



CITY COUNCIL AGENDA

MEETING DATE: JUNE 19, 2007

TO: CITY COUNCIL/CITY MANAGER 1200
R=7/09

FROM: PARKS AND RECREATION DEPARTMENT

SUBJECT: YMCA FACILITY LEASE AGREEMENT IN THE BREA DAM

Approved for Agenda:


City Manager's Office

SUMMARY

The YMCA is requesting approval to renovate their facility in the Brea Dam and extend their lease agreement for 30 years to June 19, 2037 (see Exhibit A). The Parks and Recreation Commission, at its November 8, 2004 meeting, made a recommendation that the City Council approve the YMCA proposal. The YMCA had delayed their presentation to the City Council until now, when they had sufficient funding committed to complete their capital improvements.

RECOMMENDATION

That the City Council approve the YMCA's capital improvement plan and lease agreement as recommended by the Parks and Recreation Commission.

PROPOSED COSTS

None.

DISCUSSION

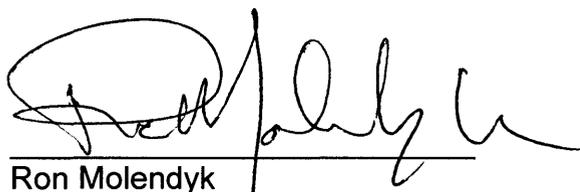
The YMCA of Orange County has submitted a proposal to renovate their facility located on 2000 Youth Way in the Brea Dam Flood Control Basin (see Exhibit B). The Parks and Recreation Commission had voted unanimously at its November 8, 2004 meeting to recommend approval to City Council of the YMCA's proposed capital improvement plan and lease agreement (see Exhibit C). The YMCA delayed their presentation to the City Council until they had sufficient funding committed to complete their capital improvements.

The YMCA renovation will cost approximately \$3 million and will include:

- Enclosing a portion of the entry patio
- Moving the lobby to increase safety
- Adding new aerobics, exercise, and cardio rooms
- Improving the gymnasium
- Improving the men's locker room in the pool building
- Constructing a new outdoor lap pool
- Replacing the parking lot
- Replacing the AC/HVAC unit and roof
- General improvements to meet current ADA, fire, and other building code requirements

The YMCA is funding these improvements through donations they are receiving from their capital campaign. In order to receive a commitment from contributors, the YMCA Board of Managers, and the YMCA of Orange County Board of Directors have requested a new lease term of 30 years (see Exhibit B) to supersede the current agreement which will end on November 30, 2009 (see Exhibit D). The YMCA of Orange County has a track record of contributing to the well-being of Fullerton and the surrounding community. They have been in their current facility since 1961. For these reasons, staff is recommending that a new lease be approved with the following terms:

- The term of the lease agreement will be for ten years from the date of execution
- The lease agreement will be automatically extended for an additional 20 years if the YMCA completes their proposed improvements
- The YMCA will continue to lease the facility for \$1 dollar per year
- The City will be allowed to use part of their lease area for slope remediation
- All maintenance and improvements will be the sole responsibility of the YMCA



Ron Molendyk
Director of Parks and Recreation



Alice Loya
Administrative Manager

- Exhibits:
- A: Proposed Agreement with YMCA
 - B: Letter from YMCA dated 10/05/04
 - C: Minutes of the 11/08/04 Parks and Recreation Commission Meeting
 - D: Current Agreement with YMCA dated 6/20/61

**PROPOSED AGREEMENT
WITH YMCA**

YMCA LEASE AGREEMENT

This Agreement ("AGREEMENT" or "LEASE") is entered into, this _____, 2007 (the "Effective Date"), by and between the City of Fullerton, a municipal corporation (hereinafter "CITY"), and The Young Men's Christian Association of North Orange County, a California public benefit corporation (hereinafter "TENANT" or "YMCA"). This agreement supersedes the Concession Agreement between the CITY and TENANT, dated June 20, 1961 (hereinafter "Concession Agreement").

RECITALS

WHEREAS, TENANT entered into a Concession Agreement with the CITY in June 20, 1961 to use and occupy those certain parcels of public land located in the Brea Dam Flood Control Basin, located at 2000 Youth Way, in the City of Fullerton, County of Orange, and State of California (hereinafter the "PROPERTY"), for the purposes of operating its YMCA facility. The PROPERTY is described in greater detail in the documents attached hereto as Attachment A (Assessor's Map 028-050-32) and Attachment B (Legal Description), both of which are incorporated by this reference; and

WHEREAS, TENANT wishes to continue to occupy the PROPERTY to provide recreation programs in accordance with the policies of the National Council of the YMCA; and

WHEREAS, TENANT is proposing to make capital improvements to the PROPERTY as described below in exchange for a new lease Agreement.

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 PROPERTY to TENANT subject to the terms of this Agreement. TENANT has had an opportunity to thoroughly inspect the PROPERTY, and accepts "as is," it in its existing condition.

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 promoting the intellectual, physical and social welfare of persons in accordance with the policies of the National Council of the YMCA.

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.

Outdated lease, no longer in effect

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 D. 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 one dollar (\$1.00) per year throughout the term of this Agreement and any extension. Payments shall be due on July 1st of each year and will be considered delinquent if not paid by July 15th.

V. TERM

A. Initial Term

This AGREEMENT shall be for a term of ten (10) years, commencing on the Effective Date, unless terminated earlier pursuant to Section VI of this AGREEMENT. This AGREEMENT will automatically terminate on the tenth (10th) anniversary of the Effective Date, unless TENANT exercises its option to extend the term as provided below.

B. Extension of Term

The term of this AGREEMENT will automatically be extended for an additional 20 years at the conclusion of the first ten (10) year term, if TENANT completes the capital improvement project described in detail in Section VIII of this AGREEMENT by no later than December 31, 2017 (the "PROJECT"), and provides the CITY with the requisite notice and opportunity to inspect the improvements so as to verify TENANT's compliance. In order to exercise this option, within one hundred twenty (120) days of completing the PROJECT, TENANT must send the Fullerton Director of Community Services written notice of completion of said improvements together with a copy of the certificate of occupancy. Such notice shall include a statement that TENANT is exercising its option to extend the Agreement for the additional twenty (20) years.

Should TENANT decide not to extend the Agreement for the additional 20-year term, it must notify the CITY in writing at least twenty four (24) months prior to the end of the first ten-year term. Unless the parties otherwise agree in writing, the terms and conditions of this AGREEMENT shall remain in effect throughout the duration of the initial term and any extension (the initial term and any extension shall be hereinafter be referred to jointly as the "Term").

VI. TERMINATION

Throughout the Term this AGREEMENT may be terminated by TENANT by providing CITY with twelve (12) months written notice of its intention to terminate. CITY may terminate the AGREEMENT as provided in section XII.

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.

USACE must grant this permission

VIII. CAPITAL IMPROVEMENT PROJECT

TENANT shall complete the improvements detailed in Attachment C of this agreement by no later than December 31, 2017. If TENANT fails to complete said improvements and obtain a certificate of occupancy by that date, TENANT will not be granted an extension as provided in Section V(B) of this AGREEMENT.

IX. MAINTENANCE AND IMPROVEMENTS OF PROPERTY

TENANT is obligated to provide maintenance of the PROPERTY in accordance with governing fire codes on the entire acreage, specifically including any unusable portions of the PROPERTY.

TENANT shall be financially responsible for all maintenance and improvements on the PROPERTY. 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 at the expiration or early termination of this AGREEMENT. At such time, TENANT agrees to remove, at CITY's option, any and all such improvements, notwithstanding their becoming affixed to and part of the realty. The payment of costs for said removal shall become the responsibility of TENANT.

X. 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 PROPERTY. 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 this 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. 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.
4. 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 property 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 and Business Automobile Liability

The UNITED STATES OF AMERICA and CITY, their elected or appointed officials, officers, employees, agents and volunteers are to be covered as insureds with respect to liability arising out of TENANT's operation or the ownership, occupancy, maintenance, or use of the leased property; or with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the TENANT. The coverage shall contain no special limitations on the scope of its protection afforded to the UNITED STATES OF AMERICA and CITY, their officials, officers, employees, and volunteers.

2. Commercial General Liability and Business Automobile Liability

This insurance shall be primary insurance as respects the UNITED STATES OF AMERICA and CITY, their officials, officers, employees, agents 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 UNITED STATES OF AMERICA and CITY, their officers, employees and volunteers shall be in excess of this insurance and shall not contribute with it.

3. All Risk Property

UNITED STATES OF AMERICA and CITY shall be named as loss payees.

4. Workers' Compensation and Employers' Liability Insurance

Insurer shall waive their right of subrogation against the UNITED STATES OF AMERICA and CITY, and their respective officers, employees, agents and volunteers for work done on behalf of the UNITED STATES OF AMERICA and CITY.

5. 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 UNITED STATES OF AMERICA and 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 UNITED STATES OF AMERICA and 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 property. The UNITED STATES OF AMERICA and CITY reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

XI. 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, 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 CITY or THE UNITED STATES OF AMERICA, and shall defend, indemnify, save and hold harmless the CITY and THE UNITED STATES OF AMERICA, and their respective elected officials, officers, agents, employees, and volunteers, 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.

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 CITY and/or THE UNITED STATES OF AMERICA, or their respective elected officials, officers, employees, agents or volunteers, 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.

Notwithstanding the foregoing, nothing herein shall be construed to require TENANT to indemnify CITY from any claim arising from the sole active negligence or willful misconduct of the CITY, or require TENANT to indemnify THE UNITED STATES OF AMERICA from any claim arising from the sole active negligence or willful misconduct of THE UNITED STATES OF AMERICA.

XII. DEFAULT IN TERMS IF 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.

XIII. 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.

XIV. 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.

XV. 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.

CITY

Community Services Department
City of Fullerton
303 W. Commonwealth Ave.
Fullerton, Ca 92832
(714) 738-6575

TENANT

North Orange County Branch
YMCA of Orange County
2000 Youth Way
Fullerton, CA 92835
(714) 879-9622

XVI. TAXES AND ASSESSMENTS

This AGREEMENT may create a possessory interest 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.

XVII. 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.

XVIII. 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.

XIX. 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.

XX. 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 legal 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.

XXI. 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).

XXII. UTILITIES

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

XXIII. 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.

XXIV. 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.

XXV. 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 reserves the right to enter the PROPERTY as needed for slope remediation and landscape purposes as shown on the attached Attachment E (Slope Remediation Area) incorporated by this reference. The slope remediation project is subject to the final approval of the Fullerton City Council.
- C. 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.

XXVI. 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.

XXVII. 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.

XXVIII. 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.

XXIX. 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.

XXX. ATTACHMENTS

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

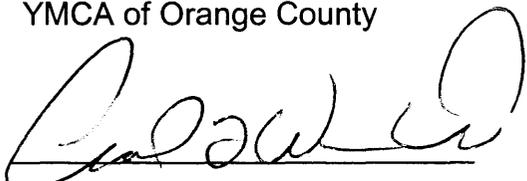
- Attachment A - Assessors Map for PROPERTY
- Attachment B - Legal Description of PROPERTY
- Attachment C - Capital Improvements to be Performed by TENANT
- Attachment D - License Agreement between City and United States concerning the PROPERTY.
- Attachment E – Slope Remediation Area

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

CITY OF FULLERTON
A Municipal Corporation

TENANT
YMCA of Orange County

Shawn Nelson, Mayor



Arthur L. Wannlund President CEO

ATTEST

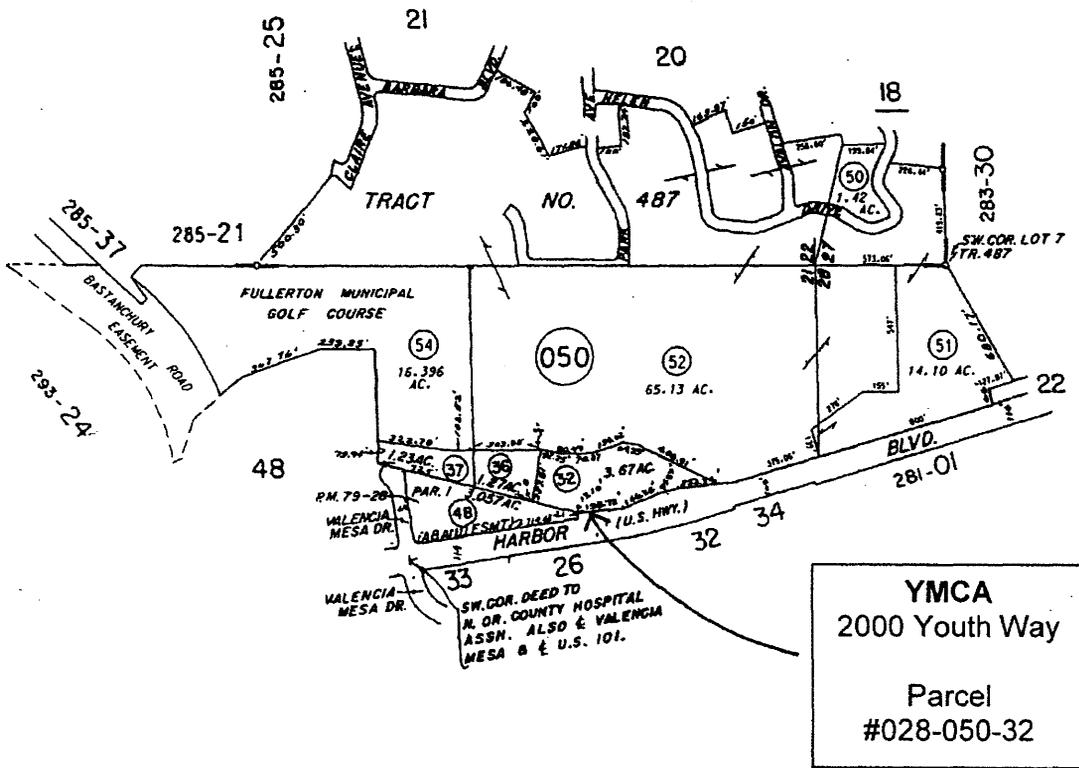
APPROVED AS TO FORM

Beverly White, City Clerk

Richard D. Jones, City Attorney

ATTACHMENT A

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



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

ATTACHMENT B

DESCRIPTION OF PROPERTY - Y.M.C.A.

