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Real Estate Division / Lease Files

SDC003

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**Document Type**

Legal Documents



**Sub - Category**

Agreements



COPY

FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement made and entered into by and between The City of San Diego, a municipal corporation (the "City"), and The Regents of the University of California, a constitutional corporation (the "University").

WITNESSETH

WHEREAS, the University and the City entered into a Lease Agreement dated April 7, 1972 of certain submerged lands within the City for scientific research purposes including, but not limited to, the construction of an "Experimental Inshore Oceanographic Facility" (the "Agreement"); and

WHEREAS, the Agreement provides that if the University does not construct the "Experimental Inshore Oceanographic Facility" within five (5) years from the date of execution, the term of the lease shall be subject to the right of either party to terminate the lease upon one (1) year's written advance notice to the other party; and

WHEREAS, the University did not construct the "Experimental Inshore Oceanographic Facility"; and

RR- 266414  
DOCUMENT NO. \_\_\_\_\_  
FILED \_\_\_\_\_ AUG 18 1986  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

WHEREAS, the University desires to construct a replacement for the existing pier and seawater supply system of its Scripps Institution of Oceanography; and

WHEREAS, the construction of a new replacement pier and seawater supply system for the Scripps Institution of Oceanography (the "Project") is in the best interest of the University and the City; and

WHEREAS, the 1985 Budget Act of the State of California appropriates funds to the State Public Works Board (the "Board"), payable from the proceeds of the sale of bonds or bond anticipation notes (the "Bonds") to be issued by the Board, for construction of the Project; and

WHEREAS, the University desires to sublease a portion of the Premises (as hereinafter defined) to the Board pursuant to a site lease (the "Site Lease") for the purpose of permitting the construction of the Project thereon; and

WHEREAS, the Board intends to lease the completed Project to the University pursuant to a facility lease (the "Facility Lease"), obligating the University to make rental payments sufficient to pay the principal of and interest on the Bonds; and

WHEREAS, the University will have to be able to demonstrate that it has a legally sufficient indefeasible interest in that portion of the Premises upon which the Project will be constructed in order for the Board to be able to market the Bonds; and

WHEREAS, an amendment to the Agreement is necessary for the University to be able to demonstrate that it has such a legal interest in the Premises;

NOW, THEREFORE, the parties hereto amend the Agreement as follows:

1. Paragraph A is deleted and the following is substituted therefor:

A. DEMISE. The City hereby leases to the University for the period of fifty (50) years from the date of execution of this First Amendment to Agreement, and subject to the terms and conditions hereinafter stated, a certain portion of submerged lands described as follows:

All that portion of the submerged lands bounded on the South by the Westerly prolongation of the Southerly line of Pueblo Lot 1298, Pueblo Lands of San Diego; on the West by Longitude  $117^{\circ}16'15''$  West; on the North by Latitude  $32^{\circ}53'00''$  North; and on the East by the lowest tide line opposite to and West of Pueblo Lots 1298, 1312, and 1313; excepting therefrom the lands bounded on the South by the Westerly prolongation of the Northerly line of Pueblo Lot 1298; on the West by the ground contour line lying eight feet below the mean lower low water datum; on the North by Latitude  $32^{\circ}53'00''$  North; and on the East by the lowest tide line opposite to and West of Pueblo Lots 1312 and 1313.

Said demised submerged lands are hereinafter called the "Premises."

2. Paragraph C.2. is deleted and the following is substituted therefor:

2. RESEARCH FACILITIES. The University or any sublessee, including the State Public Works Board (the "Board") shall have the right to construct a replacement pier and seawater supply system (the "Project"); provided University or any sublessee shall have no obligation to construct the Project, and provided further, however, the Project shall not exceed 44 feet above the mean lower low water local tidal datum excluding ancillary devices such as antennas, light poles, meteorological masts, hoisting equipment, elevatory houses and temporary structures employed during construction of the Project.

3. Paragraph C.3. is deleted and the following substituted therefor:

3. RIGHT TO TERMINATE. The University represents that the Project is to be a major undertaking

of substantial expense. In the event construction of the Project does not commence within three (3) years from the effective date of this amendment, either party shall have the right to terminate this lease upon one year's written advance notice to the other party. In the event of such termination, the rental payment shall be deemed to have been fully earned and not subject to pro rata refund.

