

COPY

- City of San Diego

Standard

Flat Rate Lease

BOYS' CLUB OF SAN DIEGO, INC.

Prepared for: James L. Spotts,  
Property Director

DOCUMENT NO. RR-260340

FILED MAR 26 1984

OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

9/16/83

| <u>PAGE</u> | <u>SECTION</u> | <u>PARAGRAPH</u>             | <u>LEASE OUTLINE</u><br>(Flat Rate) |
|-------------|----------------|------------------------------|-------------------------------------|
|             |                |                              | Cover                               |
|             |                |                              | Table of Contents                   |
|             |                |                              | Preamble                            |
| 1           | SECTION 1:     | USES                         |                                     |
| 2           | 1.01           | Premises (Flat Rate)         |                                     |
| 2           | 1.02           | Uses (Flat Rate)             |                                     |
| 3           | 1.03           | Related Council Actions      |                                     |
| 3           | 1.04           | Quiet Possession             |                                     |
| 4           | 1.05           | Easements and Reservations   |                                     |
| 5           | 1.06           | Hours of Operation           |                                     |
| 5           | 1.07           | Rates and Charges            |                                     |
| 5           | 1.08           | City Use                     |                                     |
| 5           | 1.09           | Political Activities         |                                     |
| 6           | 1.10           | Public Use                   |                                     |
| 7           | SECTION 2:     | TERM                         |                                     |
| 8           | 2.01           | Commencement                 |                                     |
| 8           | 2.02           | Holdover                     |                                     |
| 8           | 2.03           | Quitclaim of LESSEE Interest |                                     |
| 10          | SECTION 3:     | RENT (Flat Rate)             |                                     |
| 11          | 3.01           | Place of Payment             |                                     |
| 11          | 3.02           | Rent                         |                                     |
| 12          | 3.03           | Delinquent Rent              |                                     |
| 13          | 3.04           | Inspection of Records        |                                     |
| 14          | SECTION 4:     | ASSIGNMENT                   |                                     |
| 15          | 4.01           | Time is of Essence           |                                     |
| 15          | 4.02           | Assignment and Subletting    |                                     |
| 15          | 4.03           | Encumbrance                  |                                     |
| 17          | 4.04           | Defaults and Remedies        |                                     |
| 22          | 4.05           | Eminent Domain               |                                     |

| <u>PAGE</u> | <u>SECTION</u> | <u>PARAGRAPH</u>                                |
|-------------|----------------|-------------------------------------------------|
| 24          | SECTION 5:     | INSURANCE RISKS/SECURITY                        |
| 25          | 5.01           | Indemnity                                       |
| 25          | 5.02           | Insurance                                       |
| 28          | 5.03           | Waste, Damage or Destruction                    |
| 30          | SECTION 6:     | IMPROVEMENTS/ALTERATIONS/REPAIRS                |
| 31          | 6.01           | Acceptance of Premises                          |
| 31          | 6.02           | Maintenance                                     |
| 32          | 6.03           | Improvements/Alterations                        |
| 32          | 6.04           | Utilities                                       |
| 33          | 6.05           | Liens                                           |
| 33          | 6.06           | Taxes                                           |
| 34          | 6.07           | Signs                                           |
| 34          | 6.08           | Ownership of Improvements and Personal Property |
| 35          | 6.09           | Unavoidable Delay                               |
| 36          | 6.10           | Development Plan                                |
| 37          | SECTION 7:     | GENERAL PROVISIONS                              |
| 38          | 7.01           | Notices                                         |
| 38          | 7.02           | Compliance with Law                             |
| 39          | 7.03           | City Approval                                   |
| 39          | 7.04           | Nondiscrimination                               |
| 39          | 7.05           | Affirmative Action                              |
| 39          | 7.06           | Partial Invalidity                              |
| 40          | 7.07           | Legal Fees                                      |
| 40          | 7.08           | Number and Gender                               |
| 40          | 7.09           | Captions                                        |
| 40          | 7.10           | Entire Understanding                            |
| 41          | 7.11           | Bylaws                                          |
| 41          | 7.12           | Grant of Option by Lessee                       |
| 43          | SECTION 8:     | SIGNATURE PAGE                                  |
| 44          | 8.01           | Signature Page                                  |
|             |                | Exhibit A                                       |
|             |                | Exhibit B                                       |

**SECTION: 1. USES**

- 1.01 Premises**
- 1.02 Uses**
- 1.03 Related Council Actions**
- 1.04 Quiet Possession**
- 1.05 Easements and Reservation**
- 1.06 Hours of Operation**
- 1.07 Rates and Charges**
- 1.08 City Use**
- 1.09 Political Activities**
- 1.10 Public Use**

CITY OF SAN DIEGO  
FLAT RATE LEASE

THIS LEASE AGREEMENT is executed between the CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY," and BOYS' CLUB OF SAN DIEGO, INC. hereinafter called "LESSEE."

SECTION 1. USES

1.01 Premises. CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property situated in the City of San Diego, County of San Diego, State of California, described in Exhibit "A" attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises."

1.02 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 gymnasium building and for such other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose.

LESSEE covenants and agrees to use the premises for the above specified purposes and to diligently pursue said purposes throughout the term hereof. Failure to continuously use the premises for said purposes or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by CITY.

9/16/83

1.03 Related Council Actions. By the granting of this lease, neither the 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, environmental clearances or any other governmental agency approvals which may be required for the development and operation of the leased premises.

1.04 Quiet Possession. LESSEE, paying the rent 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 such events, this lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager of CITY a proportionate reduction of the minimum or flat rate rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the premises.

1.05 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 establish and use rights-of-way over, under, along and across the leased 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 leased premises resulting from CITY'S exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by the CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.06 Hours of Operation. LESSEE shall operate the premises in accordance with a schedule of days and hours of operation subject to the prior written approval of the City Manager. Any changes in the schedule are subject to prior written approval by the City Manager or his authorized representative.

1.07 Rates and Charges. All charges for merchandise and services or facilities on said premises shall be subject to the prior written approval of the City Manager. Any changes <sup>of</sup> in said <sup>charges</sup> schedule are subject to prior written approval by the City Manager or his authorized representative.

1.08 City Use. The premises shall be available to the 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.

1.09 Political Activities. The leased property shall be used exclusively for the purposes specified in Section I, USES, hereof. 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.

1.10 Public Use. The general public shall not be wholly or permanently excluded from any portion of the premises. The LESSEE may develop reasonable restrictions for facility use provided they are consistent with the rights of the general public, and are designed to allow the 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 1.02 USES of this lease.

LESSEE shall, at all times 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 the LESSEE at a location agreeable to the CITY.

SECTION: 2. TERM

2.01 Commencement

2.02 Holdover

2.03 Quitclaim of LESSEE Interest

## SECTION 2: TERM

- 2.01 Commencement. The term of this agreement shall be 50 years commencing on the first day of the calendar month following execution by the City Manager. "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.
- 2.02 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered a renewal or extension of this lease. The occupancy of the premises after the expiration or termination of this agreement constitutes a month-to-month tenancy, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.
- 2.03 Quitclaim of LESSEE'S Interest. On execution of this lease, the LESSEE shall deliver to the CITY a quitclaim deed in recordable form quitclaiming all its rights in the premises. CITY may record such deed only on the expiration or earlier termination of this lease. In the event the CITY requires any subsequent quitclaim deed, the 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 deliver 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, and in the case of termination of this lease by CITY prior to the end of the specified lease term any liens and encumbrances approved in writing by the City Manager during the lease term.

**SECTION 3: RENT (Flat Rate)**

**3.01 Place of Payment**

**3.02 Rent**

**3.03 Delinquent Rent**

**3.04 Inspection of Records**

### SECTION 3: RENT

3.01 Place of Payment. Rent is due yearly in advance on each lease year hereof. Checks should be made payable to the City Treasurer and mailed or delivered to the Office of the City Treasurer, City of San Diego, P. O. Box 2289, San Diego, California, 92112-4165.

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

### 3.02 Rent.

- a. Rent Amount. The rent shall be \$1,000 per year for the first five years of this agreement. Thereafter, no rent shall be payable to CITY during the remaining term of this lease.

As additional consideration and at a cost of approximately \$80,000, LESSEE agrees, at LESSEE'S sole cost, to construct a drainage channel designed in accordance with plans approved by the City Manager within two years following the execution of this lease.

3.03 Delinquent Rent. If the LESSEE fails to pay the rent when due, the LESSEE will pay in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, the 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 rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account.

In the event that the CITY audit, if applicable, discloses that the rent for the audited period has been underpaid in excess of five percent (5%) of the total required rent, then LESSEE shall pay CITY the cost of the audit plus ten percent (10%) on the amount by which said rent was underpaid in addition to the unpaid rents 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 such 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.

3.04 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 leased premises and will be complete and accurate showing all income and receipts from use of the premises. LESSEE'S failure to keep and maintain such records and make them available to inspection by CITY is a breach of this lease and cause for termination. LESSEE shall maintain all such records and accounts for a minimum period of five years.

## SECTION 4: ASSIGNMENT

- 4.01 Time is of Essence
- 4.02 Assignment and Subletting
- 4.03 Encumbrance
- 4.04 Defaults and Remedies
- 4.05 Eminent Domain

#### SECTION 4: ASSIGNMENT

- 4.01 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.
- 4.02 Assignment and Subletting. LESSEE may not assign this lease or any interest therein and may not sublease any portion hereof to an assignee or sublessee.
- 4.03 Encumbrance. Subject to prior consent by the 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 the LESSEE, upon the express condition that the net proceeds of such loan or loans be devoted exclusively to the purpose of developing the leased premises in accordance with the section hereof entitled 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: offsite improvements for service of the premises; onsite 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 attorney's fees and such other normal expenses incidental to such construction.

Any subsequent encumbrances on the premises or on any permanent improvements thereon, must first have the approval in writing of City Manager. The City Manager shall have the sole and absolute discretion to approve or disapprove any such proposed subsequent encumbrance.

In the event any such 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 the 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.

Any default, foreclosure or sale pursuant to said deed of trust, mortgage or other security instrument, shall be invalid with respect to this lease without prior notice thereof to and approved by CITY. Upon prior approval by CITY, said mortgagee or beneficiary may assign this lease to its nominee, if nominee is a reputable, qualified and financially responsible person 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.

4.04 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 said default within thirty (30) days following written notice thereof from CITY; 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 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 paragraph a. (1) of this section 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 such cure to completion.

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

- b. Remedies. If the mortgagee or beneficiary shall be required to exercise its right to cure said default or defaults through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that the default or defaults may be expeditiously corrected:

- (1) CITY may correct said default or defaults and charge the costs thereof to the account of the LESSEE, which charge shall be due and payable on the date that the rent is next due after presentation by CITY to LESSEE and mortgagee or beneficiary of a statement of said costs.
- (2) CITY may correct said default or defaults and may pay the costs thereof from the proceeds of any insurance fund held by CITY, CITY and LESSEE or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default or defaults or to pay the costs of correction performed by or at the direction of CITY.
- (3) CITY may terminate this lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE agrees to assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition for early payoff of the related obligations by CITY. CITY may, as an alternative, substitute for the terminated LESSEE a new LESSEE reasonably satisfactory to the mortgagee or beneficiary.

Should the default or defaults 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 the LESSEE hereunder and to commence performance of this lease. If such 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 such mortgagee or beneficiary, then this lease shall not terminate pursuant to the default. In that event, the 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 the 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 rent 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. The CITY'S acceptance of any rents is not a waiver of any default preceding the rent 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 the 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 the CITY shall at all times, subject to applicable statute of limitations, 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 such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

4.05 Eminent Domain. If all or part of the premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of the 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, leaving the remainder unusable for lease purposes, if in the opinion of the 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, leaving the remainder usable for lease purposes, if in the opinion of the CITY, the remainder 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 of the condemning authority, whichever occurs first, but shall continue for the portion not taken. The minimum rent shall be reduced in proportion to the amount of the improvements taken.

