

RESOLUTION NO. 88-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIDGECREST APPROVING A LEASE AGREEMENT FOR A SPORTS COMPLEX AT KERN DESERT REGIONAL PARK.

WHEREAS, it is the desire of the Ridgecrest City Council to develop a sports complex in the Kern Regional Park and lease 20 acres from the County of Kern; and

WHEREAS, the City desires to provide for construction, maintenance, and operation of a recreational softball facility; and

WHEREAS, such improvements will be complimentary to the County's development of its own regional park.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ridgecrest that the City Administrator is hereby authorized to sign the Agreement for a sports complex at Kern Desert Regional Park attached hereto as Exhibit "A".

APPROVED AND ADOPTED this 17th day of February, 1988, by the following vote:

AYES: Mayor Mower, Councilmembers Wiknich, Bergens, Condos and Corlett.

NOES: None.

ABSTAIN: None.

ABSENT: None.

*Michael R. Mower*  
\_\_\_\_\_  
Michael R. Mower, Mayor

ATTEST:

*Joyce M. Taft*  
\_\_\_\_\_  
Joyce M. Taft, City Clerk

FOR

SPORTS COMPLEX AT KERN DESERT REGIONAL PARK

(County of Kern - City of Ridgecrest)

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THIS LEASE, executed this 1st day of March, 1988, by and between the COUNTY OF KERN, a political subdivision of the State of California (hereinafter "County"), and the CITY OF RIDGECREST, a municipal corporation of the State of California (hereinafter "City"),

W I T N E S S E T H:

WHEREAS, County owns and operates a public park in the County of Kern, known as Kern Desert Regional Park, for the purpose of making available to the public the facilities and area thereof for recreational purposes; and

WHEREAS, City desires to provide for construction, maintenance, and operation of a recreational softball facility; and

WHEREAS, such improvements will be complimentary to the County's development of its own regional park adjacent to such facility; and

WHEREAS, operation and use of the property are subject to the Cameron-Unruh Beach, Park, Recreational and Historical Facilities Bond Act of 1964 and the Community Park Land Act of 1986;

NOW, THEREFORE, IT IS MUTUALLY AGREED, as follows:

- Premises: County, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to City, and City hereby hires from County, those certain premises situated in the City of Ridgecrest in the County of Kern, State of California, more particularly described by metes and bounds "Description" dated March 26, 1982, stamped Exhibit "A", and delineated in red on map entitled "Sports Complex Site" dated

1 March 26, 1982, stamped Exhibit "B". Both exhibits being  
2 attached hereto and by this reference incorporated herein.

3           2. Term: The term of this Lease shall be for thirty  
4 (30) years, commencing on the 1st day of July, 1987, and  
5 terminating on the 30th day of June, 2017. In the event City  
6 acquires ownership of the premises, at any time during the term  
7 of this Lease, this Lease shall terminate on the date of such  
8 transfer of ownership and be of no further effect.

9           3. Holding Over: In the event City holds over after  
10 the term herein granted, with the expressed or implied consent  
11 of County, such holding over shall be a tenancy only from month  
12 to month, and shall be governed by the terms, covenants, and  
13 conditions contained in this Lease.

14           4. Purpose: This Lease is made in order that the  
15 premises be used for construction, maintenance and operation of  
16 a sports complex for the purpose of providing softball and  
17 soccer fields, concession stands and related facilities for use  
18 by the general public. City shall not use the premises, or any  
19 part thereof, or permit them to be used for any purpose or  
20 purposes other than the purpose specified herein. City shall  
21 not do or permit to be done upon the premises any act or thing  
22 which constitutes a nuisance or which may disturb the quiet  
23 enjoyment of County or any tenant of County on adjacent or  
24 neighboring property.

25           City agrees, within five (5) working days after  
26 receiving written notice by the County that a nuisance exists,  
27 to abate the nuisance or otherwise cause it to be cured.

28           If City has not taken corrective action within five  
29 (5) working days, County may enter and abate the nuisance at  
30 the expense of City without liability whatsoever to City for  
31 monetary loss or anticipated profits of City or others.