4. Paragraph C.6. is deleted and the following substituted therefor:

6. EXPIRATION. At the expiration of the term of the lease, subject to the rights of and the approval of the Board, the University shall:

a. demolish and remove, without cost or expense to City, all improvements on said premises, both emergent and submerged;  
or

b. subject to City approval, convey ownership of all improvements to the City; the University also agreeing to convey to the City as easement of access mutually acceptable to both parties; or

c. subject to City approval, enter into a new agreement for renewal of the lease.

5. Paragraph C.7. is deleted and the following substituted therefor:

7. QUIET POSSESSION. University, paying the said rent and performing the covenants and agreements hereof, shall and may at all times during the said term peaceably and quietly have, hold and enjoy the said premises. If City for any reason whatsoever cannot deliver possession of the said premises to University at commencement of said term, or if University is dispossessed through action of a title

superior to City's, then and in either of such events, this lease shall not be void or voidable nor shall City be liable to University for any loss or damage resulting therefrom; provided, however, subject to the rights of and the approval of the Board, the University shall have the rights provided by Paragraphs 6.a. and 6.b. hereof.

6. Paragraph C.11. is deleted and the following substituted therefor:

11. ASSIGNMENT      University shall have the right to grant revocable licenses to other educational, governmental and research institutions to use the premises and any facility constructed thereon. Except as provided in the second paragraph of this Paragraph 11, any other assignment or subletting of this lease or any part hereof, or any right or privilege appurtenant thereto, or any interest therein shall not be allowed without the prior

written consent of the City, it being understood that such consent shall not be unreasonably withheld. Any assignment or subletting without such consent shall be void, and shall at the option of the City, terminate this lease. A consent to one assignment, subletting, occupation or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. This lease shall not, nor shall any interest therein, be assignable by operation of law, without the written consent of the City Manager.

The City hereby consents to the sublease of a portion of the Premises to the Board pursuant to a site lease (the "Site Lease") for the purpose of financing the construction of the Project and the lease of the Project from the Board to the University pursuant to a facility lease (the "Facility Lease"). The City additionally consents to reletting of the Project by the Board following a default by the University under the Facility Lease.

7. Paragraph C.15. is deleted and the following substituted therefor:

15. MERGER. The voluntary or other surrender of this lease by University, or a mutual cancellation thereof, shall not work a merger and shall operate as an assignment to the City of any or all subleases or subtenancies; provided, however, that so long as any indebtedness of the Board relating to the Project is outstanding and unpaid in accordance with the terms of the resolution(s) authorizing such indebtedness, all rentals or any part thereof payable to a fiscal agent pursuant to such resolution (by the terms of such assignment or sublease) shall continue to be paid to such fiscal agent until such indebtedness is paid in full.

8. Paragraph C.16. is deleted and the following substituted therefor:

16. DEFAULT. In the event that University shall default in the performance or fulfillment of

any covenant or condition of this lease requiring University performance or fulfillment thereof, and shall fail to cure said default or commence the necessary repairs within thirty (30) days following service on University or written notice from City specifying the default, the City may, at its option terminate this lease without further notice and may thereupon enter and take possession of the Premises and expel University; provided, however, that so long as any assignee or subtenant of University shall duly perform the terms and conditions of this lease and of its then existing sublease (if any), such assignee or subtenant shall be deemed to be and shall become the tenant of the City hereunder and shall be entitled to all of the rights and privileges granted under any such assignment or sublease.

The rights and remedies of City herein set forth are cumulative and shall in no way limit any other provision of this lease or otherwise deny to City any right or remedy at Law or in

equity which City may have against University, but shall be supplemental to such other provisions and such other rights and remedies.

9. Paragraph C.18. is deleted and the following substituted therefor:

18. PAYMENT BOND. University will save City free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repair or alterations to the leased premises, and the cost of defending against such claims, including reasonable attorney's fees.

In the event that improvements, repairs or alterations are constructed pursuant to contract on the leased premises by other than the City or University personnel, the University shall file or cause to be filed with the City a contractor's payment bond in accordance with the requirements for such bonds on public works as set forth in section 3247 et seq. of the California Civil Code. The bond shall be issued by

a corporation licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.