- d. Award. All monies awarded in any such taking shall belong to CITY whether such 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, installations or improvements of LESSEE.
  
- e. Transfer. CITY has the right to transfer the 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, the LESSEE shall retain its possessory interest in the fair market value of any improvements placed on the premises in accordance with this lease by LESSEE.
  
- 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

5.01 Indemnity

5.02 Insurance

5.03 Waste, Damage or Destruction

## SECTION 5: INSURANCE RISKS/SECURITY

5.01 Indemnity. LESSEE at all times shall relieve, indemnify, protect and save CITY and any and all of its boards, officers, agents and employees harmless from any and all claims and demands, actions, proceedings, losses, liens, costs, judgments, civil fines and penalties of any nature whatsoever in regard to or resulting from the use of the premises, including, but not limited to, expenses incurred in legal actions, death, injury or damage that may be caused directly or indirectly by:

- a. Any unsafe or defective condition in or on the premises of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the premises,
- b. Any operation, use or occupation conducted on the premises,
- c. Any act, omission or negligence on the part of LESSEE, its employees, agents, sublessees, invitees, licensees or
- d. Any failure by LESSEE to comply or secure compliance with any of the lease terms or conditions.

5.02 Insurance. LESSEE shall take out and maintain at all times during the term of this lease the following insurance at its sole expense:

- a. Public liability and property damage insurance in the amount of not less than ONE MILLION DOLLARS (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY. 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.
- b. Fire, extended coverage and vandalism insurance policy on all insurable property on the premises, in an amount to cover 100 percent 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 the ENCUMBRANCE section hereof, 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.
- c. Conditions. All insurance policies will name the CITY as an additional insured, protect the CITY against any legal costs in defending claims and will not terminate without sixty (60) days prior written notice to the CITY. All insurance companies must be satisfactory to the 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. Certificates, in a form satisfactory to the CITY, 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 policy has been obtained which meets the terms of this lease.

- d. 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 acquire any additional insurance required by CITY for new improvements, in order to meet the requirements of this lease.
- e. 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 should 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.

- f. 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 or insurers and rate of interest. Said 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 f., 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 such default.

- 5.03 Waste, Damage or Destruction. LESSEE agrees to give notice to the CITY of any fire or other damage that may occur on the leased premises within ten (10) days of such 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 the CITY. If the leased 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 said damage and to restore the premises to the condition which existed prior to said damage, or at the CITY'S option LESSEE agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in accordance with plans and specifications previously submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage using for either purpose the insurance proceeds as set forth in Section 5.02 Insurance, hereof.

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 such period or periods that said premises are untenable by reason of such damage.

## SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.01 Acceptance of Premises
- 6.02 Maintenance
- 6.03 Improvements/Alterations
- 6.04 Utilities
- 6.05 Liens
- 6.06 Taxes
- 6.07 Signs
- 6.08 Ownership of Improvements
- 6.09 Unavoidable Delay
- 6.10 Development Plan

## SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

6.01 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 such independent inspection, tests, investigations and observations in making this lease. LESSEE further acknowledges that 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 in the premises.

6.02 Maintenance. LESSEE agrees to assume full responsibility and cost for the construction, 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, aesthetically pleasing, and sanitary condition satisfactory to the CITY and in compliance with the Development Plan described in Section 6.10 hereof and with all applicable laws.

Additionally, LESSEE assumes responsibility for maintaining the proposed four (4) foot base channel to the City Manager's satisfaction, and in such a condition as to permit it to carry the design 100-year storm flow. In addition, LESSEE agrees to perform any maintenance in that portion of the channel constructed by the LESSEE. In addition, the LESSEE will assume responsibility for any

damage claims generated by any alleged deficiencies or failure in their maintenance of the channel. In the event of expiration or termination of the lease, the maintenance of the channel will revert to the CITY, and will be accomplished in the manner and at the frequency of other unimproved channels.

6.03 Improvements/Alterations. No improvements, structures or installations shall be constructed within the premises and the premises may not be in any way altered by the 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. This provision shall not relieve the LESSEE of any obligation under this lease to maintain the premises in decent, safe, healthy and sanitary condition, including structural repair and restoration of damaged or worn improvements. The CITY shall not be obligated by this lease to make, or assume any expense for, any improvements or alterations.

6.04 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 leased premises. All utilities will be installed underground.

6.05 Liens. LESSEE will 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 such claims, including reasonable attorney's 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 such 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.

6.06 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 leased premises, including any licenses or permits. LESSEE recognizes and agrees that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of taxes levied on such interest and that LESSEE shall pay all such possessory interest taxes.

LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due the CITY.

6.07 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 the CITY. If any such unauthorized item is found on the premises, LESSEE agrees to remove the item at its expense within 24 hours notice thereof by CITY or CITY may thereupon remove the item at LESSEE'S cost.

6.08 Ownership of Improvements and Personal Property.

- a. All and any improvements, 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 the CITY'S property, free of all liens and claims except as otherwise provided in this lease.
- b. If the CITY elects not to assume ownership of all or any improvements, structures and installations, CITY shall so notify LESSEE 30 days prior to termination or 180 days prior to expiration and the LESSEE shall remove all such improvements, structures and installations as directed by the CITY at

LESSEE'S sole cost on or before lease expiration or termination. If the LESSEE fails to remove any improvements, structures and installations as directed, the 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 said items which LESSEE fails to remove will be considered abandoned and become the CITY'S property free of all claims and liens, or CITY may at its option remove said items at LESSEE'S expense.
- d. If any removal of such personal property by LESSEE results in damage to the remaining improvements on the premises, LESSEE agrees to repair all such damage.
- e. Any necessary removal by either CITY or LESSEE which takes place beyond said expiration or termination hereof shall require rental by LESSEE to CITY at the rate in effect immediately prior to said expiration or termination.

6.09 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, said 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 as required pursuant to this lease. In the event LESSEE or CITY claim the existence of such a delay, the party claiming the delay shall notify the other party in writing of such fact within ten days after the beginning of any such claimed delay.

6.10 Development Plan. LESSEE agrees to develop the leased premises in accordance with the General Development Plan approved by the City Manager and filed in the Office of the City Clerk which plan is hereby incorporated by this reference. The general contents and provisions of the development plan are described in Exhibit "B" hereto. The City Manager or his designee shall have the authority to authorize changes to the plan provided that the basic concept may not be modified without City Council approval and a document evidencing any approved changes shall be filed in the Office of the City Clerk. Failure by LESSEE to comply with the General Development Plan shall constitute a major default and subject this lease to termination by CITY.

SECTION: 7: GENERAL PROVISIONS

- 7.01 Notices
- 7.02 Compliance with Law
- 7.03 City Approval
- 7.04 Nondiscrimination
- 7.05 Affirmative Action
- 7.06 Partial Invalidity
- 7.07 Legal Fees
- 7.08 Number and Gender
- 7.09 Captions
- 7.10 Entire Understanding
- 7.11 Bylaws
- 7.12 Grant of Option by LESSEE

## SECTION 7: GENERAL PROVISIONS

### 7.01 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 leased premises or at such other address designated in writing by LESSEE; and to CITY as follows:

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

or to any mortgagee, trustee or beneficiary, as applicable at such 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.

- 7.02 Compliance with Law. LESSEE will at all times in the construction, maintenance, occupancy and operation of the premises, comply with all applicable laws, statutes, ordinances and regulations of the CITY, County, State and Federal Government, at LESSEE'S sole cost and expense. In addition, LESSEE will comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.

7.03 CITY Approval. The approval or consent of the CITY, wherever required in this lease, shall mean the written approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

7.04 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, age or handicap 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.

7.05 Affirmative Action. LESSEE agrees to abide by the CITY'S Affirmative Action Program for LESSEES as it exists or is amended to the extent that the program is applicable to this lease. A copy of the program effective as of the date of this lease is on file in the City Clerk's Office and by this reference is part hereof. The program's goal is the attainment of employment for minorities and women in all areas of employment, in a total percentage as established by the CITY for its Affirmative Action Program each year.

7.06 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.

- 7.07 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 attorney's fees.
- 7.08 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 sense requires.
- 7.09 Captions. The lease Table of Contents, 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. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this lease.
- 7.10 Entire Understanding. This lease contains the entire understanding of the parties. The LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties in respect to the lease premises. Each party has relied on his own examination of the premises, advice from his 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.

7.11 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 Property Department prior to City execution of this lease.

7.12 Grant of Option by LESSEE. LESSEE, as further consideration for City's leasing of the premises, hereby grants to City the right and option to purchase from LESSEE, for the total sum of One Dollar:

- a) the title to those structural improvements constituting the gymnasium and related facilities and the land under such improvements which are situated partially on Boys' Club-owned property and partially on City-owned property as more clearly shown on Exhibit B (Development Plan) hereto, and b) a permanent five-foot-wide perimeter access easement over contiguous Boys' Club property to the gymnasium, subject to the following two express conditions precedent:

- a. The Boys' Club offers for sale or exchange the whole (or any portion) of the contiguous property it owns, and
- b. City gives Boys' Club thirty days' written notice of its intent to exercise the herein option within ninety (90) days after receipt of written notice from Boys' Club of its intent to sell or exchange.

LESSEE covenants and agrees to notify City in writing of its intent to offer said property for sale or exchange.

8.01 Signature Page

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

THE CITY OF SAN DIEGO

Date: MARCH 26, 1984

By: [Signature]  
ASSISTANT TO THE City Manager

LESSEE: BOYS' CLUB OF SAN DIEGO, INC.

Date: 9-27-83

By: [Signature]  
PRESIDENT

By: [Signature]

APPROVED as to form and legality this 1 day of August, 1984

By: [Signature]  
Deputy City Attorney

JEH:mh(5)D4  
9/16/83

(To be granted to the City)

Being a portion of Lot 1 of Safeway Tract according to Map No. 3828 thereof on file in the Office of the County Recorder of the County of San Diego further described as follows:

Beginning at an angle point in the Westerly line of said Lot 1, said angle point also being the Southwest Corner of Lot 5, Block C of Encanto Heights according to Map No. 1063;

Thence northerly along the westerly line of said Lot 1 North  $00^{\circ}35'30''$  East a distance of 11.77 feet;

Thence leaving said westerly line South  $59^{\circ}24'30''$  East a distance of 18.56 feet to a point on the westerly line of said Lot 1;

Thence westerly along said westerly line South  $81^{\circ}47'30''$  West a distance of 16.26 feet to the Point of Beginning.

(Lease Parcel)

Being a portion of Lot 1 of Safeway Tract according to Map No. 3828 thereof and a portion of Lot 4, Block C of Encanto Heights according to Map No. 1063 thereof on file in the Office of the County Recorder of the County of San Diego further described as follows:

Beginning at an angle point in the Westerly line of said Lot 1, said angle point also being the Northwest Corner of Lot 17, Block C of Encanto Heights according to Map No. 1063;

Thence southerly along the westerly line of said Lot 1 South  $00^{\circ}35'30''$  West a distance of 62.50 feet;

Thence leaving said westerly line North  $89^{\circ}24'30''$  West a distance of 35.00 feet;

Thence North  $59^{\circ}24'30''$  West a distance of 5.75 feet;

Thence South  $30^{\circ}35'30''$  West a distance of 22.04 feet;

Thence North  $59^{\circ}24'30''$  West a distance of 112.00 feet;

Thence North  $30^{\circ}35'30''$  East a distance of 88.00 feet;

Thence South  $59^{\circ}24'30''$  East a distance of 109.77 feet to a point on the west line of said Lot 1;

Thence easterly along said westerly line North  $81^{\circ}47'30''$  East a distance of 9.04 feet to the Point of Beginning.

