



# CITY COUNCIL AGENDA

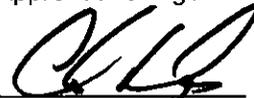
MEETING DATE: JULY 7, 2009

TO: CITY COUNCIL/CITY MANAGER

FROM: PARKS AND RECREATION 1200  
R=7/11  
P=7/11

SUBJECT: LEASE AGREEMENTS WITH THE CHILD GUIDANCE CENTER  
AND THE FULLERTON COMMUNITY NURSERY SCHOOL

Approved for Agenda:

  
City Manager's Office

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## SUMMARY

The Parks and Recreation Department has been working with the Child Guidance Center and the Fullerton Community Nursery School to negotiate new lease agreements for the Brea Dam facility (see Attachments A and B). The two tenants had previously subleased the facilities from the Children's League of Fullerton. After the Children's League's lease expired, the property reverted to the City and the two tenants became "hold-over" tenants of the City.

The Parks and Recreation Commission reviewed the terms of the lease agreements at its June 15, 2009 meeting and unanimously recommended approval (see Attachment C).

## RECOMMENDATION

That the City Council approve the lease agreements between the City of Fullerton and the Child Guidance Center, and the City of Fullerton and the Fullerton Community Nursery School.

## PROPOSED COSTS

None.

## DISCUSSION

The Child Guidance Center and Fullerton Community Nursery School have been operating at the Brea Dam facility since 1963. The two organizations operated on the property as sub-tenants under a master lease held by the Children's League of Fullerton. The facility, located at 2050 Youth Way, consists of two buildings and three parking lots (see Attachment D). **The previous lease with the Children's League was for**

\$1 per year. In exchange, the Children's League was responsible for all of the maintenance and improvements to the buildings and property.

Due to several factors, the buildings had not been properly maintained for several years. The original lease was in effect until October 16, 2006, when the Children's League ceased operations and dissolved. Following this, the existing subtenants expressed a desire to continue leasing their buildings from the City. The subleases with the Child Guidance Center and Fullerton Community Nursery continued on a month-to-month basis while the City arranged for numerous repairs to the facility.

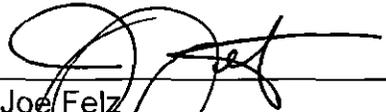
Since the City took over management of the two buildings, the City has spent approximately \$120,000 in improvements. The improvements include painting the exterior of the buildings, replacing the roof, signage, landscaping (in progress) and storm drain upgrades (in progress). The tenants have also made improvements at their expense. The Nursery School replaced their carpeting, painted the interior, made ADA upgrades to their restroom and upgraded their kitchen. The Child Guidance Center completed ADA and fire compliance exiting upgrades.

Both tenants are Fullerton-based nonprofit organizations providing services to youth. The City's past practice with property leases with nonprofits similar to these has been to lease the property for \$1. The tenants are required to make all improvements and provide all ongoing maintenance and repairs at their cost. The City currently has this type of lease with the YMCA, Boys and Girls Club and the Kiwanis Club.

The proposed lease agreements with Child Guidance Center and Fullerton Community Nursery School are in line with this past practice of "renting" the property for \$1 per year, however, the proposed lease agreements differ from other agreements in that both agencies prefer that the City provide the facility maintenance, landscape maintenance, repairs, and capital improvements to the building. Thus, the proposed payments paid to the City equal the costs for building maintenance and improvements. These payments are calculated using the costs for services being provided at other City facilities. All parties have agreed to these terms.

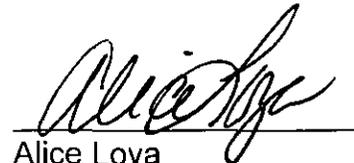
The other terms of the leases include the following:

- Five-year term with 2 five-year options to extend
- Lease of buildings only, excludes parking lots
- Monthly payments for City services are \$5,570 for the Child Guidance Center and \$1,618 for the Fullerton Community Nursery School, increasing 3% annually.
- Services provided by the City include: building maintenance; facility improvement replacement fund; HVAC replacement fund; landscape maintenance, tree maintenance, 5% administration fee; and reimbursements for the recent improvements made by the City.
- Maintenance costs will be reviewed for potential adjustments at each five-year term



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Joe Felz  
Director of Parks and Recreation



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Alice Loya  
Administrative Manager

- Attachments:
- A: Child Guidance Center Lease Agreement
  - B: Fullerton Community Nursery School Lease Agreement
  - C: Draft Parks and Recreation Commission Minutes of June 8, 2009
  - D: Aerial Views of Property

**CHILD GUIDANCE CENTER  
LEASE AGREEMENT**

**CHILD GUIDANCE CENTER  
LEASE AGREEMENT**

This Agreement ("AGREEMENT" or "LEASE") is entered into, this July 1, 2009 (the "Effective Date"), by and between the City of Fullerton, a municipal corporation (hereinafter "CITY"), and the Child Guidance Center, Inc., a California public benefit corporation (hereinafter "TENANT" or "CGC".)

**RECITALS**

WHEREAS, TENANT entered into a sublease with the Children's League of Fullerton in 1972 to use and occupy a portion of that certain parcel of public land located in the Brea Dam Flood Control Basin, at 2050 Youth Way, in the City of Fullerton, County of Orange, and State of California (hereinafter the "PROPERTY"), for the purposes of operating and managing the facility. The PROPERTY is described in greater detail in the documents attached hereto as Attachment A (Assessor's Map 028-050-36) of which is incorporated by this reference; and

WHEREAS, the Children's League's lease with the City was terminated in 2006 and the TENANT continued to operate on the property as a hold over tenant.

WHEREAS, TENANT wishes to continue to occupy the PROPERTY to provide specialized outpatient mental health, child abuse and substance abuse counseling services to children and families; and

NOW, THEREFORE, in consideration of the promises and the respective and mutual agreements contained herein, said parties hereby agree as follows:

**I. PROPERTY**

City hereby Leases the facilities commonly referred as the Child Guidance Center on the PROPERTY to TENANT subject to the terms of this Agreement. TENANT has had an opportunity to thoroughly inspect the PROPERTY, and accepts "as is," in its existing condition. The PROPERTY does not include the parking lots and paddle court.

**II. USE**

For consideration herein described, TENANT's use of all parcels of the PROPERTY shall be for public park and recreational purposes, and for the purpose of providing specialized outpatient mental health, child abuse and substance abuse counseling services to children and families.

No human habitation shall be permitted on the PROPERTY. This will not be construed to prohibit TENANT from providing properly designed and approved guard stations for night watch persons or other patrol.

**III. LIMITATION OF THE LEASEHOLD**

This AGREEMENT and the rights and privileges granted TENANT in and to the PROPERTY are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this AGREEMENT or in any document related hereto shall be construed to imply the conveyance to TENANT of rights in the PROPERTY which exceed those owned by CITY.

That the provisions of that certain License Agreement entered into between The United States (Department of the Army) and The City of Fullerton on December 1, 1959, and any of its supplemental agreements (hereinafter collectively referred to as the "License Agreement"), are incorporated into this AGREEMENT as if set out in full and TENANT is bound by and subject to each of said terms and conditions. A copy of the License Agreement is attached as Attachment C. If a conflict exists between said License Agreement and this AGREEMENT, the terms of the License Agreement shall prevail. TENANT affirms that they have had an opportunity to review the License Agreement with their own counsel, and agree to abide by its terms.

#### IV. PAYMENTS

TENANT shall pay CITY the sum of \$5,570 per month in rent for the first term this Agreement. Monthly rent includes \$3,860 in base rent and \$1,710 for the capital improvement fund. Base rent will increase on July 1<sup>st</sup> of each year by 3% per Attachment B (Rent Calculation) of this Agreement. The capital improvement fund will adjust annually based on the number of years capitalized for each improvement per Attachment B (Rent Calculation) of this Agreement.

Payments shall be due on July 1<sup>st</sup> of each year and will be considered delinquent if not paid by July 15<sup>th</sup>. At each five-year term, maintenance costs will be reviewed for potential adjustments.

#### V. TERM

##### A. Initial Term

The term of this TENANT shall commence on the Effective Date as shown on Page One (1) of this Agreement and remains in effect for a period of five (5) years, unless terminated sooner pursuant to Section VI or XI.

##### B. Extension of Term

The term of this TENANT may be extended, with mutual agreement between the CITY and TENANT for two (2) additional five (5) year terms at the conclusion of the initial term. Each five-year term will automatically be extended, unless either party submits in writing otherwise to the other party within six (6) months of the end of the previous five-year term. The terms and conditions of this agreement shall remain in effect throughout the duration of the initial term and any extension unless amended pursuant to Section XIV of this Agreement.

#### VI. TERMINATION

Throughout the Term this AGREEMENT may be terminated by either party by providing twelve (12) months written notice to the other party of its intention to terminate. CITY may also terminate the AGREEMENT as provided in Section XI.

#### VII. SUBLEASE OR ASSIGNMENT

Any sublease or assignment of TENANT's interest in the PROPERTY or any part or portion thereof is prohibited without the CITY's written consent. Any attempted sublease or assignment without the CITY's written consent shall be null and void and shall be cause for immediate termination of this AGREEMENT and shall confer no right, title, or interest in or to this AGREEMENT.

### VIII. MAINTENANCE AND IMPROVEMENTS OF PROPERTY

City will provide building maintenance, facility capital repair and landscape maintenance. Building maintenance includes general maintenance to the buildings and fixtures and does not include maintenance of equipment, data and telephone lines or personal property. Facility capital repair includes scheduled replacement of the roof, flooring, exterior and interior painting and the HVAC system. Landscape maintenance includes irrigation repair and replacement, tree trimming, rodent control, and maintenance of plants and shrubbery.

TENANT shall not make or cause any substantial alterations or improvements to be made in or on the PROPERTY without first obtaining the written approval of the CITY and the United States of America. TENANT shall obtain all applicable Federal, State and local permits and approvals before any alterations or improvements are made to the PROPERTY. All improvements affixed to the PROPERTY by TENANT shall become the property of CITY.

### IX. INSURANCE REQUIREMENTS

TENANT shall procure and maintain throughout the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the TENANT's operations, occupancy of and use of the leased premises. TENANT shall provide current evidence of the required insurance in a form acceptable to the CITY and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration or termination of this Agreement.

Nothing in this section shall be construed as limiting in any way, the Indemnification and Hold Harmless clause contained herein in Section XI or the extent to which TENANT may be held responsible for payments of damages to persons or property.

#### A. Minimum Scope and Limits of Insurance

1. **Commercial General Liability Insurance.** TENANT shall maintain commercial general liability insurance coverage in a form at least as broad as ISO Form #CG 001 ED. 11/88, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit.
2. **Business Automobile Liability Insurance.** TENANT shall maintain business automobile liability insurance coverage in a form at least as broad as ISO Form # CA 000 T ED. 6/92, with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.
3. **Host Liquor Liability.** TENANT shall maintain a host liquor liability policy with a limit of not less than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit. (This coverage is not required if TENANT shall not sell, serve or distribute alcohol beverages on or from the leased premises.)
4. **Workers' Compensation and Employers' Liability Insurance.** TENANT shall maintain workers' compensation insurance as required by the State of California and employers' liability insurance with limits of not less than \$1,000,000 each accident.
5. **All Risk Property Insurance.** TENANT shall maintain all risk property insurance including coverage for tenant improvements or betterments with a minimum limit equal to full

replacement cost as approved by the CITY of the leased premises and with no coinsurance penalty provision.

B. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the CITY.

C. Other Insurance Provisions

The required insurance policies shall contain or be endorsed to contain the following provisions:

1. Commercial General Liability, Business Automobile Liability and Host Liquor Liability.

This insurance shall be primary insurance as respects the CITY, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by the CITY, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it.

2. All Risk Property.

CITY shall be named as a loss payee.

3. Workers' Compensation and Employers' Liability Insurance.

Insurer shall waive their right of subrogation against CITY, its officers, employees and volunteers for work done on behalf of the CITY.

4. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

D. Acceptability of Insurers

All required insurance shall be placed with insurers acceptable to the CITY with current BEST'S ratings of no less than B+, Class X. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of the CITY, insurance provided by non-admitted or surplus carriers with a minimum BEST'S rating of no less than A- Class X may be accepted if TENANT evidences the requisite need to the sole satisfaction of the CITY.

E. Verification of Coverage

TENANT shall furnish the CITY with certificates of insurance which bear original signatures of authorized agents and which reflect insurers names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. **Additionally, TENANT shall furnish certified copies of all policy endorsements required herein.** All certificates and endorsements must be received and approved by CITY before TENANT occupies premises. The CITY reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

## X. INDEMNIFICATION

TENANT agrees to accept the PROPERTY "as is," in its existing condition. TENANT shall defend, indemnify, save and hold harmless the CITY and THE UNITED STATES OF AMERICA, and their respective elected officials, officers, employees, agents and volunteers, (collectively "Indemnitees") from and against any and all damages to property or injuries or death of any person or persons, including injuries or death to officials, officers, employees, agents or volunteers of the Indemnitees, and shall defend, indemnify, save and hold harmless the Indemnitees, from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, resulting from, arising out of, or in any way related to, the acts, errors or omissions of TENANT, its officers, employees, agents, volunteers and subcontractors, in the performance of this Agreement or otherwise related to TENANT's occupancy and use of the PROPERTY, including the Indemnitee's active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the Indemnitees.

The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by TENANT, its officers, employees, agents, volunteers or subcontractors, but shall be required whenever any claim, demands, suits, actions or proceedings of any kind or nature asserts liability against the Indemnitees, related to TENANT's occupancy and use of the PROPERTY or to this Agreement, whether or not TENANT, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

## XI. DEFAULT IN TERMS OF THE AGREEMENT BY TENANT

Should TENANT default in the performance of any covenant, condition, or agreement contained in this AGREEMENT and such default is not corrected within a reasonable period of time, not to exceed thirty (30) days, after TENANT receives written notice of default from CITY, CITY may:

- A. **Terminate this AGREEMENT.** All rights of TENANT and those who claim under TENANT, stemming from this AGREEMENT, shall end at the time of such termination; or
- B. At CITY's sole option, correct any such default by performance of any act, including payment of money, and bill TENANT for the cost thereof plus reasonable administrative costs.
- C. In addition to the above, pursue any other remedies available at law or in equity.

Notwithstanding the terms set forth above, if the default cannot reasonably be corrected within thirty (30) days TENANT shall not be subject to the remedies set forth above if TENANT commences its cure within thirty (30) days and diligently pursues such cure thereafter.

## XII. COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT

In the event either CITY or TENANT commences legal action against the other claiming a breach or default of this AGREEMENT, the prevailing party in such litigation shall be entitled to recover from the other costs of sustaining such action, including reasonable attorney fees, as may be fixed by the court.

XIII. AMENDMENTS

This AGREEMENT sets forth all of the agreements and understandings of the parties and any modification shall be in writing and properly executed by both parties.

XIV. NOTICES

All notices pursuant to this AGREEMENT shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be sent through the United States mail.

<u>CITY</u>	<u>TENANT</u>
Parks and Recreation Department City of Fullerton 303 W. Commonwealth Ave. Fullerton, Ca 92832 (714) 738-6575	Executive Director Child Guidance Center 525 Cabrillo Park Drive, Suite 300 Santa Ana, CA 92701 (714) 953-4455

XV. TAXES AND ASSESSMENTS

This AGREEMENT may create a possessory interest pursuant to Revenue & Taxation Code section 107.6 which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) which become due and payable upon the PROPERTY or upon fixtures, equipment, or other property installed or constructed thereon, shall be the full responsibility of the TENANT, and TENANT shall cause said taxes and assessments to be paid promptly.

XVI. UNLAWFUL USE

TENANT agrees no improvements shall be erected, placed upon, operated, nor maintained within the PROPERTY, nor any business or activities conducted or carried on therein or therefrom, in violation of the terms of this AGREEMENT or of any federal, state or local law or regulation.

XVII. INSPECTION

CITY or its authorized representative shall have the right at all reasonable times to inspect the PROPERTY to determine if TENANT is in compliance with the provisions of this AGREEMENT, or for any other reasonable purpose.

XVIII. PERMITS AND LICENSES

TENANT shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with its operations on the PROPERTY, or in connection with any improvements it may construct on the PROPERTY. No permit approval or consent given hereunder by CITY in its governmental capacity shall affect or limit TENANT's obligations hereunder, nor shall any approvals or consents given by CITY, as a party to this AGREEMENT, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

**XIX. HAZARDOUS MATERIALS**

As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or shall become regulated by any governmental entity, including without limitation, CITY acting in its governmental capacity, the State of California or the United States Government.

- A. TENANT shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the PROPERTY, except as may specifically authorized by CITY in writing. Any such authorization by CITY shall not alter or reduce TENANT's obligations under this section, including but not limited to its duty to indemnify and defend CITY, for any contaminations which may occur as a result of TENANT's use of the authorized material. In light of the preceding limitations, CITY hereby authorizes TENANT's use of pool cleaning and maintenance supplies on the PROPERTY.
- B. If TENANT breaches the obligations stated herein, or if contamination of the PROPERTY by Hazardous Materials otherwise occurs for which TENANT is legally liable to CITY for damage resulting therefrom, then TENANT shall indemnify, defend and hold CITY harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including without limitation, diminution in value of the PROPERTY, damages for the loss or restriction on use of rentable or usable space or any amenity of the PROPERTY, damages arising from any adverse impact on marketing of space in the PROPERTY or portion of any building of which the PROPERTY is a part, and sums paid in settlement of claims, attorneys fees, consultant fees and expert witness fees) which arise during or after the term as a result of such contamination.
- C. This indemnification includes without limitation, costs incurred by CITY in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental entity because of Hazardous Material being present in the soil or ground water or under the PROPERTY. TENANT shall promptly take all actions at its sole cost and expense as are necessary to clean, remove and restore the PROPERTY to its condition prior to the introduction of such Hazardous Material by TENANT, provided TENANT shall first have obtained CITY's approval and the approval of any necessary governmental entities.
- D. Pre-Existing Contamination

CITY hereby agrees to indemnify, defend and hold TENANT harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, known or unknown, arising from any pre-existing soil contamination or other pre-existence of any Hazardous Material on the PROPERTY prior to the date TENANT originally began to occupy the PROPERTY, including but not limited to any sums paid in settlement of claims, attorneys fees, consultant fees and expert witness fees which arise during or after the AGREEMENT term and arising solely from such pre-existing contamination, if any.

**XX. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS**

In the event of damage to or destruction of TENANT-constructed buildings, facilities, or improvements located within the PROPERTY or in the event TENANT-constructed buildings, facilities, or improvements located within the PROPERTY are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, TENANT shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or

reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the PROPERTY for the purposes required by the AGREEMENT. Notwithstanding the foregoing, in the event the TENANT constructed buildings, facilities or improvements are so substantially and catastrophically damaged such that the PROPERTY can no longer reasonably be used or occupied by TENANT for its intended purpose, then in such case TENANT shall have one hundred and twenty (120) days from the date of such event to commence and diligently pursue to completion the repair, replacement, or reconstruction of those damaged improvements as outlined above.

Repair, replacement, or reconstruction of improvements within the PROPERTY shall be accomplished in a manner and according to plans approved by CITY, in its reasonable discretion. Except as otherwise provided herein, termination of this AGREEMENT shall not reduce or nullify TENANT's obligation under this paragraph. With respect to damage or destruction to be repaired by CITY or which CITY elects to repair, TENANT waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

#### XXI. UTILITIES

During the Term of this AGREEMENT, TENANT shall be responsible for and pay all charges for utilities supplied to the PROPERTY.

#### XXII. RECORDS, ACCOUNTS AND AUDIT

TENANT, shall keep or cause to be kept, true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted on the PROPERTY. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents. CITY shall, through its duly authorized agents or representatives, have the right to examine and audit said books of account and records and supporting source documents at any and all reasonable times for the purpose of determining the accuracy thereof.

#### XXIII. PUBLIC RECORDS

Any and all written information submitted to and/or obtained by CITY from TENANT or any other person or entity having to do with or related to this AGREEMENT and/or the PROPERTY, either pursuant to this AGREEMENT or otherwise, at the option of CITY, may be treated as a public record open to inspection by the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public. TENANT hereby waives, for itself, its agents, employees, subtenants and any person claiming by, through or under TENANT, any right or claim that such information is not a public record or that the same is a trade secret, or confidential, or not subject to inspection by the public, including without limitation reasonable attorneys' fees and costs.

#### XXIV. RESERVATION TO CITY

- A. The PROPERTY is accepted "as is" and, thereby, TENANT is subject to any and all existing easements and encumbrances. In addition, CITY reserves the right to install, lay, construct, maintain, repair and operate such sewer lines, drain lines, laterals, manholes and utilities (water, oil, gas, telephone and power) and all appliances and appurtenances necessary or convenient in connection with, in, over, upon, through across, under and along the PROPERTY or any part thereof, and to enter the PROPERTY for any and all such purposes.

CITY also reserves the right to grant franchises, easements, rights-of-way, and permits in, over, upon, through, across, under, and along any and all portions of the PROPERTY. No right reserved by CITY in the Paragraph shall be so exercised as to interfere unreasonably with TENANT'S operations hereunder or to impair the security of any secured creditor of TENANT.

- B. CITY agrees that rights granted to third parties by reason of this Paragraph shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction, excepting those portions required for the slope remediation project.

#### XXV. HOLDING OVER

In the event TENANT shall continue in possession of the leased PROPERTY after the term of this AGREEMENT, such possession shall not be considered a renewal of his AGREEMENT, but a tenancy from month to month and shall be governed by the conditions and covenants contained in this AGREEMENT or provided by law.

#### XXVI. CITY'S RIGHT TO RE-ENTER

TENANT agrees to yield and peaceably deliver possession of the PROPERTY to CITY on the date of termination of this AGREEMENT, whatsoever the reason for such termination. Upon giving written notice of termination to TENANT, CITY shall have the right to re-enter and take possession of the PROPERTY on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the AGREEMENT and re-entry of the PROPERTY by CITY shall in no way alter or diminish any obligation of TENANT under terms of the AGREEMENT and shall not constitute an acceptance or surrender.

TENANT waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the PROPERTY for any lawful reason or in the event CITY re-enters and takes possession of the PROPERTY in a lawful manner.

#### XXVII. AUTHORITY OF TENANT

If TENANT is a corporation, each individual executing this AGREEMENT on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this AGREEMENT on behalf of said corporation, in accordance with the by-laws of said corporation, and that this AGREEMENT is binding upon said corporation.

#### XXVIII. RELATIONSHIP OF PARTIES

The relationship of the parties hereto is and shall at all times remain that of Lessor and Tenant. It is expressly understood and agreed that by executing this AGREEMENT and allowing TENANT to take possession of the PROPERTY, CITY does not in any way or for any purpose become a partner of TENANT, or otherwise establish a joint venture between CITY and TENANT.

