

Parking Lot Joint-Use and Operation Agreement
Between The City of Fullerton
and St. Jude Medical Center

This Agreement is entered into, this 4th day of October, 2011 (the "Effective Date"), by and between the City of Fullerton, a municipal corporation (hereinafter referred to as "City"), and St. Jude Medical Center (hereinafter referred to as "SJMC"). City and SJMC are at times collectively referred to as "Parties" or each separately as "Party."

WITNESSETH

WHEREAS, the City leases that certain real property located in the City of Fullerton, State of California, commonly known as the Brea Dam Flood Control Basin (Lease No. DACW09-1-68-22) from the United States Army Corps of Engineers (hereinafter referred to as "USACE") for public park and recreation purposes including the properties located at and adjacent to 110 E. Valencia Mesa Drive, 2050 Youth Way and 2000 Youth Way which is hereinafter, referred to as "City Property" and depicted in Exhibit A of this Agreement; and

WHEREAS, by Supplemental Agreement No. 4 to the Brea Dam Flood Control Basin Lease No. DACW09-1-68-22 dated June 26, 2001, the term of the lease was extended to June 26, 2051; and

WHEREAS, SJMC owns that certain real property commonly known as St Jude Medical Center and located at 101 East Valencia Mesa Drive in the City of Fullerton, State of California which is hereinafter, referred to as "SJMC Property" and depicted in Exhibit B of this Agreement; and

WHEREAS, the City desires to obtain from SJMC permission for the non-exclusive use of the south parking lot at SJMC, for City's patron parking and SJMC desires to obtain from the City permission for the non-exclusive use of the parking lots at 110 E. Valencia Mesa Drive, 2050 Youth Way and 2000 Youth Way, which is hereinafter referred, to as "City Property" and depicted in Exhibit B of this Agreement for SJMC's patron parking. Both the City and SJMC wish to exchange revocable licenses for such use, which is hereinafter, referred to by the term "Agreement"; and

WHEREAS, the City and SJMC have already entered into a development agreement entitled St. Jude Medical Center Replacement Plan and dated November 18, 2004 whereby SJMC and the City agreed SJMC would make and fund parking lot improvements to the City Property, with the goal of mitigating traffic impact to City property as more fully set forth in the development agreement, and further agreed to enter into this (Joint Use and Operation) Agreement; and,

WHEREAS, it is in the best interests of the City and SJMC that this Agreement be consummated between the City and SJMC on the terms and conditions herein contained.

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

I. PROPERTY

SJMC agrees to allow City non-exclusive use of the south parking lot at 101 East Valencia Mesa Drive, which is hereinafter referred, to as "SJMC Property" shown on Exhibit "B" – SJMC Property attached hereto and made part of this Agreement. City agrees to allow SJMC non-exclusive use of the parking lots at 110 E. Valencia Mesa Drive, 2050 Youth Way and 2000 Youth Way, which is hereinafter referred, to as "City Property" shown on Exhibit "A" – City Property attached hereto and made part of this Agreement. The combined parking lot on City Property and SJMC Property is hereinafter referred, to as the "Parking Lot" shown on Exhibit "C" – Combined Parking Lot attached hereto and made part of this Agreement.

II. USE

Except as otherwise expressly provided in this Agreement, City grants to SJMC the right to manage, operate and maintain the Parking Lot pursuant to the terms of this Agreement, and SJMC agrees it will manage and operate the Parking Lot according to such terms and in a manner comparable to and consistent with the management and operational practices of the other parking lots located on the St. Jude Medical Center site. SJMC shall perform its services in a timely and diligent manner.

A. Management Responsibilities

Without in any way limiting SJMC's right to manage and operate the Parking Lot in accordance with the terms of this Agreement, SJMC, with the approval of City and in accordance with the terms of this Agreement, shall have the authority and responsibility to: (a) implement each approved Annual Plan as referenced in Section X of this Agreement; (b) determine, establish, and implement the policies, standards, and schedules for the operation and maintenance of the Parking Lot and all matters affecting customer relations; (c) hire, train, and supervise the Parking Lot employees; and (d) establish accounting and payroll procedures and functions for the Parking Lot. City agrees it will cooperate with SJMC to permit and assist SJMC to carry out its duties under this Agreement.

