

CITY OF SAN DIEGO  
M E M O R A N D U M

DATE: January 30, 2006

TO: Mission Bay Park Committee, Agenda of February 7, 2006

FROM: Jack D. Farris, Acting Director  
Real Estate Assets Department

SUBJECT: Mission Bay Aquatic Center - Lease Agreement

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SUMMARY

Issue - Should the Mission Bay Park Committee recommend that the Park and Recreation Board recommend approval of the proposed lease renewal for the Mission Bay Aquatic Center located on Santa Clara Point in Mission Bay Park?

Staff Recommendation - That the Mission Bay Park Committee recommend that the Park and Recreation Board recommend approval of the lease for the Mission Bay Aquatic Center.

Other Recommendations - None.

Fiscal Impact - None with this action. It is anticipated that approval of the proposed lease agreement will result in lease revenue of approximately \$10,000 per year.

BACKGROUND

In September 1975, the Associated Students - San Diego State University and the University of California, San Diego (collectively, "Lessee"), entered into a 25-year lease agreement with the City for a 23,262 square foot (.534 acre) parcel of land located on Santa Clara Point in Mission Bay Park. The Mission Bay Aquatic Center ("Aquatic Center") is a joint venture between the two universities, and the property was leased to them to renovate, operate, and maintain a collegiate aquatic and rowing center. Recreational, instructional and competitive aquatic sports programs are the primary focus of the Aquatic Center. These programs include instruction in rowing, sailing, waterskiing, surfing, scuba diving, small boat handling, navigation, and other aquatic related activities. An existing City-owned boathouse that had been previously used by both universities was renovated at the beginning of the lease term. The renovation of the building was the consideration for the lease.

Between 1996 and 1998, the lessee submitted proposed terms for a new lease. On January 20, 1999, the Natural Resources and Culture Committee approved exclusive negotiations for a lease

renewal with a 4-0 vote. The lease expired on September 23, 2000, and is presently on a year-to-year holdover. During the course of negotiations for a lease renewal, the lessee sought to modify and clarify the definitions of user groups and the eligible users of the Aquatic Center, which resulted in lengthy negotiations lasting over four years. The lessee's objective was to provide safe and accessible educational and recreational waterfront activities to students, faculty and staff of all San Diego County area colleges and universities as "collegiate" users, and to other "incidental" users as described below. This was accomplished by reclassifying the collegiate and incidental users, and as consideration for the change in the definitions of users, including a provision the pay rent for special events and members of the general public who use the facility. Another factor that resulted in an impasse in negotiations was the indemnity provision of the lease, which was a concern of the City since many of the programs conducted by the Aquatic Center occur off the leasehold. A waiver of the indemnity provision was approved in January 2006 by the Regents of the University of California that will allow the City's standard indemnification provision to be used.

A provision for rent was necessary since Council Policy 700-08 "Mission Bay Park Policies" (attached) provides a rent exemption for educational institutions providing aquatic programs in Mission Bay Park. The Aquatic Center will be charged 10% of the gross revenue from those users or functions not qualifying as collegiate or incidental users affiliated with an educational institution. In addition, the Aquatic Center will be required to pay annual rent equal to 10% of the gross income derived from special events and other incidental users consisting of immediate family members, registered participants of educational conferences, seminars and workshops, and members of the general public. The lessee estimates that the proposed rent structure will result in revenue to the City of approximately \$10,000 per year.

The proposed lease terms are as follows:

- Term: 15 years with one 10-year option to extend.
- Use: Operation and maintenance of collegiate, recreational, instructional, educational and competitive aquatic sports programs.
- Consideration: Lessee shall commit to spending an average of \$75,000 annually for maintenance, upkeep and replacement upgrades.
- Eligible Users: Collegiate Users. Collegiate users include any enrolled student, faculty or staff member from San Diego County area colleges and universities; former students or graduates of same; and recognized university departments, clubs, residential living groups, etc.  
  
Incidental Users. Incidental users include immediate family members of collegiate users; youth organizations that are established community, social, religious, cultural, educational or

recreational organizations not created for the purpose of enrolling youth in Aquatic Center programs; persons registered as participants in educational conferences, seminars and workshops conducted at San Diego County area colleges and universities; individuals with disabilities enrolled in programs offered at the Aquatic Center; and members of the general public at the lowest priority of usage within available capacity.

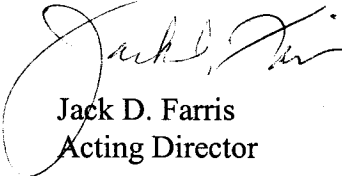
- Rent: 10% of gross income derived from use by (a) immediate family members of collegiate users, registered participants of educational conferences, seminars and workshops at area universities and members of the general public, and (b) approved special events for the preceding incidental users.

### RECOMMENDATION

Real Estate Assets and the Park and Recreation Department recommend approval of the proposed lease.

### ALTERNATIVES

- Recommend approval of the proposed lease, with modifications.
- Do not recommend approval of the proposed lease and issue a request for proposals for the property.



Jack D. Farris  
Acting Director

JA/cj

- Attachments:
1. Location Maps
  2. Lease Chronology
  3. Manager's Report No. 99-06 - Recommendation for Exclusive Lease Negotiations - Mission Bay Aquatic Center
  4. Council Policy 700-08 "Mission Bay Park Policies"
  5. Council Policy 700-10 "Disposition of City-owned Real Property"
  6. Council Policy 700-41 "Use of the RFP Process for Use of City-owned Land"