#### XXIX. ATTACHMENTS

This AGREEMENT includes the following, which are attached hereto and made a part hereof:

Attachment A – Assessors Map for PROPERTY

Attachment B – Rent Schedule

Attachment C – License Agreement between City and United States for the PROPERTY

IN WITNESS WHEREOF, the parties have executed this license the day and year first above written.

CITY OF FULLERTON  
A Municipal Corporation

TENANT  
Child Guidance Center

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Don Bankhead, Mayor

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Executive Director

ATTEST

APPROVED AS TO FORM

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Beverley White, City Clerk

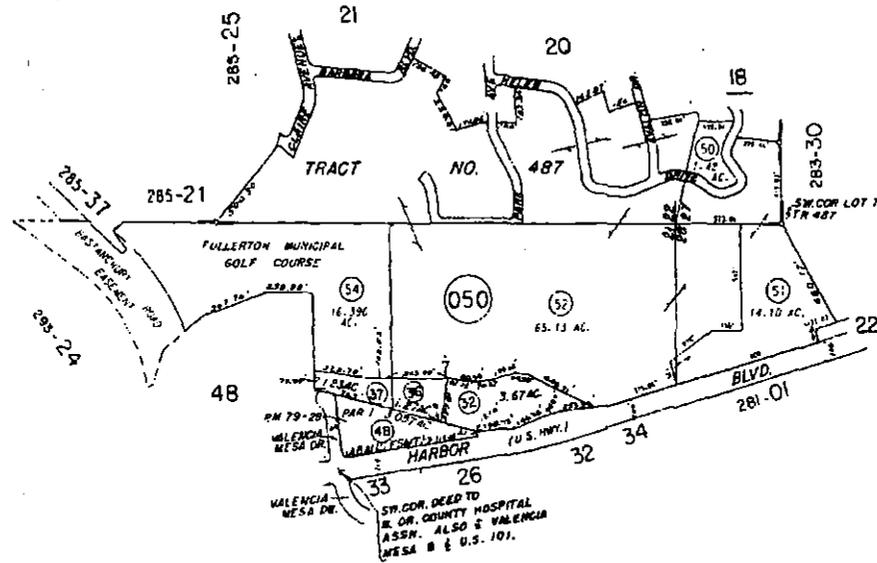
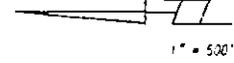
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Richard D. Jones, City Attorney

COUNTY ASSESSOR DEPT. PURPOSES ONLY.  
 THE ASSESSOR MAKES NO GUARANTEE AS TO  
 ITS ACCURACY NOR ASSUMES ANY LIABILITY  
 FOR OTHER USES. NOT TO BE REPRODUCED.  
 ALL RIGHTS RESERVED.  
 © COPYRIGHT ORANGE COUNTY ASSESSOR 2003

POR. SEC. 21, 22, 27 & 28, T 3 S, R 10 W

028-05



Attachment A  
 Assessor's Map for Parcel

MARCH 1949

TRACT NO. 487  
 PARCEL MAP

N.M. 18-34  
 P.M. 79-28

NOTE - ASSESSOR'S BLOCK &  
 PARCEL NUMBERS  
 SHOWN IN CIRCLES

ASSESSOR'S MAP  
 BOOK 028 PAGE 05  
 COUNTY OF ORANGE

1-1-03

THIS MAP WAS PREPARED FOR ORANGE COUNTY  
 ASSESSOR DEPARTMENT USE ONLY. THE ASSESSOR  
 MAKES NO GUARANTEE AS TO ITS ACCURACY  
 NOR ASSUMES ANY LIABILITY FOR OTHER USES.  
 NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
 © COPYRIGHT ORANGE COUNTY ASSESSOR 2003

## Child Guidance Center and Fullerton Community Nursery School Rent Calculation

### Rent per Building Square Footage

Occupant	Occupancy Areas	Proposed Monthly Rent - Year 1				Total Rent	
		Maint.	Improvements	Admin	AC/Storm	Month	Annual
Child Guidance Center	6,623	\$2,997.62	\$490.02	\$149.88	\$904.39	\$4,541.91	
ECP Room	1,100	\$497.87	\$81.39	\$24.89	\$150.21	\$754.36	
Community Room	400	\$181.04	\$29.60	\$9.05	\$54.62	\$274.31	
<b>Total</b>	<b>8,123</b>	<b>\$3,676.53</b>	<b>\$601.00</b>	<b>\$183.83</b>	<b>\$1,109.22</b>	<b>\$5,570.58</b>	<b>\$66,847</b>
Community Nursery School	2,412	\$1,037.10	\$178.46	\$54.58	\$0.00	\$1,270.15	
Community Room	400	\$171.99	\$29.60	\$9.05	\$29.67	\$240.30	
Comm. Room Office	126	\$54.18	\$9.32	\$2.85	\$0.00	\$66.35	
Kitchen	80	\$34.40	\$5.92	\$1.81	\$0.00	\$42.13	
<b>Total</b>	<b>3,018</b>	<b>\$1,297.67</b>	<b>\$223.30</b>	<b>\$68.30</b>	<b>\$29.67</b>	<b>\$1,618.93</b>	<b>\$19,427</b>
<b>Grand Total</b>	<b>11,141</b>	<b>\$4,974.20</b>	<b>\$824.30</b>	<b>\$252.13</b>	<b>\$1,138.89</b>	<b>\$7,189.51</b>	<b>\$86,274</b>

Fees	Actual	Years Cap.	Annual per sq'	Monthly/ per sq'
Bldg. Maintenance	\$40,280		\$3.615	\$0.301
Facility Capital Repair	\$16,230		\$1.457	\$0.121
Landscaping	\$4,000		\$0.359	\$0.030
Ongoing Subtotal	\$60,510		\$5.431	\$0.453
Administration	5%		\$0.272	\$0.023
<b>Improvements Completed by City</b>				
Roof (15 yrs)	72,265	4,818	\$0.43	\$0.04
Landscaping & signs (3 yrs)	7,722	2,574	\$0.23	\$0.02
Paint (10 yrs)	25,000	2,500	\$0.22	\$0.02
Improvements Subtotal			\$0.89	\$0.07
AC & Storm Drain	44,600			
CGC - AC (3 yrs)	21,932	7,311	\$0.90	\$0.07
Storm Drain (3 yrs)	18,000	6,000	\$0.74	\$0.06
FCNS - AC (3 yrs)	1,068	356	\$0.89	\$0.07
Rent for FCNS			\$6.32	\$0.53
Rent for CGC			\$7.96	\$0.60

**Child Guidance Center and Fullerton Community Nursery School  
Rent Calculation**

Occupant	Areas	Proposed Monthly Rent - Year 2					Annual Rent	Proposed Monthly Rent - Year 3					Annual Rent
		Maint.	Improv.	Admin	AC/Storm	Total		Maint.	Improv.	Admin	AC/Storm	Total	
Child Guidance Center	8,123	3,787	619	189	1,142	<b>\$5,738</b>	\$68,852	3,900	638	195	1,177	<b>\$5,910</b>	\$70,918
Nursery School	3,018	1,337	230	70	31	<b>\$1,667</b>	\$20,010	1,377	237	72	31	<b>\$1,718</b>	\$20,610
<b>Grand Total</b>	<b>11,141</b>	<b>5,123</b>	<b>849</b>	<b>260</b>	<b>1,173</b>	<b>\$7,405</b>	<b>\$88,862</b>	<b>5,277</b>	<b>874</b>	<b>267</b>	<b>1,208</b>	<b>\$7,627</b>	<b>\$91,528</b>

Occupant	Areas	Proposed Monthly Rent - Year 4				Annual Rent	Proposed Monthly Rent - Year 5				Annual Rent
		Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,017	491	201	<b>\$4,709</b>	\$56,510	4,138	506	207	<b>\$4,850</b>	\$58,205
Nursery School	3,018	1,418	182	75	<b>\$1,675</b>	\$20,100	1,461	188	77	<b>\$1,725</b>	\$20,703
<b>Grand Total</b>	<b>11,141</b>	<b>5,435</b>	<b>673</b>	<b>276</b>	<b>\$6,384</b>	<b>\$76,610</b>	<b>5,599</b>	<b>693</b>	<b>284</b>	<b>\$6,576</b>	<b>\$78,908</b>

Occupant	Areas	Proposed Monthly Rent - Year 6				Annual Rent	Proposed Monthly Rent - Year 7				Annual Rent
		Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,262	521	213	<b>\$4,996</b>	\$59,951	4,390	536	219	<b>\$5,146</b>	\$61,750
Nursery School	3,018	1,504	193	79	<b>\$1,777</b>	\$21,324	1,549	199	82	<b>\$1,830</b>	\$21,964
<b>Grand Total</b>	<b>11,141</b>	<b>5,766</b>	<b>714</b>	<b>292</b>	<b>\$6,773</b>	<b>\$81,275</b>	<b>5,939</b>	<b>736</b>	<b>301</b>	<b>\$6,976</b>	<b>\$83,713</b>

Occupant	Areas	Proposed Monthly Rent - Year 8				Annual Rent	Proposed Monthly Rent - Year 9				Annual Rent
		Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,522	552	226	<b>\$5,300</b>	\$63,602	4,657	569	233	<b>\$5,459</b>	\$65,510
Nursery School	3,018	1,596	205	84	<b>\$1,885</b>	\$22,623	1,644	211	87	<b>\$1,942</b>	\$23,301
<b>Grand Total</b>	<b>11,141</b>	<b>6,118</b>	<b>758</b>	<b>310</b>	<b>\$7,185</b>	<b>\$86,225</b>	<b>6,301</b>	<b>780</b>	<b>319</b>	<b>\$7,401</b>	<b>\$88,811</b>

Occupant	Areas	Proposed Monthly Rent - Year 10				Annual Rent	Proposed Monthly Rent - Year 11				Annual Rent
		Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,797	521	240	<b>\$5,558</b>	\$66,690	4,941	536	247	<b>\$5,724</b>	\$68,691
Nursery School	3,018	1,693	152	89	<b>\$1,935</b>	\$23,215	1,744	157	92	<b>\$1,993</b>	\$23,912
<b>Grand Total</b>	<b>11,141</b>	<b>6,490</b>	<b>673</b>	<b>329</b>	<b>\$7,492</b>	<b>\$89,906</b>	<b>6,685</b>	<b>693</b>	<b>339</b>	<b>\$7,717</b>	<b>\$92,603</b>

City Improvements	Year 4	CGC	FCNS	Year 10	CGC	FCNS
Roof (15 yrs)	\$0.04	\$319.86	\$118.84	\$0.05	\$381.93	\$141.90
Landscaping (3 yrs)	\$0.02	\$165.91	\$61.64			
Paint (10 yrs)	\$0.02	\$161.15	\$59.87	\$0.02	\$65.42	\$65.42

Attachment C  
Agreement between City and United States

Lease No. DACW09-1-68-22  
Department of the Army  
Brea Flood Control Basin,  
City of Fullerton  
Orange County, California

SUPPLEMENTAL AGREEMENT NO.4

THIS SUPPLEMENTAL AGREEMENT NO.4, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the Lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACW09-1-68-22 was entered into between the Government and the Lessee, to use and occupy for public park and recreational purposes 192.41 acres, more or less, of land and water areas, designated as Unit A-8, located within the Brea Flood Control Basin, Orange County, California ("Brea Flood Basin"), for a term of forty-three (43) years, beginning 1 June 1966 and ending 31 May 2009; and

WHEREAS, by Supplemental Agreement No.1 dated 30 September 1968, 26.84 acres, more or less, were added to said lease, thereby increasing the total acreage from 192.41 acres, more or less, to 219.25 acres, more or less. Condition Nos. 17 and 32 of the basic lease were deleted, and new Condition Nos. 17 and 32 were inserted in lieu thereof. New Condition Nos. 33, 34 and 35 were added to the basic lease; and

WHEREAS, by Supplemental Agreement No.2 dated 3 June 1974, 1.49 acres, more or less, were added to said lease, thereby increasing the total acreage from 219.25 acres, more or less, to 220.74 acres, more or less; and

WHEREAS, by Supplemental Agreement No.3 dated 1 October 1991, the term of said lease was extended beyond its then current expiration date of 31 May 2009 to 31 May 2042; and

WHEREAS, Unocal Land & Development Company ("Unocal") is the owner of certain real property situated adjacent to the leased premises (the "Unocal Property"), which Unocal wishes to develop for residential uses (the "Residential Project"). As a condition to the development of the

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

Residential Project, which is in the public interest, the Lessee is requiring that Unocal develop certain portions of the leased premises and the Unocal Property as a recreational sports complex comprising 17 acres, more or less, as generally depicted on Exhibit A attached hereto and hereby made a part hereof (the "Sports Complex").

WHEREAS, to facilitate the development of the Residential Project and the Sports Complex, Unocal has requested that the Government complete an exchange transaction contemporaneously with the execution of this Supplemental Agreement No.4 (the "Exchange") pursuant to which (i) Unocal will convey to the Government a portion of the Unocal Property, as such portion is depicted on Exhibit A attached hereto as the Unocal Exchange Parcel, which will be developed as part of the Sports Park (the "Unocal Exchange Parcel") and (ii) the Government will convey to Unocal portions of the leased premises, as such portions are depicted on Exhibit A attached hereto as the Government Exchange Parcels, which portions will be developed as a part of the Residential Project (the "Government Exchange Parcels").

WHEREAS, the Lessee, by letter dated April 10, 1997, requested that the Government complete the Exchange and Supplement 4 to Lease No. DACW09-1-68-22 to provide for the deletion of the Government Exchange Parcels and the addition of the Unocal Exchange Parcel.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree that effective upon the date of execution hereof, Lease No. DACW09-1-68-22 is modified in the following particulars:

1. That 5.952 acres, more or less, comprising the Government Exchange Parcels, are deleted from Lease No. DACW09-1-68-22 and 9.236 acres, more or less, comprising the Unocal Exchange Parcel, are added to Lease No. DACW09-1-68-22, thereby resulting in a net increase in the total acreage of the leased premises as stated in Supplemental Agreement No.2 from 220.74 acres to 224.024 acres, more or less.

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

2. That legal description File No. 122-K-26.4 (revised 5 March 1974), marked Exhibit B-2, and Drawing No. 122-K-26.4 revised 1 March 1974), marked Exhibit C-2, are hereby deleted and, inserted in lieu thereof, are legal description File No. 122-K-26.5, marked Exhibit B-3, and Drawing No.122-K-26.5, marked Exhibit C-3, both exhibits being attached hereto and made a part hereof.

3. That Condition 2 of the basic lease is hereby deleted in its entirety and the following new Condition 2 is substituted in lieu thereof:

"2. The Lessee shall be guided by an annual Plan of Operation and Maintenance in furtherance of the Lessee's implementing Plan of Recreation Development and Management (Development Plan) attached as Exhibit D which shows the facilities and services necessary to meet the current and potential public demand and the management and development activities to be undertaken by the Lessee and any sublessees. No later than September 30th of each year the Lessee will submit the annual Plan to be mutually agreed on between the Lessee and the District Engineer. Such annual Plan shall include but is to limited to the following:

a. Plans for management, maintenance and development activities to be undertaken by the Lessee and any sublessees.

b. Report of the management, maintenance and development accomplishments of the Lessee for the preceding year.

c. Report on any significant modification of policies or procedures which are planned for the following year as well as those implemented in the preceding year.

d. Minor modifications to the Development Plan. Major modifications are to be accomplished by amendment to the Plan before proceeding to implement any changes in the development or management of the leased premises.

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

e. Budget of the Lessee for carrying out all activities for the upcoming year.

f. Personnel to be used in the management of the leased premises.

g. Annual certification that all water and sanitary systems on the premises comply with Federal, state and local standards. Lessee will provide necessary annual testing to assure compliance with all Federal and state water quality standards. A copy of the Lessee's annual water quality report shall be provided to the Lessor. Lessee will also provide a statement of compliance with the Rehabilitations Act and the Americans with Disabilities Act, as required in the condition on Non-Discrimination, noting any deficiencies and providing a schedule for correction."

4. That Condition 11 of the basic lease is hereby deleted in its entirety and the following new Condition 11 is substituted in lieu thereof:

"11. Compliance, Closure, Revocation And Relinquishment.

a. The Lessee and/or any sub-lessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the District Engineer. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by sub-lessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease,

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee by giving one (1) year prior written notice to the District Engineer in the manner prescribed in the Condition on notices."

5. That Condition 13 of the basic lease is hereby deleted in its entirety and the following new Condition 13 is substituted in lieu thereof:

"13. On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property therefrom, and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the District Engineer, said property shall either become the property of the United States without compensation therefor, or the District Engineer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises."

6. That Conditions 14 and 31 of the basic lease are hereby deleted in their entirety and the following new Condition 14 is substituted in lieu thereof:

"14. Non-Discrimination.

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this Lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees."

7. That Condition 17 of the basic lease, as said Condition 17 had been restated pursuant to Supplemental Agreement No.1, is hereby deleted in its entirety and the following new Condition 17 is substituted in lieu thereof:

"17. All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this Lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees."

7. That Condition 17 of the basic lease, as said Condition 17 had been restated pursuant to Supplemental Agreement No.1, is hereby deleted in its entirety and the following new Condition 17 is substituted in lieu thereof:

"17. All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with

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the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this Lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees."

7. That Condition 17 of the basic lease, as said Condition 17 had been restated pursuant to Supplemental Agreement No.1, is hereby deleted in its entirety and the following new Condition 17 is substituted in lieu thereof:

"17. All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with

Lease No. DACW09-1-68-22  
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b. The insurance policy or policies shall specifically provide protection appropriate for the types of facilities, services and products involved; and shall provide that the District Engineer be given thirty (30) days notice of any cancellation or change in such insurance.

c. In the event the Lessee is self-insured, the Lessee shall certify such self-insurance in writing in the minimum amount specified above to the District Engineer. The Lessee's insurance status shall not eliminate the requirement for its sub-lessees and concessionaires to have insurance from a reputable insurance carrier as set out above.

d. The District Engineer may require closure of any or all of the premises during any period for which the Lessee and/or its sub-lessees and concessionaires do not have the required insurance coverage."

12. That Condition 30 of the basic lease is hereby deleted in its entirety and the following new Condition 30 is substituted in lieu thereof:

"30. Environmental Protection.

a. Within the limits of their respective legal powers, the parties to this Lease shall protect the project against pollution of its air, ground, and water. The Lessee shall comply promptly with any laws, regulations, conditions or instructions affecting the activity hereby authorized, if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the leased area is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency, are hereby made a condition of this Lease. The lessee shall require all sanitation facilities on boats moored at the Lessee's facilities, including rental boats, to be sealed against any discharge into the lake. Services for waste disposal, including sewage pump-

Lease No. DACW09-1-68-22  
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out of watercraft, shall be provided by the Lessee as appropriate. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from the District Engineer before any pesticides or herbicides are applied to the premises."

13. That the termination date of said lease is extended to a date which is fifty (50) years following the date of this Supplemental Agreement No.4.

14. The Lessee acknowledges that (i) the Residential Project will include certain slope areas which will be contiguous to the Sports Complex and which will be subject to a flood and inundation easement in favor of the Government for the Brea Flood Basin ("Affected Slopes"), (ii) Unocal has agreed to cause to be recorded against each lot within the Residential Project, prior to the sale of each such lot, a declaration of covenants, conditions and restrictions which will include, inter alia, the provisions set forth on Exhibit E attached hereto ("Subject Declaration Provisions"), (iii) the Subject Declaration Provisions require the homeowners' association to perform certain restoration and removal work with regard to the Affected Slopes, as such restoration and removal work is described in Subsection 9(b) (iii) of the Subject Declaration (the "Restoration/Removal Work"), and (iv) under Subsection 9(b) (iv) of the Declaration Provisions, both the Government and the Lessee will have the right, but not the obligation, to perform the Restoration/Removal Work if such work is not timely performed by the homeowners' association. The Lessee agrees that, if the Lessee exercises its right to perform any requisite Restoration/Removal Work, such work shall be performed by

Lease No. DACW09-1-68-22  
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the Lessee in a manner which preserves the floodwater capacity within the Brea Flood Basin.

15. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this 12<sup>th</sup> day of July, 2001.

Theresa M. Kaplan  
THERESA M. KAPLAN  
Chief, Real Estate Division

THIS SUPPLEMENTAL AGREEMENT NO. 4, together with the provisions and conditions hereof, is hereby accepted this 26<sup>th</sup> day of June, 2001.

CITY OF FULLERTON

By: [Signature]  
Title: Mayor

ATTEST:

Audrey K. Culver  
City Clerk

APPROVED AS TO FORM:

[Signature]  
City Attorney

APPROVED AS TO CONTENT:

[Signature]  
Director of Community Services

APPROVED BY CITY COUNCIL ON

June 19, 2001  
Audrey K. Culver  
City Clerk

Ⓜ

DATE: 29 NOVEMBER 2000  
UNIT: R-8"  
ACQ TRACT: 6B, 6C, 7A, 7B  
ASSESSOR'S PARCEL: 285-211-01 THRU 11  
ACREAGE: 5.878+  
GRANTEE: CITY OF FULLERTON  
PROJECT/REMIS CODE: BREA FLOOD CONTROL BASIN/BREAFB  
LOCATION: FULLERTON, ORANGE COUNTY, CALIFORNIA  
CESPL-RE-PC FILE: 122-K-26.5 (4 SHEETS)  
DOCUMENT NO: DACW09-1-68-22

LEGAL DESCRIPTION OF LICENSE TO THE CITY OF FULLERTON FOR  
RECREATIONAL AREA

That land described in a document, File No. 122-K-26.4 (revised 5, March 1974), in the office of the United States Army Corps of Engineers, Los Angeles District, Real Estate Division, together with that portion of the southeast quarter of the northwest quarter of Section 22, Township 3 South, Range 10 West, San Bernardino Meridian, in the Rancho San Juan Cajon de Santa Ana, in the City of Fullerton, County of Orange, State of California, as shown on a map recorded in Book 51, Page 7 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

Beginning at the southwest corner of said southeast quarter, as shown on Record of Survey No. 901143, per map filed in Book 132, Pages 34, 35 and 36 of Records of Surveys in the office of the County Recorder of said County; thence along the westerly line of said southeast quarter, North 0°56'36" East 470.13 feet; thence South 26°15'11" East 17.14 feet; thence South 39°53'18" East 24.41 feet; thence South 50°13'04" East 93.94 feet; thence South 72°45'47" East 38.30 feet; thence North 84°29'51" East 250.45 feet; thence South 82°35'00" East 113.43 feet; thence South 68°08'35" East 121.35 feet; thence South 54°21'48" East 219.38 feet; thence South 81° 38'58" East 94.55 feet; thence North

81°29'36" East 45.55 feet; thence North 62°32'38" East 166.28 feet; thence North 26°51'55" East 53.25 feet; thence North 39°02'21" East 46.10 feet; thence North 9°40'40" West 24.09 feet; thence North 16°42'24" East 42.27 feet; thence North 61°54'59" East 40.71 feet; thence North 53°49'11" East 13.72 feet; thence North 37°25'21" East 108.94 feet; thence North 58°46'37" East 49.55 feet to the Easterly line of said Southeast quarter; thence along said Easterly line, South 1°54' 19" West 513.91 feet to the Southeast corner of said Southeast quarter; thence along the Southerly line of said Southeast quarter, South 88°01'51" West 1279.02 feet to the Point of Beginning. Said parcel contains 9.236 acres more or less.