32           5. Proceeds: All monies derived from any and all

1 activities relative to the purpose of this Lease shall be  
2 reinvested in City's operations on the premises except those  
3 monies paid to County as provided in Paragraph 6 hereof. If  
4 reinvestment of all proceeds from the activities herein  
5 described into City's operations on the premises should prove  
6 unfeasible, then the proceeds shall be paid to County as rent,  
7 upon City's determination not to reinvest the proceeds as  
8 provided above. The payment(s) shall be made to County's  
9 Director of Parks and Recreation. The term "reinvestment" for  
10 the purpose of this Lease shall include capital investment, and  
11 both direct and reasonable indirect maintenance and operation  
12 expenses. Reinvestment shall also include deposit of funds  
13 into a reserve account held solely for capital investment to  
14 improve the premises, provided that such funds shall, upon  
15 withdrawal, either be used for such capital investment or paid  
16 to the County as rent.

17 City shall supply County's Director of Parks and  
18 Recreation, not later than sixty (60) calendar days after the  
19 close of City's fiscal year, for each fiscal year during the  
20 term hereof, a financial report showing all income and expenses  
21 from City's operations on the premises. County may, at any  
22 time upon notice to City, examine City's accounts, books and  
23 records of income and expenses from all activities relative to  
24 City's operations on the premises. City shall make the  
25 accounts, books and records available to County.

26 6. Payments to County: City shall pay County, in  
27 lawful money of the United States, without deduction or offset,  
28 to County's Director of Parks and Recreation or to such person  
29 or persons and at such place or places as may be designated  
30 from time to time by County, the following:

31 During the first five (5) years of this Lease, City  
32 shall pay County six percent (6%) of gross sales of food,

1 beverages and sundries sold on the premises. The payment  
2 shall be payable monthly, in arrears, and shall be  
3 received by County on or before the 15th day of each month  
4 throughout the term of this Lease or any extension  
5 thereof. The payment due County, for the last month  
6 during which this Lease is in effect, shall be received by  
7 County on or before the 15th day of the month following  
8 the month in which this Lease is terminated.

9 At the end of the first five (5) year period and at  
10 the end of each subsequent five (5) year period of this  
11 Lease, County may, upon providing City with written  
12 notice, adjust the percentage amount received by County of  
13 City's gross sales of food, beverages and sundries. Such  
14 an increase shall not exceed 100% of the percentage amount  
15 for the five (5) year period immediately preceding  
16 without written explanation. Upon receipt from County of  
17 written notice of the adjustment in said payments, City  
18 shall have thirty (30) calendar days within which to  
19 object in writing thereto, whereupon County and City shall  
20 meet together in an endeavor to reach an agreement on a  
21 mutually satisfactory payment for the next succeeding five  
22 (5) year period. If the parties fail to agree within  
23 thirty (30) calendar days from and after City's filing of  
24 its objection, then City shall either accept the adjusted  
25 payment or shall, within fifty (50) calendar days from and  
26 after City's filing of its objection, appeal to the Board  
27 of Supervisors of County for its decision as to the amount  
28 of adjusted payment, and whose decision in the matter  
29 shall be final.

30 All such monies received by County from City shall be  
31 kept in a separate fund. The fund shall be used to finance  
32 capital improvements at Kern Desert Regional Park.

1                   7. Condition of Premises: City has inspected the  
2 premises and knows the extent and condition thereof and accepts  
3 it in its present condition, subject to and including all  
4 defects, latent and/or patent.

5                   8. Construction: City shall construct and maintain,  
6 to the satisfaction of County's Director of Parks and  
7 Recreation, improvements to accommodate the stated purpose of  
8 this Lease as provided in Paragraph 4 hereinabove.  
9 Construction shall commence within twelve (12) months after the  
10 execution date of this Lease.