All that portion of the Southeast quarter of Section 21, Township 3 South, Range 10 West, San Bernardino Base and Meridian, in the City of Fullerton, County of Orange, State of California, as same is shown on the 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 Southeast corner of that certain parcel of land shown on the map recorded in Book 34 at Page 23, Records of Survey of said Orange County; thence, West 498.83 feet to the True Point of Beginning; thence, from said True Point of Beginning East 79.94 feet; thence, South 7° 02' 16" West 322.78 feet; thence, South 2° 10' 48" West 102.52 feet; thence, South 0° 06' 05" West 303.98 feet to a point hereinafter designated Point "A"; thence, South 13° 11' 50" West 92.25 feet; thence, South 0° 59' 18" West 80.49 feet; thence, South 9° 51' 38" East 70.37 feet; thence, South 18° 05' 49" East 134.02 feet; thence, South 8° 34' 30" West 64.99 feet; thence, South 26° 00' 10" West 400.91 feet to a point in the Easterly right of way line of Harbor Boulevard, also known as U.S. Highway 101; thence, along said Easterly right of way line of Harbor Boulevard North 6° 26' 04" West 188.52 feet; thence, North 13° 43' 47" West 95.67 feet; thence, North 23° 53' 21" West 146.36 feet; thence, North 5° 05' 41" West 198.75 feet; thence, North 7° 52' 20" West 18.61 feet; thence, leaving said Easterly right of way line of Harbor Boulevard North 15° 12' 53" East 195.25 feet to a point; said point hereinafter referred to as Point "B"; thence, continuing North 15° 12' 53" East 725.00 feet, more or less, to said True Point of Beginning.

EXCEPTING THEREFROM all that portion thereof lying Northerly of the following described line.

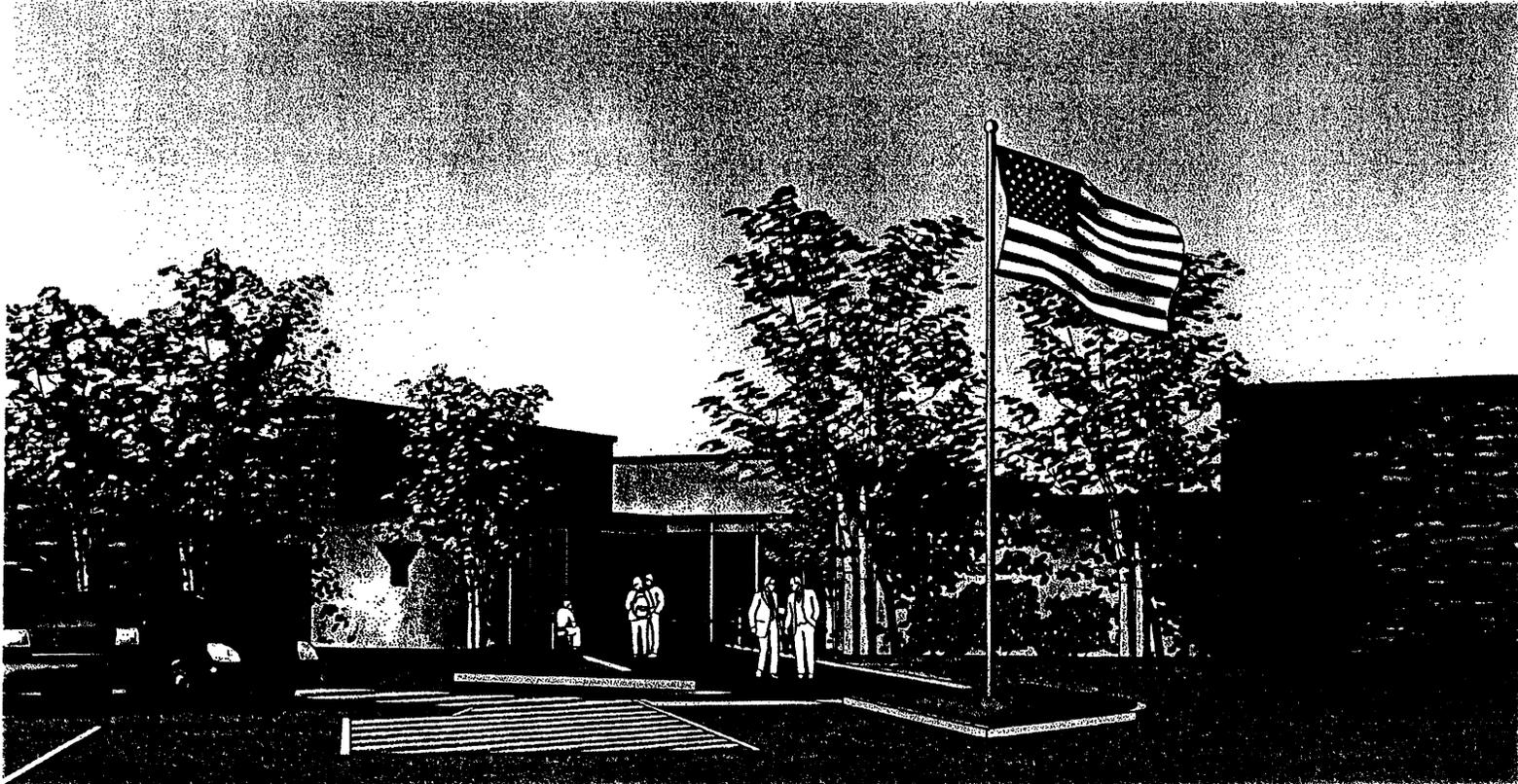
YMCA Lease Agreement

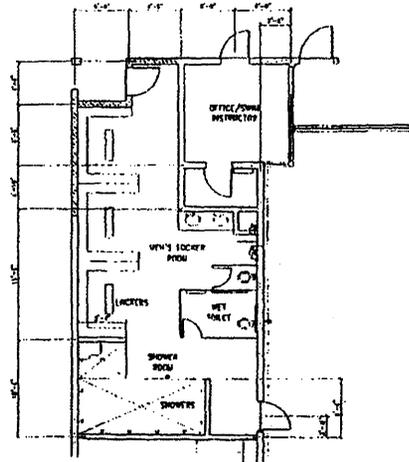
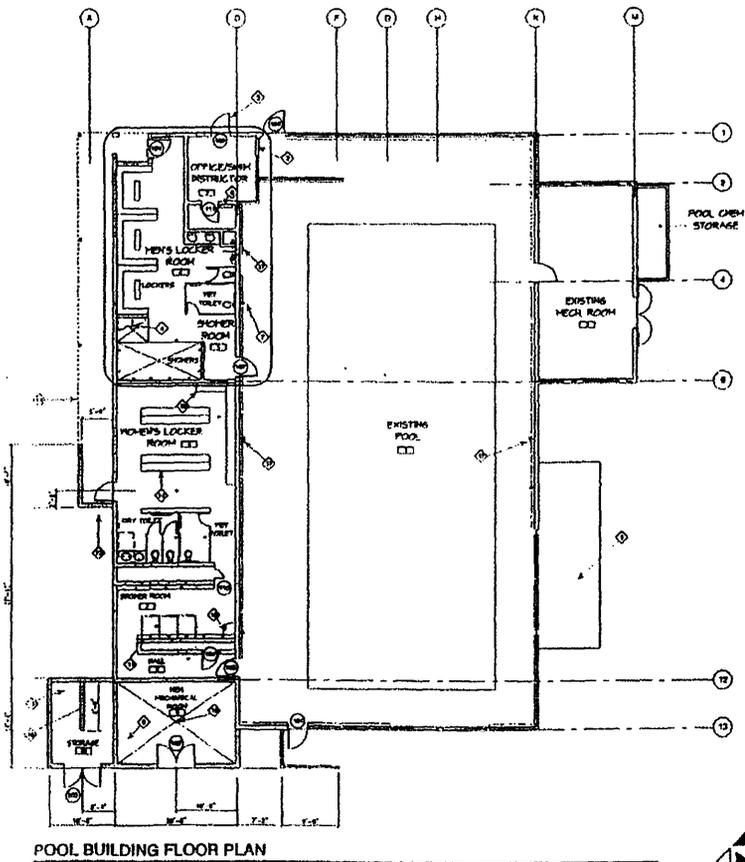
Beginning at that certain point hereinabove described as Point "A"; thence, North 83° 08' 47" West 227.81 feet, more or less, to that certain point hereinabove described as Point "B".

TOGETHER WITH an easement and right of way for ingress and egress purposes over and along a strip of land of the uniform width of 30 feet adjoining and Easterly of the West line of that certain parcel hereinabove excepted.

All as more particularly shown on Exhibit "C" attached hereto and made a part hereof.

ATTACHMENT C





ENLARGED FLOOR PLAN
SCALE 1/4" = 1'-0"

KEYNOTES

- 1. REFER TO BLUE PRINT FOR DIMENSIONS. LAYOUT COORDINATED WITH 10-2000-1. 1/2" GRID SYSTEM IS TO BE USED ON 1" GRID SYSTEM.
- 2. FILL IN GROSS OPENING WITH WALL TO MATCH EXISTING.
- 3. CON. OPENING IN WALL. FINISH FLOOR WITH 2" POLY CONCRETE WITH 1" OF POLY FIBER.
- 4. NEW ACCESSIBLE SHOWERS.
- 5. EXISTING ACCESSIBLE TOILET.
- 6. NEW SHOWERS AND HALL LIGHTS.
- 7. NEW 40" ELECTRIC RADIANT (TYP. 3 PLACES).
- 8. NEW LAP POOL WITH 200 GAL. BATH.
- 9. FINISH FLOOR TO BE DETERMINED.
- 10. FINISH ACCESSIBLE SHOWERS.
- 11. NEW SHOWERS PATTERNS.
- 12. NEW STAIRS W/HS.
- 13. NEW EXISTING WALKWAY.
- 14. FINISH EXISTING LOCKERS W/ NEW LOCKERS.
- 15. FILL IN WALLS & PART. ROOM.
- 16. NEW TOILET.
- 17. FINISH BOTTOM CONCRETE IN ALL NEW TOILETS.
- 18. 4" NEW 1" W/HS CON. FLOOR.
- 19. NEW FLOOR FINISH.

KEYNOTES

- 1. CONCRETE CONCRETE SHALL BE 4000 PSI.
- 2. WALL TO BE FINISH.
- 3. 1/2" TO 3/4" CONCRETE FLOOR FINISH TO BE USED.
- 4. 1/2" TO 3/4" CONCRETE FLOOR FINISH.

NOTES:
REFER TO ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.
REFER TO ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.
REFER TO ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.

- REVISIONS:**
1. CHANGE OF THE S.F. TO MATCH EXISTING PLAN.
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 8. REFER TO ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.

NO.	DATE	BY

CEANE ARCHITECTURAL GROUP
 ARCHITECTS & INTERIORS
 1111 CHURCH ST. SUITE 100
 FAYETTEVILLE, GA 30215
 TEL: 770-843-1111

PROJECT LOCATION:
 FAYETTEVILLE, GA
 CHURCH COUNTY YMCA
 1111 CHURCH ST. SUITE 100
 FAYETTEVILLE, GA 30215

NO.	DATE	BY

ATTACHMENT D

DEPARTMENT OF THE ARMY
LICENSEE
FOR PUBLIC PARK AND RECREATIONAL PURPOSES
BREA FLOOD CONTROL BASIN

No. DA-04-353-CIVENG-60-123

This is the old,
superceded lease

THE SECRETARY OF THE ARMY, under authority of Section 209 of the Flood Control Act of 1954, approved 3 September 1954 (68 Stat. 1248, 1266; 16 U.S.C. 460d), hereby grants to the CITY OF FULLERTON, a municipal corporation of the State of California, hereinafter called the Licensee, a license for a period of fifty (50) years, commencing on the date of execution hereof, to use and occupy, for public park and recreational purposes, approximately 184.40 acres of land designated as Unit A-8, hereinafter referred to as the "licensed premises," under the primary jurisdiction of the Department of the Army in the Brea Flood Control Basin, Orange County, California, as shown on "Exhibit A," Drawing No. 122-K-26, and more particularly described in "Exhibit B," Legal Description, both exhibits being attached hereto and made a part hereof.

THIS LICENSE is granted subject to the following provisions and conditions:

1. That the primary purpose of the Brea Flood Control Basin is the control of floods, and nothing herein expressed or implied shall be construed so as to conflict with that purpose. All rights and privileges herein granted to the Licensee in and to said licensed premises shall be subordinate to the use thereof by the Department of the Army in the operation and maintenance of the Brea Flood Control Dam and Basin.
2. That the areas made available to the Licensee for public park and recreational purposes shall be known as the "CITY OF FULLERTON RECREATIONAL AREA (Brea Flood Control Basin)."
3. That the Licensee, in the exercise of the privileges hereby granted, 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 recreational area, subject to the general supervision of the District Engineer, U. S. Army Engineer District, Los Angeles, hereinafter referred to as the District Engineer.
4. That the Licensee has submitted to the said District Engineer its Master Plan Drawing, file No. 1090-A, dated 1 July 1958, marked "Exhibit C," attached hereto and made a part hereof. Changes in the said Master Plan will not be made without prior written approval of the said District Engineer.
5. That the Licensee shall administer and maintain the said property, for the duration of this license, in accordance with the Master Plan for the said recreational area and with an Annual Management Program to be mutually agreed upon between the Licensee and the said District Engineer, 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 Licensee or jointly by the Corps of Engineers and the Licensee.

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

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

6. That the Licensee shall have the right to construct and maintain upon the premises such buildings, improvements, facilities, accommodations, fences, directional and information signs, and other structures as may be necessary for the purposes of this license, and may plant seeds, shrubs, and trees, provided that all such structures shall be constructed and the landscaping accomplished in accordance with such designs and at such locations as have been approved in advance in writing by the said District Engineer, it being understood that no permanent type of recreational building or accessory facilities shall be erected on the land below elevation 262 M.S.L., except that open-type structures may be erected between elevation 262 M.S.L. and elevation 240 M.S.L. upon written approval of plans of such structures by the said District Engineer.