As shown on Exhibit " I " attached hereto and by this reference made a part hereof.

Except therefrom that portion of the southwest quarter of the northwest quarter of Section 22, Township 3 South, Range 10 West, San Bernardino Meridian, in the Rancho San Juan Cajon de Santa Ana, in the City of Fullerton, County of Orange, State of California, as shown on a map recorded in Book 51, Page 7 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

**PARCEL 1**

Beginning at a point on the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No. 90-1143~ per map filed in Book 132, Pages 34, 35 and 36 of Records of Surveys in the office of the County Recorder of said County, said point being North 33°23'35" East 130.01 feet from the southerly terminus of that certain course in said boundary having a bearing of North 33°23'35" East; thence North 54°43'38" East 19.20 feet; thence North 65° 41 '16" East 51.48 feet; thence North 37°46'21" East 23.66 feet; thence North 12°33'33" East 29.87 feet; thence North 4°33'36" East 53.23 feet to said boundary; thence along said boundary South 33°23'35" West 159.55 feet to the Point of Beginning. Said parcel contains 0.075 acres more or less.

**PARCEL 2**

Beginning at the southerly terminus of that certain course having a bearing of North 33°23'35" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; Thence along said boundary South 61°25'10" West 163.32 feet; thence along said boundary South 0°01'04" West 90.82 feet; thence North 40°20'00" East 221.63 Feet to the Point of Beginning. Said parcel contains 0.150 acres more or less.

**PARCEL 3**

Beginning at the northerly terminus of that certain course having a bearing of North 41°00'38" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; Thence along said boundary South 80°41'04" West 241.33 feet; thence along said boundary North 6°42'05" East 128.81 feet; thence South 35°11'34" West 166.26 feet; thence South 34°25'33" West 55.85 feet; thence South 14°30'00" West 133.50 feet; thence South 9°50'00" East 128.00 feet to a point in said boundary; thence along said boundary North 50°37'13" East 267.00 feet; thence along said boundary North 41°00'38" East 237.27 feet to the Point of Beginning. Said parcel contains 1.472 Acres, more or less.

**PARCEL 4**

Beginning at the Southerly terminus of that certain course having a bearing of North 6°42'05" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.91-1143, per map filed in Book 132, Pages 34,35 and 36 of Record of Surveys in the office of the County Recorder of said county; thence along said boundary North 6°42'05" East 128.81 feet to the True Point of Beginning; thence, continuing along said boundary North 6°42'05" East 82.40 feet; thence, continuing along said boundary North 52°34'32" East 479.58 feet to a line that is parallel or

concentric with and distant Southeasterly 50.00 feet, measured at right angles orradially from the centerline of Bastanchury Road as shown on Drawing No. 122-K-29 entitled "BREA FLOOD CONTROL BASIN OUTGRANT TO THE CITY OF FULLERTON, UNIT A-10" on file with the Corps of Engineers, U.S. Army, Office of the District Engineer, Los Angeles, California, said point of intersection being in a curve on said concentric line, that is concave Southeasterly and having a radius of 950.00 feet, a radial line to said point bears North  $13^{\circ}32'27''$  West; thence Southwesterly 667.72 feet along said curve through a central angle of  $40^{\circ}16'16''$ ; thence along said parallel line, tangent from said curve, South  $36^{\circ}11'17''$  West 422.51 feet; thence South  $53^{\circ}48'43''$  East 35.00 feet; thence North  $58^{\circ}18'54''$  East 112.98 feet; thence South  $31^{\circ}26'30''$  East 46.71 feet; thence South  $51^{\circ}49'53''$  East 64.59 feet; thence  $29^{\circ}20'19''$  East 67.70 feet; thence South  $22^{\circ}03'38''$  West 37.44 feet; thence South  $11005'31''$  East 8.44 feet to the Southwesterly terminus of that certain course in the boundary of the land described in said deed which bears North  $50^{\circ}37'13''$  East as shown on said Record of Survey; thence along said line North  $50^{\circ}37'13''$  East 57.00 feet to a point which bears the following courses from the True Point of Beginning: South  $35^{\circ}11'34''$  West 166.26 feet, South  $34^{\circ}25'33''$  West 55.85 feet, South  $14^{\circ}30'00''$  West 133.50 feet and South  $9^{\circ}50'00''$  East 128.00 feet; thence North  $9^{\circ}50'00''$  West 128.00 feet; thence North  $14^{\circ}30'00''$  East 133.50 feet; thence North  $34^{\circ}25'33''$  East 55.85 feet; thence North  $35^{\circ}11'34''$  East 166.26 feet to the True Point of Beginning. Said parcel contains 2.488 acres more or less.

#### PARCEL 5

Beginning at the Southeasterly terminus of that certain course having a bearing of North  $50^{\circ}39'28''$  West in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; thence along said boundary North  $50^{\circ}39'28''$  West 523.83 feet to an angle point in said boundary; thence South  $11005'10''$  East 50.82 feet; thence South  $44^{\circ}50'40''$  East 62.62 feet; thence South  $52^{\circ}08'17''$  East 42.51 feet; thence South  $58^{\circ}06'06''$  East 79.46 feet; thence South  $48^{\circ}31'01''$  East 91.72 feet; thence South

65°56'17" East 13.24 feet; thence South 45°22'04" East 26.00 feet; thence South 57°12'57" East 78.70 feet; thence South 50°43'26" East 43.04 feet; thence South 73°15'18" East 53.66 feet to the Point of Beginning. Said parcel contains 0.325 acres more or less.

**PARCEL 6**

Beginning at the Southerly terminus of that certain course having a bearing of North 00°01'04" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; thence along said boundary North 00°01'04" East 206.52 feet to a point 90.82 feet from the Northerly terminus thereof; thence leaving said boundary North 40°20'00" East 221.63 feet to the Southwesterly terminus of that certain course in the boundary of the land described in said deed which bears "North 33°23.35" East" as shown on said Record of Survey; thence along said line North 33°23'35" East 130.01 feet; thence North 54°43'38" East 19.20 feet; thence North 65°41'16" East 51.48 feet; thence North 37°46'21" East 23.66 feet; thence North 12°33'33" East 29.87 feet; thence North 4°33'36" East 53.23 feet to said course; thence along said boundary the following courses: North 33°23'35" East 100.00 feet, North 40°35'26" East 400.50 feet and North 7°39'40" East 105.87 feet; thence South 10°06'01" East 17.64 feet; thence South 3°18'22" West 89.64 feet; thence South 31°55'10" West 166.66 feet; thence South 40°06'13" West 222.25 feet; thence South 18°41'42" West 62.17 feet; thence South 46°47'54" West 31.98 feet; thence West 27.19 feet; thence South 29°43'42" West 13.14 feet; thence South 5°25'53" West 51.15 feet; thence South 22°20'42" West 39.41 feet; thence South 50°41'22" West 23.98 feet; thence South 23°17'19" West 29.53 feet; thence South 10°55'17" West 73.64 feet; thence South 22°53'48" West 28.48 feet; thence South 58°53'22" West 74.76 feet; thence South 65°22'07" West 71.69 feet; thence South 1°43'28" West 23.22 feet; thence South 26°54'44" West 35.53 feet; thence South 7°23'03" East 43.81 feet; thence South 19°00'18" East 14.52 feet; thence South 7°32'36" East 24.43 feet; thence South 46°28'43" West 22.50 feet; thence South 82°10'05" West 19.12 feet; thence South 44°21'18" West 22.92 feet; thence South 3°51'01" East 42.80 feet; thence South 21°47'18" East 31.45 feet; thence

South 4°22'52" East 21.68 feet; thence South 39°21'02" West 39.06 feet; thence South 55°57'25" West 17.13 feet to the south line of said Northwest quarter; thence along said south line North 87°47'52" West 40.83 feet to the Point of Beginning. Said parcel contains 1.368 acres more or less.

**PARCEL 7**

Beginning at point on the Easterly line of said Southwest quarter, distant North 0°56'36" East 475.48 feet from the Southeast corner of said Southwest quarter, as shown on Record of Survey No.90-1143, per Map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said County; thence leaving said Westerly line, North 15°10'04" West 20.00 feet; thence North 1° 53'57" East 63.51 feet; thence North 1°32'19" East 100.01 feet; thence North 0°57'59" East 100.00 feet; thence North 0°58'13" East 100.00 feet; thence North 0°57'29" East 80.17 feet; thence North 0°10'52" West 100.02 feet; thence North 0°27'25" West 50.01 feet; thence North 0°01'00" West 50.01 feet; thence North 1°26' 10" East 20.97 feet; thence North 4°51' 18" East 29.22 feet; thence North 7°01 '28" East 21.90 feet; thence North 14°37'39" East 12.15 feet to said Easterly line; thence along said Easterly line, South 0°56'36" West 746.59 feet to the Point of Beginning. Said parcel contains 0.074 acres more or less.

Parcels I through 7 as shown on Exhibit "2" attached hereto and by this reference made a part hereof.

HUNSAKER & ASSOCIATES INC.  
W.O. 433-12-X  
H&A LEGAL NO. 4502  
BY J. DAVID  
Checked by: R. Williams  
REVISED MARCH 9, 1998

NOTE: Changed Unit number from A-8 to R-8

CHECKED BY *J.M.*  
DATE: 10 Jan 2001

COE FILE NO. 122-K-26.5

Department of the Army  
Lease No. DACWO9-1-68-22  
Brea Flood Control Basin  
Orange County, California  
City of Fullerton

SUPPLEMENTAL AGREEMENT NO. 3

THIS SUPPLEMENTAL AGREEMENT NO. 3, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the state of California, hereinafter called the Lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACWO9-1-68-22 was entered into between the Government and the Lessee, to use and occupy for public park and recreational purposes 192.41 acres, more or less, of land and water areas, designated as Unite A-8, located within the Brea Flood Control Basin, Orange County, California, for a term of forty-three (43) years, beginning 1 June 1966 and ending 31 May 2009; and

WHEREAS, by Supplemental Agreement No. 1 dated 30 September 1968, 26.84 acres, more or less, were added to said lease, thereby increasing the total acreage from 192.41 acres, more or less, to 219.25 acres, more or less. Condition Nos. 17 and 32 of the basic lease were deleted, and new Condition Nos. 17 and 32 were inserted in lieu thereof. New Condition Nos. 33, 34 and 35 were added to the basic lease; and

WHEREAS, by Supplemental Agreement No. 2 dated 3 June 1974, 1.49 acres, more or less, were added to said lease, thereby increasing the total acreage from 219.25 acres, more or less, to 220.74 acres, more or less; and

WHEREAS, Community Golf Development, Inc. a sublessee, wishes to obtain funding to develop and construct a golf course within the leased area, which is in the public interest; and

WHEREAS, in order to obtain the funding and to assure adequate time to amortize the private investment capital, Lessee, on behalf of its sublessee has requested the term of the existing lease be extended beyond its current expiration date of 31 May 2009 to 31 May 2042, thus providing a fifty (50) year term, and the government has no objections thereto.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree that effective upon the date of execution hereof, Lease No. DACWO9-1-68-22 is modified in the following particulars:

Lease No. DACWOP 1-68-22  
Brea FCB  
City of Fullerton

1. That the termination date of said lease is extended, beginning 1 June 2009 and ending 31 May 2042.

2. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this 6<sup>th</sup> day of April 1992.

*W T Birney*  
William T. Birney  
Assistant for Real Property  
OASA(ILLB)

THIS SUPPLEMENTAL AGREEMENT NO. 3, together with the provisions and conditions hereof, is hereby accepted this 1st day of October 1991.

CITY OF FULLERTON

BY: *Chris Norby*

TITLE: Mayor

ATTEST:

*Rose D York*  
City Clerk

*MD No. H*

I, Anne M. York certify that I am the City Clerk of the Corporation named as lessee herein; that Chris Norby, who signed this Supplemental Agreement No. 3 to Lease No. DACW09-1-68-22 on behalf of the lessee, was then Mayor of said Corporation; that said Supplemental Agreement was duly signed for and on behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

Anne M. York  
(CORP. SEAL)

*AM York*

Lease No. DACW09-1-68-22  
Department of the Army  
Brea Flood Control Basin  
Orange County, California  
City of Fullerton

SUPPLEMENTAL AGREEMENT NO. 2

THIS SUPPLEMENTAL AGREEMENT NO. 2, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government and the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACW09-1-68-22 was entered into between the Government and the lessee to use and occupy, for public park and recreational purposes, 192.41 acres, more or less, of land and water areas, designated as Unit A-8, located within the Brea Flood Control Basin, Orange County, California, for a term of forty-three (43) years, beginning 1 June 1966 and ending 31 May 2009; and

WHEREAS, by Supplemental Agreement No. 1, dated 30 September 1968, 26.84 acres, more or less, were added to the said lease, thereby increasing the total acreage from 192.41 acres to 219.25 acres. Conditions Nos. 17 and 32 of the basic lease were deleted and new Conditions Nos. 17 and 32 were inserted in lieu thereof. New Conditions Nos. 33, 34, and 35 were added to the basic lease; and

WHEREAS, the lessee, by letter dated 11 October 1973, requested the inclusion of an additional 1.49 acres, more or less, into the land area presently under said lease, for development into tennis improvements planned as part of the recreational facilities for the basin and the Government is agreeable thereto.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree that effective upon the date of execution hereof, Lease No. DACW09-1-68-22 is modified in the following particulars:

1. That 1.49 acres, more or less, are added to Lease No. DACW09-1-68-22, thereby increasing the total acreage as stated in Supplemental Agreement No. 1 from 219.25 acres to 220.74 acres, more or less.

2. That legal description, File No. 122-K-26.3, marked Exhibit B-1, and Drawing No. 122-K-26.1, marked Exhibit C-1, are hereby deleted and, inserted in lieu thereof, are legal description File No. 122-K-26.4, revised 5 March 1974, marked Exhibit B-2, and Drawing No. 122-K-26.4, revised 1 March 1974, marked Exhibit C-2, both exhibits being attached hereto and made a part hereof.

*122-K-26.3 11/15/73 P. Area: - 2*

Lease No. DACW09-1-68-22  
Supplemental Agreement No. 2

3. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by direction of the Assistant Secretary of the Army this 3<sup>rd</sup> day of JUNE 1974.

Gordon M. Hobbs

Gordon M. Hobbs  
Assistant for Real Property  
OASA(I&L)

THIS SUPPLEMENTAL AGREEMENT NO. 2, together with the provisions and conditions hereof, is hereby accepted this 3<sup>rd</sup> day of April 1974.

CITY OF FULLERTON

By: Francis R. Wood

Title: MAYOR

ATTEST:

Virginia Johnson  
City Clerk

APPROVED  
R. K. Fox  
R. K. FOX  
FULLERTON CITY ATTORNEY

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 219.25  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.3

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27, and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon De Santa Ana, recorded in Patent Book 2, Pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28; thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence, along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 3671.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of 17° 28' 58", a radial through said point bearing North 44° 17' 25" West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North 61° 46' 23" West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of 12° 57' 00", a radial through said point bearing North 61° 46' 23" West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from 6° to 0° in 180.00 feet; a radial through said point bearing North 74° 43' 23" West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North 9° 52' 37" East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South 80° 07' 23" East 59.69 feet; thence South 13° 52' 42" East 277.37 feet; thence North 59° 35' 56" East 449.39 feet; thence South 43° 02' 19" West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North 46° 36' 57" East 919.09 feet; thence North 63° 58' 02" East 873.37 feet; thence South 47° 25' 19" West 635.31 feet; thence South 34° 53' 19" West 304.57 feet; thence South 62° 15' 29" East 299.38 feet; thence North 72° 23' 52" East 460.41 feet; thence South 72° 45' 33" East 765.32 feet; thence North 66° 50' 18" East 646.97 feet; thence North 27° 17' 22" West 503.88 feet; thence North 58° 29' 29" East 577.72 feet; thence North 23° 11' 31" West 251.59 feet; thence North 53° 23' 39" West 159.75 feet; thence North 33° 00' 53" West 557.18 feet; thence North 36° 15' 13" East 315.00 feet; thence South 72° 43' 00" East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South 0° 51' 27" West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South 0° 52' 58" West 633.74 feet; thence leaving last said East line North 89° 15' 52" East 70.15 feet; thence South 16° 11' 13" East 267.22 feet; thence South 61° 52' 48" East 381.85 feet; thence North 81° 48' 39" West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South 0° 52' 58" West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South 89° 52' 24" West 1321.14 feet; thence South 89° 51' 06" West 135.00 feet; thence leaving last said South line North 60° 01' 49" West 217.86 feet; thence South 55° 34' 20" West 332.38 feet; thence North 83° 59' 59" West 390.04 feet; thence North 51° 34' 44" West 270.63 feet; thence South 42° 49' 29" West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South 42° 33' 11" West 212.65 feet; thence South 57° 15' 38" West 384.78 feet; thence South 9° 52' 06" East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 56" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30, as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof. Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57; said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7 Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure. (2.23 acres, more or less)

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (11.41 acres, more or less)

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced. (2.81 acre, more or less)

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam. (1.31 acres, more or less)

Containing 219.25 acres, more or less.

(Revised: 23 Dec 66)

Written by: City of Fullerton  
& WHP.

FILE: 122-K-26.3

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 220.74  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.4

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27 and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon de Santa Ana, recorded in Patent Book 2, pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28: thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 367.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

EXHIBIT B - 2

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of 17° 28' 58", a radial through said point bearing North 44° 17' 25" West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North 61° 46' 23" West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of 12° 57' 00", a radial through said point bearing North 61° 46' 23" West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from 6° to 0° in 180.00 feet; a radial through said point bearing North 74° 43' 23" West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North 9° 52' 37" East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South 80° 07' 23" East 59.69 feet; thence South 13° 52' 42" East 277.37 feet; thence North 59° 35' 56" East 449.39 feet; thence South 43° 02' 19" West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North 46° 36' 57" East 919.09 feet; thence North 63° 58' 02" East 873.37 feet; thence South 47° 25' 19" West 635.31 feet; thence South 34° 53' 19" West 304.57 feet; thence South 62° 15' 29" East 299.38 feet; thence North 72° 23' 52" East 460.41 feet; thence South 72° 45' 33" East 765.32 feet; thence North 66° 50' 18" East 646.97 feet; thence North 27° 17' 22" West 503.88 feet; thence North 58° 29' 29" East 577.72 feet; thence North 23° 11' 31" West 251.59 feet; thence North 53° 23' 39" West 159.75 feet; thence North 33° 00' 53" West 557.18 feet; thence North 36° 15' 13" East 315.00 feet; thence South 72° 43' 00" East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South 0° 51' 27" West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South 0° 52' 58" West 633.74 feet; thence leaving last said East line North 89° 15' 52" East 70.15 feet; thence South 16° 11' 13" East 267.22 feet; thence South 61° 52' 48" East 381.85 feet; thence North 81° 48' 39" West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South 0° 52' 58" West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South 89° 52' 24" West 1321.14 feet; thence South 89° 51' 06" West 135.00 feet; thence leaving last said South line North 60° 01' 49" West 217.86 feet; thence South 55° 34' 20" West 332.38 feet; thence North 83° 59' 59" West 390.04 feet; thence North 51° 34' 44" West 270.63 feet; thence South 42° 49' 29" West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South 42° 33' 11" West 212.65 feet; thence South 57° 15' 38" West 384.78 feet; thence South 9° 52' 06" East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 36" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30, as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57, said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7, Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure (2.23 acre, more or less).

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (9.92 acres, more or less).

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced (2.81 acres, more or less).

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam (1.31 acres, more or less).

Containing 220.74 acres, more or less.

Revised: 5 Mar 74

Revised: 23 Dec 66

Written by: City of Fullerton & WHP

FILE: 122-K-26.4

EXHIBIT B - 2

Lease No. DACW09-1-68-22  
Department of the Army  
Brea Flood Control Basin, California  
City of Fullerton

SUPPLEMENTAL AGREEMENT NO. 1

THIS SUPPLEMENTAL AGREEMENT, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACW09-1-68-22 was entered into between the Government and the lessee to use and occupy, for public park and recreational purposes, 192.41 acres, more or less, of land and water areas, designated as Unit A-8, located within the Brea Flood Control Basin, Orange County, California, for a term of forty-three (43) years, effective 1 June 1966;

WHEREAS, the Government has determined that 26.84 acres of land, more or less, located below the spillway within the operational area of the Brea Flood Control Basin, are available for recreational development and desires to incorporate the said 26.84 acres, more or less, into the land area presently under Lease No. DACW09-1-68-22 to the City of Fullerton, for day and overnight camping purposes, and the City of Fullerton is agreeable thereto.

NOW THEREFORE, effective upon execution by the Government and in consideration of the premises, the parties hereto do mutually agree that said lease is modified in the following particulars:

1. That 26.84 acres, more or less, are added to Lease No. DACW09-1-68-22, thereby increasing the total leased acreage, as stated in the granting clause of said lease, from 192.41 acres to 219.25 acres, more or less.

2. That the legal description, File: 122-K-26.1, marked Exhibit B, and Drawing No. 122-K-26.1, marked Exhibit C, are hereby withdrawn from the basic lease and inserted, in lieu thereof, are the following: Legal description, File: 122-K-26.3, marked Exhibit B-1, and Drawing No. 122-K-26.1, marked Exhibit C-1, both exhibits being attached hereto and made a part hereof.

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3. That Condition No. 17 of the basic lease is hereby deleted in its entirety and the following new Condition No. 17 is substituted in lieu thereof:

17. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees, and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation, and to pay for all past and future development by lessee, of the leased premises, including interest upon funds advances and debts incurred therefor. Any such monies not so utilized or programmed for utilization in a reasonable time by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer. The District Engineer shall have the right to perform audits of the lessee's records and accounts, and to require the lessee to audit the records and accounts of third party concessionaires, and furnish the District Engineer a copy of such an audit.

4. That Condition No. 32 of the basic lease is hereby deleted in its entirety and the following new Condition No. 32 is substituted in lieu thereof:

32. That the Dam Operator's quarters, the surrounding buildings and grounds, and the access road thereto, as shown on Exhibit C-1, are excluded herefrom and said area shall be fenced by the lessee with a chain link fence, excepting the access road.