11                   Before commencing any construction and within six (6)  
12 months from the execution date of this Lease, City shall  
13 prepare and submit for review and approval by County's Director  
14 of Parks and Recreation and County's Director of Planning and  
15 Development Services two (2) sets of plans and specifications  
16 for the structures, landscaping, and the manner in which City  
17 is to connect to utilities. The plans and specifications shall  
18 include details of each phase of development if development is  
19 to be undertaken in phase steps. Within thirty (30) calendar  
20 days thereafter, City shall be notified of approval,  
21 disapproval, or recommended modification of the plans and  
22 specifications, and City shall thereupon have thirty (30)  
23 calendar days in which to resubmit the appropriately revised  
24 plans and specifications or appeal in writing to the Board of  
25 Supervisors of the County of Kern for the Board's approval or  
26 disapproval of the plans and specifications; it being  
27 understood and agreed that said Board's decision shall be  
28 final. Upon approval by the above of the plans and  
29 specifications, City shall diligently carry through the  
30 construction thereof to completion.

31                   Prior to any construction on the premises, City shall  
32 obtain all necessary permits, licenses and entitlements and

1 shall obtain environmental clearance for construction of the  
2 premises, including preparation of an environmental impact  
3 report if necessary. City shall indemnify and hold harmless  
4 County against all claims, costs, causes of action, demands,  
5 attorney's fees, damages or liabilities resulting from City's  
6 failure to comply with any such laws.

7 City knows that construction on the premises will  
8 come within the definition of "public works" contained in the  
9 prevailing wage requirements of the Labor Code (Chapter 1, Part  
10 7, Division 2, commencing with Sec. 1720). City and all  
11 contractors and subcontractors employed in the construction on  
12 the premises shall pay not less than the general prevailing  
13 rate of per diem wages and the general prevailing rate for  
14 overtime and holiday work to all workers employed in the  
15 construction. The prevailing rate for each craft,  
16 classification and type of work is determined by the Director  
17 of the California Department of Industrial Relations, and its  
18 schedule of prevailing rates is on file and available for  
19 inspection at the Public Works Department of County. The  
20 schedule, and any subsequent schedule issued before  
21 construction is commenced, is incorporated herein by reference.  
22 City shall be responsible for the keeping of accurate records  
23 of payments to workers as is required by the Labor Code.

24 9. Maintenance: After construction of any  
25 improvements, City shall keep them in a good state of repair by  
26 a program of systematic maintenance, repair and painting.  
27 During the term of this Lease, County's Director of Parks and  
28 Recreation may notify City in writing wherein City has failed  
29 to maintain the improvements in a good state of repair. City  
30 shall make such corrections in the time and manner prescribed  
31 by the Director of Parks and Recreation, or if City disagrees,  
32 City may appeal, within fifteen (15) calendar days from the

1 date of notice from the Director of Parks and Recreation, to  
2 the Board of Supervisors concerning such request for  
3 maintenance; it being understood and agreed that the decision  
4 of the Board of Supervisors shall be final.

5 10. Utility Extension or Modification: City shall  
6 pay all expenses that may be incurred in obtaining the  
7 extension of public utility services to the premises from  
8 existing utility facilities or any modification of them.

9 11. Utilities: City shall pay during the term of  
10 this Lease, or any holding over, all utilities used by City.  
11 The term "utilities", as used herein, shall include, but is not  
12 limited to gas, electricity, water, sewer, telephone, and trash  
13 and refuse disposal service.

14 12. Damage or Destruction of Premises: If the  
15 improvements situated on the premises are damaged or destroyed,  
16 to the extent that normal operations of City cannot be  
17 continued, this Lease may be terminated at the option of either  
18 party effective on the date of such damage or destruction.

19 However, County may exercise its option only if City  
20 fails to notify County in writing within thirty (30) calendar  
21 days after the damage or destruction and of City's intention to  
22 repair or rebuild.

23 13. Taxes and Assessments: City shall pay all taxes  
24 and/or assessments levied by any governmental agency upon any  
25 interest acquired by City under the terms of this Lease. City  
26 is aware that certain possessory interests may be created by  
27 entering into this Lease and that such interests may be subject  
28 to property taxation, and that City may be subject to payment  
29 of property taxes levied on such interests.