SJMC shall be fully responsible for all costs and expenses incurred and related to the management, operation and maintenance of the Property, excluding any costs or expenses which are the responsibility of the City per section VI of this Agreement.

B. Parking Lot Fees and Revenue

SJMC shall be responsible for collecting parking lot use fees. Fees charged for use of the Parking Lot shall be consistent with the fees charged for parking by St. Jude Medical Center and Val Mesa Medical Building at their adjacent parking lots. Fees (as shown in Exhibit D) and Parking Lot Operating Policy (as shown in Exhibit E) shall be deemed approved by the City as part of this Agreement. Prior to implementation of a change to the Fees or Parking Lot Operations Policy and prior to implementation of annual updates SJMC shall obtain written approval of the City. By the 28th of each month SJMC shall submit to the City an accountant's statement showing the revenue received and the qualified operating expenditures paid for the Parking Lot for the previous month.

SJMC acknowledges that the City has existing tenants that use the City's Property for employee and patron parking. The City shall provide SJMC with a list of parking lot user groups that would qualify for free or reduced cost parking. The City agrees to limit the free/reduced cost parking list to an amount that will not create a negative Net Profit in the operations of the Parking Lot.

Net Profit is defined by revenues less Qualified Operating Costs. Qualified Operating Costs is defined as: maintenance and repair of the Parking Lot per Section VII.A. of this agreement and employee salaries and benefits for actual time worked at the Parking Lot entrances. Qualified Operating Costs does not include administrative costs or any indirect costs. Each Party shall pay its own utility costs.

Revenue received from parking lot use fees shall only be used for Qualified Operating Costs of the Parking Lot. Both parties agree that any net profit realized from the Parking Lot operations shall be split between the Parties according to and in proportion with the number of spaces on each Party's property. The parking spaces located at 2000 Youth Way, shall not be counted to determine the split of the net profits.

C. Prohibited Uses

Neither Party shall commit, suffer, or permit any waste on the other's property or any acts to be done thereon in violation of any laws or ordinances, and shall not use or permit the use of the other's property for any illegal purposes. Each Party, its employees, contractors, vendors, and invitees shall individually comply with all rules and regulations adopted by the other property owner when using the other's property. Each Party shall provide the other with a copy of its applicable rules and regulations. Said rules include, but are not limited to a prohibition against the possession of firearms, liquor, or illegal drugs. Any willful violation of said rules and regulations or the terms of this Agreement will be grounds for immediate termination of this Agreement.

III. LIMITATION OF THE AGREEMENT

This Agreement and the rights and privileges granted SJMC in and to the City Property and the rights and privileges granted to the City in and to SJMC 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 granting to either Party, rights which exceed those granted in this Agreement.

This Agreement and any rights and privileges granted to SJMC in and to the City Property are subject to the provisions of that certain Lease Agreement entered into between The United States Army Corps of Engineers and The City of Fullerton, Lease No. DACW09-1-68-22 previously referenced herein, and any of its supplemental agreements, including but not limited to Supplemental Agreement No. 4 dated June 26, 2001 (hereinafter collectively referred to as the "Brea Dam Flood Control Basin Lease"). Specifically, any rights and privileges granted to SJMC in and to the City Property are subject to and superseded by any underlying rights that the USACE may have in the City Property by virtue of its ownership of the City Property and the terms and conditions of the Brea Dam Flood Control Basin Lease. The Brea Dam Flood Control Basin Lease is incorporated into this Agreement as if set out in full and SJMC is bound by and subject to each of said terms and conditions, to the extent such terms and conditions are relevant to this Agreement. A copy of Brea Dam Flood Control Basin Lease is attached as

Exhibit F. If a conflict exists between the Brea Dam Flood Control Basin Lease and this Agreement, the terms of the Brea Dam Flood Control Basin Lease shall prevail. SJMC affirms that it has had an opportunity to review the Brea Dam Flood Control Basin Lease with its own counsel, and agrees to abide by its terms.

