and Comptroller is authorized to expend an amount not to exceed \$425,000 from Developer Fund Account Numbers 392111, 392141, 392163, and 392102 for studies, design, and construction of the YMCA facility.

Section 3. That the Council finds that the expenditure of public money from Developer Fund Account Numbers 392111, 392141, 392163, and 392102 for studies, design, and development of recreational facilities in the Scripps Ranch community serves a public purpose.

Section 4. That the Council waives Council Policy 700-41 with respect to the use of the RFP process for the lease of City-owned land.

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Elisa A. Cusato
Deputy City Attorney

EAC:dm
11/12/04
11/19/04 COR.COPY
Or.Dept:READ#105
Aud.Cert.:2500490
J.O.223350
O-2005-66
MMS#1008

Passed and adopted by the Council of The City of San Diego on December 7, 2004, by the following vote:

**YEAS: PETERS, ZUCCHET, ATKINS, MAIENSCHIN, FRYE,
MADAFFER, & MAYOR MURPHY.**

NAYS: NONE.

NOT PRESENT: INZUNZA.

VACANT: DISTRICT FOUR.

AUTHENTICATED BY:

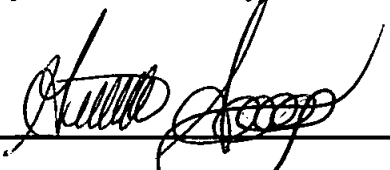
DICK MURPHY

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By:  _____, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. O- 19340 (New Series) of The City of San Diego, California.

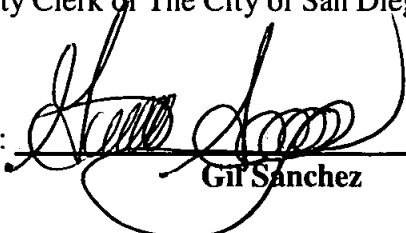
I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on November 22, 2004, and on December 7, 2004.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By:  _____, Deputy

Gil Sanchez

ORDINANCE NUMBER O- 19340 (NEW SERIES)

ADOPTED ON DEC 07 2004

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A 10-YEAR LEASE AGREEMENT WITH YMCA OF SAN DIEGO COUNTY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A YMCA FACILITY IN SCRIPPS RANCH AND AUTHORIZING THE EXPENDITURE OF \$425,000 FOR STUDIES, DESIGN, AND CONSTRUCTION FROM CERTAIN DEVELOPER FUND ACCOUNTS.

WHEREAS, in April 2002, a 4.467-acre vacant parcel near the Scripps Ranch Marketplace was purchased for public recreational use by the City from Shea Homes Limited Partnership [Shea] for \$1 million; and

WHEREAS, the purchase was made pursuant to a Settlement and Release Agreement dated July 24, 2001, between Shea, Shea Properties and the City; and

WHEREAS, to facilitate the commencement of the development project, community funds of \$425,000 from developer interest accounts have been earmarked for the development of recreational facilities in the Scripps Ranch community; and

WHEREAS, members of the Scripps Ranch community contacted the YMCA to solicit the YMCA to expand into Scripps Ranch; and

WHEREAS, the City of San Diego and YMCA of San Diego County have negotiated a lease for the 4.467-acre vacant parcel for the construction, operation and maintenance of a YMCA facility. The term of the lease is ten years with one 25-year option to extend. If an agreement is reached on additional improvements, another 10-year option to extend will be

added for a potential term of 45 years. City funds in an amount not to exceed \$425,000 from certain Developer Fund accounts will be used to fund a marketing and financial impact study, and design and construction of the YMCA facility. Annual rent will be \$1 per year along with an annual administrative fee of \$2,621 per year, subject to annual CPI adjustments;

WHEREAS, the City's valuation staff has determined the fair market value of the unimproved property is between \$4.5 million and \$5.5 million; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the City Manager is authorized to execute, for and on behalf of the City of San Diego, a lease agreement with YMCA of San Diego County for the lease of approximately 4.467 acres of vacant land in Scripps Ranch for the construction, operation, and maintenance of a YMCA facility, at the rental rate of \$1 a year plus \$2,621 a year in administrative fees, for a term of 10 years with one 25-year option to extend, and, if an agreement is reached on additional improvements, another 10-year option to extend, under the terms and conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. OO- 19340.

Section 2. That the City Auditor and Comptroller is authorized to expend an amount not to exceed \$425,000 from Developer Fund Account Numbers 392111, 392141, 392163, and 392102 for studies, design, and construction of the YMCA facility.

Section 3. That the Council finds that the expenditure of public money from Developer Fund Account Numbers 392111, 392141, 392163, and 392102 for studies, design, and development of recreational facilities in the Scripps Ranch community serves a public purpose.

Section 4. That the Council waives Council Policy 700-41 with respect to the use of the RFP process for the lease of City-owned land.