7. That within one (1) year after the date of execution hereof by the Secretary of the Army, the Licensee shall expend a minimum of Fifty Thousand and No/100 Dollars (\$50,000.00) with the object of completing a portion of the development for public park and recreational purposes upon the premises, and thereafter shall continue the development of the area as funds are made available from the proceeds derived from concessions, rentals, and public park and recreation funds as may from year to year be made available, with the object of accomplishing within approximately fifteen (15) years, a substantial progressive completion of the improvements as shown on said Master Plan. It is expressly understood and agreed that, in case of flood or damage to initial improvements and continuing improvements installed by the Licensee, construction of such improvements shall be considered to be a full and complete compliance with the provisions of this paragraph and the restoration of such improvements flooded or damaged shall be optional with the Licensee.

8. That the United States shall be held harmless from all claims which may arise from or be incident to the exercise of the privileges herein granted.

9. That 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 Licensee, or for damages to the property or injuries to the person of the Licensee'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 Licensee shall hold the United States harmless from any and all such claims.

10. That the Licensee, in exercising its governmental or proprietary functions, may operate facilities and accommodations and provide services needed by the public directly, and may enter into concession agreements with third parties for providing needed services to the public, provided that any such agreements have the prior approval of the said District Engineer, and provided further, that any profits obtained by the Licensee from any such agreements or from operations by the Licensee on the said Government property shall be utilized by the Licensee in the further development of the area and that any profits not so utilized shall be paid to the said District Engineer at the expiration of each five-year period of this license. The Licensee and its concessionaires may make reasonable charges for such services and for the use of such facilities and accommodations, provided that such charges shall have the prior written approval of the said District Engineer.

11. That in order to protect the United States and the City of Fullerton against claims for damages which might arise out of the use and occupation of said licensed premises by persons to whom the Licensee may grant concessions, or licenses, the Licensee herein agrees to insert a condition in each such concession, or license which it grants pursuant to Condition No. 10 hereof, which shall be in substantially the following form:

The Concessionaire or Licensee, in consideration of the granting of this Concession or License, agrees to hold the United States and the City of Fullerton harmless from any and all claims or rights of action for damages which may or might arise or accrue to said Concessionaire or Licensee, his officers, agents, servants, employees, or others who may be on the licensed premises at his invitation or the invitation of any one of them, by reason of injuries to the property, or the person of any of them resulting from the entry upon or the use of the licensed premises, by the United States, the City of Fullerton, or any one of them, at any time, for any purpose necessary or convenient in connection with river and flood control work, or for the removal of timber required or necessary for such work, or by reason of the flooding of the licensed premises, or any part thereof, when in the judgment of any of them, such flooding is necessary in connection with flood control work.

Signed copies of each concession, or license granted by the Licensee herein shall be furnished to and filed with the said District Engineer.

12. That no human habitation will be permitted on the premises. This will not be construed to prohibit the Licensee from providing properly designed and approved guard-stations for night watchman or other patrolmen.

13. That the right is reserved to the United States to renew or enter into leases for agricultural use of any of the lands covered by this license and not being developed by the Licensee for park and recreational purposes, pending written notice by the Licensee 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.

14. That the Licensee shall protect the property from fire, vandalism, soil erosion, and control growth on unleased portions, and shall maintain all side drainage in and through the said recreational areas, and shall maintain all areas to prevent floating debris of any kind, and may make and enforce such rules and regulations as are necessary and within its legal authority, in exercising the privileges granted and the obligations imposed by this license, provided that such rules and regulations are not inconsistent with those prescribed by the Secretary of the Army to govern the public use of the said area.

15. That the right is hereby expressly reserved to the United States, its officers, agents, and employees, to enter upon the said land at any time for any purpose necessary or convenient in connection with river 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 flood control work, and the Licensee shall have no claim for damages of any character on account thereof against the United States or any agent, officer, or employee thereof.

16. That the right is hereby reserved to the United States to construct or to permit the construction of facilities suitable for communications, electrical distribution or transmission, water supply, flood channels, sewage disposal, and similar purposes on the premises, and the Licensee shall have no claim for compensation or damages of any character on account thereof.

17. That any property of the United States damaged or destroyed by the Licensee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Licensee to the satisfaction of the said District Engineer.

18. That the Licensee shall not mine and remove no sand, gravel or kindred substances, except in furtherance of the Master Plan and after approval by said District Engineer. The Licensee shall conduct no mining or drilling

operations and commit no waste of any kind. The contour or condition of the premises herein licensed shall not be substantially changed except in furtherance of said Plan and after approval by said District Engineer.

19. That any and all taxes which may be lawfully imposed by the State or any of its subdivisions upon the premises, the concessions or other improvements placed upon the premises by the Licensee or by third parties under agreements with the licensee, shall be promptly paid by the Licensee or such third parties as their interests may appear.

20. That the Licensee shall not permit on the premises gambling or any games of chance, or install or operate, or permit to be installed and operated, any devices where money is exchanged for money, or any devices or concessions which are contrary to good morals or are otherwise objectionable.

21. That the Licensee shall exercise control of the area to insure compliance with all applicable laws, ordinances, and regulations of the State and County wherein said premises are located, including the Fish and Game Commission laws of the State of California.

22. That this license may be terminated by the Licensee at any time by giving ninety (90) days' notice in writing to the Secretary of the Army, through said District Engineer.

23. That this license may be revoked by the Secretary of the Army at any time by giving ninety (90) days' notice in writing to the Licensee when in his discretion he deems such revocation to be in the interest of the public health and safety or during any national emergency present or future declared by the President of the United States, or in the event the Licensee violates any of the terms and conditions of this license after notice thereof in writing by the said District Engineer.

24. That on or before the date of expiration of this license or its relinquishment by the Licensee, the Licensee and its concessionaires shall vacate the said licensed premises, remove all their property therefrom, and restore the premises to a condition satisfactory to the said District Engineer. If, however, this license is revoked, the Licensee and its concessionaires 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 Licensee and/or its concessionaires shall fail or neglect to remove said property and so restore the premises, then, at the option of the Secretary of the Army, said property shall either become the property of the United States without compensation therefor, or the Secretary of the Army may cause it to be removed and the premises to be so restored at the expense of the Licensee, 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. It is expressly understood, however, that the Licensee shall not be required to restore to its original condition the land in the licensed premises with respect to landscaping, planting, grading, or paving of roadway.

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

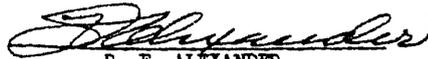
26. That no member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this license or to any benefits to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the license be for the general benefit of such corporation or company.

27. That the Licensee shall not discriminate against any person or persons because of race, religion, color, or national origin in the conduct of its operations hereunder.

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

29. That the licensee shall obtain written consent from the owners of utility line easements interposing no objection to use of such rights of way and shall furnish the District Engineer with a copy of each letter of consent.

IN WITNESS WHEREOF I have hereunto set my hand this 24 day of December 1959, by direction of the Assistant Secretary of the Army.



R. F. ALEXANDER
Colonel, GS
Executive
OASA (MP&RF)

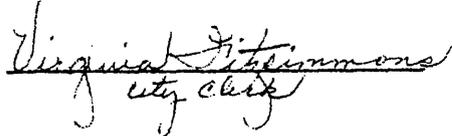
The above instrument, together with the provisions and conditions hereof, is hereby accepted this 6 day of May 1959.

CITY OF FULLERTON,
a municipal corporation of
the State of California



Title Mayor

ATTEST:



Virginia F. Simmons
city clerk

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

Supplements to
current lease

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° 02' 51" West 573.06 feet from the Northeast corner of said Section 28; thence from said point of beginning South 61° 13' 41" West 577.03 feet; thence North 15° 44' 53" West 127.07 feet; thence South 74° 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° 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° 52' 33"; thence, along the arc of said curve Northwesterly 257.32 feet; thence tangent to said curve North 7° 52' 20" West 73.30 feet; thence leaving said Easterly right-of-way line of Fullerton Road North 15° 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° 05' 12" West 239.83 feet; thence North 18° 43' 23" West 367.176 feet; thence North 39° 55' 48" West 247.66 feet; thence North 74° 53' 59" West 158.00 feet; thence North 13° 44' 34" East 180.74 feet; thence South 79° 46' 09" West 301.45 feet; thence North 18° 36' 22" East 208.64 feet; thence North 67° 51' 27" West 289.07 feet; thence North 11° 09' 48" West 191.28 feet; thence North 9° 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

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 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 Steinhilber
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)

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.

415

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.

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

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 H. Myers
SHERRY H. MYERS
Chief, Real Property
Division, OASA (I&L)

THIS SUPPLEMENTAL AGREEMENT NO. 1 is also executed by the lessee this 16 day of October 1968.

ATTEST:

Caroline Johnson

APPROVED

D. Reginald Gustavson
D. REGINALD GUSTAVSON
FULLERTON CITY ATTORNEY

CITY OF FULLERTON

By: *Louis R. Reinhardt*

Title: Treasurer

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 part 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. Flammable 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.

EXHIBIT A

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.

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

October 21, 1968

Department of the Army
Los Angeles District, Corps of
Engineers
P. O. Box 2711
Los Angeles, California 90053

Attn: A. D. Stanley, Chief
Real Estate Division

Ref: SPLRM-M-(C)

Dear Mr. Stanley:

Enclosed in triplicate is the proposed Supplemental Agreement No. 1 to Lease No. DACW09-1-68-22 and which covers an additional 26.84 acres into said lease.

This Supplemental Agreement was approved by the City Council and execution authorized on October 15, 1968. A Certified Minute Excerpt of this action is also enclosed.

Please return the fully-executed copy to my office when available.

Yours very truly,

(Mrs) Virginia Fitzsimmons
City Clerk

encls.

CA-3 Fitz. Recv. Area: General

REVISED
AGREEMENT,
ARMY CORPS
OF ENGINEERS:

V23-125
10-15-68

Revised lease agreement with the Corps of Engineers for the addition of approximately 26 acres to Brea Dam recreational area was presented.

A minor change has been made in the revised lease agreement, authorized for execution by the City Council on May 7, 1968. The Corps of Engineers added to Paragraph 17 of the lease the following statement, "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".

Finance Director Grens was present and informed Council that the concessionaires on said leased property are usually audited once a year.

MOVED by Councilman Root, seconded and carried that the City ENTER INTO the revised agreement with the Army Corps of Engineers for the additional 26 acres at Brea Dam by the signature of the Mayor as recommended by the Director of Public Works and in the form approved by the City Attorney.

AMENDMENT TO
AGREEMENT,
FULLERTON
RECREATIONAL
AREA: ..

Supplemental Agreement No. 1 with the Department of the Army for incorporation of 26.84 acres of land into the present lease to be used for day and overnight camping purposes was presented.

5-7-68
V23-7

Conditions of the amendment required the City to fence the dam-tender's area and along the toe of the dam and to except the cattle grazing lease on approximately 18 acres of this parcel until its expiration in April of 1972.

MOVED by Councilman Von Esch, seconded and carried, that the City ENTER INTO the recommended lease amendment by the signature of the Mayor when approved by the City Attorney.

CA-3 Fullerton Rec Area: General

May 2, 1968

City Administrator
City of Fullerton

Re: Council Agenda

Subject: Amendment to Fullerton Recreation-
al Area Brea Dam Lease

Within the Brea Dam area, the City now leases approximately 192 acres. The land immediately north and south of the actual dam has been held by the Corps of Engineers for operational purposes. Portions of the operational area have been leased for cattle grazing and have been used for camping by the Y.M.C.A., Boy Scouts, and other organizations. Since the operational area, with the exception of the dam and dam-tender's home, has recreational potential, the Corps of Engineers has offered this usable area to the City of Fullerton.

Approximately 27 acres is available, and an amendment to the lease has been drafted by the Corps of Engineers. The conditions to the amendment requires the City to fence the dam-tender's area and along the toe of the dam and to accept the cattle grazing lease on approximately 18 acres of this parcel until its expiration in April of 1972.

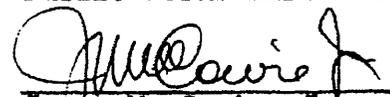
\$2000 is allocated in the 1967-68 Capital Improvement Program to fence the dam-tender's home and arrangements will be made with the camping groups to fence the toe of the dam.

If we are to assume the maintenance responsibilities of the 27 acres as presently maintained by the Corps of Engineers, the cost will amount to about \$1000 per year; \$800 labor costs for weed, tree, etc. maintenance and \$200 per year for water charges.

Since this area is now partially being used for camping and under City control it will have much greater potential for recreational use, we recommend that the Mayor and City Clerk be authorized to execute the lease amendment.

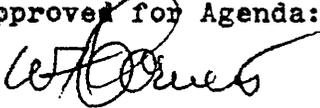


Hugh L. Berry
Public Works Director



James M. Cowie, Jr.
Parks and Recreation Director

HLB:eg
Attachment
Approved for Agenda:



City Administrator

EXCERPT FROM THE MINUTES OF THE REGULAR
MEETING OF THE CITY COUNCIL, CITY OF FULLERTON, HELD
ON THE 15TH DAY OF OCTOBER, 1968.

The meeting was called to order by the Mayor with the following
members of the Council present: Councilmen Christie, Root, Von Esch and
Reinhardt
absent: Councilman Diedrich

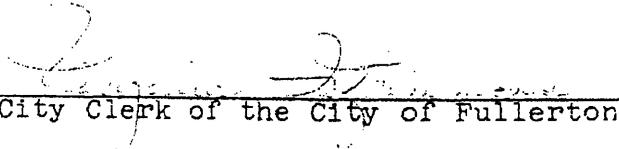
SUPPLEMENTAL AGREEMENT - BREA FLOOD CONTROL BASIN

MOVED by Councilman Von Esch, seconded and carried, that
the City enter into the revised agreement with the Army
Corps of Engineers for the additional 26 acres at Brea
Dam by the signature of the Mayor as recommended by the
Director of Public Works and in the form approved by
the City Attorney.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF FULLERTON)

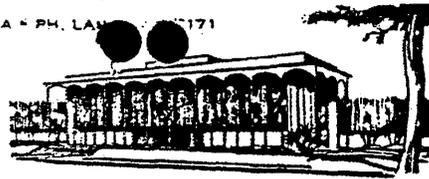
I, VIRGINIA FITZSIMMONS, City Clerk of the City of Fullerton, DO HEREBY
CERTIFY that the foregoing is a full, true, and correct copy of the
minute entry on record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of
October, 1968.