5. That the following three additional conditions are added to the basic lease:

33. That the dam site, the spillway, a 50-foot vehicle service access along the upstream and downstream toe of the dam, and a 20-foot vehicle service along both sides of the channel downstream of the dam, as shown on Exhibit C-1, are excluded herefrom and chain link fencing shall be installed across the downstream toe of the dam.

34. That the vehicle service accesses may be landscaped, but no physical obstructions shall be located thereon.

35. That before execution of this lease, conditions were revised, deleted, and added in the following manner:

Revised: Granting clause and Condition No. 8

Deleted: Condition No. 6

Added: Conditions Nos. 17 through 35. Conditions Nos. 17 through 31 are contained in Exhibit A, attached to the basic lease and made a part thereof. Conditions Nos. 17 and 32 of the basic lease are deleted in their entirety and new Conditions Nos. 17 and 32 are substituted in lieu thereof. Conditions Nos. 17, 32 through 35 are contained in Supplemental Agreement No. 1 hereof.

Assurance of Compliance with the Department of Defense Directive under Title VI of the Civil Rights Act of 1964, marked Exhibit D-1, attached hereto and made a part hereof.

6. That in all other respects, the terms and conditions of said lease remain unchanged.

IN WITNESS WHEREOF, I have hereunto set my hand by direction of the Assistant Secretary of the Army this 30 day of September 1968.

*Sherry B. Myers*  
SHERRY B. MYERS  
Chief, Real Property  
Division, OASA (I&L)

THIS SUPPLEMENTAL AGREEMENT NO. 1 is also executed by the lessee this 10 day of October 1968.

ATTEST:

*[Signature]*

APPROVED  
*[Signature]*  
D. REGINALD GUSTAVECON  
FULLERTON CITY ATTORNEY

CITY OF FULLERTON

By: *Louis R. Reinhardt*

Title: Mayor

17. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees, and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation, and to pay for all past and future development by lessee, of the leased premises, including interest upon funds advances and debts incurred therefor. Any such monies not so utilized or programmed for utilization in a reasonable time by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer.

18. That all accounts and records of the lessee involving the operations conducted on the leased premises will be subject to inspection and audit at any convenient time by the said District Engineer or his duly authorized representatives.

19. The lessee shall compile and furnish such public use visitation data as may be requested by the District Engineer.

20. That the property shall at all times be maintained in a clean, sanitary, and safe condition and free from weeds, brush, washes, gullies, and debris. Floatable materials or items will not be placed or stored on the premises.

21. That the lessee shall cut no timber, except in furtherance of the plans for the public park and recreational area approved in writing by said District Engineer, and shall conduct no mining or drilling operations, remove no sand, gravel, or kindred substances from the ground, except such sand, gravel, or kindred substances as may be used in connection with buildings, filling, landscaping, and improvement operations on the leased premises by the lessee in accordance with the plan approved in writing by said District Engineer, and shall commit no waste of any kind or in any manner substantially change the contour or condition of the leased premises except in accordance with the plans approved in writing by said District Engineer.

22. That the lessee shall not permit gambling on the said leased premises, or install or operate, or permit to be installed or operated, on the leased premises, any device which, in the opinion of the said District Engineer is contrary to good morals or is otherwise objectionable, or use the said leased premises or permit them to be used for any illegal or immoral business or purpose; there shall not be carried on or permitted upon said premises any activity which would constitute a nuisance.

23. That the lessee shall neither transfer nor assign this lease or any property on the demised premises, nor sublet the demised premises or any part thereof or any property thereon, nor grant any interest, privilege, or license whatsoever in connection with this lease except as provided in Condition No. 3 hereof.

24. That it is understood that this instrument is effective only insofar as the rights of the United States in the property covered by this lease are concerned, and the lessee shall obtain such permission as may be necessary on account of any other existing rights.

25. That the areas made available to the lessee for public park and recreational purposes shall be known as the City of Fullerton Recreational Area (Brea Flood Control Basin).

26. That the United States acquired no mineral rights within the leased area and nothing within this lease shall be construed to indicate that the United States, in granting this lease, prohibits drilling or exploration work by owners of mineral rights or their lessees.

27. That the right is reserved to the United States to renew or enter into leases for agricultural or grazing use of any of the lands covered by this lease and not being developed by the lessee for park and recreational purposes, pending written notice by the lessee to the District Engineer prior to 1 May of any given year of its desire to develop such lands for said purposes, such desired lands to be generally contiguous to lands already developed for park and recreational purposes.

28. This lease supersedes License No. DA-04-353-CIVENG-60-123, dated 2 December 1959, to the City of Fullerton. The facilities constructed on the premises by the licensee under said license shall be and remain the property of the City of Fullerton which shall continue the administration, operation, and maintenance of said facilities under the terms and conditions of this lease.

29. That the lessee will carry liability or indemnity insurance providing for minimum limits of \$50,000 per person in any one claim, and an aggregate limit of \$150,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, and/or damage to property suffered or alleged to have been suffered by any person or persons resulting from the operations of the lessee under the terms of this lease.

Brea Flood Control Basin  
City of Fullerton  
Lease No. DACW09-1-68-22

30. That the lessee shall not discharge waste or effluent from the leased property in such a manner that such discharge will contaminate streams of other bodies of water or otherwise become a public nuisance.

31. That the grantee furnishes as part of this contract an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241) and Department of Defense Directive 5500.11 issued pursuant thereto and published in part 300 of Title 32, Code of Federal Regulations.

Brea Flood Control Basin  
City of Fullerton  
Lease No. DACW09-1-68-22

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 219.25  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.3

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27, and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon De Santa Ana, recorded in Patent Book 2, Pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28; thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence, along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 367.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of 17° 28' 58", a radial through said point bearing North 44° 17' 25" West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North 61° 46' 23" West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of 12° 57' 00", a radial through said point bearing North 61° 46' 23" West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from 6° to 0° in 180.00 feet; a radial through said point bearing North 74° 43' 23" West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North 9° 52' 37" East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South 80° 07' 23" East 59.69 feet; thence South 13° 52' 42" East 277.37 feet; thence North 59° 35' 56" East 449.39 feet; thence South 43° 02' 19" West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North 46° 36' 57" East 919.09 feet; thence North 63° 58' 02" East 873.37 feet; thence South 47° 25' 19" West 635.31 feet; thence South 34° 53' 19" West 304.57 feet; thence South 62° 15' 29" East 299.38 feet; thence North 72° 23' 52" East 460.41 feet; thence South 72° 45' 33" East 765.32 feet; thence North 66° 50' 18" East 646.97 feet; thence North 27° 17' 22" West 503.88 feet; thence North 58° 29' 29" East 577.72 feet; thence North 23° 11' 31" West 251.59 feet; thence North 53° 23' 39" West 159.75 feet; thence North 33° 00' 53" West 557.18 feet; thence North 36° 15' 13" East 315.00 feet; thence South 72° 43' 00" East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South 0° 51' 27" West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South 0° 52' 58" West 633.74 feet; thence leaving last said East line North 89° 15' 52" East 70.15 feet; thence South 16° 11' 13" East 267.22 feet; thence South 61° 52' 48" East 381.85 feet; thence North 81° 48' 39" West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South 0° 52' 58" West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South 89° 52' 24" West 1321.14 feet; thence South 89° 51' 06" West 135.00 feet; thence leaving last said South line North 60° 01' 49" West 217.86 feet; thence South 55° 34' 20" West 332.38 feet; thence North 83° 59' 59" West 390.04 feet; thence North 51° 34' 44" West 270.63 feet; thence South 42° 49' 29" West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South 42° 33' 11" West 212.65 feet; thence South 57° 15' 38" West 384.78 feet; thence South 9° 52' 06" East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 56" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30, as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof. Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57, said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7 Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure. (2.23 acres, more or less)

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (11.41 acres, more or less)

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced. (2.81 acres, more or less)

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam. (1.31 acres, more or less)

Containing 219.25 acres, more or less.

(Revised: 23 Dec 66)

4

Written by: City of Fullerton  
& WHP.

FILE: 122-K-26.3

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE  
UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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City of Fullerton

(hereinafter called "Applicant-Recipient")

(Name of Applicant-Recipient)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300, issued as Department of Defense Directive 5500.11, December 28, 1964) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Directive, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from Department of the Army and HEREBY GIVES ASSURANCE THAT it will (Component of the Department) immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by this Department of the Army, assurance shall obligate the Appli- (Component of the Department)

cant-Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant-Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by, Department of the Army (Component of the Department)

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant-Recipient by the Department, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall

have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

Date 8 May 1968

**CITY OF FULLERTON**

(Applicant-Recipient)

Attest:

*Virginia J. Stammers*  
City Clerk

By

*Louis R. Reinhardt*  
(President, Chairman of Board, or comparable authorized official)

303 W. Commonwealth Ave.

Fullerton, California

(Applicant-Recipient's Mailing Address)

DEPARTMENT OF THE ARMY

LEASE

~~DA FORM 1-68-22~~

FOR PUBLIC PARK AND RECREATIONAL PURPOSES

**AREA FLOOD CONTROL BASIN, GRASS COUNTY, CALIFORNIA, PROJECT AREA**

THE SECRETARY OF THE ARMY under authority of Section 4 of the Act of Congress approved 22 December 1944, as amended (76 Stat. 1195; 16 U.S.C. 460d), hereby grants to ~~the~~ **CITY OF FOLEYTON, a municipal corporation of the State of California, hereinafter called the lessee,** a lease for a period of **forty-three** ( **43** ) years commencing on **1 June 1966**, and ending on **31 May 2009**, to use and occupy approximately **192.41** acres of land and water areas under the primary jurisdiction of the Department of the Army in the **Area Flood Control Basin Project Area, as delineated on Exhibit B, Legal/numbered, 19 April 1966**, attached hereto and made a part hereof, for public park and recreational purposes, and shown on **Drawing No. 182-1-26.1, marked Exhibit C, both exhibits being attached hereto and made a part hereof.** **THIS LEASE** is granted subject to the following conditions:

1. The lessee shall conform to such rules and regulations as may be prescribed by the Secretary of the Army to govern the public use of the said project area, and shall comply with the provisions of the above cited Act of Congress. The lessee shall protect the property from fire, vandalism, and soil erosion, and may make and enforce such rules and regulations as are necessary, and within its legal authority, in exercising the privileges granted in this lease, provided that such rules and regulations are not inconsistent with those prescribed by the Secretary of the Army or with provisions of the above cited Act of Congress.
2. The lessee shall administer and maintain the leased property for the purposes of this lease, in accordance with the U.S. Army Engineers' Master Plan and the implementing General Development Plan for said property and with an Annual Management Program to be mutually agreed upon between the lessee and the U.S. Army District Engineer, in charge of the administration of the property, which may be amended from time to time as may be necessary. Such Annual Management Program shall include, but is not limited to, the following:
  - a. Plans for management activities to be undertaken by the lessee or jointly by the U.S. Army Engineers and the lessee, including buildings, improvements and other facilities to be constructed thereon.
  - b. Budget of the lessee for carrying out the management activities.
  - c. Personnel to be used in the management of the area.
3. The lessee shall provide the facilities and services necessary to meet the public demand for the use of the area for public park and recreational purposes either directly or through concession agreements with third parties. All concession agreements shall expressly state that they are granted subject to all of the terms and conditions of this lease and that the concession agreement will not be effective until the terms and conditions thereof are approved by the District Engineer.
4. Admission, entrance or user fees may be charged by the lessee for the entrance to or use of all or any part of the leased premises or any facilities constructed thereon, PROVIDED, prior written approval of the District Engineer is obtained.
5. The amount of any fees to be charged by the lessee and all rates and prices charged by the lessee or its concessionaires for accommodations, food (except packaged goods), and services furnished or sold to the public shall be subject to regulations and the prior approval of the District Engineer. The lessee shall, not less than 15 days prior to 30 April and 31 October of each year that

this lease remains in effect, submit to the District Engineer for approval a list of the fees, rates and prices proposed for the following 6 months. The lessee shall furnish justification for any proposed fee, rate or price increase or decrease. The District Engineer will give written notice to the lessee of his approval of or objection to any proposed fee, rate or price and will, if appropriate, state an approved fee, rate or price for each item to which an objection has been made. The lessee and/or its concessionaires shall keep a schedule of such fees, rates or prices posted at all times in a conspicuous place on the leased premises.

6. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation and further development of the leased premises. Any such monies not so utilized by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer.

7. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the District Engineer.

8. The right is hereby expressly reserved to the United States, its officers, agents, and employees, to enter upon the said land and water areas at any time and for any purpose necessary or convenient in connection with river and harbor and flood control work, and to remove therefrom timber or other material required or necessary for such work, to flood said premises when necessary, and/or to make any other use of said land as may be necessary in connection with public navigation and flood control, and the lessee shall have no claim for damages of any character on account thereof against the United States or any agent, officer or employee thereof.

9. Any property of the United States damaged or destroyed by the lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the lessee to the satisfaction of the District Engineer.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the lessee, or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of said premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities on the said premises, and the lessee shall hold the United States harmless from any and all such claims.

~~11. This lease may be relinquished by the lessee at any time by giving to the Secretary of the Army, through the District Engineer, at least thirty (30) days' notice in writing.~~

12. This lease may be revoked by the Secretary of the Army in the event the lessee violates any of the terms and conditions of this lease and continues and persists therein for a period of thirty (30) days after notice thereof in writing by the District Engineer.

13. On or before the date of expiration of this lease or its relinquishment by the lessee, the lessee shall vacate the said Government premises, remove all property of the lessee therefrom, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the lessee shall vacate the premises, remove said property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the lessee shall fail or neglect to remove said property and so restore the premises, then said property shall become the property of the United States without compensation therefor, and no claim for damages against the United States or its officers or agents shall be created by or made on account thereof.

14. The lessee or its concessionaires shall not discriminate against any person or persons because of race, creed, color or national origin in the conduct of its operations hereunder.

15. All notices to be given pursuant to this lease shall be ~~and~~ <sup>delivered</sup>, if to the lessee, to the City of Fullerton, City Hall, 303 West Commonwealth Avenue, Fullerton, California,

if to the Government, to the District Engineer, U. S. Army Engineer District, Los Angeles, Corps of Engineers, P. O. Box 8711, Los Angeles, California 90053

or as may from time to time be directed by the parties. Notice shall be deemed to have been duly given if and when inclosed in a properly sealed envelope or wrapper, addressed as aforesaid and deposited postage prepaid (or, if mailed by the Government, deposited under its franking privilege) in a post office or branch post office regularly maintained by the United States Government.

16. The lessee takes this lease and the leased premises subject to all existing easements and easements subsequently granted during the period of said lease for electric transmission, telephone, telegraph, water, gas, gasoline, oil and sewer lines, and other utilities located or to be located within the area covered by this lease, provided that the proposed grant of any easement will be coordinated with the lessee and easements will not be granted which will interfere with developments, present or proposed, by the lessee.

32. Before the execution of this lease, conditions were revised, deleted, and added in the following manner:

- Revised: Granting clause, and Condition No. 8.
- Deleted: Condition No. 6.
- Added: Conditions Nos. 17 through 32. Conditions Nos. 17 through 31 are contained in Exhibit A, attached hereto and made a part hereof.

Assurance of Compliance with the Department of Defense Directive Under Title VI of the Civil Rights Act of 1964, marked Exhibit B, attached hereto and made a part hereof.

IN WITNESS WHEREOF I have hereunto set my hand this 31st of March, 1967, by direction of the Assistant Secretary of the Army.

*[Signature]*  
Sherry B. Myers  
Chief, Real Property  
Division, OASA (I&L)

The above instrument, together with the provisions and conditions thereof, is hereby accepted this 5th day of September, 1967.

ATTEST:

*[Signature]*  
Virginia Simmons

CITY OF FULLERTON

By: *[Signature]*  
Glen Swatters

Title: *[Signature]*  
Mayor

APPROVED AS TO FORM  
D. REGULAR GUSTAVESON  
CITY ATTORNEY  
CITY OF FULLERTON

*[Signature]*  
Reginald Butcher

**FULLERTON COMMUNITY NURSERY SCHOOL  
LEASE AGREEMENT**

**Fullerton Community Nursery School  
LEASE AGREEMENT**

This Agreement ("AGREEMENT" or "LEASE") is entered into, this July 1, 2009 (the "Effective Date"), by and between the City of Fullerton, a municipal corporation (hereinafter "CITY"), and the Fullerton Community Nursery School., a California public benefit corporation (hereinafter "TENANT" or "FCNS".)

**RECITALS**

WHEREAS, TENANT entered into a sublease with the Children's League of Fullerton in 1963 to use and occupy a portion of that certain parcel of public land located in the Brea Dam Flood Control Basin, at 2050 Youth Way, in the City of Fullerton, County of Orange, and State of California (hereinafter the "PROPERTY"), for the purposes of operating and managing the facility. The PROPERTY is described in greater detail in the documents attached hereto as Attachment A (Assessor's Map 028-050-36) of which is incorporated by this reference; and

WHEREAS, the Children's League's lease with the City was terminated in 2006 and the TENANT continued to operate on the property as a hold over tenant.

WHEREAS, TENANT wishes to continue to occupy the PROPERTY to provide early childhood education; and

NOW, THEREFORE, in consideration of the promises and the respective and mutual agreements contained herein, said parties hereby agree as follows:

**I. PROPERTY**

City hereby Leases the facilities commonly referred as the Fullerton Community Nursery School on the PROPERTY to TENANT subject to the terms of this Agreement. TENANT has had an opportunity to thoroughly inspect the PROPERTY, and accepts "as is," in its existing condition. The PROPERTY does not include the parking lots.

**II. USE**

For consideration herein described, TENANT's use of all parcels of the PROPERTY shall be for public park and recreational purposes, and for the purpose of providing an accredited early childhood education program.

No human habitation shall be permitted on the PROPERTY. This will not be construed to prohibit TENANT from providing properly designed and approved guard stations for night watch persons or other patrol.

**III. LIMITATION OF THE LEASEHOLD**

This AGREEMENT and the rights and privileges granted TENANT in and to the PROPERTY are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this AGREEMENT or in any document related hereto shall be construed to imply the conveyance to TENANT of rights in the PROPERTY which exceed those owned by CITY.

Wrong lease



That the provisions of that certain License Agreement entered into between The United States (Department of the Army) and The City of Fullerton on December 1, 1959, and any of its supplemental agreements (hereinafter collectively referred to as the "License Agreement"), are incorporated into this AGREEMENT as if set out in full and TENANT is bound by and subject to each of said terms and conditions. A copy of the License Agreement is attached as Attachment C. If a conflict exists between said License Agreement and this AGREEMENT, the terms of the License Agreement shall prevail. TENANT affirms that they have had an opportunity to review the License Agreement with their own counsel, and agree to abide by its terms.

IV. PAYMENTS

TENANT shall pay CITY the sum of \$1,619 per month in rent for the first term this Agreement. Monthly rent includes \$1,366 in base rent and \$253 for the capital improvement fund. Base rent will increase on July 1<sup>st</sup> of each year by 3% per Attachment B (Rent Calculation) of this Agreement. The capital improvement fund will adjust annually based on the number of years capitalized for each improvement per Attachment B (Rent Calculation) of this Agreement.

Payments shall be due on July 1<sup>st</sup> of each year and will be considered delinquent if not paid by July 15<sup>th</sup>. At each five-year term, maintenance costs will be reviewed for potential adjustments.

V. TERM

A. Initial Term

The term of this TENANT shall commence on the Effective Date as shown on Page One (1) of this Agreement and remains in effect for a period of five (5) years, unless terminated sooner pursuant to Section VI or XI.

B. Extension of Term

The term of this TENANT may be extended, with mutual agreement between the CITY and FRR, for two (2) additional five (5) year terms at the conclusion of the initial term. Each five-year term will automatically be extended, unless either party submits in writing otherwise to the other party within six (6) months of the end of the previous five-year term. The terms and conditions of this agreement shall remain in effect throughout the duration of the initial term and any extension unless amended pursuant to Section XIII of this Agreement.

VI. TERMINATION

Throughout the Term this AGREEMENT may be terminated by either party by providing twelve (12) months written notice to the other party of its intention to terminate. CITY may also terminate the AGREEMENT as provided in Section XI.

VII. SUBLEASE OR ASSIGNMENT

Any sublease or assignment of TENANT's interest in the PROPERTY or any part or portion thereof is prohibited without the CITY's written consent. Any attempted sublease or assignment without the CITY's written consent shall be null and void and shall be cause for immediate termination of this AGREEMENT and shall confer no right, title, or interest in or to this AGREEMENT.

### VIII. MAINTENANCE AND IMPROVEMENTS OF PROPERTY

City will provide building maintenance, facility capital repair and landscape maintenance. Building maintenance includes general maintenance to the buildings and fixtures and does not include maintenance of equipment, data and telephone lines or personal property. Facility capital repair includes scheduled replacement of the roof, flooring, exterior and interior painting and the HVAC system. Landscape maintenance includes irrigation repair and replacement, tree trimming, rodent control, and maintenance of plants and shrubbery. Landscape maintenance of the playground areas within the fenced yards of the FCNS property is not included with the exception of tree trimming and rodent control. TENANT is financially responsible for maintenance of the playground and playground amenities.

TENANT shall not make or cause any substantial alterations or improvements to be made in or on the PROPERTY without first obtaining the written approval of the CITY and the United States of America. TENANT shall obtain all applicable Federal, State and local permits and approvals before any alterations or improvements are made to the PROPERTY. **All improvements affixed to the PROPERTY by TENANT shall become the property of CITY.**

### IX. INSURANCE REQUIREMENTS

TENANT shall procure and maintain throughout the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the TENANT's operations, occupancy of and use of the leased premises. TENANT shall provide current evidence of the required insurance in a form acceptable to the CITY and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration or termination of this Agreement.

Nothing in this section shall be construed as limiting in any way, the Indemnification and Hold Harmless clause contained herein in Section XI or the extent to which TENANT may be held responsible for payments of damages to persons or property.

#### A. Minimum Scope and Limits of Insurance

1. **Commercial General Liability Insurance.** TENANT shall maintain commercial general liability insurance coverage in a form at least as broad as ISO Form #CG 001 ED. 11/88, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit.
2. **Business Automobile Liability Insurance.** TENANT shall maintain business automobile liability insurance coverage in a form at least as broad as ISO Form # CA 000 T ED. 6/92, with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.
3. **Host Liquor Liability.** TENANT shall maintain a host liquor liability policy with a limit of not less than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit. (This coverage is not required if TENANT shall not sell, serve or distribute alcohol beverages on or from the leased premises.)
4. **Workers' Compensation and Employers' Liability Insurance.** TENANT shall maintain workers' compensation insurance as required by the State of California and employers' liability insurance with limits of not less than \$1,000,000 each accident.