10. Paragraph C.24. EMINENT DOMAIN is added to the Agreement as follows:

24. EMINENT DOMAIN. Notwithstanding any other provision of this lease, in the event the whole or any part of the Premises or the improvements thereon (including the Project) is taken permanently or temporarily under the power of eminent domain, the interests of the University and the Board shall be recognized and are hereby determined to be the amount of the then unpaid indebtedness incurred by the Board to finance the construction of the Project, including the unpaid principal of and interest on any then outstanding bonds or other indebtedness of the Board. The term "unpaid indebtedness," as used in the preceding sentence, includes the face amount of the indebtedness evidenced by any outstanding bonds

or notes of the Board issued to finance the Project, together with the interest thereon and all other payments required to be made by the fiscal agent pursuant to the resolution authorizing the issuance of said bonds or notes on account of said indebtedness, until such indebtedness, together with the interest thereon, has been paid in full in accordance with the terms thereof.

11. Paragraph C.25. ADDITIONAL CONSIDERATION is added to the Agreement as follows:

25. ADDITIONAL CONSIDERATION. As part of the consideration for this lease amendment, the University agrees, during the entire term of this lease, to reimburse the City for lifeguard services provided by the City on the beach adjacent to the University of California Scripps Institution of Oceanography, such services and reimbursement to be in accordance with the terms and conditions of

the attached Agreement between the parties identified as City Clerk Document RR-262696, adopted March 11, 1985, as such Agreement may from time to time be amended by mutual Agreement of the parties. The University and the City further agree that the amount of such payments shall from time to time be modified as necessary so as to provide reimbursement for the City's actual reasonable costs incurred in the provision of such lifeguard services. Failure to make such reimbursements, however, shall not constitute an event of default under Paragraph C.16. hereof. In event of such failure, the City's sole remedy shall be the right, exercisable upon thirty (30) days written notice, to terminate this lease with regard to all of the Premises leased hereunder except the site of the pier itself and the leased Premises within one hundred (100) feet of the pier.

12. All other provisions of the Agreement shall remain in effect.

IT WITNESS WHEREOF, this First Amendment to Agreement  
is executed by The City of San Diego acting by and through its  
City Manager, pursuant to Resolution No. R-266414  
authorizing such execution, and by The Regents of the University  
of California.

THE CITY OF SAN DIEGO

Dated: AUG 18 1986

By George J. Kern  
ASSISTANT TO THE City Manager

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

Dated: 6/10/86

By Bonnie M. Smutney  
SECRETARY

Approved as to form and legality this 28 day of August,  
1986.

By V. H. H. H. H.  
City Attorney

APPROVED AS TO FORM

R. B. Portwood  
ROMULUS B. PORTWOOD  
UNIVERSITY COUNSEL OF THE REGENTS  
OF THE UNIVERSITY OF CALIFORNIA

FILED MAY 11 1972

OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA~~ORIGINAL~~AGREEMENT

THIS AGREEMENT made and entered into by and between  
THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called  
the "City" and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,  
a corporation of the State of California, hereinafter called the "University."

WITNESSETH:

WHEREAS, The University desires to lease certain submerged  
lands within the City of San Diego, hereinafter described, for scientific  
research purposes including, but not limited to, the construction of an  
"Experimental Inshore Oceanographic Facility"; and

WHEREAS, The City is the owner of said submerged lands by  
virtue of a grant from the State of California subject to certain trusts and  
conditions; and

WHEREAS, the uses proposed by the University for said sub-  
merged lands are not inconsistent with those trusts and conditions and,  
therefore, the City desires to lease to the University said lands;

NOW, THEREFORE, IT IS MUTUALLY AGREED BY THE  
PARTIES THAT:

A. DEMISE. The City hereby leases to the University for the  
period of fifty (50) years from the date of execution of this agreement, and  
subject to the terms and conditions hereinafter stated, a certain portion of

submerged lands described as follows:

All that portion of the submerged lands bounded on the South by the Westerly prolongation of the Southerly line of Pueblo Lot 1298, Pueblo Lands of San Diego; on the West by Longitude  $117^{\circ}16'15''$  West; on the North by Latitude  $32^{\circ}53'00''$  North; and on the East by the lowest tide line opposite to and West of Pueblo Lots 1298, 1312 and 1313; excepting therefrom the lands bounded on the South by the Westerly prolongation of the Northerly line of Pueblo Lot 1298; on the West by the ground contour line lying eight feet below the mean lower low water datum; on the North by Latitude  $32^{\circ}53'00''$  North; and on the East by the lowest tide line opposite to and West of Pueblo Lots 1312 and 1313.

Said demised submerged lands are hereinafter called the "premises".

B. RENT. The University will pay to the City upon execution of this agreement, as rental payment for the term of the lease, the amount of Fifty Dollars (\$50.00).