Parcel described above is based upon record information. The physical limits of the actual outside line of the building shall delineate the Lease Parcel.

**EXHIBIT A**

(R-84-1168)

RESOLUTION NUMBER R- **260340**

Adopted on MAR 26 1984

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

That the City Manager is hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a 50-year lease agreement with BOYS' CLUB OF SAN DIEGO, INC., for construction, operation and maintenance of a gymnasium adjoining the Encanto Boys' Club, and involving a portion of designated Encanto Neighborhood Park near 67th Street and Imperial Avenue, at a yearly rental of \$1,000 per year for the first five years of this agreement, and no rental thereafter, under the terms and conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. RR- **260340**.

APPROVED: John W. Witt, City Attorney

By

  
Harold O. Valderhaug  
Deputy City Attorney

HOV:ps  
1/10/84  
Or.Dept:Prop.  
Job:217493  
Form=r.none

Passed and adopted by the Council of The City of San Diego  
on March 26, 1984, by the following vote:

YEAS: Mitchell, Cleator, McColl, Jones, Struiksma, Gotch, Murphy,  
Martinez, Hedgecock

NAYS: None.

NOT PRESENT: None.

AUTHENTICATED BY:

ROGER HEDGECOCK  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(SEAL)

By ELLEN BOVARD, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,  
true and correct copy of RESOLUTION NO. R-260340  
passed and adopted by the Council of The City of San Diego,  
California, on MAR 26 1984.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(SEAL)

By Ellen Bovard, Deputy.

(R-83-711)

RESOLUTION NUMBER R- 257576

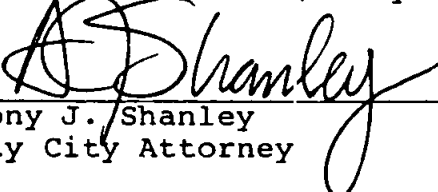
Adopted on DEC 6 1982

BE IT RESOLVED, by the Council of The City of San Diego, that the City Council hereby approves in concept a proposal by the Boys' Clubs of San Diego, Inc. for the use of a portion of Encanto Neighborhood Park to construct a gymnasium building.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to negotiate with the Boys' Clubs of San Diego, Inc. for a long-term lease of a portion of Encanto Neighborhood Park.

APPROVED: John W. Witt, City Attorney

By

  
Anthony J. Shanley  
Deputy City Attorney

AJS:rc:260

11/4/82

Or.Dept:Pk.& Rec.

Form=r.none

BY-LAWS OF  
BOYS' CLUB OF SAN DIEGO, INC.

A Nonprofit Public Benefit Corporation

ARTICLE I. OFFICES

Principal Office

Section 1.01 The Principal office of the Corporation for its transaction of business is located at 2930 Marcy Avenue in the City of San Diego (zip code 92113) County of San Diego, State of California.

Change of Address

Section 1.02 The board of Trustees is hereby granted full power and authority to change the principal office of the Corporation from one location to another in the County of San Diego, California. Any such change shall be noted by the Secretary in these By-laws, but shall not be considered as an amendment of these By-laws.

ARTICLE II. MEMBERS

Classification of Members

Section 2.01 The Corporation shall have one class of members only, and each member shall have equal voting and other rights. No person shall hold more than one membership in the Corporation.

Eligibility for Membership

Section 2.02 Any person, as defined in Section 5.065 of the Corporations Code, is eligible to be a member of the Corporation, except that, in the case of a natural person such person shall not be eligible for membership unless over the age of eighteen (18) years.

Qualification of Members

Section 2.03 Any person eligible for membership under Section 2.02 of these By-laws is qualified for membership only after such person has satisfied that if such person be a corporation that the corporation is in good standing and that if such person be a natural person that such person is of good moral character and in sympathy with the objectors of this Corporation and whose name shall have been approved by the Executive Committee.

## Admission to Membership

Section 2.04 Any person, eligible for membership under Section 2.02 of these By-laws and qualified for membership under Section 2.03 of these By-laws, shall be admitted to membership only on the approval of the Board of Trustees (or Membership Committee duly authorized, by resolution, to admit members) of an application submitted by such person in such form and in such manner as shall be prescribed by the Board of Trustees, and upon the payment of the application fee as specified in Section 2.05 of these By-laws.

## Application Fee

Section 2.05 There shall be an initial minimum application fee in the amount of \$5.00 (or in such amount as may be determined from time to time by resolution of the Board of Trustees) which fee may be paid by the donation of materials or services of commensurate value, and payable with, the application for membership. Such application fee shall be nonrefundable.

## Dues

Section 2.06 The annual dues payable to the Corporation by members shall be in such amounts as shall be determined by resolution of the Board of Trustees, who shall have the right to waive all dues if the Board shall elect. The dues shall be payable for the first year on admission to membership and annually thereafter at such time or time as may be fixed by the Board of Trustees.

## Assessments

Section 2.07 Memberships shall be nonassessable.

## Number of Members

Section 2.08 There shall be no limit on the number of members the Corporation may admit.

## Transferability of Membership

Section 2.09 Neither the membership of the Corporation nor any rights of the membership may be transferred or assigned for value or otherwise.

## Membership Book

Section 2.10 The Corporation shall keep in written form (or in any form capable of being converted into written form) a membership book containing the name, address, and class of each member. The book shall also contain the fact of termination and the date on which such membership ceased. Such book shall be kept in the principal office of the Corporation and shall be subject to the rights of inspection required by law and as set forth in Section 2.11 of these By-laws.

## Inspection Rights of Members

### Demand

Section 2.11 (a) Subject to the Corporation's right to set aside a demand for inspection pursuant to Section 6331 of the Corporations Code and the power of the court to limit inspection rights pursuant to Section 6332 of the Corporations Code, and unless the Corporation provides a reasonable alternative as permitted by Section 2.11(c) of these By-laws, a member satisfying the qualifications set forth hereinafter may do either or both of the following:

(1) Inspect and copy the record of all the members' names, addresses, and voting rights, at reasonable times, on five (5) business days' prior written demand on the Corporation which demand shall state the purpose for which the inspection rights are requested; or

(2) Obtain from the Secretary of the Corporation, on written demand and tender of a reasonable charge, a list of the names, addresses, and voting rights of those members entitled to vote for the election of Trustees, as of the most recent record date for which it has been compiled or as of the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be available on or before the later of ten (10) business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

### Members Permitted to Exercise Rights of Inspection

(b) The rights of inspection set forth in Section 2.11(a) of these By-laws may be exercised by the following:

(1) Any member, for a purpose reasonably related to such person's interest as a member;

(2) The authorized number of members for a purpose reasonably related to the members' interest as members.

### Alternative Method of Achieving Purpose

(c) The Corporation may, within ten (10) business days after receiving a demand pursuant to Section 2.11(a) of these By-laws, deliver to the person or persons making the demand a written offer of an alternative method of achieving the purpose identified in said demand without providing access to or a copy of the membership list. An alternative method which reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made pursuant to Section 2.11(a) of these By-laws shall be deemed reasonable; unless within a reasonable time after acceptance of the offer, the Corporation fails to do those things which it offered to do. Any rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the Corporation does not meet the proper purpose of the demand made pursuant to Section 2.11(a) of these By-laws.

## Nonliability of Members

Section 2.12 A member of the Corporation shall not, under any circumstances, by reason of such membership of the Corporation, become or be personally liable for any of the debts, obligations, or liabilities of the Corporation.

## Termination of Membership

### Causes

Section 2.13 (a) The membership and all rights of membership shall automatically terminate on the occurrence of any of the following causes:

- (1) The voluntary resignation of a member;
- (2) Where a membership is issued for a period of time, the expiration of such period of time;
- (3) The death of a member;
- (4) The dissolution of corporated members; and
- (5) The nonpayment of dues (or assessments), subject to the limitations set forth in Section 2.13(b) of these By-laws.

### Effect of Termination

(b) All rights of a member in the Corporation shall cease on the termination of such member's membership.

## ARTICLE III. MEETINGS OF MEMBERS

### Place

Section 3.01 Meetings of members shall be held at the principal office of the Corporation (or at such location within the State of California as may be designated from time to time by resolution of the Board of Trustees).

### Date and Time

Section 3.02 The members shall meet annually on the 2nd Tuesday of November of each year, beginning with the year 1980, at 7:00 P.M. for the purpose of transacting such proper business as may come before the meeting, including the election of Trustees for such terms as are fixed in Section 4.03 of these By-laws. If the election of Trustees shall not occur at any such meeting of the members or without a meeting by written ballot pursuant to Section 3.11 of these By-laws, the Board shall or five (5) percent of the members may cause the election of Trustees to be held at a special meeting of members called and held as soon as it is reasonably possible after the adjournment of the regular meeting of the members. If the day fixed for the regular meeting of members falls on a legal holiday, such

meeting shall be held at the same hour and place on the next succeeding day.

### Special Meetings

Section 3.03 Special meetings of members shall be called by the Board of Trustees or the Chairman of the Board or the President of the Corporation and held at such place within the State of California as is fixed in Section 3.10 of these By-laws for regular meetings of members or at such times and places within the State of California as may be ordered by resolution of the Board of Trustees. Where the purpose of the special meeting is the removal of Trustees and the election of their replacements, five percent (5%) or more of the members of the Corporation may call special meetings for such purpose.

### Notice of Meetings

Section 3.04 Written notice of every meeting of members shall be either personally delivered or mailed by first-class or registered or certified United States mail, postage prepaid, four (4) days before the date of the meeting to each member who on the record date for notice of the meeting is entitled to vote thereat. In the event given by mail or other means of written communication, the notice shall be addressed to the member at the address of such member appearing on the books of the Corporation or at the address given by the member to the Corporation for the purpose of notice. Where no such address appears or is given, notice shall be given at the principal office of the Corporation or by publication in any newspaper of general circulation in the county in which the principal office of the Corporation is located. The Secretary or Assistant Secretary of the Corporation, or any transfer agent specially designated by the Secretary or Assistant Secretary for the purpose herein mentioned, shall execute an affidavit of the giving of the notice of the meeting of members. In the case of a specially called meeting of members, notice that a meeting will be held at a time requested by the person or persons calling the meeting not less than thirty-five (35) days nor more than ninety (90) days after receipt of the written request from such person or persons by the Chairman of the Board or the President or Vice-President or Secretary of the Corporation shall be sent to the members forthwith and in any event within twenty (20) days after the request was received.

When a members' meeting is adjourned to another time or place, and if the adjournment is for more than forty-five (45) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

### Contents of Notice

Section 3.05 The notice shall state the place, date, and time of the meeting. In the case of regular meetings, the notice shall state those matters which the Board of Trustees, at the time the notice is given, intends to present for action by the members. The notice of any meeting at which Trustees are to be elected shall include the names of all those who are nominees at the time the

notice is given to the members.

#### Waivers, Consents, and Approvals

Section 3.05 The transactions of any meeting of members, however called and noticed, and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote but not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

#### Quorum

Section 3.07 A quorum at any meeting of members shall consist of thirty-five percent (35%) of the voting power, represented in person or by proxy. For purposes of this By-law, "voting power" means the power to vote for the election of Trustees at the time any determination of voting power is made and does not include the right to vote on the happening of some condition or event which has not yet occurred.

#### Loss of Quorum

Section 3.08 The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if such action taken, other than adjournment, is approved by at least a majority of members required to constitute a quorum.

#### Adjournment for Lack of Quorum

Section 3.09 In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted except as provided in Section 3.08 of these By-laws.

#### Voting of Membership

##### One Vote Per Member

Section 3.10 Each member is entitled to one vote on each matter submitted to a vote of the members.

#### Indivisible Interest in Single Memberships

(b) Single memberships in which two or more persons have an indivisible interest shall be voted as set forth in Section 3.10(c) of these By-laws relating to the voting of memberships in two or more names.