City Clerk of the City of Fullerton

By: _____
Deputy



CITY OF FULLERTON

October 8, 1968

City Administrator
City of Fullerton

Re: Council Agenda

Subject: Brea Dam Lease Agreement

On May 7, 1968, the City Council authorized the execution of a revised lease agreement with the Corps of Engineers for the addition of approximately 26 acres to our recreational area. The area encompassed by the agreement is located on the south side of the dam adjacent to the Harbor Boulevard frontage.

The agreement has now been executed by the Corps of Engineers. However, in so doing, a minor change was made in one paragraph of the lease. Paragraph 17 of the lease states that all monies generated by the recreational area may be used for operation of the area and for all past and future development costs including interest. The Corps of Engineers added to this paragraph the statement, "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."

It is recommended that the Mayor and City Clerk be authorized to execute the revised agreement on behalf of the City.

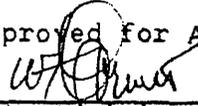


Hugh L. Berry
Director of Public Works

HLB:eg
Attachments

cc Finance Director
Director of Parks and Recreation

Approved for Agenda:



City Administrator

ITEM NO. _____

May 13, 1968

Department of the Army
Los Angeles District
Corps of Engineers
Post Office Box 2711
Los Angeles, California 90053

Attention: Mr. A. D. Stanley
Real Estate Division

Gentlemen:

Enclosed are three executed copies of the Supplemental Agreement No. 1 to Lease No. DACW09-1-68-22, granting to the City of Fullerton the use of certain lands in the Brea Flood Control Basin, California, for public park and recreational purposes.

The document was approved and the Mayor was authorized to execute on behalf of the City by the City Council at their regular meeting held May 7, 1968, and three certified minute excerpts of that action are also enclosed.

Upon execution by the United States, please return one fully-executed copy of the Supplemental Agreement to my office for filing.

Very truly yours,

Virginia Fitzsimmons
City Clerk

jdb
Enclosures

cc Hugh L. Berry
Public Works Director

James M. Cowie, Jr.
Parks & Recreation Director

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.

1 cc-2 J.H. P. asst. l

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 3rd 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 3rd day of June 1974.

CITY OF FULLERTON

By: Francis R. Wood

Title: MAYOR

ATTEST:
Virginia F. Simmons
City Clerk

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

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

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FILE: 122-K-26.4

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

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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. DACW081-68-22
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 6th day of April 1992.

WT Birney
William T. Birney
Assistant for Real Property
OASA(I,L&E)

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: *Christa Morley*

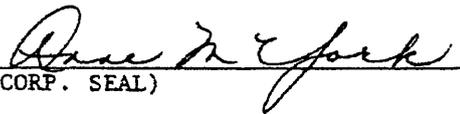
TITLE: Mayor

ATTEST:

Rose D. York
City Clerk

MDA... 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. 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)

MA York

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.

Lease No. DACW09-1-68-22
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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,

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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
Supplemental Agreement No.4

"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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Supplemental Agreement No.4

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
Supplemental Agreement No.4

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
Supplemental Agreement No.4

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

Ⓜ

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 comer 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 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 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°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 11005'10" 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 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

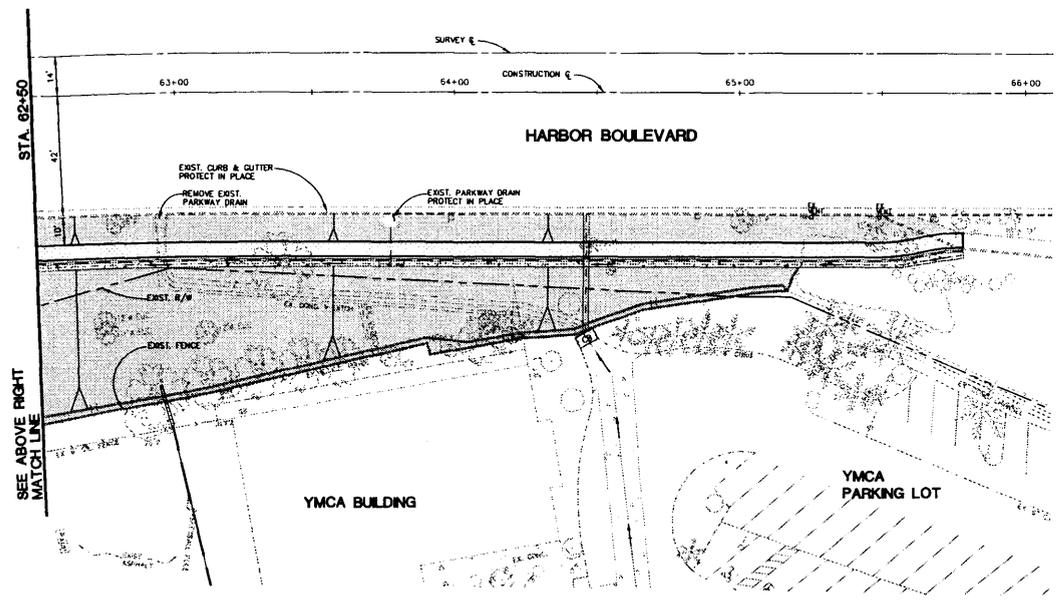
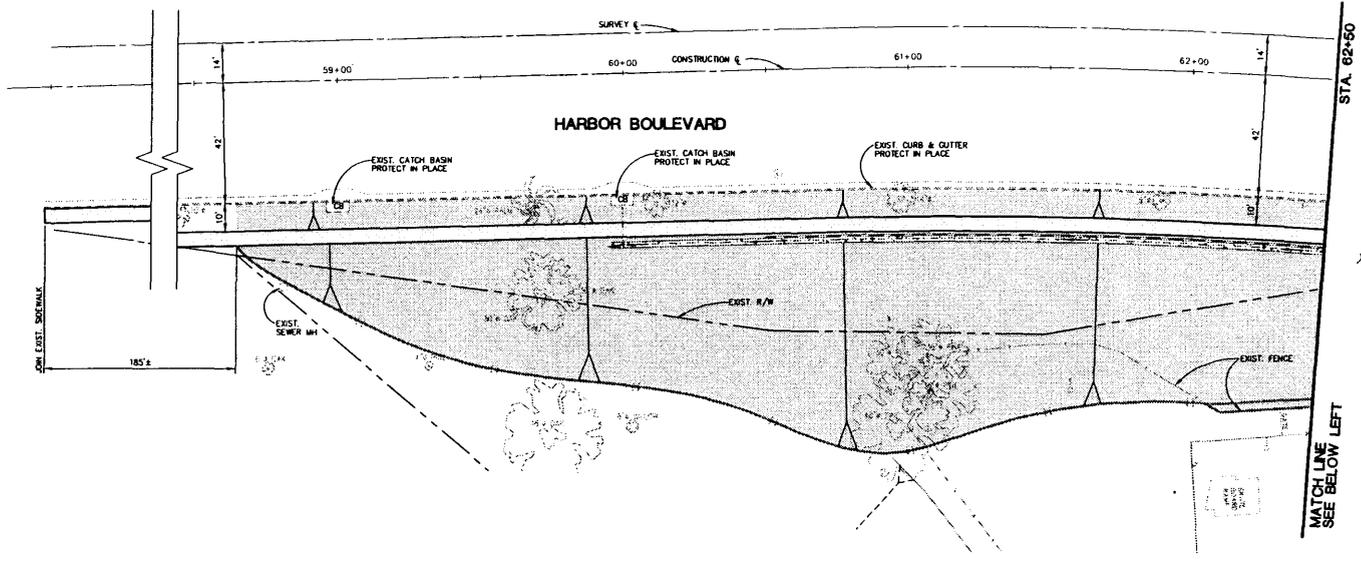
CHECKED BY Q.M.
DATE: 10 Jan 2001

COE FILE NO. 122-K-26.5



YMCA LEASE AGREEMENT, ATTACHMENT "E"

HARBOR BOULEVARD RETAINING WALL & SLOPE REPAIR SITE STUDY AT YMCA



LEGEND

-  PROPOSED GRADING & LANDSCAPING (REMOVE CONFLICTING IMPROVEMENTS)
-  PROPOSED TOP OF SLOPE

**LETTER FROM YMCA
DATED OCTOBER 5, 2004**

YMCA of Orange County

North Orange County Branch

2000 Youth Way, Fullerton, CA 92835

(714) 879-9622 • Fax (714) 879-2820

www.ymcaoc.org

Serves Brea, Buena Park, Fullerton, La Habra and surrounding areas

October 5, 2004

Alice Loya
Sr. Administrative Analyst
Fullerton Community Services Department
303 West Commonwealth Ave.
Fullerton, CA 92832-1775

Dear Alice:

I want to bring you and the Commission up to date on the YMCA's renovation plan and lease extension request. As you are aware, we put a hold on the project while we reviewed the related cost estimates and our options for funding.

Although the expansion and program changes for our \$700,000 conceptual plan have not changed, the costs have grown considerably. The original concept was to complete a small addition to the building, renovate several rooms completely, and do cosmetic work in a number of other spaces using borrowed funds, and then conduct a very limited fund drive to enhance the project with the lap pool, etc. However, after hiring an architectural firm to complete more advanced conceptual drawings, meeting with City staff, consultations with engineers, and having an estimating firm provide construction costs, the project has grown to a \$3 million renovation. A copy of the most recent drawings and project budget are included with this letter.

As you will see, the latest version does not include any new space or additions that the Commission or the Army Corps have not already given conceptual approval, but the primary difference in cost is a result of bringing the entire project up to code, and improving some of the systems for increased efficiency and long term cost savings. An example of the additional costs created by code requirements are that the public bathrooms and men's locker room, which in the original plan were to be renovated by some new partitions and cosmetic upgrades, are in the new plan completely demolished and replaced with a new space. An example of efficiency would be the HVAC system, which in the original plan was to be augmented, is now slated for complete replacement. The existing 1962 system was discovered to be operating at about 40% efficiency, and the costs of replacement with more efficient rooftop units is estimated to be recovered within five years. However, the roof top units create so many penetrations of the existing roof that it too will need to be replaced, thus adding more costs.



We build strong kids, strong families, strong communities

YMCA of Orange County

North Orange County Branch

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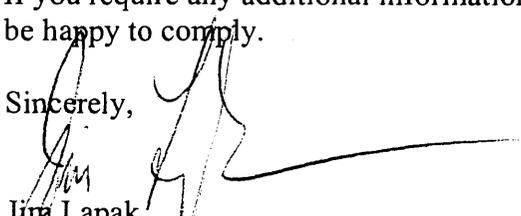
Serves Brea, Buena Park, Fullerton, La Habra and surrounding areas

The North Orange County YMCA Board of Managers and the YMCA of Orange County Board of Directors have reviewed the new cost estimates, added a contingency for the delay in bidding the project, and reaffirmed their support and their commitment to providing Fullerton with a modern and well maintained facility. It is the YMCA's intention to move forward with detailed construction drawings and the permitting process so as to be ready to bid the project in the fall of 2005. **At the same time, the Boards have committed to raising the funds required to make this project a reality.**

In order to commit to these next steps and to assure contributors that we have completed our due diligence and therefore have a real project, there is only one step left in our conceptual approvals. We have not yet been to the City Council for approval and lease extension. **In light of the fact the YMCA is preparing to make an investment that is four times greater than the original projection, we would ask the Commission to reconsider the term of the lease extension,** and once we have reached agreement to move the project forward to the City Council.

If you require any additional information or would like a more formal presentation, I will be happy to comply.

Sincerely,


Jim Lapak
Executive Director



We build strong kids, strong families, strong communities

**YMCA of Orange County
North Orange County Family Branch**

The Cost of Renovating & Expanding the North Orange County Facility

Pushed by greater demand and the need for modern facilities to serve the families of our community, the proposed renovation will leave little of the interior of the facility untouched. When the YMCA was first constructed in 1962, the program demands and spatial requirements were very different. The building codes and construction techniques were different, ADA (American Disability Act) and The Clean Water Act were not even in the conceptual stage, and hazardous material such as asbestos and lead paint were still standard construction items.

After an architect drew conceptual plans, various City staff reviewed the plans and the YMCA's Facility Committee approved the programmatic needs, an outside firm estimated the costs. Included over and above the program space changes are: removal and disposal of all hazardous material, upgrading and or replacement of the HVAC (Heating and Air-conditioning) system, complete demolition and replacement of public restrooms and the men's shower room to meet ADA requirements, a new roof, correction of a number of safety concerns including the fire alarm in both buildings, and a filtration system to prevent run off from the parking lot entering the storm system untreated.

Also included is a considerable contingency fund, required when renovating, and a construction inflation figure to account for the time that may lapse between the current estimate and construction bidding.

