

THIS FIRST AMENDMENT, dated for convenience July 1, 1979, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, act by and through the RECREATION AND PARK COMMISSION, hereinafter referred to "Lessor" and the DOLPHIN SWIMMING AND BOATING CLUB, a California Non-Profit Corporation, hereinafter referred to as "Lessee",

W I T N E S S E T H

WHEREAS, Lessee and Lessor entered into a lease dated for convenience July 1, 1979; and

WHEREAS, Lessee and Lessor are desirous to further clarify the rights and liabilities of each of them granted in said lease:

NOW, THEREFORE, the following paragraphs shall be added to the original agreement as follows:

A. TIMETABLE OF REPAIRS

The Club agrees that it will establish a full timetable to remedy health, safety, fire and building deficiencies existing in the demised premises at the execution of this lease and as required by the City and County of San Francisco. Such timetable will be to the satisfaction of the General Manager and the necessary repairs will be remedied in a timely and expeditious manner as necessary to satisfy the provisions of Paragraph 3 of the full agreement.

The Club further agrees that such timetable for repairs will include therein that health and safety code violations will be remedied first, that such work will commence no later than 30 days after approval of this lease and that all health and safety code work will be completed no later than six (6) months after the commencement of such repairs. All repairs will be up to all legal code requirements and any precautions necessary to protect the safety of the Club's members or the general public, including vacation of the premises if necessary, will be taken.

B. TERM

The term of the option to renew as described in Paragraph 7 of the full agreement shall be for an additional Twenty-Four (24) years only, thereby making the full possible term of this agreement not more than Forty-Nine years total.

C. RATES AND CHARGES

Lessee agrees that it will not raise, lower or otherwise change any rates and charges as described in Paragraph 10 of the full agreement without the prior written approval of the Lessor.

IN WITNESS WHEREOF, the Lessee and Lessor have executed these amendments in duplicate this July 1, 1979.

APPROVED AS TO FORM:

GEORGE AGNOST
CITY ATTORNEY

By Paula Gerson
Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO
RECREATION AND PARK COMMISSION
LESSOR:

By Katherine Colzani, Secretary

By John J. Spring, General Manager

By Frank C. Dawson
President

RESOLUTION APPROVING MANNER OF OPERATING

DOLPHIN SWIMMING AND BOATING CLUB

AND

SOUTH END ROWING CLUB

Approved
7/26
F. J.

WHEREAS, the manner in which the Dolphin Swimming and Boating Club and the South End Rowing Club (hereafter "the Clubs") operate for public benefit, its hours of operation, the means by which nonmembers gain access, and the fees charged for use of the facilities by members and nonmembers, among other things, are subject to approval of this Commission; and

WHEREAS, membership in the Clubs must, in order to conform to the requirements of the Fourteenth Amendment of the U.S. Constitution and of the San Francisco Charter, be open to all interested persons who are presumptively entitled to join absent good cause for exclusion; and

WHEREAS, because of the duty of the Clubs to provide public recreation, initiation fees charged new applicants must be reasonable and not excessive in relation to the amounts charged new members in clubs of a similar nature; and

WHEREAS, the Clubs shall be allowed to charge a reasonable initiation fee, as long as such amount will not erect a financial barrier to persons wanting to use the Clubs' facilities as members, thereby effectively denying public access; and

WHEREAS, the Clubs have operated since 1938 in such a manner that members only have had access to the Clubs' facilities; and

WHEREAS, opening the Clubs' facilities to nonmembers is a new manner of operating the facilities which may expose the Clubs to problems and expenses not encountered before, such as increased security problems, including danger to persons and property, and increased operating expenses generated by the costs incurred in keeping the facilities open to the public and the impossibility of recouping from the possibly small number of non-member patrons the full costs incurred in opening the facilities to nonmembers; and

WHEREAS, providing an opportunity for the Clubs to try different methods of admitting nonmembers to their facilities will allow the Clubs the flexibility necessary to discover the most efficient manner in which these facilities can be utilized on behalf of members and nonmembers alike; and

WHEREAS, the Dolphin Club charges its members \$156.00 per year as dues and the South End Club charges its members \$140.00 per year as dues; and

WHEREAS, the financial statements of the Clubs reveal that the monthly dues charged members are reasonable and necessary in order to meet the operating expenses of the Clubs; and

WHEREAS, the Clubs plan to be open to non-members from 9:00 A.M. to 5:00 P.M., five days a week, every Monday, Wednesday, Friday, Saturday and Sunday; and

WHEREAS, the Clubs' members have access to the Clubs' facilities 24 hours a day; and

WHEREAS, the demand for and use of the facilities by nonmembers is likely to be greater during the day than at night; and

WHEREAS, security problems are greater at night; and

WHEREAS, it is desirable to allow the Clubs (for a period of time) to operate during the day only in order to gauge interest by nonmembers in the use of the Clubs' facilities before imposing on the Clubs the problems inherent in opening the facilities to nonmembers 24 hours a day; and

WHEREAS, the Clubs propose to charge nonmembers \$3.00 for access to the facilities; and

WHEREAS, this fee will allow nonmembers the use for the day of the Clubs' facilities, including sundeck, sauna, shower, handball court, gymnasium equipment and all areas open to members of the Clubs; and

WHEREAS, use of one of the Clubs' boats will not be permitted upon payment of this \$3.00 fee but only by prior appointment, upon payment of an additional amount of money, and only upon satisfactory proof that the nonmember is capable of using the boat safely; and

