

CITY OF SAN DIEGO

THIRD AMENDMENT TO LEASE AGREEMENT

This Third Amendment, entered into this 5th day of April, 1994, to lease filed November 30, 1987 between Boy Scouts of America, San Diego County Council (LESSEE) and the City of San Diego (LESSOR), Document RR 269866.

LESSOR AND LESSEE desire to amend said lease as follows:

9.06 Terms of Use

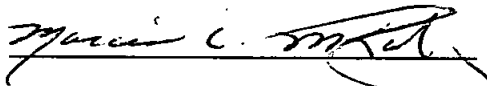
5. Adult supervision must be present because of the deferred nature of youth-serving groups. Youth must be 18 years old or younger to camp.

The Boy Scouts of America, Safety Afloat Policy Number 34368, Copyright 1981, (Attachment 1) and the Safety Afloat Standards, Section 4, Aquatics, Camp Program and Property Management, Number 20-920 (Attachment 2) are incorporated into the minimum standards for all aquatic activities.

These attachments become an additional part of your amended lease for Terms of Use. The City reserves the right to review/approve the Terms of Use should any changes occur with the Safety Afloat Standards as shown in the attachments.

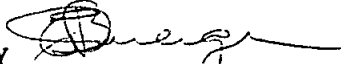
Except as provided herein, all other terms and conditions of this lease are to remain unchanged.

CITY OF SAN DIEGO (LESSOR)

By 

LESSEE:

SAN DIEGO COUNTY COUNCIL
BOY SCOUTS OF AMERICA

By 

Elbert Byerger

APPROVED AS TO FORM AND LEGALITY THIS 24th DAY OF March, 1994.

JOHN W. WITT, City Attorney

By 

Deputy City Attorney

KH:kb
bsalease (2/18/94)

DOCUMENT NO. C-05423

FILED

APR 12 1994

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA



QUALIFIED SUPERVISION

A responsible adult must supervise all activity afloat and must be experienced and qualified in water safety (BSA Lifeguard or lifeguard or lifesaver certified by a recognized agency) and in the particular skills related to the watercraft being used, or use assistants so qualified. Ability to meet current requirements for Canoeing, Rowing, Small-Boat Sailing, or Motorboating merit badge qualifies a person in respect to safe handling of that watercraft. One adult supervisor is required for each ten people with a minimum of two adults for any one group. All adult supervisors must complete Safety Afloat and Safe Swim Defense training, and at least one must be certified in CPR.

For Cub Scouts: The adult supervisor must be experienced and qualified in water safety (BSA Aquatics Instructor; BSA Lifeguard counselor; BSA Lifeguard; or American Red Cross Lifeguard). The ratio of adult supervisors to Cub Scouts is one to five.

PHYSICAL FITNESS

All persons must present evidence of fitness by a complete health history from a physician, parent, or legal guardian. Adjust all supervision, discipline, and protection to anticipate any potential risks associated with individual health conditions. In the event of any significant health conditions, a medical evaluation by a physician should be required by the adult leader.

SWIMMING ABILITY

A person who has not been classified as a "swimmer" may ride as a passenger in a rowboat or motorboat with an adult swimmer, or in a canoe, raft, or sailboat with an adult certified as a lifeguard or a lifesaver by a recognized agency. In all other circumstances, the person must be a swimmer to participate in an activity afloat. Swimmers must pass this test:

Jump feetfirst into water over the head in depth, level off and begin swimming. Swim 75 yards in a strong manner using one or more of the following strokes: sidestroke, breaststroke, trudgen, or crawl; then swim 25 yards using an easy resting backstroke. The 100 yards must be swum continuously and include at least one sharp turn. After completing the swim, rest by floating. This qualification test should be renewed annually.

PERSONAL FLOTATION EQUIPMENT

Properly fitted U.S. Coast Guard approved personal flotation devices (PFDs) must be worn by all persons engaged in activity on the open water (rowing, canoeing, sailing, boardsailing, motorboating, water skiing, rafting, tubing, kayaking, and surfboarding). Type II and III PFDs are recommended.

BUDDY SYSTEM

All activity afloat necessitates using the buddy system. Not only does every individual have a buddy, but every craft should have a buddy boat when on the water.