5. All Risk Property Insurance. TENANT shall maintain all risk property insurance including coverage for tenant improvements or betterments with a minimum limit equal to full replacement cost as approved by the CITY of the leased premises and with no coinsurance penalty provision.

B. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the CITY.

C. Other Insurance Provisions

The required insurance policies shall contain or be endorsed to contain the following provisions:

1. Commercial General Liability, Business Automobile Liability and Host Liquor Liability.

This insurance shall be primary insurance as respects the CITY, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by the CITY, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it.

2. All Risk Property.

CITY shall be named as a loss payee.

3. Workers' Compensation and Employers' Liability Insurance.

Insurer shall waive their right of subrogation against CITY, its officers, employees and volunteers for work done on behalf of the CITY.

4. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

D. Acceptability of Insurers

All required insurance shall be placed with insurers acceptable to the CITY with current BEST'S ratings of no less than B+, Class X. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of the CITY, insurance provided by non-admitted or surplus carriers with a minimum BEST'S rating of no less than A- Class X may be accepted if TENANT evidences the requisite need to the sole satisfaction of the CITY.

E. Verification of Coverage

TENANT shall furnish the CITY with certificates of insurance which bear original signatures of authorized agents and which reflect insurers names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. Additionally, TENANT shall furnish certified copies of all policy endorsements required herein. All certificates and endorsements must be received and approved by CITY before TENANT occupies premises. The CITY reserves the

right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

**X. INDEMNIFICATION**

TENANT agrees to accept the PROPERTY "as is," in its existing condition. The TENANT shall indemnify, defend, and hold harmless the CITY, and its officers, employees, and agents ("CITY Indemnitees"), from and against any and all causes of actions, claims, liabilities, obligations, judgments, or damages, including reasonable attorneys' fees and costs of litigation ("claims"), arising out of TENANT'S occupation of the property or out of the operation of its pre-school program, except for such loss of damage arising out of the sole negligence or willful misconduct of the CITY. In the event the CITY Indemnitees are made a party to an action, lawsuit, or other adversarial proceeding arising from TENANT'S occupation of the property or out of the operation of its pre-school program the TENANT shall provide a defense to the CITY Indemnitees or at the CITY'S option reimburse the CITY Indemnitees their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by TENANT, its officers, employees, agents, volunteers or subcontractors, but shall be required whenever any claim, demands, suits, actions or proceedings of any kind or nature asserts liability against the Indemnitees, related to TENANT'S occupancy and use of the PROPERTY or to this Agreement, whether or not TENANT, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

**XI. DEFAULT IN TERMS OF THE AGREEMENT BY TENANT**

Should TENANT default in the performance of any covenant, condition, or agreement contained in this AGREEMENT and such default is not corrected within a reasonable period of time, not to exceed thirty (30) days, after TENANT receives written notice of default from CITY, CITY may:

- A. Terminate this AGREEMENT. All rights of TENANT and those who claim under TENANT, stemming from this AGREEMENT, shall end at the time of such termination; or
- B. At CITY'S sole option, correct any such default by performance of any act, including payment of money, and bill TENANT for the cost thereof plus reasonable administrative costs.
- C. In addition to the above, pursue any other remedies available at law or in equity.

Notwithstanding the terms of set forth above, if the default cannot reasonable be corrected within thirty (30) days TENANT shall not be subject to the remedies set forth above if TENANT commences its cure within thirty (30) days and diligently pursues such cure thereafter.

**XII. COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT**

In the event either CITY or TENANT commences legal action against the other claiming a breach or default of this AGREEMENT, the prevailing party in such litigation shall be entitled to recover from the other costs of sustaining such action, including reasonable attorney fees, as may be fixed by the court.

**XIII. AMENDMENTS**

This AGREEMENT sets forth all of the agreements and understandings of the parties and any modification shall be in writing and properly executed by both parties.

**XIV. NOTICES**

All notices pursuant to this AGREEMENT shall be addressed as set forth below or as either party may hereafter designate be written notice and shall be sent through the United States mail.

<u>CITY</u>	<u>TENANT</u>
Parks and Recreation Department City of Fullerton 303 W. Commonwealth Ave. Fullerton, Ca 92832 (714) 738-6575	Executive Director Fullerton Community Nursery School 2050 Youth Way Fullerton, CA 92835 (714) 525-1251

**XV. TAXES AND ASSESSMENTS**

This AGREEMENT may create a possessory interest pursuant to Revenue & Taxation Code section 107.6 which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) which become due and payable upon the PROPERTY or upon fixtures, equipment, or other property installed or constructed thereon, shall be the full responsibility of the TENANT, and TENANT shall cause said taxes and assessments to be paid promptly.

**XVI. UNLAWFUL USE**

TENANT agrees no improvements shall be erected, placed upon, operated, nor maintained within the PROPERTY, nor any business or activities conducted or carried on therein or therefrom, in violation of the terms of this AGREEMENT or of any federal, state or local law or regulation.

**XVII. INSPECTION**

CITY or its authorized representative shall have the right at all reasonable times to inspect the PROPERTY to determine if TENANT is in compliance with the provisions of this AGREEMENT, or for any other reasonable purpose.

**XVIII. PERMITS AND LICENSES**

TENANT shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with its operations on the PROPERTY, or in connection with any improvements it may construct on the PROPERTY. No permit approval or consent given hereunder by CITY in its governmental capacity shall affect or limit TENANT's obligations hereunder, nor shall any approvals or consents given by CITY, as a party to this AGREEMENT, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

**XIX. HAZARDOUS MATERIALS**

As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or shall become regulated by any governmental entity, including without limitation, CITY acting in its governmental capacity, the State of California or the United States Government.

- A. TENANT shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the PROPERTY, except as may specifically authorized by CITY in writing. Any such authorization by CITY shall not alter or reduce TENANT's obligations under this section, including but not limited to its duty to indemnify and defend CITY, for any contaminations which may occur as a result of TENANT's use of the authorized material. In light of the preceding limitations, CITY hereby authorizes TENANT's use of maintenance supplies on the PROPERTY.
- B. If TENANT breaches the obligations stated herein, or if contamination of the PROPERTY by Hazardous Materials otherwise occurs for which TENANT is legally liable to CITY for damage resulting therefrom, then TENANT shall indemnify, defend and hold CITY harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including without limitation, diminution in value of the PROPERTY, damages for the loss or restriction on use of rentable or usable space or any amenity of the PROPERTY, damages arising from any adverse impact on marketing of space in the PROPERTY or portion of any building of which the PROPERTY is a part, and sums paid in settlement of claims, attorneys fees, consultant fees and expert witness fees) which arise during or after the term as a result of such contamination.
- C. This indemnification includes without limitation, costs incurred by CITY in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental entity because of Hazardous Material being present in the soil or ground water or under the PROPERTY. TENANT shall promptly take all actions at its sole cost and expense as are necessary to clean, remove and restore the PROPERTY to its condition prior to the introduction of such Hazardous Material by TENANT, provided TENANT shall first have obtained CITY's approval and the approval of any necessary governmental entities.
- D. Pre-Existing Contamination

CITY hereby agrees to indemnify, defend and hold TENANT harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, known or unknown, arising from any pre-existing soil contamination or other pre-existence of any Hazardous Material on the PROPERTY prior to the date TENANT originally began to occupy the PROPERTY, including but not limited to any sums paid in settlement of claims, attorneys fees, consultant fees and expert witness fees which arise during or after the AGREEMENT term and arising solely from such pre-existing contamination, if any.

**XX. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS**

In the event of damage to or destruction of TENANT-constructed buildings, facilities, or improvements located within the PROPERTY or in the event TENANT-constructed buildings, facilities, or improvements located within the PROPERTY are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, TENANT shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or

reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the PROPERTY for the purposes required by the AGREEMENT. Notwithstanding the foregoing, in the event the TENANT constructed buildings, facilities or improvements are so substantially and catastrophically damaged such that the PROPERTY can no longer reasonably be used or occupied by TENANT for its intended purpose, then in such case TENANT shall have one hundred and twenty (120) days from the date of such event to commence and diligently pursue to completion the repair, replacement, or reconstruction of those damaged improvements as outlined above.

Repair, replacement, or reconstruction of improvements within the PROPERTY shall be accomplished in a manner and according to plans approved by CITY, in its reasonable discretion. Except as otherwise provided herein, termination of this AGREEMENT shall not reduce or nullify TENANT's obligation under this paragraph. With respect to damage or destruction to be repaired by CITY or which CITY elects to repair, TENANT waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

#### XXI. UTILITIES

During the Term of this AGREEMENT, TENANT shall be responsible for and pay all charges for utilities supplied to the PROPERTY.

#### XXII. PUBLIC RECORDS

Any and all written information submitted to and/or obtained by CITY from TENANT or any other person or entity having to do with or related to this AGREEMENT and/or the PROPERTY, either pursuant to this AGREEMENT or otherwise, at the option of CITY, may be treated as a public record open to inspection by the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public. TENANT hereby waives, for itself, its agents, employees, subtenants and any person claiming by, through or under TENANT, any right or claim that such information is not a public record or that the same is a trade secret, or confidential, or not subject to inspection by the public, including without limitation reasonable attorneys' fees and costs.

#### XXIII. RESERVATION TO CITY

- A. The PROPERTY is accepted "as is" and, thereby, TENANT is subject to any and all existing easements and encumbrances. In addition, CITY reserves the right to install, lay, construct, maintain, repair and operate such sewer lines, drain lines, laterals, manholes and utilities (water, oil, gas, telephone and power) and all appliances and appurtenances necessary or convenient in connection with, in, over, upon, through across, under and along the PROPERTY or any part thereof, and to enter the PROPERTY for any and all such purposes. CITY also reserves the right to grant franchises, easements, rights-of-way, and permits in, over, upon, through, across, under, and along any and all portions of the PROPERTY. No right reserved by CITY in the Paragraph shall be so exercised as to interfere unreasonably with TENANT'S operations hereunder or to impair the security of any secured creditor of TENANT. Except in the event of an emergency, CITY shall provide thirty (30) days advanced written notice of CITY's exercise of its reservation of rights. For purposes of this Paragraph, unreasonable interference is defined as the inability to operate its preschool due to noise, noxious odor or physical access to Property between the hours of 9:00 a.m. and 12:00 p.m. Monday through Friday from the months of September and May.

- B. CITY agrees that rights granted to third parties by reason of this Paragraph shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction, excepting those portions required for the slope remediation project.

#### XXIV. HOLDING OVER

In the event TENANT shall continue in possession of the leased PROPERTY after the term of this AGREEMENT, such possession shall not be considered a renewal of his AGREEMENT, but a tenancy from month to month and shall be governed by the conditions and covenants contained in this AGREEMENT or provided by law.

#### XXV. CITY'S RIGHT TO RE-ENTER

TENANT agrees to yield and peaceably deliver possession of the PROPERTY to CITY on the date of termination of this AGREEMENT, whatsoever the reason for such termination. Upon giving written notice of termination to TENANT, CITY shall have the right to re-enter and take possession of the PROPERTY on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the AGREEMENT and re-entry of the PROPERTY by CITY shall in no way alter or diminish any obligation of TENANT under terms of the AGREEMENT and shall not constitute an acceptance or surrender.

TENANT waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the PROPERTY for any lawful reason or in the event CITY re-enters and takes possession of the PROPERTY in a lawful manner.

#### XXVI. AUTHORITY OF TENANT

If TENANT is a corporation, each individual executing this AGREEMENT on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this AGREEMENT on behalf of said corporation, in accordance with the by-laws of said corporation, and that this AGREEMENT is binding upon said corporation.

#### XXVII. RELATIONSHIP OF PARTIES

The relationship of the parties hereto is and shall at all times remain that of Lessor and Tenant. It is expressly understood and agreed that by executing this AGREEMENT and allowing TENANT to take possession of the PROPERTY, CITY does not in any way or for any purpose become a partner of TENANT, or otherwise establish a joint venture between CITY and TENANT.

#### XXIII. ATTACHMENTS

This AGREEMENT includes the following, which are attached hereto and made a part hereof:

- Attachment A – Assessors Map for PROPERTY
- Attachment B – Rent Schedule
- Attachment C – License Agreement between City and United States of America

IN WITNESS WHEREOF, the parties have executed this license the day and year first above written.

CITY OF FULLERTON  
A Municipal Corporation

TENANT  
Fullerton Community Nursery School

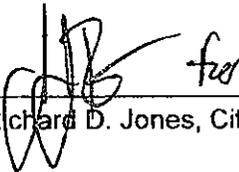
\_\_\_\_\_  
Don Bankhead, Mayor

\_\_\_\_\_  
Executive Director

ATTEST

APPROVED AS TO FORM

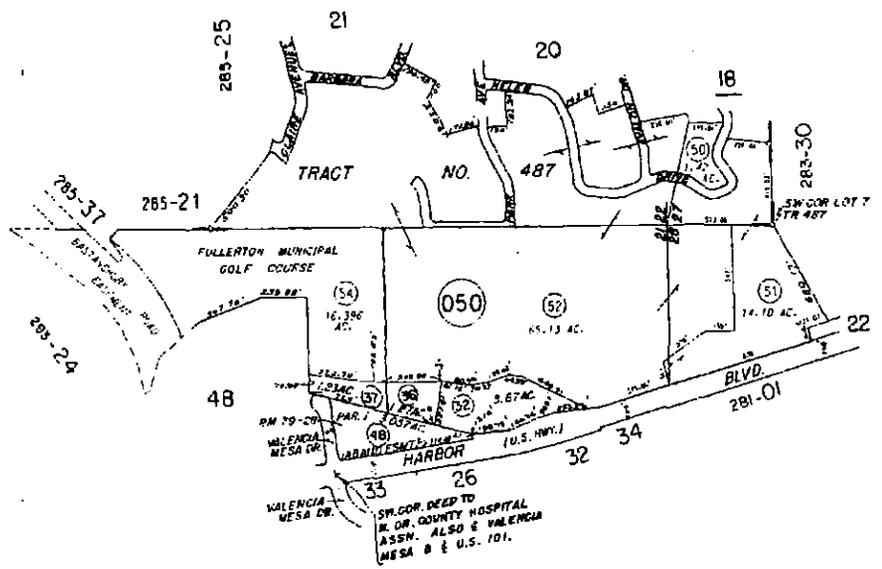
\_\_\_\_\_  
Beverley White, City Clerk

  
\_\_\_\_\_  
Richard D. Jones, City Attorney

COUNTY ASSESSOR DEPT. PURPOSES ONLY.  
 THE ASSESSOR MAKES NO GUARANTEE AS TO  
 ITS ACCURACY NOR ASSUMES ANY LIABILITY  
 FOR OTHER USES. NOT TO BE REPRODUCED  
 ALL RIGHTS RESERVED.  
 © COPYRIGHT ORANGE COUNTY ASSESSOR 2003

POR. SEC. 21, 22, 27 & 28, T 3 S, R 10 W

028-05



Attachment A  
 Assessor's Map for Parcel

MARCH 1949

TRACT NO. 487  
 PARCEL MAP

M.M. 18-34  
 P.M. 79-28

NOTE - ASSESSOR'S BLOCK &  
 PARCEL NUMBERS  
 SHOWN IN CIRCLES

ASSESSOR'S MAP  
 BOOK 028 PAGE 05  
 COUNTY OF ORANGE

1-1-03

THIS MAP WAS PREPARED FOR ORANGE COUNTY  
 ASSESSOR DEPARTMENT USE ONLY. THE ASSESSOR  
 MAKES NO GUARANTEE AS TO ITS ACCURACY  
 NOR ASSUMES ANY LIABILITY FOR OTHER USES.  
 NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
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## Child Guidance Center and Fullerton Community Nursery School Rent Calculation

### Rent per Building Square Footage

Occupant	Occupancy Areas	Proposed Monthly Rent - Year 1				Total Rent	
		Maint.	Improvements	Admin	AC/Storm	Month	Annual
Child Guidance Center	6,623	\$2,997.62	\$490.02	\$149.88	\$904.39	\$4,541.91	
ECP Room	1,100	\$497.87	\$81.39	\$24.89	\$150.21	\$754.36	
Community Room	400	\$181.04	\$29.60	\$9.05	\$54.62	\$274.31	
<b>Total</b>	<b>8,123</b>	<b>\$3,676.53</b>	<b>\$601.00</b>	<b>\$183.83</b>	<b>\$1,109.22</b>	<b>\$5,570.58</b>	<b>\$66,847</b>
Community Nursery School	2,412	\$1,037.10	\$178.46	\$54.58	\$0.00	\$1,270.15	
Community Room	400	\$171.99	\$29.60	\$9.05	\$29.67	\$240.30	
Comm. Room Office	126	\$54.18	\$9.32	\$2.85	\$0.00	\$66.35	
Kitchen	80	\$34.40	\$5.92	\$1.81	\$0.00	\$42.13	
<b>Total</b>	<b>3,018</b>	<b>\$1,297.67</b>	<b>\$223.30</b>	<b>\$68.30</b>	<b>\$29.67</b>	<b>\$1,618.93</b>	<b>\$19,427</b>
<b>Grand Total</b>	<b>11,141</b>	<b>\$4,974.20</b>	<b>\$824.30</b>	<b>\$252.13</b>	<b>\$1,138.89</b>	<b>\$7,189.51</b>	<b>\$86,274</b>

Fees	Actual	Years Cap.	Annual per sq'	Monthly/ per sq'
Bldg. Maintenance	\$40,280		\$3.615	\$0.301
Facility Capital Repair	\$16,230		\$1.457	\$0.121
Landscaping	\$4,000		\$0.359	\$0.030
<b>Ongoing Subtotal</b>	<b>\$60,510</b>		<b>\$5.431</b>	<b>\$0.453</b>
Administration	5%		\$0.272	\$0.023
<b>Improvements Completed by City</b>				
Roof (15 yrs)	72,265	4,818	\$0.43	\$0.04
Landscaping & signs (3 yrs)	7,722	2,574	\$0.23	\$0.02
Paint (10 yrs)	25,000	2,500	\$0.22	\$0.02
<b>Improvements Subtotal</b>			<b>\$0.89</b>	<b>\$0.07</b>
AC & Storm Drain	44,600			
CGC - AC (3 yrs)	21,932	7,311	\$0.90	\$0.07
Storm Drain (3 yrs)	18,000	6,000	\$0.74	\$0.06
FCNS - AC (3 yrs)	1,068	356	\$0.89	\$0.07
Rent for FCNS			\$6.32	\$0.53
Rent for CGC			\$7.96	\$0.60

**Child Guidance Center and Fullerton Community Nursery School  
Rent Calculation**

Occupant	Areas	Proposed Monthly Rent - Year 2					Annual Rent	Proposed Monthly Rent - Year 3					Annual Rent
		Maint.	Improv.	Admin	AC/Storm	Total		Maint.	Improv.	Admin	AC/Storm	Total	
Child Guidance Center	8,123	3,787	619	189	1,142	\$5,738	\$68,852	3,900	638	195	1,177	\$5,910	\$70,918
Nursery School	3,018	1,337	230	70	31	\$1,667	\$20,010	1,377	237	72	31	\$1,718	\$20,610
<b>Grand Total</b>	<b>11,141</b>	<b>5,123</b>	<b>849</b>	<b>260</b>	<b>1,173</b>	<b>\$7,405</b>	<b>\$88,862</b>	<b>5,277</b>	<b>874</b>	<b>267</b>	<b>1,208</b>	<b>\$7,627</b>	<b>\$91,528</b>

Occupant	Proposed Monthly Rent - Year 4					Annual Rent	Proposed Monthly Rent - Year 5				Annual Rent
	Areas	Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,017	491	201	\$4,709	\$56,510	4,138	506	207	\$4,850	\$58,205
Nursery School	3,018	1,418	182	75	\$1,675	\$20,100	1,461	188	77	\$1,725	\$20,703
<b>Grand Total</b>	<b>11,141</b>	<b>5,435</b>	<b>673</b>	<b>276</b>	<b>\$6,384</b>	<b>\$76,610</b>	<b>5,599</b>	<b>693</b>	<b>284</b>	<b>\$6,576</b>	<b>\$78,908</b>

Occupant	Proposed Monthly Rent - Year 6					Annual Rent	Proposed Monthly Rent - Year 7				Annual Rent
	Areas	Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,262	521	213	\$4,996	\$59,951	4,390	536	219	\$5,146	\$61,750
Nursery School	3,018	1,504	193	79	\$1,777	\$21,324	1,549	199	82	\$1,830	\$21,964
<b>Grand Total</b>	<b>11,141</b>	<b>5,766</b>	<b>714</b>	<b>292</b>	<b>\$6,773</b>	<b>\$81,275</b>	<b>5,939</b>	<b>736</b>	<b>301</b>	<b>\$6,976</b>	<b>\$83,713</b>

Occupant	Proposed Monthly Rent - Year 8					Annual Rent	Proposed Monthly Rent - Year 9				Annual Rent
	Areas	Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,522	552	226	\$5,300	\$63,602	4,657	569	233	\$5,459	\$65,510
Nursery School	3,018	1,596	205	84	\$1,885	\$22,623	1,644	211	87	\$1,942	\$23,301
<b>Grand Total</b>	<b>11,141</b>	<b>6,118</b>	<b>758</b>	<b>310</b>	<b>\$7,185</b>	<b>\$86,225</b>	<b>6,301</b>	<b>780</b>	<b>319</b>	<b>\$7,401</b>	<b>\$88,811</b>

Occupant	Proposed Monthly Rent - Year 10					Annual Rent	Proposed Monthly Rent - Year 11				Annual Rent
	Areas	Maint.	Improv.	Admin	Total		Maint.	Improv.	Admin	Total	
Child Guidance Center	8,123	4,797	521	240	\$5,558	\$66,690	4,941	536	247	\$5,724	\$68,691
Nursery School	3,018	1,693	152	89	\$1,935	\$23,215	1,744	157	92	\$1,993	\$23,912
<b>Grand Total</b>	<b>11,141</b>	<b>6,490</b>	<b>673</b>	<b>329</b>	<b>\$7,492</b>	<b>\$89,906</b>	<b>6,685</b>	<b>693</b>	<b>339</b>	<b>\$7,717</b>	<b>\$92,603</b>

City Improvements	Year 4	CGC	FCNS	Year 10	CGC	FCNS
Roof (15 yrs)	\$0.04	\$319.86	\$118.84	\$0.05	\$381.93	\$141.90
Landscaping (3 yrs)	\$0.02	\$165.91	\$61.64			
Paint (10 yrs)	\$0.02	\$161.15	\$59.87	\$0.02	\$65.42	\$65.42

Attachment C  
Agreement between City and United States

Lease No. DACW09-1-68-22  
Department of the Army  
Brea Flood Control Basin,  
City of Fullerton  
Orange County, California

SUPPLEMENTAL AGREEMENT NO.4

THIS SUPPLEMENTAL AGREEMENT NO.4, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the Lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACW09-1-68-22 was entered into between the Government and the Lessee, to use and occupy for public park and recreational purposes 192.41 acres, more or less, of land and water areas, designated as Unit A-8, located within the Brea Flood Control Basin, Orange County, California ("Brea Flood Basin"), for a term of forty-three (43) years, beginning 1 June 1966 and ending 31 May 2009; and

WHEREAS, by Supplemental Agreement No.1 dated 30 September 1968, 26.84 acres, more or less, were added to said lease, thereby increasing the total acreage from 192.41 acres, more or less, to 219.25 acres, more or less. Condition Nos. 17 and 32 of the basic lease were deleted, and new Condition Nos. 17 and 32 were inserted in lieu thereof. New Condition Nos. 33, 34 and 35 were added to the basic lease; and

WHEREAS, by Supplemental Agreement No.2 dated 3 June 1974, 1.49 acres, more or less, were added to said lease, thereby increasing the total acreage from 219.25 acres, more or less, to 220.74 acres, more or less; and

WHEREAS, by Supplemental Agreement No.3 dated 1 October 1991, the term of said lease was extended beyond its then current expiration date of 31 May 2009 to 31 May 2042; and

WHEREAS, Unocal Land & Development Company ("Unocal") is the owner of certain real property situated adjacent to the leased premises (the "Unocal Property"), which Unocal wishes to develop for residential uses (the "Residential Project"). As a condition to the development of the

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

Residential Project, which is in the public interest, the Lessee is requiring that Unocal develop certain portions of the leased premises and the Unocal Property as a recreational sports complex comprising 17 acres, more or less, as generally depicted on Exhibit A attached hereto and hereby made a part hereof (the "Sports Complex").