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By



Elisa A. Cusato
Deputy City Attorney

EAC:dm

11/12/04

11/19/04 COR.COPY

Or.Dept:READ#105

Aud.Cert.:2500490

J.O.223350

O-2005-66

MMS#1008

Passed and adopted by the Council of The City of San Diego on _____,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	☐	☐	☐	☐
Michael Zucchet	☐	☐	☐	☐
Tony Atkins	☐	☐	☐	☐
Charles L. Lewis	☐	☐	☐	☐
Brian Maienschein	☐	☐	☐	☐
Donna Frye	☐	☐	☐	☐
Jim Madaffer	☐	☐	☐	☐
Ralph Inzunza	☐	☐	☐	☐
Mayor Dick Murphy	☐	☐	☐	☐

AUTHENTICATED BY:

(Seal)

DICK MURPHY

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By _____, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on _____, and on _____.

I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By _____, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

This information is available in alternative formats upon request.

CC-1255-A (Rev. 11-02)

Ordinance

Number _____ Adopted _____

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER
CERTIFICATE OF UNALLOTTED BALANCE
ORIGINATING

AC 2500490
DEPT. 070
NO. 070

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										
										FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

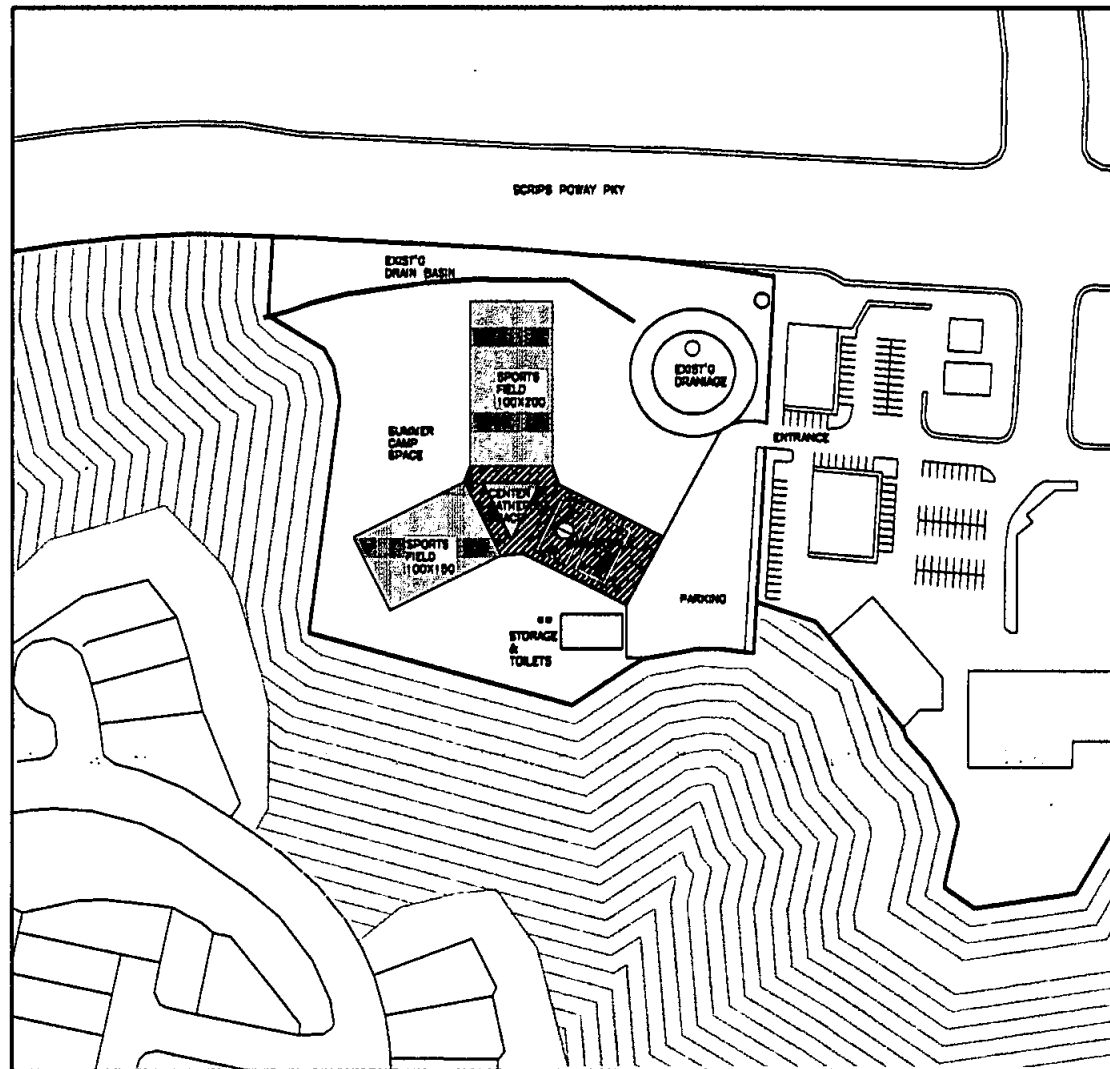
Not to Exceed: \$425,000.00

Vendor: YMCA

Purpose: Authorizing the expenditures of funds for studies and construction of an interim use facility per the YMCA Scripps Ranch Lease Agreement.

