

ORIGINAL

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT (Amendment) to the original lease of real property dated July 24, 1978 and on file as document No. 764102 (the "Lease") executed between the CITY OF SAN DIEGO, a California municipal corporation, hereinafter called "CITY", and the STATE OF CALIFORNIA, acting by and through the Department of Parks and Recreation, hereinafter called "STATE".

RECITALS

- A. The parties entered into the Lease wherein CITY leased to STATE real property known as San Pasqual Battlefield State Historical Park (the "Premises") consisting of approximately 47.7 acres.
- B. The Lease is in full force and effect, and neither CITY nor STATE has actual knowledge of any default or breach by the other under the Lease.
- C. The parties now desire to amend the Lease to include an additional approximate NINE (9) acres.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, CITY and STATE hereby agree as follows:

AMENDMENT TO LEASE PARAGRAPH NO.1

ADD: The lease area as set forth in the Lease is expanded from approximately 47.7 acres to include the adjacent approximate NINE (9) acres of City property as shown on Exhibit "A" attached hereto and made part of this Amendment. The amended total lease area is approximately 56.7 acres.

ADD: Operation of the San Pasqual Battlefield State Historic Park shall be expanded to include the operation of the San Diego Archaeological Center, a Federally licensed curatorial repository for archeological artifacts.

AMENDMENT TO LEASE PARAGRAPH NO.2

ADD: The term for the additional approximate NINE (9) acres shall commence following execution by the City Manager of this Amendment and shall terminate with the term of the Lease, July 23, 2033, unless terminated earlier pursuant provisions of the lease or lease amendment.

AMENDMENT TO LEASE PARAGRAPH NO. 3

ADD: Consideration, to the CITY, for the lease of the additional approximate NINE (9) acres, shall be a one time advance payment of \$48,000 to CITY from the STATE.

DOCUMENT NO. RR-299707

FILED OCT 04 2004
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

NEW PARAGRAPH NO.11

11. Water Rights. CITY reserves all of its right, title and interest in and to the water on the Leased Premises. There is hereby reserved to CITY, and STATE herein expressly agrees CITY shall have the right throughout the Lease Term to divert, impound, store and transport by means of dams, reservoirs, or by pumping any and all water, both surface and underground, which flows over, under or across the Leased Premises, together with the right to divert, inject, spread or percolate water in or through the soils beneath the surface of the Leased Premises. Nothing in the Lease or this Amendment shall result in the transfer of the CITY'S rights, title or interest in the water on the Leased Premises to any other person or entity.

NEW PARAGRAPH NO.12

12. Indemnity. STATE agrees to indemnify and defend CITY in the event of any claim, demand, causes of action, judgements, obligations, or liabilities, and all reasonable litigation and attorney's expenses which CITY may suffer as a direct and proximate result of the negligence or other wrongful act or violation of law by the STATE, it's employees, or any person or persons acting under the direct control and authority of the State or its employees, in connection with the STATE'S occupancy under and during the term of the Lease, whether or not such claim is ultimately proved meritorious and or successful, except to the extent that any such damages or expenses suffered by CITY are the result of CITY'S negligent or wrongful acts or any persons acting under or on behalf of the CITY and/or except where the STATE is found to have no liability by reason of any immunity arising by statute or common law in connection with the fulfillment of STATE'S constitutional and statutory public responsibilities.

NEW PARAGRAPH NO.13

13. Insurance to be carried by STATE. CITY understands and agrees to the following: STATE, has elected to be insured for its general liability exposures through a self-insurance program. The State Attorney General administers the general liability program through an annual appropriation from the General Fund. STATE warrants that it has entered into a master agreement with the State Compensation Insurance Fund to administer workers' compensation benefits for all State employees, as required by the Labor Code. STATE shall provide, at CITY request, proof of insurance coverage which shall be kept in force at all times during the term of the Lease and any extension thereof.

Notwithstanding the preceding paragraph, if STATE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, CITY has the right to declare this Lease in default, and CITY shall be entitled to exercise all legal remedies in the event of such default.

STATE shall report to CITY any accident causing more than Ten Thousand Dollars (\$10,000) worth of property damage or any serious injury to persons on the leased premises. This report shall contain the names and addresses of the parties involved, a statement of the

circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.

NEW PARAGRAPH NO. 14

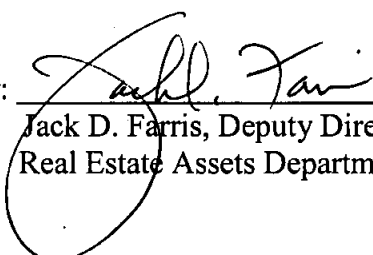
14. Maintenance. STATE shall at its own cost and expense keep and maintain all portions of the Leased Premises and all STATE improvements located on the Leased Premises in good order and repair and in a safe and clean condition satisfactory to CITY. STATE'S obligation to maintain the Leased Premises shall expressly include the maintenance of septic systems, access roads, buildings, fencing, tribal cemetery, and groundwater quality throughout the lease term.

This Amendment represents the desires of CITY and STATE to modify certain terms of the Lease and to add new terms to the Lease. All other terms and conditions of the Lease remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by CITY, acting by and through its City Manager, and by STATE, acting by and through its lawfully authorized officers.