SKILL PROFICIENCY

All participants in activity afloat must be trained and experienced in watercraft handling skills, safety, and emergency procedures. (a) For unit activity on white water, all participants must complete special training by a BSA Aquatics Instructor or qualified white water specialist. (b) Powerboat operators must be able to meet requirements for Motorboating merit badge or equivalent. (c) A minimum of 3 hours training and supervised practice is required for all other unpowered watercraft.

For Cub Scouts: Canoeing and rafting for Cub Scouts (including Webelos Scouts) is to be limited to council/district events on flat water ponds or controlled lake areas free of powerboats and sailboats. Prior to recreational canoeing, Cub Scouts are to be instructed in basic handling skills and safety practices.

PLANNING

Float Plan. Obtain current maps and information about the waterway to be traveled. Know exactly where the unit will "put in" and "pull out" and what course will be followed. Travel time should be estimated generously. Review plan with others who have traveled the course recently.

Local Rules. Determine which state and local regulations are applicable, and follow them. Get written permission to use or cross private property.

Notification. File the float plan with parents of participants and a member of the unit committee. File float plan with council office when traveling on running water. Check in with all those notified when returning.

Weather. Check the weather forecast just before setting out and keep an alert weather eye. Bring all craft ashore when rough weather threatens.

Contingencies. Planning must identify possible emergencies and other circumstances that may force a change of plans. Appropriate alternative plans must be developed for each.

For Cub Scouts: Cub Scout canoeing and rafting does not include "trips" or "expeditions" and is not to be conducted on running water (i.e., rivers or streams), therefore, some procedures are inapplicable. Suitable weather requires clear skies, no appreciable wind, and warm air and water.

EQUIPMENT

All equipment must be suited to the craft, to water conditions, and to the individual; must be in good repair; and must satisfy all state and federal requirements. Spare equipment or repair materials must be carried. Appropriate rescue equipment must be available for immediate use.

DISCIPLINE

All participants should know, understand, and respect the rules and procedures for a safe activity afloat. Rules for safety do not interfere with fun when fairly applied.

Note: For cruising vessels (excluding rowboats, canoes, kayaks, and rafts, but including sailboats and powerboats greater than 20 feet long) used in adult supervised unit activities by a chartered Explorer post/ship specializing in watercraft operations, or used in adult-supervised program activity in connection with any high-adventure program or other activity under the direct sponsorship and control of the National Council, the standards and procedures in the Sea Exploring Manual, No. 3239, may be substituted for the "Safety Afloat" standards.

Safety Afloat

ATTACHMENT 2

The highly regarded Safe Swim Defense has given Scouting one of the most exemplary water safety records of any youth organization. Experience in the 1970s indicated however, that Scouting do more to ensure the safety of those participating in water activity afloat. Safety Afloat was developed to promote boating and boating safety and to set standards for safe unit activity afloat.

Before a BSA group may engage in an excursion, expedition, or trip on the water (canoe, raft, sailboat, motorboat, rowboat, tube, or other craft), adult leaders for such activity should complete Safety Afloat training have a commitment card with them, and be dedicated to full compliance with all nine points of Safety Afloat.

Every unit leader in summer camp should receive this training and literature and be encouraged to make a commitment to follow the Safety Afloat standards whenever his unit is on the water. The "Safety Afloat Training Outline," No. 4159, should be used in the planning and conducting of this training. Such training should include:

1. An overview of the responsibility emphasizing the importance of qualified supervision and discipline.
2. Thorough explanation and discussion of each of the nine points of the plan.
3. Demonstration of proper style and fit of personal flotation devices (PFD).
4. Tips on trip planning.
5. Demonstration of basic craft handling and safety skills.
6. Review of emergency procedures.

Use current merit badge pamphlets for information on handling and safety skills for each water craft. An excellent videotape dramatizing the elements of Safety Afloat has been developed by the BSA Health and Safety Service, and is available through your council service center.

