

## Report to Monterey County Board of Supervisors

| <u>SUBJECT</u>   | <u>BOARD<br/>MEETING<br/>DATE</u> | <u>AGENDA<br/>NUMBER</u> |
|--|-----------------------------------|--------------------------|
| APPROVE AGREEMENT BETWEEN THE COUNTY OF MONTEREY AND THE CITY OF SALINAS FOR USE OF COUNTY PROPERTY FOR RECREATIONAL ACTIVITIES, PARKING AND A VIETNAM VETERANS MEMORIAL AND VETERANS PARK | 11-1-94<br>11:55 a.m.             |                          |
| <u>DEPARTMENT</u> County Administrative Office   |                                   |                          |

### RECOMMENDATIONS

It is recommended the Board of Supervisors:

1. Approve agreement with the City of Salinas and Monterey County Vietnam Veterans Memorial Committee;
2. Authorize Chairwoman to sign agreement on behalf of the County.

### SUMMARY

The recommended agreement provides for the County leasing approximately 34 acres of County property to the City of Salinas for 25 years, for the purpose of allowing the City to develop the property for soccer fields and other recreational uses. In addition, this agreement allows for the establishment of a Vietnam Veterans Memorial and a Veterans Park on the leased site.

This agreement has been negotiated, reviewed and is recommended by the Board of Supervisors Finance and Capital Improvement Committee. This agreement represents a partnership between the Board of Supervisors, City Council and Vietnam Veterans Committee for the benefit of the community.

### DISCUSSION

The recommended agreement between the County of Monterey, City of Salinas and the Vietnam Veterans Memorial Committee allows for the development of soccer fields, parking, Vietnam Veterans Memorial site, and Veterans Park, on approximately 34 acres of County owned land. The site for this project is generally located north of east Laurel Drive between Constitution Boulevard and the County corporation yard. The site is across Constitution Boulevard from the Natividad Hospital Modernization Project.

The agreement is for 25 years and requires the City take action to develop the property for recreational uses by an investment of a minimum of \$150,000 within two years of the signing of the agreement. The agreement provides for the City to develop the property, establish the recreational programs and assume liability and responsibility for the project. The agreement provides equal access to programs offered on the site to both City and County residents.

The agreement acknowledges the County intends on developing the area to the north of the leased area at some future date for County facilities or commercial use. This property because of its access, location, and visibility is considered to have considerable future development potential.

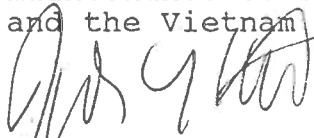
The agreement provides for conveyance of the Vietnam Veterans Memorial Site and Veterans Park to the Vietnam Veterans Memorial Committee upon development of a permanent memorial. The City of Salinas by this agreement assumes liability, scheduling and landscape maintenance responsibilities for the memorial site and park.

#### OTHER AGENCY INVOLVEMENT

The Board's Finance and Capital Improvement Committee has negotiated, reviewed and recommends this agreement. The City of Salinas and the Vietnam Veterans Memorial Committee recommends approval. County Counsel and the City Attorney have approved the agreement as to form. The County Parks Director, Facilities and Construction Manager, and Purchasing Manager have assisted in reviewing the agreement.

#### FINANCING

Approval of this agreement is not expected to have cost implications for the County. Development costs, liability, and operating and maintenance cost, will be the responsibility of the City of Salinas and the Vietnam Veterans Memorial Committee.



JOSEPH L. HART  
Principal Administrative Analyst  
October 27, 1994

JH:lm oc

cc: Alan Styles, Mayor, City of Salinas  
Jesse Armenta, Vietnam Veterans Memorial Committee

AGREEMENT NO. A-06719

AGREEMENT FOR USE OF COUNTY PROPERTY FOR  
RECREATIONAL ACTIVITIES PARKING AND A  
VIETNAM VETERAN MEMORIAL SITE AND VETERANS PARK

THIS AGREEMENT made as of this 1st day of November, 1994, by and between the County of Monterey ("County"), a general law county in the State of California, the City of Salinas ("City"), a charter city in the State of California and the Monterey County Vietnam Veterans Memorial Committee, a 501C3 non-profit corporation in the State of California.

THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

1. RECITALS. The following recitals are true and correct and the parties, and each of them, so find and declare:

1.1. The County owns approximately 34.5 acres of vacant, unimproved real property (Premises") located east of Constitution Boulevard in the City of Salinas, as shown as PARCEL 1 on the map attached hereto as EXHIBIT A.

1.2. The City has a substantial unmet need for outdoor recreation areas and has requested to use the Premises for sports fields, parking, concession, spectator, and restroom areas.

1.3. The City on behalf of the Monterey County Vietnam Veterans Memorial Committee has requested use of a portion of the site for the establishment of a Vietnam Veterans Memorial Site and Veterans Park.

1.4. The County is willing to allow the City to use the premises for recreational uses and related parking, concession, spectator, and restroom areas as well as for the establishment of a Vietnam Veterans Memorial Site and Veterans Park on the terms and conditions set forth herein.

1.5. The County and City have determined that this agreement is in the best interests of the public and of their respective residents.

2. USE OF PREMISES. The County hereby agrees to allow the City exclusive use of, and the City agrees to use, the Premises identified as PARCEL 1 on the map attached hereto as EXHIBIT A as specified herein, solely for the purposes described in the recitals to this agreement.

2.1. Waste; Nuisance. The City shall not use the Premises in any manner that will constitute waste, nuisance, or unreasonable annoyance to owners or occupants of the Premises or adjacent properties.

The City shall take all reasonable precautions, including, but not limited to the installation of appropriate design features, imposing appropriate conditions on any permit, license, or other entitlement for use, or the provision of

appropriate security, to ensure that persons using the Premises will not trespass on any County property adjacent or near the Premises or in any way interfere with or hinder any employee, officer, agent, licensee, or permittee of the County accessing, occupying, or using any County property adjacent or near the Premises. For the purpose of this paragraph, "County property adjacent or near the Premises" includes, but is not limited to, Natividad Hospital, the County Jail, Sheriff's Office, or the County Cooperation Yard.

2.2 Site Committee. A Site Committee, consisting of the following membership shall be established:

Monterey County Parks Director  
City of Salinas Recreation-Park Director  
Representative of Vietnam Veterans' Memorial  
Committee  
Monterey County Facilities and Construction Manager

The purpose of this committee will be to provide an informational conduit between the City, County and user groups, to establish on-going procedures and to resolve potential conflicts when possible. The committee shall meet on an as needed basis and a meeting may be called by any of the members.

2.3 Overnight Camping. Overnight camping shall not be permitted without a permit from the City of Salinas. City permits may only be for a period not to exceed seven (7) days, require prior notice to the County with details to be worked out by Site Committee.

2.4 Equal Access. It is the intent of all parties to assure equal access to said facilities for both City and County residents. Any fees for use shall be the same for City and County residents.

2.5 Intent for Use. It is the intent of all parties that the facilities are to be utilized for public recreational activities and veterans activities. Should the City wish to convert the Site or a portion thereof to an on-going commercial recreation use such as miniature golf, a professional sports league, or other similar activities, the City shall first obtain County approval for said use and shall enter into an agreement for profit-sharing with the County. The incidental use of property for events such as concerts, exhibitions, or other customary uses of public recreation areas shall not be considered a commercial recreational use, so long as such uses are conducted by the City or a not for profit corporation.

2.6 Access to Site. It is the intent that access to the Site shall be from Constitution Boulevard. Initially, along Constitution Boulevard, access to the site will be established in the vicinity of the existing service road. At such time as the County proceeds with the development of a signalized intersection to serve the hospital site, the County shall provide a 20 foot access easement from the point of the intersection across PARCEL 2 to PARCEL 1. The City shall be responsible for development of the access drive to the site. Should the County wish to proceed with the development of a frontage road along the easement to serve both PARCEL 1 and the future County development of PARCEL

2, development of said frontage roadway through Site A as shown on Exhibit A, shall be equally shared by the City and County, 50-50.