WHEREAS, the Clubs will pay a person an hourly salary to be available to let in nonmembers to the facilities; and

WHEREAS, the cost of using the YMCA facility on Golden Gate Avenue in San Francisco, including pool, sundeck, running track, gymnasium equipment, and handball court is \$4.00 for the day; and

WHEREAS, until the Clubs have been open to the nonmembers for a period of time it will be impossible to know whether the number of nonmembers using the facilities will be sufficient to reimburse the Clubs for the costs of providing access to them; and

WHEREAS, the Clubs have advertised in eight (8) publications geared toward persons interested in the sports of rowing and boating that the Clubs will be open to nonmembers and the times the Clubs will be open; and

number of nonmembers using the Clubs' facilities and the dates and approximate times of such use; and

WHEREAS, the Clubs are hereby required to post a sign on the exterior of their facilities stating the hours of operation, telephone number to call for more information regarding the Clubs and their activities, and a telephone number for persons to call on the Recreation and Park Department, and the hours to call such number, if they have trouble gaining access to the Club facilities, the wording of such sign to receive the prior approval of the Recreation and Park Department staff; and

WHEREAS, the Clubs are hereby required to return to this Commission in six months, or sooner, upon 21 days written advance notice from this Commission, or upon request of the Clubs, for review of the use of the facilities by nonmembers, including the fees charged nonmembers for such use, for the purpose of determining whether the number of nonmembers seeking to use the Clubs' facilities and the days and hours during which they seek to do so justify increasing or decreasing the hours during which the Clubs facilities must be made available to nonmembers in order to strike an equitable balance between the burden on the Clubs in keeping the facilities open to nonmembers and the obligation of the Commission and the Clubs to maximize the public use of the City's recreational facilities; and

WHEREAS, identification shall be required only of those persons whom the Clubs' attendants reasonably suspect are under 18 years of age and are attempting to gain access to the Clubs' facilities unescorted by an adult; and

WHEREAS, no other identification shall be required or request of nonmembers in order to gain access to the Clubs' facilities, provided, however, that the Clubs shall, unless directed otherwise by the Recreation and Park Department, require nonmembers to sign a statement informing such persons of the dangers of swimming in the bay and stating that such persons assume the risk of swimming in the bay.

MEMORANDUM, BE IT RECORDED that the Commission does hereby approve:

1. The annual membership fees of \$156.00 (Dolphin) and \$140.00 (South End) on their members, payable quarterly;
2. The Clubs' plan to open their facilities to non-members from 9:00 A. M. to 9:00 P.M. every Monday, Wednesday, Friday, Saturday and Sunday;
3. The charge to a swimmer for use of the Clubs' facilities of \$3.00 for the day; and
4. The charge to new members of an initial fee not to exceed \$50.00, said amount payable in quarterly installments in the first year of membership of not less than \$12.50 per quarter.

FILE NO 242-81

ORDINANCE NO. 328 81

1 AMENDING ARTICLE XIII, CHAPTER 10 OF THE SAN FRANCISCO ADMINISTRATIVE
2 CODE, BY ADDING SECTION 10.117-23 THERETO, ESTABLISHING A SPECIAL
3 FUND OF THE DOLPHIN SWIMMING AND BOATING CLUB LOCATED AT
4 AQUATIC PARK AND SPECIFYING PURPOSES FOR WHICH SAID FUND MAY BE USED.

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8 Be it ordained by the People of the City and County of San Francisco:
9 Section 1. Article XIII, Chapter 10 of the San Francisco
10 Administrative Code is hereby amended by adding Section 10.117-23
11 thereto, reading as follows:

12 SEC. 10.117-23. Dolphin Club Special Fund; Establishment;
13 Expenditures.

14 There is hereby established a special fund in the Treasury of
15 the City and County of San Francisco to be known and designated as
16 the Dolphin Club Special Fund, into which shall be deposited all
17 gifts, donations and contributions which may be offered to
18 the City for the purposes of constructing, reconstructing, restoring,
19 repairing, or improving the grounds, buildings and/or facilities of
20 the Dolphin Swimming and Boating Club located at Aquatic Park. All
21 expenditures from such fund shall be made by the Controller to the
22 Recreation and Park Department upon request by that Department,
23 provided that such request is accompanied by a written statement that
24 the expenditures are solely for the purposes described above. The
25 Recreation and Park Department shall, upon approval of the Recreation
26 and Park Commission, authorize the expenditures of such funds solely
27 for the purposes set forth above.

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29 APPROVED AS TO FORM:
30 GEORGE ACHOST, CITY ATTORNEY

BY Paul J. Quinn
Deputy City Attorney

Passed for Second Reading
Board of Supervisors, San Francisco

JUN 8 1981

Ayes: Supervisors Britt, Dabson, Kennedy, Kopp, ~~Ward~~ Nelder, Heune, Silver,
~~Walker, Ward.~~

Absent: Supervisors MONSIEU MOLUANE

WALKER

Ed. J. ... Clerk

Read Second Time and Finally Passed
Board of Supervisors, San Francisco

JUN 15 1981

Ayes: Supervisors Britt, Dabson, Kennedy, Kopp, Molinari, Nelder, Heune, Silver,
Walker, Ward.

I hereby certify that the foregoing ordinance was
finally passed by the Board of Supervisors of the
City and County of San Francisco.

Ed. J. ... Clerk