1. **Qualified Supervision.** A responsible adult must supervise all activity afloat and must be experienced and qualified in water safety (BSA Lifeguard or lifeguard or lifesaver certification by a recognized agency), and in the particular skills related to the water craft being used, or use assistants so qualified. Ability to meet current requirements for Canoeing, Rowing, Small-boat Sailing, or Motorboating merit badge qualifies a person in respect to safe handling of that water craft. One adult supervisor is required for each 10 people, with a minimum of 2 adults for any one group. All adult supervisors must complete Safety Afloat and Safe Swim Defense

training, and at least one must be certified in CPR basic life support.

For Cub Scouts: The adult supervisor must be experienced and qualified in water safety (BSA Aquatics Instructor, BSA Lifeguard counselor, BSA Lifeguard, or American Red Cross Lifeguard). The ratio of adult supervisors to Cub Scouts is one to five.

2. **Physical Fitness.** All participants must present evidence of fitness assured by a complete health history from physician, parent, or legal guardian. The adult supervisor should adjust all supervision, discipline, and protection to anticipate any potential risks associated with individual health conditions. In the event of any significant health conditions, proof of an examination by a physician should be required by the adult leader.
3. **Swimming Ability.** A person who has not been classified as a "swimmer" may ride as a passenger in a rowboat or motorboat with an adult "swimmer," or in a canoe, raft, or sailboat with an adult certified as a lifeguard or a lifesaver by a recognized agency. In all other circumstances, the person must be a "swimmer" to participate in activity afloat. "Swimmers" must pass this test:

Jump, feet first into water over the head in depth. Level off and swim 75 yards in a strong manner, using one or more of the following strokes: side-stroke, breaststroke, trudgen, or crawl. Then swim 25 yards, using an easy, resting backstroke. The 100 yards must be swum continuously and include at least one sharp turn. After completing the swim, rest by floating. This qualification test should be renewed annually.

4. **Personal Flotation Equipment.** Properly fitted U.S. Coast Guard approved personal flotation devices (PFDs) must be worn by all persons engaged in activity on the open water (rowing, canoeing, sailing, boardsailing, motorboating, waterskiing, rafting, tubing, kayaking, and surfboarding). Type II and III PFDs are recommended.
5. **Buddy System.** All activities afloat must adhere to the principles of the buddy system. The buddy system assures that for every person involved in aquatics activity, there is always at least one other person constantly aware of his or her situation and prepared to lend assistance immediately when needed. Not only does every individual have a buddy, but every craft should have a "buddy boat" when the craft are on the water.



6. Skill Proficiency. All persons participating in activity afloat on the open water must be trained and practiced in craft-handling skills, safety, and emergency procedures.

- a. All persons planning to participate in unit activity on whitewater must complete special training conducted by a BSA Aquatics Instructor or a qualified specialist in whitewater safety and skills.
- b. Powerboat operators must complete state certification and be able to meet requirements for the Motorboating merit badge or equivalent (American Red Cross, U.S. Coast Guard, U.S. Coast Guard Auxiliary, or U.S. Power Squadron).
- c. Except for whitewater and powerboat operation as noted above, either a minimum of 2 hours' training and supervised practice or meeting requirements for "basic handling tests" is required for all unpowered craft.

For Cub Scouts: Canoeing and rafting for Cub Scouts (including Webelos Scouts) is to be limited to council/district events on flatwater ponds or controlled lake areas free of powerboats and sailboats. Prior to recreational canoeing, Cub Scouts are to be instructed in basic handling skills and safety practices.

7. Planning.

- a. **Float Plan.** Know exactly where the unit will "put in," where the unit will "pull out," and precisely what course will be followed. All stopover points should be determined in advance. Travel time should be estimated, with ample margins to avoid traveling under time pressures. Accurate and current maps and information on the waterway to be traveled should be obtained, and the course should be discussed with others who have made the trip under similar seasonal conditions. (Preferably, an adult member of the group should run the course prior to the unit trip.)
- b. **Local Rules.** Determine what state and local laws or regulations are applicable. If private property is to be used or crossed, obtain written permission from the owners. All such rules must be strictly observed.

c. **Notification.** The "float plan" must be provided to the parents of participants and a member of the unit committee. For any activity using canoes on running water, the "float plan" must be filed with the council office. When the unit has returned from this activity, persons receiving the "float plan" should be so advised. Appropriate authorities, such as Coast Guard, state police, or park personnel should be notified when their jurisdiction is involved.

d. **Weather.** Check the weather forecast just before setting out; know and understand the seasonal weather pattern for the region; and keep an alert "weather eye." Imminent rough weather should bring all ashore immediately.

e. **Contingencies.** Planning must anticipate possible emergencies or other circumstances which could force a change in the original plan. All such circumstances should be identified and considered in advance so that appropriate contingency plans can be developed.

