

STAFF REPORT*CITY OF OCEANSIDE*

DATE: November 4, 2009

TO: Honorable Mayor and the Members of the City Council and
Honorable President and Members of the Harbor Board of Directors

FROM: Economic and Community Development Department

SUBJECT: **AMENDMENT NO. 1 TO LEASE AGREEMENT BETWEEN THE CITY OF OCEANSIDE AND THE OCEANSIDE SMALL CRAFT HARBOR DISTRICT FOR THE OCEANSIDE HARBOR**

SYNOPSIS

Staff recommends that the City Council and the Harbor District Board of Directors approve Amendment No. 1 to the Lease Agreement between the City of Oceanside and the Oceanside Small Craft Harbor District for the Oceanside Harbor to offset the reduction in Harbor District revenue resulting from the sale of the Marina Towers underlying real property; modifying the rent and authorize the Mayor to execute the amendment.

BACKGROUND

On or about November 22, 1961, the City of Oceanside ("City") originally leased the Oceanside Harbor property ("Harbor Property") to the Oceanside Small Craft Harbor District ("District") for the construction, use, and operation of a small craft harbor and related uses. Said original lease was superseded on May 7, 2003, when the City and District entered into a new lease agreement ("Lease") which among other changes extended the term of the Lease to expire on June 30, 2069.

On or about September 13, 1972, the District subleased a portion of the Harbor Property to the predecessor of the Oceanside Marina Towers Association ("OMTA") for the development of 67 residential condominiums ("OMTA Sublease"). The OMTA Sublease had an expiration date of December 31, 2036. Subsequently, on July 16, 2008, the City and OMTA entered into a Real Property Purchase and Sale Agreement

for the sale of the underlying real property for \$5,000,000, which transaction closed on May 8, 2009 (“Marina Towers Sale”).

Per the OMTA Sublease, the District received an annual rent from OMTA, which annual rent was part of the gross annual revenue collected by the District. The amount of gross annual revenue collected in any given year determined the annual rent that was paid by the District to the City under the Lease. As part of the staff report requesting the approval of the Marina Towers Sale, the City and District had to arrive at an equitable distribution of the Marina Towers Sale proceeds in order to address the corresponding loss of the OMTA annual rent to the District.

ANALYSIS

Pursuant to the OMTA Sublease, OMTA was obligated to pay the District an annual rent of: \$57,000 from 2009 through 2012; \$65,040 from 2013 through 2022; \$73,080 from 2023 through 2026; and \$81,120 from 2027 through 2036. Said OMTA annual rent received by the District is then added to the other gross annual revenue collected by the District generated from the Harbor Property in order to determine the rent that is paid by the District to the City under the Lease.

The Lease requires the District to pay the City a minimum rent of \$250,000 per year or a percentage of the District’s gross annual revenue, whichever is greater. The percentage rate under the Lease Agreement adjusts as follows: 8% through June 30, 2010; 8.5% from July 1, 2010 through June 30, 2012; 9.0% from July 1, 2012 through June 30, 2014; 9.5% from July 1, 2014 through June 30, 2016; and 10.0% from July 1, 2016 through June 30, 2069.

In lieu of dividing the proceeds from the Marina Towers Sale, the District and the City agree to adjust the annual rent due under the Lease in order to offset the loss of revenue to the District as a result of the loss of the OMTA annual rent paid to the District. When the Marina Towers Sale was addressed by the California Coastal Commission (“Commission”) on appeal, the Commission expressed concern that the loss of OMTA annual rent could affect the operations of the District. The proposed adjustment of annual rent under the Lease maintains the revenue stream of the District and addresses the concern of the Commission.

FISCAL IMPACT

The Amendment 1 language allows the District to deduct from the annual percentage rent payment to the City an amount equal to what the District would have otherwise

“netted” from the amount received from OMTA as an annual rent payment. This is accomplished by adjusting the annual rent the District pays to the City to provide for a deduction equal to the difference between the OMTA annual rent that would have otherwise been paid to the District and an amount equal to the percentage rate the District uses in calculating the percentage rent paid by the District.

Example: If the District receives annual rent in the amount of \$60,000 from OMTA and the District is required to pay 10% of gross annual revenue (\$6,000) to the City, the District would have the benefit of \$54,000 (\$60,000 – \$6,000). If the District would have paid \$354,000 to the City as its annual percentage rent, then the District would be allowed to deduct \$54,000 for an adjusted payment of \$300,000.

Under the amended rent terms of the Lease as set forth above, the annual deduction will also adjust as the annual rent under OMTA sublease also adjusts. Further, as the percentage rate changes under the terms of the Lease the annual deduction will also change.