WHEREAS, to facilitate the development of the Residential Project and the Sports Complex, Unocal has requested that the Government complete an exchange transaction contemporaneously with the execution of this Supplemental Agreement No.4 (the "Exchange") pursuant to which (i) Unocal will convey to the Government a portion of the Unocal Property, as such portion is depicted on Exhibit A attached hereto as the Unocal Exchange Parcel, which will be developed as part of the Sports Park (the "Unocal Exchange Parcel") and (ii) the Government will convey to Unocal portions of the leased premises, as such portions are depicted on Exhibit A attached hereto as the Government Exchange Parcels, which portions will be developed as a part of the Residential Project (the "Government Exchange Parcels").

WHEREAS, the Lessee, by letter dated April 10, 1997, requested that the Government complete the Exchange and Supplement 4 to Lease No. DACW09-1-68-22 to provide for the deletion of the Government Exchange Parcels and the addition of the Unocal Exchange Parcel.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree that effective upon the date of execution hereof, Lease No. DACW09-1-68-22 is modified in the following particulars:

1. That 5.952 acres, more or less, comprising the Government Exchange Parcels, are deleted from Lease No. DACW09-1-68-22 and 9.236 acres, more or less, comprising the Unocal Exchange Parcel, are added to Lease No. DACW09-1-68-22, thereby resulting in a net increase in the total acreage of the leased premises as stated in Supplemental Agreement No.2 from 220.74 acres to 224.024 acres, more or less.

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

2. That legal description File No. 122-K-26.4 (revised 5 March 1974), marked Exhibit B-2, and Drawing No. 122-K-26.4 revised 1 March 1974), marked Exhibit C-2, are hereby deleted and, inserted in lieu thereof, are legal description File No. 122-K-26.5, marked Exhibit B-3, and Drawing No.122-K-26.5, marked Exhibit C-3, both exhibits being attached hereto and made a part hereof.

3. That Condition 2 of the basic lease is hereby deleted in its entirety and the following new Condition 2 is substituted in lieu thereof:

"2. The Lessee shall be guided by an annual Plan of Operation and Maintenance in furtherance of the Lessee's implementing Plan of Recreation Development and Management (Development Plan) attached as Exhibit D which shows the facilities and services necessary to meet the current and potential public demand and the management and development activities to be undertaken by the Lessee and any sublessees. No later than September 30th of each year the Lessee will submit the annual Plan to be mutually agreed on between the Lessee and the District Engineer. Such annual Plan shall include but is to limited to the following:

a. Plans for management, maintenance and development activities to be undertaken by the Lessee and any sublessees.

b. Report of the management, maintenance and development accomplishments of the Lessee for the preceding year.

c. Report on any significant modification of policies or procedures which are planned for the following year as well as those implemented in the preceding year.

d. Minor modifications to the Development Plan. Major modifications are to be accomplished by amendment to the Plan before proceeding to implement any changes in the development or management of the leased premises.

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

e. Budget of the Lessee for carrying out all activities for the upcoming year.

f. Personnel to be used in the management of the leased premises.

g. Annual certification that all water and sanitary systems on the premises comply with Federal, state and local standards. Lessee will provide necessary annual testing to assure compliance with all Federal and state water quality standards. A copy of the Lessee's annual water quality report shall be provided to the Lessor. Lessee will also provide a statement of compliance with the Rehabilitations Act and the Americans with Disabilities Act, as required in the condition on Non-Discrimination, noting any deficiencies and providing a schedule for correction."

4. That Condition 11 of the basic lease is hereby deleted in its entirety and the following new Condition 11 is substituted in lieu thereof:

"11. Compliance, Closure, Revocation And Relinquishment.

a. The Lessee and/or any sub-lessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the District Engineer. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by sub-lessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease,

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee by giving one (1) year prior written notice to the District Engineer in the manner prescribed in the Condition on notices."

5. That Condition 13 of the basic lease is hereby deleted in its entirety and the following new Condition 13 is substituted in lieu thereof:

"13. On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property therefrom, and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the District Engineer, said property shall either become the property of the United States without compensation therefor, or the District Engineer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises."

6. That Conditions 14 and 31 of the basic lease are hereby deleted in their entirety and the following new Condition 14 is substituted in lieu thereof:

"14. Non-Discrimination.

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on

Lease No. DACW09-1-68-22  
Supplemental Agreement No.4

the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this Lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees."

7. That Condition 17 of the basic lease, as said Condition 17 had been restated pursuant to Supplemental Agreement No.1, is hereby deleted in its entirety and the following new Condition 17 is substituted in lieu thereof:

"17. All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the District Engineer. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the District Engineer. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The District Engineer shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with

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auditing standards and procedures promulgated by the American Institute of Certified Public Accountants or by the state, and furnish the District Engineer with the results of such an audit."

8. That Condition 20 of the basic lease is hereby deleted in its entirety and the following new Condition 20 is substituted in lieu thereof:

"20. Health And Safety.

a. The Lessee shall keep the premises in good order and in a clean, sanitary, and safe condition and shall have the primary responsibility for ensuring that any sub-lessees and concessionaires operate and maintain the premises in such a manner.

b. In addition to the rights of revocation for non-compliance, the District Engineer, upon discovery of any hazardous conditions on the premises that presents an immediate threat to health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected within the time specified, the District Engineer will have the option to: (1) correct the hazardous conditions and collect the cost of repairs from the Lessee; or, (2) revoke the Lease. The Lessee and its assignees or sub-lessees shall have no claim for damages against the United States! or any officer, agent, or employee thereof on account of action taken pursuant to this condition.

c. The Lessee shall indemnify, defend and hold the United States harmless from and against any claims, liabilities, losses and damages arising from any failure by the Lessee to perform its repair and maintenance obligations under this Lease.

9. That Condition 23 of the basic lease is hereby deleted in its entirety and the following new Condition 23 is substituted in lieu thereof:

Lease No. DACW09-1-68-22  
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"23. Transfers, Assignments, Subleases.

a. Without prior written approval of the District Engineer, the Lessee shall neither transfer nor assign this lease nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease.

b. The Lessee will not sponsor or participate in timeshare ownership of any structures, facilities, accommodations, or personal property on the premises. The Lessee will not subdivide nor develop the premises into private residential development."

10. That notwithstanding Condition 25 of the basic lease to the contrary, the portion of the leased premises constituting the Sports Complex may be referred to by Lessee as the "Fullerton Sports Complex."

11. That Condition 29 of the basic lease is hereby deleted in its entirety and the following new Condition 29 is substituted in lieu thereof:

"29. Insurance.

a. At the commencement of this lease, the Lessee, unless self-insured, and its sub-lessees and concessionaires at the commencement of operating under the terms of this lease as third parties, shall obtain from a reputable insurance company or companies contracts of liability insurance. The insurance shall have a minimum combined single limit of \$1,000,000 per occurrence, with respect to claims for bodily injury or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any persons or persons, resulting from the operations of the Lessee, sub-lessee and concessionaires under the terms of this lease. The Lessee shall require its insurance company to furnish to the District Engineer a copy of the policy or policies, or, if acceptable to the District Engineer, certificates of insurance evidencing the purchase of such insurance. The District Engineer shall have the right to review and revise the amount of minimum liability insurance required.

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b. The insurance policy or policies shall specifically provide protection appropriate for the types of facilities, services and products involved; and shall provide that the District Engineer be given thirty (30) days notice of any cancellation or change in such insurance.

c. In the event the Lessee is self-insured, the Lessee shall certify such self-insurance in writing in the minimum amount specified above to the District Engineer. The Lessee's insurance status shall not eliminate the requirement for its sub-lessees and concessionaires to have insurance from a reputable insurance carrier as set out above.

d. The District Engineer may require closure of any or all of the premises during any period for which the Lessee and/or its sub-lessees and concessionaires do not have the required insurance coverage."

12. That Condition 30 of the basic lease is hereby deleted in its entirety and the following new Condition 30 is substituted in lieu thereof:

"30. Environmental Protection.

a. Within the limits of their respective legal powers, the parties to this Lease shall protect the project against pollution of its air, ground, and water. The Lessee shall comply promptly with any laws, regulations, conditions or instructions affecting the activity hereby authorized, if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the leased area is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency, are hereby made a condition of this Lease. The lessee shall require all sanitation facilities on boats moored at the Lessee's facilities, including rental boats, to be sealed against any discharge into the lake. Services for waste disposal, including sewage pump-

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out of watercraft, shall be provided by the Lessee as appropriate. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from the District Engineer before any pesticides or herbicides are applied to the premises."

13. That the termination date of said lease is extended to a date which is fifty (50) years following the date of this Supplemental Agreement No.4.

14. The Lessee acknowledges that (i) the Residential Project will include certain slope areas which will be contiguous to the Sports Complex and which will be subject to a flood and inundation easement in favor of the Government for the Brea Flood Basin ("Affected Slopes"), (ii) Unocal has agreed to cause to be recorded against each lot within the Residential Project, prior to the sale of each such lot, a declaration of covenants, conditions and restrictions which will include, inter alia, the provisions set forth on Exhibit E attached hereto ("Subject Declaration Provisions"), (iii) the Subject Declaration Provisions require the homeowners' association to perform certain restoration and removal work with regard to the Affected Slopes, as such restoration and removal work is described in Subsection 9(b) (iii) of the Subject Declaration (the "Restoration/Removal Work"), and (iv) under Subsection 9(b) (iv) of the Declaration Provisions, both the Government and the Lessee will have the right, but not the obligation, to perform the Restoration/Removal Work if such work is not timely performed by the homeowners' association. The Lessee agrees that, if the Lessee exercises its right to perform any requisite Restoration/Removal Work, such work shall be performed by

Lease No. DACW09-1-68-22  
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the Lessee in a manner which preserves the floodwater capacity within the Brea Flood Basin.

15. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this 12<sup>th</sup> day of JULY, 2001.

Theresa M. Kaplan  
THERESA M. KAPLAN  
Chief, Real Estate Division

THIS SUPPLEMENTAL AGREEMENT NO. 4, together with the provisions and conditions hereof, is hereby accepted this 26<sup>th</sup> day of June, 2001.

CITY OF FULLERTON

By: [Signature]  
Title: Mayor

ATTEST:

Andrey K. Culver  
City Clerk

APPROVED AS TO FORM:

[Signature]  
City Attorney

APPROVED AS TO CONTENT:

[Signature]  
Director of Community Services

APPROVED BY CITY COUNCIL ON

June 19, 2001  
Andrey K. Culver  
City Clerk

R

DATE: 29 NOVEMBER 2000  
UNIT: R-8"  
ACQ TRACT: 6B, 6C, 7A, 7B  
ASSESSOR'S PARCEL: 285-211-01 THRU 11  
ACREAGE: 5.878+  
GRANTEE: CITY OF FULLERTON  
PROJECT/REMIS CODE: BREA FLOOD CONTROL BASIN/BREAFC  
LOCATION: FULLERTON, ORANGE COUNTY, CALIFORNIA  
CESPL-RE-PC FILE: 122-K-26.5 (4 SHEETS)  
DOCUMENT NO: DACW09-1-68-22

LEGAL DESCRIPTION OF LICENSE TO THE CITY OF FULLERTON FOR  
RECREATIONAL AREA

That land described in a document, File No. 122-K-26.4 (revised 5, March 1974), in the office of the United States Army Corps of Engineers, Los Angeles District, Real Estate Division, together with that portion of the southeast quarter of the northwest quarter of Section 22, Township 3 South, Range 10 West, San Bernardino Meridian, in the Rancho San Juan Cajon de Santa Ana, in the City of Fullerton, County of Orange, State of California, as shown on a map recorded in Book 51, Page 7 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

Beginning at the southwest corner of said southeast quarter, as shown on Record of Survey No. 901143, per map filed in Book 132, Pages 34, 35 and 36 of Records of Surveys in the office of the County Recorder of said County; thence along the westerly line of said southeast quarter, North 0°56'36" East 470.13 feet; thence South 26°15'11" East 17.14 feet; thence South 39°53'18" East 24.41 feet; thence South 50°13'04" East 93.94 feet; thence South 72°45'47" East 38.30 feet; thence North 84°29'51" East 250.45 feet; thence South 82°35'00" East 113.43 feet; thence South 68°08'35" East 121.35 feet; thence South 54°21'48" East 219.38 feet; thence South 81° 38'58" East 94.55 feet; thence North

81°29'36" East 45.55 feet; thence North 62°32'38" East 166.28 feet; thence North 26°51'55" East 53.25 feet; thence North 39°02'21" East 46.10 feet; thence North 9°40'40" West 24.09 feet; thence North 16°42'24" East 42.27 feet; thence North 61°54'59" East 40.71 feet; thence North 53°49'11" East 13.72 feet; thence North 37°25'21" East 108.94 feet; thence North 58°46'37" East 49.55 feet to the Easterly line of said Southeast quarter; thence along said Easterly line, South 1°54' 19" West 513.91 feet to the Southeast corner of said Southeast quarter; thence along the Southerly line of said Southeast quarter, South 88°01'51" West 1279.02 feet to the Point of Beginning. Said parcel contains 9.236 acres more or less.

As shown on Exhibit " I " attached hereto and by this reference made a part hereof.

Except therefrom that portion of the southwest quarter of the northwest quarter of Section 22, Township 3 South, Range 10 West, San Bernardino Meridian, in the Rancho San Juan Cajon de Santa Ana, in the City of Fullerton, County of Orange, State of California, as shown on a map recorded in Book 51, Page 7 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

**PARCEL 1**

Beginning at a point on the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No. 90-1143~ per map filed in Book 132, Pages 34, 35 and 36 of Records of Surveys in the office of the County Recorder of said County, said point being North 33°23'35" East 130.01 feet from the southerly terminus of that certain course in said boundary having a bearing of North 33°23'35" East; thence North 54°43'38" East 19.20 feet; thence North 65° 41 '16" East 51.48 feet; thence North 37°46'21" East 23.66 feet; thence North 12°33'33" East 29.87 feet; thence North 4°33'36" East 53.23 feet to said boundary; thence along said boundary South 33°23'35" West 159.55 feet to the Point of Beginning. Said parcel contains 0.075 acres more or less.

**PARCEL 2**

Beginning at the southerly terminus of that certain course having a bearing of North 33°23'35" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; Thence along said boundary South 61°25'10" West 163.32 feet; thence along said boundary South 0°01'04" West 90.82 feet; thence North 40°20'00" East 221.63 Feet to the Point of Beginning. Said parcel contains 0.150 acres more or less.

**PARCEL 3**

Beginning at the northerly terminus of that certain course having a bearing of North 41°00'38" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; Thence along said boundary South 80°41'04" West 241.33 feet; thence along said boundary North 6°42'05" East 128.81 feet; thence South 35°11'34" West 166.26 feet; thence South 34°25'33" West 55.85 feet; thence South 14°30'00" West 133.50 feet; thence South 9°50'00" East 128.00 feet to a point in said boundary; thence along said boundary North 50°37'13" East 267.00 feet; thence along said boundary North 41°00'38" East 237.27 feet to the Point of Beginning. Said parcel contains 1.472 Acres, more or less.

**PARCEL 4**

Beginning at the Southerly terminus of that certain course having a bearing of North 6°42'05" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.91-1143, per map filed in Book 132, Pages 34,35 and 36 of Record of Surveys in the office of the County Recorder of said county; thence along said boundary North 6°42'05" East 128.81 feet to the True Point of Beginning; thence, continuing along said boundary North 6°42'05" East 82.40 feet; thence, continuing along said boundary North 52°34'32" East 479.58 feet to a line that is parallel or

concentric with and distant Southeasterly 50.00 feet, measured at right angles orradially from the centerline of Bastanchury Road as shown on Drawing No. 122-K-29 entitled "BREA FLOOD CONTROL BASIN OUTGRANT TO THE CITY OF FULLERTON, UNIT A-10" on file with the Corps of Engineers, U.S. Army, Office of the District Engineer, Los Angeles, California, said point of intersection being in a curve on said concentric line, that is concave Southeasterly and having a radius of 950.00 feet, a radial line to said point bears North 13°32'27" West; thence Southwesterly 667.72 feet along said curve through a central angle of 40°16'16"; thence along said parallel line, tangent from said curve, South 36°11'17" West 422.51 feet; thence South 53°48'43" East 35.00 feet; thence North 58°18'54" East 112.98 feet; thence South 31°26'30" East 46.71 feet; thence South 51°49'53" East 64.59 feet; thence 29°20'19" East 67.70 feet; thence South 22°03'38" West 37.44 feet; thence South 110°5'31" East 8.44 feet to the Southwesterly terminus of that certain course in the boundary of the land described in said deed which bears North 50°37'13" East as shown on said Record of Survey; thence along said line North 50°37'13" East 57.00 feet to a point which bears the following courses from the True Point of Beginning: South 35°11'34" West 166.26 feet, South 34°25'33" West 55.85 feet, South 14°30'00" West 133.50 feet and South 9°50'00" East 128.00 feet; thence North 9°50'00" West 128.00 feet; thence North 14°30'00" East 133.50 feet; thence North 34°25'33" East 55.85 feet; thence North 35°11'34" East 166.26 feet to the True Point of Beginning. Said parcel contains 2.488 acres more or less.

#### PARCEL 5

Beginning at the Southeasterly terminus of that certain course having a bearing of North 50°39'28" West in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; thence along said boundary North 50°39'28" West 523.83 feet to an angle point in said boundary; thence South 110°5'10" East 50.82 feet; thence South 44°50'40" East 62.62 feet; thence South 52°08'17" East 42.51 feet; thence South 58°06'06" East 79.46 feet; thence South 48°31'01" East 91.72 feet; thence South

65°56'17" East 13.24 feet; thence South 45°22'04" East 26.00 feet; thence South 57°12'57" East 78.70 feet; thence South 50°43'26" East 43.04 feet; thence South 73°15'18" East 53.66 feet to the Point of Beginning. Said parcel contains 0.325 acres more or less.

**PARCEL 6**

Beginning at the Southerly terminus of that certain course having a bearing of North 00°01'04" East in the boundary of the land described in the deed recorded in Book 5231, Page 67 of Official Records, as shown on Record of Survey No.90-1143, per map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said county; thence along said boundary North 00°01'04" East 206.52 feet to a point 90.82 feet from the Northerly terminus thereof; thence leaving said boundary North 40°20'00" East 221.63 feet to the Southwesterly terminus of that certain course in the boundary of the land described in said deed which bears "North 33°23.35" East" as shown on said Record of Survey; thence along said line North 33°23'35" East 130.01 feet; thence North 54°43'38" East 19.20 feet; thence North 65°41'16" East 51.48 feet; thence North 37°46'21" East 23.66 feet; thence North 12°33'33" East 29.87 feet; thence North 4°33'36" East 53.23 feet to said course; thence along said boundary the following courses: North 33°23'35" East 100.00 feet, North 40°35'26" East 400.50 feet and North 7°39'40" East 105.87 feet; thence South 10°06'01" East 17.64 feet; thence South 3°18'22" West 89.64 feet; thence South 31°55'10" West 166.66 feet; thence South 40°06'13" West 222.25 feet; thence South 18°41'42" West 62.17 feet; thence South 46°47'54" West 31.98 feet; thence West 27.19 feet; thence South 29°43'42" West 13.14 feet; thence South 5°25'53" West 51.15 feet; thence South 22°20'42" West 39.41 feet; thence South 50°41'22" West 23.98 feet; thence South 23°17'19" West 29.53 feet; thence South 10°55'17" West 73.64 feet; thence South 22°53'48" West 28.48 feet; thence South 58°53'22" West 74.76 feet; thence South 65°22'07" West 71.69 feet; thence South 1°43'28" West 23.22 feet; thence South 26°54'44" West 35.53 feet; thence South 7°23'03" East 43.81 feet; thence South 19°00'18" East 14.52 feet; thence South 7°32'36" East 24.43 feet; thence South 46°28'43" West 22.50 feet; thence South 82°10'05" West 19.12 feet; thence South 44°21'18" West 22.92 feet; thence South 3°51'01" East 42.80 feet; thence South 21°47'18" East 31.45 feet; thence

South 4°22'52" East 21.68 feet; thence South 39°21'02" West 39.06 feet; thence South 55°57'25" West 17.13 feet to the south line of said Northwest quarter; thence along said south line North 87°47'52" West 40.83 feet to the Point of Beginning. Said parcel contains 1.368 acres more or less.

**PARCEL 7**

Beginning at point on the Easterly line of said Southwest quarter, distant North 0°56'36" East 475.48 feet from the Southeast corner of said Southwest quarter, as shown on Record of Survey No.90-1143, per Map filed in Book 132, Pages 34,35 and 36 of Records of Surveys in the office of the County Recorder of said County; thence leaving said Westerly line, North 15°10'04" West 20.00 feet; thence North 1° 53'57" East 63.51 feet; thence North 1°32'19" East 100.01 feet; thence North 0°57'59" East 100.00 feet; thence North 0°58'13" East 100.00 feet; thence North 0°57'29" East 80.17 feet; thence North 0°10'52" West 100.02 feet; thence North 0°27'25" West 50.01 feet; thence North 0°01'00" West 50.01 feet; thence North 1°26' 10" East 20.97 feet; thence North 4°51' 18" East 29.22 feet; thence North 7°01 '28" East 21.90 feet; thence North 14°37'39" East 12.15 feet to said Easterly line; thence along said Easterly line, South 0°56'36" West 746.59 feet to the Point of Beginning. Said parcel contains 0.074 acres more or less.