30 14. Compliance with Law: City shall, at its  
31 expense, promptly comply with all laws, ordinances, rules,  
32 regulations, requirements, and orders whatever, present or

1 future, of the national, state, county, or city government  
2 which may in any way apply to the use, maintenance, occupation  
3 of, or operations on the premises.

4           15. Workers' Compensation: City shall observe the  
5 Workers' Compensation Act of this State and will indemnify and  
6 save and hold harmless County from all liability under that  
7 Act.

8           16. Liens and Encumbrances: City shall keep the  
9 premises and all improvements situated thereon free from any  
10 liens or encumbrances arising out of any work performed,  
11 material furnished, or obligations incurred by City, or from  
12 any other cause.

13           17. Negation of Partnership: County shall not  
14 become or be deemed a partner or joint venturer with City, or  
15 associate in any relationship with City other than that of  
16 landlord and tenant by reason of the provisions of this Lease,  
17 nor shall City for any purpose be considered an agent, officer,  
18 or employee of County; and to whatever extent County, its  
19 agents, officers or employees may be deemed to be associated  
20 with City or its agents, officers or employees because of any  
21 activity or operation pursued by City or its agents, officers  
22 or employees on the premises, then to such extent City shall be  
23 deemed an independent contractor of County.

24           18. Right of Inspection: County may enter upon the  
25 premises at all reasonable times to inspect the premises and  
26 City's operations thereon. County reserves all rights in and  
27 with respect to the premises, not inconsistent with City's use  
28 of the premises as in this Lease provided, including (without  
29 limiting the generality of the foregoing) the right of County  
30 to enter upon the premises for the purpose of installing,  
31 using, maintaining, renewing, and replacing such underground  
32 oil, gas, water, sewer, and other pipelines, and such

1 underground or above-ground telephone, telegraph, and electric  
2 power conduits or lines as County may deem desirable in  
3 connection with the development or use of the premises or any  
4 other property in the neighborhood of the premises. County  
5 shall compensate City for any damage to City's improvements and  
6 personal property caused by the exercise of the rights reserved  
7 in this paragraph.

8           19. Indemnification: Pursuant to Government Code  
9 Section 895.4, City shall indemnify and hold County harmless  
10 from any damage or liability caused by the negligent acts or  
11 omissions of City, its agents, officers, or employees in  
12 connection with City's activities under this Lease, and County  
13 shall indemnify and hold City harmless from any damage or  
14 liability caused by the negligent acts or omissions of County,  
15 its agents, officers or employees in connection with County's  
16 activities under this Lease.

17           City shall require any sublessees which operate on  
18 the premises to provide, in writing to County's Director of  
19 Parks and Recreation, a statement obligating themselves to the  
20 indemnification promises immediately following this sentence.  
21 Sublessee shall indemnify, defend (upon request by County) and  
22 save harmless County, its agents, officers, and employees, and  
23 each of them, from all losses, costs, expenses, claims,  
24 liabilities, actions, or damages, including liability for  
25 injuries to person or persons, or damage to property of third  
26 persons arising out of or in any way connected with the  
27 conducting or operation of sublessee's business on the premises  
28 during the term of this Lease or any holding over.

29           20. Liability insurance: City shall maintain a  
30 self-insurance program satisfactory to County and sufficient to  
31 protect County against all claims and liabilities for death,  
32 injury, loss or damage due to or in any way connected with

1 City's operations, performance, actions or omissions to act  
2 pursuant to or in reliance upon the terms and conditions of  
3 this Lease.

4 County reserves the right to require at any time that  
5 City acquire and maintain Combined Single Limits Comprehensive  
6 General Liability insurance coverage satisfactory in form to  
7 County, and in such an amount as may be found by County to  
8 satisfactorily secure County against liabilities and risks  
9 incurred by County by virtue of entering into this Lease.

10 City shall notify County in writing no later than  
11 thirty (30) calendar days after City implements any change or  
12 modification to its self-insurance program.