IV. TERM

A. Initial Term

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

B. Extension of Term

The term of this Agreement may be extended, by mutual agreement between SJMC and the City, for five (5) additional five (5) year terms, at the conclusion of the initial term. Each five-year term will automatically be extended, unless either party provides written notice that it will not extend the term. Such notice must be provided at least ninety (90) days before the expiration of the current 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 XXII of this Agreement.

V. TERMINATION

This Agreement may be terminated by either Party with one hundred twenty (120) days written notice, to the other Party without cause and for any reason.

VI. ALTERATIONS AND IMPROVEMENTS

SJMC will not make or cause any alterations or improvements to be made in or on City Property without the prior written approval of the City's Parks and Recreation Department. SJMC shall be financially responsible for all improvements unless specifically agreed to between SJMC and the City in writing and in advance of the performance of said work. All improvements affixed to City Property by SJMC shall become the property of the City.

VII. MAINTENANCE OF PROPERTY

- A. SJMC shall keep the Parking Lot in a clean and orderly condition and not allow trash of any kind to be piled or stored on the Parking Lot throughout the duration of Agreement. SJMC shall be responsible for the general maintenance of the Parking Lot depicted in Attachment C of this Agreement. Maintenance shall include, but is not limited to, parking lot repairs, slurry sealing, litter control, custodial, preventive maintenance and repairs to the parking control stations and arms, and parking lot signage.
- B. In the event that SJMC fails to maintain the Parking Lot as required by this Agreement, the City, upon five (5) days written notice to SJMC, may undertake those responsibilities and charge and collect from SJMC the costs relating to conducting the required maintenance.

VIII. LOSSES

Neither Party shall be responsible for losses or damage to personal property, equipment or materials of the other Party, its agents, employees, guests or invitees. All losses shall be reported to both Parties immediately upon discovery.

IX. RECORDS, ACCOUNTS AND AUDITS

SJMC will file an annual financial report for the Parking Lot, with the Parks and Recreation Department. This report shall reflect a present and complete financial position of the Parking Lot for each fiscal year beginning on July 1st and ending on June 30th. The financial report shall be submitted by September 1st of each year of this Agreement, including any year for which this Agreement has been extended.

SJMC 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 Parking Lot. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents. The 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.

X. Annual Meeting

The City's Director of Parks and Recreation or his or her designee and the SJMC's Chief Financial Officer or his or her designee shall serve as the parties' contacts and meet annually in April to review fees, schedules, hours of operations, Parking Lot Operating Policy, rules, regulations and operational procedures that pertain to use of the Parking Lot. During these meetings, SJMC shall provide the City with a summary of annual revenue and expenditures for the previous year and outline any proposed site modifications and maintenance scheduled for the Parking Lot. All such information reviewed and discussed at the Annual Meeting shall be used by the Parties to develop an Annual Plan, which shall be implemented by SJMC in carrying out its management duties as set forth in Section IIA herein.

XI. PERMITS AND LICENSES

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

XI. NONDISCRIMINATION

Neither party shall deny benefits, harass or allow harassment, to any person on the basis of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, sexual orientation, age or sex, nor shall they discriminate unlawfully, harass or allow harassment against any employee or applicant for employment because of race,

religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, sexual orientation, age or sex.

XII. INSPECTION OF PROPERTY

The City and USACE, each through its respective employees and/or agents, reserve the right of entry to enter in and upon the City Property at all reasonable times during the term of this Agreement for the purpose of the inspection, protection and maintenance of the Property, to determine if SJMC is in compliance with the provisions of this Agreement, or for any other reasonable purpose. The City further reserves the right of entry and immediate possession of City Property in the case of an emergency. For purposes of this paragraph, "emergency" shall mean an imminent threat of property damage or harm to persons necessitating possession of the City Property by the City or USACE. SJMC shall not enter into any Agreements restricting the use, granting easements over, or otherwise encumbering City Property.