Parcels 1 through 7 as shown on Exhibit "2" attached hereto and by this reference made a part hereof.

HUNSAKER & ASSOCIATES INC.  
W.O. 433-12-X  
H&A LEGAL NO. 4502  
BY J. DAVID  
Checked by: R. Williams  
REVISED MARCH 9, 1998

NOTE: Changed Unit number from A-8 to R-8

CHECKED BY RM.  
DATE: 10 Jan 2001

COE FILE NO. 122-K-26.5

Department of the Army  
Lease No. DACWO9-1-68-22  
Brea Flood Control Basin  
Orange County, California  
City of Fullerton

SUPPLEMENTAL AGREEMENT NO. 3

THIS SUPPLEMENTAL AGREEMENT NO. 3, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the state of California, hereinafter called the Lessee, WITNESSETH:

WHEREAS, on 31 March 1967, Lease No. DACWO9-1-68-22 was entered into between the Government and the Lessee, to use and occupy for public park and recreational purposes 192.41 acres, more or less, of land and water areas, designated as Unite A-8, located within the Brea Flood Control Basin, Orange County, California, for a term of forty-three (43) years, beginning 1 June 1966 and ending 31 May 2009; and

WHEREAS, by Supplemental Agreement No. 1 dated 30 September 1968, 26.84 acres, more or less, were added to said lease, thereby increasing the total acreage from 192.41 acres, more or less, to 219.25 acres, more or less. Condition Nos. 17 and 32 of the basic lease were deleted, and new Condition Nos. 17 and 32 were inserted in lieu thereof. New Condition Nos. 33, 34 and 35 were added to the basic lease; and

WHEREAS, by Supplemental Agreement No. 2 dated 3 June 1974, 1.49 acres, more or less, were added to said lease, thereby increasing the total acreage from 219.25 acres, more or less, to 220.74 acres, more or less; and

WHEREAS, Community Golf Development, Inc. a sublessee, wishes to obtain funding to develop and construct a golf course within the leased area, which is in the public interest; and

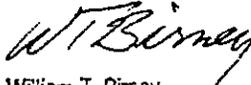
WHEREAS, in order to obtain the funding and to assure adequate time to amortize the private investment capital, Lessee, on behalf of its sublessee has requested the term of the existing lease be extended beyond its current expiration date of 31 May 2009 to 31 May 2042, thus providing a fifty (50) year term, and the government has no objections thereto.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree that effective upon the date of execution hereof, Lease No. DACWO9-1-68-22 is modified in the following particulars:

1. That the termination date of said lease is extended, beginning 1 June 2009 and ending 31 May 2042.

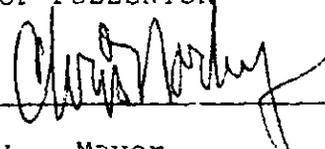
2. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this 6<sup>th</sup> day of April 1992.

  
William T. Birney  
Assistant for Real Property  
OASA(1, LCE)

THIS SUPPLEMENTAL AGREEMENT NO. 3, together with the provisions and conditions hereof, is hereby accepted this 1st day of October 1991.

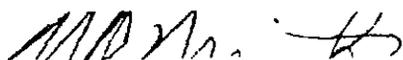
CITY OF FULLERTON

BY: 

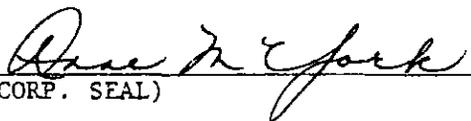
TITLE: Mayor

ATTEST:

  
City Clerk



I, Anne M. York certify that I am the City Clerk of the Corporation named as lessee herein; that Chris Norby, who signed this Supplemental Agreement No. 3 to Lease No. DACWO9-1-68-22 on behalf of the lessee, was then Mayor of said Corporation; that said Supplemental Agreement was duly signed for and on behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

  
(CORP. SEAL)

*MB York*



Lease No. DACW09-1-68-22  
Supplemental Agreement No. 2

3. That in all other respects the terms and conditions of the said lease remain unchanged and in effect.

IN WITNESS WHEREOF, I have hereunto set my hand by direction of the Assistant Secretary of the Army this 3<sup>rd</sup> day of JUNE 1974.

Gordon M. Hobbs  
Gordon M. Hobbs  
Assistant for Real Property  
OASA(I&L)

THIS SUPPLEMENTAL AGREEMENT NO. 2, together with the provisions and conditions hereof, is hereby accepted this 3<sup>rd</sup> day of April 1974.

CITY OF FULLERTON

By: Francis R. Wood

Title: MAYOR

ATTEST:

Virginia J. Simmons  
City Clerk

APPROVED  
AK Fox  
R. K. FOX  
FULLERTON CITY ATTORNEY

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 219.25  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.3

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27, and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon De Santa Ana, recorded in Patent Book 2, Pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28; thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence, along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 367.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of 17° 28' 58", a radial through said point bearing North 44° 17' 25" West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North 61° 46' 23" West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of 12° 57' 00", a radial through said point bearing North 61° 46' 23" West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from 6° to 0° in 180.00 feet; a radial through said point bearing North 74° 43' 23" West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North 9° 52' 37" East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South 80° 07' 23" East 59.69 feet; thence South 13° 52' 42" East 277.37 feet; thence North 59° 35' 56" East 449.39 feet; thence South 43° 02' 19" West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North 46° 36' 57" East 919.09 feet; thence North 63° 58' 02" East 873.37 feet; thence South 47° 25' 19" West 635.31 feet; thence South 34° 53' 19" West 304.57 feet; thence South 62° 15' 29" East 299.38 feet; thence North 72° 23' 52" East 460.41 feet; thence South 72° 45' 33" East 765.32 feet; thence North 66° 50' 18" East 646.97 feet; thence North 27° 17' 22" West 503.88 feet; thence North 58° 29' 29" East 577.72 feet; thence North 23° 11' 31" West 251.59 feet; thence North 53° 23' 39" West 159.75 feet; thence North 33° 00' 53" West 557.18 feet; thence North 36° 15' 13" East 315.00 feet; thence South 72° 43' 00" East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South 0° 51' 27" West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South 0° 52' 58" West 633.74 feet; thence leaving last said East line North 89° 15' 52" East 70.15 feet; thence South 16° 11' 13" East 267.22 feet; thence South 61° 52' 48" East 381.85 feet; thence North 81° 48' 39" West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South 0° 52' 58" West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South 89° 52' 24" West 1321.14 feet; thence South 89° 51' 06" West 135.00 feet; thence leaving last said South line North 60° 01' 49" West 217.86 feet; thence South 55° 34' 20" West 332.38 feet; thence North 83° 59' 59" West 390.04 feet; thence North 51° 34' 44" West 270.63 feet; thence South 42° 49' 29" West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South 42° 33' 11" West 212.65 feet; thence South 57° 15' 38" West 384.78 feet; thence South 9° 52' 06" East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 56" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30; as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof. Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57; said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7 Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure. (2.23 acres, more or less)

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (11.41 acres, more or less)

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced. (2.81 acre, more or less)

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam. (1.31 acres, more or less)

Containing 219.25 acres, more or less.

(Revised: 23 Dec 66)

4

Written by: City of Fullerton  
& WHP.

FILE: 122-K-26.3

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 220.74  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.4

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27 and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon de Santa Ana, recorded in Patent Book 2, pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28: thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 367.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

EXHIBIT B - 2

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of 17° 28' 58", a radial through said point bearing North 44° 17' 25" West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North 61° 46' 23" West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of 12° 57' 00", a radial through said point bearing North 61° 46' 23" West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from 6° to 0° in 180.00 feet; a radial through said point bearing North 74° 43' 23" West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North 9° 52' 37" East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South 80° 07' 23" East 59.69 feet; thence South 13° 52' 42" East 277.37 feet; thence North 59° 35' 56" East 449.39 feet; thence South 43° 02' 19" West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North 46° 36' 57" East 319.09 feet; thence North 63° 58' 02" East 873.37 feet; thence South 47° 25' 19" West 635.31 feet; thence South 34° 53' 19" West 304.57 feet; thence South 62° 15' 29" East 299.38 feet; thence North 72° 23' 52" East 460.41 feet; thence South 72° 45' 33" East 765.32 feet; thence North 66° 50' 18" East 646.97 feet; thence North 27° 17' 22" West 503.88 feet; thence North 58° 29' 29" East 577.72 feet; thence North 23° 11' 31" West 251.59 feet; thence North 53° 23' 39" West 159.75 feet; thence North 33° 00' 53" West 557.18 feet; thence North 36° 15' 13" East 315.00 feet; thence South 72° 43' 00" East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South 0° 51' 27" West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South 0° 52' 58" West 633.74 feet; thence leaving last said East line North 89° 15' 52" East 70.15 feet; thence South 16° 11' 13" East 267.22 feet; thence South 61° 52' 48" East 381.85 feet; thence North 81° 48' 39" West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South 0° 52' 58" West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South 89° 52' 24" West 1321.14 feet; thence South 89° 51' 06" West 135.00 feet; thence leaving last said South line North 60° 01' 49" West 217.86 feet; thence South 55° 34' 20" West 332.38 feet; thence North 83° 59' 59" West 390.04 feet; thence North 51° 34' 44" West 270.63 feet; thence South 42° 49' 29" West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South 42° 33' 11" West 212.65 feet; thence South 57° 15' 38" West 384.78 feet; thence South 9° 52' 06" East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 56" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30, as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57, said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7, Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure (2.23 acre, more or less).

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (9.92 acres, more or less).

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced (2.81 acres, more or less).

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam (1.31 acres, more or less).

Containing 220.74 acres, more or less.

Revised: 5 Mar 74

Revised: 23 Dec 66

Written by: City of Fullerton & WHP

FILE: 122-K-26.4

EXHIBIT B - 2

Lease No. DACW09-1-68-22  
Department of the Army  
Brea Flood Control Basin, California  
City of Fullerton

**SUPPLEMENTAL AGREEMENT NO. 1**

**THIS SUPPLEMENTAL AGREEMENT, entered into by and between the SECRETARY OF THE ARMY, representing the United States of America, hereinafter called the Government, and the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the lessee, WITNESSETH:**

WHEREAS, on 31 March 1967, Lease No. DACW09-1-68-22 was entered into between the Government and the lessee to use and occupy, for public park and recreational purposes, 192.41 acres, more or less, of land and water areas, designated as Unit A-8, located within the Brea Flood Control Basin, Orange County, California, for a term of forty-three (43) years, effective 1 June 1966;

WHEREAS, the Government has determined that 26.84 acres of land, more or less, located below the spillway within the operational area of the Brea Flood Control Basin, are available for recreational development and desires to incorporate the said 26.84 acres, more or less, into the land area presently under Lease No. DACW09-1-68-22 to the City of Fullerton, for day and overnight camping purposes, and the City of Fullerton is agreeable thereto.

NOW THEREFORE, effective upon execution by the Government and in consideration of the premises, the parties hereto do mutually agree that said lease is modified in the following particulars:

1. That 26.84 acres, more or less, are added to Lease No. DACW09-1-68-22, thereby increasing the total leased acreage, as stated in the granting clause of said lease, from 192.41 acres to 219.25 acres, more or less.

2. That the legal description, File: 122-K-26.1, marked Exhibit B, and Drawing No. 122-K-26.1, marked Exhibit C, are hereby withdrawn from the basic lease and inserted, in lieu thereof, are the following: Legal description, File: 122-K-26.3, marked Exhibit B-1, and Drawing No. 122-K-26.1, marked Exhibit C-1, both exhibits being attached hereto and made a part hereof.

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3. That Condition No. 17 of the basic lease is hereby deleted in its entirety and the following new Condition No. 17 is substituted in lieu thereof:

17. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees, and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation, and to pay for all past and future development by lessee, of the leased premises, including interest upon funds advances and debts incurred therefor. Any such monies not so utilized or programmed for utilization in a reasonable time by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer. The District Engineer shall have the right to perform audits of the lessee's records and accounts, and to require the lessee to audit the records and accounts of third party concessionaires, and furnish the District Engineer a copy of such an audit.

4. That Condition No. 32 of the basic lease is hereby deleted in its entirety and the following new Condition No. 32 is substituted in lieu thereof:

32. That the Dam Operator's quarters, the surrounding buildings and grounds, and the access road thereto, as shown on Exhibit C-1, are excluded herefrom and said area shall be fenced by the lessee with a chain link fence, excepting the access road.

5. That the following three additional conditions are added to the basic lease:

33. That the dam site, the spillway, a 50-foot vehicle service access along the upstream and downstream toe of the dam, and a 20-foot vehicle service along both sides of the channel downstream of the dam, as shown on Exhibit C-1, are excluded herefrom and chain link fencing shall be installed across the downstream toe of the dam.

34. That the vehicle service accesses may be landscaped, but no physical obstructions shall be located thereon.

35. That before execution of this lease, conditions were revised, deleted, and added in the following manner:

Revised: Granting clause and Condition No. 8

Deleted: Condition No. 6

Added: Conditions Nos. 17 through 35. Conditions Nos. 17 through 31 are contained in Exhibit A, attached to the basic lease and made a part thereof. Conditions Nos. 17 and 32 of the basic lease are deleted in their entirety and new Conditions Nos. 17 and 32 are substituted in lieu thereof. Conditions Nos. 17, 32 through 35 are contained in Supplemental Agreement No. 1 hereof.

Assurance of Compliance with the Department of Defense Directive under Title VI of the Civil Rights Act of 1964, marked Exhibit D-1, attached hereto and made a part hereof.

6. That in all other respects, the terms and conditions of said lease remain unchanged.

IN WITNESS WHEREOF, I have hereunto set my hand by direction of the Assistant Secretary of the Army this 30 day of September 1968.

*Sherry B. Myers*  
SHERRY B. MYERS  
Chief, Real Property  
Division, OASA (I&L)

THIS SUPPLEMENTAL AGREEMENT NO. 1 is also executed by the lessee this 30 day of September 1968.

CITY OF FULLERTON

ATTEST:

By: Louis R. Reinhardt

Title: Mayor

*D. Reginald Gustafson*  
APPROVED  
D. REGINALD GUSTAFSON  
FULLERTON CITY ATTORNEY

17. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees, and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation, and to pay for all past and future development by lessee, of the leased premises, including interest upon funds advances and debts incurred therefor. Any such monies not so utilized or programmed for utilization in a reasonable time by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer.

18. That all accounts and records of the lessee involving the operations conducted on the leased premises will be subject to inspection and audit at any convenient time by the said District Engineer or his duly authorized representatives.

19. The lessee shall compile and furnish such public use visitation data as may be requested by the District Engineer.

20. That the property shall at all times be maintained in a clean, sanitary, and safe condition and free from weeds, brush, washes, gullies, and debris. Floatable materials or items will not be placed or stored on the premises.

21. That the lessee shall cut no timber, except in furtherance of the plans for the public park and recreational area approved in writing by said District Engineer, and shall conduct no mining or drilling operations, remove no sand, gravel, or kindred substances from the ground, except such sand, gravel, or kindred substances as may be used in connection with buildings, filling, landscaping, and improvement operations on the leased premises by the lessee in accordance with the plan approved in writing by said District Engineer, and shall commit no waste of any kind or in any manner substantially change the contour or condition of the leased premises except in accordance with the plans approved in writing by said District Engineer.

22. That the lessee shall not permit gambling on the said leased premises, or install or operate, or permit to be installed or operated, on the leased premises, any device which, in the opinion of the said District Engineer is contrary to good morals or is otherwise objectionable, or use the said leased premises or permit them to be used for any illegal or immoral business or purpose; there shall not be carried on or permitted upon said premises any activity which would constitute a nuisance.

23. That the lessee shall neither transfer nor assign this lease or any property on the demised premises, nor sublet the demised premises or any part thereof or any property thereon, nor grant any interest, privilege, or license whatsoever in connection with this lease except as provided in Condition No. 3 hereof.

24. That it is understood that this instrument is effective only insofar as the rights of the United States in the property covered by this lease are concerned, and the lessee shall obtain such permission as may be necessary on account of any other existing rights.

25. That the areas made available to the lessee for public park and recreational purposes shall be known as the City of Fullerton Recreational Area (Brea Flood Control Basin).

26. That the United States acquired no mineral rights within the leased area and nothing within this lease shall be construed to indicate that the United States, in granting this lease, prohibits drilling or exploration work by owners of mineral rights or their lessees.

27. That the right is reserved to the United States to renew or enter into leases for agricultural or grazing use of any of the lands covered by this lease and not being developed by the lessee for park and recreational purposes, pending written notice by the lessee to the District Engineer prior to 1 May of any given year of its desire to develop such lands for said purposes, such desired lands to be generally contiguous to lands already developed for park and recreational purposes.

28. This lease supersedes License No. DA-04-353-CIVERO-60-123, dated 2 December 1959, to the City of Fullerton. The facilities constructed on the premises by the licensee under said license shall be and remain the property of the City of Fullerton which shall continue the administration, operation, and maintenance of said facilities under the terms and conditions of this lease.

29. That the lessee will carry liability or indemnity insurance providing for minimum limits of \$50,000 per person in any one claim, and an aggregate limit of \$150,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, and/or damage to property suffered or alleged to have been suffered by any person or persons resulting from the operations of the lessee under the terms of this lease.

Brea Flood Control Basin  
City of Fullerton  
Lease No. DACW09-1-68-22

30. That the lessee shall not discharge waste or effluent from the leased property in such a manner that such discharge will contaminate streams of other bodies of water or otherwise become a public nuisance.

31. That the grantee furnishes as part of this contract an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241) and Department of Defense Directive 5500.11 issued pursuant thereto and published in part 300 of Title 32, Code of Federal Regulations.

Brea Flood Control Basin  
City of Fullerton  
Lease No. DACW09-1-68-22

DATE: 23 December 1966  
UNIT: "A-8"  
ACREAGE: 219.25  
PROJECT: Brea Flood Control Basin  
LOCATION: Orange County, California  
FILE: 122-K-26.3

LICENSE TO THE CITY OF FULLERTON FOR RECREATIONAL AREA

All those portions of Sections 15, 16, 21, 22, 27, and 28, Township 3 South, Range 10 West, San Bernardino Base and Meridian in the County of Orange, State of California as same is shown on a map of Rancho San Juan Cajon De Santa Ana, recorded in Patent Book 2, Pages 243 to 257, inclusive, Records of Los Angeles County, California, more particularly described as follows, to-wit:

Beginning at the Southwest corner of Tract No. 487, as same is shown on a map, recorded in Book 18, pages 34 to 37, inclusive, Miscellaneous Maps of said Orange County, said point being also on the East line of Section 28, distant thereon South  $1^{\circ} 02' 51''$  West 573.06 feet from the Northeast corner of said Section 28; thence from said point of beginning South  $61^{\circ} 13' 41''$  West 577.03 feet; thence North  $15^{\circ} 44' 53''$  West 127.07 feet; thence South  $74^{\circ} 15' 07''$  West 90.00 feet to a point in the Easterly right-of-way line of Fullerton Road 80.00 feet wide, also known as U.S. Highway No. 101; thence along said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 44' 53''$  West 1450.44 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1871.94 feet and a central angle of  $7^{\circ} 52' 33''$ ; thence, along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North  $7^{\circ} 52' 20''$  West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North  $15^{\circ} 12' 53''$  East 1036.32 feet; thence East 498.81 feet to aforementioned Southeast corner of that certain parcel of land, as same is shown in a map, recorded in Book 34 at page 23, Record of Surveys; thence North  $0^{\circ} 05' 12''$  West 239.83 feet; thence North  $18^{\circ} 43' 23''$  West 367.76 feet; thence North  $39^{\circ} 55' 48''$  West 247.66 feet; thence North  $74^{\circ} 53' 59''$  West 158.00 feet; thence North  $13^{\circ} 44' 34''$  East 180.74 feet; thence South  $79^{\circ} 46' 09''$  West 301.45 feet; thence North  $18^{\circ} 36' 22''$  East 208.64 feet; thence North  $67^{\circ} 51' 27''$  West 289.07 feet; thence North  $11^{\circ} 09' 48''$  West 191.28 feet; thence North  $9^{\circ} 51' 57''$  East 1002.57 feet; thence North 581.27 feet to a

point in the Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad 130.00 feet wide, said point being also the beginning of a curve concave Northwesterly, having a radius of 1020.37 feet and a central angle of  $17^{\circ} 28' 58''$ , a radial through said point bearing North  $44^{\circ} 17' 25''$  West; thence along the arc of said curve Northeasterly 311.34 feet to the end of last said curve; thence North  $61^{\circ} 46' 23''$  West 35.00 feet to the beginning of a curve concave Northwesterly, having a radius of 985.37 feet and a central angle of  $12^{\circ} 57' 00''$ , a radial through said point bearing North  $61^{\circ} 46' 23''$  West thence along the arc of last said curve Northeasterly 222.71 feet to the beginning of a spiralled curve, concave Northwesterly, having a chord length of 30.00 feet and a degree of curvature from  $6^{\circ}$  to  $0^{\circ}$  in 180.00 feet; a radial through said point bearing North  $74^{\circ} 43' 23''$  West; thence along the arc of last said curve Northeasterly 182.74 feet to the end of said curve; thence tangent to last said curve continuing along aforementioned Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way North  $9^{\circ} 52' 37''$  East 630.09 feet; thence leaving last said Southeasterly right-of-way line of the Los Angeles and Salt Lake Railroad right of way South  $80^{\circ} 07' 23''$  East 59.69 feet; thence South  $13^{\circ} 52' 42''$  East 277.37 feet; thence North  $59^{\circ} 35' 56''$  East 449.39 feet; thence South  $43^{\circ} 02' 19''$  West 728.87 feet; thence South 316.90 feet; thence East 380.90 feet; thence North  $46^{\circ} 36' 57''$  East 919.09 feet; thence North  $63^{\circ} 58' 02''$  East 873.37 feet; thence South  $47^{\circ} 25' 19''$  West 635.31 feet; thence South  $34^{\circ} 53' 19''$  West 304.57 feet; thence South  $62^{\circ} 15' 29''$  East 299.38 feet; thence North  $72^{\circ} 23' 52''$  East 460.41 feet; thence South  $72^{\circ} 45' 33''$  East 765.32 feet; thence North  $66^{\circ} 50' 18''$  East 646.97 feet; thence North  $27^{\circ} 17' 22''$  West 503.88 feet; thence North  $58^{\circ} 29' 29''$  East 577.72 feet; thence North  $23^{\circ} 11' 31''$  West 251.59 feet; thence North  $53^{\circ} 23' 39''$  West 159.75 feet; thence North  $33^{\circ} 00' 53''$  West 557.18 feet; thence North  $36^{\circ} 15' 13''$  East 315.00 feet; thence South  $72^{\circ} 43' 00''$  East 375.59 feet to a point in the East line of the North half of the Southwest quarter of said Section 15; thence along last said East line South  $0^{\circ} 51' 27''$  West 936.27 feet to the Southeast corner of said North half of the Southwest corner of Section 15; thence along the East line of the South half of the Southwest quarter of said Section 15 South  $0^{\circ} 52' 58''$  West 633.74 feet; thence leaving last said East line North  $89^{\circ} 15' 52''$  East 70.15 feet; thence South  $16^{\circ} 11' 13''$  East 267.22 feet; thence South  $61^{\circ} 52' 48''$  East 381.85 feet; thence North  $81^{\circ} 48' 39''$  West 492.07 feet, more or less, to a point in aforementioned East line of the South half of the Southwest quarter of Section 15; thence along last said East line South  $0^{\circ} 52' 58''$  West 268.07 feet to the Southeast corner of said Southwest quarter of Section 15; thence along the South line of said Southwest quarter of Section 15 South  $89^{\circ} 52' 24''$  West 1321.14 feet; thence South  $89^{\circ} 51' 06''$  West 135.00 feet; thence leaving last said South line North  $60^{\circ} 01' 49''$  West 217.86 feet; thence South  $55^{\circ} 34' 20''$  West 332.38 feet; thence North  $83^{\circ} 59' 59''$  West 390.04 feet; thence North  $51^{\circ} 34' 44''$  West 270.63 feet; thence South  $42^{\circ} 49' 29''$  West 181.26 feet to the Southwest corner of said Southwest quarter of Section 15; thence South  $42^{\circ} 33' 11''$  West 212.65 feet; thence South  $57^{\circ} 15' 38''$  West 384.78 feet; thence South  $9^{\circ} 52' 06''$  East 174.05 feet; thence South