LESSOR:

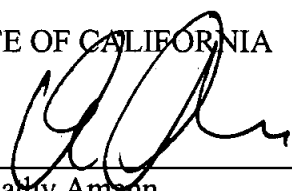
CITY OF SAN DIEGO, a California

By: 

Jack D. Farris, Deputy Director
Real Estate Assets Department

LESSEE:

STATE OF CALIFORNIA

By: 

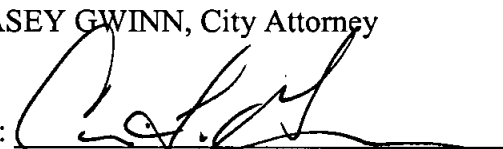
Kathy Amann
Acting Deputy Director/Northern Service
Center Manager
Acquisition and Development Division
Department of Parks and Recreation

Date: 8/30/04

Date: JUL 29 2004

APPROVED AS TO FORM AND LEGALITY, this 6th day of October, 2004

CASEY GWINN, City Attorney

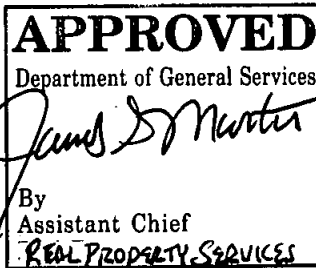
By: 

Carrie Gleeson, Deputy City Attorney

DCM:cj

6/22/04

I:\WPO\2004\MARTENS\Amendment,SPV,State Park.doc



#100

(R-2005-318)

RESOLUTION NUMBER R- 299707

ADOPTED ON OCT 04 2004

WHEREAS, effective July 24, 1978, the State of California, Department of Park and Recreation [the State], entered into a 55-year lease agreement with the City of San Diego to develop and operate the San Pasqual Battlefield State Historic Park on approximately 47.7 acres located in the San Pasqual Valley [the Lease]; and

WHEREAS, the City and the State propose to enter into a First Amendment to Lease to add approximately nine acres to the existing leasehold for the operation of the San Diego Archeological Center and to update the provisions of the Lease; and

WHEREAS, the additional nine acres were previously leased to the San Pasqual Union School District and include improvements such as classroom facilities, playground equipment, a bus barn, and a keepers house which will be used by the State in conjunction with the San Diego Archeological Center to preserve and curate artifacts and to promote the educational, cultural and scientific use of the collection; and

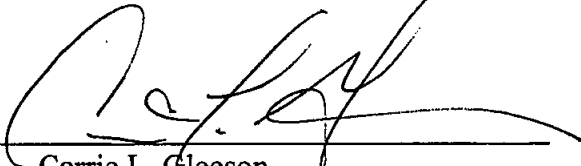
WHEREAS, under the terms of the proposed First Amendment to Lease, the State shall pay the City rent on the additional acreage for the balance of the lease term in the amount of \$48,000, in advance, and shall be responsible for the continued maintenance and improvement of the property and its facilities; and

WHEREAS, the City's valuation staff has determined that the one time advance payment of \$48,000 for the additional nine acres represents the fair market rent for the remainder of lease term which expires on July 23, 2033; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager or designee is authorized to execute, for and on behalf of the City of San Diego, the First

Amendment to Lease with the State of California, Department of Park and Recreation, to add approximately nine acres to the existing leasehold for the San Pasqual Battlefield State Historic Park under the terms and conditions set forth in that certain First Amendment to Lease on file in the office of the City Clerk as Document No. RR- 299707.

APPROVED: CASEY GWINN, City Attorney

By 
Carrie L. Gleeson
Deputy City Attorney

CG:mm
09/17/04
Or.Dept:READ
Job Order No.222438
R-2005-318
MMS-776

Passed and adopted by the Council of San Diego on October 04, 2004 by the following vote:

YEAS: **PETERS, ZUCCHET, ATKINS, MAIENSCHIN, FRYE, MADAFFER, INZUNZA, MAYOR MURPHY.**

NAYS: **NONE**

NOT PRESENT: **NONE**

VACANT: **DISTRICT FOUR**

AUTHENTICATED BY:

DICK MURPHY
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. **R-299707**, passed and adopted by the Council of The City of San Diego, California on October 04, 2004.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy
Manuel E. Ketcham

Exhibit A

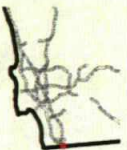
Existing Lease
(approx. 47.7 acres)

Amendment to Lease
(approx. 9 acres)

Amendment to Lease
(approx. 9 acres)



Vicinity Map



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Plot Date: 09/03/03

Exhibit C

Existing Lease
(approx. 47.7 acres)

Amendment to Lease
(approx. 9 acres)



Vicinity Map



SanGIS
We Have San Diego Covered!

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Plot Date: 09/10/03

Exhibit D

MHPA Area

Existing Lease
(approx. 47.7 acres)

Amendment to Lease
(approx. 9 acres)



1:6763

Vicinity Map



SanGIS
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THIS MAP IS PROVIDED AS A SERVICE TO OUR CLIENTS AND IS NOT A CONTRACT. THE CLIENT'S RESPONSIBILITY IS TO OBTAIN NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES AND TO VERIFY THE ACCURACY OF THE INFORMATION. THE INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THE INFORMATION IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF SANGIS.

Plot Date: 09/17/03