C. COVENANTS AND CONDITIONS.

1. USE. Said premises are leased for the uses and purposes of the University in connection with its scientific research and investigation and, further, such uses and purposes must be consistent with those public uses which relate to commerce, navigation or fisheries.

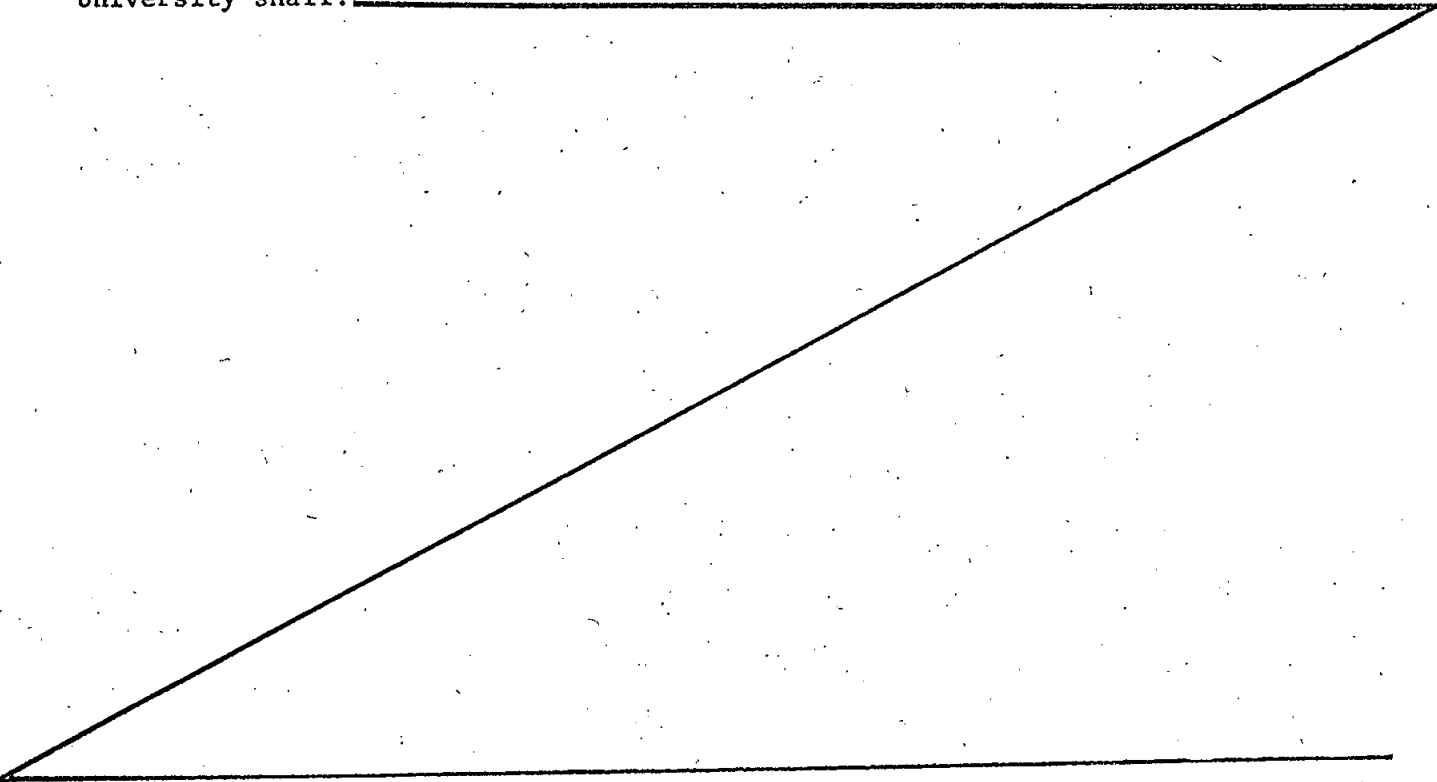
2. RESEARCH FACILITIES. The University has the right to construct research facilities on said premises, both emergent and submerged, including, but not limited to, its proposed "Experimental Inshore Oceanographic Facility", subject to Sections 3 and 4 hereof; provided, however, the University shall have no obligation to construct any such facilities, and provided further, however, no such facilities shall exceed 40 feet above the mean lower low water local tidal datum excluding ancillary devices such as antennas, light poles, meteorological masts, hoisting equipment, elevator houses and temporary structures employed during construction of any such facilities.