The Amendment 1 language allowing the District to the above described rent deduction will result in less revenue to the City’s General Fund in the form of a lower rent payment from the District to the City. However, the loss of this revenue to the General Fund is offset by the City retaining the entire proceeds of the OTMA sale in the amount of \$5,000,000 rather than distributing a portion of the Marina Towers Sale proceeds to the District.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY’S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council and the Harbor District Board of Directors approve Amendment No. 1 to the Lease Agreement between the City of Oceanside and the Oceanside Small Craft Harbor District for the Oceanside Harbor to offset the reduction in Harbor District revenue resulting from the sale of the Marina Towers underlying real property; modifying the rent and authorize the Mayor to execute the amendment.

PREPARED BY:

SUBMITTED BY:



Douglas E. Eddow
Real Estate Manager



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

Donald L. Hadley, Deputy City Manager

Jane McVey, Economic & Community Development Director

Teri Ferro, Financial Services Director



AMENDMENT NO.1
TO
LEASE AGREEMENT

This Amendment No.1 to Lease Agreement (“Amendment”) is made this 4th day of November, 2009, by and between the CITY OF OCEANSIDE, a municipal corporation (“City”), and the OCEANSIDE SMALL CRAFT HARBOR DISTRICT, a public entity formed under the authority of the California Harbors and Navigation Code (“District”). The City and the District are sometimes collectively referred to herein as the “Parties”. This Amendment is made in light of the following recitals:

RECITALS

A. The City is the owner of certain real property and related improvements in the City of Oceanside, County of San Diego, and State of California, commonly known as the Oceanside Harbor Property.

B. On or about November 22, 1961, the City leased the Oceanside Harbor Property to the District for the construction, use, and operation of a small craft harbor, which Lease had been amended on thirteen (13) different occasions (collectively the “Prior Lease”).

C. On May 8, 2003, the City and District terminated the Prior Lease and entered into a new Lease Agreement for the use and operation of a small craft harbor at the Oceanside Harbor Property (“Lease”).

D. On May 8, 2009, the portion of the Oceanside Harbor Property that had been subleased to the Oceanside Marina Towers Association (“OMTA”) was sold by the City to OMTA thereby eliminating the annual rental revenue that had been paid to the District by OMTA.

E. The City and the District are desirous of adjusting the annual rent that is paid by the District to the City under the Lease in order to compensate for the loss of the annual rental revenue that had been paid by OMTA to the District.

F. The City and the District are agreeable to amending the Lease in order to modify the annual rent that is due under the Lease on the terms, conditions and covenants set forth below.

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth herein, and other valuable consideration, receipt of which is hereby acknowledged, the City and the District do mutually agree as follows:

AMENDMENT

1. Section 4. RENT shall be amended by adding the following:

4.5 Rent Reduction. In determining the Annual Rent payment that is due to the City under the Lease, District shall be allowed to deduct annually the amounts set forth below for each of the corresponding periods:

<u>Period</u>	<u>Annual Deduction Amount</u>
July 1, 2009 – June 30, 2010	\$52,440
July 1, 2010 – June 30, 2012	\$52,155
July 1, 2012 – June 30, 2013	\$51,870
July 1, 2013 – June 30, 2014	\$59,186
July 1, 2014 – June 30, 2016	\$58,861
July 1, 2016 – June 30, 2023	\$58,536
July 1, 2023 – June 30, 2027	\$65,772
July 1, 2027 – June 30, 2069	\$73,008

2. All other terms, conditions and covenants of the Lease shall remain in full force and effect. In the event of a conflict between the Lease and the Amendment the language as set forth in this Amendment shall control.

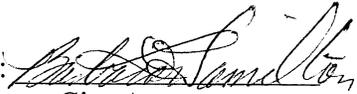
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the date and year first written above.

“City”

CITY OF OCEANSIDE
a municipal corporation

By: _____
Mayor

APPROVED AS TO FORM

By:  _____, ASSY
City Attorney

“District”

OCEANSIDE SMALL CRAFT HARBOR DISTRICT
a public entity, formed under the authority of the
California Harbors and Navigations Code

By: _____
President

APPROVED AS TO FORM

By:  _____, ASSY
Harbor Attorney

LEASE AGREEMENT

This Lease Agreement ("Lease") is made this 7th day of May, 2003, by and between the CITY OF OCEANSIDE, a municipal corporation ("City"), and the OCEANSIDE SMALL CRAFT HARBOR DISTRICT, a public entity formed under the authority of the California Harbors and Navigation Code (hereinafter referred to as "District"). The City and the District are sometimes collectively referred to herein as the "Parties". This Lease is made in light of the following recitals:

RECITALS

A. The City is the owner of certain real property and related improvements in the City of Oceanside, County of San Diego, and State of California, commonly known as the Oceanside Harbor Property.