### Memberships in Two or More Names

(c) Where a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, or otherwise, or if two or more persons (including proxy holders) have the same fiduciary relationship respecting the same membership, unless the Secretary of the Corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: if only one member votes, such act shall bind all members; and if more than one member vote, the act of the majority so voting shall bind all members.

### Record Date of Membership

(d) The record date for the purpose(s) of determining the members entitled to vote at and to notice of any meeting of members is thirty (30) days before the date of the meeting of members.

### Cumulative Voting

(e) Cumulative voting shall not be authorized for the election of Trustees or for any other purpose.

### Proxy Voting

(f) Members entitled to vote shall not be permitted to vote or act by proxy. Any amendment of this provision creating or expanding proxy rights shall be adopted with approval by the members. For purposes of this provision of these By-laws, "approval by the members" shall assume the same definition set forth in Section 5034 of the Corporations Code.

### Action Without Meeting by Written Ballot

#### Ballot Requirements

Section 3.11 (a) Subject to the limitations specified in Section 3.11(b) of these By-laws, any action which may be taken at any regular or special meeting of members may be taken without a meeting. If an action is taken without a meeting, the Corporation shall distribute a written ballot to every member entitled to vote on the matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Corporation. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

## Limitations Pertaining to Election of Trustees

(b) Trustees may be elected by written ballot, except that election of Trustees by written ballot shall not be permitted where the Trustees are elected by cumulative voting pursuant to Section 5616 of the Corporations Code.

## Solicitation of Ballots

(c) Ballots shall be solicited in a manner consistent with the requirements of giving notice of members' meetings set forth in Section 3.04 of these By-laws and of voting by written ballot set forth in Section 3.11(d) of these By-laws. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of Trustees, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation shall specify the time by which the ballot must be received in order to be counted.

## Conduct of Meetings

### Chairman

Section 3.12 (a) The President of the Corporation or, in his or her absence, any other person chosen by a majority of the voting members present in person or by proxy shall be Chairman of and shall preside over the meetings of the members.

### Secretary of Meetings

(b) The Secretary of the Corporation shall act as the secretary of all meetings of members; provided that in his or her absence, the Chairman of the meetings of members shall appoint another person to act as secretary of the meetings.

### Rules of Order

(c) The Robert's Rules of Order, as may be amended from time to time, shall govern the meetings of members insofar as such rules are not inconsistent with or in conflict with these By-laws, the Articles of Incorporation of this Corporation, or the law.

## Inspectors of Election

### Appointment

Section 3.13 (a) In advance of any meeting of members, the Board may appoint any persons, other than candidates for office, as inspectors of election to act at the meeting and any adjournment thereof. If the inspectors of election are not so appointed, or if any person so appointed fails to appear or refuses to act, the Chairman of any meeting may, appoint inspectors of election at the meeting. The number of inspectors shall be either one (1) or three (3). If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one (1) or three (3) inspectors are to be

appointed.

#### Duties

(b) The inspectors of election shall perform the following duties:

(1) Determine the number of voting memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies;

(2) Receive votes, ballots or consents;

(3) Hear and determine all challenges and questions in any way arising in connection with the right to vote;

(4) Count and tabulate all votes and consents;

(5) Determine when the polls shall close;

(6) Determine the result; and

(7) Do such acts as may be proper to conduct the election or vote with fairness to all members.

The Inspectors shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical.

#### Vote of Inspectors

(c) If there are three (3) inspectors of election, the decision, act, or certificate of a majority is effective in all respects as the decision, act or certificate of all.

#### Report and Certificate

(c) On request of the Chairman or any member, the inspectors of election shall make a report in writing concerning the performance of their duties and execute a certificate of any fact found by them. Any report or certificate made by the inspectors shall be prima facie evidence of the facts stated therein.

### ARTICLE IV. TRUSTEES

#### Number

Section 4.01 The Corporation shall be governed by, and shall have, twenty-four (24) Trustees. Collectively, the

Trustees shall be known as the Board of Trustees. Each Trustee shall serve for the term of three (3) years, except that the first Board of Trustees shall, by random lot, designate eight (8) of their number to serve for one (1) year, eight (8) of their number shall serve for two (2) years, and eight (8) of their number shall serve for three (3) years; as their respective terms expire, their successors shall thereafter be elected annually by the members to serve for three (3) years.

4.01.1 In addition to the twenty-four (24) Trustees on the Board of Trustees, there shall also be established by the Board of Trustees four (4) totally subordinate advisory boards for each of the four (4) branches of the Corporation, to wit, separate advisory boards of Trustees for the William J. Oakes Branch, the Linda Vista Branch, the Clairemont Branch, and the Encanto Branch. The four (4) respective advisory boards shall be designated as the William J. Oakes Branch Advisory Board of Trustees, the Linda Vista Branch Advisory Board of Trustees, and the Clairemont Branch Advisory Board of Trustees, and the Encanto Branch Advisory Board of Trustees. The respective four (4) advisory boards of Trustees shall be established by the Board of Trustees to consist of as many advisory board Trustees and for such terms as the Board of Trustees shall, from time to time, determine. The duties and the responsibilities of the four (4) advisory boards of Trustees shall be promulgated by the Board of Trustees pursuant to specific written perimeters. The said four (4) advisory boards of Trustees shall be responsible to the Board of Trustees and no action taken by the advisory boards of Trustees shall be binding unless ratified in writing by the Board of Trustees.

#### Qualifications

Section 4.02 The Trustees of the Corporation shall be residents of the State of California.

#### Terms of Office

Section 4.03 Each Trustee shall hold office until the next annual meeting following the three-year term period, except for the initial Board of Trustees, as prescribed by Section 3.02 of these By-laws and until such Trustee's successor is elected and qualifies under Section 4.02 of these By-laws. In the event a Trustee is removed at a special meeting of the members called and held as prescribed by Section 3.03 of these By-laws, such Trustee shall hold office until his or her removal or his or her successor is elected and qualifies. In the event of any vacancy among the Board of Trustees through death or resignation or disqualification or other cause, the remaining Trustees, by a majority vote thereof at any regular meeting, may elect a successor to hold office for the unexpired portion of the term of the Trustee whose place shall be vacant.

## Nomination

Section 4.04 Any person qualified to be a Trustee under Section 4.02 of these By-laws may be nominated by the method of nomination authorized by the Board or by any other method authorized by law.

## Election

Section 4.05 The Trustees shall be elected either at each annual meeting as prescribed by Section 3.02 of these By-laws or by written ballot as authorized by Section 3.11 of these By-laws. The candidates receiving the highest number of votes up to the number of Trustees to be elected are elected. Trustees shall be eligible for reelection without limitation on the number of terms they may serve, provided they continue to meet the qualifications required by Section 4.02 of these By-laws.

## Compensation

Section 4.06 The Trustees shall serve without compensation.

## Meetings

### Call of Meetings

Section 4.07 (a) Meetings of the Board of Trustees may be called by the Chairman of the Board or the President or by any Vice-President or by the Secretary or by any five (5) Trustees.

### Place of Meetings

(b) All meetings of the Board of Trustees shall be held at the principal office of the Corporation, or at one of the other three (3) branch clubs, or at such other designated public place as shall be designated by the Chairman of the Board or by the President.

### Time of Regular Meetings

(c) Regular meetings of the Board of Trustees shall be held six (6) times a year on the third Wednesday of each January, March, May, July, September, and November of each year, at 12:00 noon at the principal office of the Corporation, or at one of the other three branch clubs, or at such other time and conveniently located public place as be designated by the President. Written notice of such other time and place shall be given to the members of the Board of Trustees at least two (2) days in advance of such meeting.

### Special Meetings

(d) Special meetings of the Board may be called by the Chairman of the Board or by the President or any Vice-President or by the Secretary or by any five (5) Trustees. Special meetings shall be held on four (4) days notice by first-class mail, postage

prepaid, or upon forty-eight (48) hours notice delivered personally or by telephone or telegraph. Notice of special meetings need not be given to any Trustee who signs a waiver of notice or a written consent to holding the meeting or in approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting the lack of such notice prior thereto or at commencement of the meeting. All such waivers, consents, and approvals shall be filed with the corporated records or made a part of the minutes of the meetings.

#### Quorum

(e) At all meetings of the Board of Trustees, whether regular or special, ten (10) of the Trustees shall constitute a quorum for the transaction of business.

#### Powers of the Board of Trustees

(f) Except as otherwise provided in the Articles of Incorporation, in these By-laws, or the law, every act or decision done or made by a majority of the Trustees present at a meeting duly held at which a quorum is present is the act of the Board provided, however, that any meeting at which a quorum was initially present may continue to transact business notwithstanding the withdrawal of Trustees if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by law, the Articles, or these By-laws.

(g) The Board of Trustees shall have complete power, management and control of all of the affairs and activities of the Corporation. Among the powers of the Board shall be the following:

(1) It shall be the duty of the Board of Trustees to cause to be kept a complete record of all minutes and acts of the Corporation and to supervise all of the Corporation's agents and employees and to see that their duties are properly performed.

(2) The Board shall cause to be prepared and submitted to the membership at the regular annual meeting a detail statement of assets and liabilities of the Corporation and an audited statement of the operating expenditures for the fiscal or calendar year.

(3) The Board may from time to time delegate authority to committees appointed by it and to the officers, Chairman of the advisory boards, and to members of the organization.

(4) The Board of Trustees shall have full power in the name of the Corporation to borrow money as the best general interests of the Corporation may require and to issue notes or other evidences of indebtedness so incurred and to mortgage its property to secure payment of any such obligations.

(5) The Board of Trustees shall have full authority in the name of the Corporation to acquire by purchase, lease, gift, or otherwise, real and personal property and hold, manage, control, sell, and dispose of the same in furtherance of the best interests and objectives of the Corporation.

(6) The Board of Trustees shall have full authority to do any and all other things which to them seem necessary or desirable for the general welfare and goals for which the Corporation is organized.

(7) The Board shall have the duty to create and supervise an "Executive Committee" of twelve (12) members, which committee shall consist of the President, the two (2) Vice-Presidents, the Secretary, and the Treasurer of the Corporation, plus seven (7) other members to be named by the Board of Trustees. Such committee shall conduct the affairs of the Corporation subject to the expressed instructions and approval of the Board of Trustees. Six (6) members of the Executive Committee shall constitute a quorum. The Executive Committee shall meet regularly, report to and be responsible directly to the Board of Trustees.

(8) The Board shall also create an "Operations Committee" of seven (7) members which shall consist of the Chairman of each of the four (4) respective branch boards, the Chairman of the Board of Trustees, and two (2) other members to be named by the Board of Trustees. Such Operations Committee shall be charged with formulating operations policies for each of the respective branch boards, subject to the expressed instructions and approval of the Board of Trustees. Meetings of the Operations Committee may be called by any members of the Operations Committee upon two (2) weeks written notice to all such members.

(9) The Board of Trustees shall employ a professional staff director who shall serve at the pleasure of the Board, and for such compensation as the Board shall, from time to time, determine. Such staff director shall have, subject to the approval of the Board of Trustees and the Executive Committee, entire direction of the day to day club work, including the power of employing and discharging branch staff directors and assistants.

#### Adjournment

(h) A majority of the Trustees present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the adjournment to another time or place must be given prior to the time of the adjourned meeting to the Trustees who were not present at the time of the adjournment.

#### Action Without Meeting

Section 4.08 Any action required or permitted to be taken by the Board may be taken without a meeting, if all members

of the Board individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous vote of Such Trustees.

### Removal of Trustees

#### Removal for Cause

Section 4.09 (a) The Board may declare vacant the office of a Trustee on the occurrence of any of the following events:

(1) The Trustee has been declared of unsound mind by a final order of court;

(2) The Trustee has been convicted of a felony; or

(3) The Trustee has been found by a final order or judgment of any court to have breached duties imposed by Section 7238 of the Corporations Code on trustees who perform functions with respect to assets held in charitable trust.

