

ORIGINAL

LEASE AGREEMENT

THIS LEASE AGREEMENT executed this 23d day of July 1979, at SAN DIEGO, CALIFORNIA, by and between THE CITY OF SAN DIEGO, a municipal corporation, in the County of San Diego, State of California, hereinafter referred to as the "CITY," and the ZOOLOGICAL SOCIETY OF SAN DIEGO, a California nonprofit corporation, organized and existing under the Nonprofit Corporation Law of the State of California, hereinafter referred to as "SOCIETY."

WITNESSETHARTICLE IRECITALS

WHEREAS, SOCIETY for over sixty years has maintained and operated zoological gardens in a portion of Balboa Park, herein called "GARDENS," with the consent of and under agreement with CITY; and

WHEREAS, SOCIETY, has through its efforts gathered numerous animals, birds, reptiles and plants into one of the finest collections on exhibition in the world; and

WHEREAS, SOCIETY, by virtue of its maintenance and operation of the exhibits in the GARDENS, has performed services of immense benefit and value to The City of San Diego and its inhabitants; and

WHEREAS, CITY acknowledges that the continued management, maintenance and operation of the GARDENS provides an invaluable asset to the CITY as a tourist attraction and a beneficial recreational facility for the residents of the City; and

DOCUMENT NO.

767195

FILED JUL 24 1979
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

WHEREAS, CITY desires to continue to avail itself of the services of SOCIETY, its trustees, members and employees, for the purpose of management, maintenance and operation of the GARDENS; and

WHEREAS, the agreement under which the SOCIETY manages, operates and maintains the GARDENS is terminable on 30 days prior notice by either the CITY or SOCIETY in order to avoid, among other things, possessory interest taxes that would have been assessable under a long term agreement; and

WHEREAS, under Section 222.5 of the Revenue and Taxation Code of the State of California enacted in 1973, possessory interests in publicly owned land used by a zoological society are exempt from taxation as other property listed under Section 214 of said code; and

WHEREAS, said amendment allows CITY and SOCIETY to consider entering into a long term agreement embodied by this lease to the mutual advantage of each; and

WHEREAS, CITY and SOCIETY have previously entered into an operating agreement which concerns the relationship between CITY and SOCIETY with respect to the maintenance, management and operation of a wild game preserve in the San Pasqual Valley, herein called "PRESERVE," and concurrently with this agreement will execute a seventh amendment to said operating agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and mutual obligations of the parties as herein expressed, City and SOCIETY mutually agree that that certain OPERATING AGREEMENT between the parties hereto for the operation of the GARDENS,

filed in the office of the City Clerk on March 3, 1969 as Document No. 727222, and all amendments thereto, are hereby terminated; and

NOW, THEREFORE, in consideration of the foregoing recitals and mutual obligations of the parties as herein expressed, CITY and SOCIETY agree as follows:

ARTICLE II

DEMISE

Subject to all terms, covenants and conditions and upon the consideration hereinafter set forth, CITY hereby leases to SOCIETY and SOCIETY leases from CITY, for the purpose of operating and maintaining zoological gardens and uses associated therewith, those certain premises, together with all buildings, structures, facilities and appurtenances thereto situated in Balboa Park in the City of San Diego, County of San Diego, State of California, as described in Exhibit A, attached hereto and incorporated herein by this reference.

ARTICLE III

TERM

The term shall be for a period of fifty-five (55) years, commencing on July 23, 1979, and continuing thereafter until July 23, 2034, unless sooner terminated as hereinafter provided.

ARTICLE IV

CONSIDERATION

The consideration for this lease is the promise and agreement by SOCIETY to take custody and possession of all animals, birds,

reptiles, plants, and their progeny and product as well as all exhibits and personal property belonging to CITY located in the GARDENS and to preserve, maintain and care for such animals, birds, reptiles, plants, progeny and product thereof, and exhibits and personal property for the term of this lease upon the terms, covenants and conditions herein expressed at no cost to CITY except as provided in Article V, paragraph 1 of this lease agreement. Subject to the provisions of Article V, paragraph 4 of this lease authorizing the sale or exchange thereof by SOCIETY, title to all such animals, birds, reptiles, plants, progeny and product thereof and exhibits and personal property shall always be vested in City.

In addition, SOCIETY shall preserve and maintain in a good condition all buildings, structures, roads and other improvements which now exist or hereafter may exist on the premises.

ARTICLE V

COVENANTS AND CONDITIONS

1. All moneys derived by CITY from the special tax levy required by Section 77a of the Charter of The City of San Diego to be used exclusively for the maintenance in Balboa Park of zoological exhibits shall be retained by City until SOCIETY requisitions amounts from the tax proceeds, which requisitions shall be approved by the City Manager.

2. CITY, for the entire effective term of this lease, acknowledges the right of SOCIETY to custody of all animals, birds, reptiles, plants, their progeny and product and exhibits and personal property now located in or about the GARDENS.

3. SOCIETY will maintain and operate the GARDENS on the premises in an efficient, businesslike and economical manner.

4. SOCIETY may, in its discretion, exchange or move the animals, birds, reptiles or plants or personal property in its custody located in the GARDENS to the PRESERVE. To the extent it desires, SOCIETY, in its discretion, may freely exchange exhibits or personal property between the GARDENS and the PRESERVE. SOCIETY may sell, loan or exchange excess exhibits, all animals, birds, reptiles and plants and all personal property in its custody. Pending a sale or exchange thereof by SOCIETY, title to all animals, birds, reptiles, plants, exhibits and tangible personal property in the custody and possession of SOCIETY, whether heretofore or hereafter acquired, shall always be vested in CITY.