Limited access to the Vietnam Veterans Memorial Site from the County service yard road off of Laurel Drive shall only be permitted to provide handicapped access and for special events, provided said events are first approved by the Site Committee and the County.

3. TERM. The term of this agreement is for twenty-five (25) years commencing on November 15, 1994, and ending on November 15, 2019.

3.1. Lease Renewal. This agreement may be renewed for one (1) additional five (5) year term provided the City of Salinas requests, and the County Board of Supervisors approves, this renewal six (6) months prior to the expiration of this lease.

3.2 Conveyance of Vietnam Veterans Memorial Site and Veterans Park. At such time as the Vietnam Veterans Memorial Committee proceeds with the development of a permanent memorial on SITE B, as shown on EXHIBIT "A", the County shall convey fee title of said site along with a permanent access easement to site as shown on Exhibit "A" or such other access easement acceptable to both the City and the County, to the City for the sole purpose of maintaining said memorial as a permanent tribute to Vietnam Veterans and veterans of other wars. In the event said use ceases to exist as set forth in paragraph 3.3, at County's request said site shall be reconveyed to the County or its designee. Conveyance shall be effected pursuant to documentation and procedures as County Counsel and City Attorney deems appropriate and such documentation shall be consistent with the provisions of this Agreement.

3.3 Action by the City. It is the intent of the County to make said site available to the City for the purposes set forth herein. In the event the City does not proceed with the use of the property within two (2) years from the date of this agreement, said agreement shall become null and void and property shall revert back to County use. In the event the City ceases to use the property for the purposes set forth herein for a period of two (2) years, said agreement shall become null and void and said property shall revert back to County use. Use of the property shall be defined as a minimum investment value of \$150,000 in the improvement of the property and regular use (monthly) of the property.

4. USE FEE. The City shall pay the County, without abatement, deduction, offset, prior notice, or demand, the sum of one dollar (\$1.00) per year, twenty-five dollars (\$25.00), as rent in advance upon execution of this agreement by the parties for the initial term of the agreement and, at the anniversary date of this agreement, five dollars (\$5.00) for the successive five (5) year period. Upon conveyance of SITE B to the City under the terms set forth in paragraph 3.2, said site shall no longer be subject to use fee set forth herein.

4.1 Project Revenues. All revenues to the City derived

from project fees/charges, rents or the sale of merchandise, food and beverages shall be used to offset the development, operation and maintenance costs of the project.

In the event the City undertakes a commercial recreational use as set forth in paragraph 2.5, the City shall first obtain County approval and shall share profits with the County, in accordance with an agreement to be worked out by both parties.

5. CITY RESPONSIBILITIES. At its own sole cost and expense, unless otherwise specified herein, the City shall perform each of the following responsibilities with respect to the Premises.

5.1. Development and Improvements. The City shall have the right to develop PARCEL 1 as shown on EXHIBIT "A" for sports fields and other recreational activities, except that SITE A and SITE B shall be limited to the uses set forth herein. The City shall provide improvements to the Premises which shall include parking areas, picnic areas, sports fields and restroom facilities. Development of the site shall be subject to the Design Review provision set forth in Paragraph 5.10.

The County shall cooperate with the City by allowing the City access to utility connections located on adjacent County property, provided that all costs associated with said connections and service shall be the sole responsibility of the City. In the event said services require upgrading to meet the City demands, said upgrading shall be the sole responsibility of the City.

City shall be responsible for any damages to existing improvements on the subject property due to its use and development of property, including but not limited to the fiberoptic cables that traverse the property in the vicinity of the current access road as generally shown on EXHIBIT A.