XIII. SUBLEASE OR ASSIGNMENT

Any sublease or assignment of the City's interest in SJMC's Property and SJMC's interest in City's Property or any part or portion thereof is prohibited. Any attempted sublease or assignment shall be null and void, shall be cause for immediate termination of this Agreement, and shall confer no right, title, or interest in or to this Agreement.

XIV. INSURANCE REQUIREMENTS

Both Parties 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 each Party's operations and occupancy and use of the Parking Lot. Each Party shall provide current evidence of the required insurance in a form acceptable to the other Party and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration or termination of this Agreement. SJMC shall require any third party contractor which SJMC hires or with whom it contracts to perform SJMC's Management, Operation and Maintenance obligations as set forth in this Agreement, including but not limited to Sections II and VII of this Agreement (such contractors to be referred to hereinafter as "Maintenance Contractor"), to maintain the same insurance coverage under the same conditions as those required by both Parties under this section, including but not limited to having City and USACE named as additional insureds on the required policies.

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

A. Minimum Scope and Limits of Insurance

1. Commercial General Liability Insurance. Parties shall maintain commercial general liability insurance coverage, with a limit of not less than \$1,000,000 for 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. Workers' Compensation and Employers' Liability Insurance. Both Parties 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.

B. Deductibles and Self-Insured Retentions

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

C. Other Insurance Provisions

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

1. Commercial General Liability

- a. SJMC and CITY, their respective elected or appointed officials, officers, employees and volunteers are to be covered as insureds or additional insureds with respect to liability arising out of the other Party's operation or the ownership, occupancy, maintenance or use of the Parking Lot.
- b. USACE and its elected or appointed officials, officers, employees and volunteers shall be covered as insureds or additional insureds with respect to SJMC's operation, occupancy, maintenance or use of the Parking Lot.
- c. This insurance shall be primary insurance as respects the City, USACE, their 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 Coverages.

Each insurance policy required by Section XIV shall be endorsed to require 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 and SJMC.

D. Acceptability of Insurers

All required insurance shall be placed with insurers acceptable to the both Parties, admitted to do business in the State of California and with current BEST'S ratings of no less than B+, Class X. Alternately, SJMC or City may meet their requirements herein through an established and funded program of self insurance acceptable to the other Party. Workers' compensation insurance shall be maintained in accordance with California law.

E. Verification of Coverage

Each Party shall furnish the other Party 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, each Party shall furnish to the other certified copies of all policy endorsements required herein. Each Party electing to meet the insurance requirements through a program of self insurance shall provide to the other Party a Certificate of Self Insurance bearing an original signature of an authorized officer of such Party. SJMC shall have the responsibility to obtain all required verification of coverage from its Maintenance Contractor and to provide such verification to the City.

XV. INDEMNIFICATION

SJMC shall defend, indemnify, save and hold harmless the City and the USACE, and their respective elected officials, officers, employees, agents and volunteers, (collectively the "City and USACE 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 City and USACE Indemnitees, and shall defend, indemnify, save and hold harmless the City and USACE 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 SJMC Property, or the acts, errors or omissions of SJMC, its officers, employees, agents, volunteers and subcontractors, in the performance of this Agreement. . This indemnification shall not extend to loss or damage arising from City and USACE Indemnitee's own acts, omissions, active or passive negligence, sole negligence or willful misconduct. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by SJMC, 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 City and USACE Indemnitees, related to the SJMC Property or SJMC's performance under this Agreement, whether or not SJMC, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

Further, SJMC shall add the following indemnification language, or similar language, to any contract or agreement with any Maintenance Contractor which SJMC hires, or with whom it contracts to perform SJMC's Management, Operation and Maintenance obligations as set forth in this Agreement, including but not limited to Sections II and VII of this Agreement ("Maintenance Agreement"):