5. Title to all improvements acquired, completed or constructed by SOCIETY and title to all furniture, furnishings and equipment shall be and remain in CITY except that title to improvements constructed and personal property utilized in connection with such improvements pursuant to a grant agreement between SOCIETY and any government or governmental agency, the construction or acquisition of which improvement has been approved by resolution of the Council, may be and remain vested in such government or governmental agency. Removal of improvements except for purposes of replacement shall require the approval of the City Manager.

6. SOCIETY shall have the right to charge reasonable fees for admission to the GARDENS and for activities therein in an amount to be determined by SOCIETY. Such fees shall in no event,

exceed an amount needed to collect funds reasonably necessary to conduct SOCIETY'S activities pursuant to the terms of this lease. Revenues of, and intangibles owned by, SOCIETY may be pledged or assigned as security for indebtedness incurred by SOCIETY.

7. The parking lot at the east end of the GARDENS shall be maintained and operated by SOCIETY as a public parking facility for the accommodation and parking of the motor vehicles of visitors to Balboa Park and the GARDENS and SOCIETY shall have the right to charge reasonable parking fees for the use thereof in an amount to be determined by SOCIETY. Said parking fees shall not exceed an amount necessary to reimburse SOCIETY for its costs of maintenance and operation of the public parking facility. Said parking fees shall be the same for all users of the parking facility and no credit against admission fees or other fees charged by SOCIETY shall be given. The City hereby reserves the right to review the effect the imposition of such parking fees has on the use of Balboa Park generally, and specifically with regard to any parking and traffic problems which may occur in other park areas as the result of the imposition of such fees. In the event the City Council determines that the imposition of such fees significantly and adversely affects the parking and traffic situation in Balboa Park, Lessee agrees to take whatever action is necessary including the reduction or elimination of such fees to alleviate such problems.

8. SOCIETY shall have the right to rent cameras, strollers, and other equipment for the accommodation of visitors to the GARDENS, to sell within and about the GARDENS food, beverages, refreshments, gift items, film, printed material, curios, souvenirs, and other merchandise or services ordinarily available to visitors to zoological gardens and exhibits of similar character, and to utilize concessionaires and vending machines for purposes of such sales and rentals.

9. SOCIETY shall use all operating revenues for the maintenance and operation of the GARDENS, for the maintenance and operation of the exhibits within the PRESERVE, and for research, education and the promotion and development of the GARDENS and the PRESERVE.

10. In the establishment, maintenance or operation of the GARDENS, SOCIETY shall maintain separate accounts on its books with respect to any Section 77a moneys. The books of the SOCIETY shall, at all reasonable times, be open to CITY or its duly authorized representatives.

11. Annually, on or before January 1, SOCIETY shall submit to CITY a proposed budget including all expected revenue and projected expenses for the coming fiscal year. This budget shall include expenses for all of SOCIETY's operations including but not limited to the GARDENS and the PRESERVE.

12. Annually, on or before May 1, SOCIETY shall submit to CITY an annual statement showing SOCIETY's assets and liabilities, profit and loss statement, and a statement of surplus, all for the preceding fiscal year ending December 31.

13. CITY shall cause to be made an audit of the annual statement, the profit and loss statement, and the statement of surplus within one hundred twenty (120) days after its submission by SOCIETY.

14. SOCIETY shall not assign this lease or any interest herein, and shall not sublet the premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents, officers and employees of CITY excepted) to occupy or use the premises, except as consistent with the purpose of this agreement, and without the prior written consent of the City Manager of CITY. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without

such consent shall be void. The lease shall not, nor shall any interest therein, be assignable, as to the interest of SOCIETY, by operation of law, without the written consent of the City Manager.

15. CITY reserves, and shall always have the right to enter the premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interest in the premises and in the animals, birds, reptiles, plants, exhibits and personal property located thereon or to inspect the operations conducted on said premises. In the event that such entry or inspection by CITY discloses, in the opinion of the City Manager, that the premises are not in a safe, healthy and satisfactory condition or that a violation exists of any Municipal, State or Federal ordinance, statute or law, or that any breach of condition of this lease has occurred with regard to maintenance, CITY shall have the right, after ten (10) days' written notice to SOCIETY, to have any necessary maintenance work done for and at the expense of SOCIETY. SOCIETY agrees to pay promptly any and all costs incurred, including reasonable expenses of CITY in having such necessary work done in order to keep said premises in a safe, healthy and satisfactory condition and to cure any violations or breach of conditions of this lease.

16. SOCIETY shall not without the prior written consent of the City Manager, use, or permit said premises, or any part thereof, to be used, for any purpose or purposes other than the purpose or purposes for which the premises are hereby leased. Unless included within said purposes authorized by CITY or necessarily incidental to such uses, no use shall be made or permitted

to be made of the premises, nor acts done, which will increase the existing rate of insurance upon the building or buildings, if any, belonging to CITY which may be located on the premises or in which the premises may be located, or cause a cancellation of any insurance policy covering said building or buildings, or any part thereof, nor shall any article which may be prohibited by the standard form of fire insurance policy be or be permitted to be kept, used, or sold in or about said premises. SOCIETY shall at its sole cost and expense, comply with any and all requirements, pertaining to the premises, of any insurance organization or company, necessary for the maintenance of reasonable fire and public liability insurance, covering said buildings and appurtenances.