5.2. Shared Parking Site (SITE A). The City may at its sole option develop SITE A as shown on EXHIBIT A for parking to serve the proposed recreational facility. Said parking area shall be available as a shared parking facility for City and County use. Upon County's development of uses on PARCEL 2 that will utilize parking area, the repair and maintenance of said parking area shall be shared 50% City and 50% County.

It is further understood that the City's principal intended use of said parking area will be during weekends, holidays and evening hours, thus any proposed use for County development shall be limited to a normal 8 to 5 workday schedule to prevent conflict in use and potential parking impacts on surrounding areas.

5.3 Vietnam Veterans Memorial Site and Veterans Park (SITE B). The City, on behalf of the Monterey County Vietnam Veterans Memorial Committee, shall assume liability, scheduling and landscaping maintenance responsibility for SITE B as shown on EXHIBIT "A". SITE B shall be designated for a Vietnam Veterans Memorial and Veterans Park. The development of said site shall be in accordance with plans approved by the City and subject to Design Review set forth in paragraph 5.10. The costs of said

development shall be the responsibility of the Monterey County Vietnam Veterans Memorial Committee and the City's responsibilities shall be limited to liability, scheduling and landscape maintenance unless otherwise agreed to by the City and the Monterey County Vietnam Veterans Memorial Committee.

5.4. Future Development by County. It is acknowledged by both parties that the County intends on developing PARCEL 2 at some future date for County facilities or other commercial use. In the event future County development of said site requires an amendment to the City of Salinas' General Plan or other review through City processes, City agrees to cooperate with County in the expeditious processing of said reviews, zone changes, amendments or other entitlements and agrees to waive processing fees; however, development related fees, if otherwise applicable, will not be waived.

5.5. Maintenance. The City covenants and agrees, at its own cost and expense, to keep any building or improvements situated on the Premises, including, but not limited to, the recreational fields, sidewalks, restrooms, and other appurtenances thereto, and which may be installed or constructed at any time during the term of this Agreement or any extension thereof, in good condition and repair. The City will, at its own cost and expense, make any and all changes, additions, and modifications to any such building or improvements, including, but not limited to, utility connections that may be lawfully required by any ordinances of the City of Salinas, and by any laws of the State of California or the United States of America, or by the requirements and regulations of any other governmental authority. Except as otherwise expressly provided in this Agreement, it is agreed that the County will not be required to make any expenditure whatsoever on account of any improvements, alterations, renewals, modifications, additions, or changes to any building or improvements situated on the Premises, nor to the recreational facilities, sidewalks, restrooms, and other appurtenances thereto. The City hereby waives any rights it may have under Section 1941 and 1942 of the California Civil Code.

5.6. Scheduling of Use. The City shall regulate and schedule use of the Premises.

5.7. Safety and Security. The City shall be responsible for traffic control, crowd control, and law enforcement relating to use of the Premises.

5.8. Signs. The City shall erect and maintain appropriate signs at each entrance to the Premises to notify all users of the conditions and/or limitations of use of the Premises and of control of the Premises by the City.

5.9. Indemnification and Self-Insurance. The City shall indemnify, defend, and hold harmless the County, its officers, agents, and employees from and against any and all claims, demands, liability, costs, and expenses of whatever nature, including, but not limited to, court costs, damages, attorney fees, and claims administration fees arising out of injury to or death of any person or persons or loss of or damage to any property resulting in any manner from the use, improvements, or maintenance of the Premises by the City for the purposes set

forth in this agreement, except for liability resulting from the sole negligence or willful misconduct of the County, its officers, agents, or employees.

During the entire term of this agreement or any extension or renewal thereof, the City shall maintain self-insurance for purposes of general liability against loss or liability caused by or connected with its possession and use of the Premises in an amount not less than \$1,000,000. Within thirty (30) days following execution of this agreement by the City, the City shall deliver to the County a statement of self-insurance with respect to the matters set forth in this paragraph. In the event the City ceases its self-insurance during the term of this agreement, the City shall notify the County at least thirty (30) days prior to ceasing self-insurance and shall provide the County with evidence of alternative insurance.