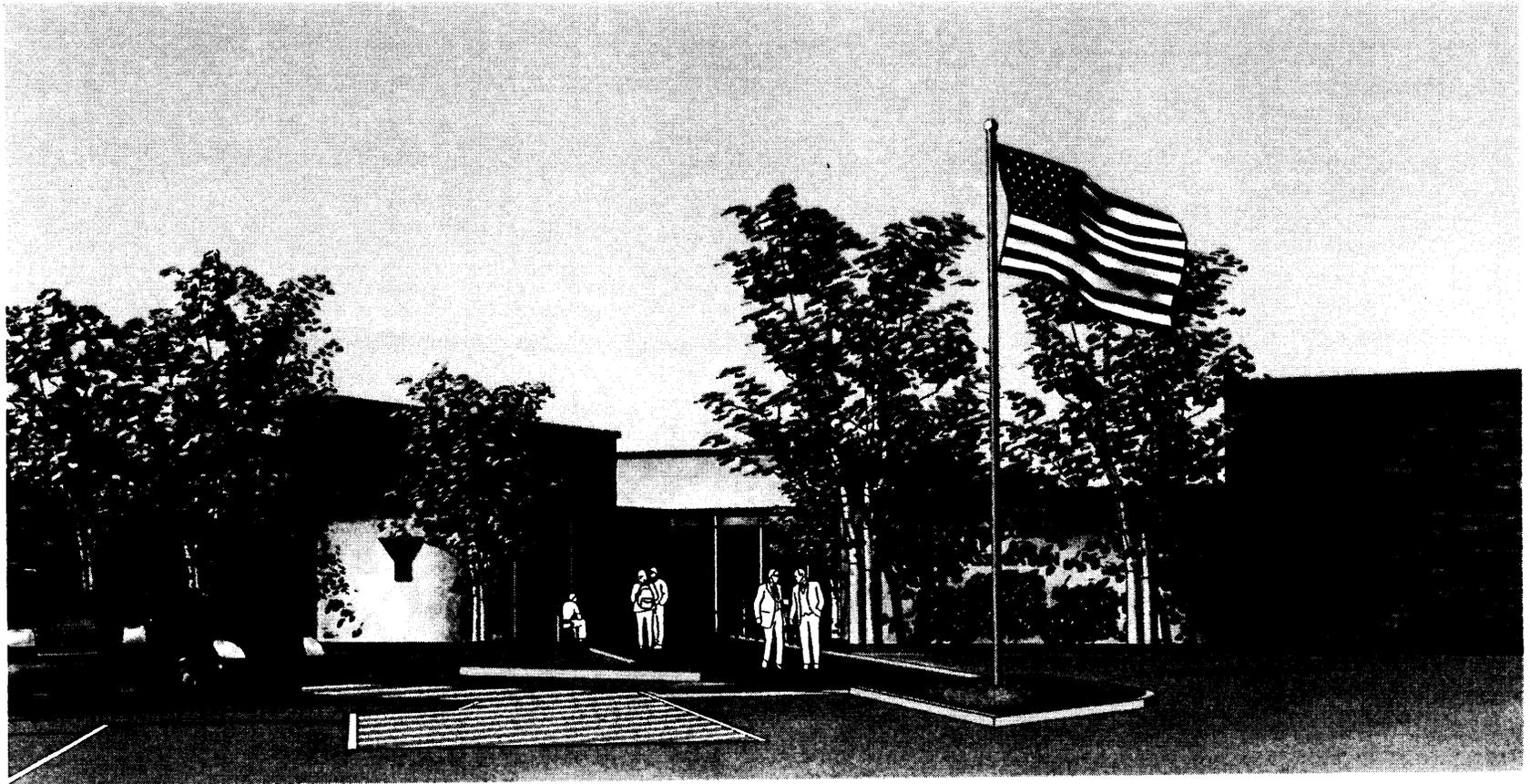
The current operation has only a small capital debt incurred from purchasing various pieces of equipment, which is amortized over the life of the equipment. There is no current debt on the facility. Although the Association now has the ability to borrow a percentage of the project, it is the Board of Manager's objective to remain debt free, and they have set the Goal at the complete \$3 million estimated.

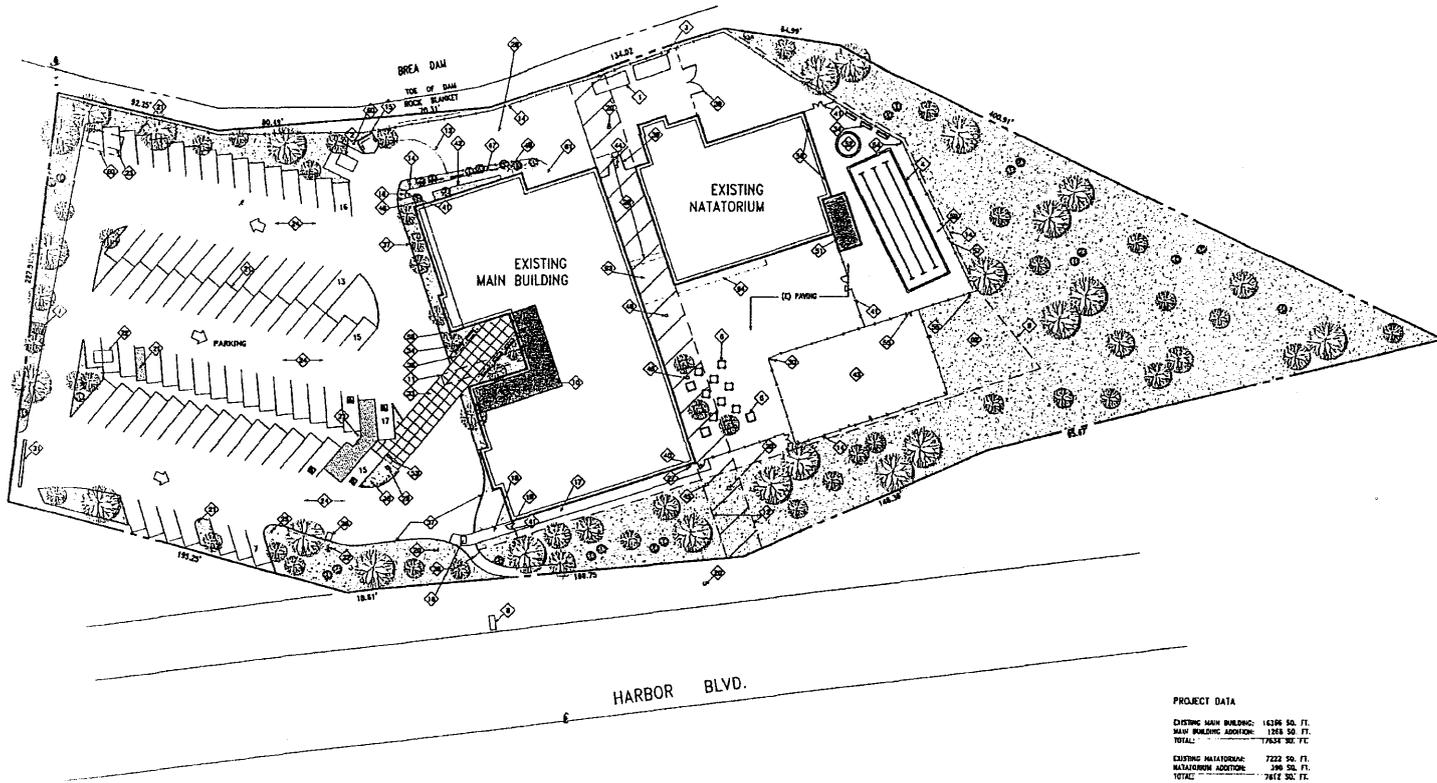
Attached is an itemized listing of the estimate costs. A detailed set of conceptual drawings and demolition plans are available upon request

At the conclusion of the project the North Orange County YMCA will have a completely renovated, up to code, attractive, modern and functional facility to meet the needs of the families of our community.

Cost Comparison	6/4/04
General Requirements	
Survey / Staking	5,000
Temporary Facilities	35,000
Supervision & Project Man.	72,000
Clean Up	10,000
Sub Total	122,000
Site Work	
Prep. Demolition	80,000
Grading	60,000
Paving	50,000
On Site Concrete	22,500
Landscaping	10,000
Fencing	11,000
Site Drainage	35,000
Sub Total	268,500
Construction	
Concrete	27,000
Metals Fabrication	25,000
Carpentry	90,000
Insulation	20,000
Roofing	40,000
Sheet Metal	47,500
Doors & Windows	70,000
Dry Wall	30,000
Lath & Plaster	15,000
Painting	20,000
Flooring	40,000
Ceramic Tile	75,000
Ceiling	20,000
Specialties	41,250
Plumbing	87,500
Fire Protection	15,000
HVAC	130,000
Electrical	125,000
Pools & Deck	80,000
Outdoor Seating	12,000
Planters	12,000
Parking Steps	4,000
Relocating Light in Back	25,000
Relocate Skate Park	40,000
Sub Total	1,091,250

Other Costs	
Contingencies	375,000
Permits & Fees	78,000
Architect / Engineering	122,140
Contractor Fee	127,125
Related Equipment	150,000
Asbestos Study	4,000
Asbestos Removal	70,000
Property Survey	6,000
Geo. Tech. Survey	3,000
New Signage	10,500
Sub Total	945,765
Complete Project	2,427,515
Construction Inflation 15% / Year 16 Months	485,502
Fund Raising 5%	120,000
2005 Finished Project	3,033,017





SITE RENOVATION PLAN

SCALE 1" = 30'-0"



PROJECT DATA

EXISTING MAIN BUILDING: 1236 SQ. FT.
 MAIN BUILDING ADDITION: 1358 SQ. FT.
 TOTAL: 2594 SQ. FT.
 EXISTING NATATORIUM: 7222 SQ. FT.
 NATATORIUM ADDITION: 290 SQ. FT.
 TOTAL: 7512 SQ. FT.

- ⊕ NEW GRASS AREA
- ⊕ NEW REMOVABLE CANOPY AND CANVAS CANOPY
- ⊕ NEW COVERED WALKWAY
- * ITEM TO BE A PART OF ADD ALTERNATIVE #1
- ** TO BE PROVIDED IF APPROPRIATE UNDER SEPARATE PERMIT

KEYNOTES

- ⊕ LOCATION OF NEW STORAGE CONTAINER FOR TEMPORARY STORAGE OF TABLES, CHAIRS, ETC.
- ⊕ PREPARE CONCRETE PAD, RELOCATE RECYCLABLES CONTAINER TO THIS LOCATION
- ⊕ NEW LOCATION OF RE-LOCATED THREE 1" NEW'S STORAGE CONTAINER
- * LOCATION OF NEW LAP POOL (24'-0" x 77'-17" (3 LANE))
- * NEW STEEL PATIO TABLE AND CHAIRS
- * NEW RAISED CONCRETE PLANTER (PORTABLE) WITH DRIP IRRIGATION
- * NEW CONCRETE STEPS WITH PESTICIDE HANDRAIL AND LIGHTING BOLLARDS TO UPPER PAVING
- ** NEW CUSTOM LIGHTED DOUBLE SLOPE 2' x 3' x 6" CABINET SIGN
- TOP OF SLOPE
- ⊕ AREA OF BUILDING ADDITION (SPRINKLERED)
- ⊕ EXISTING CANOPY TO BE REMOVED
- ⊕ SOUTHERN CALIFORNIA UTILITY EASEMENT
- ⊕ EXISTING GATE
- ⊕ EXISTING CHAIN LINK FENCE
- ⊕ NEW TRASH ENCLOSURE PER CITY STANDARDS
- ⊕ INSTALL WASTE WATER FILTER SYSTEM PER WATER QUALITY MANAGEMENT REQUIREMENTS
- ⊕ EXISTING 8'-0" WIDE CONCRETE WALKWAY
- ⊕ NEW 48" WIDE ACCESSIBLE PATH OF TRAVEL
- ⊕ RELOCATE EXISTING BACKFLOW DEVICE OUT OF PATH OF TRAVEL
- ⊕ EXISTING POWER POLE
- ⊕ EXISTING LIGHT POLE TO REMAIN
- ⊕ EXISTING RECYCLABLES CONTAINERS TO BE RELOCATED (SEE ⊕)
- ⊕ EXISTING SHIPPING CONTAINER TO BE RELOCATED (SEE ⊕)
- ⊕ PAVEMENT EXISTING ASPHALT AT PARKING LANE. GRADE IN PAVEMENT AREAS, AND COMPACT FOR NEW BASE. FINE CRACK AND CONTRACT LANE TO BE FLOWED. INSTALL 1" ASPHALT OVER THE ASPHALT, SEAL AND CONTRACT. RESTRIPE PARKING WITH LAYOUT SHOWS FOR 83 SPACES AND REMOVE OR REPLACE 25 CONCRETE TEE STOPS AS REQUIRED
- ⊕ EXISTING FINE HYDRANT
- ⊕ RELOCATE FIRE AND DOMESTIC WATER METERS FROM BELOW GROUND PIT TO SURFACE IN PLANTER AREA. PROVIDED DOUBLE DETECTOR CHECK VALVE
- ⊕ EXISTING SPRINKLER ACCESS. RELOCATE TO FRONT OF BUILDING
- ⊕ REMOVE AND REPLACE ASPHALT (DRIFT/SIMILAR)
- ⊕ NEW 36"-0" ALUMINUM FLAG POLE ON CONCRETE PESTERIAL. PROVIDE PROTECTOR AND FINISH
- * REPLACE EXISTING LIGHTING ON WOODEN POLES WITH NEW LIGHT FIXTURES AND STEEL LIGHT STANDARDS AT LOCATIONS SHOWN. TYPICAL 6 PLACES
- ⊕ REPLACE EXISTING SPEED SIGN
- ⊕ EXISTING BACKFLOW PREVENTOR TO REMAIN
- ⊕ NEW SCORER AND COURED CONCRETE ENTRY PROMENADE (ACCESSIBLE PATH OF TRAVEL). RE-GRADE TO MAINTAIN DRAINAGE SLOPE WHILE FINISHING TO MAINT. CONCRETE SLOPE AT PATH OF TRAVEL AND 5% MAX SLOPE ALONG PATH OF TRAVEL
- ⊕ VICKER STANLEY 20-18 BENCH SEATING
- ⊕ A.L.L. 4" HIGH PRE-CAST CONCRETE LIGHTING BOLLARD (180-DC PLANTER (TYPICAL)
- ⊕ EXISTING CONCRETE CURB
- ⊕ LIMIT OF PARKING
- ⊕ REMOVE SLAB AND FENCE
- ⊕ REMOVE GATE
- ⊕ NEW GATE WITH PARK HANDRAIL
- ⊕ REMODEL PATIO
- * RELOCATE SKATE PARK. (NEW CONCRETE PAD AND CHAIN LINK FENCE 3' HIGH)
- ⊕ EXISTING AREA DRAIN. REPLACE EXISTING DRAIN LINE TO EXISTING CATCH BASIN. ADD ADDITIONAL AREA DRAIN ⊕
- ⊕ EXISTING CATCH BASIN. INSTALL FILTRATION SYSTEM PER WATER QUALITY MANAGEMENT REQUIREMENTS
- ⊕ NEW AREA DRAIN
- ⊕ REMOVE EXISTING LANDSCAPE WALL
- ⊕ CONNECT NEW DRAIN SPOUT FROM EXISTING SCUPPER TO NEW OUTLET AT FACE OF CURB
- ⊕ REMOVE CONCRETE. REGRADE AREA FOR POSITIVE DRAINAGE AWAY FROM BUILDING AND LEVEL LANDING AT EXEL. INSTALL NEW HARDSCAPE AND LANDSCAPE
- ⊕ NEW LIGHT POLE
- ⊕ NEW LAP POOL MECHANICAL ROOM AND POOL EQUIPMENT STORAGE
- ⊕ PROPOSED SPA
- * STEEL RIBBON BICYCLE BACK
- ⊕ LIGHT STANDARDS AND FIXTURE AT LAP POOL
- ⊕ LIGHT FIXTURES FOR LAP POOL MOUNTED TO SKATE PARK LIGHT STANDARDS
- ⊕ WALL PACK LIGHT FIXTURES AT LAP POOL
- ⊕ WIND BARRIER ATTACHED TO CHAIN LINK FENCE ADJACENT TO LAP POOL
- ⊕ PROVIDE (4) GFI ELECTRICAL OUTLETS EVENLY SPACED AROUND COURT/YARD
- ⊕ NEW CONCRETE PAD AT LAP POOL AREA
- ⊕ REMOVE EXISTING CONCRETE CURB
- ⊕ NEW TRAIL AREA