17. a. Upon taking physical possession of the leased premises, and during the entire term hereof, SOCIETY agrees to take out and maintain public liability insurance with an insurance carrier satisfactory to CITY to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to have been suffered by any person or persons whatsoever resulting directly or indirectly from any act or activity of SOCIETY or any person acting for SOCIETY or under SOCIETY's control or direction and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by acts or activities of SOCIETY or any person acting for SOCIETY or under SOCIETY's control or direction. Such public liability and property damage insurance shall name CITY as an additional

insured and shall be maintained in full force and effect during the entire term of this lease. Commencing with the execution of this lease, SOCIETY shall maintain the minimum amount of not less than two hundred fifty thousand dollars (\$250,000.00), for one person injured in one accident and not less than one million dollars (\$1,000,000.00) for more than one person injured in one accident, and in the amount of not less than fifty thousand dollars (\$50,000.00) with respect to any property damage aforesaid. If the operation under this agreement results in an increased or decreased risk in the opinion of the City Manager, then the minimum limits hereinabove designated shall be changed accordingly.

Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which SOCIETY may be held responsible for the payment of damages to persons or property resulting from its activities or the activities of any person or persons for which it is otherwise responsible.

i. This agreement shall not apply to any injury or death caused by the negligent act or omission of any employee of CITY.

ii. CITY shall not voluntarily assume any liability or incur any expenses or settle any claim without the written consent of SOCIETY.

iii. SOCIETY shall deliver to the City Manager of CITY a policy of bodily injury and property damage liability in the State of California, indicating that the SOCIETY has in that company bodily injury and property damage liability insurance as required in this Article, and that the policy has been

endorsed or does otherwise cover the contractual liability imposed by this agreement and that the insurance company shall notify the City Manager in writing and in advance if said policy is proposed to be terminated or limited in any manner prior to the termination date specified in the certificate.

b. SOCIETY also agrees upon commencement of this lease to take out and maintain during the entire remaining term of this agreement, fire and extended coverage insurance on all property of an insurable nature belonging to SOCIETY and all CITY property in the custody and possession of SOCIETY for which insurance is reasonably available, real or personal. Said insurance shall be written by an insurance carrier satisfactory with CITY and in an amount sufficient to cover at least 80 percent of the replacement cost of said property. SOCIETY shall require that a certificate of such insurance be filed with CITY and that said insurance shall not be terminated or limited in any manner prior to the termination date specified in the certificate without prior written notice to the City Manager. SOCIETY shall pay the premium for such insurance and shall require that any such insurance proceeds resulting from a loss under said policy are payable jointly to CITY and SOCIETY in order that said proceeds will be reinvested in restoring the animal, bird, reptile or plant collection or in rebuilding or repairing the damaged property, unless otherwise disposed of as specified in paragraph 25 of this agreement. SOCIETY shall, at least biennially, increase the limits of liability to reflect any

increased value of the improvements covered, subject to the availability of such insurance at the increased limits.

18. CITY, its agents, officers and employees, shall not be liable, nor be held liable, for any alleged claims, liabilities, penalties, fines or for any damage to the goods, properties or effects of SOCIETY or any of SOCIETY's representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other persons whatsoever, nor for personal injuries to, or deaths of them, or any of them, whether caused by or resulting from any alleged act or alleged omission of any person or from any alleged defect in any part of the leased premises or from any other cause or reason whatsoever. SOCIETY further agrees to defend, indemnify and save free and harmless CITY and its authorized agents, officers, and employees against any of the foregoing liabilities and any costs and expenses as they are incurred by CITY on account of any claim or claims therefor. Provided, however, SOCIETY shall, on or before the effective date of this lease, deliver to the Property Department of CITY, a copy of such public liability insurance policy, indicating that SOCIETY has bodily injury and property damage liability insurance as required in this Article, and indicating that the policy has been endorsed or does otherwise cover the contractual liability imposed by this agreement.

19. SOCIETY shall have the right at its own cost and expense from time to time during the term hereof to make or cause to be made such alterations or changes in the leased premises and to construct or cause to be constructed thereon such improvements

as SOCIETY finds necessary or convenient for its purposes. SOCIETY agrees to take good care of the leased premises, fixtures and appurtenances, and of all alterations, additions and improvements to any of them and make all repairs in and about the same that may be necessary to preserve them in good order and condition, ordinary wear and tear and damage by fire and the elements excepted, and promptly to pay the expense of such repairs. CITY shall not be required to make any improvements, repairs or alterations not herein specifically required. By entry hereunder, SOCIETY accepts the premises as being in an as is condition and repair, and agrees on the last day of the term, or on sooner termination of this lease to surrender to CITY the premises with improvements in the same condition as when received or as they may have been put into.