13 Any sublessees, to protect County, its agents,  
14 officers and employees against all claims and liability for  
15 death, injury, loss or damage as a result of sublessee's (a)  
16 use of and operations on the premises or in connection  
17 therewith; or (b) construction or removal of any improvements  
18 on the premises or in connection therewith, shall secure and  
19 maintain in force from the date of execution of the Sublease  
20 Agreement and during the term thereof and covering all of the  
21 sublessee's operations and activities on the premises, Single  
22 Limits Comprehensive General Liability insurance, in an amount  
23 satisfactory to County's Parks and Recreation Director, with  
24 combined liability for personal injury and property damage with  
25 a reliable insurance carrier authorized to do such combined  
26 liability insurance business in the State of California. The  
27 insurance policy, or policies, shall contain contractual  
28 liability, liquor liability (if applicable) and products  
29 liability coverage. The policy, or policies, shall expressly  
30 name County, its agents, officers and employees as additional  
31 insureds.

32 21. Construction Insurance: Prior to the

1 commencement of any construction or work of improvement on the  
2 premises, City shall furnish to County's Director of Parks and  
3 Recreation evidence that sufficient monies will be available to  
4 complete City's proposal. County and City hereby agree that  
5 such evidence shall represent at least the total estimated cost  
6 of construction and that such evidence may take one of the  
7 following forms:

8 (A) A Performance Bond and a Labor and Materials Payment  
9 Bond or a Performance Bond which contains the  
10 provisions of a Labor and Materials Payment Bond to  
11 be supplied by City's contractor or contractors and  
12 issued jointly to City and County as OBLIGEE. City's  
13 contractor or contractors shall also submit to County  
14 a Certificate of Insurance as evidence of Workers'  
15 Compensation Insurance coverage.

16 (B) An Irrevocable Letter of Credit or other form of  
17 Banker's Assurance issued to County from a financial  
18 institution licensed to do business in the State of  
19 California and covered by Federal Depository  
20 Insurance which shall remain in effect until County  
21 acknowledges satisfactory completion of construction.

22 (C) An automatically renewable Time Certificate of  
23 Deposit made payable to County issued by a financial  
24 institution licensed to do business in the State of  
25 California and covered by Federal Depository  
26 Insurance which shall remain in effect until County  
27 acknowledges completion of construction.

28 All Bonds, Letters of Credit and/or Time Certificates shall be  
29 acceptable to County in content and in form and shall insure  
30 City's faithful performance of the terms and conditions of this  
31 Lease which relate to the construction of improvements on the  
32 premises.

1           After City has constructed the improvements or any  
2 part thereof, as set forth in Paragraph 7 above, those  
3 improvements shall be security for the performance of the terms  
4 and conditions of this Lease.

5           Without limiting the requirements and terms set forth  
6 in Paragraph 20, if County determines that City is financially  
7 unable to diligently complete the improvements as provided in  
8 Paragraph 7 hereof, County may, at its option and by giving  
9 thirty (30) calendar days written notice to City, terminate  
10 this Lease and all rights and interests of City and all other  
11 persons under this Lease without obligation or liability on the  
12 part of County.

13           22. Notices: All notices herein provided to be  
14 given, or which may be given, by either party to the other  
15 shall be deemed to have been fully given when made in writing  
16 and deposited with the United States Postal Service, Registered  
17 or Certified, postage prepaid and addressed as follows:

18           To the City:     City Manager  
19                             City of Ridgecrest  
                              139 Balsam Street  
20                             Ridgecrest, California 93555

21           To the County: County of Kern  
22                             Director of Parks and Recreation  
                              1110 Golden State Avenue  
                              Bakersfield, California 93301

23                             and

24                             General Services Department  
25                             Property Management Division  
                              1430 Truxtun Avenue, Suite 501  
26                             Bakersfield, California 93301

27           The address to which the notices shall be mailed, as aforesaid,  
28 to either party may only be changed by written notice given by  
29 such party to the other, as hereinbefore provided, but nothing  
30 herein contained shall preclude the giving of any such notice  
31 by personal service.