Date: November 12, 2004 By: _____
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	392141			9544					\$14,159.00
02	0	392111			9544					\$16,423.00
03	0	392163			9544					\$65,216.00
04	0	392102			9544					\$329,202.00
TOTAL AMOUNT										\$425,000.00
										FUND OVERRIDE ☐



LEGEND:

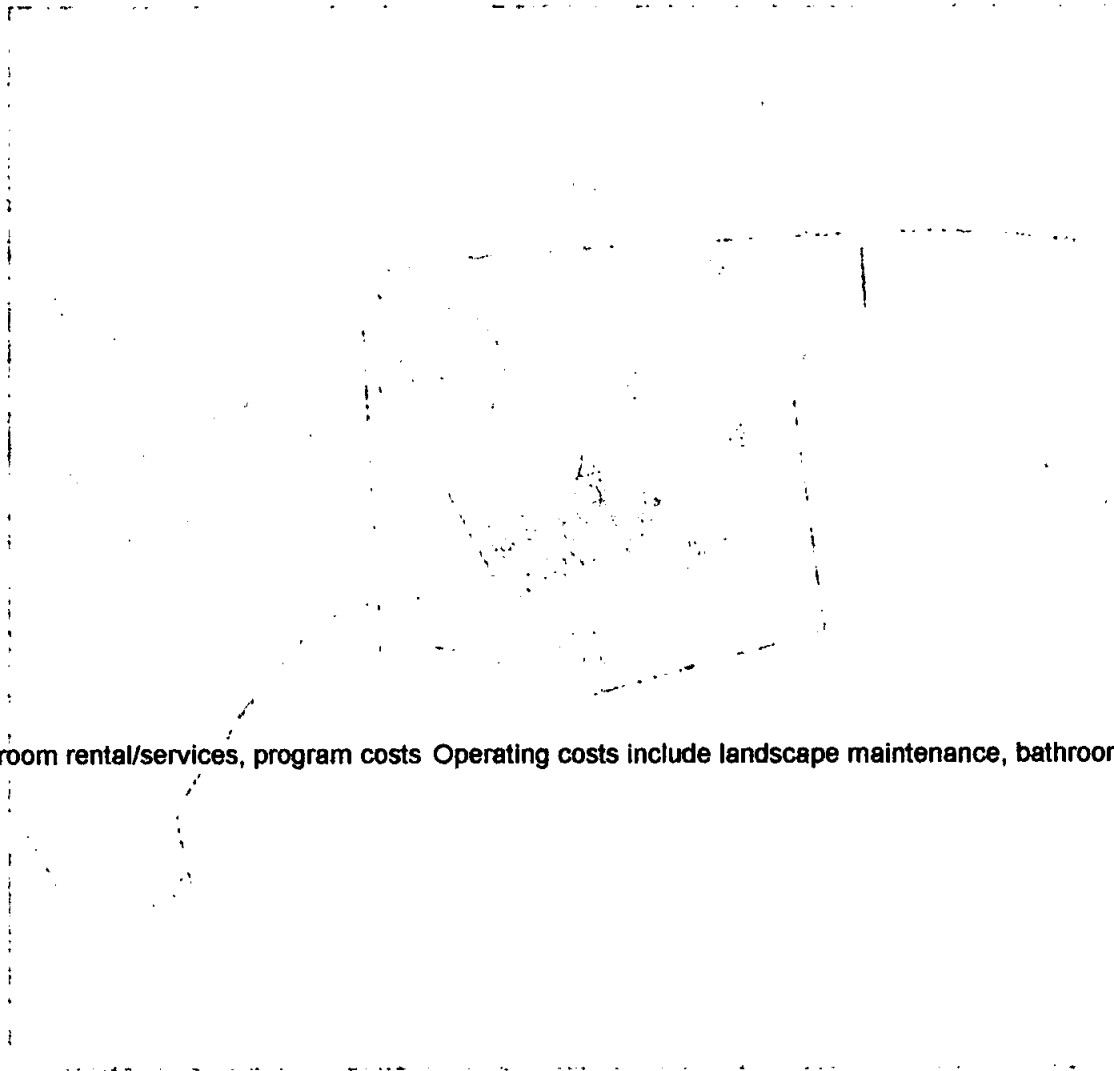
- EXIST'G DRAINAGE
- EXIST'G HANDICAP

GENERAL NOTES:

- ALL OTHER SPACES SHALL BE THE NATURAL ENVIRONMENT



SCRIPPS RANCH YMCA - SITE PLAN D
TUCKER SADLER



le landscape maintenance, bathroom rental/services, program costs Operating costs include landscape maintenance, bathroom rental/services, pro