20. SOCIETY shall save CITY free and harmless and indemnify CITY against all claims for labor and materials in connection with improvements, repair or alterations to the premises, and the cost of defending against such claims, including reasonable attorney's fees.

a. During any period that improvements, repairs, or alterations are being constructed on the premises by anyone other than the CITY, SOCIETY shall either (a) file with the CITY a bond conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used, in the amount of the estimated cost of the improvement, or repair as determined by the City Manager, which bond shall be acknowledged by SOCIETY as principal and

by a corporation licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety, or (b) provide CITY with such other security or assurance against liens as may be approved in writing by the City Manager.

b. In the event any lien for labor or materials or arising from any such construction is imposed or recorded against the leased premises and the lien holder attempts to perfect such lien by a lawsuit and SOCIETY shall have failed to comply with the requirements of this Article V, this lease shall be subject to termination at the expiration of thirty (30) days after service of summons in such lawsuit upon CITY; provided, however, that the City Manager shall have the right to continue this lease in full force and effect by notifying SOCIETY in writing of his election to do so.

c. In the event SOCIETY fails to file said bond and a mechanic's lien is recorded and an action is commenced to foreclose such lien, then any lender or lending agency or person who is a beneficiary under a trust deed or any mortgagee under any mortgage securing any loan on or in connection with the premises which was recorded with the prior consent of CITY shall be notified of the failure of SOCIETY to give the bond and shall have thirty (30) days to satisfy any such mechanic's lien, and if such financial institution lender or lending agency or person does so satisfy and remove such

lien and action, then this lease shall continue in effect for the remainder of the term.

20. SOCIETY may encumber the leasehold estate by deed of trust, mortgage, or other security type instruments to assure the payment of a promissory note or notes of the SOCIETY in accordance with the financial plan approved in writing by City Manager, upon the expressed condition that the proceeds of such loan or loans received by SOCIETY be devoted exclusively to the purpose of developing the leased premises; however, a reasonable portion of the loan proceeds may be disbursed for, or applied to payment of incidental costs of such development, including but not limited to any one or more or all of the following: offsite improvements on City-owned property for service of the leased premises; onsite improvements; escrow charges, premiums for hazard insurance, or other insurance or bonds required by CITY; title insurance premiums and reasonable loan costs such as discounts, interest and commissions; also architectural, engineering and attorney's fees or such other normal expenses. Any encumbrances on the real property or any permanent improvements thereon, must first have the approval in writing by the City Manager. In the event any such deed of trust, mortgage or other security type instrument should at any time have the beneficial interest thereto assigned, such assignment must be first approved by the CITY, and CITY agrees not to unreasonably withhold such consent. CITY further consents and agrees that in the event any such deed of trust, mortgage or other security type instrument should at any time be in default and be foreclosed, CITY shall accept the mortgagee or beneficiary

thereof as its new tenant under this lease with all the rights and privileges of SOCIETY, and that in the event that it is desired thereafter by said mortgagee or beneficiary to assign this lease to its nominee, and said nominee is a reputable and financially responsible operator in the opinion of CITY, CITY hereby agrees that upon the filing of an application for consent to such assignment, CITY will give its consent thereto, and agrees not to unreasonably withhold such consent. In no event, however, shall any consideration be paid for such assignment, and said mortgagee or beneficiary shall be limited to receiving the same security interest in the leasehold as existed prior to the curing of said default, plus an amount equal to the mechanic's lien satisfied. In the event SOCIETY is in default under any provisions of this lease, CITY agrees to serve written notice thereof upon said mortgagee or beneficiary to substitute itself to SOCIETY's estate hereunder and to operate the leased premises if said default is noncurable, all as set forth hereinabove in detail.

21. SOCIETY shall, at its sole cost and expense, comply and secure compliance with all requirements of Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the premises, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the premises, all Municipal ordinances and State and Federal statutes now in force or which may hereafter be in force, and shall pay before delinquency all taxes, assessments, and fees assessed or levied upon SOCIETY or the premises by reason of any

buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by SOCIETY or by reason of the business or other activities of SOCIETY upon or in connection with the said demised premises. The Final Judgment of any court of competent jurisdiction, or the admission of SOCIETY or any sublessee or permittee in any action or proceedings against them or any of them, whether CITY is a party thereto or not, that SOCIETY, sublessee or permittee has violated any such ordinance or statute in the use of the premises shall be conclusive of that fact as between CITY and SOCIETY. SOCIETY specifically agrees to maintain a tax free status per State Revenue and Taxation Code Sections 214 and 222.5 during the entire term of this lease. Failure to maintain such tax free status shall be considered a material default of this lease agreement.

22. The waiver by CITY of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained. Any failure on the part of CITY to require or exact full and complete compliance with any of the covenants, conditions or agreements of this lease shall not be construed as in any manner changing the terms hereof or to stop CITY from enforcing the full provisions hereof, nor shall the terms of this lease be changed or altered in any manner whatsoever other than by written agreement of CITY and SOCIETY.

23. The voluntary or other surrender of this lease by SOCIETY or a mutual cancellation thereof, shall not work a merger.

and shall at the option of CITY terminate all or any existing subleases or subtenancies, or may, at the option of CITY, operate as an assignment to it of any or all such subleases or subtenancies.

24. In the event (a) that SOCIETY shall default in the performance or fulfillment of any covenant or condition herein contained on its part to be performed or fulfilled and shall fail to cure such default within thirty (30) days following the service on it of a written notice from CITY specifying the default or defaults complained of and the date on which its rights hereunder will be terminated as hereinafter provided if such default or defaults is or are not cured, or (b) that SOCIETY shall file a voluntary petition in bankruptcy, or (c) that SOCIETY shall be adjudicated a bankrupt, or (d) that SOCIETY shall make a general assignment for the benefit of creditors then and in either or any of said events, CITY may at its option, without further notice or demand upon SOCIETY or upon any person or persons claiming by, through or under SOCIETY, immediately cancel and terminate this lease and terminate each, every and all of the rights of SOCIETY and of any and all persons claiming by, through, or under SOCIETY in or to the leased premises and in or to the further possession thereof and may thereupon enter into and upon the leased premises and repossess the same and expel SOCIETY, any and all persons claiming by, through or under SOCIETY. The rights and remedies of CITY as hereinabove set forth, are cumulative only and shall in no wise be deemed to limit any of the other provisions of this lease or otherwise to deny CITY any right or remedy at law or in equity which CITY may have or assert against SOCIETY under any