B. On or about November 22, 1961, the City leased the Oceanside Harbor Property to the District for the construction, use, and operation of a small craft harbor; the City and the District have amended the November 22, 1961, lease on thirteen (13) occasions. The November 22, 1961, lease, as amended, is referred to herein as the "Prior Lease".

C. The City and the District desire to terminate the Prior Lease and enter into this Lease on the terms, conditions and covenants set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth herein, and other valuable consideration, receipt of which is hereby acknowledged, the City and the District do mutually agree as follows:

1. PREMISES

The City hereby leases to the District and the District hereby leases from the City, the real property and related improvements situated in the City of Oceanside, County of San Diego, State of California, as more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference ("Leased Premises").

2. TERM

The term of this Lease shall be for sixty-six (66) years, commencing on July 1, 2003 and terminating on June 30, 2069. Until the commencement date of this Lease the terms and conditions of the Prior Lease shall be full force and effect.

3. USE OF LEASED PREMISES

The District shall use the Leased Premises for the purpose of constructing, maintaining and operating a small craft harbor. Such use shall include, but not be limited to, the construction, development and financing of a small craft harbor, including the dredging of channels and basins; the construction of jetties, sea walls and groins and the construction of docks and landings; an administration center, public landings, boat slips, facilities for fueling, repair and provisioning, trailer craft launching areas, sport fishing base, recreation and eating facilities, including sale of beverages both alcoholic and non-alcoholic, automobile parking lots, sites for businesses providing any of the usual services and items found in boat harbors, service roads, sanitation facilities, hotels, motels, apartment houses, and other similar uses which may be desirable as revenue-producing facilities for the District. The District recognizes and acknowledges that its use of the Leased Premises must be consistent with the terms of that certain Deed dated December 11, 1959, executed by the United States of America, acting by and through the Administrator of General Services, Document No. 147820, recorded in the Official Records of San Diego County in Series I, Book 1960, on July 21, 1960. A copy of said Deed is attached as Exhibit "B" and incorporated herein by this reference.

4. RENT

The Annual Rent for the term of this Lease shall be equal to the sum of the Minimum Rent and the Percentage Rent, as both hereinafter defined. The Annual Rent shall be due and payable as more specifically set forth below:

4.1 Minimum Rent.

The Minimum Rent shall be Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), which shall be payable quarterly in advance at the rate of Sixty-Two Thousand Five Hundred and No/100 Dollars (\$62,500.00) on or before the first day of each new calendar quarter.

4.2 Percentage Rent.

The Percentage Rent shall be a percent (as set forth in Paragraph 4.3 below) of the District's gross annual revenue (as defined in Paragraph 4.4 below), less the Minimum Rent paid by the District for the year during which the gross annual revenue was calculated. The Percentage Rent shall be payable to the City in arrears not later than thirty (30) days following the end of each fiscal year of the term of this Lease (e.g. July 1 to June 30).

4.3 Percentage Amounts.

The percentage amounts to be paid by the District as Percentage Rent during the term of this Lease shall be as follows:

July 1, 2003 – June 30, 2004	6.5%
July 1, 2004 – June 30, 2006	7.0%
July 1, 2006 – June 30, 2008	7.5%
July 1, 2008 – June 30, 2010	8.0%
July 1, 2010 – June 30, 2012	8.5%
July 1, 2012 – June 30, 2014	9.0%
July 1, 2014 – June 30, 2016	9.5%
July 1, 2016 – June 30, 2069	10.0%

4.4 Gross Annual Revenue.

Gross annual revenue shall include all revenue derived from: slip and locker rentals; building and ground leases; and permit fees, excluding, however, non-operating revenues such as property taxes; governmental grants; and interest earnings.

5. INDEMNIFICATION

In addition to, and independent of all other provisions of this Lease, the District agrees to indemnify, defend and save harmless the City from and against any and all claims, demands, obligations, liabilities, cause or causes of action arising from this Lease, the condition of the Leased Premises of the, use or misuse of the Leased Premises or the approaches and appurtenances thereto, including all adjacent roadways, sidewalks and alleyways, if any, by District, its agents, employees, invitees and permittees.