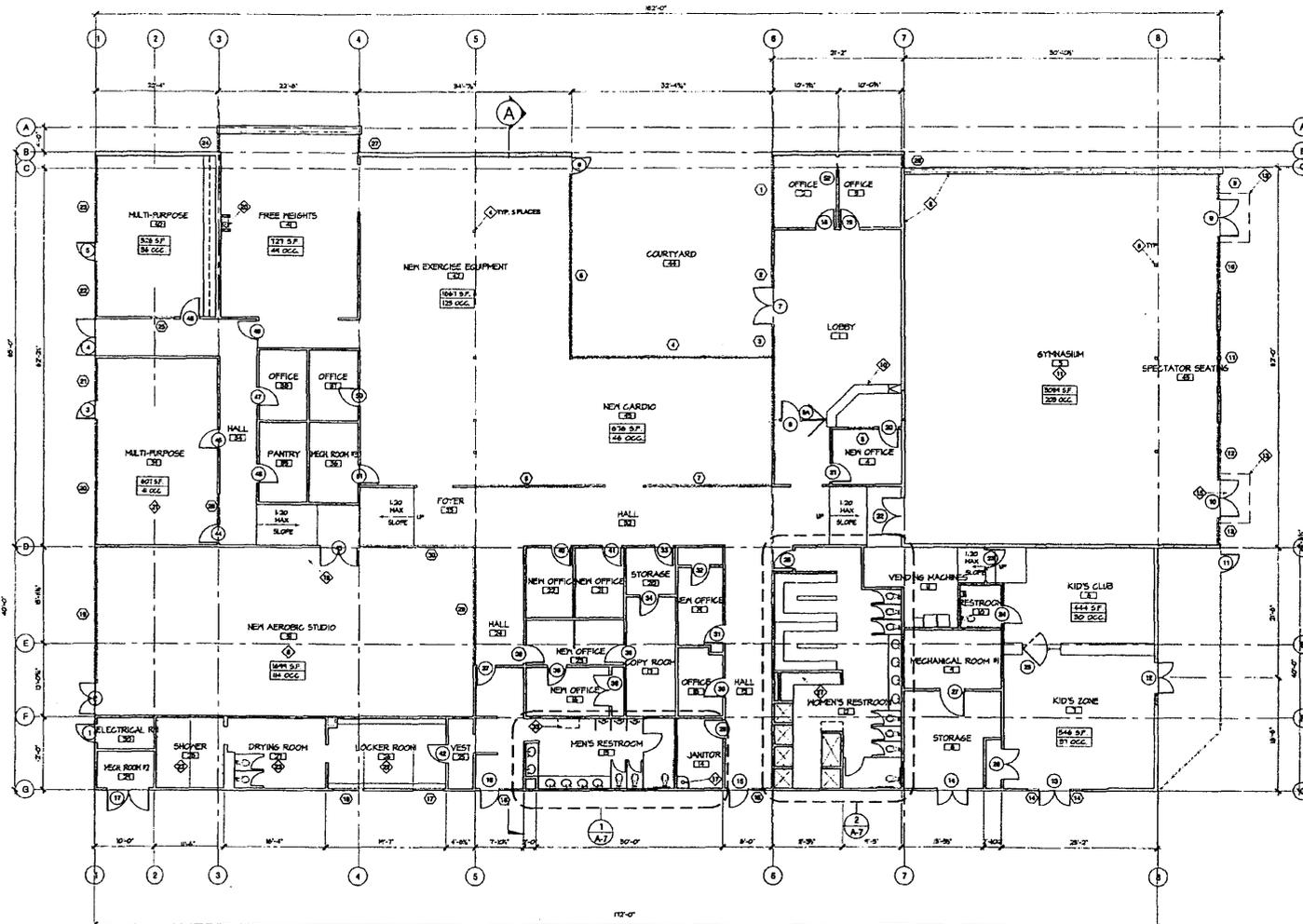
NO.	REVISIONS	BY



SITE RENOVATION PLAN

PROJECT NO. 004-104
 FACILITY: REPAIR/REMODEL
 FULLERTON, CA
 ORANGE COUNTY YMCA
 3007 SOUTH WA
 FULLERTON, CA 92608

DRAWN: H.E. CHEN
 DATE: 7/27/06
 SCALE: AS NOTED
 JOB NO: COA-104
 SHEET: SP-1
 MPA 10
 FEB 16 2006



KEYNOTES

- ◆ NEW 5/8" CONCRETE FLOOR WITH LEVER HARDWARE AND PAINTED STEEL FRAMES. PROVIDE 2" X 8" VISION PANEL AT OFFICE DOORS
- ◆ NEW PAINTED STONEFRONT DOOR SYSTEM WITH DUAL TINTED GLAZING
- ◆ NOT USED
- ◆ EXISTING COLUMN TO REMAIN
- ◆ RE-IMAGE FLOOR TO OPPOSITE SIDE
- ◆ METAL HANDWOOD "SPRING FLOOR" SUSPENDED CEILING AND SOUND SYSTEM
- ◆ METAL HANDWOOD FLOOR TO MATCH GYMNASIUM (MATCH WITH GYMNASIUM FLOOR)
- ◆ TYPICAL AT ALL APPROXIMATE WALLS. INSTALL VINYL FINISHED PROTECTIVE WALL AND COLUMN COVERS TO 8'-0" ABOVE FINISH FLOOR. PAINT ENTIRE WALL WITH SDC-GLASS PAINT
- ◆ PROVIDE 6" X 8" BARS SEAT AND COMPLIANT CONTROLS FOR II ACCESSIBLE SHOWER
- ◆ NEW COUNTER
- ◆ SEPARATE WITH LIGHTS AND BY CROCHTS
- ◆ NEW PAIR OF STONEFRONT DOORS TO MATCH EXISTING
- ◆ NEW CONCRETE LANDING. WAMP EDGES AS REQUIRED TO TRANSITION TO EXISTING PAVED-OUT
- ◆ NEW CARDS ACCESS SECURITY TURN-STYLE WITH MEDICAL-WAIVER ACCESSIBLE BAY
- ◆ BARRICADE DOORS TO NEW FLOOR LEVEL
- ◆ NOT USED
- ◆ NEW 1/2" PINK
- ◆ NEW RAMP DOOR
- ◆ ELECTRICAL OUTLET FOR VENDING MACHINES
- ◆ NEW DRAINAGE FOOTING WITH 1/2" HALLS PER ADA REQUIREMENTS
- ◆ CARPETED
- ◆ REPLACE CARPET, PAINT WALLS AND CEILING
- ◆ REPLACE BOTTOM (2) ROWS OF HALL T.E. PAINT WALLS AND CEILING
- ◆ NEW FOLDING PARTITION SYSTEM
- ◆ NEW PAIR OF STONEFRONT DOORS
- ◆ NEW PAINTED STONEFRONT SYSTEM WITH DOUBLE CLEAR GLAZING
- ◆ VANITY
- ◆ SHOWERS
- ◆ ACCESSIBLE SHOWER
- ◆ LOCKERS
- ◆ CABINET W/ STORAGE CUBICLES
- ◆ INSTALL OBSERVATION PERSON
- ◆ BABY CHANGING TABLE
- ◆ NEW POCKET DOOR
- ◆ PROVIDE TRANSITION RAMP AS REQ'D TO RAISED GYMNASIUM

GENERAL NOTES

1. PROVIDE LEVER HARDWARE AT ALL EXISTING DOORS
2. PATCH AND REPAIR CEILING AS REQUIRED
3. PROVIDE COMMERCIAL CARPET AT NEW OFFICES
4. PROVIDE CERAMIC TILE FLOOR AT ROOMS 1, 3, 6, 7, 8, 20, 24, 26, AND 41
5. PROVIDE REBOUND RUBBER FLOOR MAT SYSTEM AT ROOMS 2 AND 41

LEGEND

- EXISTING WALL
- NEW 3/8" METAL SEED WALL WITH 5/8" GYP BOARD BOTH SIDES AND DART ISOLATION

REVISIONS	BY

PAINE ARCHITECTURAL GROUP
 ARCHITECTS & INTERIORS
 105 N. GARDEN AVE., SUITE 200
 FULLERTON, CALIF. 92630
 TEL: 714.261.1100

MAIN BUILDING FLOOR PLAN

FACILITY REMODEL
 FULLERTON, CA 92630
 ORANGE COUNTY YMCA
 2800 YOUTH WAY
 FULLERTON, CA 92630

DRAWN
 B. R.
 CHECKED
 G. SHERREY

DATE
 10-26-2006

SCALE
 AS NOTED

JOB NO.
 C06-104

SHEET
A-3

OF SHEETS

FLOOR PLAN

SCALE 1/8"=1'-0"



KEYNOTES

- ◆ DEPRESS SLAB FOR SPILL CONTAINMENT. LARGEST CONTAINER USED: 55 GALLON = 7.33 CU FT / 130 GAL FL. = 6.837 CU FT 4" DEPRESSION.
- ◆ FILL IN DOOR OPENING WITH WALL TO MATCH EXISTING.
- ◆ CUT OPENING IN WALL. PROVIDE NEW SOLID CORE WOOD DOOR WITH 12" X 18" VISION PANEL.
- ◆ NEW ACCESSIBLE SHOWER
- ◆ EXISTING CONCRETE PAD
- ◆ NEW SWITCHES FOR POOL LIGHTS
- ◆ NEW GFI ELECTRICAL OUTLETS (TYP. 3 PLACES)
- ◆ NEW LAP POOL MECHANICAL ROOM
- ◆ EXISTING RAMP TO BE REMOVED.
- ◆ EXISTING ACCESSIBLE SHOWER
- ◆ NEW SHOWER PARTITION
- ◆ NEW SCREEN WALL
- ◆ NEW COVERED WALKWAY
- ◆ REPLACE EXISTING LOCKERS W/ NEW LOCKERS
- ◆ FILL IN WALL @ CURB. DOOR
- ◆ NEW VARIETY
- ◆ PANIC BUTTON CONNECTED TO ALARM SYSTEM
- ◆ 48" HIGH 4" WIDE CURB
- ◆ NEW FLOOR DRAIN

KEYNOTES

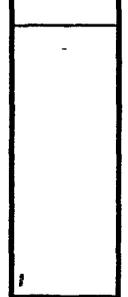
- ===== EXISTING CONCRETE BLOCK WALL
- - - - - WALL TO BE REMOVED
- TO BE REMOVED EXISTING STONE FRAME WINDOW TO BE REMOVED
- ===== NEW 8" WIDE CONCRETE BLOCK WALL

NOTE: PROVIDE ALARM SYSTEM CONNECTED TO MAIN BUILDING ALARM TO PROVIDE NOTICE IN CASE OF EMERGENCY. SYSTEM SHALL INCLUDE A PANIC BUTTON FOR THE LIFEGUARD TO ALERT OTHER STAFF IN THE EVENT OF AN EMERGENCY.

NECESSARY NOTES:

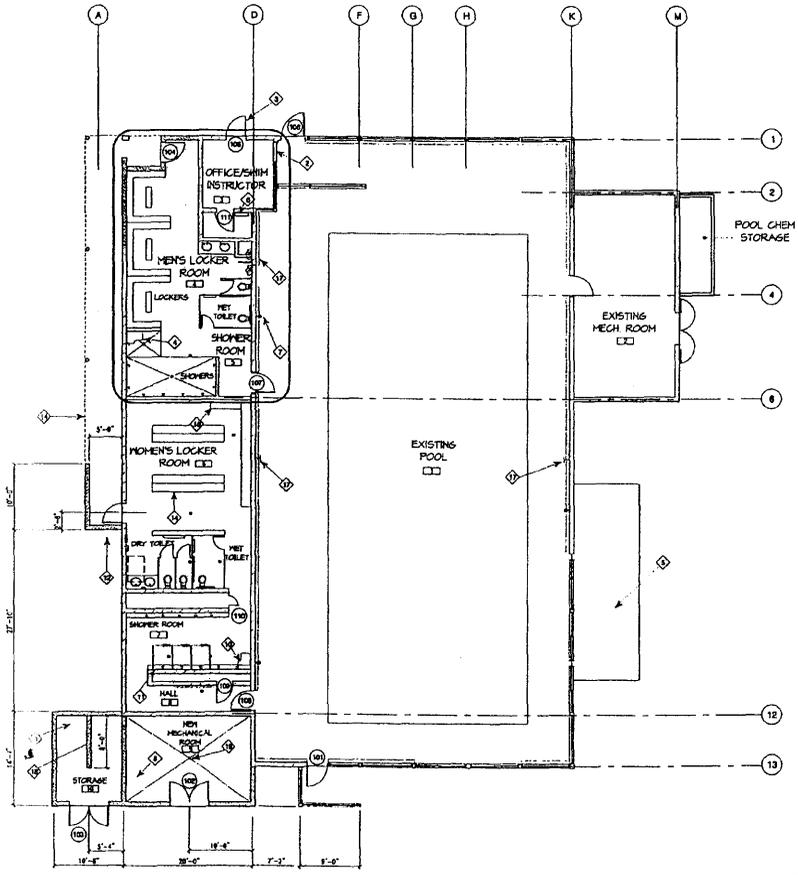
1. MOUNT AT 48" MAX. A.F.F. TO HIGHEST OPERABLE PART.
2. MOUNT AT 36" MAX. A.F.F. TO CENTER OF DOOR.
3. MOUNT AT 18" MAX. A.F.F. TO CENTER OF WALL.
4. REFER TO MANUFACTURER'S SPECIFICATIONS FOR ADDITIONAL MOUNTING INFORMATION.
5. REFER TO ACCESSIBILITY NOTES & DETAILS ON SHEET Q-2 FOR ADDITIONAL INFORMATION.
6. ACCESSIBLE WED WALL - PROVIDE BLOCKING AND RIGID OPENING AS REQUIRED.
7. REFER TO DETAIL (S) FOR MOUNTING.
8. SEE SHEET (S) FOR ADDITIONAL INFORMATION.