3. RIGHT TO TERMINATE. The University represents that said "Experimental Inshore Oceanographic Facility" contemplated in this agreement is to be a major undertaking of substantial expense. In the event the University does not award a construction contract for said facility within five (5) years from the date of execution of this agreement, then the term of the lease after such five (5) year period shall be subject to the right of either party to terminate the lease upon one (1) year's written advance notice to the other party. In this connection the rental payment will have been deemed to have been earned by the City and will not be pro rata refundable in the event of such termination.

4. APPROVAL OF INSTALLATION. All research facilities proposed by the University for installation on said premises and involving an expenditure for installation of more than FIVE THOUSAND DOLLARS (\$5,000.00) but less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) shall be subject to the advance written approval by the City Manager, while those involving an expenditure for installation of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) or more shall be subject to the advance approval of the City Council as to design. University shall not request such City Council approval until the University has given the La Jolla Town Council and the La Jolla Shores Association and their successor organization, if any, and any other local groups so requesting in writing, an opportunity to review and suggest modifications to the design of any such proposed research facilities. The University's obligation to provide the described review opportunity shall be discharged if design plans for any such proposed facility are submitted for review to such groups at least 45 days prior to initial City Council consideration.

5. ACCESS TO BEACHES. The University during the term of this lease shall not construct any facility on its present beach property at Scripps Institution of Oceanography which would serve as a physical barrier preventing access of pedestrian traffic across such beach property to the adjacent beaches north and south thereof nor shall the University limit lawful use of the beach property westerly of the seaward boundary of Pueblo Lot 1298 except to the extent necessary to protect the public's health and welfare.

6. EXPIRATION. At the expiration of the term of the lease the University shall: \_\_\_\_\_



- a. demolish and remove, without cost or expense to City, all improvements on said premises, both emergent and submerged; or
- b. subject to City approval, convey ownership of all improvements to the City; the University also agreeing to convey to the City an easement of access mutually acceptable to both parties; or
- c. subject to City approval, enter into a new agreement for renewal of the lease.

7. QUIET POSSESSION. University, paying the said rent and performing the covenants and agreements hereof, shall and may at all times during the said term peaceably and quietly have, hold and enjoy the said premises. If City for any reason whatsoever cannot deliver possession of the said premises to University at commencement of said term, or if University is dispossessed through action of a title superior to City's, then and in either of such events, this lease shall not be void or voidable nor shall City be liable to University for any loss or damage resulting therefrom; provided, however, the University shall have the rights provided by Paragraphs 6.a. and 6.b. hereof.

8. MAINTENANCE AND REPAIR. University shall be responsible for maintaining said premises and all improvements, if any, installed by University, in good condition and shall make all repairs and replacements necessary to preserve said premises in good condition throughout said term without cost to City. City shall not be required to perform any installations or repairs or to perform any other work upon,

or in connection with said premises.

9. ENTRY AND INSPECTION. City reserves, and shall always have the right to enter said premises at all reasonable times for the purpose of viewing and ascertaining the conditions thereof, or to protect its interests in the premises. In the event that such entry by City discloses that said premises are not in a safe, healthy and satisfactory condition, City may terminate this agreement for default in accordance with Paragraph 16. hereof.

10. RESERVATION OF CITY RIGHTS. City hereby reserves all rights, title and interest in any and all gas, oil, and minerals upon or beneath said leased premises.

11. ASSIGNMENT. University shall have the right to grant revocable licenses to other educational, governmental and research institutions to use the premises and any facility constructed thereon. Any other assignment or subletting of this lease, or any part hereof, or any right or privilege appurtenant thereto, or any interest therein shall not be allowed without the prior written consent of the City, it being understood that such consent shall not be unreasonably withheld. A consent to one assignment, subletting, occupation or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void, and shall at the option of City, terminate this lease. This lease shall not, nor shall any interest therein, be assignable by operation

of law, without the written consent of the City Manager.

12. COMPLIANCE WITH LAW. University shall, at its sole cost and expense, comply and secure compliance with all applicable requirements of all municipal, county, state and federal authorities now and hereafter in force, pertaining to the said premises, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the premises, all applicable municipal ordinances and state and federal statutes now and hereafter in force, and shall pay before delinquency all applicable taxes, assessments, and fees assessed or levied upon University or the leased premises by reason of any possessory interest or of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by University or by reason of the business or other activities of University upon or in connection with the said demised premises.