32           23. Performance Standards: City shall perform its

1 obligations hereunder to the sole satisfaction of County's  
2 Director of Parks and Recreation.

3           24. Assignment and Subletting: This Lease shall be  
4 binding upon and shall inure to the benefit of the heirs,  
5 administrators, executors, successors, and assigns of the  
6 respective parties hereto. City shall not and City agrees that  
7 it will not sublet the premises, or any part thereof, or  
8 assign, transfer, mortgage, or otherwise convey this Lease or  
9 any right or interest created thereby without the prior written  
10 consent of County's Director of Parks and Recreation. The  
11 Director may, at his discretion, refer City's request to  
12 sublease the premises, or any part thereof, assign, transfer,  
13 mortgage, or otherwise convey this Lease to County's Board of  
14 Supervisors for the Board's approval.

15           If City sublets, assigns, transfers, mortgages, or  
16 otherwise conveys this Lease or any right or interest created  
17 thereby or attempt to do so in violation of the foregoing  
18 provision, in addition to all other rights and remedies  
19 available to it, County may, at its option by written notice to  
20 City, either declare such sublease, assignment, transfer,  
21 mortgage, or other conveyance void, or terminate this Lease and  
22 all rights and interest of City and all other persons  
23 hereunder. Any consent by County to any sublease, assignment,  
24 transfer, mortgage, or conveyance shall not be deemed or  
25 construed as a consent to any other different or subsequent  
26 sublease, assignment, transfer, mortgage or conveyance. This  
27 paragraph shall not be construed to limit any right or remedy  
28 which County may become entitled to as a matter of law or by  
29 reason of the action(s) or failure(s) to act of City.

30           25. Breach by City: If City breaches any term,  
31 condition, or agreement herein contained, (other than the  
32 nuisance provisions in Paragraph 4 hereof), and fails to cure

1 such breach within thirty (30) calendar days after written  
2 notice has been given to City by County, then this Lease and  
3 its privileges shall be terminated and be of no further force  
4 or effect. City shall immediately surrender possession of the  
5 premises hereby granted. If County resorts to legal action to  
6 enforce any provisions hereof, or to obtain restitution  
7 hereunder, the prevailing party in any such action shall be  
8 entitled to its reasonable attorney's fees to be paid by the  
9 losing party as fixed by the Court. Providing further, that if  
10 City breaches this Lease and abandons the premises before the  
11 end of the term, or if City's right to possession is terminated  
12 by County because of a breach of this Lease, County may recover  
13 from City as provided in State of California Civil Code Section  
14 1951.2. Damages County may recover shall include the worth at  
15 the time of award of the amount by which the unpaid rent for  
16 the balance of the term after the time of award exceeds the  
17 amount of such rental loss for the same period that the City  
18 proves could be reasonably avoided. This clause shall not be  
19 construed to limit any right or remedy which County may become  
20 entitled to as a matter of law or become entitled to by reason  
21 of the action(s) or failure(s) to act of City.

22           26. Waiver of Breach: Waiver by County of any  
23 breach by City of any provision contained herein shall not be  
24 deemed to be a waiver of such provision, or a waiver of any  
25 other prior or subsequent breach thereof, or a waiver of any  
26 breach of any other provision contained herein.

27           27. Quiet Possession: County hereby covenants and  
28 agrees with City that City, while keeping and performing the  
29 covenants and agreements herein contained on the part of City  
30 to be kept and performed, shall at all times during the term of  
31 this Lease peaceably and quietly have, hold, and enjoy the  
32 premises without suit, trouble, or hindrance from County.

1           28. Surrender of Premises: On the last day of the  
2 term, or extension thereof, or sooner termination of this  
3 Lease, City shall peaceably and quietly leave, surrender, and  
4 yield up to County the premises in as good a condition and  
5 repair as at the commencement of City's occupancy; reasonable  
6 use and wear thereof, and damage by earthquake, public  
7 calamity, by the elements, by act of God, or by fire or other  
8 circumstances over which City has no control, excepted.