(b) Any or all of the Trustees may be removed without cause if, where the Corporation has fewer than fifty (50) members, such removal shall be approved by a majority of all members pursuant to Section 5033 of the Corporations Code; or where the Corporation has more than fifty (50) members, such removal shall be approved by the members within the meaning of Section 5034 of the Corporations Code. However, a Trustee shall not be removed, unless the entire Board is removed, when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such Trustee if voted cumulatively at an election at which the same total number of votes were cast (or if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of Trustees authorized at the time of the Trustee's most recent election were then being elected.

#### Resignation of Trustee

Section 4.10 Any Director may resign effective on giving written notice to the Chairman of the Board of Trustees, the President, the Secretary, or the Board of Trustees of the Corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

## Vacancies in the Board

### Causes

Section 4.11 (a) Vacancies on the Board of Trustees shall exist on the death, resignation, or removal of any Trustee; whenever the number of Trustees authorized is increased; or upon the failure of the members in any election to elect the full number of Trustees authorized.

### Filling Vacancies by Trustees

(b) Except for a vacancy created by the removal of a Trustee pursuant to Section 4.09 of these By-laws, vacancies on the Board of Trustees may be filled by a majority of the Trustees then in office, whether or not less than a quorum, or by a sole remaining Trustee.

### Filling Vacancies by Members

(c) Vacancies created by removal of Trustees shall be filled only by the approval of the members within the meaning of Section 5034 of the Corporations Code. The members may elect a Trustee at any time to fill any vacancy not filled by the Trustees.

## ARTICLE V. OFFICERS

### Number and Titles

Section 5.01 The officers of the Corporation shall be the President (who shall also serve as the Chairman of the Board of Trustees and where the term "Chairman of the Board of Trustees" or "Chairman of the Board" is used in these By-laws it shall refer interchangeably to the President) two (2) Vice-Presidents, a Secretary, and a Treasurer (Chief Financial Officer) and such other officers with such titles and duties as shall be determined by the Board of Trustees and as may be necessary to enable it to sign instruments. The President (Chairman of the Board) is the General Manager and Chief Executive Officer of the Corporation. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President (Chairman of the Board).

### Election and Registration

Section 5.02 The officers shall be elected by the Board of Trustees at the regular meeting of the Board of Trustees held in January of each year and shall hold office for the term of one (1) year, or until their successors have been elected.

## Vacancies

Section 5.03 Any officer may resign at any time upon written notice to the Corporation without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Vacancies occurring among the officers may be filled by a majority vote of those members of the Board of Trustees present at any regular meeting of the Board of Trustees.

## Duties of the Officer

Section 5.04 (a) The President shall preside at all meetings of the members of the Corporation, and at all meetings of the Executive Committee and at all meetings of the Board of Trustees. It shall be the duty of the President to act, at all times, as a representative head of the Corporation. The President shall sign all papers, contracts or instruments approved by the Board of Trustees. The President shall call the Board of Trustees together whenever he deems it necessary or desirable and, subject to the advice of the Board of Trustees and the Executive Committee, shall have direction of the affairs of the Corporation and shall generally discharge such other duties as may be required of him by these By-laws. The President shall have the power to appoint committees subject to the approval of the Board of Trustees and shall be an ex-officio member of all such committees so appointed.

(b) The two (2) Vice-Presidents or either of them shall perform the duties of the President in the case of his absence or inability to act. The first Vice-President shall supervise those committees assigned to him by the Board of Trustees. The first Vice-President shall be charged with the supervision of the club's plant, their operation and maintenance. The second Vice-President shall supervise those committees assigned to him by the Board of Trustees. Essentially, the second Vice-President has charge of the activities of the club's branches and the development of programs designed to further the objectives for which they were formed.

(c) The Secretary shall have the duty of notifying each member of the organization and the members of the Board of Trustees of the time and place of meetings provided by these By-laws. He shall keep a true record of all minutes and file all reports of officers and committees or unofficial documents and communications that should be preserved and shall sign with the President all instruments in writing. The Secretary shall have custody of the corporate seal of the Corporation.

(d) The Treasurer shall have the duty to receive and have custody of all money, bonds, notes, and other funds and securities of the Corporation. He shall keep an account of the same and shall pay all bills as are approved by the President, and authorized by the Board of Trustees or by the Executive Committee and approved by the Staff Director. Checks drawn on Corporation funds shall be signed by any two (2) of the following five officers, President, First Vice-President, Second Vice-President, Secretary, or Treasurer. The Treasurer shall render a complete accounting of all receipts and disbursements and deposit of all funds in such bank or banks as authorized by the

Board of Trustees. The Treasurer shall furnish a bond for the faithful discharge of his duties in such amount as the Board of Trustees may require. The cost of the procurement of the bond shall be paid by the Corporation. The Treasurer must render a financial statement at each regular meeting of the Board of Trustees.

#### ARTICLE VI. AMENDMENTS TO THE ARTICLES OF INCORPORATION

The Articles of Incorporation may be amended in either of the following ways:

Section 6.01 Any amendment to the Articles of Incorporation may be proposed in writing at any regular or special meeting of the membership and a copy of such proposed amendment shall be sent to each member of the organization and may be acted upon at any regularly called meeting one week or more subsequent. A two-thirds (2/3) vote of a quorum present at any such meeting will be required for any amendment to the Articles of Incorporation.

Section 6.02 Any amendment to the Articles of Incorporation may be proposed in writing by the Executive Committee to be acted upon at any regular or special meeting of the Board of Trustees. A copy of such proposed amendment together with a statement that the matter shall be voted upon at such meeting shall be sent to each member of the Board of Trustees at least two (2) days in advance of such regular or special meeting. A two-thirds (2/3) vote of all of the Board of Trustees will be required for any amendment to the Articles of Incorporation. Thereafter, a copy of the resolution of the Board of Trustees adopting such Amendment shall be sent to each member of the Corporation and either

- (a) May be acted upon at any properly called regular or special meeting of the membership one (1) week or more subsequent, at which meeting a two-thirds (2/3) vote of a quorum present shall be required for any amendment to the Articles of Incorporation, or
- (b) The written consent thereto of two-thirds (2/3) of the entire membership returned to the principal office of the Corporation within sixty (60) days of the date of the sending of the resolution of the Board of Trustees.

#### ARTICLE VII. AMENDMENTS TO THE BY-LAWS

Section 7.01 These By-laws may be amended or new By-laws adopted at any regular or special meeting of the Board of Trustees when called for the specific purpose by a majority vote

of the members of the Board of Trustees. In the event of such a meeting called for that specific purpose, the written consent of a majority of the Board of Trustees shall be effective to repeal and/or amend any By-laws and to adopt any additional By-laws.

## ARTICLE VIII. CORPORATE RECORDS AND REPORTS

### Record Keeping

Section 8.01 The Corporation shall keep adequate and correct records of account and minutes of the proceedings of its members, Board, and committees of the Board. The Corporation shall also keep a record of its members giving their names and addresses. The minutes shall be kept in written form. Other books and records shall be kept in either written form or in any other form capable of being converted into written form.

### Annual Report

Section 8.02 The Board shall make available to the membership an annual report not later than one hundred and twenty (120) days after the close of the Corporation's fiscal year. Reports shall contain all the information required by Section 6321(A) of the Corporations Code and shall be accompanied by any report thereon of independent accountants, or if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation. The annual report shall also be furnished to all of the Trustees.

### Annual Statement of Certain Transactions and Indemnifications

Section 8.03 The Corporation shall make available annually to its members a statement of any transaction or indemnification described in Section 6322(D) and (E) of the Corporations Code, if such transaction or indemnification took place. Such annual statements shall be affixed to and sent with the annual report described in Section 6.02 of these By-laws.

I, ROBERT L. CHAPMAN, Secretary of Boys' Club of San Diego, California, Inc., a Nonprofit Public Benefit Corporation, certify that this is a true and correct copy of the Corporation's By-laws which became effective this 24 day of January, 1980.

  
ROBERT L. CHAPMAN, Secretary

(R-84-1169)

RESOLUTION NUMBER R- **260341**Adopted on MAR 26 1984

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

That it be, and it is hereby certified, that the information contained in ENVIRONMENTAL NEGATIVE DECLARATION NO. 82-00-22BG in connection with the construction of a gymnasium adjoining the Encanto Boys' Club, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and the State guidelines thereto, and that said Declaration has been reviewed and considered by this Council.

APPROVED: John W. Witt, City Attorney

By

  
Harold O. Valderhaug  
Deputy City Attorney

HOV:ps  
1/10/84  
Or.Dept:Prop.  
Job:217493  
Form=r.neg

# NOTICE OF DETERMINATION

pursuant to  
The California Environmental Quality Act and State EIR Guidelines

TO: ☐ Secretary for Resources  
1416 Ninth Street, Room 1311  
Sacramento, CA 95814

☒ County Clerk  
County of San Diego  
220 W. Broadway  
San Diego, CA 92101

FROM:  
City of San Diego  
City Administration Building  
202 "C" Street  
San Diego, CA 92101

PROJECT TITLE:  
Boy's Club of San Diego - Encanto Branch gymnasium and storm channel realignment

STATE CLEARINGHOUSE NUMBER:

CONTACT PERSON:  
Ellen Bovard

TELEPHONE:  
(619) 236-6420

PROJECT LOCATION:  
Located in Encanto Neighborhood Park, near 6785 Imperial Avenue in the Encanto community area.

PROJECT DESCRIPTION:  
Improvement project to realign and develop an open, grass-lined 100-year storm drain channel and construct a new 10,000-square-foot gymnasium as an annex to the Encanto Boys' Club of San Diego.

This is to advise that the City of San Diego City Council  
(NAME OF DECISION-MAKING BODY)  
has made the following determinations regarding the above described project:

1. The project has been ☒ approved ☐ disapproved by the Lead Agency.
2. The project, in its approved form, ☐ will ☒ will not have a significant effect on the environment.
3. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA, and was certified as required by Section 15085(g).  
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. A copy of the Negative Declaration is attached.
4. The following mitigation measures were adopted by the Lead Agency to reduce the impacts of the approved project:
5. A Statement of Overriding Considerations ☐ was ☒ was not adopted for this project.

DATE RECEIVED FOR FILING:

AUTHORIZED BY:

Ellen Bovard  
SIGNATURE

3-28-84  
DATE

DISTRIBUTION:

EQD File NO. 82-00-22BG

Deputy City Clerk  
TITLE

To provide a suitable building pad for the gymnasium, the Boys' Club of San Diego will assume the expenses to have a narrow and looping drainage ditch, which winds through Encanto Park, be realigned and replaced with an open, 100-year-storm capacity, flood channel. The open channel would be approximately 400 feet long, grass-lined, with embankments of 2½:1 to 4:1 slopes. The new channel would improve the storm water drainage capacity. The storm water runoff would continue on its original natural drainage course after departing the project site.

The City of San Diego Engineering and Development Department has been consulted and agreement has been reached regarding the most effective course and configuration for the flood channel. Coordination with the California Department of Fish and Game, pursuant to Sections 1601-1606 of California Fish and Game Code and the Department of the Army, Corps of Engineers, has been completed and no further action is required. The requirements of Executive Order 11988, Section 2(a), concerning floodplain management, have been reviewed and complied with. There are no other practicable alternatives to the realignment of the channel or the location of the new gymnasium site. All practicable measures have been taken to minimize flooding impacts surrounding the project.

## II. ENVIRONMENTAL SETTING:

See attached Environmental Assessment/Initial Study.