For Cub Scouts: Cub Scout canoeing and rafting does not include "trips" or "expeditions" and is not to be conducted on running water (i.e., rivers or streams), therefore, some procedures are not applicable. Suitable weather requires clear skies, no appreciable wind, and warm air and water.

8. **Equipment.** All equipment must be suited to the craft, to the water conditions, and to the individual; must be in good repair; and must satisfy all state and U.S. Coast Guard requirements. As far as possible, spare equipment should be carried. On long trips or when spare equipment is not available, repair materials must be carried. Appropriate rescue equipment must be available for immediate use.

9. **Discipline.** All participants should know, understand, and respect the rules and procedures for safe unit activity afloat. When Scouts know and understand the reasons for the rules, they will observe them. When fairly and impartially applied, rules do not interfere with the fun. Rules for safety, plus common sense and good judgment, keep the fun from being interrupted by tragedy.

Note: For cruising vessels (excluding rowboats, canoes, kayaks, and rafts, but including sailboats and powerboats longer than 20 feet) used in adult-supervised unit activities by a chartered Explorer post or ship specializing in watercraft operations, or used in adult-supervised program activity in connection with any high-adventure program or other activity under the direct control of the National Council, the standards and procedures in the *Sea Exploring Manual*, No 3329, may be substituted for the Safety Afloat standards.

Boy Scouts Of America

Desert Pacific Council

Terry Williams
Deputy Director Coastline Parks
2581 Quivira Court
San Diego, CA 92109

RECEIVED
PARK & RECREATION

DEC 02 1993

Elbert Buerger
Director of Support Services
Desert Pacific Council BSA
San Diego CA, 92109

COASTAL DIVISION

November 30, 1993

Dear Ms. Williams,

I'm writing on behalf of the Executive Board of the Desert Pacific Council Boy Scouts (was San Diego County Council) to request a minor change in the addendum to our Mission Bay Park lease with the City of San Diego. The proposed change would allow us to serve more children while maintaining a higher level of safety. A copy of the lease addendum is attached.

Lease Section 9.06 "Terms Of Use" item number 5 is reproduced here. We propose that the underlined words be deleted:

Adult supervision must be present because of the deferred nature of youth-serving groups. "Guideline is 1 adult to 5-8 youth (1:5-8)." Youth must be 18 years old or younger to camp and 11 to 18 for aquatic use.

Our intention is to address the safety concerns of minimum age limits and adult-child ratios through the self imposed Boy Scout "Safety Afloat" policy instead of the lease. Safety Afloat is the uniform boating safety policy used nationwide by the Boy Scouts of America. We wish to adopt it as the official policy of the San Diego Youth Aquatic Center. A copy of Safety Afloat is attached.

The changes we are proposing will eliminate ambiguities between the lease and the Safety Afloat policy. We believe Safety Afloat guarantees a higher level of safety and allows for the following advantages: Cub Scout age children (age 7-10) will be allowed to participate in some aquatic activities when additional trained supervision is present. Explorer age youth (age 14-21) will no longer be excluded arbitrarily. Adult-child ratios are based on age and ability.

Thank you for your consideration of this matter and please advise me on the process required to implement this change. Any comments you have on the content of this proposal or the process of making the change will be appreciated.

Sincerely, Elbert Buerger

krk
cc: Lt. Ken Hewitt

Terms of Use

The Boy Scouts of America, San Diego County Council, in accordance with the provision of your Lease, Section 1.02, Uses., I hereby approve, subject to the terms herein below, the following:

1. The Youth Aquatic Facility must be open to all youth-serving groups.
2. In order to give all groups an equal chance to use the Youth Aquatic Facility, you must send a letter annually to all the members of the Youth Aquatic Advisory Council advising them of your operation and procedures to use the facilities.
3. The Boy Scouts of America can use/book no more than 75% of all available aquatic activities up to 7 days prior.
4. The Park and Recreation Director or his designee must be a member of the Board of Directors of the youth Aquatic Facility Committee.
5. Adult supervision must be present because of the deferred nature of youth-serving groups. "Guideline is 1 adult to 5-8 youth (1:5-8)." Youth must be 18 years old or younger to camp and 11 to 18 for aquatic use.
6. The lessee is responsible to provide adequate water safety personnel to supervise all aquatic programs.