9           29. Removal of Improvements at Termination: Upon  
10 termination of this Lease County has the option to claim  
11 ownership of any or all improvements, equipment or fixtures  
12 placed on the premises by City or its contractors. If County  
13 does claim such ownership City shall, within thirty (30)  
14 calendar days after demand by County, convey title to such  
15 improvements, equipment or fixtures by whatever documents  
16 deemed necessary by County. It is specifically provided that  
17 County may utilize the improvements, equipment, or fixtures for  
18 any purpose it deems appropriate, whether similar to City's  
19 operations or otherwise.

20           If County does not claim ownership of the improve-  
21 ments, equipment or fixtures, City, at its sole expense, shall  
22 remove them and restore the premises to the condition existing  
23 prior to construction or placement of the improvements,  
24 equipment, and fixtures, or to a condition satisfactory to  
25 County's Director of Parks and Recreation. If City fails to  
26 remove the improvements, equipment or fixtures and restore the  
27 premises to a condition acceptable to County, County may do the  
28 work at the expense of City. The expense shall include  
29 consideration for the additional time City or its improvements,  
30 equipment or fixtures occupy the premises beyond the  
31 termination date and disallow the County's total utilization of  
32 the premises pursuant to its ownership of the property.

1           30. User Fees: City shall not charge fees for use  
2 of the premises in excess of those fees charged by the State  
3 Department of Parks and Recreation for use of similar  
4 facilities.

5           31. Nondiscrimination (State Provision): City shall  
6 not discriminate against any person on the basis of residence  
7 except to the extent that reasonable differences in admission  
8 or other fees may be maintained on the basis of residence and  
9 pursuant law.

10          32. Hold Harmless:

11          (a) City hereby waives all claims and recourse against  
12 the State of California ("State") including the right  
13 to contribution for loss or damage to persons or  
14 property arising from, growing out of or in any way  
15 connected with or incident to this agreement except  
16 claims arising from the concurrent or sole negligence  
17 of the State, its officers, agents, and employees.

18          (b) The applicant (County) shall indemnify, hold harmless  
19 and defend the State, its officers, agents and  
20 employees against any and all claims, demands,  
21 damages, costs, expenses or liability costs arising  
22 out of the acquisition, development, construction,  
23 operation or maintenance of the premises, which  
24 claims, demands, or causes of action arise under  
25 Government Code Section 895.2 or otherwise, except  
26 for liability arising out of the concurrent or sole  
27 negligence of the State, its officers, agents, or  
28 employees.

29          (c) In the event the State is named as a codefendant  
30 under the provisions of Government Code Section 895  
31 et seq., the City shall notify the State of such fact  
32 and shall represent the State in the legal action

1 unless the State undertakes to represent itself as  
2 codefendant in such legal action; in which event the  
3 State shall bear its own litigation costs, expenses,  
4 and attorney's fees.

5 (d) In the event of judgment entered against the State  
6 and City because of the concurrent negligence of the  
7 State and City, their officers, agents or employees,  
8 an apportionment of liability to pay such judgment  
9 shall be made by a court of competent jurisdiction.  
10 Neither party shall request a jury apportionment.

11 33. Nondiscriminatory Hiring During Construction:

12 During the performance of this contract, the City or  
13 its contractors agree as follows:

14 (a) Not to discriminate against any employee or applicant  
15 for employment because of race, creed, color, or  
16 national origin. The City or its contractors will  
17 take affirmative action to ensure that applicants are  
18 employed, and that employees are treated during  
19 employment, without regard to their race, creed,  
20 color, or national origin. Such action shall  
21 include, but not be limited to, the following:  
22 employment, upgrading, demotion or transfer;  
23 recruitment advertising; layoff or termination; rates  
24 of pay or other forms of compensation; and selection  
25 for training, including apprenticeship. The City or  
26 its contractors agree to post in conspicuous places,  
27 available to employees and applicants for employment,  
28 notices to be provided by the contracting officer  
29 setting forth the provisions of this  
30 nondiscrimination clause.