6. INSURANCE

Districts shall, at its own cost and expense, forthwith after the execution of this Lease, procure a policy of comprehensive public liability insurance, with limits as determined by the City as to any one (1) person and as to any two (2) or more persons, issued by an insurer approved in writing by the City, rated in Best's as "AAA" or better, and for a term equal to the term of this Lease. Said insurance policy shall name the City as additional insured. A certificate of said insurance, together with receipt of payment of the premium thereof shall be delivered to City within ten (10) days after the date of execution of this Lease. Further, District is to obtain a written obligation on the part of the insurance carrier to notify the City in writing prior to any cancellation thereof. The District agrees, if the District does not keep such insurance in full force and effect, the City may take out the necessary insurance and pay the premium and the repayment

thereof shall be deemed to be part of the rental with payment of such due on the next date upon which rent becomes due.

7. ASSIGNMENT OR SUBLETTING

The District shall not assign this Lease, or any interest therein, provided, however, that subject to the prior written consent of the City, which consent shall be a result of an action by the City Council of the City of Oceanside, the District shall be entitled to sublet the Leased Premises, or any portion thereof, or any right or privilege appurtenant thereto and permit other persons to occupy or use the Leased Premises or any portion thereof, provided the purpose of such subletting is pursuant to the uses as set forth in Paragraph 3 above. The District also may assign subleases entered into by the District with sublessees, subject to the prior written consent of the City, which consent shall be a result of an action by the City Council of the City of Oceanside. In any event, no such sublease shall extend beyond the termination date of this Lease. In addition, all such subleases entered into after the execution of this Lease shall contain a reference to Revenue and Taxation Code Section 107.6 and shall put the sublessee on notice of the payment of possessory interest tax. A copy of all subleases entered into by the District shall be provided to the City.

8. ALTERATIONS, IMPROVEMENTS AND MODIFICATIONS

Any significant alteration, improvement or modification to the Leased Premises shall require the prior written consent of the City Council of the City of Oceanside, acting through its duly authorized representative.

9. DISPOSITION OF ALTERATIONS, IMPROVEMENTS AND MODIFICATIONS

All alterations, improvements, modifications and additions to the Leased Premises made during the term of this Lease or during the term of the Prior Lease and remaining on the Leased Premises at the end of the Lease, shall become, upon termination of the Lease, the sole and exclusive property of the City.

10. COMPLIANCE WITH LAW

The District shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises, and shall faithfully observe in the use of the Leased Premises all municipal ordinances and state and federal statutes now in force or which hereafter may be in force.

11. SERVICES TO LEASED PREMISES

The City agrees to perform or cause to be performed the following services at the Leased Premises: maintain and pay for all services necessary to provide for street lighting; maintain the main water lines the and sanitary sewer lift stations and appurtenances, excluding the sanitary sewer lines, backflow preventers and anti-siphon valves, situated within the Leased Premises. The District shall pay charges related to furnishing water and sewer disposal services to the Leased Premises. It is understood that the water to be supplied by the City to the District will be charged directly to the District as one consumer even though the District may choose to install separate submeters for monitoring water distributed to the sublessees of the District.

12. TERMINATION OF PRIOR LEASE

Upon approval of this Lease by the Oceanside Small Craft Harbor District and the City Council of the City of Oceanside, the Prior Lease between City and District shall be of no further force or effect. The termination of the Prior Lease shall have no effect on any existing District subleases, which subleases are hereby ratified by the Parties.

13. USE OF DISTRICT REVENUE

The City shall deposit all revenue received pursuant to this Lease into a segregated account, and shall expend such funds only in connection with either the Leased Premises or in connection with the submerged lands and tidelands owned in trust by the City. The City shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, to provide accurate records of revenues received and the expenditures of such revenues.

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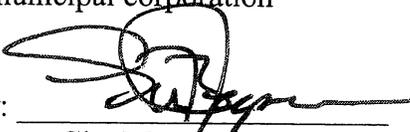
14. ENTIRE AGREEMENT

Subject to Paragraph 2 above, this Lease supercedes prior leases between the City and District regarding the Leased Premises. No amendment or addition to this Lease shall be binding on the City or the District unless reduced to writing and executed by the respective duly authorized signatory.

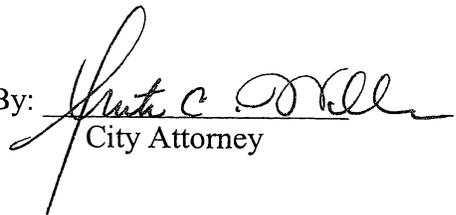
IN WITNESS WHEREOF, the Parties have executed this Lease as of the date and year first written above.