13. UTILITIES. University shall order, obtain and pay for all utilities, and service and installation charges in connection therewith as necessary or desirable for University's use of said premises.

14. ASSIGNS. Time is of the essence of each and all of the terms and provisions of this lease and this lease shall inure to the benefit of and be binding upon the parties hereto and any successor of University as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this lease shall extend to and bind any assigns or sublessees of University.

15. MERGER. The voluntary or other surrender of this lease by University, or a mutual cancellation thereof, shall not work a merger, and shall at the option of City, terminate all or any existing subleases or subtenancies, or may, at the option of City, operate as an assignment to it of any or all such subleases or subtenancies.

16. DEFAULT. In the event that University shall default in the performance or fulfillment of any covenant or condition of this lease requiring University performance or fulfillment thereof, and shall fail to cure said default within thirty (30) days following service on University of written notice from City specifying the default, then City may, at its option, terminate this lease without further notice and may thereupon enter and take possession of said premises and expel University and all persons claiming rights thereto through University. The rights and remedies of City herein set forth, are cumulative and shall in no wise limit any other provision of this lease or otherwise deny to City any right or remedy at law or in equity which City may have against University, but shall be supplemental to such other provisions and such other rights and remedies.

17. NON-DISCRIMINATION. University, in its use of the premises, shall not discriminate in any manner against any person or persons on account of race, color, sex, creed or national origin including, but not limited to, the providing of goods, services, facilities, privileges, advantages and accommodations, and the holding and obtaining of employment.

18. MECHANIC'S LIEN BOND. University will save City free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repair or alterations to the leased premises, and the cost of defending against such claims, including reasonable attorney's fees.

In the event that improvements, repairs or alterations are constructed on the leased premises by other than the City or University personnel, the University shall file with the City a bond, conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used, in the amount of the cost of the improvement, alteration or repair. The bond shall be acknowledged by the University as principal and by a corporation licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.

19. INDEMNITY. This lease is made upon the express condition that the City is to be free from all liability and claim for damages by reason of injury to or death of any person or persons or damage to property of any kind resulting from the acts or omissions to act of University or of its assignees or licensees while in, upon, or in any way connected with the premises described in this lease or upon the walks or other ways or premises adjacent thereto, which are on property under the jurisdiction of the University, University hereby covenanting and agreeing to indemnify, defend and save the City harmless from all liability, loss, cost and obligations on account

of or arising out of any such injury, death, damage, or loss; provided, however, that this agreement shall not apply to any injury or death caused by any employee of the City, and that the City shall not voluntarily assume any liability or incur any expense or settle any claims without the prior written consent of the University.

20. WASTE, DAMAGE OR DESTRUCTION OF PREMISES.

University shall give prompt notice to City of any fire or damage that may occur from any reason whatsoever. University shall not commit or suffer to be committed any waste or injury, or any public or private nuisance, shall keep the premises clean and clear of refuse and obstructions; and shall dispose of all garbage, trash, and rubbish in a manner satisfactory to City. If the leased premises shall be damaged by any cause as to render the premises untenable or unfit for the use or purpose for which the same are hereby let and said damages are reparable within a reasonable time in the opinion of the City Manager, University may elect, by written notice to the City within thirty (30) days of such destruction, to make full repairs to said damages so as to restore the premises to the condition which existed prior to said damages, or University may elect to clear and remove from the leased premises all debris resulting from said damages and to continue operations on a limited scale. In the event University elects to make such repairs or clear such debris, the work shall be commenced within thirty (30) days and the restoration or clearance shall be completed within a reasonable time thereafter. Failure to commence such restoration work or clearance,

or failure to complete such work or clearance within said reasonable time shall constitute an abandonment of this lease by University. In the event University does not so elect to make such repairs or to continue operations on a limited scale as hereinbefore provided, then either University or City may after thirty (30) days from the date of damage terminate this agreement; provided, however, that University to exercise this right to terminate must first remove all debris from the leased premises.

21. INSURANCE. Upon taking physical possession of said leased premises, University shall take out and maintain public liability insurance naming City as an additional insured with an insurance carrier licensed to do business in California and must have an A+ excellent rating in the current issue of Best's Insurance Guide to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever, resulting directly or indirectly from any act or activities of University or any person acting for University or under University's control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from act or activities of University or any person acting for University or under University's control or direction. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this lease in the amounts of not less than ONE MILLION DOLLARS (\$1,000,000.00) Combined Single Limit Liability policy. If the operation under this

agreement results in an increased or decreased risk in the opinion of the City Manager, then the minimum limits hereinabove designated shall be changed accordingly. If University does not keep such insurance in full force and effect, City may take out the necessary insurance and pay the premium, and the repayment thereof shall be immediately due by University to City on demand thereof. Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which the University may be held responsible for the payment of damages to persons for which it is otherwise responsible.