DOCUMENT NO. C-05423

FILED APR 12 1994

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

(LEAS - Boy Scouts Of America, Youth
Aquatic Facility, Fiesta Island)

CITY MANAGER ACTION - Third amendment
to lease agreement with the Boy Scouts
of America for a Youth Aquatic Facility
on Fiesta Island.

NO COUNCIL ACTION

cc: Auditor - MS 7C (Copy)
P&R - Terri Williams - MS 32
(Dup)

4/12/94 eh

CITY OF SAN DIEGO

SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment, entered into this 7th day of September, 1989,, to lease filed November 30, 1987 between Boy Scouts of America, San Diego County Council (LESSEE) and the City of San Diego (LESSOR), Document RR 269866.

LESSOR AND LESSEE desire to amend said lease as follows:

5.02 Insurance

g. Insurance.

1. Youth-serving groups, other than the Lessee, shall be required to provide proof of comprehensive general liability insurance in an amount of not less than \$250,000 naming the City and Lessee as additional insureds. If youth-serving groups other than Lessee have higher policy limits than the minimum herein required, then the full limits of such policy shall be furnished. The Lessee agrees to verify this coverage through a certificate of insurance or the policy of insurance. Such policy or certificate shall contain a notation that it shall not be cancelled or otherwise changed without at least thirty (30) days notice to the City and Lessee. The City reserves the right to require higher limits of coverage for risk assessments, based upon sound risk management principles, that warrant a higher limit of coverage.
2. Any youth-serving group other than the Lessee utilizing the leased premises while the Lessee is in control of said premises, which cannot provide insurance coverage meeting the \$250,000 minimum requirement, may be permitted to use the facilities upon written notification to the City Manager and the Lessee, and the written approval by the City Manager. In the event any liability for such use is established by a court of competent jurisdiction or by mutual agreement among the City, the Lessee and the using youth-serving group as to a determination and apportionment of such liability, the City shall then pay the proportionate share of liability of the youth-serving group (other than the Lessee) to the plaintiff or claimant in excess of the coverage actually provided by such youth-serving group, to a maximum of \$5,000,000.
3. The Lessee and each youth-serving group agree to provide a defense on behalf of the City, the Lessee and the respective youth-serving group during the pendency of any litigated claim until such time as there is a determination of the youth-serving group's prorated share of liability, either by order of a court of competent jurisdiction or as mutually agreed upon by the City, the

DOCUMENT NO. RR-274530
FILED OCT 10 1989
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

Lessee, and the youth-serving group. The Lessee agrees further to obtain from each youth-serving group its written agreement pursuant to this subclause (3) to provide such defense on the mutual behalf of the City, Lessee and the affected youth-serving group.

Except as provided herein, all other terms and conditions of this lease are to remain unchanged.

CITY OF SAN DIEGO (LESSOR)

BY H. Loomis
LESSEE: Asst. Dir., Park & Rec. Dept.

San Diego County Council
Boy Scouts of America

Ronald K. Brundage
Ronald K. Brundage

APPROVED AS TO FORM AND LEGALITY THIS 7th DAY OF SEPTEMBER,
1989.

JOHN W. WITT, City Attorney

BY [Signature]
Deputy City Attorney

MJB:baa(2)108
6-14-88

R-274530

(R-90-360)

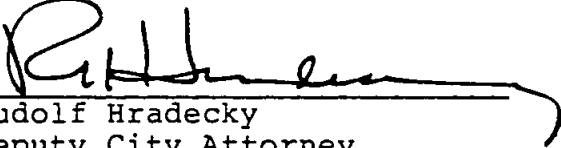
RESOLUTION NUMBER R- 274530

ADOPTED ON OCT 10 1989

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, a second amendment to the lease agreement with Boy Scouts of America, San Diego County Council, for construction, operation and maintenance of a Youth Aquatic Facility on Fiesta Island in Mission Bay Park, under the terms and conditions set forth in the second amendment lease agreement on file in the office of the City Clerk as Document No. RR- 274530 .