law in effect at the date hereof or which may hereafter be enacted or become effective, it being the intent hereof that the rights and remedies of CITY, as hereinabove set forth, shall supplement or be in addition to or in aid of the other provisions of this lease and of any right or remedy at law or in equity which CITY may have against said SOCIETY. Provided, however, that prior to, or in the event of any occurrence as specified in (a), (b), (c), and (d) hereinabove, the financial institution or lending agency or person who is a beneficiary under a trust deed or mortgage recorded with the prior consent of CITY may cure any default or defaults of SOCIETY under (a), and may enter and operate the leased premises in the event of any occurrence under (b), (c), or (d), during the period the deed of trust or mortgage is in existence, and the lease agreement shall not be terminated.

25. SOCIETY shall give prompt notice to CITY of any fire or damage that may occur from any reason whatsoever. SOCIETY shall not commit or suffer to be committed any waste or injury, or any public or private nuisance, shall keep the premises clean and clear of refuse and obstructions; and shall dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the leased premises shall be damaged by any cause as to render the premises untenable, unsightly, or unfit for the use or purpose for which the same are hereby let and said damages are repairable with a reasonable time in the opinion of the City Manager, SOCIETY shall make full repairs to said damages so as to restore the premises to the condition which existed prior to said damages, or SOCIETY shall clear and remove from the said leased premises all

debris resulting from said damages and rebuild the premises in accordance with plans and specifications previously submitted to City Manager and approved in writing by him. Repairs, clearance of debris and restoration of the premises shall commence within thirty (30) days and shall be completed within a reasonable time thereafter. Failure to commence such restorative work and clearance, or failure to complete such work within said reasonable time shall constitute an abandonment of this lease by SOCIETY. In the event SOCIETY does not elect to make repairs or to rebuild and continue operations, then either SOCIETY or CITY may after thirty (30) days from the date of damage terminate this agreement; provided, however, that SOCIETY to exercise this right to terminate must first remove all debris from the leased premises and pay to CITY the proceeds from any insurance coverage covering the permanent improvements to the premises.

26. Control and administration of this lease is under the jurisdiction of the City Manager of CITY as to CITY's interest herein and any communication relative to the terms or conditions or any changes thereto or any notices provided for by this lease or by law to be given or served upon CITY may be given or served by letter deposited in the United States mails, postage prepaid, and addressed to the City Manager, Attention: Property Director, City Administration Building, Community Concourse, San Diego, California 92101. Any notice or notices provided for by this lease or by law to be given or served upon SOCIETY may be given or served by depositing in the United States mails, postage prepaid, a letter addressed to SOCIETY at Post Office Box 551,

San Diego, California 92112, or may be personally served upon SOCIETY, or any person hereafter authorized by SOCIETY to receive such notice. Any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the principals of the parties so served.

27. SOCIETY shall take proper corrective action, to the satisfaction of CITY, to prevent the infestation of noxious weeds, pests and erosion throughout the entire leased premises.

28. SOCIETY shall order and obtain all utilities and other services necessary or desirable for SOCIETY's use of said premises and all costs, including installation and service charges in connection therewith, shall be borne by SOCIETY without expense to CITY therefor.

29. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations, or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay, the commencement and termination of which delay shall be established by written notification by SOCIETY to CITY or by CITY to SOCIETY, as the case may be; the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in this section shall excuse SOCIETY from the obligation to preserve, maintain, and care for such animals, birds,

reptiles, plants, exhibits and personal property in its custody during the term of this lease.

30. Should it become necessary for the CITY to commence legal proceedings to recover possession or enforce any other provision of this lease, the prevailing party will be paid by the other party all legal costs in connection therewith, including a reasonable sum as attorney's fees.

The parties agree that the law of the State of California shall be used in interpreting this lease agreement and will govern all disputes under this lease agreement and will determine all rights thereunder.

At the option of either party, venue of any action involving this lease agreement may be in or changed to the County of San Diego or the Southern District of California.

Personal service either within or without the State of California shall be sufficient to give personal jurisdiction to any court in which an action is filed for litigation of rights under this lease agreement.

31. CITY agrees, at any time or from time to time during the term hereof within ten (10) days after request therefor by SOCIETY, to deliver a certificate in recordable form to SOCIETY, or to any proposed mortgagee, trust deed beneficiary or purchaser, certifying if that in fact be the case that this lease is in full force and effect and that there are no defenses, defaults, or offsets thereto, or otherwise stating those claimed by CITY.

32. SOCIETY shall not discriminate in any manner against any person or persons on account of race, color, creed or national

origin in SOCIETY'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.

33. SOCIETY agrees to take affirmative action to improve employment opportunities of minorities and women. When applicable, SOCIETY agrees to abide by the Affirmative Action Program of Lessees as it now or hereafter exists. A copy of the program, effective as of the date of this agreement, is on file in the Office of the City Clerk and by this reference is incorporated herein. Minorities are presently defined as Mexican-American, Black, Filipino, American Indian and Asian/Oriental. The goal of this program shall be the attainment of the employment of minorities and women in all areas of employment in a total percentage of employment approximately equal to the total level of minority and women employment as established by the city for its Affirmative Action Program each year.