“City”

CITY OF OCEANSIDE
a municipal corporation

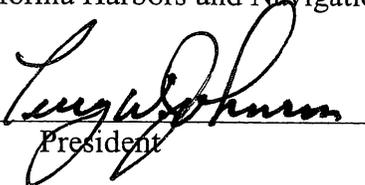
By: 
City Manager

APPROVED AS TO FORM

By: 
City Attorney

“District”

OCEANSIDE SMALL CRAFT HARBOR DISTRICT
a public entity, formed under the authority of the
California Harbors and Navigations Code

By: 
President

APPROVED AS TO FORM

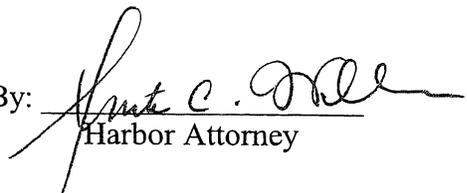
By: 
Harbor Attorney

EXHIBIT "A"

**LEASEHOLD LEGAL DESCRIPTION
OCEANSIDE SMALL CRAFT HARBOR DISTRICT**

Parcel 1

All that portion of Rancho Santa Margarita y Las Flores, in the County of San Diego, State of California, as described in the Patent from U.S.A. to Pio Pico and Andres Pico dated March 28, 1879, and recorded in Book 7, Page 18, *et seq* of Patents in the Office of the Recorder of San Diego County, described as follows:

Commencing at the U.S. Coast & Geodetic Survey Station Wire Mountain Water Tank, having a coordinates N 390,647.74 E 1,657,291.60 based on Lambert Plane Coordinates Zone six of the California Coordinates System; Thence, South 29°30'56" West (bearing based on Grid Meridian of said zone) a distance of 11,571.85 feet to the TRUE POINT OF BEGINNING of the herein described property, being also a point on the Southeasterly boundary of said Rancho Santa Margarita y Las Margarita, said point being also South 48°03'38" West (record South 48°04'44.69" West) 2719.93 feet from the intersection of said Southeasterly boundary with the North line of Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, in the County of San Diego, State of California, according to the United States Government Survey approved April 5, 1881, and as said North line of said Section 22 is shown on Sheet No. 7 of Record of Survey Map No. 794, filed in the Office of the Recorder of San Diego County, January 17, 1940, said point being also in the boundary of the City of Oceanside; Thence, leaving the boundary of the City of Oceanside North 26°37'06" East 197.26 feet; Thence, South 87°58'22" West 113.07 feet; Thence, South 22°46'57" West 325.39 feet; Thence, South 86°57'50" West 641.90 feet; Thence, North 41°16'38" West 707.89 feet; Thence, North 7°13'57" West 397.16 feet; Thence, North 58°18'40" East 230.34 feet; Thence, North 5°50'05" West 275.43 feet; Thence, North 72°23'01" West 221.38 feet; Thence, North 16°37'27" East 730.53 feet; Thence, North 49°36'19" West 722.17 feet; Thence, South 28°42'21" West 287.31 feet; Thence, South 39°03'31" West 785.57 feet; Thence, South 36°48'51" West 412.20 feet; Thence, South 34°56'49" East 417.23 feet; Thence, South 48°35'29" West to the Mean High Tide Line of the Pacific Ocean; Thence, continuing South 48°35'29" West to a point in the Westerly boundary of the State of California; Thence, Southeasterly along the Westerly boundary of the State of California to a point in the Northwesterly boundary of the City of Oceanside as annexed by Ordinance 876 of said City, also being the Southwesterly extended line of the Southeasterly boundary of said Rancho Santa Margarita y Las Flores; Thence, Northeasterly along the said Northwesterly boundary of the City of Oceanside and having a bearing of North 48°03'38" East (Record North 48°04'44.69" East) to a point in the mean high tide line of the Pacific Ocean; Thence, continuing along the said Northwesterly boundary of the City of Oceanside to the Witness of Corner No. 3 of the external boundary of said Rancho Santa Margarita y Las Flores; Thence, continuing along said Northwesterly boundary of the City of Oceanside to the TRUE POINT OF BEGINNING.

EXCEPTING from the above described property all that portion lying Westerly of said Mean High Tide Line, as delineated on Miscellaneous Map No. 448, recorded on September 17, 1963, as File No. 166122 in the Office of the Recorder of San Diego County.