NO.	REVISIONS	BY

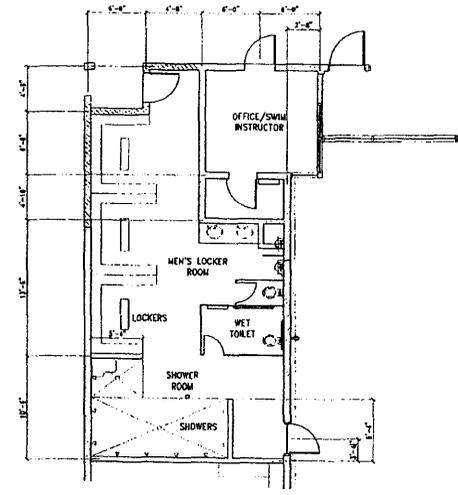


PROJECT: FACILITY RENOVATION, FULLERTON, CA 92630
 CLIENT: ORANGE COUNTY YMCA, 3000 YOUTH WAY, FULLERTON, CA 92630

NO.	DATE	DESCRIPTION



POOL BUILDING FLOOR PLAN



ENLARGED FLOOR PLAN
 SCALE 1/4" = 1'-0"

**MINUTES OF THE NOVEMBER 8, 2004
PARKS & RECREATION COMMISSION MEETING**

***2. YMCA IMPROVEMENTS AND LEASE RENEWAL**

Prior to the introduction of the agenda item, Commissioner Quirk recused herself. Director Molendyk said that there would be a presentation regarding the YMCA capital improvement plan and a staff report recommending an extension of the lease agreement.

Senior Analyst Alice Loya went over the terms of the YMCA agreement. She said they are going into a new agreement because the City isn't allowed to have more than a 55 year lease. Most of the terms will be the same, but will be updated for indemnification, insurance, etc. The City is also changing the terms to 10 years, which will automatically renew for another 20 years if the YMCA is able to complete its capital campaign, for a total of 30 years. Analyst Loya said the lease agreement asks for \$1 per year from the YMCA, a normal practice with non-profit organizations, and a way of subsidizing and participating in the community effort. She opened up the item for questions.

Commissioner Han asked about and was told the new contract will supercede the old contract which was going to expire in 2009. Analyst Loya said the terms and conditions are similar to the 1961 contract but with a few routine updates. Commissioner Spencer asked if there were expenses for the City in changing the agreement. Analyst Loya said the City only pays for administrative costs in administering the agreement, so it would be similar to a contract extension, and that the costs for administration are already written in the budget. She agreed with Commissioner Spencer that the YMCA will be responsible for the costs of insurance and improvements. Analyst Loya said the only cost was for administering the agreement which was her responsibility, and that she did not have an estimate of the cost although the cost would go into the current budget.

Commissioner Dalton asked if the ten-year lease was established to ensure that the capital campaign is completed; Analyst Loya said yes. Commissioner Miller said ten years was a long time to complete the project and Ms. Loya said the YMCA is fairly certain it will complete the project prior to that, and that it was just a five-year extension of its current lease. She also said the City used a standard formula for determining the length of lease extensions based on the amount of capital improvements proposed.

Commissioner Han asked for clarification on the terms of the contract, and was told that if the YMCA doesn't want to exercise the 20 year option, the property would revert back to City. Commissioner Han asked if the \$1 per year rent would remain, and Alice said that it is City policy for non-profits benefiting the community; the City might look at it, but it will comply with this policy for now. She noted that the City pays the Army Corps \$1 per year for the entire Brea Dam. Director Molendyk added that the YMCA Executive Director intends to complete the project sooner than later because the facility has been in need of an update for several years. He said that the YMCA's presentation will show how it will upgrade the structure to meet current needs and also try to be "more trendy".

Jim Lapak, Executive Director of the YMCA, introduced Fran Muller, Chair of the YMCA Board of Managers; Rick Price, incoming Chair; Bern Andrews, Chair of the Facility Committee; and Lannie Kuvian, retired YMCA Director, assisting as a project consultant.

Because of problems with the computer screens and overhead projector, YMCA Director Lapak provided a paper presentation regarding proposed changes to the facility. He sited the proposed plan and said exterior changes would include regrading, mostly for ADA accessibility, repaving, striping, and beautifying, with a few additional parking spaces created. Other major changes to the exterior were gates that the Fire Department asked the YMCA to install to control access to the back property, a new cement walkway because the entrance is being moved, moving the existing skate park to a new concrete area to improve usage, a new three-lane outdoor lap pool which will be cooler than the recreational swim pool, and a new spa outside.

The revised floor plan will include courtyard walls being moved to accommodate an aerobics studio, thus, moving aerobics out of the gym. The YMCA is changing the lobby and the front desk to increase its control of visitors. These changes will require taking out the offices and building a new strength training and cardio room. Because the YMCA is a family facility, the free weight room and board room will become the kids' zone with dance, play and computer equipment. There will also be a new multi-purpose room made from various storage spaces. Everything will be up to ADA standards; anything not meeting code will be taken out.

The locker room facility will also be updated; the women's locker room is already undergoing an \$80,000 renovation. The men's locker room still needs to be stripped down and renovated. Director Lapak said they are also replacing all the HVAC systems which will also require replacing the roof.

Director Molendyk said the City has also been working with the YMCA to improve signage between the Tennis Center, Guidance Center and the Y. He noted that the City wants to increase partnerships with organizations, and that with many grants, partnerships are encouraged which would eliminate duplication of services and enhance resources. With the new YMCA facility, the City will also expect more partnering.

Director Lapak agreed, but also said the YMCA must solidify its core first. He said the Y wants signage on Harbor Boulevard, but the property there is not theirs, so it will be an issue. Commissioner Swanson asked if there were no signs on Harbor, and Director Lapak said the only one is on top of the hill. He also noted that the entry to the Tennis Center, hospital and Y is confusing, so signage must be improved.

Commissioner Han asked if the YMCA would have to close during construction. Director Lapak said they hope to continue business by constructing in phases. When asked how long construction would take, he said six months, with plans to begin construction by Fall 2005 and completion by Summer 2006. Commissioner Spencer asked about the chapel room. Director Lapak said the structure would stay the same, but will be a free weight room with enhanced lighting. Commissioner Spencer said she would support signage as her daughter got hit riding a horse due to the signage confusion.

Commissioner Swanson asked if YMCA membership is growing. Director Lapak said his core group which would support the building and are adult and family members who pay monthly fees year-round, is stagnant, which is why they need the building renovations to

attract this core group. He said for 150 years, the YMCA has depended on its core group to pay the operating costs and supplement the youth work the Y does. They are struggling and have had to defer maintenance. They want to strengthen the core and double membership, which would provide the base for the future. Regarding the Y's youth work and off-site programs, it is growing 10% - 20% annually. Sports programs are also "growing tremendously".

Commissioner Spencer asked if the YMCA is buying new equipment to attract more adults. Director Lapak answered that they have been making investments all along, buying \$80,000 worth of strength training equipment one and a half years ago, last year bought a whole line of tread mills, and completed \$60,000 in pool improvements recently with a new shell and pumps. He noted that the Y has been investing in the pieces they could without the major facility renovations needed, especially given the changes in fitness trends.

Director Lapak said that YMCA market studies showed that Fullerton is a very strong market. One study predicted that with a new 40,000 s.f. facility, the Y would have 6,600 members within the first 18 months; however, they are only renovating a 23,000 s.f. facility. Nonetheless, he noted that any advertising the Y does brings in a lot of people. Commissioner Miller asked what the numbers of facility users are. Director Lapak said they have 1,300 physical facility members, and 1,200 families with 3 or so members. With community work, there would be up to 3,800 users, some who use other non-Y facilities. He noted off-site work at schools which have 1,000 children. Commissioner Swanson asked if the YMCA provides funding for Indian Guides and Princesses, and was told "yes", but that this was off-site and not directly related to the facility.

Commissioner Swanson asked about the estimate of pledges for the \$3 million one-and-a-half year campaign. Director Lapak said they are in the quiet phase of a campaign, appealing to their best supporters. By Spring, the YMCA hopes to have a public announcement for fundraising. The Y can also obtain loans to meet goals. Commissioner Swanson also asked if the Y has a timeline attached to its fundraising. Director Lapak said the Y asked for 30 years, but the City structured the lease with the initial ten-year lease and the additional 20-year lease upon building completion. However, he said they have internal benchmarks that are not part of the lease.

Director Molendyk said the City wanted to make sure the Y didn't lease for 10 more years without improvements, and the Y wanted these improvements also to better serve the community. He explained that grants require a 25-year lease so the City was also trying to assist the Y with obtaining grants by developing a long-term lease.

Commissioner Han asked if there is a dry or steam sauna in the pool building. Director Lapak said this is not part of Phase 1, but is in Phase 2. He said Phase 1 will meet the needs of Y members and those surveyed. He agreed with the Commissioner that this would be considered in the future. Director Molendyk encouraged the YMCA Director and its board to maintain communications with the Community Services Commission, perhaps on an annual basis, to provide a status report. He further noted that if the Y were to close its doors, the building would revert back to the City.

Commissioner Swanson said he was a positive person but also expressed concerns if the construction was not completed and the City would have to come up with the funding to complete it. Director Lapak said the YMCA will not move forward until all funding is secured through pledges and donations or loans. They already have a source who would lend them all the money needed, but they don't want to do it that way. When asked about a timeline for raising the money, he said their plan is to start bidding and construction in one year. Six months from then, they plan to invite the Commission to the dedication.

Commissioner Han suggested the Y invite the Commission to a special event once a year so that commissioners would be more familiar and "friendly" when approached. Director Lapak agreed.

Commissioner Quirk excused herself prior to the voting process due to her newly-elected position on the City Council.

Commissioner Russell asked Analyst Loya what would happen after the ten years, and the project is done, if the 20-year agreement is automatic, or if Council or Commission would review it. Analyst Loya said the agreement would be automatic except for the YMCA sending a certified letter of completion, inspection, etc.

Commissioner Russell also asked if there were plans developed to check that the project was being completed as promised. Analyst Loya said plans are in the conceptual stage and would have to go to Planning Commission after the Community Services Commission. The YMCA would then have to go through a process, obtain permits, and then get approval for its conceptual plan through Planning Commission and City Council. Then they can develop working drawings and continue through a capital project process. Analyst Loya also offered to have the YMCA provide updates as it goes through the process.

Commissioner Russell asked what would happen if the YMCA did not get all the funding needed and decided to reduce its plans, and asked if this would affect what would happen after 10 years. Analyst Loya agreed, saying that if the YMCA did not complete everything as proposed, it would have to come back for renegotiation.

Commissioner Russell asked if the leases were for the exclusive use of the Y, or if the City could do programming at the Y. Analyst Loya said there is nothing specific in the lease that allows this, however the Y works with the City, and both are in the Fullerton Collaborative. Thus, there is nothing that would preclude the City from working in the Y. Commissioner Russell noted the lack of City programming space. Commissioner Swanson asked if National Junior Basketball would be able to use the space. Director Lapak answered that, frankly, if he's doing his job, and his staff are programming as they should be, there won't be time for outside user groups. However, he noted that the Y has helped spawn three or four new churches who had initially used their chapel, grew and moved on. The Y has also done cooperative programming with Crittenton, home schoolers, and Cal State Fullerton with handicapped swimmers.

Commissioner Dalton stated that, having been to the Y in Fullerton and others in the country, she could say that this YMCA definitely needs renovation. However, she said the Y is well-used, an important component of the community, a "fabulous project", well-researched, exciting, very much in favor, and a great addition to the community.

Commissioner Dalton MOVED to APPROVE recommendation of the lease agreement to City Council, and Commissioner Han SECONDED the MOTION. There was no discussion or further comments.

AYES: Dalton, Han, Miller, Russell, Spencer, Swanson
NOES: None
ABSTAINED: Quirk

The MOTION carried unanimously.

Director Molendyk thanked the YMCA representatives for their attendance at the meeting. Commissioner Quirk returned to her seat.

***3. FULLERTON SPORTS COMPLEX FIELD CONVERSION**

Director Molendyk provided the Commission with a background on the conversion of Field #1. He noted that staff met with youth league representatives and commissioners Dalton, Russell and Swanson twice since the previous Commission meeting to come up with a resolution to complete the work agreed upon, and to relocate the groups affected by the conversions.

Director Molendyk explained the difference between Options #1 and #2, stating that Option #1 was the youth group recommendation in which work could start in November and the fields could be ready in Spring 2005. If coordination with the existing leagues wasn't possible, Option #2 would have been necessary. Staff also recommended Option #1. Director Molendyk noted that, whereas earlier, the leagues were asked to share the costs of completing the work, staff was able to find money in the City's capital funds - \$28,000 - \$35,000 for the Sports Complex.