34. It is specifically understood and agreed that this lease contains the complete expression of the whole agreement between the parties hereto, and that there are no promises, representations, agreements, warranties or inducements, either expressed verbally or implied between them except as are fully set forth herein, and, further, that the lease cannot be enlarged, modified, or changed in any respect except by written agreement duly executed by and between said parties.

35. SOCIETY shall pay and discharge all taxes, general and special assessments and other charges of every description which

during the term of this lease may be levied on or assessed against the leased land and all interests therein and all improvements and other property thereon, whether belonging to CITY or to SOCIETY, or to which either of them may become liable in relation thereto.

a. SOCIETY agrees to and shall protect and hold harmless CITY and the leased premises from liability for any and all such taxes, assessments, and charges, together with any interest, penalties, or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof.

b. SOCIETY agrees to and shall pay all such foregoing taxes, assessments, and charges not less than thirty (30) days prior to the date of delinquency thereof and give written notice of each such payment to CITY within five (5) days after such payment is made.

c. Should SOCIETY fail to pay such taxes, assessments, or charges or fail to give written notice of any payment thereof as herein provided at least fifteen (15) days prior to the time the same becomes delinquent, SOCIETY may, at its option, at any time within or after such fifteen-day (15-day) period, pay such taxes, assessments, or charges, together with all penalties and interest which may have been added thereto by reason of SOCIETY's delinquency or default, and may likewise redeem the leased premises, or any part thereof, or the buildings or improvements situated thereon, from any tax sale or sales. Any such amounts so paid by CITY shall become immediately due and payable as rent by SOCIETY to CITY, together with interest thereon at the

rate of ten (10) percent per annum from the date of payment by CITY until paid by SOCIETY. Any such payment by CITY shall not be deemed to be a waiver of this lease or as provided by law.

IN WITNESS WHEREOF, this lease agreement is executed by The City of San Diego, acting by and through its City Manager, pursuant to Resolution No. 224068, authorizing such execution, and by SOCIETY.

Dated this 23 day of July, 1979.

APPROVED as form and legality this 23 day of August, 1979.

JOHN W. WITT, City Attorney

By [Signature]
Deputy

THE CITY OF SAN DIEGO

By [Signature]

ASSISTANT TO THE CITY MANAGER
ZOOLOGICAL SOCIETY OF SAN DIEGO

By [Signature]
Pres.

RESOLUTION No. 224068 (R-79-2641)

Adopted on JUL 23 1979

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 Lease Agreement with the ZOOLOGICAL SOCIETY OF SAN DIEGO, a California nonprofit corporation, for the purpose of operating the San Diego Zoo in Balboa Park, for a term of 55 years, under the terms and conditions set forth in that Lease Agreement on file in the office of the City Clerk as Document No.

767195

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug, Deputy

HOV:dm
6/25/79
Or. Dept. :Mgr.

Passed and adopted by the Council of The City of San Diego
on July 23, 1979, by the following vote:

YEAS: Mitchell, O'Connor, Lowery, Williams, Schnaubelt,
Stirling, Killea, Wilson.

NAYS: None.

NOT PRESENT: Gade

AUTHENTICATED BY:

PETE WILSON
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. 224068
passed and adopted by the Council of The City of San Diego,
California, on JUL 23 1979.

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

(SEAL)

By Ellen Bovard, Deputy.

ROOSEVELT
FOR HIGH SCHOOL

ZOOLOGICAL GARDENS

SAN DIEGO ZOO

PARKING

NOTES

- POINTS 1, 2, 3 AND 4 ARE THE CORNERS OF PARCEL 1 (2.22 ACRES)
- POINTS 5, 6, 7 AND 8 ARE THE CORNERS OF PARCEL 2 (0.80 ACRES)
- POINTS 9, 10 AND 11 ARE THE CORNERS OF PARCEL 3 (0.40 ACRES)
- POINTS 12, 13, 14 AND 15 ARE THE CORNERS OF PARCEL 4 (0.05 ACRES)

NOTES

1. ACRES FOR FENCED OCCUPANCY = 08.18 ACRES
 2. ACRES FOR PARKING LOT CONSTRUCTION = 24.67 ACRES
 3. ACRES FOR LANDSCAPE DEVELOPMENT AND ZOO EDUCATIONAL BUILDING = 1.20 ACRES
- TOTAL 34.05 ACRES

ZOOLOGICAL GARDENS
Area Shown Hatched Thus

PARKING
Area Shown Shaded Thus

PARCELS 5 & 6 FROM FIELD NOTES 206-1723 7/21/65

PARCEL	AREA	PERMITS	WEST COORDINATE	EAST COORDINATE
PARCEL 5	0.80 ACRES	11	507,000.17	1,770,000.00
PARCEL 6	0.40 ACRES	12	507,000.17	1,770,000.00
PARCEL 7	0.40 ACRES	13	507,000.17	1,770,000.00
PARCEL 8	0.05 ACRES	14	507,000.17	1,770,000.00

100 ACRES - BOARD PARK

NOTE: THIS DRAWING SUPERSEDES 12190-1-D

CITY OF SAN DIEGO
ENGINEERING DEPARTMENT

PROJECT: [] SHEET: [] OF [] SHEETS

DATE: 11/16

BY: [Signature]