University shall, on or before the effective date of this lease, deliver to the Property Department of City, a certificate of bodily injury and property damage liability insurance issued by a company licensed in the State of California to transact such business, indicating that University has bodily injury and property damage liability insurance as required in this paragraph, and indicating that the policy has been endorsed or does otherwise cover the contractual liability imposed by this agreement, and that the insurance company shall notify said Property Department if said policy be terminated or limited in any manner prior to the termination date specified in the policy.

22. WAIVER. The failure of either party to insist upon full performance of any provision of this lease in one or more instances shall not be construed to be a waiver of any such provision, and the same shall remain in full force.

23. VERBAL REPRESENTATIONS. This lease contains

the complete expression of the whole agreement between the parties hereto and there are no promises, representations, agreements, warranties or inducements either expressed verbally or implied except as are fully set forth herein. This lease cannot be enlarged, modified or changed in any respect except by written agreement between said parties.

IN WITNESS WHEREOF, this agreement is executed by the City of San Diego acting by and through its City Manager, pursuant to Resolution No. 205290 authorizing such execution, and by The Regents of the University of California.

THE CITY OF SAN DIEGO

Date April 7, 1972

By

[Signature]  
ASSISTANT TO THE CITY MANAGER

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Date

April 27, 1972

By

[Signature]  
ASSOCIATE SECRETARY

APPROVED AS TO FORM:

David A. Dorinson

DAVID A. DORINSON  
ASSISTANT COUNSEL OF THE REGENTS  
OF THE UNIVERSITY OF CALIFORNIA

I HEREBY APPROVE the form and legality of the foregoing agreement this 6 day of April, 1972.

JOHN W. WITT, City Attorney

By

[Signature]  
Deputy

DSB:jh  
3-24-72

Passed and adopted by the Council of The City of San Diego  
on April 6, 1972, by the following vote:

YEAS: Johnson, Landt, Williams, Morrow, Martinet, Hitch, Bates,  
Wilson.

NAYS: None.

ABSENT: O'Connor

AUTHENTICATED BY:

PETE WILSON,  
Mayor of The City of San Diego, California.

EDWARD NIELSEN,  
City Clerk of The City of San Diego, California.

(SEAL)

By KATHRYN M. NOE, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,  
true and correct copy of RESOLUTION NO. 205230

passed and adopted by the Council of The City of San Diego,  
California, on APR 6 1972.