## III. FINDINGS:

In compliance with the National Environmental Policy Act (NEPA) and the HUD/CDBG Environmental Review Procedures, The City of San Diego has completed an Environmental Assessment for this project and has determined that the project will not have a significant environmental effect and that the preparation of an Environmental Impact Statement will not be required.

In compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, The City of San Diego has completed an Initial Study and has determined that the project will not have a significant environmental effect and that the preparation of an Environmental Impact Report will not be required.

## IV. DOCUMENTATION:

The attached Environmental Assessment/Initial Study and an Environmental Review Record on file at the Environmental Quality Division office, 5th floor, 202 "C" Street, San Diego, CA 92101 document the reasons to support the above Findings.

The following reasons substantiate the Findings:

- The proposed project and channel improvements have been measured against an established set of environmental criteria and no potentially adverse conditions were noted.
- The project is located in an urbanized area of the City.
- No rare or endangered plants or animals will be affected.
- The project will not have a significant adverse effect on aquatic life or on land, plant, and animal life or their habitats.
- There will not be any significant change in air or water quality.
- No historic or archaeological sites or structures of architectural significance will be affected.
- The project will not significantly affect other recreational, educational or religious facilities within the community.
- The project will not have a significant adverse effect on the area's land use, tax rate or economy.
- The social and cultural character, and the population of the community area will not be significantly affected by the project.
- The potential for geologic or seismic hazards will not be increased by the project.

V. MITIGATING MEASURES:

None required.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies of the public notice of the Finding of No Significant Impact/Negative Declaration were distributed to:

Southeast San Diego Development Committee, Environmental Subcommittee  
Southeast San Diego Development Committee  
Encanto Hills Task Force  
City of San Diego; Councilman Jones, District 4

Park and Recreation Department  
Engineering and Development Department (attn: Cal Chong)  
U.S. Army Corps of Engineer  
California Department of Fish and Game

## VII. RESULTS OF PUBLIC REVIEW:

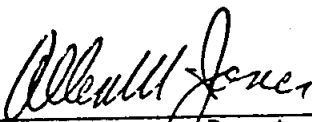
- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the "Finding of No Significant Impact" or "Negative Declaration" or the accuracy/completeness of the Environmental Assessment/Initial Study. No response is necessary. The letters are attached.
- (✓) Comments addressing the "Finding of No Significant Impact" or "Negative Declaration" and/or accuracy or completeness of the Environmental Assessment/Initial Study were received during the public input period. Responses to these comments follow, and the letters of comment are attached.

## VIII. LEVEL OF CLEARANCE FINDING:

Based upon the foregoing Environmental Assessment, it is concluded that:

- (X) A request to HUD for release of funds for the above projects is not an action significantly affecting the quality of the human environment, and no EIS is required.
- ( ) A request to HUD for release of funds for the above projects is an action significantly affecting the quality of the human environment, and an EIS is required.

Copies of the Finding of No Significant Impact/Negative Declaration and the Environmental Assessment/Initial Study reports are available in the office of the Environmental Quality Division for review, or for purchase at the cost of reproduction.

  
Allen M. Jones, Deputy Director  
City Planning Department

1-19-83  
Date of Draft Report  
3-7-83  
Date of Final Report

Analyst:TUCKER:at

Skyline/Paradise Hills Community  
Planning Committee  
Cathy Alegria, Chairman  
7960 Jamacha Road  
San Diego, Calif. 92114

Louis Tucker  
City of San Diego  
Planning Department  
Environmental Quality Division  
City Administration Building  
202 C Street  
San Diego, Calif. 92101

Dear Mr. Tucker:

The Skyline/Paradise Hills Community Planning Committee and community have several serious concerns regarding the proposed findings of the Boys' Club of San Diego - Encanto Branch gymnasium and storm channel realignment negative declaration; EQD/ 82-00-22BG. The Boys' Club and Encanto Neighborhood Park both lie within the Skyline/Paradise Hills planning area.

The major concern of the planning committee and community is to ask if the design of the realignment of the storm channel, and the antiquated, insufficient data used to find the needed design capacity are adequate? Also, is it not possible that this project and design of the storm channel should be considered concurrent with the results of the Klagge-Stevens street and drainage design and study?

Under the Assessment/Initial Study, II. Environmental Setting, page 2, paragraph 3, realignment and redesign of the drainage ditch; are not city engineering requirements for any private or public CIP improvements, and Army Corps of Engineer requirements,

#### RESPONSE TO COMMENTS

① The design and analysis of the realignment of the channel was based on up-to-date and accurate data for the 100 year frequency floods. See attached memo, dated Feb. 25, 1983, from Mr. Cal Chong, Floodplain Management Section, Engineering and Development Department.

② According to the Engineering and Development Department, the Klagge-Stevens street and drainage study will not be feasible to consider concurrently with this project, since the data concerns an area too distant to have a significant effect on the flood channel design.

③ Requirements by a government agency does not necessarily mandate elimination of flooding, which, in some cases, is very difficult to do. However, the requirements do stipulate that the levels of flooding not be made worse. See attached memo, dated Feb. 25, 1983 from Mr. Cal Chong, Floodplain Management.

to eliminate flooding? Any flooding will and does affect the existing neighborhood and natural resources. The close proximity of the proposed realignment to two existing residences is especially perilous. The flooding of any public park affects its improvements and use. Have these two concerns been considered?

Under the Assessment/Initial Study, IV. Discussion, page 3;

are both the Biology and Water findings adequate? The Biology finding is not at all clear or specific. Under Water, will not the realignment more than slightly alter the land form? Is there truly a need for another gymnasium in this area? Is it not just as feasible, if not merese, for the gymnasium to be constructed on existing Boys' Club property, rather than badly needed public park property? And again, should not any improvement be to eliminate, not minimise flooding?

The committee and community would also appreciate information regarding what body will be responsible for certification of the negative declaration, since there is no map taking process thru the planning department.

Respectfully,

*Cathy Alegria*  
Cathy Alegria, Chairman  
Skyline/Paradise Hills Community  
Planning Committee

CBA:cba

RESPONSE TO COMMENTS

④ The close proximity of the two residential structures to the proposed flood channel have been evaluated. The proposed alignment does not increase the flood levels on the existing residences. See attached memo by Mr. Cal Chong, Floodplain Management.

⑤ Flooding does affect a park's improvements and use, however, as stated in the memo, dated 2/25/83, by Mr. Cal Chong, "In the case of the Boys' Club, flooding is not totally eliminated, but the levels of flooding is not adversely affected" and "the proposed realignment does not increase flood levels."

⑥ The Initial Study has been revised accordingly.

⑦ Only 3,060 cubic yards of earth will be involved in cutting of the new channel and in the back-filling of the existing gully. According to the City's Environmental Review guidelines, volume of grading of less than 3000 cubic yards per acre is considered a minor alteration to land and is normally categorically exempt from further environmental review.

⑧ Both the Historical Fact sheet from the Boys' Club and the Boys' Club request for Block Grant funds describes the many benefits the proposed facility will provide to the community. These documents are attached for your reference. Also, see attached memo, dated Feb. 14, 1983 from Mr. Bruce Johnson, Project Manager, Engineering and Development Department.

⑨ Locating the facility on the Boys' Club property would eliminate an existing multi-purpose court and reduce the off-street parking space, both of which are heavily used. See attached memo, dated Feb. 14, 1983 from Bruce Johnson, Project Manager.

⑩ The City Manager, Mr. Ray T. Blair Jr. and the U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, CA 90057, are responsible for the certification of the environmental assessment and for the release of CDUG funds.



## SOUTHEAST DEVELOPMENT COMMITTEE

4291 MARKET STREET  
SAN DIEGO, CALIFORNIA 92102  
February 7, 1983

Environmental Quality Division  
City of San Diego  
202 C Street  
San Diego, California

RECEIVED  
FEB 9 1983  
ENVIRONMENTAL QUALITY  
DIVISION

EQD #82-00-22 BG  
Boys Club of San Diego-Encanto Branch gymnasium and storm channel realignment

We have reviewed the negative declaration for this proposed project and wish to submit the following questions and comments.

FINDING OF NO SIGNIFICANT IMPACT  
SUBJECT

11 How can this be considered an improvement project? The proposed channel improvements would not be necessary if the building didn't require a site.

12 The proposed channel is described as open, the original idea was to fence it. Doesn't current City policy require fencing particularly in areas frequented by children?

13 Shouldn't a 100 year channel solve the flooding problem rather than improve it? Is the design adequate?

14 There are at least two alternatives to the channel and constructing the gymnasium, first, the no project alternative, and secondly, relocating the gymnasium on private property.

### DOCUMENTATION

15 Which established set of environmental criteria were used?

16 A 10,000 square foot building and the accompanying channel changes would appear to be major new construction and landform modification.

17 How was it determined the project would not affect recreational facilities? Isn't the loss of 1/3 acre of open dedicated park land in an undersized park significant?

Environmental assessment/Initial Study  
Environmental Setting

18 The Encanto park site is not vacant. Park areas are usually open and landscaped. Disturbed is a poor adjective to describe the property and could only be used in the sense of altered from natural.

If the channel will only eliminate most of the flooding, what measures

## RESPONSE TO COMMENTS

11 By definition, a capital improvement project is any major nonrecurring expenditure or any expenditure for physical facilities of government, such as costs for acquisition of land or interests in land; construction of buildings or other structures, including additions or major alterations; construction of highways or utility lines; fixed equipment; landscaping and similar expenditures.

Locating the facility on Boys' Club property would eliminate an existing multi-purpose court area and reduce off-street parking space, both of which are heavily utilized. See attached memo, dated February 14, 1983, from Mr. Bruce Johnson, Project Manager, Engineering and Development Department.

12 Current City policy does not require fencing along gently sloped, earthen, unlined, flood channels. Per telephone conversation with Mr. Cal Chong.

13 The design and analysis of the realignment of the channel was based on up-to-date and accurate data for the 100 year frequency flood. Requirements by a governmental agency does not necessarily mandate elimination of flooding which, in some cases, is very difficult to do. However, the requirements do stipulate that the levels of flooding not be made worse. In the case of the Boys' Club, flooding is not totally eliminated but the levels of flooding is not adversely affected. See Mr. Cal Chong's memo, dated 2/28/83.

14 The proposed alternatives are noted, however, since no significant impacts resulting from the proposed project have been identified, no alternatives were prescribed. See Mr. Bruce Johnson's memo dated 2/14/83.

15 The environmental criteria for review of Title I Community Development Block Grant funded projects are established by the Department of Housing and Urban Development, 24 CFR Part 58, CDBG Environmental Review Procedures, and by other applicable Federal Laws and Authorities.

16 Minor trenching and backfilling of 3060 cubic yards of earth and the addition of a 10,000 square foot structure to an existing facility are activities determined not to have a significant effect on the environment and are normally categorically exempt from environmental review.

17 The gymnasium building is to be located at the eastern side of the park, and will not affect the park improvements proposed to be added in the future under the City's Capital Improvement Program, Project No. 28-243. (Telephone conversation with Bruce Johnson, 3/4/83).

Loss of designated park land at the remote eastern side of the park area is considered not significant. A portion of the gymnasium will be constructed on part of the Boys' Club property. That part of Boys' Club land will be deeded to the City and will actually increase the total acreage of the park.

18 The Initial Study has been revised accordingly. To protect the proposed gymnasium building from possible flooding, the gymnasium building site will be graded to an elevation above the flood levels previously experienced in the park.

- (18) will be taken to protect the building which represents a sizeable public investment?

DISCUSSION  
BIOLOGY

- (19) How many pepper trees will be removed? Will replacement trees be provided?
- (20) How can the "overall appearance of the park remain basically unchanged"? The size of the building, the change in the channel and the removal of mature trees are all obvious changes in appearance.

WATER

- (21) Again, the report excludes any discussion of alternatives.