Parcel 2

All that portion of the East Half of Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, in the City of Oceanside, County of San Diego, State of California, according to the United States Government Survey approved April 5, 1881, described as follows:

Beginning at the point of intersection of the Southerly line of Riverside Drive, as shown on Map No. 1632 of North Oceanside, with the Easterly line of the 200.00 foot right of way granted to California Southern Railroad (now Atchison, Topeka and Santa Fe Railroad Company) by Act of Congress, on March 3 1875; said intersection being also the beginning of a 1,040.00 foot radius curve, concave Northerly in the Southerly line of said Riverside Drive; a radial line to said point bears South 23°48' West; Thence, Southerly and Easterly along said Southerly line, and along said curve, through a central angle of 22°08' a distance of 401.75 feet; Thence, tangent to said curve South 88° 20' East 86.67 feet; Thence, leaving said Southerly line South 12°35'45" East 240.98 feet; Thence, South 53°32'12" West 487.67 feet, more or less, to the Easterly line of said Atchison, Topeka and Santa Fe Railway; Thence, along said Easterly line North 12°30' West to the Point of Beginning.

Parcel 3

All that portion of Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, in the City of Oceanside, County of San Diego, State of California, according to the United States Government Survey approved April 5, 1881, described as follows:

Beginning at a point on the Southeasterly line of Rancho Santa Margarita y Las Flores as shown on Record of Survey Map No. 652, filed in the Office of the County Recorder of San Diego County on April 21, 1938, said point also designated as being the Witness of Corner No. 3 of the external boundary of said Rancho Santa Margarita y Las Flores; Thence, North 48°03'38" East (Record North 47°28'45" East) a distance of 913.36 feet to the center line of the 200.00 foot right of way granted to California Southern Railroad (now Atchison, Topeka and Santa Fe Railroad Company) by Act of Congress on March 3, 1875; Thence, along said center line South 11°48'22" East (Record South 12°22'20" East) a distance of 1,135.95 feet; Thence, South 54°13'50" West to the Mean High Tide Line of the Pacific Ocean, as delineated on Miscellaneous Map No. 448, recorded on September 17, 1963, as File No. 166122 in the Office of the Recorder of San Diego County; Thence, Northwesterly along said Mean High Tide Line to the Southeasterly line of said Rancho Santa Margarita y Las Flores; Thence, along said Southeasterly line North 48°03'38" East (Record North 47°28'45" East) to the Point of Beginning.

EXCEPTING from the above described property all that portion thereof lying within the boundaries of said Atchison, Topeka and Santa Fe Railway.

Parcel 4

All that portion of Rancho Santa Margarita y Las Floras, in the County of San Diego, State of California, as described in the Patent from U.S.A. to Pio Pico and Andres Pico, dated March 28, 1879, and recorded in Book 7, Page 18, *et seq*, of Patents in the

Office of the Recorder of said San Diego County, in Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, more particularly described as follows:

Beginning at a point in the Southeasterly boundary line of said Rancho Santa Margarita y Las Flores which bears South 48°03'38" West (Record South 48°04'44.69" West) 2,719.93 feet from the intersection of said Southeasterly boundary line with the North line of said Section 22; Thence, North 26°37'06" East, 197.26 feet; Thence, North 78°12'41" East, 39.08 feet to an intersection with the Westerly right of way of the Atchison, Topeka and Santa Fe Railway; Thence, Southerly along said Westerly right of way 60.79 feet, more or less, to the Southeasterly boundary line of said Rancho Santa Margarita y Las Flores; Thence, South 48°03'38" West, 186.86 feet along said Southeasterly boundary line to the Point of Beginning.

Parcel 5

That portion of Rancho Santa Margarita y Las Flores, County of San Diego, State of California described as follows:

Commencing on the Southeasterly boundary of the Rancho Santa Margarita y Las Flores South 48°03'38" West (Record South 48°04'44.69" West) 2,533.07 feet from the intersection of said Southeasterly boundary with the North line of Section 22 as shown on the sheet 7 record of Survey Map 794 filed in the office of the County Recorder of San Diego County on January 17, 1940 as delineated upon a map in Book 7, page 39 of Patents, records of said County; Thence, South 48°54'45" West 384.26 feet to the True Point of Beginning; Thence, North 3°02'10" West 243.00 feet; Thence, North 76° 18'46" East 131.60 feet; Thence, South 22°46'57" West 296.97 feet along the property line of the City of Oceanside to the True Point of Beginning.

Parcel 6

That portion of Lots 4 and 7 of Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, in the City of Oceanside, County of San Diego, State of California, according to the United States Government Survey approved April 5, 1881, described as follows:

Beginning at the intersection of the Northwesterly line of said Lot 7, also being the Southeasterly boundary of the Rancho Santa Margarita y Las Flores, with the Southwesterly line of the Atchison, Topeka and Santa Fe Railway Company's 200 foot wide property; Thence, South 12°29'10" East along said Southwesterly line 1,741.98 feet; Thence, North 77°30'50" East, 50.0 feet to a point in a line parallel with and distant Northeasterly 50.0 feet measured at right angles from said Southwesterly line; Thence, North 12°29'10" West along said parallel line 1,771.04 feet to a point in said Northwesterly line of Lot 7; Thence, South 47° 21' 01" West along said Northwesterly line 57.84 feet to the Point of Beginning.