Maintenance Contractor shall defend, indemnify, save and hold harmless City and the USACE, and their respective elected officials, officers, employees, agents and volunteers (collectively the "City and USACE Indemnitees") from and against any and all damages to property or injuries or death or any person or persons, including injuries or death to officials, officers, employees, agents or volunteers of the City and USACE Indemnitees, and shall defend, indemnify, save and hold harmless the City and USACE 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 the Maintenance Contractor, its officers, employees, agents, volunteers and subcontractors in the performance of the Maintenance Agreement or otherwise related to the Maintenance Contractor's maintenance,

administration, and/or day-to-day operation of City Property. This indemnification shall not extend to loss or damage arising from the City and USACE Indemnitee's own acts, omissions, active or passive negligence, sole negligence or willful misconduct. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Maintenance Contractor, 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 City and USACE Indemnitees, related to the Maintenance Contractor's maintenance, administration, and/or day-to-day operation of City Property or its performance under the Maintenance Agreement, whether or not the Maintenance Contractor, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

The City shall defend, indemnify, save and hold harmless SJMC and the USACE, and their respective elected officials, officers, employees, agents and volunteers, (collectively the "SJMC and USACE 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 SJMC and USACE Indemnitees, and shall defend, indemnify, save and hold harmless the SJMC and USACE 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 City Property, or the acts, errors or omissions of the City, its officers, employees, agents, volunteers and subcontractors, in the performance of this Agreement. . This indemnification shall not extend to any third party person or entity which SJMC hires, or with whom it contracts to perform SJMC's Management, Operation and Maintenance obligations as set forth in this Agreement, including but not limited to Sections II and VII of this Agreement. This indemnification shall not extend to loss or damage arising from the SJMC and USACE Indemnitee's own acts, omissions, active or passive negligence, sole negligence or willful misconduct. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the City, 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 SJMC and USACE Indemnitees, related to the City Property, or the City's performance under this Agreement, whether or not the City, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

XVI. 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, the City acting in its governmental capacity, the State of California or the United States Government.

Both Parties agree to comply with all laws, either Federal, State, or local, existing during the term of this Agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law. In the event one Party or any of its officers, officials, affiliates, successors, principals, employees, agents or volunteers should incur any liability, cost, or expense, including attorney's fees and costs (hereinafter the "Non-offending Party"), as a result of the other Party's (hereinafter the "Offending Party") use, storage, transportation, or disposal of any hazardous substance, including any petroleum

derivative, the Offending Party shall indemnify, defend, and hold harmless the Non-offending Party against such liability.

Where the Offending Party is found to be in breach of this provision due to the issuance of a government order directing the Offending Party to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the Offending Party or any person acting under the Offending Party's direct control and authority, the Offending Party shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by the Non-offending Party in connection with or in response to such government order.

Each Party agrees to indemnify, defend and hold the other Party 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 its property prior to the effective date of this Agreement, 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 term of this Agreement and arising solely from such pre-existing contamination, if any. SJMC Property is depicted on Exhibit A to this Agreement. City Property is depicted on Exhibit B to this Agreement.

XVII. EASEMENTS AND RIGHTS-OF-WAY

This Agreement is subject to all existing easements and rights of way. Each party further reserves the right to grant additional public utility easements, other easements and rights of way, as may be necessary, and each party hereby consents to the granting of any such easement by the other Party. For public utilities, the public utility will be required to reimburse each owner for any damages caused by construction work on the easement area of its property.

This Agreement is subject to all easements, covenants, conditions and restrictions, right of way, liens, encumbrances and other matters of record.

XVIII. RIGHT OF ENTRY

While this Agreement is in force, there shall be and is hereby expressly reserved to each party and any of their agencies, contractors, agents, employees, representatives, or licensees, the right at any and all reasonable times, and any and all places to temporarily enter upon its own property for inspection or other lawful purposes.

A. City Communications Ground Lease

The City entered into a ground lease agreement with Los Angeles SMSA, LP predecessor to Cellco Partnership, dba Verizon Wireless for a communications tower and vault prior to commencement of this Agreement. The communications vault is located in the north east section of the City's Property as shown in Exhibit B. SJMC shall not interfere with Verizon Wireless' right to access the communications vault and close a portion of the Parking Lot to ensure safe access.