CHECKLIST SECTION

Biology

- (22) Why is #4 marked no? Aren't 6 or 7 mature pepper trees important?

Land Use

- (23) #4 Doesn't this project prevent existing public access to the park?

Visual Quality

- (24) #1 Isn't bulk and scale incompatible with the park? Are architectural drawings available? Are they compatible?

Growth Inducement/Services

- (25) #1-c This project is in large part an expansion of storm water drainage facilities with public money.

- (26) In conclusion, the original stated reason for locating the gymnasium in the park rather than on Boy's Club property was aesthetics. The report does not deal with the aesthetics or visual impact of a large building on the park and its environs.

- (27) Has any consideration been given to the fact that there is an existing gymnasium at 65th and Broadway? Is this a duplication of facilities?

Thank you for your attention.

Sincerely,

*Verna M. Quinn*  
Verna M. Quinn, Chairman  
Environmental Subcommittee

RESPONSE TO COMMENTS

- (19) Two Eucalyptus trees and possibly six or seven California Pepper trees would be removed. The loss of the Pepper and Eucalyptus trees is not considered significant because they will be replaced. Landscaping will be provided around the new gymnasium.
- (20) The statement concerning the "overall appearance of the park remaining basically unchanged" has been deleted.
- (21) Discussion of alternatives are not required when it has been determined that the project will not have a significant effect on the environment.
- (22) Landscaping and replacement trees will be provided.
- (23) Ritchey Street will continue to be the main access to the park area. The proposed project will not affect existing public access.
- (24) Architectural plans are available for review. The 10,000 square foot, one-story building, designed by Stevenson and Frost, Consulting Architects, is compatible with the existing Boys' Club and the Encanto park setting.
- (25) The Boys' Club of San Diego is funding the entire flood channel development costs with private money. The gymnasium facility will be constructed with Block Grant funds.
- (26) The gymnasium is to be located on City park property in order to retain the existing multi-purpose athletic courts and the off-street parking spaces provided by the Boys' Club.
- (27) According to Mr. Bruce Johnson, the project manager, consideration has been given to effects of duplication with the existing gymnasium in the Encanto Park and Recreation Center. He found that Recreation Center Gymnasium experiences very heavy participation and is not readily accessible to the Boys' Club participants.

CITY OF SAN DIEGO  
MEMORANDUM  
RECEIVED

FEB 15 1983

ENVIRONMENTAL QUALITY  
DIVISION

FILE NO.: SS-27  
DATE: February 14, 1983  
TO: Lou Tucker - EQD M/S 5-A  
FROM: Bruce A. Johnson, Project Manager - Engineering and Development  
SUBJECT: BOYS' CLUB, ENCANTO - GYMNASIUM and CHANNEL (EQD 82-00-22-BG)

---

The correspondence received from the Skyline/Paradise Hills Community Planning Center and the Southeast Development Committee regarding the environmental report for the proposed Encanto Boys' Club project, has been forwarded to the Boys' Club for review. However, many of the questions raised have already been covered in the Public Notice and in the earlier CDBG application.

Although the Floodplain Management Section and Boys' Club should address their respective questions, many of the items in the letters were thoroughly considered in earlier meetings, such as:

- 1) Realignment of the Land Form: The present drainage is through a gully, which is a result of erosion during flood periods. It could by itself change direction and shape during future flooding. The proposed channel will be a permanent portion of a future flood control system for this area and benefit both, the park and adjacent property.
- 2) Need for Gymnasium: Both the Historical Fact sheet from the Boys' Club, and the Block Grant Request describe the many benefits to the community in having this proposed facility. These documents are attached for your reference.
- 3) Use of Park Property vs. Boys' Club: Locating the facility on Boys' Club property would eliminate an existing multi-purpose Court and the off-street parking both of which are heavily used. Council Resolution 257576 adopted December 6, 1982, authorized the use of a portion of the park by Boys' Club to construct a gymnasium. Actually the eastern section of the Park has not been dedicated and of course, has no park improvements.
- 4) Improvements to Eliminate Flooding: The channel design complies with established City Floodplain Requirements to carry the 100 year storm run-off. This will significantly reduce the flooding potential in the eastern park and adjacent areas.

CITY of SAN DIEGO  
MEMORANDUM

FILE NO.:

DATE : February 25, 1983

TO : Lou Tucker, Planning Department

FROM : Cal Chong, Floodplain Management, E & D.

SUBJECT: Channel Realignment - Encanto Boy's Club

---

In response to the six items pointed out in letter from the Skyline/Paradise Hills Community Planning Committee, the following is provided:

1. The design and analysis of the realignment of the channel was based on up-to-date and accurate data for the 100 year frequency flood.
2. I am not familiar with the Klagge-Stevens study. However, the data for the 100 year frequency flood does include all drainage in the watershed including street drainage.
3. Requirements by a governmental agency does not necessarily mandate elimination of flooding which, in some cases, is very difficult to do. However, the requirements do stipulate that the levels of flooding not be made worse. In the case of the Boy's Club flooding is not totally eliminated but the levels of flooding is not adversely affected.
4. The proposed alignment does not increase the flood levels on the existing residences.
5. The flooding does affect a park's improvements and use, however, as stated earlier, the proposed realignment does not increase flood levels.
6. If possible, improvements should eliminate flooding, however, in some cases it is, at best, very difficult to do. In those cases it is a requirement that flood levels should not be increased or worsen the present flooding conditions.

Cal Chong

CC/mc



SS-27

February 14, 1983

Lou Tucker - EQD - M/S 5-A

BOYS' CLUB, ENCANTO - GYMNASIUM and CHANNEL (EQD 82-00-22-BG)

Page 2.

- 5) Fencing of Channel: The proposed channel will have gradually sloping banks as opposed to the gully with its vertical banks. Fencing could be added, but it would not provide an absolute barrier and would be an obstacle to recreational use of the channel.
- 6) Loss of Park Area: There is no presently budgeted project to develop the Eastern portion of Encanto Park. City Council has authorized leasing to Boys' Club for a gymnasium building. Some Pepper trees may be removed that lie within the construction zone of the channel, but the building will include landscaping.

IN SUMMARY

Boys' Club is funding the channel development costs with private money in order that floodplain requirements can be met for the proposed gymnasium. The gymnasium is to be located at the eastern extremity of the Park adjacent to the existing Boys' Club building. All but a small portion of the gymnasium project is funded by HUD under the approved Community Development Block Grant program.

If further information is needed, it is suggested that we meet with the Boys' Club representatives and their consultant.

  
Bruce A. Johnson  
Project Manager

BAJ:TS

Encl.

cc: W.E. Lingo, Jr.

M. Milliken(M/S 35)

W.O. 118282

File

ENVIRONMENTAL ASSESSMENT/INITIAL STUDY  
EQD No. 82-00-22BG

SUBJECT: Boys' Club of San Diego - Encanto Branch gymnasium and storm channel realignment. IMPROVEMENT PROJECT to realign and develop an open, grass-lined 100-year-storm drain channel and construct a new 10,000-square-foot gymnasium as an annex to the Encanto Boys' Club of San Diego. Community Development Block Grant funding of \$482,000 available under Grant No. B-82-MC-06-0542, Eighth Entitlement Program Year. Located in Encanto Neighborhood Park, near 6785 Imperial Avenue in the Encanto community area. (Census Tract 31.03, Por of Lots 48, 49, 50, 52, 53, 64, 65 and por. Park Drive Encanto Park Addition to Encanto Heights, Map 1228.) Applicant: Boys' Club of San Diego, Inc. and The City of San Diego.

I. PURPOSE AND MAIN FEATURES:

The City of San Diego Community Development Block Grant (CDBG) program is participating in a Neighborhood Facilities Improvement project involving \$482,000 of 1982 CDBG funds. The CDBG funds will be utilized to construct a 10,000-square-foot gymnasium as an annex to the Encanto Branch of the Boys' Club of San Diego. The gymnasium is to be located on City property in Encanto Neighborhood Park, adjacent to Encanto Boys' Club property. A portion of an existing sewer line, located in the middle of the project site, will be relocated to provide clearance for a new flood channel. A new 10-inch diameter sewer line, approximately 398 feet in length, would begin in 68th Street and proceed northward to Imperial Avenue. The sewer would continue westerly in Imperial Avenue along Encanto Boys' Club and then proceed southwesterly into Encanto Neighborhood Park connecting into an existing sewer system.

To provide a suitable building pad for the gymnasium, the Boy's Club of San Diego has made arrangements to have a narrow and looping drainage ditch, which winds through Encanto Park, be realigned and replaced with an open, 100-year-storm capacity, flood channel. The channel would be approximately 400 feet long, grass-lined with some rip-rap and embankments of 2½:1 to 4:1 slopes. The new flood channel would improve the storm water drainage capacity. The storm water runoff would continue on its original natural drainage course after departing the project site.

The City of San Diego Engineering and Development Department has been consulted and agreement has been reached regarding an effective course and configuration for the flood channel. Coordination with

the California Department of Fish and Game, pursuant to Sections 1601-1606 of California Fish and Game Code and the Department of the Army, Corps of Engineers, has been completed and no further action is required. The requirements of Executive Order 11988, Section 2(a), concerning floodplain management, have been reviewed and complied with. There are no other practicable alternatives to the location of the channel or the new gymnasium. All practicable measures have been taken to minimize flooding impacts surrounding the project site.

## II. ENVIRONMENTAL SETTING:

Located on the south side of Imperial Avenue within Encanto Neighborhood Park, the new gymnasium facility would be constructed on City property as an annex adjacent to the Encanto Branch of the Boys' Club of San Diego. In March, 1973, the Boys' Club of San Diego purchased the existing building and land from Safeway Stores and converted the property into a Boys' Club facility. The renovated building provides recreational and social activities that include hobby crafts, a library, conference rooms, office space and dressing room facilities for outdoor athletic activities.

The surrounding area is characterized by low, gently rolling terrain. Elevations of the project site range from 250 feet above mean sea level in the northeast quadrant down to 240 feet above mean sea level in the westerly quadrant. A hill rises in the southeast sector with its sides gently sloping towards the north and northwest into the park. The project site has been previously graded and developed as a neighborhood park. Vegetation in the park site is generally sparse and non-native. California Pepper trees and a lawn presently exists throughout the park area.

The proposed project site lies on the boundary of an area subject to flooding because of a narrow and winding drainage ditch. During heavy rains, water backs-up and overflows from the ditch into the surrounding area. Realignment of the drainage ditch would eliminate most of the flooding and would not adversely affect the neighboring residences or any natural resources in the area.

## III. ENVIRONMENTAL ANALYSIS: See attached Initial Study checklist.

## IV. DISCUSSION:

### Biology:

Construction of the gymnasium and new flood channel would eliminate two Eucalyptus trees and possibly six or seven California Pepper trees, but would not significantly affect any unique biological resources within the park. The loss of the Pepper and Eucalyptus trees is not considered significant because they will be replaced.

Water:

The development of an open, grass-lined channel with 2½:1 to 4:1 sloping embankments will eliminate an obstructive loop in the existing natural channel and will improve storm water drainage. Realignment of the existing natural storm drain ditch will slightly alter the land form and an elevated building site will be provided. Engineering studies have determined that there is no other practicable alternative to the location of the gymnasium without the loss of existing Boys' Club facilities.

V. RECOMMENDATION:

On the basis of this initial evaluation:

The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION/FINDING OF NO SIGNIFICANT IMPACT should be prepared.

PROJECT ANALYST:TUCKER:at

Attachments: Location Map  
Initial Study Checklist



INITIAL STUDY  
EQD No. 82-00-22 DG

III. Environmental Analysis

The Initial Study is designed to identify the potential for significant environmental impacts which could be associated with a project. All answers of "yes" and "possible" indicate that there is a potential for significant environmental impacts and these answers are explained in an attached discussion section.