31 (b) The City or its contractors will, in all solicita-  
32 tions or advertisements for employees, placed by or

1 on behalf of the contractor, state that all qualified  
2 applicants will receive consideration for employment  
3 without regard to race, creed, color, or national  
4 origin.

5 34. State Bond Act of 1964: This Lease is subject  
6 to the provisions of any agreement for grant money entered into  
7 on August 6, 1968, between the State and County, and any  
8 subsequent amendments or modifications of that contract.

9 35. Incorporation of Prior Agreements and  
10 Amendments: This Lease contains all agreements of the parties  
11 with respect to any matter mentioned herein. No prior  
12 agreement or understanding pertaining to any such matter shall  
13 be effective. This Lease may be modified in writing only,  
14 signed by the parties in interest at the time of the  
15 modification.

16 36. Severability: The invalidity of any provision  
17 of this Lease, as determined by a Court of competent juris-  
18 diction, shall in no way affect the validity of any other  
19 provision hereof.

20 37. Venue: If either City or County initiates an  
21 action to enforce the terms hereof or declare rights hereunder,  
22 including actions on any bonds and/or surety agreements, the  
23 venue thereof shall be the County of Kern, State of California.

24 38. Construed Pursuant to California Law: The  
25 provisions of this Lease will be construed pursuant to the laws  
26 of the State of California.

27 39. Captions: Paragraph headings in this Lease are  
28 used solely for convenience, and shall be wholly disregarded in  
29 the construction of this Lease.

30 40. Covenants and Conditions: Each provision of

31 / / /

32 / / /

1 this Lease performable by City shall be deemed both a covenant  
2 and a condition.

3 41. Time of Essence: Time is hereby expressly  
4 declared to be the essence of this Lease and of each and every  
5 provision thereof, and each such provision is hereby made and  
6 declared to be a material, necessary, and essential part of  
7 this Lease.

8 IN WITNESS WHEREOF, the parties hereto have executed  
9 this Lease on the day and year first hereinabove written.

10  
11 COUNTY OF KERN

12 By Roy Osburn  
13 Chairman, Board of Supervisors

14 "County"

15  
16 CITY OF RIDGECREST

17 By Danue Behrman  
18 Title City Administrator

19 By \_\_\_\_\_

20 Title \_\_\_\_\_

21 "City"

22 APPROVED AS TO CONTENT:  
23 General Services Department  
24 Property Management Division

25 By Ed Fisher

26 APPROVED AS TO CONTENT:  
27 Parks and Recreation Department

28 By Frank A. [Signature]  
29 Director

30 APPROVED AS TO FORM:  
31 Office of the County Counsel

32 By [Signature]  
Deputy

D E S C R I P T I O N

KERN DESERT REGIONAL PARK  
Proposed Lease-City of Ridgecrest

All that portion of Section 34, Township 26 South, Range 40 East, MDM, County of Kern, State of California, being a parcel of land described as:

Commencing at the centerline intersection of Prospect Street with French Avenue as shown on map of Kern Desert Regional Park on file in the Office of the Kern County Surveyor, from which the centerline intersection of East Las Flores Avenue and French Avenue bears South 42° 17' 10" West;

THENCE (1) North 47° 42' 50" West, 40 feet to the Northwest line of said French Avenue;

THENCE (2) North 42° 17' 10" East along said line, 18 feet to the true point of beginning;

THENCE (3) North 47° 42' 50" West, 265 feet;

THENCE (4) South 42° 17' 10" West, 18 feet;

THENCE (5) North 47° 42' 50" West, 685.305 feet;

THENCE (6) North 40° 24' 56" East, 295.476 feet;

THENCE (7) North 42° 17' 10" East, 638.4 feet;

THENCE (8) South 47° 42' 50" East, 717.82 feet;

THENCE (9) South 0° 02' 10" West, 360.107 feet to said Northwesterly line of French Avenue;

THENCE (10) South 42° 17' 10" West, along said Northwesterly line 649.161 feet to the true point of beginning.

Containing 19.69 Acres.

March 26, 1982

EXHIBIT "A"