XIX. PARTNERSHIP OF DISCLAIMER

SJMC and any and all agents and employees of SJMC shall act in an independent capacity and not as officers or employees of the City. The City and any and all agents and employees of the City shall act in an independent capacity and not as officers or employees of SJMC.

Nothing herein contained shall be construed as constituting the Parties herein as partners.

XX. COMPLY WITH LAWS

Each party shall at their sole cost and expense comply with all the requirements of all Municipal, County, State, and Federal authorities now in force or which may hereafter be in force pertaining to the other's property and use of the other's property as provided by this Agreement.

XXI. ENCUMBRANCES

Both parties hereby acknowledge and agree that neither Party intends to encumber by deed of trust the other party's interest in the other party's property for the purpose of constructing improvements thereon. Any such encumbrances are void without prior written consent from either party.

XXII. 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.

XXIII. NOTICES

All notices 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>SJMC</u>
Director of Parks and Recreation 303 W. Commonwealth Ave. Fullerton, CA 92832 (714) 738 – 6575	Chief Financial Officer 101 East Valencia Mesa Drive Fullerton, CA 92835 (714) 992-3939

XXIX. DEFAULT

In the event there is a default by either Party with respect to any of the provisions of this Agreement or any obligations under it, the defaulting party shall be given written notice of such default. After receipt of such written notice, the defaulting party shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, however the defaulting Party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the defaulting party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

If the defaulting Party does not provide evidence to the non-defaulting Party of the complete cure of the default within the applicable cure period, the non-defaulting Party may do any of the following:

A. Terminate this Agreement. All rights of defaulting Party and those who claim under the defaulting Party, stemming from this Agreement, shall end at the time of such termination; or

B. At non-defaulting Party's sole option, correct any such default by performance of any act, including payment of money, and bill the defaulting Party for the cost thereof plus reasonable administrative costs.

C. In addition to the above, pursue any other remedies available at law or in equity.

This section shall not apply to extend the time period within which either Party may exercise any options or extend the time for any notices as to any options specified in Section IV ("Term") herein.

XXX. COST OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT

In the event either SJMC or the City 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.

XXXI. PUBLIC RECORDS

Any and all written information submitted to and/or obtained by City from SJMC or any other person or entity having to do with or related to this Agreement and/or the Parking Lot, either pursuant to this Agreement or otherwise, at the option of City or as required by law, 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. SJMC hereby waives, for itself, its agents, employees, subtenants and any person claiming by, through or under SJMC, 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 the right to claim reasonable attorneys' fees and costs related to any such disclosure.

XXXII. UNLAWFUL USE

Both parties agree no improvements shall be erected, placed upon, operated, nor maintained within the Parking Lot, 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.

XXXIII. ATTACHMENTS TO AGREEMENT

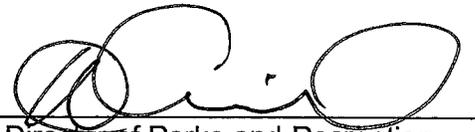
This Agreement includes the following which is attached hereto and made a part hereof:

- Exhibit A: SJMC Property
- Exhibit B: City Property
- Exhibit C: Parking Lot
- Exhibit D: Parking Lot Fees
- Exhibit E: Parking Lot Operating Policy

- Exhibit A: SJMC Property
- Exhibit B: City Property
- Exhibit C: Parking Lot
- Exhibit D: Parking Lot Fees
- Exhibit E: Parking Lot Operating Policy
- Exhibit F: Brea Dam Flood Control Basin Lease No. DACW09-1-68-22 and Supplemental Agreement No. 4 dated June 26, 2001

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date written above.