EXCEPTING from the above described property all that portion lying southerly of the Northeasterly prolongation of Southeast line of the above described Parcel 2, said line having a bearing of South 54°13'50" West.

Parcel 7

That portion of Fractional Section 22, Township 11 South, Range 5 West, San Bernadino Meridian, in the City of Oceanside, County of San Diego, State of California, as shown in Miscellaneous Map No. 448, recorded on September 17, 1963, as File No. 166122 in the Office of the County Recorder of San Diego County, described as follows:

Beginning at the Northwesterly corner of Parking Lot 11 as shown on said Miscellaneous Map No. 448; Thence North $36^{\circ}04'31''$ West along the Westerly line of Parcel "H" as shown on said Miscellaneous Map No. 448, a distance of 86.26 feet; Thence, North $18^{\circ}23'22''$ East along said Westerly line 17.00 feet; Thence, North $70^{\circ}14'13''$ West 85.00 feet; Thence South $19^{\circ}45'47''$ West 14.00 feet; Thence, North $70^{\circ}14'13''$ West 325.00 feet; Thence South $19^{\circ}45'47''$ West 134 feet; Thence, South $70^{\circ}14'13''$ East 328.00 feet; Thence, South $20^{\circ}17'58''$ East 68.17 feet; Thence, North $69^{\circ}42'02''$ East 168.00 feet to the beginning of a curve concave Southwesterly, having a radius of 15.00 feet; Thence, Southeasterly along said curve through a central angle of $74^{\circ}13'27''$ a distance of 19.43 feet to a point of cusp, said point of cusp being on said Westerly line of said Parking Lot 11; Thence North $36^{\circ}04'31''$ West along said Westerly line 45.00, feet more or less, to the Point of Beginning.

EXCEPTING from the above described property all that portion thereof lying Easterly of the Mean High Tide Line as delineated on Said Miscellaneous Map No. 448.

QUITCLAIM DEED

THIS DEED, made the 11th day of December 1959, by and between the UNITED STATES OF AMERICA, acting by and through the ADMINISTRATOR OF GENERAL SERVICES, under and pursuant to the powers and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), the Surplus Property Act of 1944 (58 Stat. 765), as amended, more particularly by Public Law 616, 80th Congress, approved June 10, 1948, and the regulations and orders issued pursuant thereto, Party of the First Part, and the CITY OF OCEANSIDE, a political subdivision of the State of California, its successors and assigns, Party of the Second Part,

WITNESSETH:

The said Party of the First Part, for and in consideration of the continuous use and maintenance of the premises by the Party of the Second Part as and for a public park for public recreational purposes, and other good and valuable consideration, has remised, released and forever quitclaimed, and by these presents does remise, release and forever quitclaim, unto the Party of the Second Part, and to its successors and assigns, a parcel of land situated in Sections 22 and 15 T11S R5W SBM, in the County of San Diego, State of California, described as follows:

Beginning at the U. S. Coast & Geodetic Survey Station Wire Mountain Water Tank having coordinates N390,647.74 E 1,657,291.60 based on Lambert Plane Coordinates Zone Six of the California Coordinate System, thence S 29° 30' 56" W (bearing based on Grid Meridian of said zone) a distance of 11,571.85 ft. to True Point of Beginning on the Southeast-erly Boundary of Rancho Santa Margarita, said point being also S 48° 03' 38" W (S 48° 04' 44.69" W on record) 2719.93 ft. from the intersection of said Southeasterly Boundary with the North line of Section 22 as shown on sheet 7 Record of Survey Map 794 filed in the Office of the County Recorder of San Diego County, California, January 17, 1940 as delineated upon a map in Book 7, page 39 of Patents of Records of said County, thence N 26° 37' 06" E 197.26 ft., thence S 87° 58' 22" W 113.07 ft., thence S 22° 46' 57" W 325.39 ft., thence S 86° 57' 50" W 641.90 ft., thence N 41° 16' 38" W 707.89 ft., thence N 7° 13' 57" W 397.16 ft., thence N 58° 18' 40" E 230.34 ft., thence N 5° 50' 05" W 275.43 ft., thence N 72° 23' 01" W 221.38 ft., thence N 16° 37' 27" E 730.53 ft., thence N 49° 36' 19" W 722.17 ft., thence S 28° 42' 21" W 287.31 ft., thence S 39° 03' 31" W 785.57 ft., thence S 36° 48' 51" W 412.20 ft., thence S 34° 56' 49" E 417.23 ft., thence S 48° 35' 29" W 169.33 ft. more or less to Mean High Tide Line of the Pacific Ocean, thence Southeasterly along said Mean High Tide Line 2203.42 ft. more or less to the intersec-tion with the Southeasterly Boundary of the Rancho Santa Margarita, thence N 48° 03' 38" E 668.15 ft. more or less along said Southeasterly Boundary to Witness to Corner No. 3, Rancho Santa Margarita, thence N 48° 03' 38" E 760.85 ft. along said Southeasterly Boundary to the TRUE POINT OF BEGINNING, containing 67.23 acres more or less.