SCALE: AS SHOWN

CURVE DATA
R = 1118.73
L = 171.00

CURVE DATA
R = 1118.73
L = 171.00

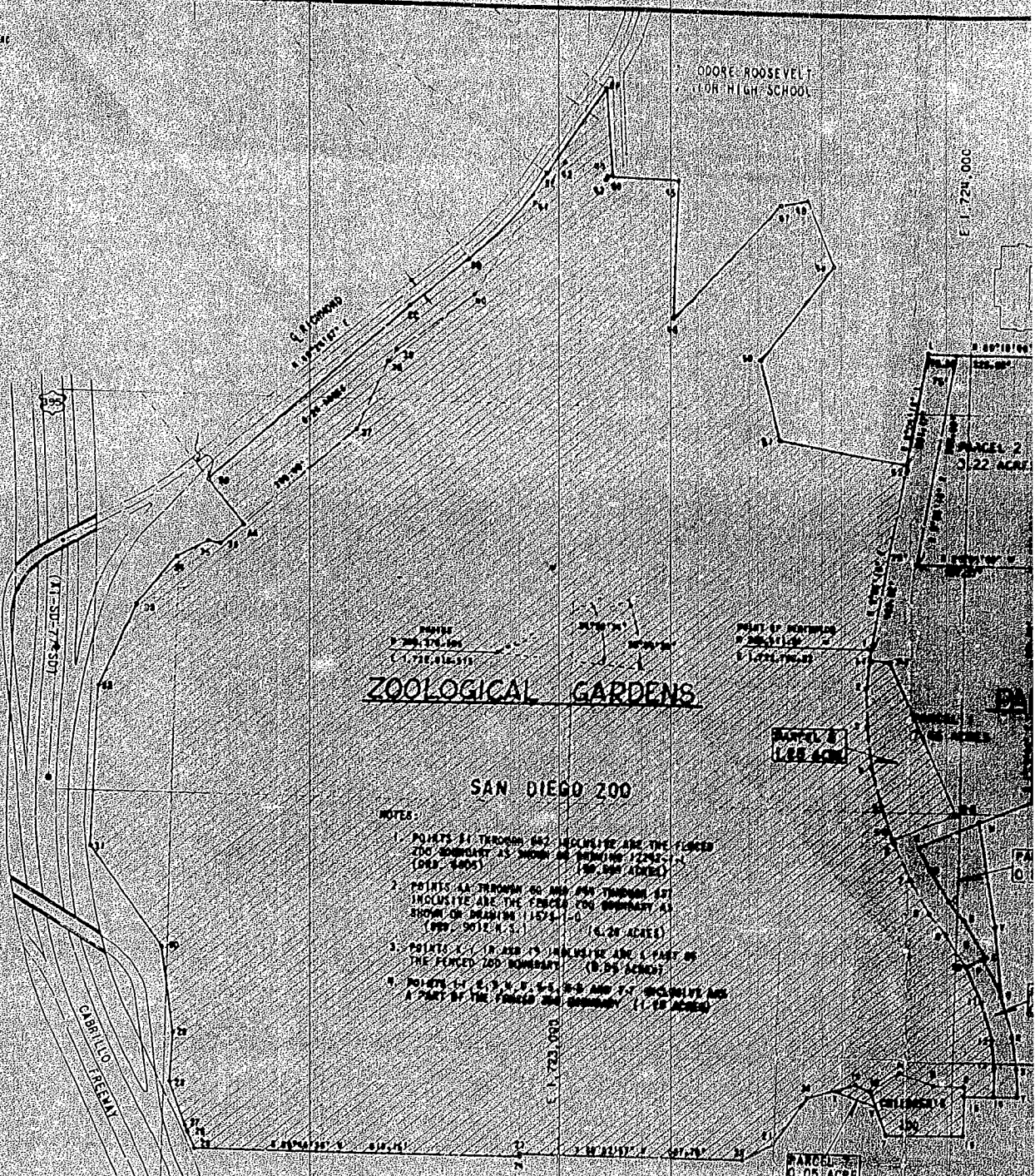
C.C. 70473-11
E 200,100.100
E 1,770,000.100

BEARINGS, DISTANCES, AND CURVE DATA OF THIS DRAWING CONFORM TO THE PROVISIONS OF THE SURVEYING ACTS OF CALIFORNIA AND THE ORDINANCES AND LAWS OF THE CITY OF SAN DIEGO.

SOUTH BY [] FROM [] (LOT CONSTRUCTION DATA)

CURVE DATA

POINTS	DELTA	LENGTH OF ARC
1-2	7°53'13"	122.78
2-3	4°52'45"	175.83
3-4	0°27'32"	548.89
4-5	0°59'08"	873.94
5-6	8°32'17"	177.82
6-7	8°08'26"	338.71
7-8	65°19'17"	1077.38
8-9	35°31'51"	1002.83
9-10	37°01'21"	609.37
10-11	7°29'17"	748.28
11-12	8°59'48"	577.86
12-13	11°58'18"	381.76
13-14	1°49'19"	1600.00



ZOOLOGICAL GARDENS

SAN DIEGO ZOO

- NOTES:
- POINTS 11 THROUGH 14 INCLUSIVE ARE THE FENCED ZOO BOUNDARY AS SHOWN ON PLAN 12242-1 (0.22 ACRES)
 - POINTS 15 THROUGH 24 INCLUSIVE ARE THE FENCED ZOO BOUNDARY AS SHOWN ON PLAN 12242-1 (0.22 ACRES)
 - POINTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 INCLUSIVE ARE A PART OF THE FENCED ZOO BOUNDARY (1.25 ACRES)

CHILDREN'S ZOO OCCUPANCY DRAWING 12242-1-L (ORDINANCE 6605)