CITY OF FULLERTON:



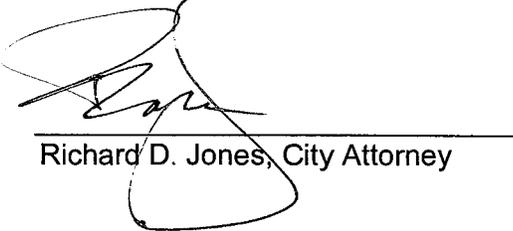
Director of Parks and Recreation

ST. JUDE MEDICAL CENTER:



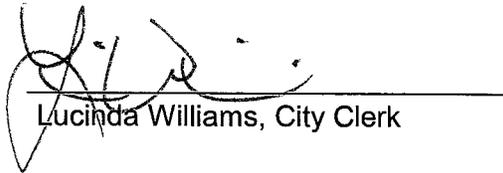
Ed Salvador
Chief Financial Officer

APPROVED AS TO FORM:



Richard D. Jones, City Attorney

ATTEST:



Lucinda Williams, City Clerk



Exhibit B
St. Jude Medical Center Property

APN: 028-482-01 and 05

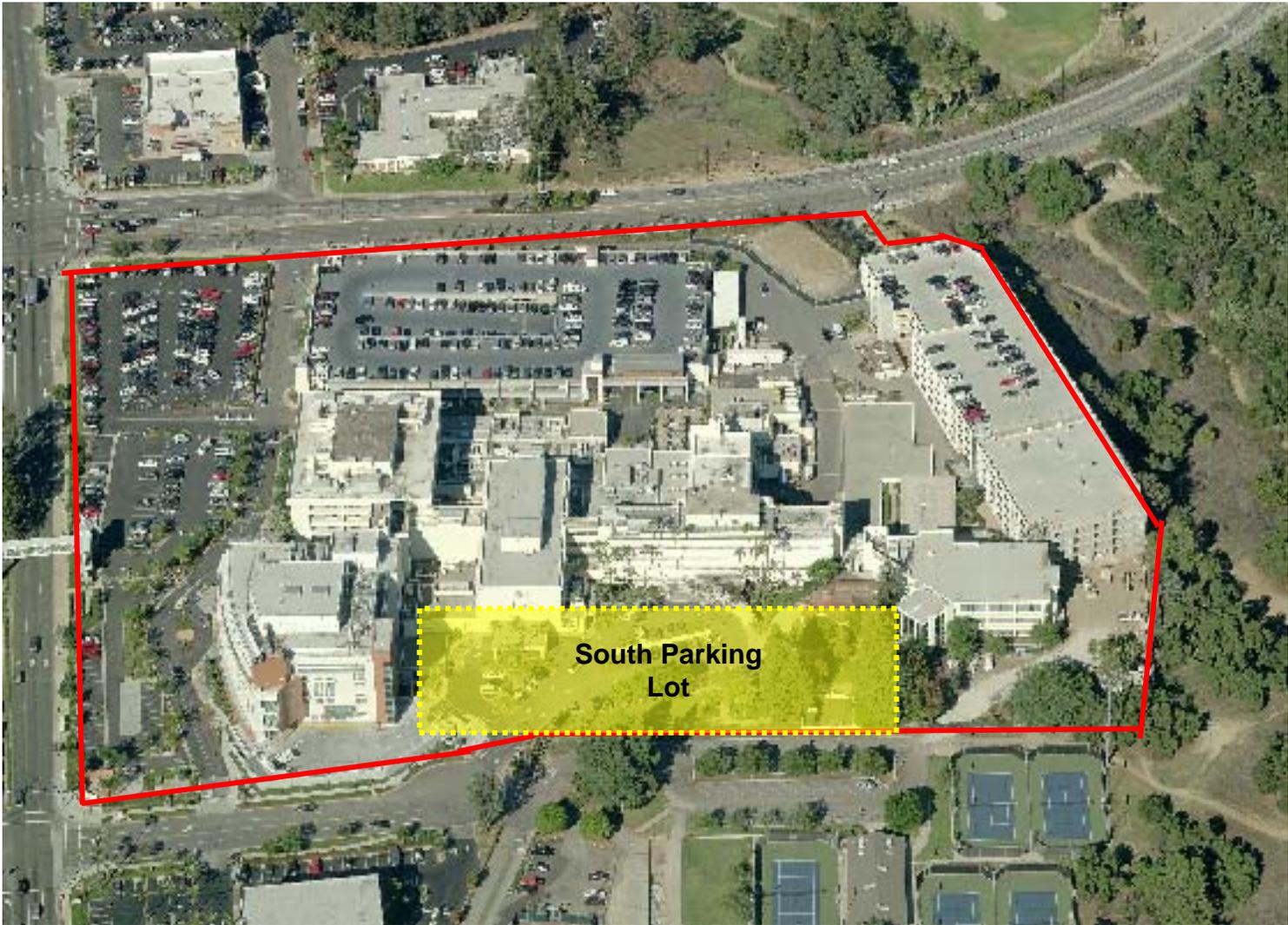


Exhibit C
Parking Lot



Exhibit D Parking Lot Fees

Parking Fees

- First ½ hour is free.
- \$1 for every half hour after
- Maximum is \$5
- Lost tickets are \$5

Parking Validations

The following City patrons will be validated for parking at the Parking Lot:

- City of Fullerton employees on official City business
- United States Army Corps of Engineers on official business
- Fullerton Tennis Center employees during working hours
- Fullerton Tennis Center patrons with paid court time or lessons
- Child Guidance Center employees during working hours
- Child Guidance Center patrons (Monday – Friday only)
- YMCA employees during working hours
- YMCA patrons with paid membership or paid classes and lessons
- Fullerton Community Nursery School employees and volunteers during working hours

Exhibit E
 Parking Lot Operating Policy

Operating Hours

Monday – Friday: 5:00 am to 11:00 pm
 Saturday & Sunday: 6:00 am to 10:00 pm

Parking Lot Maintenance and Management Costs

Parking Management – Minutemen

Days	1st Shift	2nd Shift	Annual	Hourly
Monday - Friday	6 am - 2:30 pm	2 pm - 10:30 pm	\$69,181	\$16.64
Saturday & Sunday	8 am - 5 pm		\$15,566	\$16.64
		Total Cost	\$84,746	\$33.29

General Maintenance

Category	Amount
Parking tickets	\$3,000
Signage	\$1,000
Sweeping	\$3,600
Capital Improvements	\$4,000
Total	\$11,600

Total Costs

Category	Amount
Parking Management	\$84,746
General Maintenance	\$11,600
Total	\$96,346

Exhibit F:
Brea Dam Flood Control Basin Lease No. DACW09-1-68-22 and
Supplemental Agreement No. 4 dated June 26, 2001

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 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.

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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