51° 36' 23" East 122.31 feet; thence South 69° 48' 11" East 352.17 feet; thence South 66° 09' 07" West 217.36 feet; thence North 89° 26' 05" West 384.15 feet; thence South 32° 02' 09" West 488.39 feet; thence South 37° 30' 02" East 329.12 feet; thence North 46° 25' 45" East 221.12 feet; thence South 28° 53' 49" East 172.01 feet; thence South 5° 14' 48" West 418.95 feet; thence North 88° 35' 56" East 193.44 feet; thence North 13° 20' 25" East 447.70 feet; thence South 66° 06' 25" East 246.92 feet; thence North 1° 09' 29" East 285.01 feet; thence South 78° 48' 19" East 472.23 feet; thence North 29° 05' 16" East 319.45 feet; thence South 29° 24' 59" East 250.29 feet; thence South 52° 32' 49" West 739.48 feet; thence South 6° 40' 22" West 211.02 feet; thence North 80° 41' 18" East 241.34 feet; thence South 40° 51' 34" West 236.95 feet; thence South 50° 38' 53" West 324.03 feet; thence South 50° 39' 30" East 523.47 feet, more or less, to a point on the South line of the West half of the Northwest quarter of said Section 22; thence North 0° 01' 16" East 297.33 feet; thence North 61° 24' 31" East 163.15 feet; thence North 33° 23' 54" East 389.51 feet; thence North 40° 36' 06" East 400.45 feet; thence North 7° 42' 08" East 616.51 feet; thence North 57° 01' 17" East 186.52 feet, more or less, to a point in the East line of the West half of said Northwest quarter of Section 22; thence along last said East line South 0° 58' 17" West 1732.70 feet to the Southeast corner of said West half of the Northwest quarter of Section 22; thence along the South line of said West half of the Northwest quarter of Section 22 North 88° 56' 22" West 1316.54 feet to the Southwest corner of said West half of the Northwest quarter of Section 22; thence along the West line of the Southwest quarter of said Section 22 South 0° 55' 06" West 139.35 feet; thence leaving last said West line and along the Southwesterly line of Lot 172, as same is shown on a map of Tract No. 487, recorded in Book 18 at pages 35 and 36, Miscellaneous Maps of said Orange County, South 49° 26' 00" East 500.30 feet; thence along the Southerly line of said Lot 172 South 73° 47' 37" East 54.40 feet, more or less, to a point in the centerline of Claire Avenue, 60 feet wide, as same is shown on said map of Tract No. 487; thence along said centerline of Claire Avenue South 41° 56' 00" West 83.43 feet to an angle point in said centerline of Claire Avenue; thence continuing along said centerline of Claire Avenue Southeasterly, Easterly and Northeasterly to the intersection of last said centerline with the centerline of Barbara Boulevard, 50.00 feet wide, as same is shown on said Map of Tract No. 487; thence along the centerline of said Barbara Boulevard Southwesterly, Southerly and Southeasterly to a point in the Northeasterly prolongation of the Southeasterly line of Lot 154 of said Tract No. 487; thence along last said Northeasterly prolongation of Lot 154 and said Southeasterly line of Lot 154, Southwesterly 221.50 feet, more or less, to the most Southerly corner of said Lot 154; thence along the Southwesterly line of said Lot 154 Northwesterly 100.00 feet to the most Westerly corner of said Lot 154; thence along the Southeasterly line of Lot 148 Southwesterly 220.61 feet to the most Southerly corner of said Lot 148; thence along the East line of Lot 141 Southeasterly 171.86 feet to the Southeast corner of said Lot 141, said point being also on the Northerly right-of-way line of Park View Drive, all as shown on said map of Tract No. 478; thence in a direct line Southeasterly 50.00 feet, more or less, to the Northwest corner

of Lot 20 of said Tract No. 478; thence along the West line of said Lot 20 Southerly 100.00 feet to the Southwest corner of said Lot 20; thence along the South line of said Lot 20 Northeasterly 182.24 feet to the Southeast corner of said Lot 20, said point being also on the Westerly right-of-way line of Helen Drive 50.00 feet wide, all as shown on said Map of Tract No. 478; thence perpendicular to last said Westerly right-of-way line of Helen Drive Southeasterly 25.00 feet to a point in the centerline of said Helen Drive; thence Southwesterly along the said center line of Helen Drive to a point in the Northerly prolongation of the Easterly line of Lot 30, as same is shown on said map of Tract No. 478; thence along last said Northerly prolongation and the Easterly line of Lot 30 Southeasterly to the Southeast corner of said Lot 30; thence along the Southerly line of said Lot 30 Southwesterly 110.00 feet to the common corner of Lot 30 and Lot 42; thence along the Easterly line of said Lot 42 and the Southerly prolongation thereof. Southeasterly 175.00 feet, more or less, to a point in the centerline of Avalon Drive, 50.00 feet wide; thence along said centerline of Avalon Drive Southwesterly 100.14 feet; thence perpendicular to last said centerline Southeasterly 25.00 feet to the Northeast corner of Lot 49, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 49 Southeasterly 256.60 feet to the Southeast corner of said Lot 49; thence along the South line of said Lot 49 Westerly to the Northeast corner of Lot 57 of said Tract No. 478; thence along the Easterly line of said Lot 57 Southerly to the Southeast corner of said Lot 57; said point being also on a curve concave Northeasterly, having a radius of 95.51 feet and a central angle of 22° 11' 46"; thence radially 25.00 feet to a point in the centerline of said Helen Drive; thence along said centerline of Helen Drive Northwesterly to a point in line, said line being 25.00 feet from the Northeast corner of Lot 5, measured perpendicular from said centerline of Helen Drive; thence along last said line Southwesterly 25.00 feet to the Northeast corner of said Lot 5, all as shown on said map of Tract No. 478; thence along the Easterly line of said Lot 5 Southwesterly 228.40 feet to the Southeast corner of said Lot 5; thence along the South line of Lots 5, 6, and 7 Westerly 419.83 feet, more or less, to the point of beginning.

EXCEPTING therefrom the Spillway structure. (2.23 acres, more or less)

ALSO EXCEPTING therefrom the area of the Dam structure together with a 50.00-foot wide strip adjoining the toe of the dam (11.41 acres, more or less)

ALSO EXCEPTING the Dam Tender's quarters and the surrounding area as fenced. (2.81 acres, more or less)

ALSO EXCEPTING a 20-foot wide access for service vehicles on each side of the channel downstream of the dam. (1.31 acres, more or less)

Containing 219.25 acres, more or less.

(Revised: 23 Dec 66)

4

Written by: City of Fullerton  
& WHP.

FILE: 122-K-26.3

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE  
UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

City of Fullerton (hereinafter called "Applicant-Recipient")  
(Name of Applicant-Recipient)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300, issued as Department of Defense Directive 5500.11, December 28, 1964) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Directive, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from Department of the Army and HEREBY GIVES ASSURANCE THAT it will (Component of the Department)

immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by this Department of the Army, assurance shall obligate the Applicant-Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant-Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by, Department of the Army (Component of the Department)

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant-Recipient by the Department, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall

have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

Date 8 May 1968

**CITY OF FULLERTON**

(Applicant-Recipient)

Attest:

Virginia J. Hammond  
City Clerk

By

Louis R. Reinhardt  
(President, Chairman of Board, or  
comparable authorized official)

303 W. Commonwealth Ave.

Fullerton, California

(Applicant-Recipient's Mailing Address)

DEPARTMENT OF THE ARMY

LEASE

~~DA FORM 1-68-22~~

FOR PUBLIC PARK AND RECREATIONAL PURPOSES

**AREA FLOOD CONTROL BASIN, GRASS COUNTY, CALIFORNIA, PROJECT AREA**

THE SECRETARY OF THE ARMY under authority of Section 4 of the Act of Congress approved 22 December 1944, as amended (76 Stat. 1195; 16 U.S.C. 460d), hereby grants to the **CITY OF FULLERTON**, a municipal corporation of the State of California, hereinafter called the lessee,

a lease for a period of **forty-three** ( **43** ) years commencing on **1 June 1966**, and ending on **31 May 2009**, to use and occupy approximately **192.41** acres of land and water areas under the primary jurisdiction of the Department of the Army in the **Area Flood Control Basin** Project Area, as ~~shown on Exhibit B, legal~~ **shown on Exhibit B, legal**, numbered ~~100-1-26.1~~, dated **19 April 1966**, attached hereto and made a part hereof, for public park and recreational purposes, and shown on ~~Exhibit B, legal~~ **Exhibit B, legal**, numbered ~~100-1-26.1~~, marked **Exhibit C**, both exhibits being attached hereto and ~~made a part hereof~~. **THIS LEASE** is granted subject to the following conditions:

1. The lessee shall conform to such rules and regulations as may be prescribed by the Secretary of the Army to govern the public use of the said project area, and shall comply with the provisions of the above cited Act of Congress. The lessee shall protect the property from fire, vandalism, and soil erosion, and may make and enforce such rules and regulations as are necessary, and within its legal authority, in exercising the privileges granted in this lease, provided that such rules and regulations are not inconsistent with those prescribed by the Secretary of the Army or with provisions of the above cited Act of Congress.

2. The lessee shall administer and maintain the leased property for the purposes of this lease, in accordance with the U.S. Army Engineers' Master Plan and the implementing General Development Plan for said property and with an Annual Management Program to be mutually agreed upon between the lessee and the U.S. Army District Engineer, in charge of the administration of the property, which may be amended from time to time as may be necessary. Such Annual Management Program shall include, but is not limited to, the following:

a. Plans for management activities to be undertaken by the lessee or jointly by the U.S. Army Engineers and the lessee, including buildings, improvements and other facilities to be constructed thereon.

b. Budget of the lessee for carrying out the management activities.

c. Personnel to be used in the management of the area.

3. The lessee shall provide the facilities and services necessary to meet the public demand for the use of the area for public park and recreational purposes either directly or through concession agreements with third parties. All concession agreements shall expressly state that they are granted subject to all of the terms and conditions of this lease and that the concession agreement will not be effective until the terms and conditions thereof are approved by the District Engineer.

4. Admission, entrance or user fees may be charged by the lessee for the entrance to or use of all or any part of the leased premises or any facilities constructed thereon, PROVIDED, prior written approval of the District Engineer is obtained.

5. The amount of any fees to be charged by the lessee and all rates and prices charged by the lessee or its concessionaires for accommodations, food (except packaged goods), and services furnished or sold to the public shall be subject to regulations and the prior approval of the District Engineer. The lessee shall, not less than 15 days prior to 30 April and 31 October of each year that

this lease remains in effect, submit to the District Engineer for approval a list of the fees, rates and prices proposed for the following 6 months. The lessee shall furnish justification for any proposed fee, rate or price increase or decrease. The District Engineer will give written notice to the lessee of his approval of or objection to any proposed fee, rate or price and will, if appropriate, state an approved fee, rate or price for each item to which an objection has been made. The lessee and/or its concessionaires shall keep a schedule of such fees, rates or prices posted at all times in a conspicuous place on the leased premises.

6. All monies received by the lessee from operations conducted on the leased premises, including, but not limited to, entrance and admission fees and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation and further development of the leased premises. Any such monies not so utilized by the lessee shall be paid to the District Engineer at the expiration of each 5-year period of this lease. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer.

7. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the District Engineer.

8. The right is hereby expressly reserved to the United States, its officers, agents, and employees, to enter upon the said land and water areas at any time and for any purpose necessary or convenient in connection with river and harbor and flood control work, and to remove therefrom timber or other material required or necessary for such work, to flood said premises when necessary, and/or to make any other use of said land as may be necessary in connection with public navigation and flood control, and the lessee shall have no claim for damages of any character on account thereof against the United States or any agent, officer or employee thereof.

9. Any property of the United States damaged or destroyed by the lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the lessee to the satisfaction of the District Engineer.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the lessee, or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of said premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities on the said premises, and the lessee shall hold the United States harmless from any and all such claims.

11. This lease may be relinquished by the lessee at any time by giving to the Secretary of the Army, through the District Engineer, at least thirty (30) days' notice in writing.

12. This lease may be revoked by the Secretary of the Army in the event the lessee violates any of the terms and conditions of this lease and continues and persists therein for a period of thirty (30) days after notice thereof in writing by the District Engineer.

13. On or before the date of expiration of this lease or its relinquishment by the lessee, the lessee shall vacate the said Government premises, remove all property of the lessee therefrom, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the lessee shall vacate the premises, remove said property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the lessee shall fail or neglect to remove said property and so restore the premises, then said property shall become the property of the United States without compensation therefor, and no claim for damages against the United States or its officers or agents shall be created by or made on account thereof.

14. The lessee or its concessionaires shall not discriminate against any person or persons because of race, creed, color or national origin in the conduct of its operations hereunder.

15. All notices to be given pursuant to this lease shall be addressed, if to the lessee, to the City of Fullerton, City Hall, 303 West Commonwealth Avenue, Fullerton, California, if to the Government, to the District Engineer, U. S. Army Engineer District, Los Angeles, Corps of Engineers, P. O. Box 2711, Los Angeles, California 90053

or as may from time to time be directed by the parties. Notice shall be deemed to have been duly given if and when inclosed in a properly sealed envelope or wrapper, addressed as aforesaid and deposited postage prepaid (or, if mailed by the Government, deposited under its franking privilege) in a post office or branch post office regularly maintained by the United States Government.

16. The lessee takes this lease and the leased premises subject to all existing easements, and easements subsequently granted during the period of said lease for electric transmission, telephone, telegraph, water, gas, gasoline, oil and sewer lines, and other utilities located or to be located within the area covered by this lease, provided that the proposed grant of any easement will be coordinated with the lessee and easements will not be granted which will interfere with developments, present or proposed, by the lessee.

32. Before the execution of this lease, conditions were revised, deleted, and added in the following manner:

- Revised: Granting clause, and Condition No. 8.
- Deleted: Condition No. 6.
- Added: Conditions Nos. 17 through 32. Conditions Nos. 17 through 31 are contained in Exhibit A, attached hereto and made a part hereof.

Assurance of Compliance with the Department of Defense Directive Under Title VI of the Civil Rights Act of 1964, marked Exhibit B, attached hereto and made a part hereof.

IN WITNESS WHEREOF I have hereunto set my hand this 31st of March, 1967, by direction of the Assistant Secretary of the Army.

*[Signature]*  
Sherry B. Myers  
Chief, Real Property  
Division, OASA (IAL)

The above instrument, together with the provisions and conditions thereof, is hereby accepted this 5th day of September, 1967.

ATTEST:

*[Signature]*  
Virginia Simmons

CITY OF FULLERTON

By: *[Signature]*  
Gene Swatters

Title: *[Signature]*  
Mayor

APPROVED AS TO FORM  
D. REGINALD GUSTAVSON  
CITY ATTORNEY  
CITY OF FULLERTON

*[Signature]*  
Reginald Gustavson

**JUNE 8, 2009  
PARKS & RECREATION COMMISSION  
DRAFT MEETING MINUTES  
REGARDING  
  
LEASE AGREEMENTS WITH  
CHILD GUIDANCE CENTER  
AND  
FULLERTON COMMUNITY NURSERY SCHOOL**

**CITY OF FULLERTON  
PARKS AND RECREATION COMMISSION  
AGENDA**

Regular Meeting  
City Council Chamber  
Monday, June 8, 2009  
6:30 p.m.

**9. CHILD GUIDANCE CENTER AND FULLERTON COMMUNITY NURSERY SCHOOL AGREEMENTS**

Director Felz introduced Administrative Manager Alice Loya, saying she would provide an overview of the proposed agreements with the Child Guidance Center and Fullerton Community Nursery School at the Brea Dam. Manager Loya, using a Power Point presentation, began with a history of the related facilities, noting that the two organizations were already on the property but had had a sublease through the Children's League, with a 48-year lease signed in 1962 to construct a children's center at Brea Dam, located near the Tennis Center and YMCA. A "typical lease," the lease was for \$1 per year, with the tenants providing any improvements and maintenance, and the City administering the lease. Manager Loya said construction was completed in 1963, and Fullerton Community Nursery School was one of the first tenants to move in. The Child Guidance Center began its tenancy in 1972. She provided an aerial of the buildings and showed where the programs were located, and said the surrounding parking lots were part of the property.

Manager Loya said that all the tenants were non-profit agencies serving Fullerton youth, and the rent they paid went towards maintenance and improvement of the buildings. In the late 90's, as with many other service organizations, membership in the Children's League dwindled. Due to problems the Children's League had in maintaining the building and the lease, in 2006, the City took over the facility and terminated its lease. The City now owns the facility. Since then, the City has partnered with both existing tenants, the Child Guidance Center and Fullerton Community Nursery School, to improve the facility with a new roof, painting of the exterior, ADA and safety improvements, and signage. The Nursery School updated its kitchen and made other ADA and interior improvements. Currently, the City is working on storm drain improvements to prevent flooding, with landscaping and parking lot resurfacing planned.

Manager Loya said new leases, directly with the Child Guidance Center and Fullerton Community Nursery School, are proposed for one five-year term with two five-year options to extend. The leases would be for the buildings only, and not the parking lots, due to parking problems with St. Jude, the medical building, the Tennis Center, the YMCA and the two tenants. Instead, she said the City hoped to provide shared parking and a new parking plan.

The rent will be charged differently with the new leases. Where before the tenants were charged \$1 per year and expected to pay for maintenance and improvements, the City

will charge a monthly rent equal to what it would cost for maintenance and improvements. In addition, the buildings will be under the City's building maintenance plan and the City's facility capital repair program. Hence, money would be collected monthly which would go into the capital account, and after a certain number of years, e.g., life of the carpeting or life of the roof, those items would be replaced. Based on those estimates, the proposed costs will be \$5,570 for Child Guidance Center and \$1,618 for Nursery School to help offset maintenance costs. Rent will increase by 3% each year with 5% administrative fee. Every five years, maintenance costs will be reviewed and rental costs adjusted accordingly. Manager Loya said Director Sally Newton of the Nursery School and Director Laurie Pack and Christine Kiehl from the Child Guidance Center were here and supported the agreement. She said this agenda item was expected to go to City Council in July.

Commissioner Hayes asked for clarification on the parking issue and the phases of construction. Manager Loya said the first phase would be to slurry seal the parking lot at the Nursery School in the next couple of months, and after that staff would work with Traffic Engineering to come up with a plan to re-do the parking lot, to ensure that the traffic flows smoothly through it, that the parking is shared, and to reduce the impact of St. Jude parking.

Commissioner Shanfield asked if the two tenants had paid only \$1 per year, but Manager Loya clarified that while the lessee, Children's League, had only paid \$1, the tenants, Child Guidance Center and the Fullerton Community Nursery School, had been paying monthly rent to the Children's League, but that the rent hadn't increased in many years so it didn't meet current maintenance costs. However, those funds were put in an escrow account and that was the money used to make the recent improvements. She said the City has made other improvements that will be paid through rent collection.

Commissioner Shanfield asked about any further anticipated improvements in the next five years, and Manager Loya said improvements were expected, which was why the City was collecting rent to put in its capital account. Director Felz said there was an assessment by the Building Department after the improvements were made which provided an additional 20 years to the life span of these facilities, which seemed to be "a good investment. He noted that the landscaping and circulation still needed to be completed.

Commissioner Shanfield asked if rents were increased for the two tenants, and Manager Loya said yes, because the previous rents were not sufficient to keep the building maintained; however, she said those costs were in line with what it cost for building maintenance. Commissioner Shanfield asked if the increase in rents meant an increase in client fees, and Director Newton said the Nursery School did have to increase its tuition since the monthly rent was increased from \$800 to \$1681. However, she said the increase was manageable if the economy didn't impact school registrations too much. Director Pack of Child Guidance Center said they used to pay \$1861 monthly now would pay \$5570 so it's a big increase. She noted that her clients do not pay for services; rather the Center is under contract from the Healthcare Agency. Hence, she said they would be looking at other means of paying for the increase in rent. Manager Loya noted that

before, the tenants were paying for their own maintenance, so there would be savings in that area for the tenants. Director Felz clarified further that the rent collected would only be used for maintenance and capital improvements, and would not be revenue-producing like the Summit House rents. Commissioner Shanfield asked what would happen if the tenants couldn't pay their rent, and Director Felz said the City would probably recruit for other non-profit or perhaps private groups to operate there.

Commissioner Shanfield MADE A MOTION to recommend approval of the agreements between the City and Child Guidance Center and Fullerton Community Nursery School. Commissioner Adam SECONDED the motion. Acting Chair Stanford called for the vote.

AYES: Adam, Hayes, Morgan, Shanfield, Stanford

NOES: None

ABSENT: Dasney, Chen,

The MOTION PASSED unanimously.

DRAFT

**AERIAL VIEWS OF  
CHILD GUIDANCE CENTER  
AND  
FULLERTON COMMUNITY NURSERY SCHOOL  
PROPERTY**



**Children's League Facility**



**Children's League Facility**