POINT OF BEGINNING	BEARING	DISTANCE	NORTH COORDINATE	EAST COORDINATE
16	10 3 00' 23" W	104.21'	1,725,836.60	1,725,836.60
17	8 50' 16" W	111.21'	1,725,836.60	1,725,836.60
18	1 20' 18" W	111.06'	1,725,836.60	1,725,836.60
19	1 20' 18" W	111.06'	1,725,836.60	1,725,836.60
20	8 50' 16" W	111.21'	1,725,836.60	1,725,836.60
21	10 3 00' 23" W	104.21'	1,725,836.60	1,725,836.60
22	10 3 00' 23" W	104.21'	1,725,836.60	1,725,836.60
23	8 50' 16" W	111.21'	1,725,836.60	1,725,836.60
24	1 20' 18" W	111.06'	1,725,836.60	1,725,836.60

PARCELS 5 & 6 FROM FIELD NOTES 208-1723-7/21/65

FROM POINT	BEARING	DISTANCE	TO POINT	NORTH COORDINATE	EAST COORDINATE
10	8 25' 15" W	100.00'	11	1,725,836.60	1,725,836.60
11	8 16' 27" W	100.00'	12	1,725,836.60	1,725,836.60
12	8 06' 41" W	100.00'	13	1,725,836.60	1,725,836.60
13	8 00' 00" W	100.00'	14	1,725,836.60	1,725,836.60
14	8 00' 00" W	100.00'	15	1,725,836.60	1,725,836.60
15	8 00' 00" W	100.00'	16	1,725,836.60	1,725,836.60
16	8 00' 00" W	100.00'	17	1,725,836.60	1,725,836.60
17	8 00' 00" W	100.00'	18	1,725,836.60	1,725,836.60
18	8 00' 00" W	100.00'	19	1,725,836.60	1,725,836.60
19	8 00' 00" W	100.00'	20	1,725,836.60	1,725,836.60
20	8 00' 00" W	100.00'	21	1,725,836.60	1,725,836.60
21	8 00' 00" W	100.00'	22	1,725,836.60	1,725,836.60
22	8 00' 00" W	100.00'	23	1,725,836.60	1,725,836.60
23	8 00' 00" W	100.00'	24	1,725,836.60	1,725,836.60
24	8 00' 00" W	100.00'	25	1,725,836.60	1,725,836.60

- NOTES:
- ACREAGE
 - ACREAGE
 - ACREAGE

DOCUMENT NO. 767195

FILED August 31, 1979 *th*

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

(Contr- Zoo)

Lease Agree w/the Zoological Society of San Diego for operating the S.D. Zoo in Balboa Park for 55 years.

R-224068 7/23/79

9-5-79
cc: *th* Auditor - 7c
County Assessor - A4
Manager - Sue Williams - 9a
(Dup Original & Copy)

(City 700) / 53

CLERK'S FILE COPY

RESOLUTION No. 224069

(R-79-2642)

Adopted on JUL 23 1979

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 Seventh Amendment to Operating Agreement with the ZOOLOGICAL SOCIETY OF SAN DIEGO, a California nonprofit corporation, for the purpose of operating the Wild Animal Park in San Pasqual Valley, under the terms and conditions set forth in that Seventh Amendment to Operating Agreement on file in the office of the City Clerk as Document No. 767194.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug, Deputy

HOV:dm
6/25/79
Or. Dept.:Mgr.

REQUEST FOR COUNCIL ACTION				CITY OF SAN DIEGO		1. CERTIFICATE NUMBER:	
TO: CITY ATTORNEY		2. FROM: (ORIGINATOR) City Manager		3. DATE June 15, 1979			
4. SUBJECT Amendment to the Operating Agreement between the City of San Diego and the San Diego Zoological Society - Wild Game Preserve							
5. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTION(S) <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S) Authorizing the City Manager to execute the Sixth amendment to the Operating Agreement which would give the "Society" the sole authority to establish reasonable fees. <p style="text-align: right;"><u>Council District 1</u></p>							
6. SUPPORTING INFORMATION: (INCLUDE ONLY INFORMATION NOT COVERED ON FORM 1472A. "DOCKET SUPPORTING INFORMATION") Cost to City: None Action Requested By: Deputy City Manager <u>Descriptive Location: Wild Animal Park</u> <u>San Pasqual Valley</u> Basic Terms: Documents Submitted							
7. FOR INFORMATION CONTACT: (NAME & MAIL STOP) Sue Williams #9A				8. TELEPHONE NO. 5943		9. CHECK IF "DOCKET SUPPORTING INFORMATION" ATTACHED <input type="checkbox"/>	
10. COMPLETE FOR ACCOUNTING PURPOSES:				ROUTING AND APPROVALS			
BUDGETED		UNBUDGETED		ROUTE (v)	APPROVING AUTHORITY	APPROVAL	DATE SIGNED
FUND					DEPARTMENT DIRECTOR		
DEPT. & FUNCTION					CLEARING AUTH.		
OBJECT ACCOUNT					CLEARING AUTH.		
COST ACCOUNT							
WORK ORDER NO.							
C.I.P. NO.							
AMOUNT							
12. ESTIMATED COST:					DEPUTY CITY MANAGER	<i>Sue Williams</i>	6/15/79
					AUDITOR		
					CITY ATTORNEY		
					ORIGINATING DEPARTMENT		
					CITY MANAGER		
					CITY CLERK	<i>[Signature]</i>	6/15/79