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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

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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 12th 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 26th day of June, 2001.

CITY OF FULLERTON

By: [Signature]
Title: Mayor

ATTEST:

Andrew 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
Andrew 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/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

EXHIBIT B-3

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 comer 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 $33^{\circ}23'35''$ 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 $61^{\circ}25'10''$ West 163.32 feet; thence along said boundary South $0^{\circ}01'04''$ West 90.82 feet; thence North $40^{\circ}20'00''$ 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 $41^{\circ}00'38''$ 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 $80^{\circ}41'04''$ West 241.33 feet; thence along said boundary North $6^{\circ}42'05''$ East 128.81 feet; thence South $35^{\circ}11'34''$ West 166.26 feet; thence South $34^{\circ}25'33''$ West 55.85 feet; thence South $14^{\circ}30'00''$ West 133.50 feet; thence South $9^{\circ}50'00''$ East 128.00 feet to a point in said boundary; thence along said boundary North $50^{\circ}37'13''$ East 267.00 feet; thence along said boundary North $41^{\circ}00'38''$ 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 $6^{\circ}42'05''$ 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 $6^{\circ}42'05''$ East 128.81 feet to the True Point of Beginning; thence, continuing along said boundary North $6^{\circ}42'05''$ East 82.40 feet; thence, continuing along said boundary North $52^{\circ}34'32''$ 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-IO" 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 $110^{\circ}5'31''$ 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 $50^{\circ}37'13''$ 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 $110^{\circ}5'10''$ 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 RM.

DATE: 10 Jan 2001

COE FILE NO. 122-K-26.5