5.10 Design Review. The County, as owner and adjacent user, maintains a vital interest in the development and use of this property. In order to not adversely impact the remaining County lands along Constitution Boulevard, any grading (cut-and-fill) activities shall be "balanced" in the leased site and not adversely impact the remaining County property. Prior to construction or grading, a grading plan for the leased site shall be reviewed and approved by the Monterey County Water Resources Agency. Said approval shall not be unreasonably withheld.

In order to insure that the proposed uses and design are compatible with existing County uses and future plans, the County shall review plans prior to any grading, construction or other developments. Areas of conflict shall be resolved prior to commencement of building or grading activity.

5.11 Duty to Comply with Laws. The City shall, at the City's sole cost and expense, comply with all present and future (1) federal, state, county, and city laws and ordinances and (2) all rules and regulations of any duly constituted authority present or future, affecting or representing the Premises, including any and all improvements or alterations thereto. If the City is in violation of any such law, ordinance, rule, or regulation, the County may terminate this Agreement immediately.

6. NEGATION OF PARTNERSHIP. Nothing in this agreement shall be construed to render either party in any way or for any purpose a partner, joint venture, or associate in any relationship with the other party, nor shall this agreement be construed to authorize either to act as agent for the other.

7. NON-ASSIGNMENT. The City shall not voluntarily assign or encumber its interest in this agreement or in the Premises, or sub-lease all or any portion of the Premises. Any assignment, encumbrance, or sub-lease in violation of this provision shall be void and, at the County's election, shall constitute a default.

8. DEFAULT. If after thirty (30) days written notice from the County to the City, the City fails to pay the use fee in the manner and amounts set forth above, or fails to keep, perform, and observe any and all promises, covenants,



conditions, and agreements set forth in this agreement on its part to be kept, performed, or observed, the County shall have the right to terminate this agreement and recover from the City the balance of the unpaid rent at the time of breach together with any damages to the improvements located on the Premises.

9. NOTICES. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by first class mail, postage prepaid, and addressed to the other party as follows:

COUNTY: Clerk of the Board of Supervisors  
County of Monterey  
Post Office Box 1728  
Salinas, California 93902-1728

CITY: City Clerk  
City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901

10. MISCELLANEOUS PROVISIONS.

10.1. Exhibits. All exhibits referred to are attached to this agreement and are incorporated herein by reference.

10.2. Integrated Agreement. This agreement contains all of the agreements of the parties with respect to the subject matter hereof and cannot be amended or modified except by a written agreement executed by the parties.

10.3. Captions. The captions of this agreement shall have no effect on its interpretation.

10.4. Mutual Negotiations. It is understood and agreed by the parties hereto that this agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this agreement within the meaning of California Civil Code Section 1654.

10.5. Severability. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

10.6. Administration of Lease by the County. The County's Director of Parks shall be the agent of the County responsible for administering this lease on behalf of the County.

10.7. Administration of Lease by the City. The City's Director of Recreation and Parks shall be the agent of the City responsible for administering this lease on behalf of the City.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective duly authorized representatives effective on the day and year first above-written.

CITY OF SALINAS

COUNTY OF MONTEREY

By: Alan D. Stoff  
Title: Mayor

By: Barker A. Thompson  
Title: \_\_\_\_\_  
Chairwoman  
Monterey County Board of Supervisors

MONTEREY COUNTY VIETNAM  
VETERANS MEMORIAL COMMITTEE  
(A 501C3 Non-Profit Corporation)

By: [Signature]  
Title: President

Treasurer: Mike Gernert

APPROVED AS TO FORM:  
Stephanie A. Atigh  
Stephanie A. Atigh  
City Attorney

APPROVED AS TO FORM:  
[Signature]  
Douglas C. Holland  
County Counsel