Fullerton Hills Softball would be relocated to Woodcrest and, thus, \$11,000 will be spent to improve the field at Woodcrest, and restrooms would be cleaned twice daily instead of only once. \$5,500 will be spent at Lemon Park to accommodate the needs of the men's softball league. The total amount for improvements at the Sports Complex, Lemon Park and Woodcrest would be \$51,500. He then turned the meeting over to Park Projects Manager Randy McDaniel to provide details on the field conversions.

Manager McDaniel provided a Power Point presentation with a budget for field improvements at the Sports Complex and Woodcrest and Lemon parks. He reiterated the costs for a total of \$51,500 in improvements. He noted that the Department is only considering changes at Field #1 at the Sports Complex, saying that the changes would include new portable fencing (\$13,000) that can be stored in the bull pen, infield sod and mound to convert the field into a baseball field (\$12,000), irrigation (\$5,000), a gate at the

**CURRENT AGREEMENT
WITH YMCA DATED JUNE 20, 1961**

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CONCESSION TO
YOUNG MEN'S CHRISTIAN ASSOCIATION
OF NORTH ORANGE COUNTY

THE UNITED STATES OF AMERICA shall hereafter be referred to as, "United States."

THE CITY OF FULLERTON shall hereafter be referred to as, "City."

THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF NORTH ORANGE COUNTY shall hereafter be referred to as, "Concessionaire."

City does hereby grant to Concessionaire a Concession for the period of approximately forty-eight (48) years commencing on the date of the execution hereof and ending on the 30th day of November, 2009, to use and occupy for public park and recreational purposes and for the purpose of promoting the spiritual, intellectual, physical and social welfare of persons in accordance with the policies of the National Council and the Pacific Southwest Area Council of the Young Men's Christian Association, the real estate located within the City of Fullerton Recreational Area (Brea Flood Control Reservoir) described in Exhibit "A."

This Concession is granted to said Concessionaire and is subject to each and all of the following provisions and conditions:

1. That the provisions of that certain License Agreement, attached hereto as Exhibit "B," entered into between THE UNITED STATES (Department of the Army) and THE CITY OF FULLERTON on December 1, 1959, are incorporated in this Concession Agreement as if set out in full and said Concessionaire is bound by and subject to each of said terms and conditions. If a conflict exists between said License Agreement and this Concession, the former shall prevail.

2. Concessionaire, a non-profit corporation

CA-3 Fullon Rec Area: YMCA Rec 1

1 organized under the General Non-Profit Corporation Law of the
2 State of California, shall use the premises heretofore described
3 for public park and recreational purposes and for the objectives
4 of the Young Men's Christian Association of North Orange County
5 and no others. This Concession is not assignable, nor shall
6 Concessionaire allow any other person or persons to use or occupy
7 said premises, or any portion thereof, without the written consent
8 of City and the District Engineer, United States Army Corps of
9 Engineers.

10 A plot plan, attached hereto as Exhibit "C," and an
11 architectural sketch, attached hereto as Exhibit "D," show the
12 contemplated use of the premises licensed by Concessionaire.
13 Changes in said plans as submitted will not be made without prior
14 written approval of the City and the District Engineer, United
15 States Army Corps of Engineers.

16 3. The consideration for this lease shall be the
17 sum of One Dollar (\$1.00) per year beginning with the date hereof
18 and payable yearly in advance, receipt of One Dollar (\$1.00) for
19 the first yearly rental is hereby acknowledged. City shall not
20 be responsible for any improvements or financial cost whatsoever
21 incidental to the development by Concessionaire of the subject
22 premises.

23 4. In the event that the Concessionaire shall
24 have failed, after the expiration of two (2) years from the date
25 hereof, to construct upon said land as heretofore described,
26 a building in substantial compliance with that sketch heretofore
27 referred to as Exhibit "D," the City may declare this Concession
28 null and void and may re-enter and take possession of said land
29 and each and every part thereof.

30 5. In the event the Concessionaire shall have
31 constructed upon said land a building in substantial compliance
32 with Exhibit "D" and shall have abandoned said building for a

1 period of one (1) year, then, and in that event, the City may, at
2 its option, declare this Concession null and void and may re-
3 enter and take possession of said land and each and every part
4 thereof.

5 6. This Concession is made upon the express condi-
6 tion that United States and the City is to be free from all
7 liability and claim for damages by reason of any injury to any
8 person or persons including Concessionaire or property of any kind
9 whatsoever and to whomsoever belonging, including Concessionaire,
10 from any cause or causes whatsoever while in, upon, or in any
11 way connected with the said subject premises during the term
12 of this Concession or any extension hereof or any occupancy
13 hereunder, said Concessionaire hereby covenanting and agreeing
14 to indemnify and save harmless the United States and the City
15 from all liability, loss, cost, and obligations on account of
16 or arising out of any such injuries or losses however occurring.

17 Concessionaire further agrees to take out and keep
18 in force during the life hereof at Concessionaire's expense
19 public liability insurance in companies approved by United States
20 and the City to protect against any liability to the public
21 arising out of or connected with the use of the premises
22 the liability under such insurance to be not less than One
23 Hundred Thousand Dollars (\$100,000) for any one person injured,
24 or Three Hundred Thousand Dollars (\$300,000) for any one accident,
25 or One Hundred Thousand Dollars (\$100,000) for any property
26 damage. These policies shall insure the contingent liability
27 of United States and City and are to be placed with the City and
28 United States and Concessionaire is to obtain a written
29 obligation on the part of the insurance carriers to notify
30 the City and United States in writing prior to any cancellation
31 thereof and Concessionaire agrees if said

32

1 Concessionaire does not keep such insurance in full force and
2 effect the City may take out necessary insurance and pay the
3 premium and the repayment thereof shall be deemed to be part
4 of the consideration for this agreement for which the City shall
5 be reimbursed by said Concessionaire..

6 7. That the United States and the City shall not
7 be responsible for damages to the property of the Concessionaire
8 or for damages to the property or injuries to the person of the
9 Concessionaire's officers, agents, servants or employees or
10 others who may be on said premises at their invitation or the
11 invitation of any one of them, arising from or incident to the
12 flooding of said premises by the Government, or flooding from
13 any other cause or arising from or incident to any other
14 Governmental activities on the said premises, and the
15 Concessionaire shall hold the United States and the City harmless
16 from any and all such claims.

17 8. Any profits realized by Concessionaire in its
18 operation on the site heretofore described shall be utilized by
19 the Concessionaire in the further development and improvement
20 of its property. Any profits not so expended as of November 30,
21 1964 and each five-year period thereafter, shall be paid to the
22 City.

23 9. Concessionaire shall, within a reasonable
24 time after its building has been erected, establish a schedule
25 for services and charges which are to be paid by the organizations
26 and persons who make use of said building. Said services and
27 charges, shall be submitted to the City for its written approval
28 and that of the office of the District Engineer, United States
29 Army Corps of Engineers.

30 10. That the United States shall be held harmless
31 from all claims which may arise from or be incident to the exercise
32 of the privilege herein granted. Concessionaire, in consideration

1 of the granting of this Concession agrees to hold the United
2 States and the City of Fullerton harmless from any and all claims
3 or rights of action for damages which may or might arise from or
4 accrue to said Concessionaire, its officers, agents, servants,
5 employees, or others who may be on the subject premises at its
6 invitation or the invitation of any one of them, by reason of
7 injuries to the property, or the person of any of them resulting
8 from the injury or the use of the subject premises, by the
9 United States, the City of Fullerton, or any one of them at any
10 time, for any purpose necessary or convenient in connection with
11 river and flood control work, or for the removal of timber
12 required or necessary for such work, or by reason of the flooding
13 of the subject premises, or any part thereof, when in the
14 judgment of any of them, such flooding is necessary in connection
15 with flood control work.

16 11. No human habitation will be permitted on the
17 premises of Concessionaire. This will not be construed to
18 prohibit the Concessionaire from providing properly designed
19 and approved guard stations for night watchmen or other patrolmen.

20 12. That the right is hereby expressly reserved
21 to the United States and to the City and to their respective
22 officers, agents and employees to enter upon the said land at any
23 time for any purpose necessary or convenient in connection with
24 river and flood control work, and to remove therefrom timber or
25 other material required or necessary for such work, to flood said
26 premises when necessary, and/or to make any other use of said
27 land as may be necessary in connection with flood control work,
28 and the Concessionaire shall have no claim for damages of any
29 character on account thereof against the United States or the
30 City, the agents, officers, or employees thereof.

31 13. That the right is hereby reserved for the
32 United States and the City to construct or to permit the construc-

1 tion of facilities suitable for communications, electrical dis-
2 tribution or transmission, water supplies, flood channels, sewage
3 disposal, and similar purposes on the premises and the
4 Concessionaire shall have no claim for compensation or damages
5 of any character on account thereof.

6 14. Any property of the United States or the City
7 damaged or destroyed by the Concessionaire incidental to the
8 exercise of the privileges herein granted shall be promptly
9 repaired or replaced by the Concessionaire to the satisfaction
10 of the said District Engineer, United States Army Corps of
11 Engineers, and the City.

12 15. That any and all taxes which may be lawfully
13 imposed by the State or any of its subdivisions upon the premises,
14 or upon the improvements of the Concessionaire that have been
15 placed upon the premises, shall be promptly paid by the
16 Concessionaire when due.

17 16. That the Concessionaire shall not permit on the
18 premises, gambling or any games of chance, or install or operate,
19 or permit to be installed and operated, any devices where money
20 is exchanged for money or any devices or concessions which are
21 contrary to good morals or otherwise objectionable.

22 17. The Concessionaire shall exercise control of
23 the area to insure compliance with all applicable laws,
24 ordinances and regulations of the State and County and City wherein
25 said premises are located including the Fish and Game Commission
26 Laws of the State of California.

27 18. That this Concession may be terminated by the
28 Concessionaire at any time by giving ninety (90) days notice in
29 writing to the City.

30 19. That this Concession may be revoked by the
31 City at any time by giving ninety (90) days notice in writing to
32 the Concessionaire when, in its discretion, it deems such
revocation to be in the interest of the public health and safety,

1 or in the event the Concessionaire violates any of the terms
2 and conditions of this Concession after notice thereof in
3 writing by the City.

4 20. That on or before the date of expiration of
5 this Concession or its relinquishment by the Concessionaire, the
6 Concessionaire and its members shall vacate the said subject
7 premises, remove all their property therefrom, and restore the
8 premises to the condition satisfactory to the District Engineer,
9 United States Army Corps of Engineers and the City. If, however,
10 this Concession is revoked, the Concessionaire shall vacate the
11 premises, remove said property therefrom, restore the premises
12 as aforesaid within such time as the District Engineer, United
13 States Army Corps of Engineers and the City may designate. In
14 either event, if the Concessionaire shall fail and neglect to
15 remove said property and so restore the premises, then, at the
16 option of the District Engineer, United States Army Corps of
17 Engineers and/or the City, said property shall either become
18 the property of the United States without compensation there-
19 for, or the City, or the District Engineer, United States Army
20 Corps of Engineers may cause it to be removed and the premises
21 to be so restored at the expense of the Concessionaire, and no
22 claim for damages against the United States or the City or
23 their officers or agents shall be created by or made on account
24 of such removal or restoration work. It is expressly understood,
25 however, that the Concessionaire shall not be required to restore
26 to its original condition the land and the subject premises with
27 respect to landscaping, planting, grading or paving of roadways.

28 ✓ 21. That the Concessionaire shall not discrimi-
29 nate against any person or persons because of race, religion,
30 color or national origin in the conduct of its operation here-
31 under.

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IN WITNESS WHEREOF, the parties hereto have by
their signatures indicated their compliance with said license
this 20th day of June, 1961.

CITY OF FULLERTON, a Municipal Corporation

By: *Donald Winters*
Mayor

ATTEST:

VIRGINIA FITZSIMMONS
City Clerk

By: *Winifred Sherman*
Deputy City Clerk
YOUNG MEN'S CHRISTIAN ASSN.
OF NORTH ORANGE COUNTY, a
California Corporation

By: *Ben T. Anderson*
President

General Secretary

Approval of said Concession
is hereby granted:

District Engineer
United States Army Corps of Engineers

DESCRIPTION OF PROPERTY - Y.M.C.A.

All that portion of the Southeast quarter of Section 21, Township 3 South, Range 10 West, San Bernardino Base and Meridian, in the City of Fullerton, County of Orange, State of California, as same is shown on the 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 Southeast corner of that certain parcel of land shown on the map recorded in Book 34 at Page 23, Records of Survey of said Orange County; thence, West 498.83 feet to the True Point of Beginning; thence, from said True Point of Beginning East 79.94 feet; thence, South 7° 02' 16" West 322.78 feet; thence, South 2° 10' 48" West 102.52 feet; thence, South 0° 06' 05" West 303.98 feet to a point hereinafter designated Point "A"; thence, South 13° 11' 50" West 92.25 feet; thence, South 0° 59' 18" West 80.49 feet; thence, South 9° 51' 38" East 70.37 feet; thence, South 18° 05' 49" East 134.02 feet; thence, South 8° 34' 30" West 64.99 feet; thence, South 26° 00' 10" West 400.91 feet to a point in the Easterly right of way line of Harbor Boulevard, also known as U.S. Highway 101; thence, along said Easterly right of way line of Harbor Boulevard North 6° 26' 04" West 188.52 feet; thence, North 13° 43' 47" West 95.67 feet; thence, North 23° 53' 21" West 146.36 feet; thence, North 5° 05' 41" West 198.75 feet; thence, North 7° 52' 20" West 18.61 feet; thence, leaving said Easterly right of way line of Harbor Boulevard North 15° 12' 53" East 195.25 feet to a point; said point hereinafter referred to as Point "B"; thence, continuing North 15° 12' 53" East 725.00 feet, more or less, to said True Point of Beginning.

EXCEPTING THEREFROM all that portion thereof lying Northerly of the following described line.

Beginning at that certain point hereinabove described as Point "A"; thence, North 83° 08' 47" West 227.81 feet, more or less, to that certain point hereinabove described as Point "B".

TOGETHER WITH an easement and right of way for ingress and egress purposes over and along a strip of land of the uniform width of 30 feet adjoining and Easterly of the West line of that certain parcel hereinabove excepted.

All as more particularly shown on Exhibit "C" attached hereto and made a part hereof.