APPROVED: JOHN W. WITT, City Attorney

By


Rudolf Hradecky
Deputy City Attorney

RH:skc
08/22/89
Or.Dept:Pk.&Rec.
R-90-360
Form=r.auagr

Passed and adopted by the Council of The City of San Diego on
October 10, 1989 by the following vote:

YEAS: Wolfsheimer, Roberts, McColl, Pratt, Struiksma, McCarty.

NAYS: None.

NOT PRESENT: Henderson, Filner, O'Connor.

AUTHENTICATED BY:

MAUREEN O'CONNOR
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- 274530, passed
and adopted by the Council of The City of San Diego, California
on OCT 10 1989.

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

(SEAL)

By: Ellen Bovard, Deputy

(R-90-360)

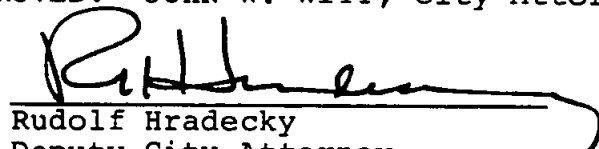
RESOLUTION NUMBER R- 274530

ADOPTED ON OCT 10 1989

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, a second amendment to the lease agreement with Boy Scouts of America, San Diego County Council, for construction, operation and maintenance of a Youth Aquatic Facility on Fiesta Island in Mission Bay Park, under the terms and conditions set forth in the second amendment lease agreement on file in the office of the City Clerk as Document No. RR- 274530.

APPROVED: JOHN W. WITT, City Attorney

By


Rudolf Hradecky
Deputy City Attorney

RH:skc
08/22/89
Or.Dept:Pk.&Rec.
R-90-360
Form=r.auagr

CITY OF SAN DIEGO
FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment, entered into this _____ day of _____, 1989, to lease filed November 30, 1987 between Boy Scouts of America, San Diego County Council (LESSEE) and the City of San Diego (LESSOR), Document RR 269866.

LESSOR AND LESSEE desire to amend said lease as follows:

7.19 General Development Plan. The General Development Plan consists of:

- a. Plot Plan, approved in concept by Park and Recreation Board of CITY on 10-15-87. (Attachments IV & V)
- b. Development Schedule

Steps:

- 1. City Council approval -
 - a. PF&R Committee approval - 11/25/87
 - b. City Council approval - 11/30/87
 - 2. Plans completed and submitted for permits. We will begin 12/1/87 upon approval of City Council with a goal of complete approvals on or before 9/30/89.
 - a. Coastal Commission
 - b. Army Corps of Engineers
 - c. Building permits
 - 3. Groundbreaking ceremony - October, 1989
 - 4. Begin construction of aquatics center - immediately (within 2 weeks) after groundbreaking.
 - 5. Complete construction of aquatics center - September 30, 1991.
- c. (No change.)
 - d. (No change.)
 - e. (No change.)

All other terms and provisions of the Agreement remain the same.

CITY OF SAN DIEGO (LESSOR)

DOCUMENT NO. C02893

FILED SEP 08 1989
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

By Kurt A. Flansburg
LESSEE: ASSISTANT TO THE CITY MANAGER

Donald Brundage
Scout Executive
San Diego County Council, Boy Scouts of America

APPROVED AS TO FORM AND LEGALITY THIS 18 DAY OF August, 1989.

JOHN W. WITT, City Attorney

By [Signature]
Deputy City Attorney

DOCUMENT NO. **C-02893**

FILED **SEP 08 1989**

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

C02893

A CITY MANAGER ACTION-FIRST AMENDMENT TO
FLAT RATE LEASE WITH BOY SCOUTS OF AMERICA
SAN DIEGO COUNTY COUNCIL FOR YOUTH AQUATIC
FACILITY ON FIESTA ISLAND-ORIGINAL DOC#RR-269866
NO COUNCIL ACTION

CC: PARK AND REC-MS#32 TERRI CARROLL X6652

SEPTEMBER 8, 1989 PR