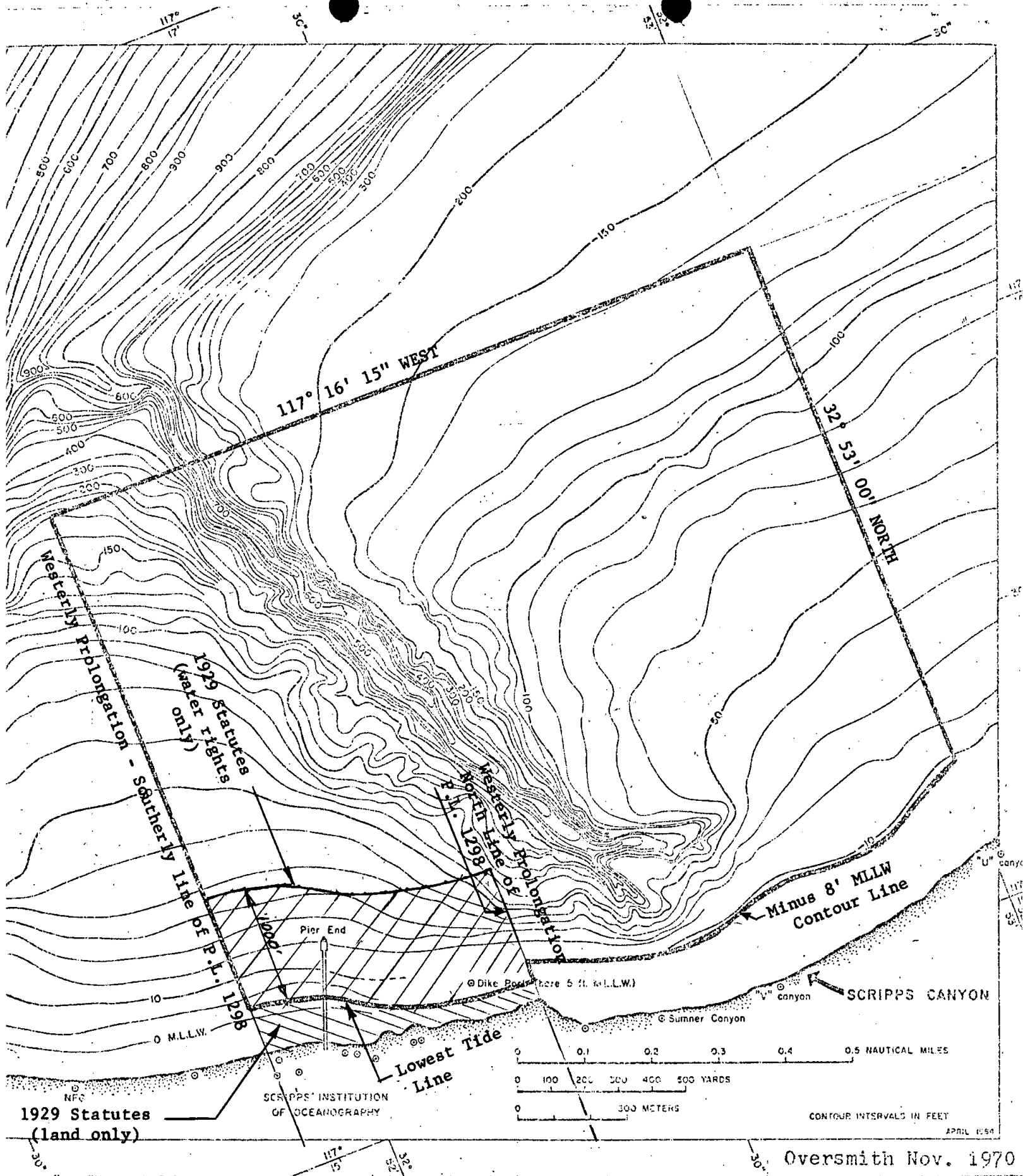
EDWARD NIELSEN,  
City Clerk of The City of San Diego, California.

(SEAL)

By Kathryn M. Noe, Deputy.

(Rev. 12/71)

lm



Boundary of Submerged Land Parcel  
for Lease to the University of California

Barone 51A

RESOLUTION No. 205290

Adopted by APR 6 1972

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That the City Manager be, and he is hereby authorized and empowered to execute, for and on behalf of said City an Agreement with THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a corporation of the State of California, for the leasing of approximately 800 acres of submerged lands adjoining San Diego-La Jolla Underwater Park and Scripps Institute, for a term of fifty (50) years, at a rental of Fifty Dollars (\$50.00) for the term of the lease, for the purpose of scientific research and investigation consistent with those public uses which relate to commerce, navigation and fisheries, under the terms and conditions set forth in the form of Agreement, on file in the office of the City Clerk as Document No. 739564.

APPROVED: JOHN W. WITT, City Attorney

By Larry L. Marshall, Deputy

rb/1-18-72

Amris  
2-9-80

PY 1078 CITY OF SAN DIEGO

DOCUMENT 739897

RESOLUTION NO. 205290

ORDINANCE NO. \_\_\_\_\_

LENGTH OF LEASE: 50 years

BEGINNING 4-27-72

LEGAL DESCRIPTION: Submerged Lands adjoining S.D.-La Jolla Underwater Park

800 AC. WATER.

PROPERTY FILE CODE

H201RD/001

PURPOSE OF LEASE: Scientific research (Experimental Inshore

See Lease Map

Oceanographic Facility)

REMARKS: Either party may terminate on 1 year's notice after 4-26-77 if contract for construction has not been entered into.

BILLED BY: Property

DEPARTMENT: term

-ON-

FOR PERIOD IN Advance

CREDIT FUND 100

ACCOUNT 7580

RENTAL IS \$ 50.00

PER term

AND/OR \_\_\_\_\_

452-6556

ADDRESS 110 Matthews Campus, La Jolla, California 92037

PHONE Laura Long,

(NAME OF LESSEE)

(BRIEF LEGAL)

Director  
(EXPIRATION DATE)

THE REGENTS OF THE UNIVERSITY OF CALIF.

Submerged Lands

8/17/2036