Thirteen categories are examined below for potential impacts: Geology and Soils, Water, Land-Related Resources, Biology, Historical and Cultural Resources, Land Use, Visual Quality, Growth Inducement/Services, Transportation, Air Quality, Energy and Water Conservation, Noise, and Cumulative Effects.

Geology and Soils

|                                                                                                                                                                                                                              | <u>Impacts</u> |          |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------|----|
|                                                                                                                                                                                                                              | Yes            | Possible | No |
| 1. The Seismic Safety Study Geotechnical Land Use Capability Map or other evidence indicates that the project site has unstable geologic or soil conditions. (Rating is AC, BC, C, or D)                                     | —              | —        | ✓  |
| 2. The project will result in an increase in soil erosion, either on or off the site.                                                                                                                                        | —              | —        | ✓  |
| 3. The project will substantially change topography or ground surface relief features (generally more than 5,000 cubic yards of grading/acre).                                                                               | —              | —        | ✓  |
| 4. Proposed or probable grading exceeding 3,000 cubic yards per acre will occur in unique or unusual landforms, such as natural canyons, sandstone bluffs, rock outcrops, or hillsides with a slope in excess of 25 percent. | —              | —        | ✓  |
| 5. Construction will take place within a 50-foot setback of a coastal bluff or within an area extending inland to a line formed by a 20-degree angle from the base of the coastal bluff.                                     | —              | —        | ✓  |

Impacts

Yes Possible No

Water

- |                                                                                                                                                    |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will have adverse direct or indirect effects on a domestic water supply, lagoon, bay, or beach.                                     | — | — | ✓ |
| 2. The project will substantially degrade subsurface water quality.                                                                                | — | — | ✓ |
| 3. The project will obstruct the flow of water in a floodway or change the course or direction of water movements in either marine or fresh water. | — | — | ✓ |
| 4. The project will alter the landform in a floodplain fringe.                                                                                     | ✓ | — | — |
| 5. The quality of surface waters will be changed by discharges or altered in terms of temperature, dissolved oxygen, turbidity or other factors.   | — | — | ✓ |

Land-Related Resources

- |                                                                                                                       |   |   |   |
|-----------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will substantially deplete or prevent potential use of any nonrenewable natural resources.             | — | — | ✓ |
| 2. The project will significantly reduce the acreage of land rated for agriculture or currently used for agriculture. | — | — | ✓ |

Biology

- |                                                                                                                                                                                                                                                                           |   |   |   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will significantly alter or eliminate the habitat utilized by a threatened, rare, or endangered plant or animal species as identified by the U.S. Fish and Wildlife Service or the California Department of Fish and Game.                                 | — | — | ✓ |
| 2. The project will significantly alter the habitat utilized by a unique, sensitive, fully protected, or blue list species as identified by the California Native Plant Society, the California Department of Fish and Game, the Audubon Society, or other organizations. | — | — | ✓ |
| 3. The project will affect a sensitive habitat, including but not limited to streamside vegetation, oak woodland, vernal pools, coastal salt marsh, lagoon, wetland, or coastal sage or chaparral in the California Coastal Zone.                                         | — | — | ✓ |

|                                                                                                          | <u>Impacts</u> |          |    |
|----------------------------------------------------------------------------------------------------------|----------------|----------|----|
|                                                                                                          | Yes            | Possible | No |
| 4. The project will affect a stand of distinctive, landmark, or mature trees.                            | ✓              | —        | —  |
| 5. The project will create a barrier to migration, movement, or dispersion of a plant or animal species. | —              | —        | ✓  |
| The project will substantially diminish other natural wildlife habitat.                                  | —              | —        | ✓  |

#### Historical and Cultural Resources

|                                                                                                                                        |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The property contains an archaeological/paleontological site or appears to have a high potential for containing cultural resources. | — | — | ✓ |
| 2. The project will affect an historical or architecturally significant site.                                                          | — | — | ✓ |

#### Land Use

|                                                                                                                                                                                              |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will be inconsistent with adopted environmental goals or land use designations as defined in a general plan, community plan, or precise plan.                                 | — | — | ✓ |
| The project will disrupt or divide the physical arrangement of a community.                                                                                                                  | — | — | ✓ |
| The project will displace a large number of people.                                                                                                                                          | — | — | ✓ |
| 4. The project will prevent existing public access to beaches, tidelands, parks, or other open space recreation areas.                                                                       | — | — | ✓ |
| 5. The project is not compatible with noise levels or aircraft accident potential as defined by CPO Airport Land Use Plan or the Department of Defense Air Installation Compatible Use Zone. | — | — | ✓ |

#### Visual Quality

|                                                                                                   |   |   |   |
|---------------------------------------------------------------------------------------------------|---|---|---|
| 1. Project bulk, scale, or architectural style will be incompatible with surrounding development. | — | — | ✓ |
| 2. The project will interfere with the view of significant natural features or landmarks.         | — | — | ✓ |

|                                                                                                                   | <u>Impacts</u> |          |    |
|-------------------------------------------------------------------------------------------------------------------|----------------|----------|----|
|                                                                                                                   | Yes            | Possible | No |
| 3. The project will result in an adverse condition open to public view such as glaring lights, refuse areas, etc. | —              | —        | ✓  |

#### Growth Inducement/Services

|                                                                                                                                                               |   |   |   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will result in a need for new systems, or an expansion of capacity of the following utilities:                                                 |   |   |   |
| a. power or natural gas                                                                                                                                       | — | — | ✓ |
| b. communications systems                                                                                                                                     | — | — | ✓ |
| c. water                                                                                                                                                      | — | — | ✓ |
| d. sewage treatment facilities or septic tank                                                                                                                 | — | — | ✓ |
| e. storm water drainage                                                                                                                                       | — | — | ✓ |
| f. solid waste and disposal                                                                                                                                   | — | — | ✓ |
| 2. The project will result in the need for new or altered governmental services such as police or fire protection, schools, parks or recreational facilities. | — | — | ✓ |
| 3. The project will require construction of new streets which would serve presently undeveloped or unplanned property.                                        | — | — | ✓ |

#### Transportation

|                                                                                                                                                  |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will increase motor vehicle traffic through a high accident location as identified by the Engineering and Development Department. | — | — | ✓ |
| 2. The project will create or add to significant impacts to traffic circulation.                                                                 | — | — | ✓ |
| 3. The project will increase or create parking congestion.                                                                                       | — | — | ✓ |

#### Air Quality

|                                                                                                                                                                                |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 1. The project will discharge or generate hazardous or objectionable materials (smoke, dust, chemical, odor) on a long-term basis.                                             | — | — | ✓ |
| 2. The project will generate or result in substantial auto emissions in an area where state or federal ambient air quality standards have been frequently or greatly exceeded. | — | — | ✓ |

Impacts

Yes Possible No

3. Residential or institutional projects will be subjected to CO concentrations, vehicle emissions, or other hazardous materials, worse than state of federal standards.

— — ✓

Energy and Water Conservation

1. The proposed project will result in the use of substantial or excessive amounts of fuel or energy.

— — ✓

2. The design of the project significantly interferes with natural heating and cooling opportunities either on or off the site.

— — ✓

3. The project will result in the use of excessive amounts of water.

— — ✓

4. Less than 1/3 of the landscaped area will contain native or drought resistant vegetation.

— — ✓

Noise

1. Current or future noise levels from an external source will exceed standards in the City Noise Element for the proposed use.

— — ✓

2. The project will generate noise incompatible with nearby uses according to the City Noise Element.

— — ✓

Cumulative Effect

There are special circumstances associated with the project such that when added to past, present, or future projects in the area, the addition of this project would result in a significant cumulative impact for the vicinity.

— — ✓



 Environmental Quality Division  
CITY OF SAN DIEGO · PLANNING DEPARTMENT

1

Title 1. Housing and Community Development Act of 1974 (Pub. L. 93-383)  
Block Grant Program  
Environmental Review Procedures 24 CFR Part 58

58.24 HISTORIC PRESERVATION

SUBJECT: Encanto Boys Club Gymnasium: Utilization of 1982 Community Development Block Grant funds for the construction of a 10,000-square-foot gymnasium as an addition to an existing Encanto Boys' Club Facility. CDBG funding of \$482,000.00 under Grant No. B-82-MC-06-0542. Eight Entitlement Program Year. Located at 6785 Imperial Avenue within the Encanto Community, Census Tract 31.03, City of San Diego. Applicant: The Boys' Club of San Diego, Inc., and City of San Diego Engineering and Development Department.

During the environmental review process for the proposed project, the City of San Diego has complied with the following statutory requirements:

1. Preservation of Historic and Archaeological Data Act of 1974. The proposed project would not cause any loss of scientific prehistoric, historical, archaeological or paleontological data.
2. Section 106, National Historic Preservation Act of 1966. The City of San Diego has taken into account the effect the proposed project would have on any district, site, building, structure or object that is included in the National Register. The project would have no effect on any National Register properties.
3. Executive Order 11593. No federally owned property that is included in or eligible for inclusion in the National Register would be effected by the project.

58.24 a) Procedures for Protection of Historic and Cultural Properties  
(36 CFR Part 800)

During the environmental review process, the proposed project was examined in accordance with the Procedures for Protection of Historic and Cultural Properties (36 CFR Part 800) to identify any National Register and National Register-eligible properties.

The City of San Diego has consulted the National Register and supplements to identify properties that are included in or eligible for inclusion in the National Register. No properties have been located that are eligible for inclusion in the National Register.

The Criteria of effect (36 CFR Part 800.8) were applied to determine if the project would effect National Register properties. It was determined that the project would have no effect on National Register properties. The project would not cause any beneficial or adverse change in the quality of the historical, architectural, archaeological, or cultural character that qualifies these properties under the National Register criteria.

*Boys' Club*

RECEIVED

MAR 15 1983

Engineering & Development

U.S. DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT, COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM  
AND  
CITY OF SAN DIEGO, CALIFORNIA

EQD No. 82-00-22 BG -3-7-1983

FINDING OF NO SIGNIFICANT IMPACT

Pursuant to: 42 U.S.C. 4332 (2) (c), 23 U.S.C. 128 (a), 24 CFR Part 58

NEGATIVE DECLARATION

Pursuant to: California Environmental Quality Act (CEQA)

SUBJECT: Boys' Club of San Diego - Encanto Branch gymnasium and storm channel alignment. IMPROVEMENT PROJECT to realign and develop an open, grass-lined 100-year-storm drain channel and construct a new 10,000-square-foot gymnasium as an annex to the Encanto Boys' Club of San Diego. Community Development Block Grant funding of \$482,000 available under Grant No. B-82-MC-06-0542, Eighth Entitlement Program Year. Located in Encanto Neighborhood Park, near 6785 Imperial Avenue in the Encanto community area. (Census Tract 31.03, Por of Lots 48, 49, 50, 52, 53, 64, 65 and por. Park Drive Encanto Park Addition to Encanto Heights, Map 1228.) Applicant: Boys' Club of San Diego, Inc. and The City of San Diego.

I. PROJECT DESCRIPTION:

The City of San Diego Community Development Block Grant (CDBG) program is participating in a Neighborhood Facilities Improvement project involving \$482,000 of 1982 CDBG funds. The CDBG funds will be utilized to construct a 10,000-square-foot gymnasium as an annex to the Encanto Branch of the Boys' Club of San Diego. The gymnasium is to be located in Encanto Neighborhood Park, adjacent to Encanto Boys' Club Property. In order to provide clearance for a new flood channel, a portion of an existing sewer line located in the middle of the project site will be rerouted and replaced with a new 10-inch diameter, 400-foot-long sewer line. The sewer would begin in 68th Street and proceed northward to Imperial Avenue and continue westerly in Imperial Avenue past the Encanto Boys' Club. It would then proceed southwesterly into Encanto Neighborhood Park connecting into the existing sewer system.