EXHIBIT "B"

Small Boat Harbor
Camp Peaton - N-Calif-677
Oceanside, California

SUBJECT TO all rights of way, easements, liens, reservations, exceptions or interests of record or now existing on the premises above described.

SAID PROPERTY transferred hereby was duly determined to be surplus, and was assigned to the General Services Administration for disposal pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and applicable rules, orders and regulations.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Party of the Second Part, its successors and assigns, subject to the reservations, conditions and covenants herein contained.

The said Party of the Second Part does by the acceptance of this deed covenant and agree for itself, and its successors and assigns forever, as follows:

1) For a period of twenty (20) years from the date of delivery of this conveyance, the premises above described shall be continuously used and maintained as and for a public park for recreational purposes, as set forth in Application for Priority and/or Transfer for Public Park, Public Recreational Area and/or Historical Monument, which application is dated August 20, 1959, and was submitted to Party of the First Part by the Party of the Second Part.

2) For a period of twenty (20) years from the date of delivery of this conveyance, the Party of the Second Part, its successors and assigns, shall file biennial reports with the Secretary of the Interior, setting forth the use of the property during the preceding two-year period, and other pertinent data establishing its continuous use of the premises for the purposes set forth above.

3) The Party of the Second Part will not sell, lease, or otherwise dispose of, any of the premises above described within twenty (20) years from the date of delivery of this conveyance without first obtaining written authorization of the Secretary of the Interior to such sale, lease, or other disposal.

4) The Party of the First Part shall have the right during the existence of any national emergency declared by the President of the United States of America, or the Congress thereof, to the full, unrestricted possession, control and use of the premises, or any part thereof, without charge; EXCEPT that the Party of the First Part shall be responsible during the period of such use, if occurring within a period of twenty (20) years from the date of delivery of this conveyance, for the entire cost of maintaining the premises, or any portion thereof, so used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid; PROVIDED HOWEVER, that if such use is required after the expiration of a period of twenty (20) years from the date of delivery of this conveyance, the Party of the First Part shall pay a fair rental for the entire portion of the premises so used.

Small Bay Harbor
Camp Pendleton - N-Calif-677
Oceanside, California

5) In the event of a breach of any condition or covenant herein imposed, the Secretary of the Interior may immediately enter and possess himself of title to the herein-conveyed premises for and on behalf of the United States of America.

6) In the event of a breach of any condition or covenant herein imposed, the Party of the Second Part will, upon demand by the Secretary of the Interior, take such action, including the prosecution of suit, or execute such instruments, as may be necessary or required to evidence transfer of title to the herein-conveyed premises to the United States of America.

In the event there is a breach of any of the conditions and covenants herein contained by the Party of the Second Part, its successors and assigns, whether caused by the legal inability of said Party of the Second Part, its successors and assigns, to perform said conditions and covenants, or otherwise, during said twenty-year (20-year) period, all right, title and interest in and to the said premises shall revert to and become the property of the United States at its option, and it shall have the immediate right of entry upon said premises, and the Party of the Second Part, its successors and assigns, shall forfeit all right, title and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging;

PROVIDED, HOWEVER, that the failure of the Secretary of the Interior to require in any one or more instances complete performance of any of the conditions or covenants herein contained shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the Party of the Second Part, its successors and assigns, with respect to such future performance shall continue in full force and effect;

PROVIDED FURTHER, that in the event the Secretary of the Interior fails to exercise the option to re-enter the premises for any such breach within twenty-one (21) years from the date of delivery of this conveyance, all of said conditions and covenants, together with all rights of the United States of America to re-enter thereon as hereinabove provided, shall as of that date terminate and be extinguished.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused these presents to be executed as of the day and year first above written.

UNITED STATES OF AMERICA
Acting by and through the
ADMINISTRATOR OF GENERAL SERVICES

By Elmo L. Buttle
ADMINISTRATOR